

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

CRIMINAL APPEAL NO.695 OF 2010

Shrimant Ranba Kamble,	]	
Age: 35 years, Occ: Service,	]	
R/o: S. No.34, Shiv Ganesh Colony,	]	
Nakhate Vasti, Rahatani, Pune.	]	
Presently undergoing sentence	]	
being Convict at	]	
Yerwada Central Prison, Pune	]	].Appellant

Versus

State of Maharashtra	]	
(At the instance of Chatushringi	]	
Police Station, Pune city	]	
C. R. No.382/2004)	]	].Respondent

Mr. Ashok B. Tajane, Advocate for the Appellant.
Mr. Ajay Patil, APP for Respondent - State.

**CORAM : B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE : 15th JUNE, 2018**

ORAL JUDGMENT (Per B. R. Gavai, J)

1] Being aggrieved by the judgment and order passed by the learned Ad-hoc Sessions Judge-11, Pune in Sessions Case No.97 of 2005, thereby convicting the Appellant for the offence punishable under Section 302 of the Indian Penal Code ("IPC" for short) and sentencing him to suffer imprisonment for life and to pay fine of

Rs.500/- and in default of payment of fine, he shall undergo R.I. for three months, the Appellant has approached this Court.

2] The prosecution story in brief as could be gathered from the material placed on record is thus :-

The Appellant is the husband of the deceased Sampada @ Premlata. The deceased and the Appellant were having two daughters and two sons. It is the prosecution case that the Appellant had habit of consuming liquor and he also used to suspect the deceased of having illicit relations with his brother and on that count, he used to beat her. On 27th September 2004, one daughter and two sons of the deceased had gone to see Ganpati festival alongwith deceased. PW-2 – Sushma and the Appellant were in the house. The Appellant started abusing the deceased after returning home. He started assaulting the deceased by saying that she has love affair with his brother. The deceased, two brothers and sister of the PW-2 – Sushma were at home at 10.30 p.m. They all took meal. They all went to sleep at 11.30 p.m. At around 3.30 a.m., PW-2 – Sushma and PW-3 – Pradnya and the other children heard some noise and woke up. She saw that the deceased was lying in bed. The

Appellant was holding stony pata (grinding stone) in his hand. He said that he has put stony pata (grinding stone) on the head of the deceased and again started to beat her with stony pata (grinding stone). That time PW-2 – Sushma and PW-3 – Pradnya prevented Appellant from beating the deceased. They took stony pata (grinding stone) from the hands of the Appellant. The blood was oozing from nose, head, ear and mouth of the deceased. The children tried to wake up the deceased, but she did not awake. The Appellant went out of the house under the pretext that he is going to bring auto. Thereafter PW-2 – Sushma called maternal uncle Ankush Dandage. Thereafter the deceased was taken to Yeshwantrao Chavan Memorial Hospital. Doctors present there declared the deceased to be dead.

3] PW-12 – Shakil Shaikh was posted as A.P.I. at the relevant time. When he was on duty on 28th September 2004, he received information from the Yeshwantrao Chavan Memorial Hospital that one lady was assaulted by her husband and was brought in the hospital. He therefore went to the hospital and saw the dead body. The daughters of the deceased were present outside

the dead house. PW-2 – Sushma, daughter of the deceased lodged complaint below Exh.22. On the basis of the said oral report, an FIR CR No.382 of 2004 came to be registered for the offence punishable under Section 302 of the IPC. On the basis of the FIR, the investigation was set into motion. At the conclusion of the investigation, a charge-sheet came to be filed in the Court of JMFC Court at Pimpri, Pune. Since the case was exclusively triable by the learned Sessions Judge, the same came to be committed to the learned Sessions Judge. The learned Trial Judge framed charges for the offence punishable under Section 302 of the IPC. The accused pleaded not guilty and claimed to be tried.

4] At the conclusion of trial, the learned Trial Judge passed the order of conviction as aforesaid. Being aggrieved thereby, the present Appeal.

5] Mr. Ashok B. Tajane, learned counsel appearing on behalf of the Appellant submits that the learned Trial Judge has grossly erred in convicting the Appellant. He submits that the only evidence against the Appellant is that of his daughters PW-2 – Sushma and PW-3 Pradnya. He submits that the evidence is of

highly interested witnesses and as such conviction on the basis of the same would not be sustainable.

6] Mr. Ajay Patil, learned APP submits that the learned Trial Judge after appreciation of the evidence placed on record has rightly passed the order of conviction, which warrants no interference and he prays for dismissal of the Appeal.

7] The present incident is an unfortunate incident, wherein a father has killed the mother and two unfortunate sisters are the eye witnesses. PW-2 – Sushma is the elder daughter of the Appellant and the deceased. She states that at the time of incident, she alongwith her parents, sister and two younger brothers were residing at Nakhate Vasti. She states that Appellant - Shrimant Kamble was serving as driver in Pune Municipal Transport. She has further stated that her father used to leave home at 12 noon and used to return home at 11 p.m. and whenever he used to return home, he used to consume liquor daily and beat her mother. She has further stated that her father was suspecting that her mother was having illicit relations with her uncle and on that count he used to beat her mother.

8] PW-2 – Sushma stated that on 27th September 2004, her sister and two brothers had gone to see Ganpati festival alongwith her mother and only she and her father were present at home. Her mother, brothers and sister returned home at 10.30 p.m. Then all of them took meal. Her father started abusing her mother on returning home. He started assaulting her mother saying that she was in love affair with his brother. All of them went to sleep at 11.30 p.m. At 3.30 a.m., they heard some noise and woke up. Her mother was lying in bed. Her father was holding stony pata (grinding stone) in his hands. He said that he had put stony pata (grinding stone) on the head of her mother and again started beating her with stony pata (grinding stone). That time PW-2 – Sushma and other siblings tried to prevent Appellant from beating her mother and took stony pata (grinding stone) from the hands of their father. When she saw that blood was oozing from nose, head, ear and mouth of her mother. They tried to awoke their mother, but she did not awake. The Appellant went out of house under pretext that he is going to bring auto. Then she gave phone call to her maternal uncle Ankush Dandge and narrated the incident to him. Her maternal uncle came to their house and then they took her mother to Yeshwantrao

Chavan Memorial Hospital. Doctors present there informed that her mother is dead.

9] She has further stated in her evidence that even prior to two months from the date of the incident, her father had tried to kill her mother by pressing her nose and mouth and at that time, she was admitted in Yeshwantrao Chavan Memorial Hospital for treatment. She has stated that at that time, her maternal uncle Arjun Dandge and Ramesh Tigode had convinced her father and got written on one stamp paper. In spite of lengthy cross-examinations, nothing damaging has come on record. Her evidence is duly corroborated by the First Information Report, which is lodged on the basis of oral complaint. PW-3 – Pradnya, is the another daughter of the Appellant and the deceased. Her evidence is on the similar lines that of PW-2 – Sushma. PW-12 – Shakil Shaikh is the Investigation Officer. He states that in September 2004, he was attached to Chaturshrungi Police Station and was posted as A.P.I. On 28th September 2004, he was on duty. The information was received from Yeshwantrao Chavan Memorial Hospital that one husband has killed his wife. Therefore, he alongwith staff went to

the hospital. When he went to the hospital and inquired, he realized that the said lady was dead and her body was kept in dead house for postmortem purpose. He further states that the daughters of the deceased were present outside the dead house. He further states that PW-2 - Sushma lodged complaint against her father below Exh.22.

10] PW-9 – Dr. Ranjeet Kamble, who conducted the postmortem has found following injuries :-

External Injuries

- “1. Contusion left temporo parietal region 4 & half x 3 cm,
2. Abrasion above left supraorbital region 1 x 1 -1/4th Cm.
3. Oblique lacerated wound medical aspect of right arm measuring about 1 x 1/2 cm x 1/4th cm
4. Contused abraded wound on dorsum of right hand measuring about 5 x 1/4th cm.
5. Abrasion over left feet, oblique 1 x 1/2 cm.
6. Abrasion over right feet, oblique 2 cm x 1/4th cm.

All these injuries were antemortem.”

Internal Injuries

- “1. sub scalf hemorrhage over left temporo parietal region 6 x 6 cm
2. oblique fracture left temparo parietal bone extending from just above and in front of left ear 5 cm in length fracture base, (i.e.) (on all the bones i.e. Spheroid, (base on the scull), echomoid (base of full near eye), pituitary fossa, (area below the base of brain); Dura was intact. Sub dural hemorrhage on left temporal, right temporal, parietal and over brain stem, interventricular and subaracunoid, bleeding seen. Except these, there were no other internal injuries.”

He has deposed that the injury Nos.1 and 2 and internal injuries are possible by hard and blunt object like grinding stone. The Chemical Analysis Report would further reveal that the grinding stone, which was seized from the spot is stained with blood.

11] We are therefore of the considered view that in view of the testimony of PW-2 – Sushma and PW-3 - Pradnya, which is corroborated by the other circumstances, no merit is found in the Appeal. The Appeal is therefore dismissed.

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[SARANG V. KOTWAL, J.]

[B. R. GAVAI, J.]