



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

CRIMINAL WRIT PETITION NO.32 OF 2023

Petitioner : Jitendra s/o Shamrao Dharamshahare,
 Aged about 47 Years, Occupation : Service,
 R/o. At Post Deori, District Gondia.

– Versus –

Respondents : 1. State of Maharashtra,
 Through Police Section Officer,
 Amgaon, Gondia.

2. Superintendent of Police,
 Gondia, Dist. Gondia, Maharashtra.

3. Sub Divisional Magistrate,
 Deori, Dist. Gondia, Maharashtra.

 Mr. S.D. Chopde, Advocate for the Petitioner.
 Mr. M.K. Pathan, A.P.P. for the Respondents.

CORAM : **VINAY JOSHI AND M.W. CHANDWANI, JJ.**
DATE : **12th DECEMBER, 2023.**

J U D G M E N T : (Per Vinay Joshi, J.)

Rule. Rule made returnable forthwith. Heard finally with the consent of the learned Counsel for the parties.

02] The petitioner's father died on 06/03/2002 in suspicious condition. The concerned police have registered Marg No.07/2002 and

carried enquiry in terms of Section 174 of the Code of Criminal Procedure. On the following death, postmortem was conducted on the dead body. The cause of death was opined as “deceased might have died due to poisoning”. In the wake of such position, after two decades i.e. on 03/10/2020, the petitioner has first time applied to the police seeking result of the Marg enquiry. On receipt of the communication, police have verified the record and found that Marg enquiry papers were forwarded for approval to Sub Divisional Police Officer, Gondia on 29/06/2002 vide Outward Entry No.1143/2002. The copy of said extract is also produced.

03] However, it is informed that the Inward-Outward Register maintained by the Sub Divisional Police Officer has been destroyed in pursuance of the directions dated 05/12/2019 and 29/01/2021. There were general guidelines to destroy old record, wherein entry at Sr. No.3 denotes that ten years old Inward-Outward Register has to be destroyed. It is the contention of the State that in pursuance of the official directions, the record has been destroyed and thus they cannot state about the further course of action. The petitioner has applied to the Sub Divisional Magistrate seeking the information, whether the Sub Divisional Magistrate has received any report. However, the petitioner was informed that the Office of Sub Divisional Magistrate has not received such communication.

04] *Prima facie*, it reveals that after the death, immediately Marg was registered. The postmortem was conducted, which has shown the cause of death as a poisoning. The Marg Register discloses the conclusion that the deceased consumed poison by getting rid of ailment. True, the Marg enquiry has to be culminated into filing a report to the Sub Divisional Magistrate. However, in case at hand, the concerned police have conducted Marg enquiry and sent report to Sub Divisional Police Officer for approval on 29/06/2002. However, as the record of Sub Divisional Police Officer has been destroyed being ten years old, the chain could not be completed.

05] We deem it a glaring lapses on the part of the petitioner in seeking the information after lapse of 20 years. There is no explanation as to why in near proximity, the petitioner has not made enquiry. Besides that, the documents *prima facie* indicate that the Marg enquiry was conducted and within two months, it was also sent to the Office of the Sub Divisional Police Officer. However, as the record has been destroyed as per rules, it is difficult to ascertain the end result. True, anyone is entitled to get the information about the result culminated after enquiry, but one cannot sleep over more than two decades and knock the doors, when he pleases.

06] Considering the above peculiar facts, we are not inclined to exercise our discretion on account of delay and lapses. Moreover, explanation offered by the State is acceptable.

07] In view of that, the petition stand dismissed. Rule is discharged.

(M.W. CHANDWANI, J.)

(VINAY JOSHI, J.)

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