

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 2003 OF 2022

Ranjana Brahmshankar Srivastava,
Age: 70 years, Occ: Retired Scientist,
R/at:2/79, Vijay Khand, Gomati Nagar,
Dist:- Lucknow, Uttar Pradesh – 226010.

.Petitioner

Vs.

1. The State of Maharashtra
2. The Commissioner of Police, Mumbai
D. N. Road, Opp. Crawford Market
Mumbai – 400001.
3. The Joint Commissioner of Police, (Crime)
D. N. Road, Opp. Crawford Market,
Mumbai – 400001.
4. The Deputy Commissioner of Police,
Zone – X, 2nd floor, MIDC police station,
Deputy Commissioner Office Zone-10,
MIDC Central Rd, Andheri East,
Mumbai – 400093.
5. The Asst. Commissioner of Police,
Sakinaka Division, 1, Orchard Adve,
Panchkutir Ganesh Nagar,
Powai, Mumbai – 400076.
6. The Senior Inspector of Police,
Sakinaka Police Station,
Chandivali MHADA Colony,
Bldg. No. 28/B, Sakinaka,
Mumbai – 400072.

.Respondents

Ms. Sonal Parab a/w. Mr. Shirish Sawant i/b. Mr. Rajeev Sawant
& Associates for the Petitioner.
Ms. M. H. Mhatre, APP for the State.

CORAM : SUNIL B. SHUKRE AND
ABHAY. S. WAGHWASE, JJ.
DATE : 10 MARCH, 2023

ORAL JUDGMENT : - (PER - SUNIL B. SHUKRE, J)

. Heard.

2. Rule. Rule made returnable forthwith. Heard finally
by consent of the parties.

3. It is true that the charge-sheet has been filed in the
present case but we must say, it would disappoint any person
who is an ardent seeker of justice, if he cares to go through it. The
charge-sheet leaves several questions unanswered.

4. The statements of Akansha Bhambani and Poorvi
Sikka have been recorded and it is seen that both of them were
present in the same apartment, where deceased had temporarily
moved in for spending his days and night and from where, the
deceased has met his painful death which occurred due to his
falling from 12th floor flat to the ground beneath the building.
There is a material present on record which shows that there

was a violent quarrel between the deceased and Akansha Bhambani just before the death of deceased occurred. The question which naturally would have arisen therefore was and is about the manner in which deceased fell down and died. Falling down from the 12th floor apartment, could be either homicidal or accidental or suicidal and therefore, it was absolutely necessary for the investigating officer who had made his investigation to make an attempt to prima-facie establish the probable manner in which the deceased died. Statements of Poorvi Sikka and Akansha Bhambani against this background bear great significance.

5. On going through statements of Poorvi and Akansha we find that there are inconsistencies and discrepancies between their statements and they appear to be concealing more than what they reveal. A perusal of charge-sheet shows that the investigation officer has not made any reasonable attempt to remove the discrepancies and inconsistencies between the statements of Akansha Bhambani and Poorvi Sikka. The statements of neighbours have not been recorded. Even the spot panchanama has been drawn in an unsatisfactory manner. There were certain notes which were already kept in the drawer

of the table in the master bedroom which were admittedly available for seizure on 28th January, 2022, but they were not seized at the time of drawing of spot panchanama. These notes together with certain other letters were later on produced before the investigating officer by Akansha Bhambani on 22nd January, 2022 and there were also taken into the custody by the investigating officer but no seizure panchanama appears to have been drawn. When we asked about the drawing of seizure panchanama in respect of these notes and letters, learned APP could not point out to us any seizure panchanama witnessing seizure of these papers. These are some of the lacuna which manifestly appear on the face of the charge-sheet and the concerned police officer, who is not the investigating officer, who is present in Court, is unable to explain anything about these deficiencies in the investigation.

6. There are many more deficiencies in the investigation some of which we would like to refer to here. We find that the investigating officer has drawn an inference in the charge-sheet that the notes kept in the drawer of the table in the master bedroom, are in the handwriting of the deceased Harsh. Admittedly, till date no opinion of the handwriting expert has

been received. Those notes ofcourse were shown to the mother and father of deceased Harsh but in their respective statements it is not specifically stated that those notes, in their opinion, were in the handwriting of deceased Harsh. In fact, their statements do not disclose that the investigating officer had put a specific query to the parents of deceased Harsh regarding handwriting of the contents of the notes. Their statements show that they were made to presume that the notes were in the handwriting of deceased Harsh. In fact, it was the duty of the investigating officer to have put specific query to the parents of the deceased about the handwriting of the notes and if any such query had been made by the investigating officer to the parents of the deceased, perhaps a specific answer would have been given by the parents. That attempt has not been made by the investigating officer. The mobile phone of Akansha Bhambani should have been seized in this case and further investigation about the chats and calls she had received during the relevant period should have been made, but it has not been done by the investigating officer. The seizure of mobile phone of Poorvi Sikka has also not been made by the investigating officer. The statement of Poorvi Sikka shows that when she heard sounds of cries of Akansha coming from her master bedroom which was locked from inside, she

tried to call out Akansha Bhambani to know as to what was the cause of her disturbance but there was no response from her. Her statement further shows that it was then that Poorvi made a phone call to Akansha, which was cut by Akansha and then door was opened by Akansha. These circumstances required investigating officer to seize mobile phone of Poorvi as well but he has not done so. There are several other deficiencies which need to be enquired into for removal of doubts, but no investigation in that direction has been made.

7. The discussion thus far made, would impel us to find that the investigation carried out in the present case has not been effective and satisfactory and that there is a need for making further investigation by some other agency of the police in terms of Section 173 (8) of the Code of Criminal Procedure, 1973 [for short “**Cr.PC**”]

8. We thus find that this Petition deserves to be allowed. The petition is allowed.

9. We direct DCP, Crime Branch, Unit- 10 to carry out further investigation under the supervision of Joint Commissioner of Police, Mumbai in terms of Section 173(8) of Cr.

PC into the Crime No. 242 of 2022, registered at Sakinaka Police Station, Mumbai and file his final report in respect of the further investigation in accordance with law before the concerned Court within a period of two months from the date of the order.

10. The Petition is disposed of. Rule is made absolute in the above terms.

(ABHAY. S. WAGHWASE J.)

(SUNIL B. SHUKRE, J.)