



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

910 CRIMINAL APPEAL NO. 500 OF 2021

RAHUL UTTAMRAO ZANAZANE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. Shirsat Suhas R., Advocate for Appellant

Ms. S. N. Deshmukh, APP for Respondent-State

Mr. Z. H. Farooqui h/f Mr. Gaware Niteen V., Advocate for
Respondent Nos.2 & 4

Ms. Aishwarya C. Deshpande, Advocate for Respondent No.5
(Appointed)

Ms. Aishwarya C. Deshpande, Advocate for Respondent No.5

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WITH

APPLN. FOR LEAVE TO APPEAL BY STATE NO. 163 OF 2018

THE STATE OF MAHARASHTRA THROUGH POLICE STATION
OFFICER POLICE STATION SHIVAJI NAGAR, BEED

VERSUS

SURESH NAMDEORAO MORE AND OTHERS

.....

Ms. S. N. Deshmukh, APP for Applicant-State

Mr. Z. H. Farooqui h/f Mr. N. V. Gaware, Advocate for Respondent
Nos.1 & 3

Mr. Sanket Kulkarni h/f Mr. V. S. Kadam, Advocate for Respondent
No.2

Ms. Aishwarya C. Deshpande, Advocate for Respondent No.4
(Appointed)

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**CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 12/08/2025.

P. C. :

1. By the application to file appeal, the State has challenged the judgment and order of acquittal of the respondent / accused passed by learned Sessions Judge, Beed in Sessions Case No.26 of 2013. By filing appeal under Section 372 of the Criminal Procedure Code, the informant has also challenged the same judgment and order of acquittal.

2. Heard learned APP, learned advocate for the appellant and learned advocates for the accused. Perused the record.

3. As per prosecution, wife of Sachin Uttamrao Zanzane (accused No.2) had illicit relations with accused No.1, with whom she was serving. Sachin was obstacle in their illicit relations, therefore, accused Nos.1 & 2 took the help of accused Nos.3 to 5 to kill Sachin. Accused Nos.3 to 5 on 08/07/2012 hired Sachin's rickshaw and took him to Jambuwant Gad (mountain) and killed him. They threw his dead body. Sachin's rickshaw was found within the area of Pachod Police Station. The FIR of the incident

was lodged by younger brother of deceased namely Rahul. Accused were charged under Sections 302, 364, 201, 120-B r.w. Section 34 of Indian Penal Code for commission of offence of murder of Sachin Uttamrao Zanzane on 08/07/2012. In support of its case, prosecution has examined 21 witnesses.

4. Admittedly, the case is based on circumstantial evidence. Record indicates that deceased went missing on 08/07/2012. In the missing report there is no allegation about illicit relations of accused Nos.1 & 2. The dead body of the deceased was found on 16/09/2012 and thereafter FIR was lodged by Rahul (PW-1) brother of the deceased, on 19/09/2012 alleging illicit relations between accused Nos.1 & 2. It is pertinent to note that during the period of more than two months, from 08/07/2012 to 16/09/2012, no suspicion whatsoever was raised by the prosecution against Accused Nos. 1 and 2. PW-5, the sister-in-law of Accused No. 2, admitted that Accused No. 2 had left the job of Accused No.1 four months prior to the death of the deceased. There is no material showing contact between accused Nos.1 & 2. Therefore, prosecution has failed to prove motive. Prosecution has alleged that father of the deceased has lastly seen him with accused No.3 at rickshaw point. His father also saw accused No.3

to 5 on 08/07/2013 by going on the rickshaw point and meeting them there, as they had hired rickshaw of the deceased. This evidence is proved to be an improvement. In the missing report it is not stated by him that he had gone to rickshaw point and met accused Nos.3 to 5. Admittedly, accused Nos.3 to 5 were unknown to him. However, no identification parade was conducted. Trial court has rightly disbelieved the evidence of last seen together by observing that no test identification parade was held. PW-13 has admitted in his cross-examination that he has seen the accused in police station when he had gone to give register to police. Therefore, there is no sufficient evidence on the point of last seen together. Prosecution witness Shrikant Jadhav on the point of last seen theory, has failed to identify the accused. Other prosecution witnesses also failed to identify the accused. Therefore, trial court has rightly disbelieved the evidence on the point of last seen theory.

5. The prosecution has also relied on circumstance of recovery of mobiles, sim cards under panchnama and CDR, the panch to the recovery in cross-examination, has accepted that police told him that everything is seized, panchnamas are prepared and he has to only sign on it. All the mobile phones and SIM cards were seized from accused Nos.1 and 2; however, the tower location details of

the outgoing and incoming mobile numbers have not been brought on record by the prosecution. There is no sufficient evidence to prove these circumstances. The circumstance of recovery of chappal and pant of the deceased is also not proved by the prosecution as no test identification parade was held. The prosecution has, therefore, failed to establish the complete chain of circumstances pointing to the guilt of the accused. The trial court has properly appreciated the evidence and has given cogent reasons while acquitting the accused. No case is made out to interfere in the judgment and order of the acquittal. The application for leave to appeal and criminal appeal being devoid of merit, are dismissed.

6. The learned advocate Ms. Aishwarya C. Deshpande, appointed to represent respondent No.5 in Criminal Appeal No.500 of 2021 and respondent No.4 in Application for Leave to file Appeal by State No.163 of 2018, shall be paid fees as per the applicable schedule / rules, within four weeks.

(SANDIPKUMAR C. MORE, J.)

(NITIN B. SURYAWANSHI, J.)