

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

CRIMINAL APPEAL NO.251 OF 2013

Narayan Dada Bokhare,
Age : Major, Occ : Labour Work,
R/o. Chikhali, Tq. Shrigonda,
Dist. Ahmednagar.
(At present is in jail)

APPELLANT
[Orig. Accused]

VERSUS

The State of Maharashtra

RESPONDENT

...
Mr.S.B.Jadhav [Appointed] Advocate for the
appellant
Mr.D.R.Kale, APP for the Respondent/State
...

**CORAM: S.S.SHINDE &
K.K.SONAWANE, JJ.**

Reserved on : 15.02.2017
Pronounced on : 08.03.2017

JUDGMENT: (Per S.S.Shinde, J.):

1. This Criminal Appeal is filed by the
Appellant—accused, challenging the judgment
and Order passed by the Additional Sessions

Judge-4, Ahmednagar on 29th November, 2012, in Sessions Case No.192/2012, thereby convicting the appellant for the offence punishable under Section 302 and 506 of the Indian Penal Code. For the offence punishable under Sections 302 of the Indian Penal Code, the appellant is sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.5,000/- [Rs.Five Thousand], in default of payment of fine he shall suffer R.I. for three months.

2. The prosecution case in a nutshell is as under:

On 15.11.2011 at about 2.05 a.m. after midnight Ganesh Pawar lodged complaint with the Kotwali Police Station. He reported that his parents i.e. Arun Pawar and Sangita (deceased) are murdered by accused Narayan. An informant is residing in his parental house with parents, grand-mother Aminabai,

sister Manisha and brother Santosh. The accused Narayan Dada Bokhare and Siddharth (deceased) were the servants in his house were engaged for domestic as well as agricultural work and started residing in the courtyard of the informant's house and with the family of the informant from last 6-7 months before the incident. The accused Narayan was working in his house and looking after the cattles and agricultural work on daily wages.

3. On 14.11.2011, in the morning at about 6.00 a.m. all the family members in informant's house woke up including both the servants. The accused Narayan and another servant Sidharth (deceased) did work of cleaning cattle shed, and offered fodder to cattle. At about 10.00 a.m. the informant himself, his father Arun Pawar and the accused servant Narayan went to their sugarcane land for weeding grass. The work in

the land was over at about 6.00 p.m. At about 8.00 p.m. at night, all the family members and servant took their meal. At about 9.00 p.m. on said night, all of them went to bed. One of the servant Siddharth had been asleep on front side of an open varanda of the house. His parents Arun and Sangita had been asleep in backside yard, which is near to cattle shed. Accused Narayan had been asleep nearby the parents in cattle shed. The informant, grand-mother Aminabai, sister Manisha and brother Santosh had been asleep inside of the house having grill door of iron bars. At about 12-15 a.m. i.e. after midnight, while asleep Ganesh, an informant, heard some sound and woke up. He took the view through the grill door. He saw the accused Narayan was giving blow of wooden log on the head of Siddharth. Head of Siddharth had broken in the impact of bang by the wooden log. He shouted, hence grand-mother

Aminabai, sister Manisha and brother Santosh woke up. The accused Narayan noticed that the informant, his grand mother, sister and brother are awaken. The accused Narayan gave threat to the informant Ganesh Pawar to come out, and then he will finish him. An accused pushed the grill door with an intent to open the same. The informant, his grand mother, sister and brother Santosh resisted attempt of the Narayan to open the grill door, and prevented him from opening it. The grand mother asked the informant to awake his parents. The informant through rear door entered in the back yard to awake his parents. To his surprise he saw bleeding from the head of his father and mother. The brain particle came out of their head. The informant shouted and came on front side of the house. The accused Narayan ran away. The informant immediately made phone call to his uncle Dnyandeo Pawar. Thereafter, he went to

the Kotwali Police Station, with his uncle and lodged the FIR. The Police Station Officer registered a Crime No.I-382/2011, for the offences punishable under Section 302 and 506 of the Indian Penal Code against the accused on 15.11.2011 at about 2.00 a.m.

