

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 206 OF 2015**

Anil Sonaba Jagadale ...Appellant.
versus
The State of Maharashtra and others ..Respondents.
.....
Mr. Rajaram V. Bansode for the Appellant.
Mr. H.J. Dedhia, Addl.P.P. for the State.

.....
CORAM : B.P. DHARMADHIKARI &
A.S. GADKARI, JJ.

23rd July, 2015.

P.C. :

Heard Mr. Bansode, learned counsel for the Appellant and the learned APP for the State. The victim has filed the present proceedings under Section 372 of the Code of Criminal Procedure.

2. Mr. Bansode has invited our attention to the complaints filed by the deceased to urge that the accused persons had motive to eliminate the deceased. He has further submitted that P.W.4 neighbour in the night of the incident heard the deceased shouting in the name of other neighbour 'Balu, Balu' and he was shouting for help. On the next day, body of the deceased was found floating in the well. He further submitted that a stick by which injuries found on the leg of the deceased could have been caused was seized by the police authorities from a tree which is near the well in which body of the deceased was found.

3. He has also invited our attention to the order passed by this Court on 27th February, 2015.

4. The learned APP has submitted that the State Government has not filed any appeal challenging the acquittal of the accused persons.

5. With the assistance of the respective counsel, we have perused the judgment.

6. The circumstance that the accused persons had motive may assume importance, if there is other material on record which can connect them with the crime. The hearing of shouts by a neighbour cannot be that circumstance. Similarly, finding of a body in the well on the next day also is not relevant.

7. In so far as the stick is concerned, the stick must be established to be a weapon used for murder or for assault and therefore, connected with the crime. There is no such evidence. The prosecution could not point out the accused person to whom the stick belonged.

8. In this situation, we do not find anything wrong with the acquittal of the accused person by the learned Trial Court. No case is made out. The Appeal is rejected.

(A.S. Gadkari, J.)

(B.P. Dharmadhikari, J.)