



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

CRIMINAL APPEAL NO. 169 OF 2024

Sadashiv Kisan Shenage (Patil)
Age: 50 years, Occu.: Agri.,
R/o Arvi, Tq. & Dist. Dhule

..APPELLANT

VERSUS

State of Maharashtra
Through Police Inspector,
Dhule Taluke Police Station,
Tq. & Dist. Dhule

..RESPONDENT

....
Mr. A.K. Bhosle, Advocate h/f Mr. S.B. Kadu, Advocate for appellant
Mr. S.J. Salgare, A.P.P. for respondent - State
....

**CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ
DATE : 11th FEBRUARY, 2025**

ORAL JUDGMENT :

1. The challenge in this appeal is to the judgment of conviction and order of consequential sentence dated 12th April, 2019 passed by the Court of Session, Dhule ('trial Court') in Sessions Case, No. 99 of 2016. Vide the impugned judgment and order, the appellant has been convicted for the offence punishable under Section 302 of the Indian Penal Code ('I.P.C.') and sentenced to suffer imprisonment for life and to pay fine of Rs.5,000/- with default stipulation.

2. The case of the prosecution, in short, was as under :-

The appellant had married Surekha about twenty years before 2016. He would harass and ill-treat her for one or the other reason. The

couple was blessed with a daughter, PW 3 – Priti (complainant). Due to harassment and ill-treatment, Surekha had stayed at her parental house for little over twelve years. On the request of the appellant, she had resumed cohabitation.

3. On the given day Surekha had served meals to her mother-in-law. Thereafter she was to take her meal. Mother-in-law, after taking the meals, placed her plate on the pot of cooked vegetables. Surekha, therefore, enquired with her as to why did she put the plat in such a way, when she was to take the said meal. A petty quarrel ensued between them.

In the evening, after taking dinner, all the family members i.e. the appellant, his wife, mother and daughter – Priti went to sleep outside their house on different cots. Priti heard screams of her mother. She woke up and saw the appellant mercilessly assaulting her mother with a stick. When she intervened, he tried to throttle her. When she assured that she will speak on his side, he let her free. Due to merciless assault, Surekha died. Priti rushed to Dhule Taluka Police Station and lodged the First Information Report ('F.I.R.') (Exh.30).

4. A crime vide C.R. No. 203 of 2016 was, therefore, registered. The appellant was arrested. Crime scene panchanama (Exh.39) was drawn. Mortal remains of Surekha was subjected to inquest and autopsy as well. The appellant came to be arrested. Clothes on the person of both, the appellant and the deceased, were taken charge of. All the seized articles

were sent to R.F.S.L., Nashik. Statements of the persons acquainted with the facts and circumstances of the case were recorded. On completion of investigation, the appellant was proceeded against by filing the charge-sheet.

5. The trial Court framed the charge (Exh.14). The appellant and co-accused pleaded not guilty. It was their defence that sugarcane was sold. There was hefty amount in the house. Robbers came. They robbed money. Surekha woke up. The robbers, therefore, assaulted her and then fled.

6. The prosecution, to bring home the charge examined seven witnesses and produced in evidence certain documents. On appreciation of the evidence in the case, the trial Court convicted and sentenced the appellant as stated above and acquitted the co-accused.

7. Learned counsel for the appellant took us through the evidence on record. He would submit that PW 3 - Priti had been residing at her maternal uncle's house. For giving her evidence in the Court, she had accompanied her maternal uncle. Her evidence was not free from doubt, since the same was influenced by the relations of her maternal side. There is no other evidence on record. The other injuries on the person of the deceased were minor and even superficial. The deceased died of head injury caused with use of a stick. The stick could not be said to be a deadly weapon. The appellant could not be attributed with the intention to eliminate his wife. Learned counsel, therefore, first urged for allowing the appeal in to-to and in

the alternative prayed for converting the conviction to the offence punishable under Section 304 Part II of the I.P.C.

8. Learned A.P.P. would, on the other hand, submit that it is an open and shut case. Real daughter of the appellant gave evidence against him. Her presence at the crime scene at the relevant time has been admitted. She has no reason to falsely implicate her natural father and give clean chit to real culprit. He, therefore, urged for dismissal of the appeal.

9. Considered the submissions advanced. Perused the judgment impugned herein and evidence on record. Let us turn thereto and appreciate the same.

