

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

CRIMINAL APPEAL NO.198/2012

APPELLANT : Sanjay Chintaman Patil
Age-22 years, Occu – Agri.,
R/o - Shelave (Bk), Tq. Parola,
Distt. Jalgaon.

...Versus...

RESPONDENTS : 1. Puna @ Pappu Fula Patil
Age-23 years, R/o – Shelave
(Bk), Tq. Parola, Dist – Jalgaon

2. The State of Maharashtra
Through P.S.O., Parola
Police Station, Parola,
Tal. Parola, Dist. Jalgaon.

Shri R.S. Shinde, Adv. h/f Shri S.P. Tiwari, Adv. for appellant
Shri Rajendra N. Chavan, Adv. h/f Shri Vijay Sharma for respondent no.1
Shri S.D. Kaldote, APP for respondent no.2

**CORAM : S.S. SHINDE AND
A.I.S. CHEEMA, JJ.**

Date of reserving the judgment : 13.07.2015
Date of pronouncing the judgment : 01.09.2015

JUDGMENT (PER : A.I.S. CHEEMA, J.)

1. This appeal has been filed by the original complainant Sanjay Chintaman Patil (P.W.4) against the acquittal of respondent no.1 i.e. original accused (hereinafter referred to as “accused”) in Sessions

Case No.16/2008, as per the judgment of the Additional Sessions Judge, Amalner, District Jalgaon, dated 30.7.2010.

2. The case of the prosecution in short is as follows :

(A) Deceased Chintaman Natthu Patil (hereinafter referred to as “victim”) was residing at village Shelave, Tq. Parola, District Jalgaon. He had a field in the name of his wife Bebabai, situated adjoining Ratnapimpri – Shelave road. On 26.3.2008 at about 7:30 a.m. Bapu Sonawane (P.W.3) Police Patil of village Shelave received information from one Yuvraj Tukaram Koli of the village that dead body of Chintaman is lying inside the Well situated in his field. Yuvraj informed that Chintaman had gone to the field in the earlier night at about 10:30 p.m. to shut-off the electric motor on the Well but had still not returned and his motorcycle is standing on the side of the road near the field and he must have fallen in the Well and police needs to be informed. Police Patil (P.W.3 - Bapu Sonawane) along with said Yuvraj went to the concerned field and the Well in the field. They saw the motorcycle standing on the road. There was a packet of chilly powder on the motorcycle. They peeped in the Well. They noticed blood on the railing i.e. boundary wall of the Well near the pipe. They noticed the body in the water of the Well and from the clothes they were of the view that the body was of deceased Chintaman and thus A.D. report was submitted by P.W.3 – Bapu

Sonawane. The A.D. report was registered (Exh.24) at No.25/2008 at 8:35 a.m.

(B) After the A.D. was registered, P.I. Sadashiv Bhadane (P.W.13) went to the spot. There was a crowd of people near the Well. The dead body was inside the Well. The body was taken out from inside the Well. Inquest Panchanama (Exh.22) of the dead body was then prepared at 9:30 – 10:30 a.m. P.I. Sadashiv also prepared spot panchanama (Exh.19). At some distance from the Well a suit-pant was found and it was seen that it had blood stains. The same was seized. P.I. Sadashiv recorded the statements of the witnesses in the enquiry.

(C) **F.I.R.** :- On the same day of 26.3.2008 at about 10:15 p.m. the complainant Sanjay son of victim (P.W.4) filed FIR (Exh.26). He informed that accused Poona @ Pannu s/o Fula Patil was known to him and the father of the accused had died two months before the incident. One and half month before the incident the accused had taken hand-loan from the victim, of Rs.50,000/- as he wanted to pay amount of insurance and since about 15 days before the incident he was constantly remaining with the victim Chintaman and was also visiting their house. The father of complainant was asking back the money to the accused but the accused was avoiding. The FIR gives details as to the movements of the complainant and his father during the day and then it mentions that on

the concerned day of 25.3.2008 he and his father had meals at 7 : 00 p.m. and the complainant then went to the Pan shop of one Raghunath Kisan Navhi. At that time, complainant saw the victim Chintaman along with accused at the Pan shop. Thereafter, at about 9:00 – 9:30 p.m. in a function relating to the marriage ceremony at the place of uncle Gangadhar Patil, also the victim and the accused were seen together. Later the complainant went home and in about one and half hour the accused came to the house of complainant asking as to where his father was. Complainant said that he must be at the Pan shop and accused left towards the Pan shop. After about another half an hour the accused along with Chintaman came back in front of the house of complainant at about 10:30 p.m. The victim – father of complainant started the motorcycle and said that they are both going to the field of accused to shut-off the motor of the field of accused. So saying, they left. The accused was sitting behind the victim and the victim was driving the motorcycle. The complainant slept. In the morning of 26.3.2008 at about 7 :00 a.m. the mother of complainant (P.W.10 - Bebabai Patil) woke up the complainant that the father had not returned. The complainant took the motorcycle of Yuvraj Koli and went to search for his father in their field at Ratnapimpri road and noticed the motorcycle standing on the road near the field. The complainant peeped in the Well in the field and noticed blood stains on

the railing (boundary wall). He went near the motorcycle and saw that there was a packet of chilly powder on the petrol tank of the motorcycle. The complainant went home and told these facts to his mother and Yuvraj Koli. Thereafter, Police Patil Babu Sonawane informed the police station and the police and villagers went to the field and with the help of villagers dead body of Chintaman was taken out from the Well. He had various injuries on the head. Thus, the complaint was filed that the accused murdered the victim as the victim was asking back the money and the accused was avoiding. The complainant alleged in the FIR that to avoid the demand of money the accused took the victim to the field for putting off the motor of the pump and took the victim to the field of the complainant and put chilly powder in the eyes of the victim and by instrument like axe or stone he had killed the victim and to destroy the evidence the body had been put in the water of the Well.

(D) **Investigation** :- P.W.13 – P.I. Sadashiv Bhadane registered the crime No.29/2008 at Parora Police Station and investigated the offence. He arrested the accused (panchanama Exh.20) on 26.3.2008 at 10:45 p.m. The clothes of the victim were seized (Exh.43). On 1.4.2008 the accused volunteered to give discovery of the axe. The accused took the police and panchas to isolated place and gave discovery of the axe which had blood stains (memorandum Exh.32, panchanama Exh.33). The

accused when he was arrested had injury marks and the accused was also got medically examined and his certificate (Exh.29) was obtained from P.W.5 – Dr. Sachin. The post-mortem of the dead body was done on 26.3.2008 by P.W.5 – Dr. Sachin and post-mortem report Exh.28 had been obtained. P.I. recorded the statements of witnesses. The seized articles were sent to Chemical Analyzer and the Chemical Analyzer's report (Exh.45) was obtained. After completing the investigation, charge-sheet was filed.

(E) The offence being session triable, the matter came to be committed to the Court of Sessions.

3. Charge was framed against the accused and he was tried for the offence punishable under Section 302 of the Indian Penal Code and for destruction of evidence under Section 201 of the Indian Penal Code. The prosecution brought on record the evidence of 13 witnesses. The accused pleaded not guilty and his defence was of denial. The trial Court after considering the oral and documentary evidence held that none of the charge was proved against the accused and giving benefit of doubt to the accused acquitted him.

: Arguments :

4. Against the acquittal, the original complainant has filed this appeal. Grounds have been raised and it has been argued for the

complainant that the trial Court did not properly appreciate the evidence. There was evidence of the witnesses P.W.4, P.W.7, P.W.10 and P.W.11 regarding the accused being last seen with the victim in the evening of 25.3.2008. There was motive proved from the evidence of P.W.4 and P.W.10 which was that the accused had borrowed money from the victim and as the victim was after the accused to return the money, the accused murdered the victim. The prosecution had proved that the accused had killed the victim by using axe and thrown the same in isolated place from where later on it was discovered at the behest of the accused and even this fact was established. The prosecution had further proved that the accused had injuries indicating scuffle for which he had gone to P.W.9 - Dr. Vijay Pawar in the morning of 26.3.2008 and the injuries were recorded and the same were proved from the evidence of P.W.5 - Dr. Sachin. Thus, according to the complainant, the accused was liable to be convicted.

5. Against this, the learned Counsel for the accused supported the observations of the trial Court and submitted that there was no material that actually money had been paid to the accused to pay for the insurance of his father. There was evidence that on 1.4.2008 the accused was admitted in the hospital due incident of attempt to commit suicide by the accused while in police custody. There was no evidence as to when

the accused was discharged from the hospital and gave the discovery as claimed by the prosecution. The trial Court rightly appreciated the evidence that there was gap between last seen and the finding of the victim which was not explained in the circumstance where the victim used to go and reside in the field also in the night. The FIR was also delayed and the earlier version given was of accidental fall in the Well. Thus, the Counsel for the accused claimed that the judgment of acquittal is a possible view and the same should not be disturbed.

