

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.548 OF 1995

The State of Maharashtra,] Appellant /
] (Org. Complainant)

Versus

Surendra Ramchandra Mestri,]
Aged 22 years,]
Resident of Bandivade, Palayewadi,] Respondent /
Taluka Malvan, Dist. Sindhudurg.] (Original Accused)

Mr. A.S. Shitole, A.P.P., for the Appellant/State.

Mrs. B.P. Jakhade, Appointed Advocate, for the
Respondent / Original Accused.

CORAM : SMT. V.K. TAHILRAMANI &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

RESERVED ON : 28TH JULY, 2015

PRONOUNCED ON : 3RD AUGUST, 2015

JUDGMENT : [Per Dr. Shalini Phansalkar-Joshi, J.]

1. This Appeal is preferred by the State challenging acquittal of the Respondent for the offence punishable under Section 302 of the IPC, as recorded by the Additional Sessions Judge,

Sawantwadi, vide his Judgment and Order dated 18th May, 1994 in Sessions Case No.32 of 1993.

2. Brief facts of the Appeal are stated as follows :-

PW-5 Balkrishna is the father of deceased Dilip. As Dilip has misbehaved with Sarita, the daughter of one Eknath Mestri, the Respondent, who belongs to Mestri family, was annoyed with Dilip. Hence, as per prosecution case, on 9th March, 1993, at about 9:15 pm, while Dilip was attending to his pet dogs in the court-yard of his house, Respondent assaulted him with knife. In the said assault, he inflicted about four stab blows on the vital part of the body of Dilip. When Dilip shouted for help, his father PW-5 Balkrishna, who was sitting in the ota (varandah) of his house, and his grand-mother PW-6 Kashibai, who was in the kitchen of the house, rushed to his help and saw the Respondent inflicting stab blows on him. PW-5 Balkrishna pushed away Respondent and then Respondent ran away from the spot with weapon of assault. The persons residing nearby viz. PW-8 Uday Sawant and PW-10 Sadanand Mhaskar also reached there.

3. Co-incidentally, at that time, PW-11 PSI Vijay Band had also

come to the said locality in connection with Bandobast of Holi festival. On hearing the shouts and commotions, he also came to the spot and found Dilip lying in injured and unconscious condition on the ota of the house. PW-11 PSI Band put Dilip in his Jeep. Dilip's father PW-5 Balkrishna also accompanied Dilip. They were taken to Malvan Municipal Hospital, where Dilip was declared dead. From the hospital, PW-5 Balkrishna came to the Police Station, where his complaint came to be recorded by PW-13 PSI Laxman Sariputra. On his complaint (Exhibit-34), C.R. No.48 of 1993 was registered against the Respondent. After the Inquest Panchanama (Exhibit-18), body was sent for autopsy. The Postmortem Report (Exhibit-20) disclosed the cause of death as *“hemorrhagic shock due to injuries to lungs, heart and liver”*.

4. On the next day, PW-13 PSI Sariputra went to the spot of incident and drew Scene of Offence Panchanama (Exhibit-25). From the spot, he collected blood stained towel and simple and blood mixed soil. On the same day, he recorded the statements of the witnesses and took search of the Respondent. He was found concealing himself in the forest of Aangnewadi. PSI Sariputra called two Panchas and arrested the Respondent under

Panchanama (Exhibit-31). The blood stained clothes on the person of the Respondent were seized under the said Panchanama. On 12th March, 1993, Respondent was produced before the Judicial Magistrate, First Class, Malvan and his police custody was obtained.

5. During custodial interrogation of the Respondent, on 13th March, 1993, Respondent expressed his willingness to produce the knife, which was used in the commission of the offence. His statement was reduced to Memorandum Panchanama (Exhibit-27). Thereafter, Respondent guided the Panch PW-2 Bhalchandra Kolambkar and PW-13 PSI Sariputre to Aangnewadi and produced the knife, which was concealed underneath the stone below the tree. The said knife (Article No.9) came to be seized under Panchanama (Exhibit-27A) on the spot. PSI Sariputre then sent all seized muddemal articles to Chemical Analyzer vide his requisition letter (Exhibit-47). PW-12 Police Constable Suryaji Naik carried those articles to Chemical Analyzer on 16th March, 1993. The C.A. Reports are produced in the case, along with Charge-Sheet, vide Exhibits "21 to 23". Further to completion of investigation, Charge-Sheet is filed in the Court.

6. On committal of the case to the Sessions Court, the Trial Court framed charge against the Respondent vide Exhibit-1. The Respondent pleaded not guilty to the charge and claimed trial.

7. In support of its case, prosecution examined in all 13 witnesses and on appreciation of their evidence, the Trial Court was pleased to acquit the Respondent, mainly on the ground that there is a discrepancy in the evidence relating to the actual spot of incident; whether it was in the court-yard or in the ota of the house of the deceased ?. The Trial Court also considered the fact that there was absence of evidence proving the sealing of the seized articles. Hence, the Trial Court disbelieved the evidence of the eye-witnesses and also the circumstantial evidence and acquitted the Respondent, extending him the benefit of doubt.

8. This Judgment of the Trial Court is challenged in this Appeal by learned A.P.P for the State, submitting that the Trial Court has acquitted the Respondent on very flimsy grounds, despite the convincing and reliable evidence of the eye-witnesses, whose presence at the time of incident was natural. Learned A.P.P. has urged that prosecution has also succeeded in proving the motive

on the part of the Respondent in assaulting the deceased. The medical evidence also supports the ocular account. Hence, there was no reason at all for the Trial Court to disbelieve the case of the prosecution, that too, on the only ground that there was some discrepancy as to the actual spot of incident. Hence, according to learned A.P.P., the Judgment of the Trial Court suffers from perversity, as the view adopted by the Trial Court is neither a possible view nor a reasonable view. The evidence which was required to be relied upon, is discarded by the Trial Court and undue importance is given to an insignificant discrepancy relating to the spot of incident. Hence, according to learned A.P.P., this is a fit case where interference at the hands of this Court is warranted to prevent miscarriage of justice.

9. Per contra, learned Counsel for the Respondent has supported the Judgment of the Trial Court by submitting that unless and until the prosecution succeeds in proving the spot of incident beyond reasonable doubt, evidence of the eye-witnesses cannot be relied upon. According to learned Defence Counsel, the Trial Court has rightly disbelieved the evidence of PW-6 Kashibai, the grand-mother of the deceased, considering

that she was an old lady of 74 years. The Trial Court has also considered the fact that no one has deposed about seeing the Respondent running away from the spot of incident. Hence, presence of the Respondent is not proved. The prosecution witnesses have also not deposed about the sealing of the articles seized from the spot and about the sealing of clothes of the deceased and the Respondent. Hence, according to learned Defence Counsel, the Trial Court has rightly disbelieved the recovery evidence. In her submission, therefore, considering limited scope of interference by this Court while sitting in an appeal against acquittal, the impugned Judgment of the Trial Court acquitting the Respondent, cannot be disturbed.

10. In our opinion, however, there is much substance in the argument advanced by learned A.P.P., as the prosecution case stands on the rock like solid foundation of the evidence of the eye- witnesses, namely, PW-5 Balkrishna, father of the deceased, and PW-6 Kashibai, grand-mother of the deceased. It is also supported with the medical evidence and the circumstantial evidence. The evidence adduced by the prosecution being of an overwhelming nature, in the face of the same, the supposed

considerations about some discrepancy relating to the spot of incident cannot stand.

11. Coming first to the evidence of the eye witness PW-5 Balkrishna, father of deceased Dilip. As the incident had taken place at about 9:15 pm in the very precincts of his house, his presence and the presence of his mother PW-6 Kashibai in the house at the time of incident is natural one. Evidence of PW-5 Balkrishna reveals that he was sitting in the ota of his house, whereas, his mother Kashibai was cooking food inside the house. At that time, Dilip was attending to their pet dogs in the court-yard of the house. Both of them heard the yelling of Dilip calling as '*mother (aai g...)*'. Hence, both of them rushed towards him. While doing so, PW-5 Balkrishna, switched on the electric light of the court-yard by switching on the button, which was by the side of the door. He rushed to the court-yard. His mother Kashibai followed him. Both of them found Dilip lying on the ground and the Respondent giving blows with sharp edged weapon, like, knife, to Dilip on his chest, abdomen and other parts of the body. PW-5 Balkrishna pushed the Respondent away from Dilip and raised shouts. Respondent, therefore, ran away from the spot

with the knife in his hand. At that time, Dilip was lying in the pool of blood. Balkrishna raised the shouts for help.

12. On hearing his shouts, PW-8 Uday Sawant, PW-10 Sadanand Mhaskar and two other neighbours by name Manohar Malkar and Ranjan Prabhu came there running. PW-6 Kashibai also started weeping and shouting. She gave water to Dilip, however, Dilip could not drink the water. By that time, the Police also reached there on hearing the shouts. PW-11 PSI Band then sent Dilip in his Police Jeep to Municipal Hospital at Malvan. PW-5 Balkrishna, his father, accompanied him in the Jeep. The neighbours also went with them at the hospital. However, Dilip was declared as dead. Then his father Balkrishna went to the Police Station and lodged complaint (Exhibit-34).

13. Even after exhaustive cross-examination of this witness, Defence Counsel has not succeeded in making any dent in his evidence and it has remained unshattered on record. A suggestion given to him that as his eye-sight has become weak, he was not able to see the incident, is denied by him. It is brought out in his cross-examination that he was the first person to rush to Dilip at the time of assault and when he reached there,

Dilip was lying on the ground. His entire cross-examination is focused on the aspect of the topography of his house and to point out that the incident had taken place at some other place and not in the court-yard, as deposed by him. We will come to this aspect subsequently, but, for the present, it is suffice to state that his evidence as regards the actual incident of assault categorically proves the complicity of the Respondent.

14. His evidence also gets complete support and corroboration from the complaint (Exhibit-34) lodged immediately after the incident. The incident had taken place at about 9:15 pm and the complaint is registered at about 10:50 pm. The complaint contains all the details of the incident, even the motive and genesis for the said assault and also the fact that, after hearing the shouts, when he rushed there, he found Respondent assaulting his son Dilip with a sharp edged weapon, like, knife, on his chest and other parts of the body. After seeing him, the Respondent ran away with the weapon in his hand. Dilip was then found lying in the pool of blood. No sort of improvements or omissions are brought out in his cross-examination to disbelieve his evidence of actually witnessing the incident. As a matter of

fact, the Trial Court also did not find any reason to disbelieve him, except for some discrepancy in respect of the actual spot of incident, which would be dealt with subsequently by us.

15. There is also the corroborating evidence of PW-6 Kashibai, the grand-mother of Dilip. At the time of incident, she was cooking food in the kitchen. On hearing the shouts of Dilip, she rushed out of the kitchen. She saw her son Balkrishna switching on the electric light. She followed Balkrishna to the court-yard and saw Dilip lying on the ground and Respondent giving him blows with an object like knife or suri on his chest. She has deposed that her son Balkrishna pushed the Respondent away and raised shouts for help. Hearing his shouts, the persons residing nearby, like, PW-8 Uday Sawant, PW-10 Sadanand Mhaskar and others came there. Police also arrived there. Then Dilip was taken to the hospital.

16. It is surprising to note that though nowhere in her cross-examination a suggestion is put up to her that due to old age, her eye-sight has become weak and, therefore, she could not see the incident properly from the distance, the Trial Court has disbelieved her evidence on this ground. Mere old age does not

necessarily imply that the eye-sight has to become weak. Moreover, it is not the case that she had remained in the kitchen or in ota of the house. Her evidence clearly goes to prove that she has followed Balkrishna to the court-yard. Hence, she has seen the incident from close quarters and not from a distance.

17. The only aspect brought out in her cross-examination is that as she was old at the time of incident, running the age of 74 years, she could not run. However, accepting that she was old, there is nothing in her cross-examination, even a suggestion, to the effect that due to old age, she was unable to walk fast. Assuming that she was not in a position to run, considering the hardly short distance between the court-yard and the kitchen and the fact that it was familiar area and having regard to the gravity of the incident, it is but natural that she must have walked fast and followed her son Balkrishna. Therefore, her evidence that she witnessed the actual assault cannot be disbelieved or brushed aside on supposed consideration of her old age.

18. Thus, in this case, there is clinching evidence of both these eye-witnesses whose presence at the spot is quite natural, being

the inmates of the house, to prove that the Respondent has assaulted the deceased with knife.

19. There is also the evidence of PW-8 Uday Sawant, who is residing near the house of the deceased. He has, on hearing the shouts, rushed to the spot and found that Dilip was lying in injured condition. According to him, on enquiries with the persons, who were present there, including the father and grand-mother of the deceased, he came to know that it was Respondent who had assaulted Dilip and escaped from the spot.

20. Further, there is evidence of PW-10 Sadanand Mhaskar, another neighbour. According to him also, on hearing the shouts, he rushed to the house of Dilip and found him lying on the door of the ota with injuries. From the grand-mother of Dilip, he came to know that the Respondent has assaulted Dilip. This immediate disclosure by PW-6 Kashibai to these two witnesses, after the incident, is also of significance and importance to prove the involvement of the Respondent in the actual assault.

