



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

CRIMINAL APPLICATION (APL) NO.17 OF 2023

Anand S/o Mukundrao Waghatkar  
Age about 51 years, Occ: Service  
as Police Inspector, Presently residing  
at Yavatmal.

...APPLICANT

...V E R S U S...

1. The State of Maharashtra,  
Through Police Station Officer,  
Police Station, Awadhutwadi,  
District Yavatmal.
2. Mrs. Bhimabai Govindrao Gadve,  
Aged Major, R/o Gurunanak Nagar,  
Godhani Road, Yavatmal.

...NON-APPLICANTS

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Shri R.M. Daga, Advocate for applicant.  
Shri N.B. Jawade, APP for non-applicant No.1.  
Ms Shubhada Phaltankar, Advocate appointed for non-applicant no.2.  
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CORAM :- VINAY JOSHI AND M.W. CHANDWANI, JJ.  
DATED :- 31.10.2023.

ORAL JUDGMENT (PER : VINAY JOSHI, J.):

- . Heard. **Admit.**
2. By consent of the learned counsel for the parties, the matter is taken up for final disposal.
3. This is an application seeking to quash the First Information Report (FIR) in Crime No.48 of 2021 registered with Police Station, Awadhutwadi, District Yavatmal for the offences punishable under

sections 302, 306, 166, 166A, 167 read with section 34 of the Indian Penal Code (IPC), against the applicant (accused no.8).

4. The applicant is a police inspector attached to Awadhutwadi Police Station. The crime has been registered against the applicant particularly for offences punishable under sections 166, 166A and 167 of the IPC.

5. In order to appreciate the controversy, it is necessary to take brief resume of the facts of the case. One Vijay died by way of hanging on 26.06.2018 at the house of his in-laws. On the basis of the death of Vijay, initially, police registered Accidental Death No.46 of 2018 at Awadhutwadi Police Station and commenced the enquiry. During the course of enquiry, panchanama of the scene of offence and inquest panchanama was drawn. The accidental death enquiry was entrusted to PSI Dhawade. In the meantime, on 09.07.2018, the mother of the deceased lodged a report alleging that the wife and in-laws of the deceased have committed the murder of deceased Vijay. Since the police did not take cognizance the mother of the deceased has approached this Court in Criminal Writ Petition No.202 of 2019 seeking independent enquiry into the crime. This Court, vide order dated 13.01.2021, directed further investigation to be carried out by the Local Crime Branch, Yavatmal and also directed to register offences against all the suspects including the first

investigating officer. In turn, the police have registered the crime against all family members of the wife including three police officers.

6. At the relevant time, the police inspector Shukla was incharge of Awadhutwadi Police Station. He has approached this Court in Criminal Application (APL) No.1147 of 2022 for quashing of the FIR. This Court has extensively dealt with the role of Shukla and found that there is no material to proceed against him hence the FIR was quashed vide order dated 12.10.2022. The relevant observations made by this Court in paras 9 to 12 reproduces as below:

*“9. Thus, as per the order passed by this Court the Superintendent of Police, Yavatmal was directed to register the offences under the relevant Sections against all the suspects in the present case including the First Investigating Officer, who has prima facie destroyed the evidence and attempted to prepare false evidence. Admittedly, the role of the present applicant was that he was Police Station In-charge of Awadhutwadi police station on the day of incident but he was not Police Station In-charge on the day i.e. on 09/07/2018 when non-applicant No.2 approached to the police station for lodging the report. Non-applicant No.1 had also contended in the reply that he was Police Station In-charge of police station Awadhutwadi at the relevant time of the incident. It is nowhere contention of the non-applicant No.1 that he was also Police Station In-charge on the day when the non-applicant No.2 approached to the police station. The role attributed to the applicant is only to the extent that he handed over the inquiry to P.S.I.Dhawale. The present applicant had neither investigated during A.D. inquiry nor drawn any panchnama. As per the allegation in the F.I.R., applicant had not registered the offence and has not taken any action regarding the grievances made by the non-applicant No.2.*

*10. After perusal of the F.I.R. and the order passed by this Court in Criminal Writ Petition No.202/2019 wherein by passing order*

*on 13/01/2021, this Court has specifically directed the Superintendent of Police to register the offences under the relevant Sections against all the suspects in the present case including First Investigating Officer who has prima facie destroyed the evidence and attempted to prepare false evidence. Admittedly, there was no direction to register the offence against the present applicant. Even prima facie it appears that the applicant was only the Station Officer and the role which he had played after receipt of the information on the day of incident is that he issued a requisition to the hospital for getting postmortem report and handed over the investigation of A.D. No.46/2018. To attract Section 166, 166-A and 167 of the Code, the person who is a public servant if disobeys the law with intent to cause injury to any person then Section 166 of the Code would attract.*

*11. Section 166-A of the Code would attract when a public servant knowingly disobeys any direction of the law which prohibits him for requiring the attendance at any place, or knowingly disobeys to the prejudice of any person or any other direction of the law or fails to record any information given to him under sub-section (1) of Section 154 of the Cr.PC.*

*12. Admittedly, non-applicant No.2 approached to the police station on 09/07/2018. On that day, present applicant was not the Police Station In-charge. He was the Police Station In-charge only on the day of incident i.e. on 26/06/2018.”*

7. On a similar line, it has been argued by the applicant that his case stands on better footing. Admittedly, the applicant joined the concerned police station on 04.03.2019 i.e. eight months after the occurrence. The role of applicant is only forwarding a summary report to the higher police officer. It is apparent that prior to the applicant joining the concerned police station already part of the investigation was over and he has forwarded the summary. True, it is his duty to verify the same, however, there is no material to show

that his role has travelled beyond mere negligence. Admittedly, the enquiry of ADR was conducted by some other police officer i.e. by PSI Dhawade. Besides the applicant's role of forwarding the summary report, the prosecution has not pointed out any other material showing culpability on the part of the applicant.

8. In view of that, continuation of prosecution against the applicant amounts to abuse of the process of Court. In the circumstances, the application is allowed and disposed of.

9. FIR bearing Crime No.48 of 2021 registered with Police Station, Awadhutwadi, District Yavatmal for the offences punishable under sections 302, 306, 166, 166A, 167 read with section 34 of the IPC is hereby quashed and set aside against the applicant.

10. Professional fees of learned appointed counsel for non-applicant no.2 be quantified and paid as per Rules.

(M.W. CHANDWANI, J)

(VINAY JOSHI, J.)

*Wagh*