

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.20 OF 2023

1/5

injuries and since his role had clearly surfaced through the material on record, he did not deserve his release.

2] I have heard Advocate Mr. Sudeep Pasbola alongwith Seema Dighe instructed by Mr.Priyal Sarda for the Appellant, the learned APP Mr. Agarkar for the State and appointed advocate Mr.Pawan Mali for Respondent No.2.

3] I have perused the charge sheet alongwith the record.

It is the case of the prosecution that the informant suspected about illicit relationship between his fiancée (accused No.3) and the Manager of the Shop in which she was working and this is the cause for a quibble that occurred on 29.04.2022, when she was seen in the company of her Manager. When he questioned her on this aspect, Accused No.3 called her maternal uncles on the spot and it is the version of the prosecution that the accused persons started assaulting the informant, and when Ganesh, the friend of informant attempted to intervene, at that time Accused No.1 i.e. the present Appellant assaulted Ganesh over his left side ribs and while taking to the hospital he succumbed to the injuries.

The charge sheet has compiled several statements and the statement of Rahul Walanj, the complainant, is most relevant as he is

an eye witness to the incident. He narrate that, accused No.3, his fiancée was working in a shop as a Cashier and on the date of incident at about 10.15 pm, he noticed her riding with the Manager of the shop and when she alighted, he stopped the Manager and questioned him about their relationship. Upon this, a verbal altercation took place and the complainant unable to control his anger, hit the Manager and this was the cause why his fiancée made phone calls to her uncles Tukaram and Mauli, who arrived at the spot with 4-5 people.

According to the complainant, Tukaram questioned him about his presence at the spot and he started hitting him by hands. Mauli i.e. Accused No.2 and other 4-5 people who were present also started assaulting him. When his friend Raj Pawar attempted to intervene, he was also assaulted. At that relevant time, his brother Rohit and his friend Ganesh who were passing by came to rescue them.

Tukaram pulled out a small sword from left side of his waist and attempted to mount an attack on complainant, who avoided the said blow and Raj Pawar made an attempt to stop the Appellant from further action, but Tukaram (the Appellant) assaulted Ganesh by the small sword in his right hand and Ganesh started running helter-skelter. Raj Pawar caught hold of the Appellant and seized the sword from him.

Injured Ganesh was taken to Global Hospital and while being treated he was declared dead.

4] Corroborating the said version of the informant is the version of Rohit, another eye witness who has also attributed a similar role to the Appellant.

The statements of two witnesses clearly reveal that it is the Appellant who had assaulted the deceased.

The postmortem report of the deceased Ganesh has referred to 9 injuries in Column No.17 and injury No.5 is the “stab wound over left side of chest, placed oblique and infero-anteriorly, elliptical in shape, situated 15 cm left lateral to midline, 5.5 cm below and left lateral to left nipple, 26 cm below left shoulder tip, 14 cm above left costal margin in anterior axillary line, 124 cm above left heel, of size 3.5 cm x 1.5 cm. margins clean cut, red, oozing blood. Infero-anterior angle acute, superior angle relatively obtuse, beveling of lateral and inferior margin seen, with stab injury directed upward, backward and towards midline.”

The cause of death has been opined as “Death due to shock and hemorrhage due to stab injury over chest”. Since the author of the injury which has caused the death is the present Appellant, though Mr.Pasbola has vehemently argued that there was no intention on the part of the Appellant, I am not impressed with the said submission, as upon the phone call being by Accused No.3, the Appellant arrived at the spot, armed with a knife and he mounted assault on the informant as

well as those who came to his rescue, and this has resulted in the death of Ganesh.

5] In the wake of the nature of evidence collated by the prosecution in the charge sheet, the Appellant do not deserve his release on bail.

Hence, Appeal is rejected.

[BHARATI DANGRE, J]