

Sequeira

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION*

CRIMINAL APPEAL NO. 244 OF 1998

The State of Maharashtra ...Appellant /
Orig.Complainant

Vs.

1. Baban Sonba Gore
Age 41 yrs.
Occu:Agriculture
2. Sonba Nana Kalu Gore
Age 22 yrs.
Occu:Agriculture
3. Dada Babaji Gore,
Age 22 yrs.
Occu:Agriculturist
4. Babaji Rambhau Gore,
Age 51 yrs.
Occu:Agriculturist
5. Gulab Sonba Gore,
Age 37 yrs.
Occu:Labourer
6. Baban Appa Gore,
Age 55 yrs.
Occu:Agriculturist

7. Baban Aba Gore,
Age 43 yrs.
Occu:Agriculturist
8. Kisan Kalu Gore,
Age 43 yrs.,
Occu: Agriculturist
9. Pandurang Baban Gore,
Age 24 yrs. Occu:Labourer

All Residing at Dhangar Vasti,
Rahatwade, Taluka Haveli,
District : Pune.

Nos.4 to 7 – Dismissed vide
Court's order dated 16-10-01. ... Respondents

Mrs.M.M.Deshmukh, APP for the Appellant-State.

None for Respondent.

**CORAM : S.S.SHINDE &
A.S.GADKARI, JJ.**

DATE : 1ST NOVEMBER 2018

JUDGMENT [PER A.S. GADKARI, J.] :

This is an Appeal against acquittal of
Respondents from the offences punishable under
Section 302, 201 read with Section 34 of the
Indian Penal Code by the learned 4th Additional

Session Judge, Pune, in Session Case No.238 of 1996 by its Judgment and Order dated 7th June 1997.

2. Heard the learned APP at length and perused the entire record.

The prosecution case in nut-shell is that, Ms.Gangubai Gore (deceased) and Shivaji @ Balu Ganpat Thopate (deceased) were having love affair and out of their affair Gangubai Gore(deceased) became pregnant. That Shivaji @ Balu (deceased) got the said pregnancy terminated. The parents and relatives of Gangubai Gore(deceased) did not approve the said affair and after coming to the knowledge of the said fact of abortion, they got enraged. That Shivaji @ Balu (deceased) continued to meet Gangubai Gore (deceased) even after admonition by the parents of Gangubai.

It is the further prosecution case that from the night of 6th October 1995 Gangubai Gore

(deceased) and Shivaji @ Balu (deceased) went missing and were not traceable. That Respondent No.1, the father of Gangubai Gore (deceased) lodged missing report with the police on 13th October 1995 (Exhibit.79) stating that his daughter Gangubai Gore (deceased) was missing since the night of 6th October 1995. That on 17th October 1995, the dead bodies of Gangubai Gore (deceased) and Shivaji @ Balu (deceased) were found in a well located in the same village which was owned by -Vasant Narayan Ranjekar (witness not examined). The dead bodies were identified by Popat Chander Konde (PW-3).

After completion of investigation police submitted charge-sheet. The learned trial Court by the impugned Judgment and Order was pleased to acquit the Respondents from the aforesaid offences.

3. The present case is based on circumstantial evidence. A minute perusal of evidence available

on record would indicate that the chain of circumstances propounded by the prosecution is not complete and there are several lacune in it. Record further indicates that the bodies of the deceased persons when took out from the well were noticed as extensively decomposed and therefore, the medical Officer could not give exact and definite cause of death of the said two victims and therefore it is difficult to hold that the Respondents committed murder of the said two persons.

4. After perusing entire evidence available on record, we are of the considered opinion that the view adopted by the trial Court is a reasonable and probable view, in view of the facts and circumstances of the present case. We find that, there are no merits in the Appeal and Appeal is accordingly dismissed.

(A.S.GADKARI,J.)

(S. S. SHINDE,J.)