

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION No.741 OF 2020**

Mrs. Mamura Muzaffar Mamatkulova

...Petitioner

Vs.

The State of Maharashtra and Ors.

...Respondents

Mr. Ashutosh Srivastava for Petitioner

Mr. Ajay Patil, APP for State

**CORAM : NITIN W. SAMBRE &
 RAJESH S. PATIL, JJ**

DATED : 23rd AUGUST, 2023

P.C.:

1. The prayer is for the issuance of direction for action to be taken for the illegal investigation carried out by Shri Jayprakash Gaikwad, Senior Police Inspector of Chembur Police Station and the Investigating Officer, Manisha Shirke, as they have misused their authorities in investigating the Crime No. 390 of 2019 punishable under Section 376, 376 (2) (a) (i), 376(n), 377, 328, 313, 323, 504, 506 of the Indian Penal Code.

2. The counsel for the Petitioner has tried to substantiate the aforesaid claim by drawing support from the contents in the FIR. According to her, it was specifically stated that the son Mozes born to the Petitioner was out of the extra marital relation with the accused Mr. Jadhav, who at the relevant

time was posted as PI at Pune. He would urge that no DNA test is carried out in the matter in spite of there being specific allegation.

3. Apart from above, his contentions are, though it was specifically stated that in the farm-house of the said officer a victim girl died of overdose of drugs administered by the said police officer, same was not investigated into. Apart from above, his contentions are, the disappearance of the said victim girl who was buried by the accused police officer in the vicinity of his farm house, was a fact known to victim's brother who has objected with accused hence accused Anil Jadhav has murdered the brother of the said victim girl also, whose body was disposed of in a similar manner as that of victim girl who died of overdose of drugs. It is claimed that the aforesaid incident though had taken place in 2016, when it was brought to the notice of the police officers by lodging FIR, the said fact was not investigated into and as such, there needs to be an order directing action against the police officer who have carried investigation.

4. While countering the aforesaid submissions, the learned APP Mr. Patil would invite attention of this Court to the affidavit filed by the investigating officer Ms. Manisha S. Shirke while investigating Crime No. 390 of 2019 referred supra. According to him, the allegation of the death of a girl and

also of her brother were duly investigated into, as the Investigating Officer, Police Station Verle has submitted a report dated 27th October, 2019, which is produced on record along with the affidavit which speaks of there being absence of any evidence. According to him, the Petitioner was unable to show the place of occurrence of the said crime. As such, he would urge that investigation in the matter being Crime No. 390 of 2019 is complete and the accused therein were charge-sheeted based on evidence collected during investigation.

5. In the aforesaid background, Mr. Patil would urge that the option left with the Petitioner is to move before the Court, who is ceased with the aforesaid trial with a prayer for further investigation in the matter.

6. We have appreciated the submissions.

7. The fact about registration of Crime No. 390/2019 punishable under Section 376, 376 (2) (a) (i), 376(n), 377, 328, 313, 323, 504, 506 of the Indian Penal Code, in view of the complaint lodged by the Petitioner, can be borne out of the record. The said offence was duly investigated into and the accused person viz. Bhanudas @ Anil Annasaheb Jadhav came to be charge-sheeted. In the charge-sheet, the offence is shown to be punishable under Section 376, 376(2) (N), 377, 328, 323, 504, 506 of the Indian Penal Code.

8. The investigation papers depicts that the allegation of murder of a girl because of overdose of narcotics drugs and further disposal of her body in the vicinity of farm house of the accused, was in fact, investigated. Further allegation in the FIR about murder and disposal of the body of brother of the said girl, who died by an offence of firing from the fire arm by the accused Jadhav was also investigated, as can be inferred from communication dated 27th October, 2019. The said communication speaks of the Petitioner being unable to pinpoint the exact place of the occurrence of the incident.

Once the report to the above effect was submitted by the Executive Magistrate to the Investigating Officer, and the entire episode of said part of the investigation was video graphed, also, there is no space for doubt at this stage of the proceedings to exercise extra ordinary jurisdiction to direct further investigation in the matter in exercise of extraordinary Writ Jurisdiction.

9. The fact remains that after investigating, the accused person is charge-sheeted and the matter is pending before the Competent Court.

10. Keeping option open to the Petitioner to approach before the Competent Court, before whom the trial is pending for redressal of its grievance, we do not see any reason to cause any interference in extra-

ordinary jurisdiction of this Court.

11. As such, we grant liberty to the Petitioner to approach before the trial court for redressal of her grievance.

12. The Petition accordingly stands disposed of.

(RAJESH S. PATIL, J)

(NITIN W. SAMBRE, J.)