

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPEAL NO.354 OF 2013

Anil s/o Banshi Alhat,
Age-Major, Occu:Nil,
R/o-Indiranagar, Tq-Daund,
Dist-Pune,
Presently at: Yerwada
Central Prison, Pune.

...APPELLANT

VERSUS

The State of Maharashtra

...RESPONDENT

...

Mr. M.B. Kolpe Advocate appointed for
Appellant.

Mr. K.S. Hoke Patil, A.P.P. for Respondent.

...

**CORAM: S.S. SHINDE AND
V.K. JADHAV, JJ.**

DATE OF RESERVING JUDGMENT : 9TH JULY, 2018

DATE OF PRONOUNCING JUDGMENT: 13TH JULY, 2018

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

1. This Appeal is preferred by the
Appellant- Anil Banshi Alhat, challenging the

Judgment and order dated 17th July, 2010, passed by the Sessions Judge, Ahmednagar in Sessions Case No.254 of 2010, thereby convicting original accused/Appellant for the offence punishable under Section 302 of the Indian Penal Code (for short "I.P. Code") and sentencing him to undergo imprisonment for life and to pay fine of Rs.200/-, and further convicting the accused for the offence punishable under Section 324 of the I.P. Code and sentencing him to undergo rigorous imprisonment for six months. Both the sentences were directed to be run concurrently.

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

A) The prosecution machinery was set in motion on account of report lodged by one Jayshree Sanjay Ghodke at police station, Shrigonda, on 23rd April, 2009, at about 18.50 hours. According to Jayshree, she was residing at Siddharthanagar along with her husband Sanjay, mother-in-law

Ranjana, father-in-law Tukaram, and her daughter Diksha and son Sahil. They all were residing together and were doing labour work. Meena Anil Alhat, wife of the accused, was sister of Jayshree's husband and she used to reside near her house along with her son Tushar, Akshay and daughter Suvarna, and accused Anil Bansi Alhat. The parents of the accused used to reside at Daund.

B) On 23rd April, 2009, there was Loksabha election and for that purpose the accused had been to Daund in the morning at 6.00 a.m. for voting. Meena and her children were at home.

C) At about 3.00 p.m., informant Jayshree, her mother-in-law Ranjana and Meena had been to the sugarcane field near lake for bringing grass for cow. At about 4.30 p.m., they were returning by road and were near a quarry by the side of road. The accused Anil Bansi Alhat came there at that time and started abusing Meena on her mother.

He asked Meena as to why she did not come for voting and started abusing her. The informant and her mother-in-law Ranjana tried to convince the accused. Meena also told that she was having no money to go to Daund for voting and therefore, she did not go for voting. Thereafter all of them i.e. Jayshree, Ranjana and Meena started going by road. The accused was following them and continued to abuse.

D) While the informant Jayshree, Ranjana and Meena were proceeding by road, the accused came ahead from their backside and started abusing Meena. He thereafter took out the sickle/sattur from inside the shirt and assaulted Meena on her head and hand. Meena therefore fell down. When the informant Jayshree intervened, she was also assaulted with the said weapon and she received injury on her left hand and fell down. Meena was lying on the ground and accused assaulted her with a sickle/sattur on her head. The blow was so forceful that the sickle/sattur remained embedded

in the head of Meena. The accused then ran away. Informant Jayshree cried loudly and on hearing her shouts, one Gautam Ghodke and others came at the spot and took Meena and Jayshree to Rural Hospital. In the hospital, Jayshree lodged a complaint as police came there for recording her complaint. Police Station Officer got confirmed that Jayshree was conscious and in a condition to give statement, and recorded her statement as per her say.

E) On the basis of First Information Report lodged by Jayshree, Shrigonda police registered a crime bearing Crime No.157 of 2009, for the offence punishable under Section 307, 324, 323, 504 of the I.P. Code. The police got examined Jayshree and Meena, through the medical officer.

F) Meena was immediately referred to Civil Hospital, however she died in the transit and therefore her body was brought back to Rural Hospital, Shrigonda. Inquest panchnama was carried

out and the sickle/sattur was taken out from her head and the same was seized. Her body was sent for post-mortem.

G) The investigating officer - Annasaheb Bhikaji Ghavate investigated into the crime. He conducted the panchnama of place of incident and got photographs of the deceased prior to sending her body for post-mortem. He also seized simple mud and blood stained mud from the place of incident. He also seized the clothes of the deceased and the weapon used for committing offence. The accused was absconding.

H) Thereafter investigating officer recorded the statements of the witnesses and the accused was arrested subsequently. After due investigation, the charge-sheet came to be filed in the Court of Judicial Magistrate, First Class, Shrigonda. In due course, case was committed to the Court of Sessions.

I) A charge Exhibit-5 for an offence punishable under Section 302, 324 of the I.P. Code and under Section 4 read with 25 of the Arms Act, was framed against the accused and the same was explained to him in Marathi. The accused pleaded not guilty and claimed to be tried, with the defence of total denial.

3. After recording the evidence and conducting full fledged trial, the trial Court convicted the accused for the offence punishable under Section 302 of the I.P. Code and sentenced him to undergo imprisonment for life and to pay a fine, as afore-stated. The trial Court also convicted the accused for the offence punishable under Section 324 of the I.P. Code and sentenced him to undergo rigorous imprisonment for six months, as afore-stated. Hence this Appeal by the accused.

4. Mr. Kolpe, learned counsel appearing for the Appellant, referring to the grounds taken in

the Appeal, submitted that the evidence of both the eye witnesses i.e. PW-1 Jayshree and PW-4 Ranjanabai is not consistent and reliable. He submits that in the evidence of both the eye witnesses there are contradictions in respect of description of incident and residence of deceased Meena. He further submits that description of weapon in the First Information Report and the evidence is contrary to each other. He further submits that presence of the eye witnesses at the spot of incident is doubtful as there is variance in the evidence of PW-1 Jayshree and PW-4 Ranjanabai. The seizure of weapon is also doubtful as there is no evidence available on record to know who has removed the weapon from the body of deceased. Learned counsel submits that the Appellant has been falsely implicated in the crime. Learned counsel submits that both the witnesses PW-1 and PW-4 are interested witnesses and their oral testimony cannot be relied upon. In support of his submissions, learned counsel placed reliance upon the exposition of law in the case of

State of U.P. vs. Arun Kumar Gupta¹. Therefore, he submits that the Appeal may be allowed.

5. As against this, learned A.P.P. invites our attention to the evidence of PW-1 Jayshree and PW-4 Ranjanabai and submits that both these witnesses have witnessed the actual incident of assault by the accused. The weapon which was used in the commission of offence was embedded in the head of Meena, which was taken out by the doctor when Meena was taken to the hospital. The accused was suspecting to the chastity of his wife Meena and therefore there was motive to commit murder. He further submits that after considering the entire evidence on record, the trial Court has convicted the accused and the findings recorded by the trial Court are in consonance with the evidence brought on record. The learned A.P.P., therefore, submits that the Appeal deserves to be dismissed.

1 AIR 2003 S.C. 801

6. We have carefully considered the submissions of learned counsel appearing for the Appellant and learned A.P.P. appearing for the State. With their able assistance, we have carefully perused the entire notes of evidence so as to find out whether the findings recorded by the trial Court are in consonance with the evidence brought on record or otherwise.

7. The prosecution has examined PW-7 Dr. Nitin Maruti Khamkar. He deposed that from 2008, he was working as medical officer in Rural Hospital at Shrigonda. On 23rd April, 2009, at about 5.00 p.m. one Jayshree Sanjay Ghodke and Meena Anil Alhat were brought to their hospital by their relatives. Meena was not in a position to speak and was in a critical condition. One instrument like Sattur/Koyta was found in her skull. Emergency treatment was given to her and she was immediately referred to civil hospital, Ahmednagar. He further deposed that he has also examined Jayshree Sanjay Ghodke and found incised

wound 1.00 cm. X 0.5 cm. X 0.5 cm. on dorsal site of right hand wrist joint. Local swelling and tenderness was also noted. The nature of injury was simple and the same might have been caused due to sharp edged object. The said injury may be possible due to slippery blow of Article-4 (Sattur/Koyta), shown to him. He further deposed that Jayshree was admitted in the hospital. He informed to the police. ASI Tapkire recorded statement of Jayshree in his presence. He made endorsement about the condition and consciousness of Jayshree when her statement was recorded by Mr. Tapkire.

8. PW-7 Dr. Nitin Khamkar further deposed that Meena was referred to Civil Hospital. She died when she was taken to Civil Hospital and therefore her dead body was brought back to Rural Hospital. He had performed post-mortem of the body of Meena Anil Alhat on 24th April, 2009, in between 10.40 a.m. to 11.50 a.m. He found following external injuries as mentioned in Para

17 of the P.M. Report on the person of Meena:-

"1. Incised wound on Lt. side of face to temporal region including Lt. eye, 20 cm. X 2 cm. X 5 cm. (bone deep brain matter seen),

2. Incised wound 7 cm. X 0.5 cm. X 0.5 cm. oblique on Lt. scapular region,

3. Incised wound on Rt. cubital fossa 4 cm. X 0.5 cm.

4. Incised wound 2.5 cm. X 0.5 cm. bone deep on Rt. wrist joint dorsal aspect on radial margin,

5. Incised elliptical wound 7 cm. X 3 cm. bone deep lower 1/3rd of Lt. fore arm (radical site) fracture of radius bone lower 1/3rd part,

6. Abrasion on Lt. hand thumb base 3 cm. X 2 cm. superficial,

7. Pilling of skin of Lt. thigh 5 cm. X 2 cm.

. PW-7 Dr. Nitin Khamkar further deposed that out of above stated seven injuries, injury Nos. 1 to 6 were ante-mortem. He has also found corresponding injuries on head. The said injuries were:

-Incised wound 5 X 1 cm. bone deep on the left occipital region. Local contusion about 6 cm. X 2 cm. noted.

-Incised wound on left site of face to temporal region including left eye 20 cm. X 2 cm. X 5 cm., brain matter seen from it.

-Rupture of left eye was noted. Rupture of coverings (meninges noted) on left front to temporal site.

-Oedematus brain matter noted,

-filled with clotted blood.

-Incision on left occipital region of brain noted 3 X 0.5 cm. X 1 cm.

. PW-7 Dr. Nitin Khamkar further deposed that he had taken the blood sample for grouping and cross matching. The cause of death was "due to cardio respiratory arrest due to haemorrhagic shock, due to injury to vital organ i.e. brain".

He has accordingly prepared postmortem report. The injuries mentioned in Column No.7 are sufficient to cause death in ordinary course of nature. The said injuries may be possible due to weapon like Article No.4 (Sattur/Koyta) shown to him.

9. During the course of cross-examination, PW-7 Dr. Nitin Khamkar stated that he might have completed 100 post-mortem. Meena and Jayshree came at the same time but preference was given for treatment to Meena as she was in a critical condition. Further PW-7 Dr. Nitin Khamkar was extensively cross-examined by the defence, but nothing useful to the defence was elicited.

10. Thus, from the perusal of the evidence of PW-7 Dr. Nitin Khamkar, the injuries mentioned in the post-mortem notes, it is clear that death of Meena was homicidal.

11. Now, we will examine the evidence of the eye witnesses. PW-1 Jayshree Sanjay Ghodke, is the

informant and she is also injured eye witness. She deposed that she reside in Siddharthnagar at Shrigonda. Her husband Sanjay, mother-in-law Ranjana, father-in-law Tukaram, her husband's brother Kailas and her daughter Deeksha and son Sahil reside together. Deceased Meena was sister of her husband. Accused is the husband of Meena. Meena and accused Anil were residing near her house but separately. They were having two sons, namely, Tushar and Akshay and a daughter Suvarna. The father and mother of accused were residing at Daund.

. PW-1 Jayshree further deposed that the incident took place on 23rd April, 2009. On that day there was election for Loksabha. Accused Anil had been to Daund for voting at about 6.00 a.m. Meena and her children were at home. At about 3.00 p.m. she herself, Meena and her mother-in-law Ranjana went to sugarcane field near lake. They collected the grass and were about to leave the field. At that time accused came there. It was

about 4.30 p.m. Accused started abusing his wife Meena on the ground, as to why she did not come for voting. Accused abused Meena on her mother. PW-1 Jayshree further deposed that she herself and her mother-in-law tried to convince accused not to abuse his wife. Meena told that she did not go for voting as she was not having money for travelling. Thereafter they started going towards home. The grass bundles were on their head. Her mother-in-law Ranjana was ahead of Meena and Meena was ahead of her. The accused was also following them. The accused was continuously abusing. When they came near the quarry, the accused came ahead her. The accused caught hold the hand of Meena, took out sickle (Sattur-Koyta) which was at backside underneath his shirt. He started assaulting Meena with the said sickle. Meena received blows of sickle on her head and hand. When the witness-Jayshree tried to intervene, the accused also assaulted her on left hand with the sickle and therefore she sat down. Thereafter the accused again gave a sickle blow to Meena on left side of

her head from ear to eye. The sickle remained embedded in the left side of head of Meena. Meena fell down. The witness herself and her mother-in-law started running away and at that time accused also ran away. One Gautam Ghodke and many other people came there and they brought them to the hospital. Police came in the hospital and she narrated the incident to police. She further deposed that she can identify the sickle used by the accused as well as clothes of Meena. Article-4 is the said sickle which accused used for assault.

12. During the course of cross-examination, PW-1 Jayshree stated that Meena was eldest daughter of her father-in-law. She further stated that accused is native of Daund, he has his own house at Daund and his parents reside there. The marriage between accused and Meena was solemnized about 17 to 18 years prior to the incident. Meena came to reside with them 7-8 years prior to the incident. Meena was residing with them in their house. Accused was serving in a hotel at Daund.

She admitted that they used to spend for the maintenance of Meena and her children after she came to reside at Shrigonda. She further admits that they were unable to bear the expenses as their financial condition was also not good. She denied that Anand Randheer used to visit their house frequently. She further denied the suggestion that the accused and his family used to suspect about Meena's character and therefore she was residing at Shrigonda. She also denied the suggestion that Meena was having illicit relations with Anand Randheer and therefore she came to reside at Shrigonda. She further stated that Meena was assaulted near pit. Blood stains were also lying there. She narrated the police that after assaulting her, accused against assaulted his wife on the left side of the head. She stated to the police that she herself and her mother-in-law ran away after assault. She was unable to state why it was not mentioned in the complaint. She denied the suggestion that accused used to come to meet his children from Daund. PW-1 Jayshree volunteered

that accused was residing at Shrigonda itself.

13. Upon careful perusal of the evidence of PW-1 Jayshree, it is clear that she was present at the spot of incident when accused assaulted his wife Meena. She specifically deposed that when she herself, her mother-in-law Ranjana (PW-4), and Meena came near the quarry, accused came ahead of her. The accused caught hold the hands of Meena, took out the sickle and started assaulting Meena by the said sickle. Meena received blows of sickle on her head and hand. She further deposed that when she tried to intervene, the accused also assaulted her on left hand with the sickle. PW-1 Jayshree further deposed that the accused again gave a sickle blow to Meena to left side of her head from ear to eye. The blow was such forceful that sickle remained embedded in the left side of head of Meena. Thus, it is clear that PW-1 Jayshree had not only witnessed the incident, but she herself also got injured in the said incident. When PW-1 Jayshree tried to stop the accused from

