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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.545 OF 2025

Machindra Nana Somware

APPELLANT

VERSUS

The State of Maharashtra and Others

RESPONDENTS

.....
Mr. Avinash R. Borulkar, Advocate for the Appellant
Mr. S. J. Salgare, APP for Respondent - State
.....

[CORAM : NITIN B. SURYAWANSHI, &
SANDIPKUMAR C. MORE, J. J.]

DATE : 5th AUGUST, 2025

ORDER :

1. By this Appeal, filed under section 372 of the Criminal Procedure Code, the Appellant - informant challenges judgment and order of acquittal dated 7th March, 2025 passed by the learned Additional Sessions Judge, Ambad, District - Jalna in Sessions Case No. 21 of 2024.

2. Prosecution case, in short, is that, on 12th March, 2024, Machindra - informant, had gone to local liquor shop to buy liquor. At that time, his son Sudhakar (deceased) was sitting at the said shop along with the Accused. On seeing the informant, they left the shop. In the night, at about 10.45, he received call on his mobile phone from Krushna Nannavare informing him that

his son Sudhakar is lying in a pool of blood near Nisarga Dhaba. He was asked to come to Government Hospital, Ghansawangi. Informant went to Government Hospital, Ghansawangi. He came to know that his son is dead. He noticed injuries on the backside of his head. He, therefore, lodged report on 13th March, 2024 against the Accused persons, alleging that they committed murder of his son for unknown reasons.

3. Both the Accused were charged under section 302 read with 34 of the Indian Penal Code. In support of its case, the prosecution examined 10 witnesses. Trial Court held that the prosecution has failed to prove its case beyond reasonable doubt and acquitted the Accused. Hence, this Appeal.

4. Heard learned Advocate for the Appellant and learned APP for the State. Perused the record.

5. Learned Advocate for the Appellant assailed the findings of acquittal, contending that there is sufficient evidence on record of last seen together. He submits that CA reports also support the prosecution case. Injuries on the head of the deceased, noted in the Postmortem report rule out the possibility of accidental death. He, therefore, submits that the Trial Court has failed to appreciate the evidence in the proper perspective and erred in acquitting the Accused.

6. Learned APP, by pointing out the observations of the Trial Court, submits that the Trial Court is justified in acquitting the Accused.

7. Perusal of the record indicates that on the point of last seen together, the prosecution has examined PW-1, PW-6 and PW-7.

PW-1, informant, has admitted in his evidence that, people told him that his son died in an accident on the road. In his statement recorded under section 164 of the Criminal Procedure Code, (Exhibit-14) he has not stated to have seen the Accused persons and his son at the liquor shop.

PW-6, in the cross examination, has admitted that he cannot say whether the deceased had been to his shop along with the Accused or not.

PW-7 in his examination in chief, has stated that only Accused No.1 and 2 had been to his hotel.

8. In the light of above evidence, the Trial Court is justified in holding that the prosecution has failed to prove the last seen theory beyond reasonable doubt.

9. It appears from the record that the prosecution has failed

to prove the complete chain of circumstances on record. The Trial Court has recorded cogent reasons while arriving at the conclusion that the prosecution has failed to prove its case beyond reasonable doubt. We do not find any illegality or perversity in the impugned judgment and order of acquittal. Appeal being devoid of merit is dismissed.

[SANDIPKUMAR C. MORE]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE