



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

CRIMINAL APPEAL NO. 1080 OF 2023

Alka Sanjay Pimpale,

Age : 30 years, Occ. : Household,

R/o. Ghanegaon Tq. Soyegaon

Dist. Aurangabad.

Appellant

Versus

1] The State of Maharashtra
Through Police Sub Inspector,
Fardapur Police Station,
Tq. Soygaon Dist. Aurangabad

2] Raju Babulal Pimple,
Age : 25 years, Occ. : Labour Agriculture,
R/o. Ghanegaon Tq. Soygaon,
Dist. Aurangabad

3] Devlal @ Chhotu Babulai Pimple,
Age : 20 years, Occ. : Labour Agriculture,
R/o. Ghanegaon Tq. Soygaon,
Dist. Aurangabad

4] Sandip Shravan Ganbas,
Age : 26 years, Occ. : Labour Agriculture,
R/o. Ghanegaon Tq. Soygaon,
Dist. Aurangabad

Respondents

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Mr. S.N. Lale Yelwatkar, Advocate for the appellant.

Mr. S.J. Salgar, A.P.P. for respondent No.1-State.

Mr. Chaitanya Deshpande, Advocate for respondent Nos.2 to 4.

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**CORAM : SANDIPKUMAR C. MORE AND
MEHROZ K. PATHAN, JJ.**

DATED : 18 SEPTEMBER 2025

Oral Judgment (Per Sandipkumar C. More, J.) :

1. Heard rival submissions.
2. The appellant i.e. the original informant Alka Sanjay Pimple has challenged the judgment and order dated 12.08.2023 passed by Additional Sessions Judge, Aurangabad (hereinafter referred to as the “learned trial Judge”) in Sessions Case No.23 of 2022 whereby respondent Nos.2 to 4 i.e. the original accused are acquitted of the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. The appellant is seeking reversal of the judgment of acquittal.
3. As per the prosecution story, the appellant made a phone call at about 9.30 p.m. on 02.10.2021 to her husband, however he did not pick up the same. Thereafter at about 10.30 p.m. her cousin brother in law, who was also a Police Patil of the village, came to her and told that her husband was lying on the road. Accordingly, she rushed to the spot and taken her husband to the hospital, but there he was declared dead by the doctor. Informant then lodged F.I.R. against respondent Nos.2 to 4/accused on the ground that the deceased and accused were on cross term in the past and they might have killed her husband.

4. To prove the guilt of accused, prosecution has examined in all six witnesses. Out of them PW-1 is the appellant/informant. However, she is not having any personal knowledge of the incident. Then the prosecution has examined PW-2 Krushna who appears to be a panch witness on the spot panchnama. In his evidence it has come on record that from the spot of incident, police seized one blood stained iron pipe and wooden log. There is no dispute in respect of such seizure. Then comes the evidence of PW-3 Deepak Rambhau Chandane. Prosecution has alleged that accused No.2 Chhotu had in fact called this witness who is supposed to be his friend. According to prosecution, accused No.2 had in fact told this witness on mobile handset and thereby disclosed that they committed murder of the husband of complainant i.e. Sanjay Pimple. However, this witness has not supported the case of prosecution. He has stated that though he received phone call from accused No.2 Chhotu, but he further stated that he could not identify the voice of Chhotu. On the contrary, he stated that accused No.2 did not tell him anything about the incident. It is significant to note that though the transcript of conversation between PW-3 Deepak and accused No.2 Chhotu is placed on record alongwith charge-sheet, but it is extremely important to note that the prosecution has not

examined any witness to prove it's contents.

5. PW-4 Bhagatsing Pratap Pardeshi is the panch witness of seizure of clothes of accused and recovery of iron pipe and wooden log used in the crime at the instance of accused No.3. Though this witness has stated about the seizure of clothes and those articles in his examination-in-chief, but in the cross-examination he has given vital admissions, such as, the clothes of accused were already kept in police station and that though the articles were shown to be seized on 04.10.2021, but he signed the memorandum and discovery panchnama (Exhs.45 and 46 respectively) only on 06.10.2021. That means, he has not supported the case of prosecution that at the instance of accused No.3 the aforesaid articles were recovered on 04.10.2021.

6. PW-5 Tarachand Pawar is shown as an eye witness by the prosecution. However, as per the case of prosecution he had only seen the accused persons beating the deceased with the help of wooden logs and iron pipe. It is not claimed by the prosecution that this witness had personally seen as to by which accused the vital blow was given. Even otherwise also, this witness has not supported the case of prosecution that he had even seen the accused persons beating the deceased. It is

surprising that even after the recovery of wooden logs and iron pipe allegedly used in commission of crime, the prosecution has not brought on record any C.A. report indicating that blood of deceased was found on those weapons. As such, the evidence of prosecution is not convincing at all to establish the guilt of accused beyond all reasonable doubts.

7. The learned trial Judge has rightly appreciated the evidence on record which definitely falls short to establish the guilt of accused. Thus, there is no substance in the appeal and accordingly the appeal stands dismissed.

(MEHROZ K. PATHAN)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE