

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 361 OF 2023

MUKTABAI NARSAIYYA YENGUPATLA

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicant : Mr. Deshpande Niranjana Milind

APP for Respondent No.1 & 2 : Mr. P. M. Kulkarni

Advocate for Respondent No.3 : Mr. Patil Jiwan J.

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CORAM : KISHORE C. SANT, J.

DATE : 14th MARCH 2023.

Per Court :

Heard the parties.

1. This application is by mother of deceased - Anil Yengupatla, who was working in the Police Department as Head Constable, who died in the house on 09.12.2019. The deceased was residing with his wife and brother. On that day, father of deceased had also come for stay in the house. His father noticed in the morning that the deceased was dead. On that, the accidental death was registered. The police carried the investigation, recorded statements of the father, wife and brother of the deceased as well as neighbors of the deceased, staying in the same

building. The dead body was taken for postmortem. After conducting the postmortem, the opinion as to cause of death was reserved. The cause of death of deceased was found to be 'Tuberculous pneumonia with liver cirrhosis' on examination of Viscera. The police therefore closed the investigation.

2. The applicant/mother of deceased, however lodged complaint with the police stating that on 02.03.2022 expressing a doubt that the police had not carried out investigation properly. It is her suspicion that because of the family dispute with the wife, she has committed murder of her husband and therefore investigation was sought. In the said complaint, it is also stated and the information was also solicited about all the service benefits of the deceased. A request was made not to pay any of the benefits to the wife of the deceased without consent of the applicant.

3. Thereafter on 02.03.2022 i.e. more than two years, she filed an application in the Court of learned Judicial Magistrate First Class, Aurangabad, seeking direction to the police to investigate into an offence under Section 302. The said application came to be rejected by

the learned Magistrate by order dated 11.05.2022. The applicant challenged this order by filing Revision Application No.142/2022 in the Court of learned Sessions Judge, Aurangabad. The learned Sessions Judge on going through the record, came to conclusion that the death was an accidental death. The Court also considered that during the course of enquiry, statements of the witnesses were recorded including this applicant, her husband, daughter and other witnesses. It is also considered that the father of deceased clearly stated that the deceased died due to attack and he had no suspicion about his death. The Court also considered the PM. report, medical opinion etc. and rejected the said Revision Application.

4. The learned Advocate for the applicant vehemently argued the matter stating that there was a discord between husband and wife. The deceased had made complaint to the Women's Grievance Redressal Committee (WGRC) on 14.02.2018 alleging that the respondent/wife is harassing him and he was under apprehension that he would loose self-control. She is also unhappy with him. Thus he submits that when there was apprehension, deceased had expressed apprehension that he

would be murdered at the hands of his wife. He submits that considering all these facts, it appears that the police did not carry out the investigation properly. He points out from the P.M. report dated 09.12.2019, that there are suspicious circumstances that in column no.20 & 21 of the said report, details of Thorax and Abdomen are as follows :

Thorax		
a.	Walls, ribs, cartilages	Intact, no injury
b.	Pleura	Intact, contains about 250 ml yellowish fluid in each plural cavity
Abdomen		
	Stomach and its contents	Intact, Contains about 15 ml brownish thick fluid present, abnormal smell perceived, mucosa-congested and hemorrhagic at places.

On this, he submits that this clearly indicates that there was something to suggest that the deceased was given a poison. He relied upon the judgment is in the case of **Ghulam Hassan Beigh Vs. Mohammad Maqbool Magrey and Others**, reported in 2022 SCC OnLine SC 913. With due respect since it was a case, where question for consideration was in respect of framing of charges and discharge application. It was a case arising out of the proceeding of discharge application filed by the accused and the same is not applicable to the

present case. This is a case where the police have carried out the investigation, recorded the statements and collected witnesses and on that basis has arrived at the conclusion.

5. As against this, learned Advocate for respondent no.3 opposes the application. He points out from the report dated 06.06.2020 by Autopsy Surgeon that the cause of death was given as stated above. He also invited attention to the Chemical Analyzers' Report dated 13.03.2020, wherein it is clearly stated that the specific chemical testing does not reveal any poison in Exhibit Nos.(1),(2) and (3). The Exhibit No.1 is the Stomach and piece of intestine with their contents; Exhibit No.2 is the pieces of Liver, Spleen and Kidneys; Exhibit No.3 is the blood. Thus he submits that there is nothing to indicate that it was a case of murder or for any other reason except the reason stated in which certificate dated 06.06.2020 issued by the Autopsy Surgeon, Department of Forensic Medicine, Aurangabad. He submits that in fact the dispute is only with intention to grab the service benefits and the amount of the deceased. On this basis, by making application, she is only trying to see that the wife/respondent no.3 is not getting any

service benefits. He submits that the death is caused on 09.12.2019, whereas the application was filed on 02.03.2022 after a gap of more than two years.

6. The learned APP submits that the police had rightly conducted the investigation and has submitted a report as no circumstances were found to suspect the death was not natural.

7. After hearing the parties, this Court finds that on the basis of material collected by the police, it cannot be said that the offence was made out. The statement of father of the deceased was recorded he also did not express any doubt. In his statement, he stated that he was present in the house on the date of incident and it is he who first noticed the death of his son. In view of this, this Court finds that both the Courts below have not committed any illegality while passing the orders and no case is made out to call for interference in the application. The application is therefore dismissed and disposed off accordingly.

[KISHORE C. SANT, J.]

Najeeb.