



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

CRIMINAL APPEAL NO.1158 OF 2023

Vaishali w/o Sanjay Sharma

... **APPELLANT**

VERSUS

The State of Maharashtra & anr.

... **RESPONDENTS**

.....
Mr. A.A. Mukhedkar, Advocate for appellant
Mrs. U.S. Bhosle, A.P.P. for respondent No.1.
.....

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

DATE : 5th FEBRUARY, 2024

ORDER :

This is an appeal against acquittal. The impugned judgment and order is dated 6/9/2023, passed by learned Additional Sessions Judge, Biloli, District Nanded in Sessions Case No.58/2020. The appellant is the victim, being the daughter of the deceased.

2. We have heard learned counsel for the appellant. He submits that, the evidence against the respondent No.2 was last seen together with the deceased. He submits that, during the investigation, Jeans Pant of respondent No.2 and one Katti have

been discovered by the investigating agency. He cited the judgment in the case of **Chandrappa and Others Vs. State of Karnataka (2007 AIR (SC) (Supp) 111)**, wherein it is observed that, this Court in appeal can reappreciate the evidence.

3. The learned A.P.P. supports the contentions made by the learned counsel for the appellant.

4. We have perused the copy of judgment relied on by learned counsel for the appellant. There can be no two views about what has been observed in the judgment in the case of Chandrappa (supra), relied on by learned counsel for the appellant. The respondent No.2 was lastly seen with the deceased on 29/2/2020 at about 7.00 p.m. and the dead body was found on 11/3/2020 in the house of the deceased herself. The medical evidence shows that, the deceased died within 30 hours of the autopsy. The autopsy was conducted on 12/3/2020. This shows that, the death occurred on 10th or 11th March 2020. The time gap between the death and the last seen together of the respondent No.2 and deceased is about 10 days. It is needless to state that, the time gap between the death and the last seen incident should be so narrow or small that the only inference should be that the crime was committed by the person who was last seen with the deceased and none other. There is no other evidence against the respondent No.2. The C.A. report do not support the case of prosecution. Even there is no

evidence to link the said Katti with the death of the appellant's mother. It is difficult for us to accept the contention of the Advocate for the appellant that the appeal has merits. In this view of the matter, we do not see that the learned Trial Court has committed any error and we proceed to pass the following order.

ORDER

The appeal is dismissed.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

fmp/-