

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 259 OF 2002

The State of Maharashtra, Through **Appellant**
Police Station Officer, Police (Orig. Complainant)
Station (Rural), Taluka and
District Hingoli

V E R S U S

1. Maroti S/o Appaji Tompe, Aged **Respondents**
30 Years, Occupation Agriculture, (Orig. Accused)
Resident of Karwadi, Taluka
Hingoli, District Hingoli

2. Kundlik S/o Dasruji Bhadange,
Aged 55 Years, Occupation
Agriculture, Resident of as above

3. Shriram S/o Panduji Bhoyar,
Aged 55 Years, Occupation
Agriculture, Resident of as above

4. Anusayabai W/o Maroti Tompe,
Aged 25 Years, Occupatin
Household, Resident of as above

Mr. S.J. Salgare, APP for the Appellant
Mr.S.P. Chapalgaonkar, Advocate for Respdt Nos.1 to 4

**CORAM : T.V. NALAWADE AND
A.M. DHAVAL, JJ.**

DATE : 13th NOVEMBER, 2017

O R D E R

1. Accused No.1 Maroti S/o Appaji Tompe is heard on the point of sentence. He says that he had purchased the land and as the deceased was interfering with his possession, the dispute had arisen. He has no criminal record. He was in jail for one year. So, leniency should be shown to him.

2. Learned counsel Mr. S.P. Chapalgaonkar has filed documents showing that the counter-case filed by the accused against the witnesses, was compromised on 29th April, 2004 in the Court of Judicial Magistrate, First Class, Hingoli. Learned counsel Mr. Chapalgaonkar relied on the case reported in ***Siddesh Anil Shirsat Versus State of Maharashtra, 2009 All. M.R. (Cri) 835*** and argued for releasing accused No.1 on probation. Learned counsel Mr. Chapalgaonkar argued that accused No.4 Anusayabai W/o Maroti Tompe has merely given a slap and sentencing her till rising of the Court will suffice in her case.

3. *Per contra*, learned A.P.P. Mr. Salgare argued that blow was given on vital part of skull and deceased lost his life, therefore, maximum sentence should be awarded.

4. In *cited* case, the accused was below 21 years. In present case, the accused was aged upto 30 years. Hence, the said ruling is not applicable to the facts of the present case.

5. Considering the above circumstances, accused No.1 deserves to be shown leniency and sentence of rigorous imprisonment for three years with fine of Rs.25,000/- which is to be paid as compensation to the parents of the victim will meet the ends of justice. Hence the following order :-

O R D E R

a. Appeal is partly allowed.

- b. Accused No.1 Maroti S/o Appaji Tompe is convicted for offence punishable under Section 304-II of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.25,000/- (Rupees Twenty Five Thousand), in default of payment of fine amount, rigorous imprisonment for two years.
- c. Entire fine if recovered shall be paid as compensation to the parents of the victim.
- d. Accused No.4 Anusayabai W/o Maroti Tompe is convicted under Section 323 of the Indian Penal Code and sentenced to suffer simple imprisonment till rising of the Court.
- e. Appeal against accused Nos.2 and 3 stands dismissed. Accused Nos. 1 and 4 are acquitted for the remaining offences charged.
- f. Accused No.1 shall surrender his bail bonds.

- g. Accused No.1 shall be entitled for set-off for the period undergone by him in jail (i.e. 14.04.2001 to 24.01.2002).

(A.M. DHAVALA, J.)

(T.V. NALAWADE, J.)

SRM/13/11/17