assaulting Meena, the accused also assaulted her. The medical evidence of PW-7 Dr. Nitin Khamkar also corroborates the version of PW-1 Jayshree that she received injuries to her hand. The evidence of injured eye witness stands on much higher footing than other eye witnesses and therefore much weightage requires to be given to the evidence of injured eye witness. In this respect, it would be useful to refer the exposition of law by the Supreme Court in the case of Ramvilas vs. State of Madhya Pradesh². In Para-6 of the Judgment, it is observed that:-

"6. In the incident, Narmada Prasad (PW 3) and Uma bai (PW 5), sister of the deceased sustained injuries and Ext. P-9 and Ext. P-10 are the MLC Reports of Narmada Prasad (PW 3) and Uma Bai (PW 5), respectively issued by Dr. S.K. Dhoble (PW 10). Narmada Prasad (PW 3) and Uma Bai (PW 5) being injured witnesses, their presence at the time and place of occurrence cannot be doubted. Evidence of the injured witnesses is entitled to a great weight and very cogent and convincing grounds are

2 (2016) 16 S.C.C. 316

required to discard the evidence of the injured witnesses. We do not find any ground to disbelieve the evidence of injured witnesses Narmada Prasad (PW 3) and Uma Bai (PW 5)."

14. In the present case also, being injured witness, the presence of Jayshree (PW-1) at the time and place of occurrence cannot be doubted. Even otherwise, her evidence is trustworthy, consistent and reliable, and there is no reason to disbelieve her oral testimony.

15. PW-4 Ranjanabai w/o Tukaram Ghodke is another eye witness to the incident. She deposed that deceased Meena was her daughter and accused Anil is her son-in-law. Regarding the incident, PW-4 Ranjanabai deposed that in the afternoon she herself, her daughter Meena and Jayshree had been to collect grass. After collecting grass when they were returning towards their home, the accused came there. Accused started abusing her daughter on the ground that Meena did not go for voting.

Meena told that she was having no money for conveyance. Thereafter they started going towards home. She further deposed that accused was following her daughter-in-law. All of a sudden accused came forward, took out Sattur from his back and assaulted Meena. Meena was assaulted on both her hands as well as on head. Meena therefore, fell down. She further deposed that Jayshree tried to intervene but she was also assaulted on her wrist. Her daughter-in-law Jayshree fell down. Thereafter Meena was assaulted forcefully with Sattur and it remained in the head of Meena.

. During the course of cross-examination, PW-4 Ranjana stated that her statement was recorded by police as per her say. She did not state to the police that accused used to suspect about the character of her daughter and used to ill-treat her. She further stated that portion marked "A" in her statement is incorrect. She was unable to state why portion marked "A" was

recorded in her statement. She further stated that incident continued for five minutes. While recording the statement by police, she stated to the police that she herself was ahead of her daughter and daughter-in-law, and accused was following them. She was unable to state any reason why the said fact is not mentioned in her statement. She did not mention that Sattur was taken out by accused from backside.

16. Thus, from the conjoint reading of the oral testimony of both these eye witnesses, PW-1 Jayshree and PW-4 Ranjanabai, it is crystal clear that they both have categorically stated that the accused had mercilessly assaulted his wife Meena with deadly weapon like Sattur, with an intention to kill her. The blow of the weapon was such forceful that the weapon i.e. Sattur/sickle remained embedded in the head of Meena.