4. The learned counsel appearing for the appellant submits that the trial Court erred in holding that the appellant has committed the murder of Arun Pawar, and his wife Sangita and the servant Siddharth. It is submitted that the trial Court failed to appreciate that the accused was patient of schizophrenia [paranoid]. The prosecution has not brought on record the evidence to prove that, there was motive to commit crime as against all three persons. He invites our attention to the abnormal behaviour of the appellant from the notes of evidence. The learned counsel further submits that the trial Court failed to consider that no

independent witness was examined by the prosecution in support of the prosecution case. There are several omissions and contradictions in the evidence of the prosecution witnesses. It is submitted that merely because appellant asked Arun Pawar to pay him money, and since Arun Pawar refused to give money and asked the appellant to wait for 2-3 days, cannot be motive or ground for commission of alleged offence of murder of three persons. Therefore, the learned counsel appearing for the appellant submits that the appeal deserves to be allowed.

5. On the other hand, the learned APP appearing for respondent-State invites our attention to the evidence of the Investigating Officer, witness Ganesh Pawar and also medical evidence and other evidence brought on record by the prosecution and submits that, the prosecution has proved the case beyond reasonable doubt against the

appellant, and therefore, appeal deserves no consideration.

6. We have carefully considered the submissions of the learned counsel appearing for the appellant and the learned APP appearing for respondent-State at length. With their able assistance, we have carefully perused the evidence of eye witnesses and also other evidence brought on record by the prosecution, medical evidence and also other evidence in the nature of corroboration to the substantive piece of evidence.

7. The First Information Report was registered by Ganesh Pawar immediately within two hours from the incident. In the alleged incident, three murders were committed by the appellant. Postmortem report of all three deceased are on record at Exhibit-28 [1 to 3], it show injury to the head of Arun Pawar in the nature of CLW on left temporal region

in the size of 6x2x1 cm. fracture to the skull parieto temporoal region and brain particles came out. The blood hemorrhage was noticed. The injury to the head of deceased Sangita Pawar are avulsion of scalp from parietal to occipital region fracture to the skull, left and right temporal region, and brain matter came out. Injury to the head of Siddharth swelling to the right temporal region subdural hemorrhage of right parietal temporal region, and bleeding from right eye sight. The cause of death given as subdural hemorrhage, injury to the head crushing of brain of all the three deceased. The inquest panchanama Exh.30 [1 to 3] shows that there were no injuries to other part of the body of each of the deceased from neck to leg. The injury of fracture to skull and brain part and blood came out of the skull is the main cause for the death of each of the three deceased. The weapon i.e. wooden log,

attached in the case is enough heavy, and even single blow by the said wooden log to the head is sufficient to cause fracture of skull, if the blow is given with force.

8. Upon careful reading of the evidence brought on record, it appears that accused asked Arun Pawar to pay him money. Arun Pawar, deceased father of the informant, refused to pay money, and asked the accused to wait for 2-3 days. On the date of incident, appellant abused the parents of the informant. The appellant used to sleep in the back yard near the cattle shed of the agricultural field of the deceased. On the relevant date, accused came as usual with the informant at home. The father of the informant had dinner and went to rest in the back yard, near the cattle shed.

9. The informant Ganesh Pawar has stated in his deposition that, his parents,

grand-mother Aminabai, his sister Manisha and brother Santosh were residing in the family home at Kedgaon link road, Ahmednagar. Accused Narayan came few months prior to the incident and started working as servant in their house and agricultural field. Both the servant Siddharth and appellant were working in their house as well as land, and they used to provide food and shelter to both of them. On 14.11.2011, both of them did the house work and also looked after the cattle as usual. At about 10.00 a.m. along with both the servants, an informant and his other family members went to weed the sugarcane crop. They came back to home at 6.00 p.m. Family members of the informant went to bed after taking food at about 8.00 p.m. His parents, grand mother, sister and brother had been asleep in the house. Accused went to asleep in the back side room of their house. Siddharth had been asleep on the front side

