



This order is speaking to minutes order of order dated
10.11.25

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

CRIMINAL APPEAL NO.795 OF 2023

1. Ashok Tulshiram Tawade (Patil),
Age : 50 Years, Occ. Business,
R/o. Tavde Nagar, Nagra Devle, Tq. Pachora,
District Jalgaon. ..Appellant

VERSUS

1. Pankaj Rajmal Nerkar,
Age : 21 Years, Occ. Nil,
R/o. Mali wada, Erandol
Tq. Erandol Dist. Jalgaon
2. Dashrath Bhudha Mahajan,
Age : 44 Years, Occ. Nil,
R/o, As above.
3. Bharat Gokul Mahajan,
Age : 25 Years, Occ. Nil,
R/o. opposite to Mahabji
Vikhran Road, Erandol,
Tq. Erandol, Dist. Jalgaon
4. Rahul @ Catli Ravindra Mahajan,
Age : 25 Years, Occ. Nil,
R/o. Maliwada, Erandol,
Tq. Erandol, Dist. Jalgaon.
5. Chetan Madhukar Patil,
Age : 24 Years, Occ. Nil,

R/o. Jahagirpura, Erandol

6. Dhiraj Vijay Patil,

Age : 20 Years, Occ. Nil,

R/o. As above

7. Ritesh @ Chotu Rama Mahajan,

Age : 38 Years, Occ. Nil,

R/o. Maliwada, Erandol,

Dist. Jalgaon.

8. Swapnil Prasad Mahajan,

Age : 25 Years, Occ. Nil,

R/o. As above

9. The State of Maharashtra,

Through Police Inspector,

Erandol Police Station,

Dist. Jalgaon.

.. Respondents

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Advocate for the appellant : Mr. R. J. Nirmal

A.P.P. for Respondent/State : Mr. S.R. Wakale

Advocate for Res. Nos. 1 to 4, 7 & 8 : Mr. Bhushan Mahajan

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

Pronounced on: NOVEMBER 4, 2025

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

1. The appellant, who is father of one of the deceased persons i.e. Ashok Patil, has challenged the acquittal of present respondents i.e. original accused Nos.1,2, 4 to 7, 9 & 10 in Sessions Case No. 96 of 2018, from the offences

punishable under Sections 302, 307, 143, 148, read with 149 of the Indian Penal Code and under Section 4 read with 25 of the Indian Arms Act, 1959 at the hands of learned Additional Sessions Judge, Jalgaon (hereinafter referred to as “the learned Trial Judge”), under judgment and order dated, 29.04.2023 in the aforesaid case.

2. As per the prosecution case, informant Manoj Natthu Patil i.e. P.W.-1 was serving as a sports teacher in D.S.P. College, Erandol. Kabbaddi tournament was organized in the said college during the period from 04.09.2018 to 06.09.2018. The present respondent No.1 i.e. accused No.1, had attended the said tournament on 04.09.2018. He had outraged modesty of female player there, and therefore, the informant scolded him. At that time, accused No.1 got annoyed and abused the informant and also threatened him of dire consequences, after the tournament is over. On 06.09.2018 at about 8.30 to 9.00 p.m., the informant while watching T.V. at his home, his mother heard commotion outside the house. When informant went outside, accused Nos. 1 to 5 were armed with sword, rod and stones. They were pelting stones on his house. When he asked accused No.2 about the same, he told the informant that he had

finished many persons like him. Accused No.2 then instigated accused No.1 to finish the informant. Accused No.1 then took out sharp edged weapon and tried to assault the informant. At that time, cousin of informant namely Babaji Raghunath Patil and one Umesh Patil intervened. Accused No.1 gave blow of sharp edged weapon on the stomach of Abbaji Patil, whereas accused No.2 gave blow of sharp edged weapon over the waist of Umesh Patil. Accused Nos. 3, 4 and 5 also beaten Umesh with rods on his head, resulting into grievous injuries. After noticing that both the persons were lying in pool of blood, all the assailants ran away. The informant then took both the injured in the Apex Hospital and thereafter his statement was recorded in Ramanandnagar Police Station, Jalgaon. On the basis of said statement, crime under Section 307, 143, 148 read with Section 149 of the IPC and Section 4 read with 25 of the Indian Arms Act, 1959 was registered under zero number and it was transferred to Erandol Police Station, where it was registered vide Crime No. 63 of 2018. Since, Umesh Patil succumbed to the injuries in the Hospital, offence under Section 302 of the IPC was added.

3. The learned Trial Judge, after completion of investigation and filing of the charge sheet, conducted trail

against the respondents/ accused. However, the learned Trial Judge acquitted all the respondents/ accused of the charges levelled against them.

4. The learned counsel for the appellant vehemently argued that, the learned Trial Judge definitely erred in not believing the evidence of P.W.-12 as well as P.W.-14, who had actually witnessed the incident. According to him, these witnesses had deposed before the Court as to how accused Nos. 1 and 2 inflicted injuries on vital parts of the bodies of the deceased. According to him, even though the informant as well as other eye witnesses did not support the case of the prosecution, but the evidence of P.W.-12 as well as P.W.-14 was sufficient enough to record conviction against the respondents/ accused. He also placed copies of evidence of these two witnesses.

5. The learned A.P.P., also supported the argument advanced on behalf of the appellant. However, the learned counsel for respondent Nos. 1 to 4, 7 & 8, who appeared suo moto, strongly resisted the submissions made on behalf of the appellant. According to him, Abbaji Patil had died naturally almost ten months after the incident and not due to the

injury sustained by him in the incident. Further, the evidence of P.W. -12 and P.W.-14 was also not reliable, since there was delay in recording their statements. He supported the findings of learned Trial Judge for acquitting the respondents/ accused and submitted that a possible view has been taken by the learned Trial Judge. As such, he prayed for dismissal of the appeal.

6. Heard learned counsel for the appellant as well as learned A.P.P. for respondent No.9/State. Also heard learned counsel for respondent Nos. 1 to 4, 7 & 8. With the able assistance of learned counsel for rival parties, we have gone through the impugned judgment as well as record and proceedings of the original Sessions Case.

7. It is significant to note that though the prosecution has examined in all 18 witnesses to establish the charge against the respondents/ accused, but excluding P.W.-12 and P.W.-14, the other eye witnesses namely P.W. 10, 11, 13 along with the informant P.W. No.1 have not supported the case of the prosecution. Though the learned counsel for the appellant vehemently argued that, the evidence of P.W.-12 and P.W.-14 is ignored by the learned Trial Judge, but on

going through the impugned judgment, it is clearly evident that, the learned Trial Judge has discussed their evidence and by giving satisfactory reasons, disbelieved the same.

8. On going through the evidence of P.W.-12 Babaji Raghunath Patil, who is the younger brother of deceased Abbaji, it is evident that, he deposed that, on 06.09.2018, he was at his home, but after hearing shouts, he went to the spot of incident and saw accused No.1 Pankaj Nerkar inflicting knife injury on the stomach of his brother Abbaji. He has stated that he then lifted Abbaji and took him to the Apex Hospital, Jalgaon. He also identified Pankaj Nerkar, who was present at the time of trial through video conferencing. Though this witness stated that he actually saw the incident, but in the cross examination he has given certain vital admissions by saying that, there were 150 to 200 persons gathered at the place of incident and it was difficult to understand as to who was doing what act. He clearly admitted that when he went to the spot of incident, Abbaji had already lied down on the ground. This clearly indicates that he had not seen the actual incident. Moreover, he further admitted that he did not disclose to the police for about three days that accused Pankaj had stabbed his

brother Abbaji. Thus, from such type of admissions, it can be gathered very well that he had not seen the incident. Moreover, this witness has not stated anything about the assault on other deceased Umesh Patil. It is extremely important to note that this witness himself stated that his brother Abbaji died naturally after about ten months of the incident. As such, his evidence cannot be believed.

9. So far as evidence of P.W.-14 Sunil Dattatraya Patil i.e. maternal uncle of deceased Umesh is concerned, he stated that when he was going to his house after closing his shop on the day of incident, he saw crowd including the present respondents/ accused in front of house of informant Manoj Patil at about 8.15 to 8.30 p.m.. According to him, the respondents/ accused had gathered to eliminate the informant. He stated that accused Dashrath told accused Pankaj to kill informant and when Abbaji Patil and Umesh intervened, Pankaj stabbed Abbaji with knife in his stomach, whereas accused Dashrath inflicted knife blows on the waist of Umesh. He also stated that other accused assaulted Umesh on head and other vital parts of the bodies with the help of rods. Though, this witness has stated as per the prosecution story, but from the admission given by him in the cross-

examination, it appears that he might not have seen the actual incident. Further, the conduct of this witness also appears un-natural. He has specifically stated in the cross-examination that despite going to Apex Hospital, Jalgaon immediately, he did not make any complaint to the police, who had been to that Hospital. He further deposed that he did not recollect as to whether his statement was recorded by the police. Though, he stated that on the next day of the incident, when he had gone to the Erandol Police Station, police had recorded his statement about the incident, however, the record shows that the statement of this witness was actually recorded on 24.09.2018 i.e. after about 18 days of the incident. This witness has clearly admitted the date "24.09.2018", on his statement. Thus, it is evident that despite having earlier opportunity to disclose the incident to police, this witness kept mum for about 18 days. Therefore, it certainly gives impression that he had not witnessed the incident, but posed himself as an eye witness being an interested person.

10. Further, though the informant Manoj Patil supported the prosecution case in his chief examination, but in the cross examination he resiled from his earlier statement

and did not support the case of the prosecution. It is settled that evidence of such type of witness is not reliable for recording conviction and it has to be ignored, being untrustworthy.

11. Further, the learned Trial Judge has also observed that there were so many contradictions and discrepancies in the evidence of Medical Officers, who attended the deceased persons. Thus, it appears that the other eye witnesses P.W. 10, 11 and 13 have not stated anything against the respondents/ accused. Further, the evidence of P.W. -12 and P.W.-13 does not appear reliable. It is to be noted that two knives allegedly recovered at the instance of accused No.1 do not show presence of blood of the deceased Umesh Patil. As such, the other circumstantial evidence is also not supporting to the case of the prosecution. Therefore, it appears that the view taken by the learned Trial Judge is a possible view and considering the scope of appeal against acquittal, the said view has to be upheld. In view of the same, we do not find any substance in the present appeal and accordingly it stands dismissed.

(Y.G. KHOBRADE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE