

**1**

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR**

**CRIMINAL APPEAL NO.240 OF 2021**

Naresh Shriram Uikey, aged about 38 years,  
r/o Mohagaon, occupation labourer, district  
Gadchiroli. .... **Appellant.**

**:: V E R S U S ::**

State of Maharashtra, through police  
station officer, police station Kurkheda,  
district Gadchiroli. .... **Respondent.**

=====

Shri D.V.Chauhan, Counsel Appointed for the Appellant.  
Shri M.J.Khan, Additional Public Prosecutor for the State.

=====

**CORAM : ROHIT B.DEO & URMILA JOSHI-PHALKE, JJ.**

**CLOSED ON : 06/12/2023**

**PRONOUNCED ON : 16/06/2023**

**JUDGMENT (Per : Urmila Joshi-Phalke, J.)**

1. The appellant (the accused) challenges judgment and order of conviction and sentence dated 10.12.2020 rendered by learned Additional Sessions Judge, Gadchiroli in Sessions Case No.3/2020 whereby the trial court convicted the accused for offence punishable under Section 302 of the Indian Penal Code and sentenced him to suffer imprisonment for life and to pay fine Rs.5000/- and in default of payment of the fine amount to suffer further rigorous imprisonment for three months.

**2**

The trial court also convicted the accused for offence punishable under Section 341 of the Indian Penal Code and sentenced him to suffer simple imprisonment for one month and to pay fine Rs.500/- and in default of payment of the fine amount to suffer further simple imprisonment for five days.

The trial court also given the accused set-off under Section 428 of the Code of Criminal Procedure since he was in jail.

2. Facts necessary for disposal of the appeal in a nutshell are as under:

On 1.10.2019, informant Tanuji Raoji Uikey, the husband of the deceased, lodged report at Kurkheda Police Station, district Gadchiroli on an allegation that his wife Sumitra had been to Mohgaon along with one Lalita Anil Uikey. While they were returning at 5:30 pm, the deceased was assaulted by the accused on a suspicion that the deceased is involved in black magic. At the relevant time, informant Tanuji was at home. At about 5:30 pm, Lalita Uikey, ran towards his home and informed him that the accused is

**3**

assaulting the deceased by means of axe. He immediately rushed towards the spot of incident and saw that the accused was standing along with the blood stained axe and his wife was lying in a pool of blood. The accused ran away from the spot after witnessing him. On the basis of the said report, an offence was registered against the accused vide Crime No.112/2019.

3. After registration of the crime, the investigating officer has visited the alleged spot of the incident and drawn spot panchanama, inquest panchanama. During investigation, the accused was arrested and his blood stained clothes were seized by drawing panchanama. The accused made a memorandum statement that he will show the place where the alleged weapon of the offence is concealed and led them towards the spot. The weapon was discovered at the instance of the accused. The medical officer has handed over the blood stained clothes of the deceased. All the incriminating articles are forwarded the Chemical Analyzer. After completion of the investigation, the chargesheet was submitted against the accused.

**4**

4. As the offence punishable under Section 302 of the Indian Penal Code was exclusively triable by the Court of Sessions, learned Magistrate has committed the case to the court of sessions. Learned Additional Sessions Judge framed the charge against the accused vide Exhibit-3. The accused pleaded not guilty and claimed to be tried.

5. To substantiate the charge, the prosecution examined in all 11 witnesses, as follows:

PW1 Lalita Anil Uikey, Exhibit-8, eyewitness;

PW2 Tanuji Raoji Uikey, Exhibit-17, the informant;

PW3 Manoj Alam, Exhibit-20, pancha on spot;

PW4 Sanjay Meshram, Exhibit-23, pancha on inquest;

PW5 Arun Uikey, Exhibit-30, the son of the deceased;

PW6 Bhagyoday Barsagade, Exhibit-32, pancha on memorandum statement and discovery panchanama;

PW7 Sashil Ghodeswar, Exhibit-36, pancha on clothes seizure of the accused;

PW8 Dr.Kamlesh Paraswani, Exhibit-38;

PW9 Umesh Neware, Exhibit-44, carrier;

PW10 Minakshi Todase, Exhibit-47, WPC, who taken the dead body for postmortem, and

**5**

PW11 Sudhakar Dede, Exhibit-49, the investigating officer.

6. Besides oral evidence, the prosecution placed reliance on the Chemical Analyzer's Report Exhibits-14 to 16, report by the informant Exhibit-18, format of FIR Exhibit-19, spot panchanama Exhibit-21, crime details form Exhibit-22, inquest panchanama Exhibit-24, memorandum statement and discovery panchanama Exhibit-33, personal search panchanama of the accused Exhibit-37, letter to the medical officer for obtaining samples Exhibit-39, postmortem report Exhibit-40, letter to the Chemical Analyzer for viscera examination Exhibit-41, query to the medical officer and the query report Exhibit-43, letter to the tahsildar for deputing two employees as a pancha Exhibit-50, letter by the tahsildar Exhibit-51, notice to panchas and witnesses Exhibit-52, arrest panchanama Exhibit-54, letter to the Chemical Analyzer Exhibit-56, and extract of log book Exhibit-58.

7. Learned counsel Shri D.V.Chauhan appointed for the accused submitted that the evidence of the sole eyewitness PW1 Lalita is not cogent and reliable. She is an

**6**

interested witness and her evidence is not corroborated by the circumstantial evidence. Thus, the evidence adduced by the prosecution does not conclusively proved that the accused is perpetrator of the crime.

8. On the other hand, learned Additional Public Prosecutor Shri M.J.Khan for the State supported the judgment and order of conviction impugned in the appeal pointing out the evidence of PW8 Dr.Kamlesh Paraswani and the inquest report and submitted that the death of the deceased is homicidal one and the same is proved. He further submitted that the evidence of PW1 Lalita who is the sole eyewitness is corroborated by circumstances like blood stains found on the spot, blood stained clothes of the accused seized at his instance, and the Chemical Analyzer's Report showing that the blood stains found on the person of the accused are of Blood Group "B" that is of the deceased. The incriminating circumstances are not explained by the accused during his statement recorded under Section 313 of the Code of Criminal Procedure.

**7**

9. To prove the homicidal death of the deceased, the prosecution entirely relied upon the evidence of PW8 Dr.Kamlesh Paraswani. His evidence shows that he received the dead body of the deceased along with the letter Exhibit-39. On examination, he found following injuries on the person of the deceased:

i) sharp incised wound at right upper chest at clavicular region. Medially of size 7x4 cm x 5 cms. It was oblique towards mid-line with underlying first and second ribs.

ii) small oblique contusion at right lower chest anterior aspect, near the mid-line of size 5x0.5 cms.

iii) blunt trauma to left temporo parietal of scalp with swelling present.

iv) on examination I found penetrating injury on upper lobe of right lung of size 5x2x2 cms with significant bleeding in right hemithorax around one liter.

His evidence further discloses that on internal examination he found that fracture of first rib at lateral aspect anteriorly and fracture of second rib medial aspect anteriorly were seen by him. On examination of larynx, trachea and bronchi, he observed penetrating injury at right upper lobe with of size 5x2x2 cms approximately with significant

**8**

bleeding. All the aforesaid injuries were antemortem. He opined that the cause of death is haemorrhage due to injury to vital organs. Accordingly, he prepared the postmortem notes Exhibit-40. He has preserved the clothes of the deceased which were having blood stains and handed over to the WPC Meenakshi. He also collected the hair samples, cotton gauze soaked in blood, and the blood samples. As the cause of death was ascertained, he did not preserve the viscera.

10. Subsequently, PW8 Dr.Kamlesh Paraswani received the letter from Kurkheda Police Station along with the weapon axe. The investigating officer made a query and examined the weapon axe. Its circumference was 11 cms having handle of bamboo stick. The blade of the axe was sharp edged. The blade was stained with blood. Accordingly, he opined that the injuries mentioned in column No.17 are possible due to the said axe. The said opinion is at Exhibit-43. During his cross examination, it further came on record that injury Nos.2 and 3 are possible due to falling across the hard and rough substance. However, he has denied that the injury that is penetrating injury at right upper lobe 5x2x2 cms with

**9**

significant bleeding in right hemithorax is possible due to the internal physical deformity.

11. Thus, the defence of the accused that the internal injury is possible due to internal physical deformity is denied by the medical officer.

12. Besides the evidence of PW8 Dr.Kamlesh Paraswani, the prosecution further examined PW4 Sanjay Meshram who acted as a pancha on the inquest panchanama. He proved the recital of the panchanama by deposing that on witnessing the dead body, he saw deep injury on the right side of her neck. The injury was measured by tailoring tape and it was 3 inches in length and 1½ inch in depth. Accordingly, panchanama Exhibit-24 was drawn. During his cross examination, nothing incriminating is brought on record.

13. Now, it is well settled that the evidence of PW8 Dr.Kamlesh Paraswani is not only the opinion evidence, but also his evidence is in the nature of direct evidence as he had an opportunity to see the injuries on the person of the deceased. His evidence shows that while conducting the

**10**

postmortem, he noticed the above said injuries and his evidence is not shattered during the cross examination.

14. A medical witness, who performs a postmortem examination, is a witness of fact though he also gives an opinion on certain aspects of the case. This proposition of law has been stated by the Honourable Apex Court in the case of Smt. Nagindra Bala Mitra and vs. Sunil Chandra Roy and another, reported at 1960 SCR (3) 1 wherein the Honourable Apex Court observed that "the value of a medical witness is not merely a check upon the testimony of eyewitnesses; it is also independent testimony, because it may establish certain facts, quite apart from the other oral evidence. If a person is shot, at close range, the marks of tatooing found by the medical witness would show that the range was small, quite apart from any other opinion of his. Similarly, fractures of bones, depth and size of the wounds would show the nature of the weapon used. It is wrong to say that it is only opinion evidence; it is often direct evidence of the facts found upon the victim's person." Thus, the testimony of medical witness is very important and it can be safely accepted. The evidence

**11**

adduced by the Medical Officer corroborated by the inquest panchanama shows that the deceased died homicidal death.

15. In the recent judgment also, the Honourable Apex Court in the case of Anuj Singh @ Ramanuj Singh @ Seth Singh vs. The State of Bihar, reported in 2022 Live Law (SC) 402 dealt with the evidentiary value of the medical evidence and observed that the evidentiary value of a medical witness is very crucial to corroborate the case of prosecution and it is not merely a check upon testimony of eyewitnesses, it is also independent testimony, because it may establish certain facts, quite apart from the other oral evidence. It has been reiterated by this court that the medical evidence adduced by the prosecution has great corroborative value as it proves that the injuries could have been caused in the manner alleged.

16. In the case in hand, the evidence of PW8 Dr.Kamlesh Paraswani clearly shows that the death of the deceased is caused due to the assault. He also opined that the injuries sustained by the deceased are possible by the weapon like axe. The evidence of the said doctor is further corroborated by PW4 Sanjay Meshram and PW11 Sudhakar

**12**

Dede who witnessed the injury on the neck of the deceased at the time of inquest panchanama.

17. In the present case, the entire case of the prosecution is based on the evidence of PW1 Lalita who is the eyewitness of the incident and PW2 Tanuji who witnessed the accused along with the blood stained axe at the spot of the incident.

18. The law is settled that there is no legal impediment in convicting a person on the sole testimony of a single witness. However, if there are doubts about the testimony of a single witness, the court will insist on corroboration. It is for the court to act upon the testimony of the witness. It is not the number, the quantity, but the quality is material. The principle is that the evidence has to be weighed and not counted. The test is whether the evidence has a ring of truth, credibility, trustworthy is to be seen. Keeping in mind the said principles, the evidence on record is to be assessed.

19. PW1 Lalita deposed that on the day of the incident, the deceased asked her to accompany her to

**13**

Mohgaon to discuss in respect of marriage of her grandson and, therefore, she went along with the deceased to the house of Laxman Uikey. Thereafter, they both were returning by a kaccha road to Uikey-Tola. At about 6:30 pm, the accused Naresh Uikey immediately came with an axe from bushes. He inflicted the axe blow on the chest of the deceased. Due to the blow, the deceased fell down on the ground and she enquired with the accused why he assaulted the deceased. The accused raised the axe on her and, therefore, she ran away and informed the incident to Tanuji and his family members. She again along with them came at the spot of the incident. The deceased was lying there and the accused was also present with the axe. After witnessing them, he ran away from the spot. The evidence of PW2 Tanuji is also to the extent that the deceased went along with PW1 Lalita on 1.10.2019. On that day, Lalita came shouting that the accused killed the deceased by the axe. He immediately rushed towards the spot along with his son Sachin and daughter-in-law Kanchan and saw the deceased in a pool of blood. They have also witnessed the accused at the spot. Injury was inflicted on the neck of the deceased. As per his

**14**

evidence, motive for the said assault was that the accused was having suspicion that the deceased is in habit of practising black magic.

20. Both witnesses PW1 Lalita and PW2 Tanuji are cross examined at length. During the cross examination, the evidence came on record is that informant PW2 Tanuji and the accused both are relatives of PW1 Lalita. The fact that on 1.10.2019 the deceased and PW1 Lalita went at the house of one Laxman again came on record. The defence further admitted the presence of the accused at the place of the incident. The witnesses have further denied the suggestion that at the relevant time, the accused was returning from his field. One improvement was also brought on record that PW1 Lalita has not stated in her police statement that she asked the accused why he assaulted the deceased and the accused raised the axe on her and she ran away.

21. During the cross examination of informant PW2 Tanuji, the defence was put that the deceased was assaulted by Naxalites, but he denied the same. The presence of the

**15**

accused was also admitted by suggesting that at the relevant time, the accused came from his field at the spot.

22. PW5 Arun Uikey, is the son of the deceased who is examined on the point that the dead body of the deceased was handed over to him. Admittedly, he was not present in the village on the day of the incident. So, his evidence is formal in nature.

23. Besides the oral evidence of these witnesses, the prosecution relied upon the circumstances like blood stains found on the spot, seizure of the blood stained clothes of the accused, seizure of the weapon at the instance of the accused, and the Chemical Analyzer's Report showing the blood stains on the clothes of the accused.

24. To prove the circumstance of the blood stains at the spot, the prosecution has examined PW3 Manoj Alam. As per his evidence, he was called to act as a pancha. On 2.10.2019, he went at that spot situated to Mohgaon near the village. Informant PW2 Tanuji shown the spot. In their presence, blood stained soil and the simple soil were seized. Accordingly, panchanama Exhibit-21 and crime details form

**16**

Exhibit-22 were drawn. The evidence of this pancha witness is also corroborated by PW11 Sudhakar Dede and the investigating officer who also deposed that at the spot of the incident they have witnessed the blood stained soil. His evidence further shows that the spot was surrounded by the forest area. Thus, the evidence of PW1 Lalita and informant PW2 Tanuji that the accused fled away by witnessing them in the forest is corroborated by the circumstances that the spot was surrounded by the forest area. It further corroborated the evidence of PW1 Lalita that the accused suddenly came from the bushes in front of them.

25. Though PW3 Manoj Alam was cross examined, but his entire cross examination is in respect of whether any letter was issued to him or the tahsildar. Nothing incriminating came on record to falsify the fact that he acted as a pancha on the panchanama.

26. Perusal of the panchanama shows that the alleged spot of the incident is situated in Mohgaon in the forest area. It further shows that from the spot one kaccha road is there from Mohgaon to Mohgaon-Tola. Thus, the evidence of PW1

**17**

Lalita that they were coming from kaccha road is supported by the spot panchanama also.

27. The next circumstance on which the prosecution relied upon is, the evidence of PW6 Bhagyoday Barsagade who testified that he was called as a pancha and, therefore, he along with another pancha went to Kurkheda Police Station where in the accused was present. The accused made a memorandum statement that he had concealed the axe used in the commission of the offence and will show the spot. Accordingly, his statement was recorded. The accused led them in a forest by Kurkheda Talegaon Road and panchanama was drawn as the accused had produced the axe from the bottom of the tree. The said panchanama is at Exhibit-33. Investigating Officer PW11 Sudhakar Dede has also categorically narrated that during the investigation the accused shown his willingness to give his statement and accordingly he gave a statement that he will show the place where he kept the weapon axe. Accordingly, the panchanama was drawn which is at Exhibit-33. The accused led them in the forest at the left side and took out the axe concealed at the bottom of the tree. The blade of the axe was having blood

**18**

stains which is at Article-A. The investigating officer proved the memorandum statement Exhibit-33 and the panchanama Exhibit-35. The cross examination of both these witnesses regarding the memorandum statement and discovery of fact of concealment of the weapon is only in the denial form and not shattered.

28. PW7 Sashil Ghodeswar, is the witness in whose presence the blood stained clothes of the accused are seized in the police station. He testified that in his presence, the clothes of the accused which were on his person, were seized. Investigating Officer PW11 Sudhakar Dede, has also deposed that after arrest of the accused, his personal search was carried out and during his personal search the clothes which were on his person having blood stains were seized by drawing panchanama Exhibit-37.

29. Perusal of Exhibit-37 shows that in presence of the panchas, personal search of the accused was carried out and his clothes, one sky blue colour shirt having blood stains, and one black colour pant were seized. The evidence of Investigating Officer PW11 Sudhakar Dede further shows that

**19**

he had sent the weapon axe in a sealed condition to the medical officer for opinion. He received the opinion from the medical officer and, thereafter, he forwarded all the incriminating articles to the Chemical Analyzer along with the letter Exhibit-37. As already observed that though Investigating Officer PW11 Sudhakar Dede was cross examined by the defence, no incriminating material came on record. His evidence regarding drawing of spot panchanama, memorandum statement of the accused, and the clothes seizure panchanama remained intact. Though the defence has brought on record omission, during the cross examination of PW1 Lalita, it was not proved by putting it to the Investigating Officer PW11 Sudhakar Dede.

30. PW9 Umesh Neware and WPC PW10 Minakshi Todase are formal witnesses. PW9 has carried samples and incriminating articles to the Chemical Analyzer and PW10 Minakshi has taken the dead body for postmortem examination.

31. The prosecution further placed reliance on scientific evidence of Chemical Analyzer's Reports Exhibits-14

**20**

to 16. Exhibit-14 is the report regarding the blood samples of the deceased which discloses that the Blood Group of the deceased was "B". Exhibit-16 is the report regarding examination of the articles, which shows that Articles-1 and 2 saree and blouse, Articles-3 and 4 soil, Articles-5 and 6 full shirt and full pant, the clothes of the accused, and Article-7 the axe were examined. On examination, the blood stains of Blood Group "B" were found on Articles-1 and 2 saree and blouse, Article-3 soil, and Articles-5 and 6 full shirt and full pant of the accused. The human blood is found on Exhibit-7 the axe's blade and handle. Thus, this report shows that the blood stains of Blood Group "B" were found on the clothes of the accused. Admittedly, Blood Group regarding blood stains on the axe was not determined. The incriminating circumstance regarding the blood stains on the clothes of the accused are not explained by the accused during his statement under Section 313 of the Code of Criminal Procedure.

32. On the basis of the said entire evidence, the prosecution claimed that the prosecution has proved its case beyond reasonable doubt. On appreciation of the evidence, it

**21**

is apparent that the entire prosecution case is relied upon the sole eyewitness that is PW1 Lalita. The evidence of PW1 Lalita, PW2 Tanuji, and recital of the FIR show that on the relevant day of the incident, PW1 Lalita and the deceased had been to Mohgaon at the house of one Laxman and while returning, the accused assaulted the deceased in presence of PW1 Lalita. During her cross examination, her presence with the deceased is not at all denied by the defence. On the contrary, suggestions were given that at the relevant time, the accused was returning from the field. Thus, the presence of the accused was admitted at the spot of the incident. The evidence of PW1 Lalita that after the incident, she immediately rushed to the house of the deceased, is corroborated by PW2 Tanuji who deposed that PW1 Lalita approached to them and disclosed that the accused had assaulted the deceased. Immediately, he along with his son approached to the spot of the incident and witnessed the accused at the spot with the blood stained axe. This evidence is not shattered during the cross examination.

33. As already observed that there is no legal impediment in accepting the evidence of the sole eyewitness,

**22**

if it is found truthful and credible, in the present case, nothing is brought on record to show that PW1 Lalita has any reason to implicate the accused person. On the contrary, her evidence shows that informant PW2 Tanuji as well as the accused both are her relatives.

34. The Honourable Apex Court in the case of Jagdish Prasad and others vs. State of Madhya Pradesh, reported at AIR 1994 SC 1251 held that as a general rule the Court can and may act on the testimony of a single witness provided he is wholly reliable. There is no legal impediment in convicting a person on the sole testimony of a single witness. That is the logic of Section 134 of the Indian Evidence Act, 1872. But, if there are doubts about the testimony, the Courts will insist on corroboration. It is for the Courts to act upon the testimony of witnesses. It is not the number, quantity, but the quality that is material. The above position was also highlighted in the case of Sunil Kumar vs. State of NCT of Delhi, reported at 2003 (11) SCC 367.

35. In the light of the above principle, if the evidence of PW1 Lalita is scrutinized, her presence with the deceased is

**23**

very well established not only by her evidence but also informant PW2 Tanuji.

36. The circumstances that the alleged spot of the incident was situated near the forest area is also established by the prosecution through the evidence of PW3 Manoj Alam and Investigating Officer PW11 Sudhakar Dede. The accused ran away in the forest is corroborated by the fact that the spot of the incident was surrounded by the forest. The blood stained clothes of the accused are seized from his person after his arrest, is proved by PW7 Sashil Ghodeswar and Investigating Officer PW11 Sudhakar Dede. The accused has not explained the circumstances appearing against him. The fact that incriminating article seized at the instance of the accused on the basis of his memorandum statement is also proved by the prosecution by adducing reliable evidence. The human blood stains are also found on the blade and the handle of the axe.

37. The axe was recovered on the basis of the memorandum statement of the accused in view of Section 27 of the Indian Evidence Act.

**24**

38. The doctrine underlined under Section 27 of the Indian Evidence Act is founded on the principle that if any fact is discovered in a search made on the strength of any information obtained from a prisoner, such a discovery is a guarantee that the information supplied by the prisoner is true.

39. Section 27 of the Indian Evidence Act is interpreted by the Honourable Apex Court in the case of **Subramanya vs. State of Karnataka**, reported at **2022 LiveLaw (SC) 887** and held that the conditions necessary for the applicability of Section 27 of the Act are broadly discussed as under:

“(i) discovery of fact in consequence of an information received from accused;

(ii) discovery of such fact to be deposed to;

(iii) the accused must in Police custody when he gave information, and

(iv) so much of information as relates distinctly to the fact thereby discovered is admissible.”

It is further held by the Honourable Apex Court that what is admissible is the information and the same has to

**25**

be proved and not the opinion formed on it by the Police Officer. In other words, the information given by the accused, while in custody, which led to recovery of the articles, has to be proved. It is, therefore, necessary that the benefit of both i.e. accused and the prosecution that information given should be recorded and proved and if not so recorded the exact information must be adduced through the evidence. The basic idea embedded in Section 27 of the Evidence Act is the doctrine of confirmation by subsequent events. The doctrine is founded on the principle that if any fact is discovered as a search made on the strength of any information obtained from prisoner such a discovery is a made on the strength of any information obtained from a prisoner, such discovery is guarantee that the information supplied by the prisoner is true. It is further held by the Honourable Apex Court that mere statement that the accused led the Police and the witnesses to the place where he had concealed the articles is not indicative of the information given.

40. Insofar as the blood group of the blood stains found on the weapon axe, which is not ascertained during the chemical analysis examination, is not sufficient to give a

**26**

benefit to the accused. It is well settled that mere absence of evidence regarding the blood group is not fatal to the prosecution. The Honourable Apex Court in the case of Kishore Bhadke vs. State of Maharashtra, reported at 2017 ALL MR (Cri) 1316 (SC) held that presence of human blood on clothes recovered at the instance of the accused and mere absence of the blood group cannot be fatal to the prosecution.

41. Thus, after appreciating the evidence, the evidence of eyewitness PW1 Lalita corroborated by PW2 Tanuji, who witnessed the accused at the spot having the blood stained weapon axe in his hand corroborated by seizure of the blood stained clothes of the accused and the blood stains found on the spot, sufficiently show the involvement of the accused in the alleged offence.

42. Testing on the anvil and touchstone of the aforesaid principles laid down by the Honourable Apex Court, the evidence of PW1 Lalita is cogent, trustworthy and deserves to be accepted. Her evidence inspires the confidence. Once that impression is found, it is undoubtedly necessary for the court to scrutinize the evidence and after

**27**

scrutinizing the evidence, her evidence appears to be trustworthy and no reason came forward to disbelieve her version.

43. We find substance in the submissions of learned Additional Public Prosecutor Shri M.J.Khan for the State that the prosecution succeeded in proving the charge levelled against the accused.

44. On analysis the factual scenario, on applying the principles of law and the evidence available on record, no perversity appears in the findings recorded by learned Additional Sessions Judge in the judgment and order impugned in the appeal. As such, the appeal must fail and is liable to dismissed. In the result, we proceed to pass following order:

**ORDER**

(1) The criminal appeal is **dismissed**.

(2) The judgment and order of conviction and sentence dated 10.12.2020 rendered by learned Additional Sessions Judge, Gadchiroli in Sessions Case No.3/2020 stands confirmed.

**28**

(3) The record and proceedings be sent back to the trial court.

(4) We place on record our deep appreciation for the valuable assistance rendered by learned counsel Shri D.V.Chauhan for the accused. Fees of learned counsel Shri D.V.Chauhan are quantified and it be paid to him as per rules. However, learned counsel Shri D.V.Chauhan graciously submitted that the fees quantified to be paid to him be deposited to the High Court Bar Association at Nagpur. So, the quantified fees be deposited to the High Court Bar Association at Nagpur.

**(URMILA JOSHI-PHALKE, J.)**

**(ROHIT B.DE0, J.)**

!! BrWankhede !!