: Motive :

6. We have gone through the oral and documentary evidence available in this regard. The present matter is based on circumstantial evidence. In this regard the first circumstance tried to be brought on record by the prosecution is regarding motive. For this, the complainant P.W.4 – Sanjay Patil deposed that Fula Abhiman Patil the father of accused died about two months before the incident. His evidence is that before the incident accused had demanded amount from the victim as he wanted to pay the amount of insurance and accordingly victim had given Rs.50,000/- to the accused. In the relevant period the accused used to be in the company of the victim and used to frequently come to the house of complainant. According to the complainant, the victim was asking the accused to repay the amount and on this count the accused was avoiding

to repay the amount. The complainant deposed (in paragraph no.6) that when he saw the dead body of his father he felt that as his father had given the amount to the accused and his father had gone along with the accused and so accused caused the death of his father. In the cross-examination of the complainant the accused referred to different names of people and suggested amounts which the victim had lent to other people to suggest that the victim was doing business of money lending. The complainant denied suggestions on this count. The accused denied that he had taken the money as claimed. In this regard P.W.10 - Bebabai the wife of the victim has also deposed. She deposed that after the death of father of accused he used to visit their house and the accused was in need of money for paying installment of insurance of his father and so he had asked for Rs.50,000/- and the victim had given the said amount to the accused, about one month before the incident. She has also deposed that the victim was asking back this money to the accused but accused did not return. She has also deposed that the accused in the concerned period used to remain in the company of her husband. Although the complainant did not agree, his mother P.W.10- Bebabai has admitted in the cross-examination that her husband used to give amount of Rs.2,000/- to Rs.3,000/- to the villagers. She, of course, denied the suggestion that the victim was doing money lending business.

7. The trial Court has discussed this evidence and observed that the case of prosecution that Rs.50,000/- was paid to the accused after the death of the father of accused to pay installment of the insurance of the father was not proved as the father was already dead and there could be no reason to ask for amount of Rs.50,000/- to pay installment after the death of father. If insurance had been taken after the death, rather the accused would be getting money. Thus, the trial Court found that on the face of it the story advanced by the prosecution was concocted and not natural and probable to accept. We find that the observation of the trial Court on this count is a possible view of the evidence. The story of the prosecution on this count is also doubtful because if the victim lent Rs.50,000/- to the accused just about a month before the incident, he could not have turned back to bring so much pressure on the accused that the accused would murder him. The other evidence of P.W.4 and P.W.10 that because the victim was asking the accused to return back the money the accused was avoiding is also not appealing because in the second breath these witnesses are deposing that in the concerned period all the time the accused and the victim used to be together. In fact, P.W.4 complainant Sanjay appears to be deposing and his FIR also claims that on the date of incident he saw the accused and victim at 7:00 p.m. at the Pan shop of Raghunath and then they were together at the function at the

place of Gangadhar Patil at 9:30 p.m. and soon thereafter he claims that the accused came searching for the victim at home and then followed him to the Pan shop again, in the later evening. If the accused was harassed to return back the money he would not have been moving around the victim. Thus, we agree with the trial Court that in this case based on circumstantial evidence, the motive to commit murder is not established. Rather there is evidence to show that the complainant may had reason to involve the accused. This can be seen from paragraph 14 of his evidence where he admitted that the mother of accused had lodged complaint against brother of this complainant, namely, Manohar, Raghunath, Chhotu, Gangadhar and Suka.

: Last Seen Together :

8. Coming to the evidence of last seen together, there is evidence of the complainant (P.W.4 – Sanjay). He deposed regarding his movements in the date time of 25.3.2008 and then added that in the afternoon he and his father with the victim had meals in their house at about 7:00 to 7:30 p.m., he went to the Saloon of Raghu Navhi and at that time the father and accused were present there. Thereafter, he went to the marriage ceremony of Gangadhar and there also they were together. P.W.4 - Sanjay deposed that after that ceremony he came back to his house i.e. after 9:30 p.m. According to him, thereafter the accused

came to their house and asked as to where his father (victim) is. Complainant deposed that his father had gone to Pan shop. Then accused proceeded towards Pan shop and after about 30 to 45 minutes the victim came to the house of complainant. The victim took out the motorcycle at the house and informed the complainant that he was going with accused to the field of accused to switch off motor and so they proceeded on the motorcycle which was driven by the victim. Next day morning it is claimed that the dead body was found in the Well of the complainant in field which was in the name of P.W.10 - Bebabai. Prosecution brought on record the evidence of P.W.10 - Bebabai also in this regard which corroborates the evidence of complainant as above.

