

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3244 OF 2016**

Mrs. Sapana Vikram Potdar ... Petitioner

Versus

The State of Maharashtra and another ... Respondents

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Mr. Balwant Salunkhe instructed by Mr. Santosh Musale for the Petitioner.
Ms. Geeta Mulekar, APP for the Respondents.

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**CORAM : PRASANNA B. VARALE &
N.R. BORKAR, JJ.**

RESERVED ON : 24.08.2021

PRONOUNCED ON : 08.06.2022

PC. :-

1. This Petition under Article 226 of the Constitution of India has been filed with the following prayers :

“(a) that this Hon’ble Court may be pleased to issue a writ order and/or direction in exercise of the powers vested with this Hon’ble Court under Article 226 of the Constitution of India, thereby calling for the investigation papers concerning FIR No.48 of 2006 registered with respondent No.2 police station for the offences punishable under Sections 302, 387, 363, 342, 328, 201, 411 read with 34 of the Indian Penal Code and after examining the legality, validity and/or propriety of the same be pleased to transfer the investigation of the said case from Hinjwadi Police Station, Pune to the State CID and/or any other independent investigating agency so that the investigation shall be carried out in its true spirit.

(b) any other and/or further reliefs as this Hon'ble Court may deem fit and proper."

2. The aforesaid crime came to be registered as the husband of Petitioner was found to be murdered.

3. The deceased, who was resident of Mumbai, was working as a Software Engineer with Infosys Company at Pune. On every Friday evening he used to come to Mumbai and used to return back to Pune on the following Monday. On 14th March, 2006, the deceased made a phone call to the Petitioner and informed her that he left Pune to come to Mumbai. The deceased did not come to Mumbai within a expected time. The Petitioner tried to contact him on his mobile phone. However, the same was out of coverage area. The Petitioner has informed this fact to her father Mr. Arun Shroff. They took search of the deceased and as the deceased was not found, on the next day, i.e., 15th March, 2006, a Missing Report was lodged with Hinjwadi Police Station. On the same day, i.e. 15th March, 2006, the Petitioner received an information about the use of debit and credit cards of the deceased. The said fact was communicated to the Hinjwadi Police Station. On enquiry by the Investigating Officer, it was found that purchases were made using credit and debit cards of the deceased from the Central-1 Mall, New Mumbai. The credit/debit card was also used for purchasing Trump mobile recharge

coupons, i.e. the coupon used for recharging mobile phone of M.T.N.L. Company. On further enquiry, it was found that with the said recharge coupon, mobile phone No.9869331437 was recharged. Enquiry was then made about the name of subscriber of the said mobile phone with M.T.N.L. Accordingly M.T.N.L. communicated to the Investigating Officer, the name of the subscriber as Kevin John Dais, resident of Dena Bank Lane, Marol Village, Andheri (E). The Investigating Officer visited the house of said Kevin John Dias. He took search of his house. The credit and debit cards standing in the joint name of the deceased and present Petitioner were found at the house of said Kevin Dias. It was found that the said credit/debit cards were used by the brother of Kevin Dias, namely, Victor @ Vicky Julas Manthero. Pursuant to disclosure statement of Victor Manthero the dead body of the deceased was recovered. Crime was then registered. During investigation it was found that said Victor @ Vicky Julias Manthero used to ply tourist vehicle on hire between Pune and Mumbai. On the day of incident the said Victor @ Vicky Julias Manthero and his brother Kevin, who during the course of investigation was found to be juvenile, picked up the deceased from Pune Mumbai Highway. It is alleged that on the way to Mumbai, they offered cold drink to the deceased by adding sedative drug i.e. Tranquiliser Lorazepam and when the deceased was under the influence of the said sedatives, they robbed the

deceased of his valuables and then threw him out of their car near Jitgaon, Taluka : Pen, District : Raigad. It is alleged that the deceased died due to cardio respiratory arrest due to Lorazepam poisoning.

4. Admittedly, the alleged incident took place on 14th March, 2006. On 23rd June, 2006 the charge-sheet was filed against Victor @ Vicky Julias Manthero. The Sessions Court at Pune thereafter conducted the trial against Victor @ Vicky Julais Manthero and convicted him by Judgment and Order dated 16th August, 2010. The present Writ Petition thereafter came to be filed on 9th September, 2016, i.e., after six years of conclusion of trial with an allegation that no proper investigation was carried out. As at the time of filing of present Petition the Appeal filed by the accused against his conviction was pending, this Court on 15th October, 2016 passed the following order :

“Petition be tagged with Criminal Appeal No.668 of 2010.”

5. Today by separate Judgment we have dismissed the Appeal filed by the accused Victor Manthero. Considering the overall facts and circumstances, we are not inclined to entertain the present Writ Petition. The Petition is dismissed.

(N.R. BORKAR, J.)

(PRASANNA B. VARALE, J.)

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