

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.596 OF 1996

1) BALU WAMAN DESHMUKH)
2) SUBHASH WAMAN DESHMUKH)...APPELLANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Shri S.V.Marwadi, Advocate for the Appellants.

Smt.S.Gajare-Dhumal, APP for the Respondent - State.

CORAM : ABHAY M. THIPSAY, J.

DATE : 14th SEPTEMBER 2015.

ORAL JUDGMENT :

1 The appellants were accused nos.2 and 3 respectively in Sessions Case No.141 of 1991 decided by the Additional Sessions Judge, Raigad. There were two other accused in the said case – Tanaji Deshmukh (accused no.1) and Shivram Deshmukh (accused no.4). All the accused, including the appellants, were charged of offences punishable under Section 302 of the IPC read

with Section 34 of the IPC, Section 307 of the IPC read with Section 34 of the IPC, Section 323 of the IPC read with Section 34 of the IPC, Section 504 of the IPC read with Section 34 of the IPC and Section 506 of the IPC read with Section 34 of the IPC. Accused no.1 Tanaji Deshmukh died during the trial. As such, the case against him stood abated. Accused no.4 Shivram Deshmukh was acquitted by the learned Additional Sessions Judge.

2 These two appellants were convicted by the learned Additional Sessions Judge of offences punishable under Section 304(Part II) of the IPC read with Section 34 of the IPC. The learned Additional Sessions Judge has sentenced them to suffer Rigorous Imprisonment for 5 years and to pay a fine of Rs.2,000/-, with a default sentence.

3 The appellants have filed the present appeal, being aggrieved by the order of their conviction and the sentences imposed upon them by the learned Additional Sessions Judge.

4 During the pendency of the present appeal, both the appellants passed away. The original Death Certificates submitted by Mr.Marwadi, the learned counsel for the appellants, are taken on record.

5 Since the sentences imposed upon the appellants are also of fine, the appeals would not abate, notwithstanding the death of the appellants. Under the circumstances, Mr.Marwadi was required by this court to appear for the appellants, notwithstanding their death, and to make submissions in support of the appeal.

6 Mr.Marwadi has taken me through the impugned judgment and other relevant record.

7 It appears that the fatal blow was given by the original accused no.1 Tanaji, who, as aforesaid, passed away during the trial itself. The learned Additional Sessions Judge, after considering the evidence adduced before him, came to the

conclusion that the present appellants were guilty of offence punishable under Section 304 (Part II) of IPC read with Section 34 IPC.

8 This conclusion, arrived at by the learned Additional Sessions Judge, does not seem to be suffering from any error or infirmity.

9 In the result, the appeal is dismissed.

(ABHAY M. THIPSAY, J.)

CERTIFICATE

**Certified to be true and correct copy of the original
signed Judgment /Order.**