



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 424 OF 2021

WITH

CRIMINAL APPLICATION NO. 1891 OF 2021

Gulabrao S/o Shankarrao Mhaske,

Age : 53 Years, Occ. Agriculture,

R/o. Parda, Tq. & Dist. Hingoli.

..Appellant

(Orig. Accused)

VERSUS

The State of Maharashtra,

Through Police Station Officer,

Police Station Basamba, Dist.

Hingoli.

... Respondent

.....

Advocate for the appellant : Mr. Sachin S. Panale (Appointed)

A.P.P. for Respondent-State : Mr. N. S. Tekale

...

CORAM : **SANDIPKUMAR C. MORE AND
Y.G. KHOBRAGADE, JJ.**

Pronounced on: 04.11.2025

JUDGMENT (Per SANDIPKUMAR C. MORE, J.) :

1. The appellant / accused, has challenged his conviction recorded by the learned Trial Judge i.e. learned

Additional Sessions Judge, Hingoli, under Section 302 of the Indian Penal Code in Sessions Case No. 50 of 2015, vide Judgment and order dated 30.01.2018.

2. As per the prosecution story, one Awadhut Baliram Maske, resident of Parda, Taluka and District Hingoli, lodged report on 13.09.2015, alleging that on 12.09.2015 at about 10.10 p.m., when he was sitting on the plinth, in front of his house, P.W.-5 Kavita Gulabrao Maske, younger daughter of the appellant/ accused, approached him in distressed state and disclose that her father i.e. the appellant was assaulting her mother Satyabhama with an axe and when she and her elder sister Urmila tried to intervene, the appellant also attacked Urmila with an axe. Fearing for her own life, she fled from the spot. When, the informant along with the others went to the house of appellant/ accused, they discovered dead bodies of Satyabhama as well as Urmial with severe injuries and in the pool of blood. The concerned police station, on the basis of report lodged by the informant Awadhut, registered crime No. 59 of 2015 against the appellant, under Section 302 of the Indian Penal Code. After completion of the investigation, the appellant was charge sheeted for the said offence and thereafter, the learned Trial

Judge conducted the trial and convicted the appellant as above.

3. The learned counsel, who is appointed Advocate for appellant/ accused, vehemently argued that though the daughter of appellant/ accused has deposed against him, but the panch witnesses of the recovery of the axe used in the crime, have not supported the case of the prosecution. Moreover, the appellant/ accused had in fact taken a defence that due to dispute between himself and his wife and daughter, he had gone to Pune and returned back only after getting the knowledge of the incident.

4. On the contrary, the learned A.P.P. strongly opposed the submissions made on behalf of the appellant/ accused and supported the impugned judgment. According to him, there is strong evidence against the present appellant, brought on record by the prosecution. His own daughter had, in fact, seen the incident and deposed accordingly. Further, the axe used by appellant in the crime was also recovered at his instance. As such, he prayed for dismissal of the appeal.

5. Heard rival submissions. Also perused the record and proceedings of the Sessions Case No. 50 of 2015 along

with the impugned judgment.

6. It is pertinent to note that though the prosecution has examined in all nine witnesses, but the evidence of P.W.-5 Kavita Maske, who is the daughter of appellant and deceased Satyabhama, is of utmost importance. She had actually seen the incident, while appellant was assaulting her mother and elder sister Urmila with the help of axe. She had also tried to intervene, but due to fear for her own life, she ran away from the spot. On going through her evidence, it is evident that her family went to sleep after having dinner on the fateful night of 12.09.2015, but after hearing the shouts of her mother, she woke up and saw the appellant giving blows of axe on the person of her mother. She has stated that when she and Urmila rushed to save their mother, accused pushed her aside and then also attacked Urmial with an axe, and therefore, she fled from the spot. Her testimony remained unshattered even in the searching cross examination and there is nothing adverse brought on record, which can produce dent in the story of the prosecution.

7. The evidence of P.W. 4 Dr. Arun Jirvankar, who conducted the post mortem over the dead bodies of

Satyabhama and Urmila, also supports the case of the prosecution. He has specifically stated that there were multiple injuries including the laceration of brain on the persons of Satyabhama leading to her death, due to haemorrhagic shock. Moreover, he also found that death of Urimla was due to multiple injuries including injury to the trachea. There were multiple incised wounds found on their dead bodies caused by hard and sharp object like an axe. This witness has also opined that those injuries were sufficient to cause death, in ordinary course of time, and possible due to the axe recovered at the instance of the appellant/ accused.

8. Though the panch witnesses on memorandum and recovery panchnama did not support the case of the prosecution, but the contents of the same were established by the investigating officer P.W. 9. Moreover, those panch witnesses though not supported, but admitted their signatures on the panchnamas and their presence in the photographs of recovery event. It has been observed by the learned Trial Judge that they could not satisfactorily explained as to why they were present in those photographs, when the recovery was being made. Moreover, human blood

is also found on the axe used by the appellant in commission of the crime.

9. Though the informant Awadhoot has not supported the case of the prosecution, but his information about the crime was based on narration of P.W.-5 Kavita, who has candidly deposed against her own father. The evidence of P.W.- 5 Kavita appears reliable, trustworthy and sufficient to base the conviction. Further, her presence on the spot of the incident, appears natural as she was the member of the family. Further, there was no reason for her to falsely implicate her own father. Her testimony is also corroborated by the medical evidence on record, and therefore, minor omissions in her evidence not on material aspect, can be ignored.

10. It is important to note that the appellant has taken a defence that he had been to Pune, due to dispute between himself and family members and returned back only after having knowledge of the incident. However, such type of defence is highly improbable, particularly when there is one missing report on record lodged by his brother on 13.08.2015. On perusal of the said missing report, it is clearly evident that

the said missing complaint was in fact concluded by recording statement of appellant himself, wherein it is stated by him that on 20.08.2015, he had returned home. This missing report at Exh.66 itself falsified his aforesaid defence. Further, it is not the case of the single blow, but it is evident that there were multiple injuries on the bodies of Satyabhama and Urmila on vital parts. As such, considering all these aspects, it is clearly evident that the prosecution has definitely established the guilt of the accused beyond all the reasonable doubts. As such, we do not find any merit in the present appeal and the judgment and order passed by the learned Trial Judge needs no interference. Accordingly, the appeal stands dismissed. Pending Criminal Application also stands disposed of.

11. We quantify the fees of learned Advocate appointed to represent the appellant/accused to Rs. 10,000/- (Rs. Ten Thousand only). High Court Legal Services, Sub Committee, Aurangabad shall pay the fees as quantified, to the learned counsel for the appellant.

(Y.G.KHBORAGADE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

Ysk/