21. If at all any further corroboration is necessary, then it is also coming from the evidence of PW-11 PSI Band, who, at the

time of incident, had been to village Bandiwade in connection with investigation of certain offence and thereafter had been to Village Aadawali in respect of Bandobast of Holi festival. Thereafter he was returning to Malvan vide Village Bandiwade. On hearing the shouts, he stopped the Jeep. On making enquiry, he came to know that Dilip was assaulted by Respondent and hence he went to the house of Dilip and found Dilip lying on the ota of the house in injured condition. He sent Dilip in his Jeep along with PW-5 Balkrishna and PW-10 Sadanand Mhaskar to the hospital.

22. The evidence of PW-13 PSI Sariputra proves that on that day, at about 10 pm, while he was on duty at Malvan Police Station, he received information that Dilip was assaulted by the Respondent and taken to the hospital and he was declared dead before admission. Therefore, he went to the hospital. Then, along with him, PW-5 Balkrishna came to the Police Station and gave complaint (Exhibit-34) against the Respondent. The offence was registered on the same night at about 10:50 pm and he has carried out further investigation.

23. The medical evidence in the case is also completely in tune

with the ocular account. Inquest Panchanama (Exhibit-18), Provisional Death Certificate (Exhibit-19) and the Postmortem Report (Exhibit-20) are admitted in evidence by the Defence Counsel under Section 294 of the Cr.P.C. and they go to prove the injuries found on the body of the deceased. As per Postmortem Report, there were following external injuries :-

- (1) *Stab injury on ant chest wall 1st below and medial to left breast 1/2" b x 1" length with blacking of entrance edges, passing inside the chest wall.*
- (2) *Stab injury on chest wall, just below the left clavicle 3" away from middle 1/2" B x 3/4' L passing in thoracic cavity direction of injury downward and forward.*
- (3) *Stab injury one inch medial and downward to lt. breast 1" L x 1/2" B.*
- (4) *Stab injury on abdomen 1" above and medial to right pubic tubercle, 1" L x 1/4' N passing 2" length in abdomen wall.*

- (5) *C.L.W. on left forearm on ulnar side 1/2" L
x 1/4" D x 1/2" B.*

24. On internal examination, he found following injuries :-

- (1) *Fracture of T 7 on right side.*
(2) *Fracture of T 7 on left side.*

25. According to Postmortem Report, all these injuries were antemortem in nature and the cause of the death was "*hemorrhagic shock on account of injuries to lungs, heart and liver*". Thus, the presence of four stab injuries with one CLW on the chest, breast, abdomen and forearm goes to prove the manner in which the assault was made and use of the sharp edged weapon, like, knife in committal of the assault.

26. The medical evidence, thus, proves that it was not a case of single blow and Respondent running away, so that witnesses had no opportunity to see him. The fact that there were four stab injuries and one CLW proves that at-least five blows were inflicted and, therefore, the witnesses had sufficient time to reach there after the first blow and to witness the Respondent

committing assault and thereafter on seeing the witnesses, Respondent running away from the spot. The medical evidence, thus, supports and proves that PW-5 Balkrishna and PW-6 Kashibai had actually witnessed the incident of Respondent assaulting the deceased.

27. Prosecution has also succeeded, in this case, in proving the motive or the cause for the incident. There is consistent evidence of PW-5 Balkrishna, father of Dilip, his mother PW-6 Kashibai and PW-7 Digambar Mestri to prove that Dilip has misbehaved with Sarita, daughter of one Eknath Mestri and the niece of the Respondent. Respondent used to reside in the house of Eknath Mestri. Once when Sarita had gone to fetch water, as per evidence of these witnesses, Dilip had misbehaved with her. Respondent has witnessed the said incident and also given threat to Dilip that he would come to his locality and see to him. As per evidence of PW-5 Balkrishna, he has given warning to Dilip not to behave in this manner with Sarita and also not to visit the house of PW-7 Digambar Mestri. Still Dilip used to visit the house of PW-7 Digambar Mestri. Therefore, Respondent had even confronted and assaulted PW-7 Digambar Mestri for the

same and Digambar Mestri has lodged complaint about the incident of beating against the Respondent to the Police.

