

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPEAL NO.62 OF 2011**

Shri Satish Raghunath Devkar )  
R/at Majiwada Ward Office Bldg., )  
Flat No.301, 3<sup>rd</sup> floor, Majiwada, Thane )  
presently detained at )  
Nashik Road Central Prison, Nashik ) ... Appellant

Vs.

The State of Maharashtra )  
through PSO, Majiwada Police station ) ... Respondent

Mr.V.S. Talkute for the Appellant  
Mrs.U.V. Kejriwal, APP, for Respondent – State

CORAM: **SMT. V.K. TAHILRAMANI &  
MRS.MRIDULA BHATKAR, JJ.**

DATE: **JUNE 27, 2016**

**ORAL JUDGEMENT (PER MRS.MRIDULA BHATKAR, J.):**

1. This appeal is directed against the judgment and order dated 9<sup>th</sup> July, 2010 in Sessions Case No.56 of 2008 passed by the learned Additional Sessions Judge, Thane, thereby convicting the accused Satish Raghunath Devkar for the offence punishable under section 302 of the Indian Penal Code and sentencing to suffer R.I. for life and payment of fine of Rs.2,000/- and in default to suffer R.I. for six months. The case of the prosecution in brief is as follows:

Kunda Satish Devkar, wife of the accused, was murdered by the accused on 22.9.2007. On 4.5.2007, they got married. He was suspicious about the character of Kunda. On the day of the incident, i.e., on the night intervening 21.9.2007 and 22.9.2007 at around 0015 hrs., the complainant Umar Hasan Shaikh and other persons in the locality had assembled on account of the visit of one MLA for celebration of Ganesh Utsav. After his departure, at midnight at around 0015 hrs., they heard quarrel and shouts from third floor of the building in one office where the accused was residing. They all went upstairs alongwith the police. The door was closed from inside. They knocked the door. After some time, the accused opened the door and came out. He was wearing dhoti and half sleeve shirt. It was blood stained. He told them that his wife was having unchaste life and so, he killed her. They all went inside and found that the body of Kunda was lying on the floor. The accused killed Kunda with brass utensil i.e., Khalbatta, knife and a bamboo. She was dead. Then, Umar gave the information to the police and the offence was registered at C.R. No.376 of 207 with the Kapurbawdi police station. Thereafter, the police arrived, carried out the spot panchanama. Post-mortem was conducted on the next day i.e., 22.9.2007. The police recorded the statements of the witnesses. The accused was arrested on the same day and the chargesheet was filed after completion of investigation. The case was committed to the Court of Sessions. Then charge was framed under

section 302 of the Indian Penal Code. He pleaded not guilty. The trial concluded in conviction. Hence, this appeal.

2. Mr. Talkute, the learned Counsel for the appellant, read over the evidence of all the witnesses. The prosecution has examined in all 24 witnesses. He submitted that the applicant is innocent. He has not committed murder of his wife. He submitted that there is no eye witness. He was not wearing dhoti on his person when he opened the door. The dhoti which was seized by the police and shown as blood stained is a manipulated evidence. He challenged the seizure panchanama of the clothes under exhibit 55 and the C.A. Report (exhibit 59). He submitted that the accused was a pious person and a follower of 'Warkari' cult who are believers of non-violence. He submitted that the appellant has not committed any offence. The case of the prosecution is full of discrepancies and leniency is to be shown to the appellant.

3. The learned Prosecutor has opposed the appeal and she supported the judgment and conviction.

4. We have gone through the evidence of the witnesses. The witness PW1 Umar Hasan Shaikh has given a detailed description of the incident as to how the incident has occurred. The FIR (exhibit 19) corroborates the evidence of Umar Shaikh. It is true that the case is based on circumstantial evidence and nobody has seen the accused assaulting his

wife Kunda on that night. However, the incident has taken place on the midnight of 21<sup>st</sup> and 22<sup>nd</sup> September, 2007 in the closed house of the accused and the deceased. They were husband and wife, got married on 4.5.2007 and within 4½ months, Kunda was assaulted. Due to Ganesh festival, many persons were assembled near the building and they all heard shouts of Kunda and immediately rushed to the house.

PW4 Rohidas Mulundkar has stated in his deposition that on the night of 21<sup>st</sup> and 22<sup>nd</sup> September, 2007, when he returned home at midnight, he heard cries of Kunda and they all went up. The door was found locked and the police also arrived. When the door was knocked, the accused opened the door. There were blood stains on his clothes and face and his wife was lying in the bedroom. PW6 Bhaskar Gavit, PW9 Jagannath Padwal, police constable, PW10 Firoz Nawaz Shaikh have corroborated on the point of shouts of Kunda that the door was closed and when knocked, the accused came out and there were blood stains on his body and Kunda was lying in the bedroom as the injured and she was dead. PW13 Vijay Bhikaji Amre who drew spot panchanama marked exhibit 43 on 22.9.2007, has deposed that the spot panchanama was carried out at around 2.10am to 4.15am and at that time, blood stained bamboo, one solid brass metal kitchen utensil (in vernacular language, 'khalbatta'), a solid rod type Khalbatta utensil and one kitchen knife, all blood stained, were found at the spot. PW14 Dr.Prasannakumar

Krishnarao Deshmukh conducted the post-mortem on 22.9.2007. He has deposed that the injuries were caused due to hard, blunt and sharp object. There were many injuries on her body. Her cause of death was due to haemorrhagic shock due to multiple injuries. Considering the quality of evidence and the manner in which the incident has taken place and availability of the witnesses, who were natural and hence, found reliable, we are of the view that no interference is required in the judgment of the trial Court. It is a case of conviction under section 302 of the Indian Penal Code for the offence of murder.

5. Hence, we confirm the sentence and dismiss the appeal.

**(MRIDULA BHATKAR, J.)**

**(V.K. TAHILRAMANI, J.)**