

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

CRIMINAL WRIT PETITION NO. 1703 OF 2018

Sushilabai w/o Vaijinath Pawar,
Age : 40 years, Occu. Household,
R/o. Wazur, Tq. Gangakhed,
District : Parbhani,
At present at Parbhani,
Tq. and Dist. Parbhani.

...Petitioner

Versus

- 1] The State of Maharashtra,
Police Inspector, Police Station,
Gangakhed, Tq. Gangakhed,
Dist. Parbhani.
- 2] The District Superintendent of Police,
Parbhani, Dist. Parbhani.
- 3] Hiranman Ganpat Pawar,
Age : 65 years, Occu. Agriculture,
R/o. Wazur, Tq. Gangakhed,
District : Parbhani.
- 4] Sanjay s/o Hiranman Pawar,
Age : 45 years, Occu. Agriculture,
R/o. Wazur, Tq. Gangakhed,
District : Parbhani.
- 5] Manik Ganpat Pawar,
Age : 50 years, Occu. Agriculture,
R/o. Wazur, Tq. Gangakhed,
District : Parbhani.
- 6] Pandurang Manik Pawar,
Age : 55 years, Occu. Agriculture,
R/o. Wazur, Tq. Gangakhed,
District : Parbhani.
- 7] Kushawartabai Manik Pawar,
Age : 40 years, Occu. Household,
R/o. Wazur, Tq. Gangakhed,
District : Parbhani.
- 8] Yenubai Hiranman Pawar,
Age : 60 years, Occu. Household,
R/o. Wazur, Tq. Gangakhed,

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District : Parbhani.

9] Ganu Hiranman Pawar,
Age : 35 years, Occu. Household,
R/o. Wazur, Tq. Gangakhed,
District : Parbhani.

...Respondents

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Mr. M. R. Andhale, Advocate for the petitioner
Mr. B. V. Virdhe, APP for respondent/State
Mr. S. S. Ambore, Advocate for respondent nos. 5 to 7 (Absent)

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CORAM : SMT. VIBHA KANKANWADI
AND
RAJESH S. PATIL, JJ.

DATE : 28.09.2022

ORAL JUDGMENT [PER RAJESH S. PATIL, J.] : -

1. The Criminal Writ Petition has been filed on 04.11.2018 under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, seeking the following reliefs:-

- i) That, the respondent no.1 and 2 may kindly be directed to investigate the alleged complaint dated 30.06.2002 lodged by the petitioner and her husband namely Vaijinath Gunaji Pawar may be produced before this Hon'ble Court.
- ii) That the respondent no. 1 and 2 may kindly be directed or ordered that, the investigation may be started against the respondent no. 3 to 9 and registered the cognizable offence, if they are found responsible for the committing any offence and grabbed the property of her husband.
- iii) If any delay caused to file this writ petition my kindly be condoned.
- iv) If the respondent no. 1 and 2 failed to investigate the alleged complaint the matter may be referred to CID Department for further investigation by issuing appropriate writ or directions by this Hon'ble Court.

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FACTS : -

2] The petitioner has stated in the Criminal Writ Petition that her husband had gone towards the river on 27.06.2002 and he did not return to the house thereafter. Respondent nos. 3 to 5 had informed that the husband of petitioner had swept away in a flooded river. She had filed a complaint with the Police Station, Gangakhed on 30.06.2002, but, the police authority did not take any cognizance of the same. Due to non-cognizance of the complaint by the police, she had approached various authorities of the Government. She had even made a representation to the then Hon'ble Chief Minister of Maharashtra thereby requesting to direct inquiry through CID in the alleged murder of her husband.

3] The petitioner further stated that, she had learnt from the record that the immovable property of land Gut No. 67 of village Wazur was mutated in the name of Manchakrao Bapurao Pawar by executing registered sale deed on behalf of the present petitioner which is, in fact, bogus and fabricated one. She further stated that the land adm. 65 *Are* out of Gut No. 63 was transferred in the name of Yenubai Hiranman Pawar i.e. respondent no. 8, by registered sale deed dated 25.03.2004 and the said document was signed by one Kondbai Vajjnath Pawar, who is neither wife of deceased nor legal heir of the petitioner and that the petitioner has doubt that the respondent nos. 2 to 4 have committed the murder of her husband. It is further stated that, even the mutation entry also effected in 7/12 sgp

extract in the name of alleged accused/respondents and they are illegally enjoying the suit property.

4] Though the complaint is filed in the year 2002, neither her husband was traced out by the police nor the investigation has been conducted into the crime. The respondents/accused are hand in glove with police authority and therefore there has been no investigation in the offence in question.

SUBMISSIONS : -

5] Learned counsel for the petitioner submits that the petitioner is aggrieved by inaction of the respondents/police authority in not conducting investigation against the respondent nos. 3 to 9. In this regard, petitioner had made several complaints/representations for conducting investigation into the crime but no action whatsoever has been taken thereupon. As such, the instant petition has been filed seeking the reliefs referred to herein above.

6] Per contra, learned APP for the respondents/State objected to grant of reliefs on the ground of inordinate delay and latches, which is unexplained in petition.

ANALYSIS : -

7] The question arises as to whether it would be proper for this Court to exercise its jurisdiction under Section 482 of the Code of Criminal Procedure after such a long delay. Though there is no sgp

period of limitation prescribed within which a petition under Section 482 of the Cr. P. C ought to be filed yet, if a petitioner fails to address convincingly the reasons for latches and inordinate delay, the Court would not exercise its jurisdiction under Section 482 of the Cr. P. C. and as such a petition should be filed within a reasonable time.

8] In **Vipin Kumar Gupta v. Sarvesh Mahajan**, MANU/DE/0418/2019, the High Court of Delhi observed that if a Court fails to take into consideration delay and latches while invoking the powers of the High Court under Section 482 of the Cr.P.C. without any reasonable ground, there would be no end to the litigation.

9] A party cannot approach the High Court under Section 482 of the Cr.PC at his whim and caprice merely because no period of limitation in filing the petition under the aforesaid provision is provided. A petition under Section 482 of the Cr. P. C must be filed within a reasonable time and it should not be vitiated by inordinate delay and latches on the part of the petitioner.

10] Within what time a petitioner should approach the Court under Section 482 of the Cr. P. C depends upon the facts and circumstances of the case. Reasonable time generally means any time which is not manifestly unreasonable and which is fairly necessary for approaching the Court. Reasonable time would mean a time required by a prudent litigant to approach the Court in the given facts and circumstances of the case.

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11] Analyzing the facts of the instant case in the backdrop of aforesaid legal position, it is absolutely clear that the petitioner has approached this Court at a highly belated stage after about 16 years of registration of complaint. The petitioner after waking up from deep slumber, approached this Court without any iota of explanation for the delay as per her choice, vagary and crotchet. Thus, it can by no stretch of imagination be stated that the petitioner has approached this Court within a reasonable time. The petitioner wants this Court to exercise its jurisdiction under Section 482 of Cr. P. C, which, in the facts and circumstances of the case, this Court would be reluctant to do.

12] Thus, the instant petition is dismissed being highly belated. The petitioner is, however, at liberty to take recourse to the alternate remedy, if available under the law.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE