

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 2841 OF 2024
IN
CRIMINAL APPEAL NO. 1002 OF 2021

Jameer Rajavalli Munde .. Applicant/Appellant

Versus

The State Of Maharashtra And Ors. .. Respondents

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Mr. Manoj Sabale a/w Mr. Somvrat Kurlekar, for the
Applicant/Appellant.

Ms. M. M. Deshmukh, A.P.P. for the State/Respondent.

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CORAM : BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATED : 11th NOVEMBER, 2024

P.C:-

1. By the present Application, the Applicant who stand convicted by the Additional District and Sessions Judge, Pandharpur, District Solapur, in Sessions Case No. 18 of 2015, for an offence punishable under Section 302 of the Indian Penal Code ("IPC") and sentenced to undergo life imprisonment, seek his release on bail and also suspension of his sentence.

With the able assistance of the learned counsel for the Applicant/Appellant and the learned A.P.P., we have

perused the impugned Judgment alongwith the necessary evidence i.e. placed in the paper book before us.

The accused who is the nephew of deceased Motilal Munde, was in the habit of demanding money from him, as he has retired as a teacher. It is a case of the prosecution that prior to five - six months of the date of FIR, when Motilal was sleeping in his room, the accused committed theft of Rs. 800/- from the clothes which he was wearing.

On 22.12.2014, when Motilal alongwith his wife Smt. Shabira (the informant), their son, daughter-in-law and grand-children went to bed, at around 3.00 a.m., his grandson Sahil (PW-8) woke up the informant and told her that accused was proceeding towards the room of Motilal. So the informant alongwith Sahil went towards the tin shed room of Motilal and they noticed that the lights were on. They saw that the accused covering the face of Motilal by means of a bedsheet (Chaddar) and when inquired, he pushed the informant and fled away from the spot with a stone in his hand.

When the informant removed the covering from the face of Motilal, she saw blood oozing from his ear and there was blood on his face, cloth and quilt. She raised an alarm which prompted the neighbours to gather there and in a vehicle Motilal was taken to the hospital of Dr. Ingole at Sangole and thereafter was shifted to Medicare Hospital of Dr. Patil at Pandharpur. While undergoing the treatment he succumbed to the injuries at 7.30 a.m.

On 23.12.2014 the informant approached the Police Station and lodged the FIR against the accused which was

investigated and charge-sheet came to be filed.

2. During the course of investigation, the statement of witnesses were recorded and even a spot panchanama was prepared which led to the recovery of a stone from the spot weighing approximately 10 kg with blood smears on it.

3. On being charged under Section 302 of the IPC, the prosecution led its case before the Sessions Judge with two eye witnesses, the informant being examined as PW-1 and Sahil, grandson of the informant being examined as PW-8.

Both the witnesses have consistently spoken about the presence of the accused in the room of the deceased and that he was seen pressing the face of husband of the informant with Chaddar and as per PW-1 he was struggling.

The evidence of PW-1 is in sync with the evidence of PW-8 except an aspect of removal of stone, as according to PW-1 when the accused pushed her aside and left the spot he took the stone alongwith him, whereas according to PW-8 the stone was kept lying there.

The spot panchanama which is proved through PW-2, has referred to the recovery of muddemal Article-'A' to 'C' (bundi, yellow coloured quilt and one stone) which were seized in his presence.

The panchanama (Exh-16) referred to one flat stone weighing about 10 kg. and it was having blood stains, which was seized and marked as Article-'C'.

4. Dr. Sanjaykumar Sarde, PW-6, who conducted the

post-mortem of deceased, has deposed about the injuries on the deceased, which referred to the following injuries :

- (i) C.L.W of size 3x1x1 c.m over and behind left ear extending up to anterior and upper aspect.
- (ii) Contusion of 4 x 2 c.m behind left ear over occipital temporal region of scalp.
- (iii) Contusion of 4 x 3 c.m over right zygomatic region on face involving and extending up to hole of right eye.
- (iv) Bleeding through both ear, nose, mouth present.
- (v) Contusion of 4 x 5 c.m over left shoulder posterior aspect.
- (vi) Contusion of 10 x 2 c.m over left side of lumbar.
- (vii) Left black eye present.
- (viii) Fracture of occipital region of scalp-on left side.
- (ix) Fracture of left temporal region of scalp.
- (x) Hematoma present over left side temporal and left side of occipital region of scalp.

According to the medical expert, the Injury Nos.1 to 3 mentioned are possible by stone like Article-‘C’ and the injury mentioned in para No.19 of the Post-Mortem Report is also possible by stone like Article-‘C’.

He had opined the cause of death to be Cardiac Respiratory Arrest due to head injury. PW-6 specifically deposed as below :

“It is correct to say that after assault by means of stone on head if the head of the injured is covered by quilt or cheddar the symptom of

cardiac respiratory arrest is possible”

3. The Post-Mortem Report has clearly referred to the injuries on the head in column No.17 whereas in column No.19 it has also referred to the contusion over the occipital temporal region of scalp and fracture of occipital region of scalp on left side as well as fracture of left temporal region of scalp. It also referred to hematoma present over left side temporal and left side of occipital region of scalp, and since the Doctor has clearly opined that these injuries could have been caused by the stone which was seized from the spot, with the two eye witnesses who have spoken in the sync about the accused being the author of the injuries caused to the deceased, to which he succumbed, in our considered opinion no case for bail or suspension of sentence is made out.

The prosecution has established its case by bringing on record the cogent and reliable evidence and this has been rightly appreciated by the learned Sessions Judge resulting into a finding of conviction and as a consequence, imposing the sentence of life imprisonment upon him.

Since we are satisfied that the Applicant/accused is the author of the injuries caused to the deceased which resulted into his death, according to us no case is made out for his release on bail.

Hence, the Application stand dismissed.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)