28. The evidence of PW-7 Digambar Mestri goes to prove that as he has done the work of plastering in the house of PW-5 Balkrishna, he came to know Dilip. Dilip used to visit his house occasionally. Once in a programme of Saraswati Poojan in school, Sarita has presented one dance performance. During that function, Dilip has given her prize of Rs.10/-. After that function, Dilip had also held her hand. When Respondent came to know about this incident, there was a meeting and an attempt was made to settle the matter. However, thereafter also, Dilip used to visit to his house. Respondent has, therefore, questioned this witness about the visits of Dilip to his house and told him to stop the visits. This witness pleaded his inability to do so. Hence, Respondent gave him threatening and assaulted him. Therefore, he has lodged complaint about the said incident to Police.

29. There is also evidence of PW-9 Vasant Mestri, brother of PW-7 Digambar Mestri, to the effect that the Respondent has threatened him to stop the visits of Dilip to their house and in respect of the same, the Respondent has assaulted his brother

PW-7 Digambar Mestri. PW-7 Digambar Mestri has filed N.C. Complaint about the said incident.

30. The evidence of PW-8 Uday Sawant and PW-10 Sadanand Mhaskar is also corroborating to that effect, as they were also knowing about the conduct of Dilip misbehaving with Sarita and hence Respondent, being annoyed, was having grudge against Dilip. There is no challenge to this prosecution case in cross-examination of these witnesses. Therefore, the genesis of the incident and motive for the Respondent to assault the deceased is also proved on record.

31. Prosecution has then relied on the circumstantial evidence, like, the discovery of the weapon of assault, the knife, at the instance of the Respondent. There is evidence of Panch PW-2 Bhalchandra Kolambkar and PW-13 PSI Sariputra to prove that in pursuance of the disclosure statement given by the Respondent in custodial interrogation on 13th March, 1993, the knife was recovered at his instance, which was concealed below the stone underneath the tree. The Memorandum Panchanama and Seizure Panchanama are proved on record at Exhibits "27" and "27-A".

32. The evidence of PW-3 Panch Pandharinath Mangaonkar proves the Seizure Panchanama of the clothes of the deceased (Exhibit-29), namely, the light green banian and half pant, (Article No.4), stained with blood. Seizure Panchanama of the clothes of the Respondent (Exhibit-31) is proved through the evidence of PW-4 Panch Prakash Bodye.

33. The evidence of PW-12 Police Constable Suryaji Naik proves that he has carried these seized articles to Chemical Analyzer on 16th March, 1993 vide requisition letter (Exhibit-47). The C.A. Reports are produced in the case at Exhibits "21 to 23". The C.A. Report (Exhibit-21) proves that the blood group of the deceased Dilip was "AB" and the stains of the same blood group were found on the half shirt (Article No.7) of the Respondent. The human blood was detected on the knife also.

34. In our considered opinion, finding of the human blood stains on these articles, especially, the shirt of the Respondent having the stains of the blood group of the deceased, leaves no manner of doubt about his involvement in the assault. The Trial Court has, however, not accepted this evidence also, on the ground that the Investigating Officer has not deposed about

sealing of these articles and as per the C.A. Report (Exhibit-23), the blood group of the Respondent could not be ascertained, as the results were inconclusive. In our considered opinion, in the absence of any cross-examination of the Investigating Officer on the aspect of sealing of the seized articles, the recovery evidence should not have been disbelieved. Assuming that the blood group of the Respondent could not be ascertained as the results were inconclusive, the finding of human blood on his shirt itself is an incriminating circumstance sans any explanation offered by the Respondent.

35. In this respect, we rely upon the landmark decision of the Supreme Court in ***Gura Singh Vs. State of Rajasthan, (2001) 2 SCC 205***, wherein it was held that,

“In view of the authoritative pronouncement of this Court in Teja Ram, (1999) 3 SCC 507, we do not find any substance in the submissions of the learned counsel for the appellant that in the absence of the report regarding the 'origin' of the blood, the trial court could not have convicted the accused. The Serologist and Chemical Examiner have found that the chadar seized in consequence of the disclosure

statement made by the appellant was stained with human blood. As with lapse of time, the classification of the blood could not be determined, no bonus is conferred upon the accused to claim any benefit on the strength of such a belated and stale argument. The Supreme Court as well as High Court were therefore justified in holding the circumstance as proved beyond reasonable doubt against the appellant.”

36. Similar view has been taken by the Supreme Court in the cases of ***R. Shaji Vs. State of Kerala, (2013) 14 SCC 266*** and ***Molai Vs. State of M.P., (1999) 9 SCC 581***.

37. It is pertinent to note that the Respondent has not given any explanation for the presence of human blood on his clothes.

38. In our considered opinion, for the sake of argument, this evidence relating to recovery of incriminating articles and the blood stained clothes of the Respondent is excluded from consideration, even then, the overwhelming evidence of the eye-witnesses, supported with the medical evidence and the evidence relating to motive and genesis of the incident, cannot be brushed aside. This evidence is in itself sufficient to prove the

guilt of the Respondent.

39. As stated above, the only ground on which the Trial Court has disbelieved the evidence of the eye-witnesses is alleged discrepancy in respect of the actual spot of incident. According to Trial Court, contents of Scene of Offence Panchanama (Exhibit-25) contradict the evidence of the eye-witnesses, because, according to the eye-witnesses, the incident has taken place in the court-yard, whereas, Scene of Offence Panchanama (Exhibit-25) does not show that the incident has taken place in the court-yard. Hence, according to Trial Court, *“reasonable doubt arises as regards the place of offence and possibility of the incident having taken place inside the house and particularly on ota portion of the house, cannot be ruled out, the Respondent is, therefore, entitled to the benefit of doubt”*.

40. In our considered opinion, these observations of the Trial Court are totally against the evidence on record and the acquittal of Respondent on this ground exhibits unrealistic approach. The evidence on record, in this case, proves that everyone is calling that spot of incident by different names. As per the Spot Panchanama (Exhibit-25), which is a

contemporaneous document, near the ota the blood stains were found on the wall and on the iron pipe. The blood stains were also found on the ota and also at some distance from the ota on eastern side. The blood stains were also noticed on the steps leading to the ota and also on the door. Some blood stains were found on the closed varanda (padwi) also. One towel was found lying on the ota with blood stains thereon. Some blood stains were also found on the table fan near the door. Thus, the Spot Panchanama reveals that the incident has taken place near ota in the area, which can be called as court-yard, and the blood stains of the incident were spread on all the surrounding area. The evidence of PW-1 Laxman, Panch to the Spot Panchanama, is also to the same effect.

41. As per evidence of PW-5 Balkrishna and PW-6 Kashibai also, the incident has taken place in the court-yard. In our opinion, therefore, there is absolutely no discrepancy as such as regards the spot of incident, as shown in the Scene of Offence Panchanama and in the evidence of the eye-witnesses. As per evidence of PW-5 Balkrishna, there is a court-yard. From the court-yard, there is a door to enter into the house; adjacent to

the door, there is a padwi; beyond padwi, towards west, there is ota; and beyond ota, kitchen and middle room of the house. Thus, all these particular portions of the house are just adjacent to each other called by different names. In view thereof, whether Dilip was found in injured condition by PW-8 Uday Sawant and PW-10 Sadanand Mhaskar on the ota, which was just adjacent to the padwi and court-yard, if they are to be distinguished by different names, it cannot be said that this discrepancy is of such a fatal nature as to discard the evidence of eye-witnesses, whose evidence has a ring of truthfulness, a colour of consistency and a sense of straightforwardness. Their evidence deserves implicit reliance as it is sufficient to inspire confidence in the judicial mind.

42. In our opinion, therefore, the Trial Court has got itself swayed by some insignificant aspect to disbelieve the entire case of prosecution. The approach adopted by the Trial Court in acquitting the Respondent, therefore, is neither a “possible” nor “reasonable” view of the matter. It is perverse in the sense that the evidence which is required to be given proper weightage is ignored and undue significance is given to insignificant matter.

43. In the ultimate analysis, therefore, on re-appreciation of entire evidence on record, we have no hesitation in holding that the prosecution has succeeded in proving its case against the Respondent beyond reasonable doubt.

44. This Appeal is, therefore, allowed.

45. The Judgment of the Trial Court acquitting the Respondent - Surendra Ramchandra Mestri is quashed and set aside.

46. The Respondent - Surendra Ramchandra Mestri is convicted for the offence punishable under Section 302 of the IPC and sentenced to suffer R.I. for life and to pay fine of Rs.5,000/-, in default to suffer further R.I. for one year.

47. Respondent - Surendra Ramchandra Mestri to surrender before the Trial Court within a period of six weeks.

48. We quantify the fees to be paid to Mrs. B.P. Jakhade, Appointed Advocate for the Respondent, by the High Court Legal Services Committee at Rs.5,000/-.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [SMT. V.K. TAHILRAMANI, J.]