



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.407 OF 2025

Bappasaheb Muktaram Mondhe

Age : 35 yrs, occ : agri.,

R/o Sushi, Taluka Georai,

District Beed

Appellant

Versus

1. The State of Maharashtra
Through Police Station Officer,
Chaklamba Police Station,
Georai, District Beed.
2. Ashok @ Pinya Namdeo Kesbhat
Age : 40 yrs, occ : agri.,
R/o Gaikwad Jalgaon Shivar,
Tal. Shevgaon, Dist. Ahmednagar
3. Mirabai w/o Rajendra @ Rajabhau
Mondhe
Age : 29 yrs, occ : agri.,
R/o as above
4. Abasaheb Laxman Puri
Age : 36 yrs, occ : agri.,
R/o Sukali, Taluka Shevgaon,
District Ahmednagar
5. Parmeshwar Vithal Mahanor
Age : 30 yrs, occ : agri.,
R/o Chaklamba Phata, Tal. Georai,
District Beed
6. Dinesh Vithal Mahanor
Age : 38 yrs, occ : agri.,
R/o as above
7. Maruti Raosaheb Bandhekar
Age : 40 yrs, occ : agri.,
R/o Bhend Bk. Tal. Georai,
District Beed.
8. Appasaheb Gangaram Kale
(Absconded)

9. Krushna @ Kushaba @ Master
Yuvraj Kesbhat
Age : 38 yrs, occ : nil
R/o Gaikwad Jalgaon,
Tal. Shevgaon, Dist. Ahmednagar Respondents

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Mr. Anant R. Devkate, Advocate for the appellant.
Mr. S.P. Sonpawale, A.P.P. for respondent No.1 – State.

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CORAM : SANDIPKUMAR C. MORE AND
Y.G. KHOBRADE, JJ.

DATED : 19 NOVEMBER 2025

Oral Judgment (Per Sandipkumar C. More, J.) :

1. Heard learned counsel for the appellant/informant at admission stage.
2. The appellant, who is the original informant in Sessions Case No.11 of 2018, has challenged the acquittal of present respondent Nos.2 to 9/original accused from the offence punishable under Sections 302, 326, 323, 427, 120-B of the Indian Penal Code recorded by learned Additional Sessions Judge, Beed i.e. the learned trial Judge, vide judgment and order dated 07.01.2025 in the aforesaid sessions case.
3. As per the prosecution case, on 02.04.2017 at about 9.30 p.m. one Rajendra @ Rajabhau Muktaram

Mondhe was found in unconscious as well as seriously injured condition on Shevgaon-Umapur road near the hotel of Shaikh Akil i.e. PW-5. Initially he was taken to Georai Hospital for primary treatment and from there he was shifted to Civil Hospital, Beed and then to Life Hospital, Aurangabad. According to the prosecution, he never regained consciousness and died on 06.04.2017 without uttering any word. His brother Bappasaheb Muktaram Mondhe had gone to house of his maternal uncle at Mungi on 11.04.2017. There he met Bhaurao Rambhau Bombale and Chandu Shivaji Bhusare, who disclosed to him that on 02.04.2017 when they were going to Umapur. They saw respondent Ashok assaulting Rajendra with Tommy, respondent Maruti with belt, Dinesh and Parmedhwar with fists and kicks. The respondents accused also damaged headlight and petrol tank of motorcycle of deceased Rajendra. They further told the informant that Rajendra had sustained injuries on his head, waist and stomach due to such assault. On getting this information, informant Bapusaheb lodged report with the concerned police station on 11.04.2017 additionally alleging that Rajendra got married with accused Meera in the year 2020 and they were having a daughter named Chilli. However, due to dispute, Meera started residing in the house of her parents at Gaikwad

Jalgaon. Accused Mira on 02.04.2017 at about 7.00 p.m. asked Rajendra by making phone call to meet her. Accordingly, Rajendra started to meet her on his motorcycle MH-23-2155. However, at about 9.30 p.m. he was found unconscious as mentioned above.

4. On the basis of aforesaid F.I.R. the Investigating Officer started investigation and found involvement of respondents/accused and thereafter registered the aforesaid crime against them. On completion of investigation, respondents/accused were charge-sheeted for the aforesaid offence. Learned trial Judge conducted the trial by examining in all 11 witnesses. However, ultimately she acquitted the respondents/accused from the aforesaid charges. Feeling dissatisfied with such acquittal, the informant has filed the present appeal.

5. Learned counsel for the appellant/informant vehemently argued that the learned trial Judge has acquitted the respondents by ignoring the vital evidence brought on record by the prosecution inclusive of testimony of an eye witness i.e. PW-2 Baburao Bombale. According to him, there was recovery of the weapon i.e. Tommy used in the crime at

the instance of accused No.1 Ashok, duly supported by the concerned panch witness Shaikh Hamid (PW-4). Further, mother of deceased Ashabai i.e. PW-6 had also stated about illicit relationship between accused Ashok and accused Meerabai to substantiate the motive for the alleged criminal act. Further, the evidence of Medical Officer Dr. Babasaheb Dhakane also confirmed the injuries sustained by the deceased which were sufficient to cause his death in ordinary course. As such, he prayed for converting the acquittal of respondents/accused into conviction under the aforesaid sections.

6. With the help of learned counsel for the appellant/informant, we have gone through the evidence adduced by the prosecution and also the impugned judgment.

7. Admittedly, the prosecution has examined in all 11 witnesses in support of its case. On going through the impugned judgment, it appears that the case of prosecution is mainly based on evidence of eye witness i.e. PW-2 Baburao Bombale and PW-4 Shaikh Fayyum Hamid i.e. the recovery panch before whom the accused No.1 produced iron Tommy used in the crime. It is not in dispute that the Investigating

Officer PW-9 Bhagwat Sanap had initially investigated the case as motor accident case, however, only after getting the informant from PW-2 as well as one Chandrakant Bhusare, the offence of murder allegedly committed by respondents/accused by conspiring with each other, was disclosed. As such, it is necessary to discuss the evidence of prosecution to ascertain whether it was truly appreciated by the learned trial Judge to record the acquittal.

8. So far as evidence of PW-1 Bappasajeb i.e. informant and brother of deceased, is concerned, his information regarding crime is based on what is narrated to him by PW-2 Baburao Bombale and one Chandrakant Bhusare. Thus, he is not having any personal knowledge as to how the incident took place. PW-2 Baburao is eye witness of the incident who has stated that when he alongwith Chandrakant Bhusare was proceeding to Umapur on motorcycle on 02.04.2017 at about 8.00 pm, they saw one person was beaten by four persons possessing iron Tommy, leather belt. They were also beating that person with kicks and fists. However, this witness did not state that the person who was beaten, was the deceased and the persons who were beating him, were the accused. He has further deposed that

when on next day they again returned to their village Mungi from Umapur and reached to the spot of incident, they noticed one motorcycle lying down there and the people gathered over there were making discussion. In that discussion they came to know that accused Ashok and Mahanor as well as accused Bandekar had beaten deceased Rajendra. This witness has specifically stated that he was knowing accused Ashok, and therefore, when he saw the incident, he could have deposed that he saw accused Ashok and others were beating the deceased. As such, non disclosure of the name of accused Ashok being the person assaulting the deceased, is definitely fatal to the case of prosecution. The evidence of this witness gives impression that he knew about the so called involvement of accused Ashok from the discussion of people gathered on the spot and thus he must not have seen the actual incident. It is extremely important to note that the prosecution has not examined the other witness who accompanied him i.e. Chandu @ Chandrakant Bhusare and his non examination appears major lacuna in the case of prosecution.

9. So far as evidence of PW-3 Atmaram Deshmukh is concerned, he appears a chance witness who was present at

Sangram Dhaba where the deceased had allegedly come for having drink. However, his evidence is so ambiguous that he referred the deceased only a person wearing red shirt and did not witness the alleged quarrel which had taken place outside of said Dhaba. His evidence appears hearsay in respect of names Pinu and Aaba. It is also important to note that the prosecution did not examine the owner of Sangram Dhaba namely Vitthal Anna who in fact told names Pinu and Aaba to this witness. As such, the evidence of this witness is not at all helpful to the prosecution.

10. PW-4 Shaikh Fayyum Hamid is a panch witness on the point of recovery. Though in the chief examination he stated that accused No.1 Ashok in his presence disclosed the place where he had hidden the iron Tommy used in the crime and then led them to the discovery of the same, but in the cross-examination he has given vital admission by stating that he never had any talk with the accused Ashok. As such, his testimony is totally discredited by such admission. Further, it is important to note that the C.A. report in respect of the said iron Tommy is also not supporting to the prosecution case as no blood was detected on it. Though PW-5 Akil i.e. owner of Yadgar Hotel deposed to support the

prosecution story, but initially he had stated that he found one person on the spot of incident slipped from motorcycle, but later on he improved his version by stating the story of assault. However, there are major contradictions in his police statement and therefore, his evidence appears untrustworthy as well.

11. Though the mother of deceased stated about illicit relations between accused Ashok and accused Mira and about the phone call by which the deceased was called, but her testimony is not corroborated with supporting material and appeared bias due to strained family relations with accused Mira. It is extremely important to note that though PW-7 Dr. Babasaheb Dhakane, who treated the deceased in Civil Hospital, Beed deposed about injuries sustained by the deceased, but in the cross-examination he clearly stated that the injured gave history that he fell down from the motorcycle due to influence of liquor. It is the case of prosecution that till his death the deceased did not utter any word. However, the aforesaid admission on the part of Medical Officer, who is expert in ascertaining the condition of deceased, has completely washed out the story of prosecution of alleged assault. This witness has also opined that the injuries found

on the person of deceased were quite possible due to fall from motorcycle. Further, in the cross-examination this witness has clearly stated that Article-6 was in fact an iron pipe and not Tommy as claimed by the prosecution. As such, by the evidence of this witness, the story of prosecution has clearly falsified.

12. Thus, considering all these aspects and the evidence on record, the prosecution has miserably failed to establish the guilt of accused beyond all reasonable doubts. The learned trial Judge, by appreciating evidence in proper manner, has taken a possible view and thereby acquitted the respondents/accused. Thus, no interference is required in the impugned judgment at the hands of this Court. Resultantly, the appeal stands dismissed.

(Y.G. KHOBRAGADE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE