

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6 OF 2024

State of Maharashtra	]	..	Applicant
vs.			
Pradip Babaso Deokar	]	..	Respondent

Mr.S.V. Gavand, APP for the State-Applicant.

Mr.Sagar Sonawane h/f Umesh Pawar for the Respondent.

**CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ**

DATE : 13th AUGUST, 2024.

P.C.

1] Heard the learned APP Mr.Gavand for the State.

With his able assistance, we have perused the impugned Judgment, passed by the Additional Sessions Judge, Islampur on 10.05.2023 in Sessions Case No.38/2021, where the accused was tried for the offence punishable under Section 307 of the IPC.

The impugned Judgment has acquitted him of the charge with the following observations :

“(17) The I.O. has not produced the mobile phone of injured or her husband, nor filed the call detailed records. The statement of injured also not recorded immediately in the

hospital, though she was not unconscious. I.O. has not given any explanation in respect of recording delayed statement of injured. Medical Officer (PW 6) has also failed to opine whether injuries mentioned in medical certificate (Exh.25) were sufficient to cause death of injured Sindhu. The prosecution has examined the eye witness (PW 3). His presence on the spot is also doubtful, as he has not given the papers about cultivation of land of Shri. Parit to police. Moreover, in the spot panchanama (Exh.16) I.O. has not mentioned the land of Shri Parit adjacent to the house of complainant. Therefore, his evidence does not inspire confidence.

(18) Considering the above-said evidence of complainant (PW 1) and injured (PW 4), the prosecution has miserably failed to prove the charges framed against accused.”

2] On perusal of the evidence of the eye witnesses including the injured being examined as PW 3 and reading of the evidence of PW 6 Dr. Umesh Chougule, who was running Chougule Hospital, where PW 3 was brought as she had sustained injuries on her face, head, neck, right hand and finger and he treated her by admitting her in his hospital for 6 days. PW 6 has issued Medical Certificate, in which he recorded 11 injuries, all in form of contused lacerated wounds and with the description of the part of the body where such injuries were sustained.

He categorically deposed that injury at Sr. No.5 was a fracture injury.

3] Merely because in the cross-examination when suggestion was given to him that the multiple injuries can be caused by assault by 4-5

persons, and only on the ground that he has not stated that the injuries were sufficient to cause death of injured Sindhu, the additional Sessions Judge has acquitted the accused.

4] The conclusion derived by the learned Judge is apparently erroneous as PW 3 in sync with other eye witnesses have narrated the case of prosecution and this is fortified /corroborated by the doctor who found the injuries and issued certificate accordingly.

In the wake of above, we grant leave to Appeal.

Learned counsel Mr. Sagar Sonawane, waive service of notice on behalf of Respondent/Original accused.

Call for Record and Proceedings.

Re-notify to 14.11.2024, for directions.

[MANJUSHA DESHPANDE, J

[BHARATI DANGRE, J]