10. Surekha (deceased) met with homicidal death is undisputed before us. The postmortem report (Exh.23) indicates her to have died of head injury associated with fracture of bones of right forearm. The postmortem examination was conducted by PW 1 – Dr. Ramesh. He noticed twenty-three antemortem injuries on the person of the deceased. According to him, injury nos. 7, 8, 12 to 15 were indicative of self defence. Close reading of the said report indicates the deceased was indiscriminately and mercilessly assaulted.

11. The question is whether the appellant is the author of the crime. We need not refer to the other evidence on record which is in the nature of crime scene panchanama (Exh.39), inquest (Exh.28) and panchanamas

regarding seizure of clothes of the deceased and the appellant (Exh.34 to 36). Needless to mention, the crime scene panchanama is the field nearby the residential house of the appellant.

12. The F.I.R. (Exh.30) was lodged by PW 3 – Priti. She testified that two years before the incident, her mother had resumed cohabitation with the appellant. The appellant used to pick-up frequent quarrels with her mother. He would abuse her frequently. On 09th July, 2016 she had accompanied with her mother (deceased) to the field. Both of them came back to their house by 02:30 p.m. Her grand-mother and the appellant were at the house. The grand-mother, after taking her meals, placed the plate on the pot of cooked vegetable. The mother (deceased), therefore, questioned her action as she was to take the meals. A petty quarrel was ensued between the two (Surekha and her mother-in-law). Her mother again went to the field and returned by 06:00 in the evening. The appellant and grand-mother did not talk to her mother. She further testified that by 08:30 p.m. in the evening, those four took their meals and went to sleep on four different cots. By 04:30 a.m. the appellant started beating up Surekha with stick. She heard screams of her mother. She woke up and saw the appellant assaulting her mother. She intervened to save her. The father inflicted on her head a stick blow. She requested her father not to beat the mother further. He did not listen. She even requested the grand-mother to control her father. She (grand-mother) left the house saying let her die. The appellant thereupon throttled Priti. He only relieved her when she promised to speak on his side.

13. Priti further testified that the appellant then called her uncle – Sunil. He came. Both of them wiped the blood stains on the floor, bed and quilt. Then her mother's body was kept on mattress. Sunil telephoned her maternal uncle and told that Surekha died of cardiac attack. She (Priti) went to the police station and lodged the F.I.R. (Exh.30).

14. She was subjected to a searching cross-examination. However, nothing fruitful could be elicited. It was suggested to her that a day before the incident, she and mother had been to the field wherein onion crop was there. Sugarcane had already been harvested and sold as well. She claimed ignorance that the amount received of sale of sugarcane was kept in the house. The previous day's incident of quarrel over grand-mother keeping the plat on the pot of cooked vegetable has also been admitted during suggestion. The same suggests the appellant to have admitted Priti's presence at the house on the fateful day as well. It was further suggested to her that her F.I.R. (Exh.30) was reduced into writing as per her say. This goes a long way to hold the oral evidence of Priti to have been corroborated by her previous statement in the nature of F.I.R. (Exh.30).

15. At the cost of repetition we find that Priti had no reason to grand an axe against her father. Her presence at the crime scene is undisputed. The postmortem report (Exh.23) and the number of injuries indicate the appellant to have mercilessly assaulted his wife to death.

16. PW 4 – Satish is the brother-in-law of the appellant (brother of the deceased). He arrived after having learned about the incident. His evidence, however indicates that the appellant had been ill-treating his sister, Surekha, and therefore, she (Surekha) had stayed at her parent's house for over twelve years.

17. PW 5 – Sharif is a witness to the panchanamas of seizure of clothes of appellant and deceased (Exh.35 & 36 respectively). Exhibit 37 is the seizure of blood stained stick. PW 6 - Shantaram, Police Officer drew the crime scene panchanama (Exh.39). PW 7 – Milind, Police Officer did the investigation. He paid visit to the crime scene and drew certain panchanamas (Exh.28, 34 to 37) (referred to hereinabove).

18. Appreciation of the aforesaid evidence lead us to conclude that it was the appellant and none else, who committed murder of his wife. The trial Court has rightly convicted the appellant and consequently sentenced him to imprisonment for life. We find no reason to interfere with the findings recorded by the trial Court. The appeal is sans merit. Same is, therefore, dismissed.

(NEERAJ P. DHOTE, J.)
SSD

(R.G. AVACHAT, J.)