Against this, evidence regarding the last seen together of going towards the field, there is evidence of P.W.7 - Dattatraya Patil who claims that on 25.3.2008 at about 9:00 p.m. he was at the Pan shop of Govinda Kashinath and at that time deceased Chintaman came near them and sat near them. At the same time, the accused came there and told the victim that he wants to go to switch off his electric motor and therefore, the accused and deceased Chintaman went away. P.W.7 - Dattatraya claimed that in his presence the accused and deceased Chintaman sat on the motorcycle and proceeded towards the field of accused situated at Ratnapimpri. Thus, although the evidence of P.W.4 and P.W.10 is that

from the Pan shop the victim and accused had come back to the house of complainant and picked up motorcycle from there to proceed to the field of accused, P.W.7 - Dattatraya deposes in another set of evidence that the victim already had his motorcycle with him when the accused and victim met at the Pan shop and from there directly proceeded towards the field of the accused.

Prosecution brought on record evidence of P.W.11 - Anil Birhade also who claimed to be knowing the deceased Chintaman as well as accused and deposed that he and one Ananda Birhade were sitting on the heap of sand and at about 10:00 p.m. noticed the accused Chintaman proceeding towards the field riding on motorcycle. In cross-examination, this witness accepted that when he saw the accused and the victim proceeding it was his guess that they were going towards their field.

9. These prosecution witnesses no.4, 7, 10 and 11 who claimed to have last seen the victim and the accused together have been cross-examined and the trial Court discussed the fact that the evidence was brought that the accused and the victim had proceeded to the field of accused but there was no record to show that the accused did own any field more particularly towards the spot from where the dead body was found. The trial Court discussed that there was no evidence that the accused had a field and that the said field had a Well with electric motor.

The trial Court discussed that the dead body was found in the Well of the victim himself. The motorcycle was parked near the land of the victim. According to the trial Court, it was not explained as to how the body of the deceased was found in the Well of the land of the accused. Analyzing the evidence of P.W.4 - Sanjay and P.W.10 - Bebabai the trial Court has recorded reasons that the evidence shows that when Bebabai observed that the husband had not returned home, P.W.4 – Sanjay had directly gone to his own field to search for his father. There was no reason for P.W.4 – Sanjay to directly go to their own field. The trial Court discussed the evidence of P.W.10 - Bebabai that in the relevant period her husband on many occasions used to stay in the field at night time. The trial Court also discussed the time gap between the accused and victim leaving for the field at about 10:30 p.m. and finding of the dead body in the morning. It discussed that there was no evidence as to what happened during the said night. The trial Court also observed that there was much delay in lodging of the complaint by P.W.4 - Sanjay. It also observed that there was no evidence brought as to where exactly the assault took place. The trial Court went through the spot panchanama Exh.19 to observe that there was no evidence that there was any blood found outside the Well. Spot panchanama did not show that there was any blood found on or near the Well where the dead body was found. The Well was not

constructed Well and there were blood stains on the stone inside the Well. There was also platform inside the Well which had blood stains. The trial Court observed referring to the evidence of P.W.5 - Dr. Sachin that there was possibility of accidental fall which could not be ruled out. The trial Court discussed the evidence regarding victim advancing money to other villagers and possibility of enmity with such persons. The trial Court observed that even if it was assumed for the sake of argument that there was homicide, possibility of others committing the crime could not be ruled out. For such reasons, the trial Court has disbelieved the evidence of last seen together also.

