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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.1093 OF 2023

Abaji Bhanudas Vaidya
VERSUS

APPELLANT

The State of Maharashtra and Another

RESPONDENTS

.....
Mr. Krushna S. Solanke, Advocate for the Appellant
Mrs. Uma S. Bhosale, APP for Respondent - State
.....

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

DATE : 30th JULY, 2025

ORDER :

1. By this Appeal, filed under section 372 of the Criminal Procedure Code, Appellant - informant challenges the judgment and order of acquittal dated 17th July, 2023 passed by the learned Additional Sessions Judge, Ambad, in Sessions Case No. 37 of 2022.

2. It is the prosecution case that, on 14th April, 2022 the Accused demanded cigarette from Sadanand (deceased), the deceased replied that cigarette is not available. This irritated the Accused. Thereafter, deceased agreed to arrange the cigarette from village and accordingly the Accused and the deceased went to village Shirner towards shop of Sopan on their respective motorcycles. After half an hour, sister of the

deceased – Sangita and her husband came at the hotel of the deceased and informed the cook that Sadanand was lying in injured condition. The deceased was taken to Government Hospital, Ambad. The prosecution, therefore, claimed that the Accused has committed murder of Sadanand. Accordingly, charge under section 302 of the Indian Penal Code was framed against the Accused.

3. In support of its case, the prosecution examined 18 witnesses. Except informant (PW-1), his daughter (PW-16), Nodel Officer (PW-15) and police witnesses, all other prosecution witnesses have turned hostile and they did not support the prosecution case.

4. Admittedly, the case is based on circumstantial evidence. Perusal of the record indicates that the prosecution has failed to prove that the deceased was last seen with the Accused. Recovery evidence of the murder weapon from the Accused is also unreliable, as the recovery is from open space and at the time of the recovery, labours were present at the construction site, from where the recovery was effected. The prosecution could not prove the complete chain of circumstances, proving that the Accused is the author of the crime.

5. Learned Advocate for the Appellant has relied on

“Selvamani V/s State Represented by the Inspector of Police”¹, to contend that the statements of the hostile witnesses recorded under section 164 of the Criminal Procedure Code have not been taken into consideration by the Trial Court while acquitting the Accused.

6. Though statements of the hostile witnesses were recorded under section 164 of the Criminal Procedure Code, those can be relied on only for the purpose of corroboration of the prosecution case, provided other relevant evidence is brought on record. However, since the prosecution has failed to prove the circumstances connecting the Accused with the alleged crime, those statements are also of no use to the prosecution. CA reports also do not support the prosecution case.

7. Perusal of the impugned judgment shows that the Trial Court has properly appreciated the evidence and has rightly acquitted the Accused.

8. The view taken by the Trial Court is the only possible view. We do not find any merit in the Appeal. The Appeal is therefore dismissed.

[SANDIPKUMAR C. MORE]
JUDGE

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[NITIN B. SURYAWANSHI]
JUDGE

1 AIR 2024 SC 2273