



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 471 OF 2024

Tukaram Sambhaji Kathale
Age: 37 years, Occ. Agri.,
R/o. Jamb (Bk), Tq. Mukhed,
Dist. Nanded.

....APPELLANT
[Informant]

VERSUS

1. The State Of Maharashtra
Through Police Station Manatha,
Tq. Hadgaon, Dist. Nanded.
2. Ramkishan Nagorao Yelewad,
Age: 52 years, Occu. Agri.,
3. Balu @ Ajay Ramkishan Yelewad,
Age: 29 years, Occu. Agri.,
4. Sheru @ Akshay Ramkishan Yelewad,
Age: 23 years, Occu. Agri.,
5. Dilip Madhav Yelewad,
Age: 31 years, Occu. Agri.,
6. Gajanan Bhanudas Yelewad,
Age: 32 years, Occu. Agri.,
7. Irba Baliram Kadrade,
Age: 39 years, Occu. Agri.,
8. Kalba Baliram Kadrade,
Age: 32 years, Occu. Agri.,
9. Sambhaji Baliram Kadrade,
Age: 42 years, Occu. Agri.,
10. Pundlik Baliram Kadrade,
Age: 36 years, Occu. Agri.,

11. Siddheshwar Sambhaji Kadrade,
Age: 21 years, Occu. Agri.,
12. Sivling Baliram Kadrade,
Age: 52 years, Occu. Agri.,
13. Pintu @ Vijay Ramkishan Yelewad,
Age: 25 years, Occu. Agri.,

All R/o. Jamb (Bk),
Tq. Mukhed, Dist. Nanded

.....RESPONDENTS

[Res. No. 1 is ori.
Complainant and resp.
No. 2 to 13 are original
accused no. 1 to 12]

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Mr. B.N. Gadegaonkar, Advocate for Appellant
Mr. S.J. Salgare, APP for State
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**CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 30th JUNE, 2025

ORAL JUDGMENT :

1. This appeal filed under Section 372 of Code of Criminal Procedure is directed against the judgment and order of acquittal dated 06.12.2023, passed by learned Additional Sessions Judge, Mukhed, Dist. Nanded, in Sessions Case No. 27 of 2022.

2. In short the case of prosecution is that, at about 4.30 am, brother of informant namely Santosh had been to their agricultural land for watering the crops. At about 5.25 am,

informant received a call of his uncle Balaji informing that accused Sambhaji and others have murdered his brother Santosh in the house of accused Kalba Kadrade. Therefore, he along with some other persons rushed to the house of Kalba where his uncle Balaji and Narayan were standing outside. They all entered the house and found Santosh was lying in injured condition in pool of blood. Thereafter, uncle Balaji told him that when he woke up in the morning to answer the nature's call he heard noise from the house of accused Kalba and then he went towards the house and noticed that all the accused persons were running from the spot. Accordingly, informant lodged FIR on 11.11.2021 at 5.11 pm, which was registered at Crime No. 324 of 2021 under Sections 302, 201, 324, 323, 143, 147, 148 read with 149 of IPC. On completion of investigation, 12 accused were chargesheeted. In support of its case, prosecution has examined 16 witnesses. Trial Court after assessing the evidence on record has acquitted the accused. Hence, the present appeal.

3. Heard learned advocate for the appellant and learned APP for State. Perused the notes of evidence and the impugned judgment of acquittal.

4. It appears that there was enmity between informant and prosecution witnesses on one hand and accused on the other. Due to the prosecution lodged by accused Ramkishan against deceased Santosh, he had undergone about 1½ months imprisonment. PW8 Balaji who is star witness of the prosecution has grudge against accused Ramkishan for sending deceased in prison. There is unexplained delay in lodging FIR. PW6 Manisha stated in her evidence that on the date of incident, at about 5.00 am deceased entered raising shouts in her room and he was followed by five to six persons. While entering PW6 Manisha sustained injuries so she went to the police outpost. If her evidence is considered along with the evidence of PW8 there is material variance in their evidence. No investigation regarding assault by five to six persons who followed the deceased and entered in the room of PW6 has been done.

The presence of accused Irba, Kalba, Sambha, Shivling, Pundlik and Siddheshwar in the mansion is natural as they were residing in rooms in the said mansion. Therefore, accused opening the door and coming out is natural and that by itself is not sufficient to hold them guilty of commission of murder of deceased.

5. Perusal of impugned judgment and order of acquittal shows that Trial Court has properly appreciated the evidence and has rightly acquitted the accused. We find no merit in the present appeal. Appeal is therefore dismissed.

(SANDIPKUMAR C. MORE, J.)

(NITIN B. SURYAWANSHI, J.)