gate of the house. At about 12.00 to 12.15 of midnight, he heard something dumped, and therefore, he woke up. He saw from the grill door of the house that, the accused Narayan hitting on the head of another servant Siddarth. He saw bleeding / oozing of blood from the head of Siddharth. He shouted, then grand-mother Aminabai, sister Manisha and brother Santosh woke up. The accused Narayan asked the informant to come outside the house and threatened that, he will also be killed. Accused Narayan tried to push the door grill inside. At that time, the informant, his grandmother, brother and sister hold the door from inside so as to resist the attempt of accused to open the door to enter inside the house. The informant immediately opened the rear door of the house and went to wake up his parents. The light was on. He saw bleeding from the head of his father and the brain particles came out of the head of his

mother. Then, he turned to the front side of the house to see the accused Narayan. Accused was not there, and he ran away. The informant confirmed that the accused Narayan killed his father Arun Baban and mother – Sangita Arun and servant Siddharth. The wooden log used by the accused Narayan was thrown outside of the house yard. He saw that the blood smacked to the said wooden log and then he called his father's brother i.e. uncle Dnyandeo by giving telephonic message. Then he went to the Kotwali Police Station to lodge the FIR. The Incharge Police Officer recorded the First Information Report.

10. It appears from his evidence that his additional statement was recorded by the Police on 17.11.2011. He stated that his parents used to express dissatisfaction about the work of Narayan. On the date of incident, accused Narayan asked his father to pay him

money, however, his father refused to pay him money and asked him to wait for 2-3 days. The accused got angry and he was in a angry mood through out the day.

11. We have carefully perused the cross examination of the informant. His version in the examination in chief remained unshattered even in the cross examination.

12. The prosecution examined Santosh Arun Pawar [PW2]. In his evidence, he stated details about the manner in which incident had taken place. He stated that, he heard the shouting of his brother Ganesh and woke up. He took the view through the grill door of the house and saw that Narayan was giving the blows of wooden log on the head of Siddharth. The accused Narayan then stood before the door with the wooden log. He saw bleeding from the body of Siddharth. The lights of the

house were on, and he had opportunity to see the incident of assaulting Siddharth by accused. He further deposed that, the accused Narayan then called his brother Ganesh to come out of the house and threatened him that, he will also kill him. Accused Narayan attempted to open the door of house. His brother Ganesh, grand mother Aminabai and others resisted the attempt of the accused to open the door. He further deposed that, his brother Ganesh went in back yard and started crying, noticing his mother and father in seriously injured condition and brain particles coming out of head. Then Narayan ran away. The evidence of PW1 gets corroboration from the evidence of PW2. Their evidence corroborates with each other. Apart from the evidence of aforesaid two eye witnesses, medical evidence brought on record by the prosecution unequivocally indicates that, the death of deceased was homicidal.

There is also other evidence brought on record by the prosecution in the nature of corroboration to the evidence of the eye witnesses.

13. Upon considering the evidence in its entirety, there is no slightest doubt that the appellant committed murder of Arun Pawar, his wife Sangita Pawar and servant Siddharth. The contention of the learned counsel appearing for the appellant that, the appellant was suffering from schizophrenia (paranoid) has no any force. The fact that the accused after commission of the offence fled away is indicative of the fact that his mental state was alright and he was not mentally disturbed, and knew the consequences of such commission of ghastly crime at his hands. Even he challenged the informant and asked him to come out of the house. Therefore, taking over all view of the matter, in our considered opinion, the

judgment and order of conviction dated 29.11.2012 passed by the Additional Sessions Judge-4, Ahmednagar, in Sessions Case No.192 of 2012, needs no interference, hence, appeal stands dismissed.

14. Appellant / accused be given set off under Section 428 of Criminal Procedure Code.

15. We quantify Rs.7,500/- [Rupees Seven Thousand Five Hundred only] towards fees of Advocate Mr.S.B.Jadhav [Appointed].

[K.K.SONAWANE]
JUDGE

[S.S.SHINDE]
JUDGE

DDC