

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Writ Petition No. 692 of 2018

Savita wd/o Suryakant Shrewas
Aged about 40 years Occ. Nil
R/o Ram Nagar Ward No. 4 Nagpur
Tq. Distt. Nagpur.

... Petitioner

- Versus -

- (1) The State of Maharashtra
Through Secretary Home Department,
Mantralaya, Mumbai.
- (2) The State of Maharashtra
Through Jari Patka Police Station
Nagpur.
- (3) The Commissioner of Police, Nagpur
- (4) The Assistant Police Commissioner
Zone no. 5 Nagpur
- (5) Ravindra Ramlochan Shriwas
Age about 45 years, Occ. Service
(police department)
R/o Plot no. 111, Behind Hanuman
Mandir, Kabir Nagar, Naree
Nagpur.

... Respondents

Mrs. M. A. Syed, Advocate for the petitioner
Mr. S. S. Doifode, APP for the State/respondents 1 to 4
Mr. Rohan Chandurkar, Advocate for respondent 5

**CORAM : ROHIT B. DEO AND
URMILA JOSHI-PHALKE JJ.**

DATED : 9-11-2022

ORAL JUDGMENT (Per : Rohit B. Deo, J.)

The petitioner is the widow of Mr. Suryakant Shriwas, who unfortunately died on 12-3-2018.

2. The investigating authority has found that Mr. Suryakant Shriwas committed suicide by hanging, at his residence.

3. It is not in dispute that the deceased was suffering from psychiatric issues.

4. The petition is founded on the suspicion which the wife of the deceased nurtures that her husband did not commit suicide. The learned counsel for the petitioner has invited our attention to certain inconsistencies or discrepancies. Illustratively, while in spot panchanama recorded, the tongue is shown protruding from the mouth, the postmortem report states that the tongue was inside the mouth. The inquest panchanama is admittedly recorded on 13-3-2018. According to the learned counsel for the petitioner, the fact that the postmortem report refers to the inquest, shows that the inquest must have been done on 12-3-2018. It is difficult to surmise or speculate considering that both the inquest and the postmortem are done on 13-3-2018. Insofar as the purported inconsistency as regards the

tongue, the same as well be an error of observation or perception or recording, either by the police officer or then by the doctor.

5. In order to satisfy our conscious, we had directed respondents 2 to 4 to file specific reply in the matter, particularly in the context of the complaint dated 23-4-2018 made by the petitioner to the Commissioner of Police. The said respondents have accordingly placed on record their affidavits.

6. The Commissioner of Police has personally filed affidavit dated 23-2-2021 asserting that he is satisfied that the death is a case of suicide by hanging and no cognizable offence is made out. The Commissioner of Police has stated on oath that the enquiry under Section 174 of the Code of Criminal Procedure, 1973 (Code) was reopened and handed over to the Crime Branch for further investigation to look into the issues raised by the petitioner. Mr. Vinod Patil, Police Inspector of Crime Unit-5 completed the enquiry and submitted report dated 22-2-2021 which was looked into initially by the Deputy Commissioner of Police, Detection, Crime Branch and Deputy Commissioner of Police, Zone-5. Both the officers concurred with the findings reached by the Enquiry Officer. The Commissioner of Police has further stated that the petitioner was also summoned to his office

on 23-2-2021 and she was given patient hearing. The chronological events which are set out in the affidavit of the Commissioner of Police read thus :

- “ • *At around 5 pm the Petitioner had left her house and she went to her sister's place, from there both of them went to Dr. Pravind Navghare between 7 to 7.30 pm they narrated the issue of mental depression and other issues of the patient to the doctor to which the doctor advised that the patient should be brought to him for further treatment.*
- *After that the petitioner with her sister left the place and wen to Advocate Mr. Prakash Pancholi's place in Dhantoli. Subsequent while they were at his place, they got a phone call from the nephew about the incident of suicide of the husband of the Petitioner.*
- *Thereafter the two of them went back to the Doctor and informed the Doctor about the said case of hanging by the Petitioners husband. The copy of the statement of the Dr. Pravin Navghare, which is self explanatory, is annexed herewith as **Annexure R-II**. The above chrological events are clear from the relevant documents Tahrir, statement of Umakant Surybhan Shrivias, statement of Savita Surykant Shriwas etc are collectively annexed here with as **Annexure R-III**.”*

7. The affidavit then proceeds to specifically consider the issues raised by the petitioner. It would suffice to extract paragraphs 8, 9 and 10 of the affidavit filed by the Commissioner of Police, which read thus :

“8. *It is further alleged by the Petitioner in the para 9 of her petition that there are discrepancies and contradictions in the postmortem report, inquest and spot panchnamas. In the postmortem report, it is mentioned that as per police inquest and requisition alleged history of the hanging date and time of death on 12.03.2018 at 8.50 pm, but in the spot panchnama, it is mentioned that the panchnama started at 20.45 and end at 21.15, on the other hand near about at 8.30 pm petitioner reached at home at that time, it is told that panchnama had been done, and body was also sent to postmortem. The correct chronological sequence of events primarily deduced from enquiry is as follows:-*

