NC: 2025:KHC-K:358
WP No. 205110 of 2019

IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 21ST DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO.205110 OF 2019 (GM-RES)

BETWEEN:

1. SMT. RENUKA W/O ASHOK MAHINDERKAR,
   AGE: 40 YEARS, OCC: HOUSE HOLD WORK,
   R/O. BANASHANKARI GALLI, BASAVAKALYAN,
   DIST. BIDAR-585327.

2. ASHOK S/O RAGHUNATHRAO MAHINDERKAR,
   AGE: 45 YEARS, OCC: PAINTER,
   R/O. BANASHANKARI GALLI, BASAVAKALYAN,
   DIST. BIDAR-585327.

…PETITIONERS

(BY SRI SACHIN M. MAHAJAN, ADVOCATE)

Digitally signed by SHILPA R TENIHALLI
Location: HIGH COURT OF KARNATAKA

AND:

1. THE STATE OF KARNATAKA
   THROUGH BASAVAKALYAN
   TRAFFIC POLICE STATION, REPRESENTED BY
   THE SHO, BASAVAKALYAN, DIST. BIDAR-585327.

2. THE SUPERINTENDENT OF POLICE, BIDAR,
   SP OFFICE, NO.1 MANGALPET ROAD,
   PAKAWADA, BIDAR-585401.

…RESPONDENTS

(BY SMT. MAYA T.R., HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLE OF 226 OF CONSTITUTION OF INDIA, READ WITH SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE PRAYING TO, A)ISSUE AN APPROPRIATE WRIT OR ORDER OR DIRECTION AND ORDER FURTHER INVESTIGATION IN THE MATTER IN C.C.NO.557/2018 FOR THE OFFENCES PUNISHABLE U/SEC.279, 304-A OF IPC AND SEC.181 OF THE IMV ACT, PENDING ON THE FILE OF THE LEARNED CIVIL JUDGE AND JMFC AT BASAVAKALYAN, ARISING OUT OF CRIME NO.113/2017 OF BASAVAKALYAN TRAFFIC POLICE STATION, BY A COMPETENT SUPERIOR OFFICER, PREFERABLY BY THE CID, B) PASS ANY SUCH OTHER ORDERS AS THIS HON'BLE COURT DEEMS FIT AND PROPER IN THE FACTS AND CIRCUMSTANCES OF THE CASE.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL ORDER

(PER: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY)

Petitioners are before this Court in this writ petition seeking for the following reliefs:

"a) Issue an appropriate writ or order or direction and order further investigation in the matter in C.C.No.557/2018 for the offences punishable u/Sec.279, 304-A of IPC and Sec.181 of the IMV Act, pending on the file of the learned Civil Judge and JMFC at Basavakalyan, arising out of Crime No.113/2017 of Basavakalyan Traffic Police Station, by a competent superior officer, preferably by the CID.

b) Pass any such other orders as this Court deems fit and proper in the facts and circumstances of the case, in the interest of justice and equity."

2. Heard learned counsel for the parties.

3. Learned counsel for the petitioners submits that there are certain contradictions in the materials found in the charge sheet filed in the present case. Though in the first information, it is stated that deceased Omkar, who was the son of the petitioners herein was driving Ape autorickshaw bearing registration No.KA-56/2203 on the alleged date of the road traffic accident, the requisition given by the Police Sub Inspector of Sadar Bazar Police Station, Solapur city, Maharashtra State would go to show

that the said autorickshw driven by Omkar on 11.09.2017 had met with an accident with a container at Koudal village of Basavaklayan taluka. He submits that police have not properly investigated the case and have erroneously filed an abated charge sheet as against deceased Omkar. The first information is also submitted by a hearsay witness, who is the close relative of deceased. In the event, the prayers made in the petition are not granted, petitioners, who are the parents of the deceased, who was the only son of the petitioners, will be put to irreparable hardship. Accordingly, he prays to allow the writ petition.

4. Per contra, learned High Court Government Pleader has opposed the writ petition. She submits that the material on which reliance has been placed by the petitioners is not relating to the investigation done in the present case. The said requisition is given by the Police Sub Inspector of Sadar Bazar Police Station, Maharashtra State, on the basis of the statement made by the mother

of the deceased during the course of investigation of a UDR case. So far as present case is concerned, there is absolutely no material to show that said autorickshaw driven by deceased Omkar had dashed against any other vehicle. Accordingly, she prays to dismiss the writ petition.

5. The first informant in the present case is one Yogesh S/o. Vijayakumar Mahindrakar who is the cousin brother of deceased Omkar. In the first information dated 11.09.2017, he has stated that at about 2.45 a.m. on 11.09.2017, he received a phone call from the mobile phone of the deceased Omkar and was informed that Omkar, who was driving Ape autorickshaw bearing registration No.KA-56/2203 in a rash and negligent manner, had lost control of the same and as a result, the vehicle had turtled and in the road traffic accident, Omkar had suffered grievous injuries and he has admitted in Government Hospital, Basavakalyan. It is in this background initially FIR was registered for the offences

punishable under Sections 279 and 338 of IPC against Omkar. It appears that subsequently Omkar, who was admitted in the Government Hospital at Basavakalyan was shifted to a private hospital at Solapur city in Maharashtra State by his mother and a UDR case was registered in UD No.00/2017 by Sadar Bazar Police Station, Solapur city, Maharashtra State and based on the statement made by the mother of the victim during the course of investigation in the UDR case, it appears that Police Sub Inspector had given a requisition to the hospital authorities at Solapur seeking the exact reason for the death of Omkar. Except the aforesaid requisition, there is no other material to show that said autorickshaw driven by deceased Omkar had dashed against any other vehicle on 11.09.2017.

6. The statement of the petitioners was recorded by the Investigating Officer in the present case under Section 161 of Cr.P.C. and petitioners have not stated before the Investigating Officer that Omkar was not the driver of the said autorickshaw on the date of the accident

nor they have stated that autorickshaw of Omkar had dashed against any other vehicle on 11.09.2017. The accident is of the year 2017 and even in this petition, the particulars of the container, which allegedly had dashed against the autorickshaw of Omkar is not mentioned. Therefore, no purpose would be served in directing any further investigation in the case. If the petitioners were aggrieved with the charge sheet filed in the present case, they ought to have filed a private complaint before the jurisdictional Court before which the charge sheet was filed. Having failed to avail the efficacious remedy available to them under law, they have approached this court and have sought for a further investigation in the matter. Since the charge sheet material in the present case conclusively prove that deceased Omkar was driving the Ape autorickshaw bearing registration No.KA-56/2203 and the accident in question had taken place after he had lost control of the vehicle, I am of the opinion that no purpose would be served in ordering further investigation in the matter after lapse of more than seven years from

the date of the accident. Under the circumstances, I am of the opinion that petition is liable to be dismissed. Accordingly, following order is passed:

ORDER

Writ petition stands dismissed.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

SRT
List No.: 1 Sl No.: 41
CT:PK