



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

CRIMINAL APPEAL NO. 861 OF 2023

Prabhu S/o Maroti Gundle,
Age : 35 Years, Occu. Agri,
R/o. Umri, Tq. Ardhapur, Dist. Nanded.

...Appellant

Versus

The State of Maharashtra

...Respondent

.....
Mr. Avinash D. Hande – Advocate for the Appellant
Mr. S. V. Hange – APP for Respondent/State
.....

AND
CRIMINAL APPLICATION NO. 3588 OF 2023
IN
CRIMINAL APPEAL NO. 861 OF 2023

Prabhu s/o Maroti Gundle

...Applicant

Versus

The State of Maharashtra

...Respondent

.....
Mr. Avinash D. Hande – Advocate for the Applicant
Mr. S. V. Hange – APP for respondent/State
.....

CORAM : R. G. AVACHAT
AND
NEERAJ P. DHOTE, JJ.

RESERVED FOR JUDGMENT ON : 30TH SEPTEMBER, 2024

JUDGMENT PRONOUNCED ON : 21ST OCTOBER, 2024

JUDGMENT [Per Neeraj P. Dhote, J.] : -

1. This Appeal under Section 374(2) of the Code of Criminal Procedure [hereinafter referred to as 'Cr.P.C.'] is directed against the Judgment and Order dated 27.07.2023 passed by the learned Additional Sessions Judge, Nanded, in Sessions Case No.98/2020, convicting the Appellant for the offence punishable under Sections 302 and 324 of the Indian Penal Code and sentencing as under : -

[a] Suffer rigorous imprisonment for life and to pay fine of Rs.5000/- (Rs. Five Thousand only), in default to pay fine, suffer simple imprisonment for Six months, for the offence punishable under Section 302 I.P.C.

[b] Suffer rigorous imprisonment for Three Years and to pay a fine of Rs.2,000/- (Rs. Two Thousand only), in default to pay fine, suffer simple imprisonment for Two Months for the offence punishable under Section 324 I.P.C.

2. The Prosecution's case as revealed from the Police Report is as under : -

2.1. Chhayabai Raosaheb Panchal (hereinafter referred to as 'the Deceased') was the wife of the Informant, Raosaheb Keshav Panchal. They were residing at Malegaon, Tal. Umri, Dist. Nanded with their son Satyam. They were having their agricultural field at Umri, which was at a distance of 5 km from Malegaon. The Appellant's agricultural field was adjacent to their field at Umri. The Appellant used to frequently

talk with the Deceased on the mobile phone and trouble her. The Informant asked the Appellant not to call his wife and on that count, their relations got sour. On 06.04.2020, the Informant, the Deceased and their son went to their agricultural field on motorcycle. When the Informant, the Deceased and their son were returning to Malegaon in the evening around 07:00 pm to 07:15 pm on their motorcycle, the Appellant came on his motorcycle and assaulted the Deceased by means of Katti on her chin and neck. When the Informant intervened, he was also assaulted by the Appellant on his head and forehead. The Deceased and the Informant fell on the road. Their son Satyam sought help and both the injured were admitted to the hospital. The Ardhapur Police Station was informed about their admission in the hospital. The Police came to the hospital. Doctor certified that the Informant was conscious and was able to give statement and so his statement was recorded wherein he narrated the incident. The Deceased succumbed to the injuries. The dead body was referred for *post mortem*. *Post mortem* revealed cause of death as “*Haemorrhagic Shock due to injury to neck, Homicidal in nature*”. Crime came to be registered against the Appellant for the offence punishable under Sections 302 and 307 of the Indian Penal Code [hereinafter referred to as “the IPC”].

3. The Investigating Officer conducted the Spot Panchanama, Inquest and seized the clothes of the Deceased. Statement of witnesses

were recorded. The Appellant was also admitted in the hospital as he met with an accident. The Katti was seized from the spot where the accident of the Appellant took place. The Appellant came to be arrested. The clothes of the Informant and the Appellant came to be seized. The articles seized during the investigation were referred for chemical analysis. On completion of the investigation, the Appellant came to be Charge-sheeted.

4. On committal, the learned Trial Court framed the Charge against the Appellant for the offence punishable under Sections 302 and 307 of the IPC vide Exh. 6, to which the Appellant pleaded not guilty and claimed to be tried. As the reports of Chemical Analyzer were received subsequently, they were submitted before the learned Trial Court. To prove the Charge, the prosecution examined in all ten (10) witnesses and brought on record the relevant documents. On completion of the prosecution's evidence, statement of the Appellant came to be recorded pursuant to the provisions of Section 313(1)(b) of the Cr.P.C. The Appellant denied the case and evidence of the prosecution and examined one Harpalsingh Kulwantsingh Khed as the Defence Witness. After the Appellant filed Evidence Closure Pursis, the learned Trial Court heard both the sides and passed the impugned Judgment and Order.

5. It is submitted by the learned Advocate for the Appellant that the Appellant met with an accident in the evening of 06.04.2020

and was hospitalized and, therefore, there is no question of he committing the Crime. The plea of *alibi* was taken in defence. The witnesses examined by the prosecution were the interested witnesses and there is inconsistency in their evidence. The defence evidence proved that the Appellant was not the author of the Crime. No independent witness was examined. Though the CA reports shows human blood on the Katti, the blood group was inconclusive. There is no evidence in the nature of phone call details to establish that the Appellant used to call the Deceased on the phone. The Appeal may be dismissed as the Prosecution failed to prove the Charge.

6. It is submitted by the learned APP that the case is based on the testimony of eye-witnesses. The Appellant was known to the eye-witnesses and, therefore, though it was evening, there was no difficulty in identifying the Appellant. The Appellant met with an accident after the incident and the Katti was found at the place of accident. This corroborates the evidence of eye-witnesses. The articles seized during the course of investigation were found to be stained with blood. The prosecution established the Charge with cogent evidence and the defence evidence was not probable. Though the Appellant examined the defence witness, it does not affect the prosecution's evidence in any manner. The learned Trial Court has rightly appreciated the evidence and passed the impugned Judgment and Order. The

impugned Judgment and Order does not call for any interference and the Appeal be dismissed.

7. After hearing both the sides and scrutinizing the evidence available on record, following aspects are not in dispute: -

- i) The Deceased was the wife of the Informant [PW1] and the mother of Satyam [PW2].
- ii) The Deceased, the Informant and the Appellant were knowing each other.
- iii) The agricultural fields of the Informant and the Appellant were adjacent to each other at Umri.

8. As one of the Charges is for the offence of Murder, the death should be Homicidal. On this point, the prosecution is relying upon the medical evidence. PW8 - Dr. Rajiv Prabhu Muttepod was serving as the Medical Officer at Primary Health Center at Malegaon [for the sake of brevity 'PHC'], Dist. Nanded, from 2019. In the evening of 06.04.2020, the Police brought the dead body of Chaya Raosaheb Panchal (the Deceased) to the PHC for *post mortem*. He performed the *post mortem* on 07.04.2020 in between 12:00 pm to 01:55 pm and noticed the following injuries on the dead body and mentioned in Column No. 17 of the *Post Mortem* Report.

- [i] Extensive incised looking lacerated wound over mandible measuring 21 x 4 x 5 c.m., length margins are clearcut, horizontal and grievous.

- [ii] Extensive incised looking lacerated wound below mandible measuring 25 x 3 x 4 c.m., length, margins clearcut, horizontal and grievous in nature.

8.1. His further evidence shows that the above referred injuries were ante-mortem in nature. He found that trachea was cut due to injury and same is mentioned in column no. 20 of the *Post Mortem* Report. He preserved the Viscera and gave the opinion as to the cause of death as “*Haemorrhagic Shock due to injury to neck, Homicidal in nature*”. He prepared the *Post Mortem* Report at Exh. 58. Pursuant to the communication dated 21.04.2020 received from the Police about opinion as to whether the injuries were possible by weapon which was described in the said communication, he opined that the weapon used was sharp edged object and accordingly gave the opinion vide Exh. 59. During evidence, Article 13 – Koyata was shown to him and he opined that the injuries were possible by the same.

8.2. In the cross-examination it has come that, the injury was over the mandible and another was below mandible, mandible was not the vital part of the body. It has further come in their cross-examination, that due to the accident, lacerated wound and incised wound were possible, he denied that such injuries i.e. the above injuries, were possible by accident. He further denied that the said injuries were not possible by Koyata. The cross-examination could not create any dent in

the evidence of this witness. His evidence is corroborated by the *post mortem* report and previous communications.

9. The evidence of PW10 – Vishnukant Tukaram Gutte, who was the Police Inspector at Ardhapur Police Station from 2019 till June 2021, received the Medico Legal Case [in short ‘MLC’] from the Government Hospital on 06.04.2020. The station diary entry was taken. He sent the communications to the Tahsildar for getting panchas and prepared the Inquest at Exh. 60. Deceased was having injury on chin and throat. Exh.60 - Inquest is admitted by the defence.

10. The above discussed evidence established that the Deceased succumbed to the injuries as noted above. There is clear evidence of the Medical Officer that, the death was Homicidal in nature. The prosecution has successfully proved the Homicidal death of the informant's wife.

11. The prosecution's case is based on the testimony of the eye-witnesses. PW1 – Raosaheb Keshav Panchal and PW2 – Satyam Raosaheb Panchal, who were the husband and son, respectively, of the Deceased are examined as the eye-witnesses to the incident. The evidence of PW1 - Raosaheb Keshav Panchal shows that, on 06.04.2020 at 10:00 am, he along with the Deceased and PW2 - Satyam Raosaheb

Panchal went to the agricultural field on the motorcycle. They were in the field till evening. When they were returning to Malegaon on the motorcycle and reached near 33kV Substation around 07:00 pm to 07:15 pm, PW2 Satyam Raosaheb Panchal informed him that the Appellant was coming from behind on a motorcycle and the light of his motorcycle was switched off. The Appellant came and assaulted the Deceased by Katta (used for cutting sugarcane) on her chin and neck. When he intervened, the Appellant gave three blows of Katta on his head, forehead and near eye-brow. Due to the assault, the Deceased died on the spot and PW1 – Raosaheb Keshav Panchal suffered injuries. They were taken to the Government Hospital, Vishnupuri, Dist.Nanded.

12. The further evidence of PW1 – Raosaheb Keshav Panchal shows that, while he was admitted in the hospital, his statement at Exh.24 was recorded by the Police. His supplementary statement was recorded subsequently on 08.04.2020 as there was mistake in the name of his son mentioned in the report. He identified his clothes, the clothes of Deceased and the clothes of the Appellant. He identified the Appellant as the assaulter.

13. It is fortified in the cross-examination that his field was at Umri and the Appellant was the resident of Umri and agricultural field of the Informant was adjacent to the field of Appellant. He was on

talking terms with the Appellant and the relations were cordial. From the cross-examination, it is firmly established that the Appellant and PW1 – Raosaheb Keshav Panchal were acquainted with each other. It is further fortified from the cross-examination that the Deceased was not having her mobile phone and his phone used to be at home and the Appellant used to talk with the Deceased on his [PW1-Raosaheb] mobile phone. He denied that there was no electric poles on the road between Umri to Malegaon and further denied that it was not dark on the road. The cross-examination further shows that, his statement which formed the basis to register the crime was immediately recorded around 07:00 pm by the Police. He denied that his wife died due to accident and further denied that due to enmity, he lodged false report against the Appellant. The evidence of PW1 – Raosaheb Keshav Panchal remained unshaken in the cross-examination.

14. The evidence of PW9 – Dr. Kalyani w/o Vithal Sarphale shows that from March-2020 till August 2021, she was serving as a Casualty Medical Officer at the Government Hospital, Vishnupuri, Nanded. On 06.04.2020, when she was on duty, PW1 – Raosaheb Keshav Panchal was brought to the hospital by relative Keshav Purbha Panchal - PW7. She examined him and found the following injuries on his person.

1. Abrasion over lip.

2. CLW on forehead, 8 x 4 x 2 cm.
3. CLW on occipito partial region 10 x 3 x 2 cm.

15. Her further evidence shows that, all the three injuries were simple in nature and caused by hard and blunt object within 24 hours. She prepared the Injury Certificate under her signature and stamp at Exh. 63. She deposed that the injury on forehead and on occipito parietal region can be possible by use of Katti. The cross-examination fortified the evidence that, PW1 – Raosaheb Keshav Panchal was treated in the hospital in the OPD. She expressed the possibility that the injuries can be caused by accident. The evidence of this Medical Officer is corroborated by the MLC at Exh.63.

16. The evidence of PW2 – Satyam Raosaheb Panchal corroborates the testimony of PW1 – Raosaheb Keshav Panchal. His evidence shows that, on 06.04.2020, around 10:00 am, he along with his father (PW1) and Deceased had gone to Umri on the motorcycle. His parents were in the field till 06:00 pm. They started from Umri at 06:15 pm. The Appellant came from behind on his motorcycle in speed with the light of motorcycle switched off and gave blow of Katti on the chin of Deceased. His father (PW1) stopped the Appellant. The Appellant pushed his father and gave blows on the head of his father and gave blow on the neck of the Deceased and again assaulted his

father on head. Thereafter, the Appellant fled. The said incident took place at 33kV electric station. He went to the office of the said 33kV office and brought the person working over there. The said person informed the police over the phone. The police came on the spot, and called the ambulance and shifted his parents to the hospital. His mother died. He identified Article – 13 as the same weapon used in the assault and identified the Appellant as the same person.

17. PW2 – Satyam Raosaheb Panchal admits in the cross-examination that, it was dark. He denied that his parents suffered injuries due to the accident. It has come that at the time of incident, he shouted. As he and the Appellant were known to each other, there was no difficulty in identification. Though cross-examined, the evidence of PW2 – Satyam Raosaheb Panchal remained unshaken.

18. The evidence of PW4 – Manoj Achootrao Komwad shows that, since 2019, he was working as the Operator at the 33kV Substation Electricity, Malegaon. He was on duty from 09:00 am of 06.04.2020 till 09:00 am of 07.04.2020 at the said Substation. In the evening of 06.04.2020, one boy came to him and requested to take out the car for taking his parents to the hospital. He accompanied the said boy and reached on the spot, where two persons one male and one female, were lying on the road and bleeding. He gave call to phone number 108 and

informed about the situation and necessity of hospitalization. Thereafter, he returned to his duty.

19. His cross-examination shows that, his office was barely at the distance of 200 ft. from the spot of occurrence. People gathered there. Though his statement, as seen from his cross-examination, was recorded belatedly i.e. on 23.04.2020, his evidence cannot be discarded on that count itself. His evidence corroborates the testimony of PW2 – Satyam Raosaheb Panchal.

20. The evidence of PW7 – Keshav Purbha Panchal shows that he was the nephew of PW1 – Raosaheb Keshav Panchal. His agricultural field was at Umri Shivar. On 06.04.2020, he was at his agricultural field. On that day, PW1 – Raosaheb Keshav Panchal and PW2 – Satyam Raosaheb Panchal and Deceased worked in their field at day time and started for Malegaon on motorcycle in the evening. He received phone call from one Sunil Maroti Gundle that, his uncle i.e. PW1 – Raosaheb Keshav Panchal met with an accident at Umri Phata. He along with his father proceeded towards Umri Phata on motorcycle, however, could not find his uncle. They proceeded towards Malegaon and saw crowd at MSEB 33kV Substation where his uncle and Deceased (his Aunt) were lying in serious condition with injuries. His Aunt was not alive. She had injury on her neck. His uncle PW1 – Raosaheb Keshav Panchal was

unconscious. PW2 – Satyam Raosaheb Panchal was standing beside them and weeping. On inquiry, PW2 - Satyam Raosaheb Panchal narrated the incident to him. The Police called the ambulance. He and Ramkishan Panchal took his uncle to the Government Hospital.

21. In his cross-examination, it is fortified that at the time of incident he was in the agricultural field. He came to know that accident of his uncle took place. Receipt of information that accident (instead of Incident) has taken place will not affect the case of the prosecution in any manner for the reason that his evidence shows that he reached the spot of incident where he came to know about the actual incident from PW2 – Satyam Raosaheb Panchal. His evidence further corroborate the testimony of the eye-witnesses.

22. The evidence of PW10 - Vishnukant Tukaram Gutte, the Investigating Officer, posted as the Police Inspector at Ardhapur Police Station, shows that, on receiving the MLC from the Government Hospital, Nanded, on 06.04.2020, he sent PSI Survase for recording the statement at Exh.24 of injured PW1 – Raosaheb Keshav Panchal, on the basis of which the Crime No.119/2020 was registered for the offence punishable under Sections 302 and 307 of the IPC. His further evidence shows that, he went to the spot which was on Vasmat Phata to Malegaon road near 33kV substation. Injured PW1 – Raosaheb Keshav Panchal

was sent to the Government Hospital at Nanded by Ambulance and Deceased was sent to PHC Malegaon, and PW2 – Satyam Raosaheb Panchal was present there. There was blood, footwear of Deceased and motorcycle of informant on the spot. He seized the soil and blood mixed soil and the articles lying on the spot under the Spot Panchanama at Exh. 39. The photographs of the spot were taken. In the cross-examination, it has come that the MSEB (Maharashtra State Electricity Board) substation was at a distance of 100 to 200 meters from the spot. The spot panchanama was prepared in the light. This fortified the evidence of this witness that he reached on the spot and prepared the spot panchanama. Preparation of the spot panchanama on the basis of Station Diary Entry will not affect the case of prosecution as the information was received from the Government Hospital and from PSI Pawar over telephone.

23. The evidence of PW3 – Gajanan Shivaji Savant shows that, he was working as Recovery Clerk at Gram Panchayat Office, Malegaon at the relevant time. On 06.04.2020, Ardharpur Police Station gave letter at Exh. 38, in respect of the spot panchanama. The Village Development Officer orally directed him to act as a Panch. The spot of occurrence was between Vasmat Phata to Malegaon Road near 33kV MSEB Unit. There was another panch from the MSEB Department by name Pramod Akhangire. There was blood and pair of footwear on the

spot. The police collected the articles from the spot and prepared the spot panchanama at Exh. 39. He identified the articles shown to him as the same which were collected from the spot. The cross-examination fortified the evidence that he visited the spot and he signed on the panchanama on the spot. Nothing has come in his cross-examination to create dent in his evidence.

24. The evidence of eye-witnesses i.e. PW1 – Raosaheb Keshav Panchal and PW2 – Satyam Raosaheb Panchal corroborates with each other. Their evidence shows that they were together at the time of incident. Their witnessing the incident and identifying the Appellant as the assaulter cannot be doubted as the Appellant was acquainted to them. The incident was of April – 2020, when the days are longer. As the headlight of motorcycle driven by the Appellant was switched off, the possibility of having unclear vision due to sparkling of eye due to headlight, is completely ruled out. The cross-examination could not create any dent in the evidence of eye-witnesses. The testimony of PW1 is corroborated by his report recorded by the police. Though PW2 – Satyam Raosaheb Panchal was studying in 4th std., at the time of incident, his evidence shows that he was capable of registering the actual incident and narrating the same afterwards. The note in his evidence made by the learned Trial Court shows that he gave rational answers and knew the sanctity of oath. The medical evidence discussed

above established the injuries on PW1 – Raosaheb Keshav Panchal. The testimony of the eye-witnesses is corroborated by the medical evidence. The evidence of injured eye-witness stands on high pedestal. The evidence as regards the spot of incident and the evidence of the eye-witnesses find corroboration from the evidence of independent witness, who was called by PW2 – Satyam Raosaheb Panchal from his office situated nearby. His evidence further corroborates the evidence in respect of the spot of incident. The above discussed evidence established the incident of assault by the Appellant on the Deceased and PW1 – Raosaheb Keshav Panchal beyond all reasonable doubts.

25. The evidence on record goes to show that, in the evening of 06.04.2020, the Appellant met with an accident. The evidence of PW6 – Govind Narayanrao Yeyelwad shows that, from 2016 to 2021, he was working as the Police Constable at the Highway Security Squad, Wasmatphata. He was on duty from 07:00 pm of 06.04.2020 till 08:00 am on 07.04.2020. One person came to the Highway Police Chowki and informed that one person met with an accident at Jambhroon Phata. On the instructions of the Duty Officer – Mr. Shinde, he and one Kalyankar reached the Jambhroon Phata at 07:40 pm with the Ambulance. The Appellant was lying in an injured condition on the road. His motorcycle was lying. There was one blood stained Katti beside the motorcycle. The Appellant was removed to the Government Hospital, Vishnupuri,

Nanded. The Appellant was unconscious and hospitalized. His evidence shows that, the distance between Jambhroon Phata and spot of incident i.e. 33kV MSEB Substation was about 10 km. He identified the Appellant as the same person who met with an accident.

26. In his cross-examination, it has come that the distance between Vasmat Phata (where Highway Police Chowki is situated) and Jambhroon is 1 (one) to 1½ (one and half) km., which shows that both the said places were near. It has come that the motorcycle was going on towards Bhokar Phata and Katti was lying exactly beside the motorcycle. He gave explanation voluntarily that Katti and Koyta were the same, as it has come in his cross-examination that, in his statement it was mentioned Koyta. He denied that the accident took place between 06:00 pm to 06:30 pm.

27. The evidence of PW10 – Vishnukant Tukaram Gutte, the Investigating Officer, shows that the FIR was lodged by Truck Driver in respect of the accident of Appellant and Crime No. 118/2020 came to be registered under Sections 279, 337 and 338 of the IPC with Ardhapur Police Station. He investigated the said Crime. He visited Jambhroon Phata and prepared the spot panchanama at Exh. 65 in presence of two Panchas provided by the Chief Officer of the Nagar Parishad, Ardhapur. From the spot, he seized motorcycle and blood stained Koyta (Article

13) having hairs and simple soil and blood stained soil. He seized the clothes of the Appellant which were at Article 11 and 12 in presence of panchas under the Panchanama at Exh. 45. He referred the articles to the Chemical Analyzer vide Exh. 70. He arrested the Appellant under the Arrest Memorandum at Exh. 72. Nothing has come in his cross-examination to affect his said evidence.

28. The tenor of the cross-examination of the above witnesses i.e. PW6 – Govind Narayanrao Yeyelwad and PW10 – Vishnukant Tukaram Gutte shows that the accident of the Appellant is not in dispute. The Appellant examined Harpalsingh Kulwantsingh Khed as Defence Witnesses No. 1. He was having the Truck. On the day of accident, he loaded grains in the truck at Nanded for going to Nagpur and started around 05:15 pm to 05:30 pm. When he reached Vasmat Phata, one motorcycle came from the wrong side and gave dash to his truck and the said person on the motorcycle suffered bleeding injury. He went to the Police Station around 07:00 pm to 07:15 pm and reported the incident to the Police. The FIR at Exh. 66 came to be registered. According to him, the time of accident mentioned in the report / FIR is 08:00 pm was incorrect. He deposed that he did not read the contents of the FIR and simply signed it.

29. The Defence Witness was cross-examined by the learned APP. It has come that he was educated till 10th std., and was having Marathi as one of the subjects in the 10th std. He understood little

Marathi. It has come that except the timing of accident, the contents of the FIR were correct. He denied that he falsely deposed about the time of accident.

30. It is clear from the above discussed evidence that the Appellant met with a road accident at Vasmat Phata, which was at a distance of 10 km from the spot of incident. The evidence as discussed above, established that the accident of Appellant took place subsequent to the incident of assault on Deceased and PW1 – Informant. The Article 13 – Koyta/Katti was found at the place of accident where the Appellant and his motorcycle were lying.

31. The evaluation of the evidence on record, as discussed above, established that in the evening of 06.04.2020, the Appellant assaulted the Deceased and PW1 – Raosaheb Keshav Panchal while they were travelling on the motorcycle and subsequently the Appellant met with an accident. The testimony of the eye-witnesses is corroborated by the evidence of independent witnesses. The Deceased succumbed to the injuries inflicted in the assault. The assault on the vital part of the body shows intention and knowledge to cause grievous injury. Absence of phone call details in support of prosecution's case that the Appellant used to call and talk with the deceased, will not affect the cogent evidence brought on record by the prosecution. The plea of alibi put forth by the Appellant is not established even on the principles of preponderance of probabilities. The defence put forth by the Appellant

that the Deceased and PW1 – Raosaheb Keshav Panchal suffered the injuries in the accident falls down in view of concrete evidence brought on record by the prosecution. The medical evidence goes to show that the injuries suffered by Deceased and injured witness were possible by Article 13 – Koyta, which was seized from the spot where the Appellant was lying after the accident. The evidence shows that, after the Assault, the Appellant met with an accident while fleeing. Detection of the blood group of the Appellant on Article 13 – Koyta will not in any case render the prosecution evidence worthless as it withstood the cross-examination. On re-appreciation of the evidence on record, as discussed above, we find ourselves in agreement with the conviction and sentence recorded by the learned Trial Court against the Appellant for the offence punishable under Sections 302 and 324 of the IPC. No other view is possible than the one arrived at by the learned Trial Court. Hence, the Appeal fails and we proceed to pass the following order : -

ORDER

- [i] Criminal Appeal stands dismissed.
- [ii] Record and Proceeding be sent back to the Trial Court.
- [iii] In view of disposal of Criminal Appeal, the Criminal Application for suspension of sentence stands disposed of.

[NEERAJ P. DHOTE]
JUDGE

[R. G. AVACHAT]
JUDGE

SG Punde