

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.183 OF 1999

STATE OF MAHARASHTRA & ORS.

...

APPELLANTS

VERSUS

VIMLADEVI TIWARI
DENT

... RESPON

WITH

CRIMINAL APPEAL NOS.183, 184 AND 402 OF 1999 AND CRIMINAL APPEAL
NO.271 OF 2006 @ SLP(CRL.)NO.1115(CRL.M.P.NO.987)/2006.

O R D E R

CRIMINAL APPEAL NOS.183, 184 AND 402 OF 1999

Appeal No.183 of 1999 is preferred by the State of Maharashtra and

appeal Nos.184 and 402 of 1999 are preferred by A. S. Deshbhartar. All these appeals

are against the order dated 22.4.1998 passed by the High Court in Criminal Writ

Petition No.258/1998 and the order dated 28.11.1998 passed by the District and

Sessions Judge pursuant to the direction of the High Court. The sole allegation is that

one Shri Jitendra Tiwari who was arrested on 5.12.1997 purportedly under Section 41

(2) of the Criminal Procedure Code and proceedings were initiated against him under

Section 109 of the Cr.P.C., who was in judicial custody died in the JJ Hospital on

25.12.1997 while taking treatment. The postmortem report shows that the deceased

died due to pyogenic meningitis which is a natural death as against making allegation by

the respondent Vimladevi Tiwari, mother of the deceased, that it was a custodial death.

A compensation of Rs.10,000/- and also Rs.1,00,000/- with interest at the rate of 12%

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per annum has also been paid to the mother of the deceased.

Despite receipt of the notice none appeared on behalf of the respondent- Vimladevi Tiwari the mother of the deceased.

Technically speaking, therefore, it has become an academic exercise. The postmortem report shows that the death is a natural death. In this view, it cannot be said that the death is a custodial death. Since, the matter has become an academic, we are not persuaded to go into the minute detail of the matter. We, however, of the view that the observation of the High Court and the District & Sessions Judge casting a stricture and recommending action against the Police Officer, in the facts and circumstances of this case, was unwarranted.

The aforesaid observation is, accordingly, expunged. Both the orders of

the High Court and District and Sessions Judge are set aside. The appeals are allowed.

Criminal Appeal No.271 of 2006 @

SLP(Crl.)No.1115 (Crl.M.P.No. 987)/2006

Delay condoned.

Leave granted.

This appeal is preferred by the State of Maharashtra. In view of the

order in Criminal Appeal No.183 of 1999, this appeal is allowed.

.....J.

(H.K. SEMA)

.....J.

(DR. AR. LAKSHMANAN)

NEW DELHI,

FEBRUARY 28, 2006.

ITEM NO.104

COURT NO.8

SECTION IIA

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 183 OF 1999

STATE OF MAHARASHTRA & ORS.

Appellant (s)

VERSUS

VIMLADEVI TIWARI

Respondent(s)

(With appln(s)for permission to file additional documents & office report)

WITH APPEAL(CRL) NO. 184 of 1999(With office report)

APPEAL(CRL) NO. 402 of 1999(With appln.(s) for ex-parte stay and with office report) and SLP(R)...

CRLMP NO. 987 of 2006

(With appln.(s) for c/delay in filing SLP and with office report)

Date: 28/02/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Appellant(s)

Mr. S.K. Dolkia, Sr.Adv.

Mr. Ravindra Keshavrao Adsure,Adv.

Mr. V.B. Joshi, Adv.

Mr. G. Bhergoram, Adv.

Mr. Umesh Bhagwat, Adv.

For Respondent(s)

Mr. Ravindra Keshavrao Adsure

UPON hearing counsel the Court made the following

O R D E R

CRIMINAL APPEAL NOS.183, 184 AND 402 OF 1999

The appeals are allowed in terms of the signed order.

Criminal Appeal No.271 of 2006 @

SLP(Crl.)No.1115 (Crl.M.P.No. 987/)2006

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Delay condoned.

Leave granted.

In view of the order in Criminal Appeal No.183 of 1999,
this appeal is

allowed.

(PAWAN KUMAR)

(ANAND SINGH)

COURT MASTER

COURT MASTER

(signed order is placed on the file)