- *At 19.44 hours on 12.03.2018, the information of the incident was received by C.R.Mobile of Jaripatka Police Station from Nagpur City Control Room.*
- *Pursuance to the above, police constable Anil Uikey and Chhatrapati Gedam reached at the spot at 20.12. hours.*
- *The due process was immediately started by the above constables and the body which was found in hanging condition was removed from ligature and was immediately sent to Mayo Hospital at 20.30 hours for medical examination and exploring the possibility of the medical treatment, if any.*
- *Thus the body has reached Mayo hospital at 8.50 pm and the doctor after examining the body at 8.50 pm declared the deceased as dead by stating the date and time of the death as “12.03.2018 before 8.50 pm.”.*
- *The Inquest Panchnama is conducted on 13.03.2018 between 11.10 am to 11.35 am.*
- *The post mortem has been conducted on 13.03.2018 between 1205 hrs to 1305 hrs.*

9. *The above is the chronological sequence of events based on the official records of spot panchnama, Inquest Panchnama*

*and the P.M. Report and the Control Room log. On enquiry it has been found that the police party has reached at the spot at 20.12 pm and has left the spot approximately at 21.15 pm, and the spot panchnama process was completed between this period. The said panchnama appears to have started at 8.15 pm (i.e. 20.15 hours), the body has been sent to Hospital at 20.30 hours and the said panchnama continued upto 21.15 hours. However inadvertently the time of starting of the spot panchnama came to be stated as 20.45 hours instead of 20.15 hours and same has been admitted by the concerned constable who conducted the spot panchnama. Thus it is made clear that after reaching the spot police have immediately started taking details at 20.15 hours and after recording those details within 15 minutes, they have sent the body to Hospital at 20.30 hours for medical examination. The said details are very well recorded at the Nagpur City Police Control Room. The extracts of the relevant entries at the Control Room are collectively annexed herewith as **Annexure-R-IV**. The Relevant documents particularly statements of concerned police employees who conducted spot panchnama, inquest panchnama etc are annexed with the Enquiry Report.*

10. *It is further alleged by the Petitioner that in the postmortem report, it is mentioned that the tongue of the dead body is inside and in the inquest panchnama, it is specifically mentioned that the tongue of the body is hanging out. It is submitted in this regard that there is no mention about the position of the tongue of the deceased in inquest panchnama. The enquiry officer has recorded the statements of the police constable Dhiraj Borkar, who conducted the Inquest panchnama and police constable Anil Aike, who conducted the spot panchnama. It is revealed in the statement of constable Anil Uike that he mentioned in the spot panchnama that the tongue of the deceased was slightly outside, but admitted that it was his inadvertent mistake. However, the doctor conducting the postmortem examination has clearly mentioned that the*

tongue of the deceased is inside. It again needs to be mentioned that there is no mention of position of tongue in the inquest panchnama as alleged by the petitioner and in case of minor contradictions, the findings mentioned in the post mortem report is being relied upon. It is also revealed from the documents obtained in the enquiry that there were no injuries on the person of the deceased. It is also revealed that there was ligature mark on the neck of the deceased mentioned in the Inquest and post mortem report and the cause of death in the PM report was mentioned as "post mortem findings are consistent with death due to constriction around neck, by means of ligature". Subsequent to the receipt of PM. Notes the then senior Police Inspector of Jaripatka again queried with the Doctor, who conducted PM. as to whether the death has been caused due to hanging with seized rope, on which the Doctor has opined, "Yes May Be Possible". The post mortem report and Inquest are already annexed with the enquiry report of the Enquiry officer."

8. Dealing with the apprehension of the petitioner that respondent 5, who is her brother-in-law, is a Police Constable and has good contacts in the Department and, therefore, the investigation is not fair, the Commissioner of Police has expressed satisfaction that respondent 5 has played no role in the episode.

9. We note that the limited grievance in the petition, as is discernible from the prayer clause, is that the investigation be transferred from Jaipatka Police Station, Nagpur to some other police station and that departmental enquiry be conducted against erring

officials of Jaripatka Police Station. The relief is, as a fact, granted in as much as the investigation was transferred by the Commissioner of Police, Nagpur from Jaripatka Police Station to the Crime Branch. The enquiry under Section 174 of the Code was reopened. In so far as the prayer that departmental enquiry be held, the highest authority has found no wrongdoing, and we see no reason to substitute our opinion and in a way, encroach on the disciplinary and administrative domain of the Commissioner of Police. Apart from the fact that the grievance is redressed by the transfer of investigation, response of the learned counsel for the petitioner to our repeated queries is that the petitioner has no material to allege that her husband did not commit suicide or that he died a homicidal death.

10. At any rate, if the petitioner is of the view that her husband did not die a suicidal death, or that there is some cognizable offence which is committed of which the police is not taking cognizance, her remedy lies elsewhere.

11. Subject to the observations supra, we dispose of the petition.

(Urmila Joshi-Phalke, J.)

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(Rohit B. Deo, J.)

Digitally signed by AVINASH
YUVRAJ WASNIK
Signing Date: 22.11.2022 10:29