

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

**BENCH AT AURANGABAD**

**CRIMINAL APPEAL NO.327 OF 2013**

Dadasaheb Thakaji Maske  
Age 27 years, Occu: Agriculture  
R/o Sawargaon, Taluka Ashti,  
District Beed

**...APPELLANT**

**VERSUS**

The State of Maharashtra

**...RESPONDENT**

...  
Mr. A. K. Bhosale, Advocate for Appellant.  
Mr. S. B. Joshi, A.P.P. for Respondent  
...

**CORAM: S.S. SHINDE AND  
MANGESH S. PATIL, JJ.**

**DATE OF RESERVING JUDGMENT : 3RD NOVEMBER, 2017**

**DATE OF PRONOUNCING JUDGMENT: 14TH NOVEMBER, 2017**

**JUDGMENT [PER S.S. SHINDE, J.] :**

1. This Appeal is directed against the

Judgment and order dated 31st August, 2013, passed by the the Additional Sessions Judge-2, Beed in Sessions Case No. 141 of 2012 thereby convicting accused/Appellant - Dadasaheb Thakaji Maske for the offence punishable under section 302 of the Indian Penal Code (for short "I.P. Code") and sentencing him to suffer rigorous imprisonment for life and to pay fine of Rs.5000/- and in default, to suffer further rigorous imprisonment for six months.

2. The prosecution case, in brief, is as under:-

A) The informant Babasaheb Shaharam Maske, is the resident of village Sawargaon, Taluka Ashti, District Beed. Deceased Shaharam Maske was his father. Land of accused No.1 Dadasaheb is adjacent to the land of the informant. A criminal Case bearing No.654 of 2011, filed by the informant is pending against the accused. On 22nd June 2012,

deceased Shaharam did file N.C. bearing No.177 of 2012 for the offences punishable under sections 323, 504, 506 read with 34 of the I.P. Code.

B) It is further alleged that, on 25th June 2012, at about 3.30 p.m. the informant and his mother Sakharbai, after fetching the water from the well for the purpose of drinking, were returning to the house. Father of the informant, Shaharam was sitting on a platform constructed of stone, under the Banyan tree in the village. At that time, accused abused father of the informant stating that, why he has lodged First Information Report against them, and then accused started beating deceased by fist and kick blows. Accused No.1 Dadasaheb assaulted the deceased with the help of the wooden log. Due to said assault, the father of the informant sustained bleeding injury on his head. Witnesses Raju Shamrao Maske, Raju Sukhdeo Maske and Mohan Maroti Maske pacified the quarrel. Thereafter accused ran away. The father

of the informant i.e. deceased Shaharam became unconscious. The informant and others carried him to the City Care Hospital for treatment. While the treatment was going on, the deceased Shaharam died in the Hospital. On the next day, the dead body was taken to Civil Hospital, Ahmednagar for postmortem examination. Thereafter, informant brought the dead body at village Sawargaon and performed funeral. The informant lodged the First Information Report against the accused, at Ambhora Police Station.

C) On the basis of the First Information Report lodged by the informant, offence bearing Crime No.85 of 2012 under Sections 302, 504 read with 34 of the I.P. Code was registered against the accused at Ambhora Police Station. The Investigating Officer investigated the crime, and submitted the charge sheet in the Court of J.M.F.C., Ashti. The J.M.F.C., Ashti committed the case to the Court of Sessions, Beed, as offence

under section 302 of the I.P. Code is exclusively triable by the Court of Sessions.

D) The charge under sections 302, 504 read with 34 of the I.P. Code was framed against the accused. The charge was read over and explained to the accused in vernacular. The accused pleaded not guilty and claimed to be tried. Their defence was of total denial.

3. It is pertinent to note that there were in all four accused before the trial court, i.e. accused No.1 - Dadasaheb Thakaji Maske, who is appellant in this appeal, accused No.2 - Kailas Thakaji Maske, accused No.3 - Sujaanbai Thakaji Maske and accused No.4 - Kavita Kailas Maske. After recording the evidence and conducting full fledged trial, the trial Court acquitted original accused Nos. 2, 3 and 4 from all the offences with which they were charged. The trial court convicted accused No.1/appellant Dadasaheb Thakaji Maske for

the offence punishable under section 302 of the I.P. Code and sentenced him to suffer rigorous imprisonment for life and to pay a fine as afore-stated. Hence this Appeal by the accused Dadasaheb.

4. Learned counsel Mr. Bhosale appearing for the Appellant invites our attention to the notes of evidence and submits that though PW-3 Babasaheb Maske stated that he witnessed the incident, however his mother PW-6 Sakharbai Maske stated that neither PW-3 nor she herself witnessed the incident. He further submits that PW-7 Mohan Maske stated in his examination-in-chief that he saw accused Dadasaheb Maske assaulting deceased, however, in his cross-examination, PW-7 did not reiterate his statement in examination-in-chief that he saw accused assaulting the deceased. Learned counsel further submit that PW-8 Raju Maske in his evidence though stated that accused Dadasaheb was standing at the spot of incident

with wooden log, nevertheless he has not stated that he saw accused assaulting deceased. It is further submitted that in fact if the version of PW-7 and PW-8 is considered, it appears that both of them came on the spot of incident together on motorcycle, however, there is variance in their evidence.

5. Learned counsel further submitted that the PW-2 Namdeo Vithal Maske, witness on inquest, in his cross-examination, stated that while climbing steps deceased fell down and as a result sustained injuries. There is no re-examination on this aspect by the prosecution. The medical officer has stated that injuries sustained by the deceased are possible due to fall. Therefore, evidence of the medical officer corroborates the version of witness on inquest. It is submitted that there is delay of about 24 hours in lodging the First Information Report. Learned counsel further submits that the trial Court has not

properly appreciated the evidence brought on record, and came to the wrong conclusion. Therefore, he submits that the Appeal may be allowed.

6. Learned A.P.P. appearing for the State also invites our attention to the notes of evidence and in particular evidence of eye witnesses i.e. PW-3 Babasaheb, PW-6 Sakharbai, PW-7 Mohan and PW-8 Raju and submits that informant PW-3 Babasaheb, son of the deceased and PW-6 Sakharbai, wife of the deceased, have witnessed the incident. Both of them have specifically stated that accused Dadasahed assaulted deceased Shaharam by wooden log. He further submits that PW-7 Mohan and PW-8 Raju have also witnessed the incident and they both have also stated that accused Dadaram assaulted deceased. He further submits that after considering the entire evidence on record, the trial Court has convicted the accused and the

findings recorded are in consonance with the evidence brought on record. He therefore submits that the Appeal may be dismissed.

7. The prosecution has examined in all 12 witnesses. Firstly, we will consider the evidence of PW-1 Navnath Vithoba Shendge, PW-4 Kazi Majibuddin Jiyauddin, PW-5 Dattatraya Mhatardeo Maske, PW-9 Ashok Eknath Khakal, PW-10 Shantaram Murlidhar Kamble and PW-12 Mahendra Damodhar Ahire.

8. PW-1 Navnath Vithoba Shendge deposed that on 26th June 2012, he was called by police of Ambhora Police Station. Police seized the clothes of the deceased Shaharam Dadaba Maske under the panchnama. One Uparna, one handkerchief and one Shawl were seized under the panchnama. The clothes were stained with blood. He deposed that Muddemal Articles 2 to 4 before the Court are the same. He proved panchnama Exhibit 64. During the course of

cross-examination, PW-1 Navnath admitted that the Shawl seized under the panchnama is not before the Court. He stated that Babasaheb Maske, son of deceased was with him. They know each other.

9. The prosecution has examined PW-4 Kazi Mujibuddin Jiyauddin, police officer, to prove that prior to the incident in question i.e. on 22nd June, 2012 deceased Shaharam Maske lodged his complaint that accused slapped him as well as abused him and threatened to kill him and on the basis of same, he has registered the N.C. bearing No.177 of 2012. He was thoroughly cross-examined by the defence. The prosecution has also examined PW-5 Dattatraya Mhatardeo Maske, a tempo driver, who carried deceased Shaharam Maske by tempo at Ahmednagar.

10. The prosecution has examined PW-9 Ashok Eknath Khakal, as a panch witness to prove the spot panchnama and seizure panchnama regarding the

alleged weapon used in the crime. However, this witness has not supported the prosecution case and turned hostile. The prosecution examined PW-10 Shantaram Murlidhar Kamble as a panch witness to prove that accused had made disclosure statement that he was ready to produce wooden log and that at the instance of accused wooden log was seized. However, this witness also has not supported the prosecution case and turned hostile.

11. PW-12 Mahendra Damodhar Ahire is the investigating officer. He deposed about the manner in which he has carried out the investigation of the crime.

12. The prosecution has mainly relied upon the evidence of the informant PW-3 Babasaheb Shaharam Maske and PW-6 Sakharbai w/o Shaharam Maske claiming that they have witnessed the incident.

13. PW-3 Babasaheb Shaharam Maske deposed that he is residing with his mother, father, wife and other family members. Deceased Shaharam was his father. Accused No.1 Dadasaheb is his cousin brother. He is having agricultural land at village Sawargaon. Land of the accused is adjacent to his land. There is a dispute between them and the accused on the ground of landed property. Before three days of the incident, accused beat his father, therefore they filed N.C. case against the accused on 22nd June 2012. He further deposed that the incident took place on 25th June 2012. On that day he himself and his mother had gone to bring the water from the well, at about 3.00 p.m. His father was sitting on the platform constructed of stone under the Banyan tree. Accused abused his father and also assaulted the father by fist and kick blows. Accused No.1 was having wooden log with him. Accused No.1 beat with wooden log to his father. His father had sustained injuries to his head. They went to the spot. Mohan Maske, Raju

Maske, Sukhdeo Maske and he himself separated the quarrel. Thereafter they took his father to Ambhora for treatment and thereafter his father was taken to Ahmednagar. First his father was taken to the Civil Hospital, Ahmednagar and thereafter he was referred to City Care Hospital. Treatment was going on. His father died at about 11.00 p.m. Dead body of his father was taken to the Civil Hospital Ahmednagar for postmortem. Thereafter they brought dead body of his father to his village Sawargaon. Funeral was done at about 11.00 a.m. Thereafter he went to Ambhora Police Station and lodged the complaint.

. During the course of cross-examination, PW-3 Babahased stated that deceased Shaharam was having one brother by name Thakaji. Thakaji having two sons by name Dadasaheb and Kailash. He is the only son of Shaharam. There is dispute between him and accused on the ground of agricultural land. Incident took place in the month of June,

2012. The name of his mother is Sakharbai. He denied that sowing operation was going on at that time. They came to know that his father had sustained injury. Therefore, he himself and his mother went towards his father. He denied that people had gathered at the spot. When they went to the spot his father was lying. He admitted that he himself and some other persons lifted his father and put him on the platform and thereafter took him for the treatment at Ahmednagar, by tempo. He admitted that first his father was taken at Suleman Deola P.H.C. He further stated that from Suleman Deola they went to Ambhora police station. He had informed the incident to police of Ambhora police station. Thereafter they took his father to Ahmednagar in Civil Hospital. His father was referred to City Care Hospital from Civil Hospital and again he was taken to Civil Hospital. He further stated that he made a complaint about the incident in Civil Hospital, Ahmednagar. They returned to Sawargaon at about 10.00 a.m. on 26th

June 2012. Mohan Maruti Maske and Raju Shamrao Maske are resident of village Sawargaon. He has taken help of Mohan Maske and Raju Maske in this matter. He himself, Mohan Maske and Raju Maske went to Ambhora police station to lodge the complaint. He denied that he himself, Mohan and Raju decided to lodge the complaint against the accused. He admitted that Vishwanath Maske is the police patil of their village. He denied that false case is filed due to dispute of landed property. He denied that his father fell on the platform and sustained injuries.

14. Thus, if the evidence of PW-3 Babasaheb is minutely considered, though he has stated in examination-in-chief that he himself and his mother has witnessed the incident, however during the course of cross-examination, he stated that they came to know that his father had sustained injury and therefore he himself and his mother went to him. He specifically stated that when they

went to the spot, his father was lying. He further admitted that he himself and some other persons lifted his father and put him on the platform and thereafter took him for the treatment at Ahmednagar, by tempo. Thus, from the perusal of cross-examination of PW-3 Babasaheb, it appears that when this witness and his mother went to the spot, they saw Shaharam was lying there in injured condition.

15. Now we will consider the evidence of PW-6 Sakharbai w/o Shaharam Maske, the mother of the informant, along-with whom, informant claims that he witnessed the incident. PW-6 Sakharbai w/o Shaharam Maske deposed that deceased Shaharam was her husband, and the informant is their son. Accused Nos.1 and 2 are her nephews. Their lands are adjacent to each other. There is a dispute in between her family and family of the accused on the ground of agricultural land. Before 2 to 3 days of the incident accused had beaten her

husband. Her husband had lodged the complaint in the police station. On the date of incident, she herself and her son Babasaheb had gone to bring water from the well. Her husband was sitting under the Banyan tree on a platform. Accused beat her husband. Accused No.1 beat her husband by wooden log. Her husband had sustained bleeding injury. Accused Nos.1 and 2 scuffled with them. Mohan Maske and Raju Maske came to separate the quarrel. Accused ran away. Her husband died on the spot. There was head injury to her husband. They took her husband to Civil Hospital, Ahmednagar for the treatment. Her husband was referred to City Care Hospital where he died at 11.00 p.m. Funeral was performed on the next day.

