



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.20 OF 2025

Shankar Murlidhar Kamble

Appellant

Versus

State of Maharashtra and others

Respondents

**WITH
APPLICATION FOR LEAVE TO APPEAL BY STATE NO.26/2025**

The State of Maharashtra

Versus

Barikrao Shivaji Kamble & others

Respondents

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Mr. P.S. Dikle, Advocate for the appellant/informant.

Mr. N.S. Tekale, A.P.P. for respondent – State.

Ms. Tejaswini Rajput, Advocate holding for Mr. S.J. Salunke,
Advocate for respondent Nos.4 and 5/accused.

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**CORAM : SANDIPKUMAR C. MORE AND
MEHROZ K. PATHAN, JJ.**

Reserved on : 07.10.2025

Pronounced on: 13.10.2025

Order (Per Sandipkumar C. More, J.) :

1. Under this criminal appeal, the appellant i.e. the original informant Shankar Murlidhar Kamble is seeking quashment of the judgment and order dated 19.10.2024 passed by learned trial Judge i.e. Additional Sessions Judge, Bhoom in Sessions Case No. 7/2018, whereby the present

respondent Nos.2 to 5, who are the original accused in the said sessions case, have been acquitted from the offence punishable under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code.

2. According to prosecution, the appellant resides with his wife and children at village Tamalwadi since last 10 years and is in the business of selling mineral water. His father Murlidhar Kamble i.e. the deceased in present case was staying with wife Kalawati, brothers Mahesh and Yuvraj, sisters-in-law Pratibha Kamble and Archana Kamble at village Isrup, Taluka Washi. Murlidhar and his wife Kalawati hold in all 46 acres agricultural land at different places in the village. Kalawati has also got tenancy land known as 'Damadi' in the said village whereas Murlidhar Kamble got 19 acres ceiling land within the limits of village Pardi. Present respondent Nos.2 to 5 are close relatives of informant and since last 4 to 5 years they were picking up quarrel with Murlidhar on account of transfer of aforesaid ceiling land in their names. They were threatening to kill Murlidhar. Two months prior to the incident, Murlidhar had transferred 5 acres land each in the name of informant and his brothers Mahesh and Yuvraj and retained 4 acres land for himself. He also applied to

Talathi office for mutation in respect of aforesaid partition. However, since respondent Nos.2 to 5 objected for such mutation, the mutation entry to that effect could not be effected.

3. On 06.02.2018 Murlidhar had told the informant at Tamalwadi that the accused threatened him by saying that if he enters in the said ceiling land, they would kill him. On 15.02.2018 at about 10.00 a.m. informant received a call from one Baba Namdeo Kamble, resident of village Isrup who informed him that Murlidhar set himself on fire in their agricultural field. When the informant visited village Isrup on the same day at about 1.30 p.m. police had already arrived on the spot of incident and he saw dead body of his father in completely burnt condition. He found that both the ankles of the dead body were tied with binding wire and spectacle, shoes and other belongings of Murlidhar were lying in the hut with blood stains. Accordingly, on the report lodged by the informant, crime was registered against the respondent Nos.2 to 5/accused and after filing of charge-sheet, case was committed for trial to the learned trial Judge. However, the learned trial Judge, after conducting trial, acquitted respondent Nos. 2 to 5. Hence, this appeal.

4. Learned counsel for the appellant vehemently argued that the learned trial Judge has definitely erred in appreciating the evidence on record and despite there being evidence of complaint lodged by deceased Murlidhar during his lifetime against respondent Nos.2 to 5, acquitted them. He pointed out that respondent Nos.4 and 5 had in fact present in the village at the time of incident, but the Investigating Officer did not care to collect CDR of their mobile phones to secure their presence in the village. He pointed out that legs of deceased were tied with binding wire suggestive of homicidal death. As such, he prayed for reversal of the acquittal recorded against respondent Nos.2 to 5.

5. On the contrary, learned counsel for respondent Nos.4 and 5 strongly opposed the submissions made on behalf of the appellant. According to her, there is no eye witness or witness on the last seen theory. No CDR are placed on record by the prosecution about alleged presence of respondent Nos.4 and 5 in the village at the time of incident. According to her, there was no motive at all for the respondents/accused to commit murder of Murlidhar as the mutation entry in respect of partition of ceiling land i.e. Gut No.36 admeasuring 19 acres among deceased and his sons, is

already rejected. Further, she submitted that except suspicion there is no concrete evidence about the alleged criminal act by the respondents/accused. Thus, she supported the impugned judgment.

6. On the other hand, learned APP, while arguing in respect of the Application for Leave to Appeal bearing ALS No.26 of 2025, reiterated the arguments made on behalf of the appellant and submitted that there is substantial evidence on record in respect of guilt of respondent Nos.2 to 5/accused.

7. Heard rival submissions. Also perused impugned judgment alongwith notes of evidence.

8. It is admitted that death of Murlidhar is homicidal one. However, prosecution did not examine Baba Kamble who had told the informant that Murlidhar got himself immolated in the agricultural field. Moreover, there is no eye witness to the incident. Further, there is no witness who could tell that deceased Murlidhar was in company of respondent Nos.2 to 5/accused just prior to the incident. Further, though the prosecution has relied on the complaint filed by deceased in

Washi police station mentioning that the respondents/accused and others were threatening him of dire consequences if he fails to transfer the disputed land in their names, however, on going through the said complaint, it is clearly evident that there is no reference of Gut No.36 i.e. the land acquired by deceased under Ceiling Act. On the contrary, complaint indicates that there was dispute between deceased and respondents/accused in respect of the land held by wife of deceased by name Kalawati. As such, the said complaint has falsified genesis of the prosecution case that the accused were giving threats to deceased on account of land Gut No.36. Moreover, the said complaint appears to be filed in the year 2014 and thereafter till 2018 not a single complaint was lodged by deceased against accused about the alleged threats. Further, though it is claimed that respondent Nos.4 and 5 had come to village at the time of incident and met Police Patil, but no CDR of mobile phones of those accused are produced on record for securing their presence in the village. Even the prosecution did not examine Police Patil to whom the aforesaid respondents/accused allegedly met.

9. The prosecution has relied on the writing of Murlidhar in the notebook marked M.O. No.2 wherein

Murlidhar had alleged about threatening given by accused to him. However, though the said writing was sent to Handwriting Expert, but it could not be proved that it was written by Murlidhar for want of comparable handwriting. As such, the said notebook is also of no help to the prosecution.

10. It is extremely important to note that the memorandum of partition (Exh.148) indicates that on 04.02.2010 deceased Murlidhar had partitioned 19 acres land received from Ceiling Department and informant as well as Kalawati were witnesses to the said document. It further appears that on the basis of said document, respondents/accused had taken objection for mutation of the alleged partition subsequently made by the deceased among himself and his two brothers, and therefore, the said ceiling property could not be mutated in the names of informant and his two brothers. As such, when the said mutation entry was already discarded, then there was no reason for the respondents/accused to commit murder of Murlidhar.

11. Thus, on going through the entire evidence on record, it is apparent that the story of prosecution is based on mere suspicion and there is no reliable evidence to connect the respondent Nos.2 to 5/accused with the alleged crime. It

is settled that suspicion, however strong, cannot replace the proof. There is no scientific evidence on record against the respondents/accused. Therefore, the learned trial Judge has taken possible view in the light of material on record and considering the scope of appeal against acquittal, we do not find any reason to interfere with the impugned judgment.

12. The appeal being devoid of merits, stands dismissed. In view of dismissal of appeal, ALS No.26 of 2025 filed by State also stands dismissed.

(MEHROZ K. PATHAN)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE