

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

CRIMINAL WRIT PETITION NO.3672 OF 2019

Hanmant Vishnu Mulik ... Petitioner
Versus
The State of Maharashtra and Ors. ...Respondents

***WITH
INTERIM APPLICATION NO.151 OF 2019
IN
CRIMINAL WRIT PETITION NO.3672 OF 2019***

Gaurav Kirav Nayakawdi ...Applicant

IN THE MATTER BETWEEN:

Hanmant Vishnu Mulik ... Petitioner
Versus
The State of Maharashtra and Ors. ...Respondents

Mr. Satyavrat Joshi, for the Petitioner/Applicant.

Ms. P. P. Shinde A.P.P for the Respondent-State.

PC-1581 Mr. Anil R. Mali, from Bhilawadi Police Station, Sangli, is present.

***CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.***

DATE : 22nd JANUARY 2025

P.C. :

1. Heard learned counsel for the parties.
2. By this petition, the petitioner seeks the following substantive reliefs:-

“8.

- “(a) that this Hon’ble Court may be pleased to exercise its power under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 and may be pleased to direct Respondent No.1 herein to transfer the investigations in connection with C.R. No.43/2019 registered with the Bhilwadi Police Station, District Sangli to Respondent No.7 herein;
- (b) that this Hon’ble Court may be pleased to direct that investigations in connection with C.R. No. 43/2019 registered with the Bhilwadi Police Station, District Sangli, be carried out by an officer not less than the rank of a Deputy Superintendent of Police;
- (c) that this Hon’ble Court may be pleased to direct that departmental action may be initiated against Respondent No.6 herein.”

3. Learned counsel for the petitioner submits that the petitioner's son Rajnish Mulik was brutally murdered and that since the police were not doing fair and proper investigation, the petitioner was constrained to file the aforesaid petition.

4. Learned counsel for the petitioner submits that despite one Krishna Jangam having heard the conspiracy being hatched and disclosing the complicity of Gaurav Naikwade, the police have failed to take any action against the said accused much less, arrest him. He submits that since the investigation is not being carried out freely and fairly, the investigation be transferred to the respondent No.7 i.e. State Criminal Investigation Department.

5. Learned APP opposes the petition. She submits that no case is made out for transfer of investigation. Learned APP submits that the police have investigated the case not once but on three occasions, however, the complicity of Gaurav was not seen in the said case. She submits that the first charge-sheet was filed on 30th August 2019,

against six persons. She further submits that three supplementary charge-sheet were filed in the said case i.e. on 22nd June 2020; 27th May 2021 and 4th January 2022, and that complicity of the said person i.e. Gaurav was not seen even during further investigation. Learned APP has filed affidavits of Mr. Kailas Jaywant Kodag, Assistant Police Inspector, attached to Bhilawadi Police Station, Sangli dated 19th November 2022; Mr. Sachin Dhondiba Thorbole, Sub-Divisional Police Officer, Tasgaon Division, District Sangli dated 19th October 2023 and Mr. Basavaraj Teli, Superintendent of Police, Sangli, dated 13th December 2023.

6. Today, learned APP has filed an affidavit of Mr. Sandip Bhagwanrao Ghuge, Superintendent of Police, Sangli, dated 21st January 2025. The same is taken on record.

7. Perused the papers. According to the petitioner an FIR was registered vide C.R. No.43 of 2019, with the Bhilawadi Police Station, Sangli, for the alleged offences punishable under Sections 302,

201 r/w 34 of the Indian Penal Code. The said FIR was registered on 3rd June 2019, at the instance of one Sunita Suryavanshi, a Police Patil. It appears that during the course of investigation, the dead body of the deceased was found, belonging to the petitioner's son and accordingly the petitioner's statement came to be recorded on 3rd June 2019 and as such the identity of the dead body was established. Pursuant to the registration of the FIR, six accused came to be arrested in the said case and after investigation, charge-sheet was filed in the said case. It also appears that the statements of some of the witnesses including the petitioner were recorded by the learned Judicial Magistrate First Class under Section 164 of the Code of Criminal Procedure. It is the petitioner's case that at the time of recording of his statement, he had raised a suspicion on one Gaurav as being one of the suspects in the said crime. It is the petitioner's case that despite raising suspicion on Gaurav, the police did not investigate Gaurav's role and as such merely summoned him in the police station and thereafter released him. It also appears that apart from the six accused who have been charge-sheeted, three more accused were named in the crime, however, the

police finding no substance in the allegations against the three persons, did not file charge-sheet against the said three persons. It appears that several representations were made to the Superintendent of Police asking them to re-examine the role of Gaurav in the said case. Learned APP has filed affidavits of Mr. Kailas Jaywant Kodag, Assistant Police Inspector, attached to Bhilawadi Police Station, Sangli dated 19th November 2022; Mr. Sachin Dhondiba Thorbole, Sub-Divisional Police Officer, Tasgaon Division, District Sangli dated 19th October 2023 and Mr. Basavaraj Teli, Superintendent of Police, Sangli, dated 13th December 2023 in this Court stating therein, that the investigation was carried out fairly and impartially and that during the investigation the role of Gaurav was not seen.

8. The affidavit of Mr. Sandip Bhagwanrao Ghuge, Superintendent of Police, Sangli, dated 21st January 2025 tendered by the learned APP reveals that he himself has gone through the papers of investigation i.e. charge-sheet and supplementary charge-sheets and has come to the conclusion after carrying out the investigation, that no

reliable and trustworthy evidence was found against the suspected persons i.e. Gaurav and others. It is further stated that since no evidence was found against the suspected persons, charge-sheet has not been filed against the said persons. He has further in his affidavit stated that the investigation has been conducted in a fair manner and as such the grievance/apprehension raised by the petitioner in the aforesaid petition, is misconceived.

9. Considering that the investigation has been carried out since 2019 and one charge-sheet and 3 supplementary charge-sheets have been filed and as the investigation does not reveal the name of Gaurav and others, the police have not filed charge-sheet against them.

10. In view of the aforesaid, nothing survives for consideration in the present petition seeking transfer of investigation to the State-CID. Petition stands disposed of accordingly.

11. Needless to state, that if during the course of recording of the evidence the complicity of any other accused is seen, it is open for

the trial Court to take appropriate steps in accordance with law under Section 319 of the Code of Criminal Procedure.

12. In view of the disposal of the writ petition, nothing survives for consideration in the Interim Application being Interim Application No.151 of 2019. The same is also disposed of accordingly.

. All concerned to act on the authenticated copy of this order.

DR. NEELA GOKHALE, J.

REVATI MOHITE DERE, J.