



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

**906 CRIMINAL APPEAL NO. 982 OF 2022
WITH
APPLN. FOR LEAVE TO APPEAL BY STATE NO. 168 OF 2022**

MOMIN ABDUL SATTAR MOMIN ABDUL JABBAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Sayyed Tauseef Yaseen, Advocate for Appellant
Mr. N. S. Tekale, APP for Respondent-State
Mr. Ghanekar Nilesh S., Advocate for Respondent No.2

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

DATED : 14/08/2025.

P. C. :

1. By filing an application for leave to appeal, the State has challenged the judgment and order of acquittal of the respondent-accused, passed by the learned Additional Sessions Judge, Majalgaon, in Sessions Case No. 14 of 2018. The informant has also challenged the said judgment by filing an appeal against acquittal under Section 372 of the Code of Criminal Procedure.

2. The accused was charged for the commission of the murder of his wife, Bibisahara, sister of the informant, on 19/11/2017 at about 11:00 to 11:30 a.m. The accused reported to the police that

his wife had died accidentally. He stated that when she went to fetch water from the canal, she asked him to bring their lunch box. When he brought the lunch box, he found her footwear placed beside the canal, but she was nowhere to be seen. He made a hue and cry and called the people around them. Despite searching, she could not be found. Subsequently, her dead body was found in the water canal at a distance of 3 to 4 kilometers. Pursuant to this information, AD No. 5 of 2017 was registered, and the investigation was entrusted to ASI Nagargoje.

3. Informant, brother of the deceased, lodged FIR alleging that the accused killed his sister by pushing her in the canal.

4. In support of its case, prosecution examined 24 witnesses. On appreciation of the evidence, trial court has acquitted the accused.

5. Heard learned APP for the State, learned Advocate for the appellant- informant and learned advocate for the accused. Perused the record.

6. Admittedly, this is a case of circumstantial evidence and the circumstances relied upon by the prosecution, are last seen theory, motive, recovery of gold ornaments of the deceased and seizure of

motorcycle of the accused etc. Record indicates that the statements of the prosecution witnesses are recorded belatedly after 25 days or 2 & 1/2 months. The trial court, therefore, rightly disbelieved their evidence observing that the allegations of the prosecution appear to be afterthoughts. It is alleged by the prosecution that the deceased was carrying an amount of Rs.72,700/- for giving it to her brother. Though it is alleged by the prosecution that the said amount was recovered from the accused, the same was never brought before the court. Therefore, trial court refused to rely on the said recovery. Last seen theory of the prosecution, is also disbelieved by the trial court observing that the witnesses, who were examined on this point, were either chance witnesses and their statements were recorded belatedly after a delay of 25 days to 2 & 1/2 months. The evidence on the point of motive is also not sufficient. The trial court has, therefore, observed that, *“the last seen witnesses are neither believable nor trustworthy or inspiring confidence. The evidence of brother of the deceased, is not consistent with the circumstances appearing before and after the alleged incident. The witnesses have given evidence under the influence of Abdul Sattar (PW-8), brother of the deceased. Merely because the accused was nominee to the accidental death policy of the deceased that by itself is not sufficient to prove the*

motive. Seizure of the motorcycle, gold ornaments and the cash amount of Rs.72,700/- is not worthy of credence.” The trial court has, therefore, rightly concluded that the chain of circumstances is not complete and that there is no material to warrant the conviction of the accused.

7. View of the trial court is a possible view and no case is made out by the prosecution or informant to interfere in the impugned judgment and order of acquittal. Application for leave to appeal and criminal appeal are dismissed.

(SANDIPKUMAR C. MORE, J.)

(NITIN B. SURYAWANSHI, J.)