



Judgment

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (APL) NO.160 OF 2025

1. Sau.Sunita Gajanan Gadekar,
aged about 55 years,
occupation – housewife,
r/o Shembal Pimpri, tahsil, Pusad,
district Yavatmal.

2. Shri Sagar Gajanan Gadekar,
aged about 32 years,
occupation – data work,
r/o Shembal Pimpri, tahsil Pusad,
district Yavatmal.

3. Bakulabai Shankar Rajekar,
aged about 79 years,
occupation : housewife,
r/o Tilak Chowk, Washim,
district Washim.

. **Applicants.**

:: VERSUS ::

1. State of Maharashtra,
through Police Station Officer,
Washim, tahsil and district Washim.

2. Smt.Madhuri wd/o Aychut @ Jugal
Rajekar, aged about 43 years,
occupation – agriculturist,
r/o Tilak Chowk, Washim,

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tahsil and district Washim. **Non-applicants.**

Shri M.P.Kariya, Counsel for the Applicants.

Shri A.J.Gohokar, Addl.PP for the State.

Shri Y.P.Bhelonde, Counsel for Non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 22/07/2025

PRONOUNCED ON : 20/08/2025

JUDGMENT

1. By this application, the applicants are seeking quashing and setting aside proceeding of Sessions Trial No.33/2020 arising out of Crime No.81/2020 registered under Sections 143, 146, 147, 149, 302, 504, and 506 of the IPC.

2. On the basis of directions given in the application filed under Section 156(3) of the CrPC filed by non-applicant No.2 Madhuri Aychut @ Jugal Rajekar, who is wife of Jugal (the deceased), Crime No.81/2020 was registered against the applicants. As per the contentions

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in the application, the applicants are relatives of the deceased. Initially, merg bearing no.40/2018 was registered against the applicants on 21.11.2018 as death of the deceased occurred in the house. The non-applicant No.2 is the wife of the deceased and their marriage was performed on 13.5.2001. Due to the discord between her and the the deceased, she was residing along with her parents. On 20.11.2018, she was informed about the death of her husband and, therefore, she visited her matrimonial home and observed that there were injuries on the person of the deceased. However, due to death of her husband, she was not in a sound mental condition and she was not aware the exact cause of death. Therefore, she has not raised any suspicion as to the death of her husband. On 7.7.2019, she was informed by her neighbour that on the day of Diwali Festival, her husband was assaulted by the applicants and other family

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members. Similar fact was informed to her by the other neighbours also. Therefore, she approached the police station, but as the police have not taken cognizance of her complaint, she approached the court seeking directions to investigate the matter and to register the crime against the persons who assaulted her husband.

3. Learned Magistrate passed an order below Exh.1 and allowed the application and directed the Washim City Police Station to register the offence. After registration of the offence, the investigation was carried out as the postmortem report was already collected during the investigation of the report. Therefore, various statements are recorded and after recording of the statements, the chargesheet was filed against the applicants and other co-accused.

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4. Now, the present application is filed on the ground that death of the deceased is caused due to “Bilateral Pulmonary Consolidation,” which is natural death. The deceased was suffering from various ailments which resulted into his death and the applicants are no way concerned with the cause of death of the deceased and, therefore, directions given by the Magistrate and filing of the chargesheet itself are erroneous. By way of seeking the provisions under Section 482 of the CrPC (528 of the BNSS), the applicants prayed for quashing of the proceeding.

5. Heard learned counsel Shri M.P.Kariya for the applicants, learned Additional Public Prosecutor Shri A.J.Gohokar for the State, and learned counsel Shri Y.P.Bhelonde for non-applicant No.2.

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6. Learned counsel for the applicants submitted that applicant no.1 is sister, applicant No.2 is nephew, and applicant No.3 is mother of the deceased. During life time of the husband, non-applicant No.2 filed various litigation against her husband. She never resided along with him. She also claimed her right in the property of her husband and by taking disadvantage of the death of the deceased, she is taking revenge against the applicants by implicating them in the false and baseless FIR. The deceased was addicted by vices due to which he was suffering from ailments and death of the deceased is also a natural death and, therefore, the proceedings in sessions trial against the present applicants deserve to be quashed.

7. Learned Additional Public Prosecutor for the State strongly opposed the application and submitted that eyewitnesses who are neighbours corroborated the story

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of the complainant which shows that on the day of the incident, the deceased was assaulted by applicants and other co-accused.

Whether the assault was sufficient to cause death of the deceased is a matter of evidence.

At this stage, considering the postmortem report showing injuries on the person of the deceased, the application deserves to be rejected.

8. On hearing both the sides and perusing the investigation papers, there is no dispute as to the fact that initially merged report was registered on the basis of report lodged by non-applicant No.2. Death of the deceased occurred on 20.11.2018. During the investigation, the statement of non-applicant No.2 and other witnesses are recorded. Subsequently, on 16.2.2020, first time non-applicant No.2 approached the police and gave her

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statement that she was informed on 7.7.2019 by her neighbours that her husband was assaulted and has caused his death. Said Statement was recorded after the directions by the Magistrate of registering the FIR. As per the statement of non-applicant No.2, on 7.7.2019, she came to know about the said incident. On 23.7.2019, she approached the Magistrate and filed application under Section 156(3) of the CrPC. By passing order on 10.2.2020, the Magistrate directed the police station to register the crime and, thereafter, the statement came to be recorded. After registration of the FIR, statements of Arun Kankar, Balaji Khankar, Shubha Khankar, PHC Maruti were recorded. From their statements, it revealed that they witnessed that on 20.11.2018 the deceased was assaulted by the applicants and other family members. The postmortem report collected during the investigation also shows injuries on the person of the deceased.

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9. Thus, learned Additional Public Prosecutor for the State submitted that at this stage, statements recorded are sufficient to proceed with the trial. The powers under Sections 226 and 227 of the CrPC are to be exercised in exceptional circumstances. Therefore, he prays for rejection of the application.

10. On hearing both the sides and perusing of the record available, there is no dispute as to fact that initially merg was registered and non-applicant No.2 who was present at the spot have not made any complaint as to the cause of the death of the deceased. It is also an admitted position that non-applicant No.2 and the deceased were legally married, but due to discord between them, they were not residing together. Applicant no.1 is sister, applicant No.2 is nephew, and applicant No.3 is mother of the deceased. The facts on record show that first time

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non-applicant No.2 came to know about the incident dated 20.11.2018 as she was informed by one Arun Shelke and she came to know that on day of the incident, her husband was assaulted. Therefore, she approached police station and as the police have not taken cognizance, she approached the Magistrate and as per the directions of the Magistrate, the crime was registered against the applicants. The said contention of non-applicant No.2 is supported by neighbours namely Balaji Kankhar, Arun Kankar, Suman Kankar, and PC Maruti. Injuries are also seen while conducting the postmortem of the deceased.

11. The postmortem report shows that there were injuries on the person of the deceased in the nature of contusion 3x3 cms over left hand on the prone side and contusion of 1cm x 3 cm under right ear. Initially, cause

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of death was not opined by the medical officer. After receipt of the CA Report, he opined that the cause of death is due to “Bilateral Pulmonary Consolidation. The “bilateral” refers to the feeling of air spaces in both lungs with fluid or other material, instead of air, leading to increase density on imaging. This condition often sign of various lungs diseases.

12. The documents on record also show that the deceased was under treatment for various ailments.

13. At the same time, the statements of above said witnesses show that the deceased was assaulted on the day of the incident, cannot be ignored at this stage.

14. Whether the applicants contributed to the death of the deceased or not is a matter of evidence.

15. At this stage, considering the statements of witnesses and in absence of any material to show that

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there is any reason for them to grind axe the applicants, exercising powers under Section 482 of the CrPC would not be proper at this stage.

16. In this view of the matter, the application being devoid of merits is liable to be rejected and the same is **rejected**.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!