

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPEAL NO.77 OF 1997

The State of Maharashtra.

**....Appellant.
(Org.complainant)**

Versus

1. Namdeo Mogal Ranshur, Age:55 yers.,
Occu: Labourer, R/o Dharangaon.
Tq.Kopargaon, District: Ahmednagar.
2. Sanjay S/o Namdev Ranshur, Age:39 yers
Occu: Agricultural labourer,
R/o Dharangaon, Tq. Kopargaon,
District : Ahmednagar.
3. Sakahari Namdev Ranshur, Age: 23 yers
Occu: Student R/o Dharangaon
Tq. Kopargaon. District : Ahmednagar.
4. Rajendra Namdev Ranshur, Age: 21 yers.
Occu: Agricultural Labourer, R/o Dharangaon,
Tq. Kopargaon, District: Ahmednagar.

**....Respondents.
(Ori. Accused)**

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Shri B.L. Dhas, APP for appellant.
None for respondents.

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**CORAM: A.B. CHAUDHARI &
INDIRA K. JAIN, JJ.**

DATE: 08.10.2015

ORAL JUDGMENT (Per A.B. Chaudhari, J.) :

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1] Being aggrieved by the judgment and order dated 31.8.1996 passed by the learned Additional Sessions Judge, Ahmednagar, in Sessions Case No.191/1993 by which he acquitted all the respondents for the offence punishable u/ss.302, 323, 504 and 506 r/w 34 of the Indian Penal Code, the present appeal was filed by the State against the order of acquittal.

2] In support of the appeal while assailing the impugned judgment and order, the learned APP submitted that there are four eye witnesses to the incident of murder inasmuch as the deceased Ananda was aged about 85 years who died in the incident because of assault made by the respondents. It is submitted that the entire incident has been described by all the witnesses that merely because the hen from the house of the deceased had crossed over the boundary of his house and entered the house of the accused, the accused Namdeo started abusing and thereafter the accused Namdeo and his sons entered the courtyard of the deceased and started fight with the members of family of the deceased Ananda, in which Ananda died. That is the evidence, which has been wrongly rejected by the trial Judge. It is submitted that it is

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nothing but the perversity on the part of the learned trial Judge and hence the impugned judgment and order deserves to be interfered with by this Court.

2] None appears for the respondents.

3] We have perused the impugned judgment and order and the reasons recorded by the learned trial Judge. We have seen the eye witness account of PW5 Popat, who described the scuffle that had taken place on the issue of crossing over of boundary by hen into the house of the accused. Even this witness PW5 Popat and other eye witnesses describe that there was scuffle amongst the members of families of both the parties and exchange of some blows and nothing more. There is no allegation that any weapon was used, much less dangerous weapon by any of the parties. Thus, the scuffle ultimately resulted into admission of the deceased into hospital, who was aged about 85 years. The cause of death described by the doctor is Myocardial infraction due to which Ananda expired after 22 hours. That is what is the evidence of doctor as well. We, therefore, find that though there was scuffle between the family members of both the parties i.e. the accused, the victim and the complainant,

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that scuffle did not result into death of the deceased, but the deceased Ananda got heart attack and thus ultimately breathed his last in the hospital. Therefore, even the remote of possibility of homicidal death was ruled out. That being so, we have no reason to differ with the learned trial Judge in holding that Ananda did not die out of the assault in the scuffle, but died a natural death, though preceded by scuffle, but then there was no evidence to show that any murder had taken place.

4] We, therefore, find that in the absence of proof that the death of Ananda was homicidal, the trial Judge made no mistake in recording the order of acquittal. In the result, we find no merit in the instant appeal. Hence, we pass the following order.

ORDER

Criminal Appeal No.77/1997 is dismissed.

(INDIRA K. JAIN, J.)

(A.B. CHAUDHARI, J.)