. During the course of cross-examination, PW-6 Sakharbai stated that they were taking water from their well to their house. She further stated that there is house of Parbati Maske towards eastern side of her house. There is house

of Kailas Maske towards western side of her house. Towards northern side of their house, there is house of Gaike. Complainant and she herself were bringing water together. The distance between the place of incident and their house is 700 to 800 meters approximately. When she was putting the pot of water in her house, she heard the voice from the side of Banyan tree. When they went to the spot, her husband was lying on the platform. 10 to 15 persons had gathered from the village. There used to be assembly of villagers under the Banyan tree at noon time. Dattu Maske came. Her husband was put in the tempo and taken to Ahmednagar. When they were out of the village, Raju Maske and Mohan Maske met them in the transit. They met them at a distance of 4 to 5 Kms. from the village. They accompanied them to Ahmednagar. She further stated that they came back from Nagar on the next day along with Raju Maske and Mohan Maske. Mohan Maske was the member of Grampanchayat. Wife of Raju Maske was also member

of the Grampanchayat. She admitted that she herself, her son, Raju Maske and Mohan Maske came together and decided to lodge the complaint against the accused. She further admitted that they were under the impression that if complaint was lodged, dispute of agricultural land will come to an end. She admitted that therefore they lodged complaint against the accused. PW-6 Sakharbai further stated that on 26th June 2012 she herself, her son, Raju Maske and Mohan Maske went to Ambhora police station in the evening. Her statement was recorded by police. She has not stated to the police that there was scuffle between them and accused. She has stated before the police as well as in the Court that Raju and Mohan tutored her. She denied that suggestion that whatever she has stated in the examination-in-chief, is ex facie false.

16. If the evidence of PW-6 Sakharbai is considered in its entirety, the same is completely

shattered in her cross-examination. She stated in her cross-examination that, when she was putting the pot of water in her house she heard the noise from the side of Banyan tree, she herself and her son went towards Banyan tree, when they reached at the spot her husband was lying on the platform, 10 to 15 persons had gathered from the village, her husband was put in the tempo and taken to Ahmednagar. She has admitted that she herself, her son, Raju Maske and Mohan Maske came together and decided to lodge the complaint against the accused. PW-6 Sakharbai has further specifically admitted that they were under the impression that if complaint was lodged, dispute of agricultural land will come to an end and therefore they lodged complaint against the accused. She has also admitted that she had stated before the police and deposed before the Court as Raju and Mohan had tutored her. Thus, it is clear that though PW-3 Babasaheb claims that he has witnessed the incident along with his mother, his mother PW-6

Sakharbai does not state so and as per her version, when they both went to the spot, her husband was lying on the platform. Though PW-6 Sakharbai has stated that when they went to the spot, accused Nos.1 and 2 scuffled with them, and 10 to 15 persons from the village had gathered there, PW-3 Babasaheb has not stated so. Therefore, evidence of PW-3 Babasaheb and PW-6 Sakharbai is not consistent and does not corroborate with each other and therefore those are not reliable and trustworthy.

17. The prosecution has further placed reliance on the oral testimony of PW-7 Mohan Maroti Maske and PW-8 Raju Shamrao Maske, alleged eye witnesses to the incident. Therefore, we will now consider the evidence of PW-7 Mohan and PW-8 Raju.

18. PW-7 Mohan Maroti Maske deposed that he knows the accused who are from his village. He

knows the complainant and his mother, Sakharbai. Incident took place on 25th June, 2012. He himself and Raju Maske were going on motorcycle at about 3.00 to 3.30 p.m. The mob had gathered near the Banyan tree. Accused No.1 was beating deceased Shaharam by wooden log. Deceased Shaharam had sustained bleeding head injury. Thereafter deceased was shifted to Nagar for the treatment. On the next day at about 11.00 a.m. Shaharam died.

. During the course of cross-examination, PW-7 Mohan stated that the population of the village Sawargaon is 3000. There are nine members of the Grampanchayat. He contested the election of the member of the Grampanchayat. Advocate Sahebrao Maske is his nephew, who is also political leader. Vishnu Ganpat Maske was his nephew, who has committed suicide. He admitted that it was the allegation of parents of Vishnu that he was responsible for suicide of Vishnu. He used to go usually to Ashti Court. Earlier also he has

deposed in the Court of Ashti. He saw the mob under the Banyan tree. They entered into the mob and saw that Shaharam was lying on the platform. Thereafter complainant Babasaheb and his mother Sakharbai came to the spot. There was mob of 20 to 25 persons present under the Banyan tree before he reached there. Thereafter they took deceased by tempo to Suleman Deola, Ambhora and Nagar. He denied the suggestion that he has not seen the incident personally.

19. PW-8 Raju Shamrao Maske deposed in tune with the deposition of PW-7 Mohan. PW-8 Raju deposed that he knows the accused. He was knowing the deceased Shaharam. Incident took place prior to one year. On that day he himself and Mohan Maske were coming on motorcycle at about 3.00 to 3.30 p.m. They saw that deceased Shaharam was lying on the platform under the Banyan tree. There was mob under the Banyan tree. Accused No.1 was having wooden log with him. There was bleeding

injury to the head of deceased Shaharam. Thereafter Shaharam was taken to Ahmednagar for treatment.

. During the course of cross-examination, PW-8 Raju stated that he himself and Mohan Maske were on the same motorcycle. The incident was over before both of them reached the spot. He further stated that his wife was the member of Grampanchayat. She was elected from Ward No.1. He denied the suggestion that accused No.1 was from his rival political group and therefore he was deposing false against him.

20. After careful perusal of the evidence of PW-7 Mohan and PW-8 Raju, it appears that they are the chance witnesses. They claim that both of them came on one motorcycle at the spot of incident. Though PW-7 Mohan has stated that accused No.1 i.e. Appellant was beating deceased Shaharam by wooden log, PW-8 Raju stated that they saw that

deceased Shaharam was lying on the platform under the Banyan tree, there was mob under the Banyan tree and that accused No.1 was having wooden log with him. Thus, evidence of both these witnesses is not at all consistent and therefore the same is not at all trustworthy, and explicit reliance cannot be placed on such inconsistent evidence.

21. Now we will consider the evidence of PW-2 Namdeo Vithal Maske. He deposed that on 26th June, 2012, he was called by the police for the panchnama at Civil Hospital, Ahmednagar. The panchnama was of dead body of Shaharam Dadaba Maske. There were injury marks on head and near right eye of the deceased. Police prepared the panchnama of the dead body in their presence. Another panch Abasaheb Gavhane was with him. Panchnama Exhibit 66 bears his signature and contents of it were true and correct.

. During the course of his cross-

examination, PW-2 Namdeo stated that he is from village Sawargaon. Deceased Shaharam was from his village. The population of village is 3000 to 4000. There is a big temple of Machindranath at Sawargaon. The age of deceased Shaharam was 65 to 66 years. Shaharam had to walk with the help of stick. Incident took place on one platform constructed of stones. Old persons used to seat on the platform. He admitted that there were shops of Grampanchayat near the platform. The shops of one Firojbhai, Khanif Tailor and one Arjun Maske were adjacent to the platform. There was a reading room near the platform. There are small hotels and pan stalls near the platform. There were steps to the platform. He admitted that deceased Shaharam fell while climbing the steps of the platform. Shaharam sustained injuries to his head. He lifted Shaharam and took him to the hospital. In the meanwhile Shaharam was kept on ota (platform). He has took Shaharam to the Civil Hospital, Ahmednagar by a tempo belonging to Satish Rasal. Complainant, wife

of deceased and 10 to 15 villagers were in the tempo. Deceased was admitted in City Care Hospital at Ahmednagar.

22. Upon perusal of the evidence of PW-2 Namdeo, in his cross-examination he has stated that there were steps to the platform, where the incident took place. He specifically admitted that deceased Shaharam fell while climbing the steps of the platform and sustained injuries to his head. PW-2 Namdeo is examined by the prosecution and his aforesaid admission is not at all challenged by the prosecution in any manner.

23. The prosecution has examined PW-11 Dr. Ganesh Ramnath Bade. He deposed that on 26th June 2012, he was attached to Civil Hospital, Ahmednagar. On that day dead body of Shaharam Dadaba Maske was referred for postmortem by Topkhana police station, Ahmednagar at about 6.00 a.m. He has conducted postmortem examination from

9.30 a.m. to 10.30 a.m. There was injury to the left side of the head. He noticed following internal injuries:

1) Fracture of skull at left parieto temporal region 2 to 3 small pieces of skull noted.