17. Learned counsel appearing for the Appellant argued that the presence of eye

witnesses at the spot is doubtful, as there is variance in the evidence of PW-1 Jayshree and PW-4 Ranjanabai in respect of description of incident and residence of deceased Meena. Learned counsel further argued that PW-1 Jayshree deposed in her evidence that at the time of incident, there were grass bundles on the head of PW-1 Jayshree, PW-4 Ranjanabai and deceased Meena, however the spot panchnama shows that there was only one grass bundle on the spot. It is pertinent to note that, these are minor contradictions and discrepancies, which does not affect the core/ substratum of the prosecution case and therefore these contradictions can be ignored while evaluating the evidence of the eye witnesses. The Supreme Court in the case of Shyamlal Ghosh vs. State of West Bengal³, in Para 68 held thus:-

"68. From the above discussion, it precipitates that the discrepancies or the omissions have to be material ones and then alone, they may amount to contradiction of

3 (2012) 7 S.C.C. 646

some serious consequence. Every omission cannot take the place of a contradiction in law and therefore, be the foundation for doubting the case of the prosecution. Minor contradictions, inconsistencies or embellishments of trivial nature which do not affect the core of the prosecution case should not be taken to be a ground to reject the prosecution evidence in its entirety. It is only when such omissions amount to a contradiction creating a serious doubt about the truthfulness or creditworthiness of the witness and other witnesses also make material improvements or contradictions before the Court in order to render the evidence unacceptable, that the Courts may not be in a position to safely rely upon such evidence. Serious contradictions and omissions which materially affect the case of the prosecution have to be understood in earlier contradistinction to mere marginal variations in the statement of the witnesses. The prior may have affect in law upon the evidentiary value of the prosecution case; however, the latter would not adversely affect the case of the prosecution."

18. PW-1 Jayshree stated that the incident

took place at 4.30 p.m. The First Information Report was promptly lodged at 6.30 p.m, within two hours. Therefore, the possibility of concoction is ruled out. There is no reason to PW-1 Jayshree and PW-4 Ranjanabai to falsely implicate the Appellant by leaving aside the real culprit. As per the statement recorded under Section 313 of the Code of Criminal Procedure, it is the defence of the accused that his wife Meena was having illicit relations with her sister's husband and on number of occasions he tried to convince her to behave properly but she did not listen. All the relatives of Meena were annoyed with accused as illicit relations of Meena were made public by the accused and therefore he has been falsely implicated. Such defence of the accused is not at all acceptable. It is difficult to accept that prosecution witnesses, PW-1 Jayshree and PW-4 Ranjanabai would falsely implicate the Appellant.

19. The prosecution has examined PW-2 Amol Ganesh Ghodke. He is a panch to the inquest

panchnama (Exhibit-27) of the dead body of Meena. he deposed that there were injuries on wrist of both the hands and left arm and there was injury on the head of Meena. One sickle/sattur was found embedded on the left side of the head from the place of ear towards eye. The said Sattur was taken out in his presence by the Medical Officer.

20. PW-3 Vikas Baban Ghodke is a panch to the seizure panchnama(Exhibit-29), in respect of the clothes of deceased Meena and the weapon. He deposed that one sari, petticoat, blouse and one iron Sattur were seized in his presence, and there were blood stains on those articles. PW-5 Kiran Tayraram Pawar is a photographer. He deposed that as per the directions of Shrigonda police, he had taken photographs of one lady, whose dead body was lying in Rural Hospital, Shrigonda. The copies of said photographs are at Article A to E. PW-6 Bhausahab Ranghnath Ghodke is a panch to the spot panchnama (Exhibit-35). PW-8 Annasaheb Bhikaji Ghavate, PSI, Shrigonda police station, is the

investigating officer. He deposed about the manner in which he has carried out investigation of the crime.

21. The accused has examined DW-1 Sou. Suvarna w/o Mahendra Zende. She is married daughter of accused. She deposed that there were illicit relations between her mother and her cousin uncle Anand Randheer. She further deposed that on the day of incident she was at Shrigonda. She was taking education in Kanya Vidyalaya at Shrigonda in 8th standard. On the date of incident, it was Election day. On the date of incident, her father was at Daund. Her father never used to go to parents house of her mother where her mother was residing, as there was quarrel between the couple. Thus, DW-1 Sou. Suvarna tried to depose that on the day of incident the accused was at Daund and not at Shrigonda, where incident took place.

. During the course of cross-examination, DW-1 Sou. Suvarna stated that she came to know

about the incident at about 5.00 to 6.00 p.m. after she came from school. She further stated that she did not state to police that her father went to Daund for voting at 6.30 a.m. and asked her mother to come later on. She did not state to the police that her father - accused came to home at 3.00 p.m. and asked her where her mother was and she told him that she had been to field near lake. She did not state to the police that her father went towards lake by abusing her mother. She further stated that portion marked "A", "B" and "C" in her statement are not correct. She was unable to state why police recorded those portions in her statement.

22. After careful perusal of the entire evidence of DW-1 Sou. Suvarna, it is clear that in order to defend her father, she deposed that at the time of incident her father was at Daund. She deposed that she came to know about the incident when she returned from the school. It is a matter of record that incident took place on 23rd April,

2009, when there were elections of Loksabha. It is difficult to accept that on the day of Loksabha election, there was no holiday to the school in which DW-1 Sou. Suvarna was taking education. Further, she tried to recile from her each and every statement which was recorded by the police. Thus, it is clear that evidence of DW-1 Sou. Suvarna is not at all trustworthy, and therefore no reliance can be placed on her oral testimony, and the same is rightly discarded by the trial Court. As observed earlier, there is no reason to PW-1 Jayshree and PW-4 Ranjanabai to falsely implicate the Appellant by concealing the name of real culprit. Therefore, there is no reason to disbelieve the oral testimony of PW-1 Jayshree and PW-4 Ranjanabai.

23. Regarding the contradictions in the evidence of PW-1 Jayshree and PW-4 Ranjanabai, the trial Court has observed that, such minor contradictions are bound to be there when the witnesses depose before Court after a lapse of

more than one year. The trial Court has further observed that, such contradictions show that the witnesses are not tutored witnesses. The trial Court has further observed that, there is nothing on record as to why these two lady eye-witnesses will depose against the accused. After discussing the evidence on record, the trial Court has further observed that, it will be thus crystal clear that the evidence of eye-witnesses is not only trustworthy but is well corroborated from the other circumstances on record. The trial Court has further observed that, the manner in which the accused assaulted his wife Meena on her vital part i.e. brain, the force used for the assault and weapon chosen for assault, makes it crystal clear beyond all reasonable doubts that there was no other intention on the part of the accused but to commit murder of his wife. The trial Court has concluded that, all the ingredients of offence under Section 302 of I.P. Code are thus proved beyond all reasonable doubts and therefore the accused is guilty of committing murder of his wife

and as such is liable to be convicted under Section 302 of the I.P. Code. The trial Court has further held that offence under Section 324 of the I.P. Code is also proved. The trial Court has thus convicted the accused for the offence punishable under Section 302 and 324 of the I.P. Code and sentenced him, as afore-stated.

24. On independent and in-depth scrutiny of the entire evidence, we are of the opinion that the trial Court has considered all the evidence brought on record in its proper perspective and recorded the findings which are in consonance with the evidence on record and convicted the Appellant-accused. The conclusions reached by the trial Court are in consonance with the evidence brought on record by the prosecution. There is no perversity as such.

25. In the light of discussion herein above, we are of the opinion that there is no merit in the Appeal. The Criminal Appeal stands dismissed.

26. Since Mr. M.B. Kolpe, learned counsel is appointed to prosecute the cause of the Appellant, his fees and expenses are quantified at Rs.7000/- (Rupees Seven Thousand only).

. The Registry shall send copy of this Judgment to the Appellant, free of cost, through the Superintendent of concerned prison.

[V.K. JADHAV, J.]

asb/JUL18

[S.S. SHINDE, J.]