

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

CRIMINAL WRIT PETITION NO.3719 OF 2018

Madhukar Ramdas Patil

.... Petitioner

Versus

State of Maharashtra and Ors.

.... Respondents

.....

Mr.Yogesh D. Dalvi a/w. Ms.Divya Joshi and Ms.Nisbah Shaikh,
Advocate for the Petitioner.

Mr.K.V. Saste, Addl. P.P. for Respondent – State.

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***CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.***

DATED : 1st APRIL 2024.

ORDER (Per *MANJUSHA DESHPANDE, J.*):

1 The Petitioner herein is seeking directions to the Respondent No.4 – Senior Police Inspector, Varsova Police Station, Andheri, Mumbai to register crime in respect of death of his brother, namely, Mr.Ganesh Ramdas Patil and to investigate the same.

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2 It is the case of the Petitioner that his brother Ganesh Ramdas Patil was permanent resident of district Raigad and was working on a fishing boat bearing boat No.IND–MH–2 MM 5254. That he left home on 13th December 2017 for his work at Versova, Andheri Mumbai, where he was working; that on 21st January, 2018, one Mr.Vasudev Khandu Dangare called one of the relative of the Petitioner, namely, Mr.Gopinath Bhoir informing that Ganesh has gone missing from the boat since after 09:00 p.m.; and that pursuant thereto, the Petitioner came to Mumbai and tried to search for Ganesh. On 24th January, 2018, the Petitioner lodged a written complaint with the Versova Police Station, requesting to investigate into the matter. Thereafter, the Petitioner and his relatives regularly visited the police station to inquire about the whereabouts of Ganesh. Around 28th – 29th January, 2020, the police authorities informed the Petitioner that one unidentified dead body was found by the Cuffe Parade Police Authorities. Accordingly, the Petitioner went to the Cuffe Parade Police Station, where the dead body was shown to him, however, he failed to identify the same. In order to identify the dead body of Ganesh, DNA test was conducted and the body was handed over to the

Petitioner for performing last/religious rites. The Petitioner thereafter made a written complaint to the Cuffe Parade Police Station in respect of death of his brother Ganesh. Police Authorities of Cuffe Parade police station by communication dated 30th May, 2018 informed the Petitioner that his complaint has been disposed of.

3 It is the contention of the Petitioner that his brother Ganesh was a very good swimmer, as he was working as a fisherman, for more than 12 to 13 years, and as such his death was suspicious. It is further alleged that, the boat on which Ganesh had slept was standing at Versova port, whereas the dead body of Ganesh was found at Cuffe Parade, far away from Versova. Thus, the Petitioner raised doubt regarding the death of his brother Ganesh. Because of the suspicion the Petitioner filed a complaint with the Versova Police Authority on 5th February 2018 and 13th June, 2018. The Petitioner also raised doubt on the co-workers of the deceased on boat. It is the Petitioner's case, that the police authorities have failed and neglected to investigate into the death of his brother Ganesh properly.

4 Reply affidavit has been filed by the Assistant Police Inspector, Cuffe Parade Police Station, Mumbai, on 14th March, 2023, setting out the steps taken by the police authorities in response to the complaint made by the Petitioner. The said API has stated that one PSI attached to the Cuffe Parade police station received information on 26th January, 2018 that one unknown decomposed male body was found near the coastal area of I.N.S. Kunjali. Accordingly, ADR No.5 of 2018 under Section 174 of Code of Criminal Procedure (Cr.P.C.) was registered . Postmortem of the body was conducted. Viscera was preserved. In order to identify the dead body, the inquiry officer also preserved the teeth and hair of the deceased. Since the ADR No.5 of 2018 was registered, a message was broadcasted to all the police stations in Mumbai. The record also shows that during the course of inquiry by the staff of Versova Police Station, Mumbai, on 29th January, 2018 one of the staff of the said police station approached the PSI attached to the Cuffe Parade police station alongwith Mr.Madhukar Ramdas Patil in respect of the missing complaint No.8 of 2018, registered with the Versova Police station and requested to see the unknown dead body. The Petitioner was

shown the dead body of Ganesh Patil, but the Petitioner raised doubt regarding the said dead body. Therefore the inquiry officer collected the blood sample of mother of deceased Ganesh Patil i.e. Kusum Patil. The said blood sample along with the teeth and hair of the deceased was sent for DNA Test. The DNA Test revealed that Kusum Ramdas Patil was the biological mother of the unknown male whose body was found. In the meanwhile the final cause of death of the deceased was received from G.T. Hospital, Mumbai, which disclosed that, *“death has occurred due to Drowning with alcohol intoxication (Un-Natural)”*.

5 It is further stated in the affidavit, that the Versova Police Station conducted a detailed inquiry from 4th March 2018 to 30th May, 2022 in missing case No.8 of 2018 as well as ADR No.5 of 2018. The said inquiry revealed that the death of Ganesh Patil had occurred due to drowning with alcohol intoxication (Un-Natural). The Police Inspector of Versova Police Station, Mumbai, vide letter dated 13th May, 2022, communicated to the brothers and mother of the deceased that if they had any say in respect of the unnatural death of Ganesh, they could contact the Enquiry

Officer within 7 days. In response to the said communication, the younger brother of the Petitioner approached the Versova Police station on 26th May, 2022 before the Enquiry Officer and stated that he does not have any suspicion regarding the death of his brother. Thereafter, the inquiry was completed and a detailed report was submitted to the Senior Police Officer with recommendation to send the said ADR papers to concerned Executive Magistrate for grant of ADR (Un-natural) summery. The Cuffe Parade police station sent the entire papers with the report to the Assistant Commissioner of Police, Colaba Division, Mumbai, for approval on 4th October, 2022, which came to be approved on 6th October, 2022. The detailed inquiry revealed that the death of Ganesh was a result of drowning with alcohol intoxication (Un-Natural).

6 We have heard the learned counsel for the Petitioner as well as the learned APP. Though the Petitioner has raised suspicion/doubt regarding the cause of death of deceased – Ganesh, the said doubt, stems from the fact, that Ganesh had 12 to 13 years experience of swimming and as such, could not have drowned.

7 The Petitioner suspects that his brother was done to death. We have gone through the affidavit filed by the Assistant Police Inspector attached to the Cuffe Parade Police Station, Mumbai, wherein he has set out the details about the inquiry conducted by the police authorities in respect of the death of the Petitioner's brother. It is apparent that a missing report was filed with Versova Police Station being Missing Case No.8 of 2018, so also an ADR No.5 of 2018, has been registered with the Cuffe Parade Police Station, Mumbai, where the body of the deceased was located. Both the police stations have conducted detailed inquiry and ultimately the body found was identified as being that of the deceased. The DNA Test disclosed that the said unknown body was that of Ganesh, brother of the Petitioner. The postmortem report shows the cause of death as, "*Drowning with alcohol intoxication (Un-Natural)*". After a detailed inquiry, the brother of the deceased, namely, Ramesh Ramdas Patil gave a statement on 26th May, 2022, that he does not have any suspicion/doubt about the death of his brother Ganesh. Therefore, considering that a detailed inquiry in respect of missing case No.8 of 2018 as well as ADR No.5 of 2018 was conducted, coupled

with the opinion regarding Ganesh's death, we do not find any merit in the Petitioner's suspicion that Ganesh was done to death. The postmortem report is clear and so is the statement of Ramesh Ramdas Patil, to the effect, that he does not have any suspicion/doubt *vis-a-vis* his brother Ganesh's death. Thus, we do not find that the Petitioner has made out any case for giving directions to register an FIR and for investigating the same.

8 Accordingly, the Writ Petition stands dismissed and as such is disposed of.

MANJUSHA DESHPANDE, J.

REVATI MOHITE DERE J.