

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPEAL NO. 285 OF 1997

The State of Maharashtra.

... **APPELLANT**
(Original Complainant)

VERSUS

1. Shivaji Gunaji Shelke,
age : 35 years,
2. Prabhu Gunaji Shelke,
age : 40 years,
3. Tukaram Gunaji Shelke,
age : 33 years,
4. Bhima Gunaji Shelke,
age : 55 years,
5. Girjabai w/o Gunaji Shelke,
Age : 55 years,
6. Gavalanbai w/o Prabhu Shelke,
age : 28 years,
7. Panchphulabai w/o Tukaram Shelke,
age : 25 years,
8. Mathurabai w/o Shivaji Shelke,
age : 28 years,
9. Kamlabai w/o Bhima Shelke,
Age : 28 years.

... All are agriculturists and
r/o Village Vilegaon,
Tq. Ahmedpur, Dist. Latur.

... **RESPONDENTS**
(Original Accused)

...

Mr. A. S. Shinde, APP for Appellant / State.

Ms Chinmayee Deshpande, Advocate i/b Mr. S. V. Natu, Advocate for all the Respondents.

...

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

DATE : 15th October, 2015.

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

. Being aggrieved by the judgment and order dated 2nd June, 1997, passed by the learned IIIrd Additional Sessions Judge, Latur in Sessions Case No.103 of 1991, by which all the Respondents / Accused were acquitted, the present appeal is filed by the State of Maharashtra.

2 Mr. A. S. Shinde, learned APP vehemently contented that the impugned judgment and order recording order of acquittal is perverse and the learned trial Judge committed an error in acquitting the Respondents / Accused though there was ample evidence on record. He submitted that the evidence of eye witness should not have been rejected only on the ground that the sole injury that was caused due to which there was a death, could not get corroboration

from the medical evidence. Finally, he submitted that the order of acquittal deserves to be converted into conviction.

3 Per contra, Ms Chinmayee Deshpande, learned counsel for the Respondents supported the impugned judgment and order and submitted that the Accused persons received serious injuries and the prosecution did not explain the injuries, which were grievous in nature, and therefore, the learned trial Judge had rightly drawn an adverse inference against the prosecution. He, therefore, prayed for dismissal of the appeal.

4 We have heard the learned counsel for the rival parties for quite sometime. We have perused the reasons recorded by the learned trial Judge. We have seen the injury report of two Accused persons Prabhu and Shivaji and we find that the injuries caused to Prabhu were of grievous nature as described by the doctor. But then the prosecution did not explain those injuries and thus was guilty of suppressing the genesis of the prosecution case. There was a free fight in the agricultural field due to the dispute and consequently the trial Judge decided to extend benefit of doubt to the Accused persons.

5 We do not think that the judgment in question suffers from any perversity or infirmity so as to interfere with the same. That being so, we make the following order:

ORDER

Criminal Appeal No.285 of 1997, is dismissed.

[INDIRA K. JAIN, J.]

[A. B. CHAUDHARI, J.]

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