

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1455 OF 2021

Sarika Rahul Kale

.....Petitioner

Vs.

The State of Maharashtra

.....Respondent

Mr. Ramdas Shelke, for the Petitioner.

Mrs. P.P. Shinde, APP for the Respondent-State.

Mr. Mahesh Vitthal Khilari, Buckle No. 408 attached to Jat Police Station, Sangli present.

CORAM : REVATI MOHITE DERE &

DR. NEELA GOKHALE, JJ.

DATE : 29th JANUARY 2025

P.C.:-

1) The Petitioner seeks a direction to the Respondent No.1-Jat Police Station, Sangli to register an FIR on the basis of Petitioner's complaints dated 18th June 2020 as well as 2nd July 2020, and to investigate the same through an independent Police Officer. The Petitioner also seeks a direction to the State to initiate an inquiry against the Police Personnel concerned for misusing their powers.

The facts of the case in brief are;

2) The Petitioner is the wife of deceased-Mr. Rahul Dattatraya

Kale. According to the Petitioner, on 17th June, 2020 at 7.30 p.m., the deceased went out of his house on a motorcycle along with his friend one Shri Santosh Vilas Devkate and Shri Pratik @ Birudev Madhukar Shingade. At around 10.30 p.m., the Petitioner learnt from the Government Hospital that her husband had died. She was informed that he died by falling off a mango tree. The Petitioner strongly suspected that her deceased husband's friends, namely, Santosh and Pratik were responsible for his death.

3) Mr. Ramdas Shelke, learned counsel representing the Petitioner submitted that the height of the mango tree was only 6 to 7 feet and the place where he allegedly fell had soil with grass on it and that not a single branch was broken. Mr. Shelke also submitted that ADR inquiry was hurriedly closed and although the statement of Mr. Shingade was recorded four times, on every occasion, he gave a different story. Furthermore, Mr. Shinde's statement recorded during the course of the inquiry raised a suspicion as to how he learnt about the demise of the deceased. Learned counsel relied on the final report, wherein the cause of death was shown as "Post-mortem findings are consistent with death due to cervical vertebrae fracture" which

could not have happened unless the deceased was assaulted. On these grounds, the Petitioner suspected foul play in her husband's death. She thus, made a written application dated 18th June 2020 to the Police requesting them to carry out an investigation against the said friends of the deceased as well as one Mr. More, the owner of the house where the alleged incident took place. Being aggrieved and dissatisfied by the investigation of the Police, she filed the present Petition.

4) Ms. Prajakta Shinde, learned APP filed an affidavit-in-reply and placed before us other papers pertaining to the investigation. The affidavit is affirmed by one Sandeep Bhagwanrao Ghuge, the Superintendent of Police, Sangli. The affidavit has detailed the chronology of events pertaining to the death of the deceased. On learning of the accident, ADR No.53 of 2020 was recorded and the Spot Panchanama was carried out. Inquest Panchanama was also conducted and the body was sent for post-mortem. Statements of 12 witnesses were recorded including that of the Petitioner, the relatives and friends of the deceased. Statements of independent witnesses were also recorded. It has been averred that the deceased had consumed liquor at the relevant time and had climbed the compound wall

adjacent to the tree to pluck mangoes. The owners of the mango tree namely, Mrs. Mahadevi Vijay More and Vijay Ramchandra More have stated that at the relevant time, they heard noise of breaking of a branch of the mango tree and that they saw the deceased lying in an unconscious state near the compound of their wall. They also found his motorcycle and thus, informed the said fact to the Corporator, Swapnil Shinde, who in turn informed the Police. Furthermore, the statement of deceased's friend Pratik was recorded under Section 164(5) of the Code of Criminal Procedure. On the basis of the averments in the affidavit, the learned APP submits that there was no foul play in the death of the deceased and the same was purely an accident.

5) We have heard the counsels and perused the papers, more particularly, the inquest panchanama, the spot panchanama and the post-mortem report. In Column 17 of the Post-mortem report, absence of any surface wound -injury is specifically noted. This negates an assault or an external attack on the deceased. There is also no head injury. The Post-mortem report also indicates a palpable fracture of cervical vertebrae and on dissection C1, C2, C3 vertebrae fracture neck notes surrounding para spinal muscle contusion and lacerated. There

was hemorrhagic contusion noted in the surrounding area. Initially, the cause of death was reserved and pursuant to inquiry, the cause of death was noted to be death due to ‘cervical vertebrae fracture’. From the perusal of the record of the inquiry, it appears that the same was done with due diligence. Statements of witnesses also corroborate the finding that the deceased died due to falling off the compound wall adjacent to the mango tree.

6) In view of the aforesaid discussion, we are of the considered opinion that the investigation was conducted properly. The post-mortem report clearly negates external foul play vis-a-vis the deceased’s death. It clearly appears to be an accident leading to fatal consequences. We are alive to the grief and anguish naturally suffered by the Petitioner-Wife, however, in the face of tangible material pointing to her husband’s accidental death, we are unable to prescribe to the theory of foul play suspected by the Petitioner-Wife. We are left with no alternative but to dismiss the present Petition.

7) Accordingly, the Petition is dismissed and disposed off accordingly.

8) Needless to state, that the Petitioner is at liberty to initiate appropriate proceedings before the appropriate forum seeking redressal of her grievance, if any.

9) Needless to also state, that in such event, all contentions of all the parties are kept open.

10) All parties to act on an authenticated copy of this order.

(DR. NEELA GOKHALE, J.)

(REVATI MOHITE DERE, J.)

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signed by
SHAMBHAVI
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SHIVGAN
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