: Earlier A.D. of fall in Well/Delay in F.I.R. :

10. On going through the evidence, we also find that if the evidence of P.W.4 – Sanjay is considered, he claims that in the morning of 26.3.2008 when he found blood stains in the Well, he went and told the facts to his mother and Yuvraj Koli. This Yuvraj Koli has not been examined. He, however, went and told P.W.3 - Police Patil Bapu Sonawane that dead body of Chintaman is found in the Well and the A.D. report (Exh.23) filed by P.W.3 claimed that the victim had gone to his own field in the earlier night at 10:30 p.m. to shut-off the motor and had not returned till morning and in the morning dead body was noticed in the water of the Well. There is evidence on record that after the A.D. was

filed the police came to the spot and the dead body was taken out from the Well in presence of Panch P.W.2 - Walmik Patil who also joined in the inquest panchanama. There is evidence of P.W.1 - Sunil Patil who was Panch to the spot panchanama (Exh.19) done by the police. The inquest panchanama (Exh.22) was done between 9:30 a.m. – 10:30 a.m. and this spot panchanama was recorded between 10:45 a.m. to 11:30 a.m. of 26.3.2008. If these documents are seen they show that the version which was given in the morning was that the victim had indeed gone to his field to switch off the motor and had fallen in the Well. In fact, at the time of inquest panchanama Manohar Chintaman Patil brother of complainant was present there and he does not appear to have objected to the recording in the inquest panchanama which was to the effect that the victim had gone to his field to switch off the motor on his Well and appeared to have fallen in his Well. This Manohar appears to be studying in I.T.I. at Parola. This is deposed to by P.W.4 – Sanjay. Complainant Sanjay deposed that Manohar used to go daily at Parola from Shelave for his study. If in the earlier night the victim had left with the accused, this Manohar being family member would have known about it. This Manohar is not examined. Even if we look at the evidence of P.W.4 – Sanjay, he admitted in the cross-examination that when the police had prepared panchanama in the field he was also present. Of course, he volunteered

that he was weeping. This could hardly be reason for not to inform the police that the victim had left with the accused and later on his dead body was found. Even if it was to be said that P.W.4 - Sanjay was in agony due to loss of his father, natural conduct would be to speak out to the other villagers as to what has happened. One would naturally say as to what happened by saying that in the last evening the victim and accused left together and now see the body has been found. The FIR came to be given only at 10:15 p.m. against the inquest panchanama and spot panchanama which were recorded in the early morning of the day. It creates a doubt whether really the accused had gone in the earlier night with the victim.

: Accused in custody before F.I.R ? :

11. There is another reason to doubt the investigation. Although the arrest panchanama (Exh.20) shows that the accused was arrested at 10:45 p.m. of 26.3.2008, there is evidence of P.W.5 – Dr. Sachin that on 26.3.2008 he had examined the accused for which he issued certificate (Exh.29). If the certificate (Exh.29) is perused it shows that this Doctor examined accused at 7:25 p.m. of 26.3.2008. This would be before the FIR was registered. Then there is evidence of P.W.9 - Dr. Vijay Pawar who claimed that on 26.3.2008 at 7:30 a.m. accused had come to him as he had suffered injury on his forehead and nose. This Doctor claimed that on 26.3.2008 itself at noon time he came to know that accused had been

arrested in respect of the incident of the death of Chintaman. The accused suggested to the P.I. P.W.13 - Sadashiv in the cross-examination that the accused was taken in custody in the evening of 26.3.2008 itself and he was beaten. Of course, the P.I. denied the suggestion but then looking to the evidence discussed above there is serious doubt that in fact the accused was taken in custody in the afternoon itself and subsequently in the late evening the FIR has been registered. The delay in registering of the FIR makes the claim of the P.W.5 of last seen together doubtful as there are chances of concoction.

: Discovery :

12. Even the third circumstance regarding discovery of blood stained axe at the behest of the accused is not free from doubt. Exh.32, the memorandum and Exh.33, the panchanama regarding discovery of the axe are on record regarding which there is evidence of panch P.W.6 - Tulshiram and P.W.13 - P.I Sadashiv. The discovery is stated to be done between 1:00 p.m. to 2:00 p.m. It is claimed by P.W.6 – Tulshiram that accused took the police and panchas to Ratnapimpri road on the western side of the village where there was a ‘Mori’. From the ‘Mori’ accused proceeded to a place where there were bushes and from there, he took out the axe. The police station is said to be at a distance of 8 kilometers from village Shelave. This panch is a distant relative of the victim. It is

