



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 537 OF 2022

VINOD GAJANAN DALVI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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- Ms. Suvarna M. Zaware, Advocate for the Petitioner (Absent)
- Mr. G. A. Kulkarni, APP for Respondent No. 1

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CORAM : SMT. VIBHA KANKANWADI
AND
HITEN S. VENEGAVKAR, JJ.

DATED : SEPTEMBER 22, 2025

ORDER : [PER HITEN S. VENEGAVKAR, J.]

1. The present Criminal Writ Petition is filed under Article 226 and 227 of the Constitution of India by the petitioner seeking a direction to respondent authorities to register an offence under Section 302 and 120B of Indian Penal Code against the accused persons and to reinvestigate the accidental death case bearing No. 135 of 2020 registered at Topkhana Police Station, Ahmednagar.

2. The case of the petitioner is that the deceased *Gauri Prashant Gadak* died on 07.11.2020 at Ahmednagar and the incident was reported as suicide. It is alleged that the post-mortem of the deceased

was conducted at Government Medical College and Hospital Aurangabad though the incident has occurred within the limits of District Ahmednagar. The petitioner contends that the post-mortem was intentionally shifted to Aurangabad to suppress vital evidence. According to the petitioner, the post-mortem report discloses several ante-mortem injuries, indicating that the death was not suicidal but homicidal in nature.

3. It is further alleged that *Shankar Yashwant Rao Gadak*, a State Minister and his wife *Sunita Gadak* are behind the death of the deceased and have misused their influence and political power to prevent the registration of a cognizable offense against them. It is also alleged that there were long-standing family disputes among members of the *Gadak* family concerning the MULA Education Society, which is said to have provided the motive behind the crime.

4. The petitioner has alleged that despite repeated oral requests to the Superintendent of Police, Ahmednagar, no action has been taken and no offense has been registered. Hence, the present repetition has been filed seeking a direction to the authorities to register a case under Section 302 and 120B of IPC and to reinvestigate the matter.

5. The learned Additional Public Prosecutor appearing for the respondents opposed the petition and filed an affidavit-in-reply on behalf of the Investigating Officer of *Topkhana* Police Station. It has been stated therein that the petitioner has no locus to file the present petition, as he is neither a relative of the deceased nor in any way connected with the family of the accused or victim. It is further pointed out that an accidental death case bearing No. 135 of 2020 was registered and was duly investigated. The inquest *panchnama*, spot *panchnama*, statements of witnesses and post-mortem examinations were all carried out. The post-mortem report records the cause of death as "Death due to hanging." The Medical Officers, who conducted the autopsy, found no evidence of homicidal violence. The contusions and the abrasions mentioned were of varying ages, five to ten days and three to seven days respectively and inconsistent with the explanation that the deceased had fallen down the staircase a few days prior to her death. The statements of her daughters and other family members corroborated that she was suffering from depression due to illness and had no quarrels with any family members.

6. It is further brought on record that one *Rushikesh Vasant Shete*, claiming to be the brother of the deceased, had earlier filed Criminal Miscellaneous Application No. 1157 of 2021, before the

Learned Judicial Magistrate First Class, Ahmednagar under Section 156(3) of Cr.P.C., seeking directions to register an offence under Sections 302 and 120B of IPC against *Shankar* and *Sunita*. The said application was considered on merits and rejected by the learned Additional Chief Judicial Magistrate, Ahmednagar by order dated 25.02.2022, after observing that the investigation in A.D. No. 135 of 2020, was already completed, and that the material did not disclose commission of a cognizable offence. The said Order has attained finality and has not been challenged.

7. Having considered the rival submissions, this Court finds that the petitioner, who is a third party and has not shown any direct connection with the deceased or the accused persons, has no locus to maintain the petition. It is evident that the statutory remedies available under Sections 154(3) and 156(3) of Cr.P.C. have already been exhausted by competent persons, i.e., *Rushikesh Vasant Shete*, who is the brother of the deceased, and the judicial authority has declined to issue any such directions for registration of an offense.

8. The scope of writ jurisdiction under Article 226 and 227 of the Constitution does not extend to issuing directions to the police to register an offence or in order to reinvestigation, when an investigation has already been conducted in accordance with law.

In *Sakiri Vasu vs. State of Uttar Pradesh; (2008) 2 SCC 409*, the Hon'ble Supreme Court has held that if a person is aggrieved by a non-registration of an offence, the proper remedy lies under Section 156(3) or 200 of Cr.P.C. and the High Court should not ordinarily interfere in such matters by invoking writ jurisdiction. The writ of *mandamus* cannot be issued to direct registration of an FIR, particularly when the competent magistrate has already considered and rejected a similar prayer.

9. In the present case, it appears from the record that the police authorities conducted a full-fledged inquiry into the accidental death, recorded statements of family members, prepared the inquests and spot *panchnamas* and obtained a post-mortem examination report from a team of doctors at a Government medical college. The medical opinion clearly records the cause of death as hanging, and there is no evidence to suggest any homicidal act. No complaint has been lodged by the family members of the deceased alleging foul play. There is therefore, no material to hold that the investigation was perfunctory or biased.

10. This Court is of the view that no case is made out to issue any direction for registration of an offence or reinvestigation as sought by the petitioner. The petition appears to be based on conjectures and

surmises and devoid of any legal basis. In absence of any *prima facie* evidence of *malafides* on the part of the investigating agency, interference under writ jurisdiction is unwarranted.

11. Accordingly, the Criminal Writ Petition stands dismissed.

12. No orders as to cost.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)