2) Sub dural haemorrhage at left parieto temporal region.

. PW-11 Dr. Ganesh further deposed that cause of death was due to sub-dural haemorrhage due to head injury. Accordingly he has prepared postmortem notes. Postmortem notes Exhibit-79 were in his handwriting and it bore his signature. Contents therein were true and correct. The injuries mentioned in Exhibit-79 were possible by wooden log before the Court.

. During the course of cross-examination,

PW-11 Dr. Ganesh stated that the life span of a man is 65 years. He admitted that age of the deceased was 65 years. In this age the bones of old persons are brittle. If any old person falls on hard and blunt substance, the injuries mentioned in Exhibit-79 were possible. He admitted that if any old person is assaulted with the help of weapon like wooden log before the Court, there will be small pieces of bones. The injury will correspond with the diameter of the weapon. The diameter of the wooden log before the Court was 3 to 4 Cms. In sutured wound one can say object is hard and blunt but cannot mention the weapon. He further stated that he could not opine by which weapon the injuries were caused. His opinion mentioned in examination-in-chief regarding injury caused by the wooden log was not definite.

24. Thus, PW-11 Dr. Ganesh has admitted in cross-examination that, if any person falls on hard and blunt substance, the injuries mentioned

in postmortem report Exhibit-79 were possible. We find considerable force in the argument advanced by the learned counsel appearing for the Appellant that admission given by PW-2 Namdeo that, deceased Shaharam fell while climbing the steps of the platform, is corroborated by the admission of Medical Officer PW-11 Dr. Ganesh that, if any old person falls on hard and blunt substance, the injuries mentioned in post-mortem report Exhibit-79 were possible. On the strength of this evidence, learned counsel appearing for the Appellant has argued that possibility of deceased falling on the platform constructed of stones and sustaining fatal injuries cannot be ruled out. We find considerable force in the argument of the learned counsel appearing for the Appellant that, as there is delay of about 24 hours in filing the First Information Report, the possibility of deliberation, concoction and false implication cannot be ruled out. In support of his submission, learned counsel relied upon the cross examination

of PW-6 Sakharbai, wherein she admitted that she herself, her son i.e. informant, Raju Maske and Mohan Maske came together and decided to lodge the complaint against the accused. PW-6 Sakharbai further admitted that they were under the impression that if complaint was lodged, dispute of agricultural land would come to an end, and therefore they lodged complaint against the accused.

25. We have carefully considered the entire evidence brought on record by the prosecution. As is already observed, there were four accused before the trial Court. On the same set of evidence, the trial Court has acquitted original accused Nos.2, 3 and 4 from all the charges with which they were charged. The trial Court has also acquitted accused No.1/ Appellant for the offence punishable under Section 504 read with 34 of the I.P. Code, however, convicted the Appellant for the offence punishable under Section 302 of the

I.P. Code. The trial Court has mainly relied upon the evidence of PW-3 Babasaheb, PW-6 Sakharbai, PW-7 Mohan and PW-8 Raju. As already observed, the evidence of these witnesses is not trustworthy and reliable and on such evidence conviction cannot be based, and therefore benefit of doubt deserves to be given to the Appellant. The evidence brought on record by the prosecution is not cogent, sufficient, convincing and do not inspire confidence, so as to prove the offence against the Appellant beyond reasonable doubt. Therefore, inevitable conclusion is that the Appellant is entitled for the benefit of doubt. Hence we pass the following order:

**O R D E R**

(I) The Criminal Appeal is allowed.

(II) The impugned Judgment and order dated 31st August, 2013, passed by the

Additional Sessions Judge-2, Beed in Sessions Case No.141 of 2002, to the extent of convicting and sentencing the accused/Appellant Dadasaheb Thakaji Maske for the offence punishable under Section 302 of the Indian Penal Code, is quashed and set aside.

(III) The Appellant Dadasaheb Thakaji Maske is acquitted of the offence punishable under Section 302 of the Indian Penal Code. Fine amount if deposited as per the impugned Judgment and order, be refunded to the Appellant.

(IV) The Appellant is in jail, he be set at liberty forthwith, if not required in any other case.

(V) The Appellant - Dadasaheb Thakaji

Maske shall furnish the bail bonds of Rs.15,000/- and surety of like amount under Section 437-A of the Code of Criminal Procedure, before the concerned trial Court at Beed.

**[MANGESH S. PATIL, J.]**

**[S.S. SHINDE, J.]**

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