stated by him that the spot from where the axe was discovered was 9 kilometers from police station and the accused was taken to the spot handcuffed. This panch P.W.6 admitted in the cross-examination that the panchanama in respect of the axe was done at the police station. The Investigating Officer P.I. Sadashiv admitted in the cross-examination (paragraph 8) that on 27.3.2008 the accused had been admitted to Civil Hospital, Dhule since he had attempted to commit suicide. This would be after arrest of the accused in the present matter. Regarding that incident a separate crime was registered against the accused. The P.I. admitted that on 1.4.2008 accused was discharged from the Civil Hospital, Dhule. The P.I. accepted that from Dhule to Parola the distance is 35 to 38 kilometers. The trial Court discussed the evidence regarding the discovery and observed that looking to the fact that the panchanama was not done on the spot and there was no evidence that the axe was sealed, the memorandum statement and discovery was not free from suspicion. It also observed that there was no evidence as to in whose possession the axe was kept after it was seized and there was no evidence of carrier who carried the axe to the Chemical Analyzer. There was no evidence that this axe has been used in the incident. P.W.5 – Dr. Sachin had deposed that injuries 1 to 5 in the post-mortem report (Exh.28) on the victim were caused by sharp edged hard object. The axe before the Court however was

not sharp edged. The Doctor admitted that the incised wounds would have clear-cut margins, which were possible by sharp cutting object. Discussing the evidence, the trial Court concluded that it was not proved that the axe before the Court was used for the causing of the injuries on the victim.

13. The trial Court also discussed that there was no evidence brought as to at what time the accused was discharged from the hospital so as to give the alleged discovery between 1:00 p.m. to 2:00 p.m. For such reasons also the trial Court doubted the discovery. We find that the reasonings recorded by the trial Court are possible view of the evidence on this count.

: Injuries of Accused :

14. Regarding the other circumstance relied on by the prosecution of accused having injuries so as to suggest that there was a scuffle before the death of the victim, there is evidence of P.W.9 - Dr. Vijay claiming that at 7:30 a.m. of 26.3.2008 the accused came to him at his clinic and informed that he had injury on his forehead and on his nose and that he had sustained injury as door struck him and he fell on the soil. The witness claimed that he had given tetanus injection to the accused and gave him tablets and ointment. The witness claimed that the accused appeared to be frightened. Although such evidence is given by

this Doctor, there is no documentary evidence available in support of his evidence of giving any such treatment or prescribing medicines or providing him with medicines. Although this witness claimed that the accused came to him for his injury on the forehead and the nose, there is evidence of P.W.5 - Dr. Sachin claiming that the accused had not two but more injuries. There was an abrasion on the right side of forehead; yet another abrasion on the nose; and abrasion on the left parietal region and another abrasion over left side of the back. According to the Doctor there was a red scab present on these abrasions and the injuries were within 12 to 24 hours. According to the Doctor, they were possible in a scuffle. P.W.1 - Sunil who is the signatory of the arrest panchanama (Ex.20) did not speak anything about the accused having injuries when he was arrested. P.W.6 – Tulshiram who is also panch on arrest panchanama (Ex.20), however, claimed that the accused had injuries on his person when he was arrested. P.W.6 – Tulshiram claimed that there were injuries to the accused on his head, back and nose. The arrest panchanama (Exh.20) mentioned that there were injuries on his nose, forehead, back which were in the nature of scratches and there was injury on the head. Thus, although P.W.9 – Dr. Vijay referred only two injuries by the time the arrest panchanama was recorded number of injuries are stated to be increased.

15. The trial Court has discussed this evidence and also recorded the fact that the evidence of P.W.5 – Dr. Sachin who did post-mortem said that he did not collect the nail clippings of the victim so as to link the victim to the accused. The trial Court discussed the evidence to observe that whether there was foreign body in the nail clippings or not, it can be ascertained only by an expert and it is not the job of the Medical Officer to say that whether foreign body will be found in the nail clippings or not. Thus, the trial Court concluded that there was a scuffle in which the accused got scratched was also not established. The trial Court discussed the evidence of Doctor that the injuries of the accused were possible at the time of cutting of thorny bushes. The trial Court has thus not given much weightage to the injuries found on the person of the accused.

: Possible view of Trial Court :

16. We have carefully gone through the various reasonings recorded by the trial Court appreciating the evidence. We find that the reasonings recorded by the trial Court are possible view of the evidence. The judgment of the trial Court shows that it did not even find culpable homicide established. It discussed the spot of the Well in details and possibility of accidental death. The other circumstances also have not been duly established. When the view taken by the trial Court is a possible

view, it would not be appropriate to interfere in the judgment of acquittal.

17. There is no substance in the appeal. The criminal appeal is dismissed.

(A.I.S. CHEEMA, J.)

(S.S. SHINDE, J.)

Wadkar