

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.775 OF 2017

Arjun Baburao Natekar @ Nache
@ Arjun Baburao BhunyarAppellant
Versus
The State of MaharashtraRespondent

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**WITH
INTERIM APPLICATION NO.2535 OF 2024
IN
CRIMINAL APPEAL NO.775 OF 2017**

Mr. Aniket Nikam, Advocate a/w. Abhilasha Pawar for the
Appellant.

Ms. Sharmila S. Kaushik, APP for the Respondent-State.

**CORAM : SARANG V. KOTWAL &
ADVAIT M. SETHNA, JJ.**

DATE : 25th AUGUST, 2025

ORAL JUDGMENT : [PER SARANG V. KOTWAL, J.]

1. The Appellant has challenged the judgment and order dated 12.5.2017 passed by the learned Additional Sessions Judge, Pune in Sessions Case No.186/2015. The Appellant was convicted for commission of the offence punishable under Section 302 of IPC and he was sentenced to suffer RI for life and to pay a fine of Rs.500/- and in default of payment of fine to suffer further

imprisonment for one month. He was convicted under Section 201 of IPC and was sentenced to suffer RI for two years and to pay a fine of Rs.500/- and in default of payment of fine to suffer further imprisonment for one month. Both the sentences were directed to run concurrently. The Appellant is in custody since 26.11.2014. He was given set off under Section 428 of Cr.PC..

2. Heard Mr. Aniket Nikam, learned counsel for the Appellant and Ms. Sharmila Kaushik, learned APP for the Respondent-State.

3. The prosecution case is that the deceased in this case, Omkar, was married to PW-1 Padmavati. The Appellant developed illicit relations with Padmavati. The deceased Omkar was opposed to their relationship. The Appellant induced the deceased Omkar and his family to shift to Pune from their native place on the promise of giving work to the deceased Omkar. On 20.11.2014, the Appellant and the deceased Omkar went to buy grocery. The Appellant alone came back. Omkar was not seen after that. The Appellant spent that night with Padmavati. Since Omkar did not return even on the next day, Padmavati got worried. The Appellant, therefore, took her to the native place of Omkar's father.

After a couple of days, Padmavati came back to Pune and again went back to their native place. A meeting of the elders in their community was held at Warje, Pune. On their persistent questioning, the Appellant told them that he would show where the body of Omkar would be found. According to the prosecution case, He confessed to Padmavati and Omkar's father that he had committed Omkar's murder. The Appellant led Omkar's father, Padmavati and some others to a secluded spot near the Mula river. The dead body was found at his instance. It was highly decomposed. Omkar's father lodged the FIR. The investigation was carried out. The Appellant was arrested. The postmortem was performed on the dead body. The Police recovered the weapon at the instance of the Appellant in presence of the panchas. The statements of witnesses were recorded and after the investigation was over, the charge-sheet was filed. The case was committed to the Court of Session. The prosecution produced the CA certificates on record.

4. During the trial the prosecution examined nine witnesses, including, Omkar's father, his wife, a respectable person from Omkar's village who was present at the meeting of the

villagers, a co-worker who had given money to the Appellant and the deceased to buy the grocery, a person from whose shop the Appellant purchased beer before the incident, the Medical Officer who had conducted the postmortem examination, the Medical Officer who had examined the Appellant, a pancha for the spot panchnama and recovery of weapon panchnama; and finally the investigating officer.

5. The defence of the Appellant was of total denial. He did not lead any defence evidence.

6. The learned Judge considered the evidence and the defence. He heard both sides. He considered each of the circumstances separately and on being satisfied that the prosecution has proved its case beyond reasonable doubt; convicted and sentenced the Appellant as mentioned earlier.

7. The case is based on circumstantial evidence. PW-1 Padmavati was wife of the deceased. She has stated that she was residing with her husband Omkar and her son at Hingane. Their native place was Bhier, District-Gulbarga, Karnataka State. The Appellant approached them and told them that he had work for them at Pune. Based on his promise, PW-1 and the deceased

Omkar came to Pune at a construction site at Hingane. Omkar and the Appellant had got acquainted when Omkar was residing with his family at Ambegaon. PW-1 has stated that she had developed love relationship with the Appellant. It was going on for two years. The Appellant used to visit her at her house when Omkar was attending his duty. The Appellant used to ensure that she was alone at home by making a phone-call. On one occasion, Omkar had caught both of them. Omkar had beaten PW-1 and had taken her back to their village. PW-1 has stated that the Appellant had told her that he would kill her husband. PW-1 pleaded with him not to kill her husband, but, assured him that that since she loved him she would elope with him by deserting her husband and children. The Appellant told her that he wanted to reside with her and, therefore, he would kill her husband. The Appellant brought PW-1 and Omkar to Pune on 20th of a month. PW-1 did not remember the month and the year. The Appellant and her husband took money from the contractor to buy the grocery. Both of them left together from the house in the morning. The Appellant came back alone. PW-1's husband did not return. When she questioned the Appellant, he told her that her husband had gone to attend the

work. Even in the night Omkar did not return. The Appellant came to PW-1's room and stayed with her in the night. She has further added that they had physical relations in that night on two occasions. On the next day, she told the Appellant to inform her father-in-law telephonically. The Appellant made a phone call. PW-1 spoke with her father-in-law i.e. Omkar's father. She told him that the Appellant and Omkar had left together but Omkar had not returned back. Omkar's father asked her to return to their village. Therefore, the Appellant took PW-1 and her children to their village. They reached the village in the morning on 22nd. On the next day, they came back to Pune for conducting search. She herself, her father-in-law, the Appellant and two neighbours came to Pune. They searched for her husband. They held a meeting of their community at Warje. The persons who attended the panchayat asked the Appellant about Omkar. After many questions put to him, the Appellant told them that he would show the place where Omkar would be found. The Appellant took them and PW-1 near Mula river. He took them three kilometers inside that area. It was covered with a lot of bushes. It was a night time. The Appellant showed her Omkar's dead body. He was stabbed in the

stomach. He was having injuries on the head by stone. The entire body was swollen. She identified the dead body as that of her husband Omkar. She questioned the Appellant as to who had killed her husband. The Appellant answered that he had committed the murder. Then she went with her father-in-law to lodge the complaint. The complaint was lodged by her father-in-law. PW-1 and her father-in-law returned to the spot where the dead body was lying. The police collected the dead body and sent it to Sassoon Hospital. On the next day, the police made enquiries with her about the incident. The dead body was cremated at their village. She identified the Appellant in the Court. She identified Omkar's one footwear at the spot. Two currency notes were lying at the spot near the dead body. She identified the notes and the foot-wear.

In the cross-examination, she stated that they had worked in Pune earlier for two years. She admitted that she did not tell anybody that the Appellant had told her that he would kill her husband. She had not even told about it to her parents. She explained that she did not tell about that fact to anybody because she was not sure that the Appellant would actually commit such an

act. After that, certain questions were put to her purportedly to bring out the omissions from her earlier statement. However we find that those questions were not pertaining to her deposition. Therefore, the defence could not have relied on what she had stated before the police. No efforts were made to get those statements on record by way of contradictions. Therefore, the cross-examination in that direction does not help the defence at all. She denied the suggestion that she was deposing falsely. A specific suggestion was put to her that her husband had left the house four to five days earlier without telling anybody. She denied that suggestion.

8. PW-6 Kashinath Natekar was father of the deceased. He deposed that Omkar was residing in their village with his family. The Appellant came to their village and took Omkar and PW-1 to Pune. PW-6 stated that the Appellant and Padmavati killed Omkar. However, the prosecution case is restricted to the fact that only the Appellant had committed Omkar's murder. In his deposition, PW-6 further stated that, after two days of their coming to Pune, PW-1 informed him telephonically that his son Omkar was missing. At that time, PW-6 was in Warje. PW-1 and the Appellant went back

to their village and they again came back to Warje. There was a meeting of their panchayat. It was attended by the Appellant, PW-1 and other villagers. PW-6 further stated that, in that meeting, the Appellant stated that he had killed Omkar with a knife. He led them to that place. He took them near the bank of a river. They saw the dead body. Omkar had suffered stab injuries on both sides of his stomach and had also head injury caused by the stone. Some currency notes were lying near the dead body. He was not wearing a shirt. The police recorded PW-6's statement and treated it as the FIR. It is produced on record at Exhibit-27. PW-6 had shown the spot to the police where Omkar's dead body was lying. At that time the villagers were also present. He identified the Appellant present in the Court. PW-6's statement was recorded by a Judicial Magistrate First Class under Section 164 of Cr.P.C.. The statement is produced on record at Exhibit-28.

In the cross-examination, he stated that he had told the police that Omkar had left five days ago without telling anybody and he was found near a canal. He also told the police that Omkar was addicted to liquor. He had told the police that PW-1 and the Appellant together had killed his son. He denied the suggestion

that he was making false statement in his deposition regarding murder of his son. He denied the suggestion that Omkar's friends Maheshwar and Chandrakant committed Omkar's murder because there was a quarrel between Omkar and these two friends for using bad words against PW-1 Padmavati. He denied the suggestion that on 21st, the Appellant phoned him and told him that Omkar was missing. He denied having stated to the police that the Appellant had told him that on 20th the Appellant and Omkar had gone for work of *mukadam* and after that Omkar had gone somewhere and was not traceable. He could not tell the date of meeting of the panchayat. He could not say how many people had attended that meeting. He stated that they were searching for Omkar for two days. He denied the suggestion that while searching, they found Omkar's dead body and that he had falsely implicated the Appellant.

9. The FIR produced on record at Exhibit-27 substantially corroborates PW-6's evidence. Except that in the FIR, it is mentioned that the Appellant had informed him telephonically that he and Omkar had gone to mukadam for work and during the work Omkar had gone somewhere and was not found. This is the

only deviation in the narration of events in the FIR from his deposition. However, whether PW-1 spoke with him or the Appellant spoke with him informing about the deceased hardly matters. PW-1 has stated that the Appellant had made that phone call to PW-6. The fact remains that PW-6 was telephonically informed that Omkar was missing. His statement recorded under Section 164 of Cr.P.C. is produced on record at Exhibit-28. It substantially corroborates his deposition. No material omission is brought on record by the defence from this statement by inviting PW-6's attention to this statement.

10. PW-7 Gundappa Uppanna Bokenaur-Navlenaur had attended the panchayat meeting. He did not name the persons who were present at that meeting. All of them asked the Appellant about Omkar. The Appellant told them that he and Omkar were going somewhere. At that time some other person stopped Omkar. The Appellant had run away. The persons in the meeting questioned the Appellant as to why he had run away. The Appellant told them that he would show them that place. Then all of them went with the Appellant. Initially the Appellant took them to different spots but finally he took them towards the river-bed

and showed the dead body. PW-1 and PW-6 identified the dead body. It was decomposed. All of them then brought the Appellant to the police station. PW-6 lodged his FIR. The police went to the spot where the dead body was lying. The police recorded PW-7's statement. In the cross-examination, he has deposed that they started from Warje at 12 noon and found the dead body at about 3.00 p.m.. They searched near the river for about half an hour. He denied the suggestion that he was deposing falsely because Omkar was his relative.

11. PW-2 Kucchappa Gundale was the contractor. The Appellant brought Omkar, PW-1 and their son to him for work. The Appellant wanted money to buy the grocery. He had given money to both of them. After that, the Appellant and the deceased did not come back to him. At about 6.00 p.m. PW-1 approached him and told him that her husband Omkar and the Appellant had not returned. She asked him to help her by making a phone call. He made a phone call to the Appellant, who told this witness that he had gone for some other work at Warje naka and that Omkar had purchased grocery and liquor and had gone away. The Appellant returned home at about 8.00 p.m.. He had brought 1 kg rice with

him. PW-2 asked him about Omkar but he told him that he did not know about Omkar and that Omkar might have gone with some relatives and that he would come back. In the night, PW-1 was worried and was crying. Next day he was told by the Appellant that he would drop PW-1 to her native village. Omkar's father called this witness and requested him to search for Omkar. PW-1's brother called him and told him that the Appellant had shown the dead body of Omkar. The police made enquiries with this witness and his statement was recorded. In any case, what PW-1's brother told him about the Appellant pointing out the dead body would be a hear-say as far as he is concerned.

In the cross-examination, he stated that he had no documentary evidence to show that the deceased and the Appellant were working with him.

12. PW-3 Hanumant Sorte was working in a beer shop. On 20.11.2014, the Appellant had come to his shop with one person but PW-3 did not know that person. The Appellant and that person purchased two beer bottles and also purchased some liquor from another liquor shop situated nearby. They consumed liquor in front of that shop and threw the bottles there. They left the place after

about 30-45 minutes. He did not hear their conversation. Since he did not know the person accompanying the Appellant, his evidence is not of much importance.

13. PW-5 Dr. Harish Tatiya had conducted the postmortem examination and had found the following injuries.

- “1] Stab injury present over left side of the abdomen, situated 02 cm left to midline and 22 cms below medial end of left clavicle of size 03 cms x 02 cms x cavity deep margins clean cut, with infiltration of blood present in margins, red.
- 2] Stab injury present over left side of the abdomen, situated 16 cm left to midline and 24 cms below left clavicle of size 08 cms x 03 cms x cavity deep with coils of intestine protruded out, margins clean cut, with infiltration of blood present in margins, red.
- 3] Lacerated wound present over dorsum of right foot and right ankle of size 16 cms x 06 cms x bone deep, margins irregular, with infiltration of blood present in margins, red.

The injuries were antemortem in nature.

. There were following internal injuries :

- 1] Head – Underscalp hematoma present over right fronto parieto temporal region of size 10 x 06 cms, irregular, dark reddish.
- 2] skull vault-linear fracture present extending from right temporal region to left parietal region of length 09 cms irregular with infiltration of blood present in margins.

- 3] skull base – intact, no fractures.
- 4] Dura – intact no injury.
- 5] Brain [1] subdural hematoma present over right parieto temporal region as dark red blood clots.
[2] Brain matter liquified and decomposed.”

In his opinion, the death was caused because of head injury with stab injuries over abdomen. He denied the suggestion in the cross-examination that the dead body was beyond identification because of decomposition of the dead body. The postmortem notes are produced on record at Exhibit-23.

14. PW-9 Dr. Abhijeet Mane had examined the Appellant on 1.2.2015. He had found abrasion on the Appellant's right thumb. It was partially healed. He had blunt trauma on left forehead and abrasion on left forehead with scab formation. The age of both these injuries was within ten to fifteen days. The injuries were simple.

15. PW-4 Anwar Sayyed was a pancha for two important panchnamas. He was present when the police conducted spot panchnama. It is produced on record at Exhibit-20. He deposed that at the time of spot panchnama the police officers, father and the wife of the deceased were present. The place was shown by the

Appellant to the police. The spot panchnama is produced on record at Exhibit-20. However, the panchnama itself mentions that PW-1 and PW-6 had informed the police and the pancha about the history of the deceased missing from his house and the Appellant showing the dead body to them. The police recovered some articles from the spot viz the foot-wear of the deceased, two currency notes, hair of the deceased and the earth from the spot.

On 1.12.2014 he was also called by the police. At that time he was called to Abhiruchi police chowky. The Appellant was present with the police. The Appellant told the police that he would show the place where he had kept the stone and the knife which was used for committing the murder. His statement was recorded, which is produced on record at Exhibit-21/1. The Appellant led them near the bamboo plants. He took out one blade of knife without handle, handle of the knife, and 2-3 stones from the bushes. The weapons were seized. The panchnama is produced on record at Exhibit-21/2.

16. Learned counsel for the Appellant invited our attention to the statement in the panchnama that the weapons were recovered from the bushes in Survey No.47 which was an

agricultural land belonging to one Chandrakant Raikar. The spot panchnama at Exhibit-20 also mentions the same survey No.47 of Chandrakant Raikar's agricultural field from where the dead body was found.

17. PW-8 API Zuber Mujawar was the investigating officer. He was informed on 24.11.2014 that a dead body was found. He started the investigation. His assistant conducted the spot panchnama. He arranged for the postmortem examination. He conducted the spot panchnama and recovered the weapons under panchnama. He conducted further investigation. He sent the articles for chemical analysis and at the completion of investigation he filed the charge-sheet in the Court.

18. Apart from this oral evidence, the prosecution produced the C.A. certificates on record at Exhibit-37. It showed the hair and earth seized at the spot as well as stones, knife and knife handle recovered at the instance of the Appellant were stained with blood, however, the blood grouping was inconclusive.

. This, in short, is the evidence led by the prosecution.

19. Learned counsel for the Appellant made the following submissions :

- i. The case is based purely on circumstantial evidence. The prosecution has not proved any of the circumstances beyond reasonable doubt. The circumstantial evidence does not form a complete chain pointing unerringly to the guilt of the Appellant.
- ii. The prosecution has not established the motive. Admittedly the deceased was aware of the relationship between the Appellant and his wife. Even then the deceased had accepted the job offered by the Appellant to work in Pune. There was no quarrel between the deceased and the Appellant. Even till the last day, no particular incident took place between them showing that the Appellant wanted to commit murder of the deceased.
- iii. PW-1 did not disclose to anyone about the intention expressed by the Appellant to commit murder of the deceased. It is only after the incident, that she was blaming the Appellant. In fact, the father of the deceased had suspected PW-1 as well in committing murder of the deceased. Therefore, she is not a reliable witness.
- iv. The prosecution has failed to prove that the deceased was

last seen in the company of the Appellant. In any case, the 'last seen theory' in this case does not help the prosecution because there was neither proximity of time of death nor proximity of distance where the dead body was found. Therefore, this circumstance cannot be held against the Appellant.

- v. The other circumstance of extra-judicial confession by its very nature is inherently a weak piece of evidence. The conviction cannot be based on this evidence. In this particular case it is a weak circumstance. According to the prosecution case the Appellant had made extra-judicial confession before PW-1 and also during the meeting of the panchayat. However, though PW-6 has stated that he confessed to committing murder at the time of the meeting, this is not corroborated or supported by the evidence of PW-7 who was also present at the time of the meeting. Therefore, the evidence of PW-6 to that extent is not reliable.
- vi. The next circumstance is about discovery of body of the deceased Omkar at his instance. However, that

circumstance is extremely doubtful and in any case pointing out the dead body, would not lead to the only conclusion of commission of murder by the Appellant.

- vii. The recovery of weapon is doubtful. The dead body was found in Survey No.47 in the agricultural field of one Chandrakant Raikar. The weapons were also found at the same place. Therefore, the investigating officer has not explained as to why they had not searched around the place for the weapon at the time of conducting the spot panchnama involving the dead body.
- viii. The learned counsel relied on the judgment of the Hon'ble Supreme Court in the case of **Boby Vs. State of Kerala**¹ and in particular he relied on paragraph-25 of the said judgment, which reads thus :

“25. It could thus clearly be seen that the last-seen theory comes into play where the time-gap between the point of time when the Accused and the deceased were last seen alive and when the deceased is found dead is so small that possibility of any person other than the Accused being the author of the crime becomes impossible. If the gap between the time of last seen and the deceased found dead is long, then the possibility of other person coming in between cannot be ruled out.”

¹ (2023) 15 SCC 760

20. Learned APP, on the other hand, submitted that it has been the consistent case of PW-1 Padmavati that the deceased had left with the Appellant and had not returned; only the Appellant had returned. Throughout the four days till the body was discovered, the Appellant was pretending as if he did not know where the body lay. He has not offered any explanation in respect of his own injury. She submitted that from the aforementioned circumstances referred to by learned counsel for the Appellant, in fact the prosecution has proved each of these circumstances beyond reasonable doubt, forming a complete chain pointing towards the guilt of the Appellant.

21. We have considered these submissions. As far as the motive part is concerned, according to the prosecution case PW-1 Padmavati was having illicit relationship with the Appellant. PW-1 Padmavati was married to the deceased. Therefore, the deceased Omkar was always in the way of smooth relationship between the Appellant and PW-1 Padmavati. According to the prosecution case, this is the motive for which the Appellant had committed murder of the deceased. As far as PW-1's illicit relationship with the Appellant is concerned, she herself has admitted to such a

relationship. There is no serious challenge to her deposition to that effect. She has given a clear history that she was having illicit relationship with the Appellant since past two years and the deceased was opposing continuation of that relationship. Her evidence shows that the Appellant brought the deceased to Pune on the pretext of giving him work and immediately within a couple of days eliminated him. Therefore, it can safely be concluded that the prosecution has proved that there was a strong motive for the Appellant to eliminate the deceased.

22. Learned counsel for the Appellant submitted that PW-1 Padmavati had not informed anybody about the intention expressed by the Appellant to commit murder of the deceased Omkar. However, it can be seen that PW-1 Padmavati herself was in illicit relationship with the Appellant and, therefore, it is not unnatural that she had not told about the Appellant's intention to anyone else. Her evidence shows that she tried to make the Appellant change his mind about killing and eliminating the deceased. But the subsequent events, which had unfolded, show that the Appellant did not pay any heed to her and executed his evil design.

23. Learned counsel for the Appellant submitted that the circumstance of 'last seen together' is absent in this case; and in any case it is not proved in support of the the prosecution case in the background of the incidents.

24. In this context it can be seen that PW-3 Hanumant Sorte was examined by the prosecution to show that the deceased was with the Appellant when they consumed liquor. However, PW-3 Sorte did not know the deceased and no efforts were made by the prosecution to establish identity of the person accompanying the Appellant when the Appellant and that person had consumed liquor. Therefore, strictly speaking this is not an evidence about the 'last seen together'. However, according to the prosecution case PW-1 Padmavati was knowing that the deceased had left with the Appellant and the prosecution has proved this fact through her evidence. There is no reason to doubt her version to that extent. This version is further supported by the evidence of PW-2 Kuchhappa Gundale. The Appellant had brought the deceased Omkar, PW-1 Padmavati and their son to meet him and the Appellant himself phoned this witness asking for some money. PW-2 Gundale had given him the money. He had given Rs.700/-

to the deceased Omkar and Rs.100/- to the Appellant. Thus, his evidence supports the case of PW-1 that the deceased and the Appellant had gone to buy grocery. This is an important circumstance because after both of them had left, the deceased did not return; but the Appellant returned alone and offered no explanation except saying that the deceased had gone for some work.

25. The subsequent conduct of the Appellant is even more incriminating. He had spent that night with PW-1. She has admitted that even during that night they had their physical relations. The prosecution case is that the Appellant had executed his plan in cold blood and had taken advantage of the situation, which was his ultimate intention and desire. Therefore, strictly speaking this is not a case based on the circumstance of 'last seen together'; but this conduct of the Appellant leaving together with the deceased, coming back alone, giving false explanation are all incriminating and they form a chain of strong circumstances against the Appellant.

26. Since this is not a case which rests on the circumstance of 'last seen together' theory, the reliance on the case of **Boby Vs.**

State of Kerala by the learned counsel for the Appellant is misplaced.

27. After the fateful night, the Appellant kept misleading PW-1 Padmavati and PW-6 Kashinath Natekar that he did not know whereabouts of the deceased. After a lot of efforts, in a meeting of elders and respectable persons of the panchayat held at Warje, the Appellant showed willingness to point out the dead body. However, at that time, his claim was that some unknown persons had committed murder of the deceased. For about four days, the Appellant did not disclose his story to either PW-1 Padmavati or to PW-6 Kashinath Natekar, instead kept feigning ignorance about the whereabouts of the deceased. This is yet another incriminating piece of circumstance.

28. The most incriminating piece of circumstance in this case is the Appellant pointing out the dead body which was within his exclusive knowledge. He led PW-1 Padmavati, PW-6 Kashinath Natekar and other respectable persons from their community to the spot where the dead body was lying in a decomposed condition. There is no acceptable explanation offered by the Appellant as to how he came to know about location of the dead body. This is a

seriously incriminating piece of circumstance against him in the backdrop of his past conduct and motive.

29. Learned counsel for the Appellant tried to contend that the police were already aware of the spot where the dead body lay; however this argument is not correct. It was the Appellant who had led PW-1 Padmavati, PW-6 Kashinath Natekar and others to the spot where the dead body was found and thereafter the police were informed. After that, as a part of investigation, the spot panchnama was conducted. Therefore, the prosecution has led admissible and acceptable evidence in respect of finding of the dead body. It was pointed out by the Appellant himself.

30. The other circumstance against the Appellant is of recovery of a knife and the stones. Though learned counsel for the Appellant tried to contend that the weapons were found from the same spot from where the dead body was found; it is not correct. Though the survey number was the same but the weapons were thrown in the bushes and they were not found near the dead body. They were found only pursuant to the memorandum statement made by the Appellant in presence of the pancha. We do not find any infirmity in that recovery. The C.A. certificates show that the

knife, the handle of the knife and the stones had showed presence of human blood.

31. The next circumstance against the Appellant is the injuries on his person. His thumb had a healed injury which could have been caused by the knife. It must be noted that the blade of the knife was separated from the handle of the knife and, therefore, the injury on his thumb was quite possible. The age of injury was approximately at the time of commission of the offence. Thus, it is another incriminating piece of evidence proved by the prosecution against the Appellant.

32. There is another circumstance of extra-judicial confession. However, in this context the evidence of PW-6 Kashinath Natekar and PW-7 Gundappa Bokenaur is not consistent. PW-7 Gundappa Bokenaur has not spoken about the extra-judicial confession. Though PW-6 Kashinath Natekar has deposed in his evidence that the Appellant had confessed to his crime, his FIR does not make reference to such a extra-judicial confession. Therefore, the evidence of both these witnesses in respect of these incriminating circumstances will have to be ignored. However, PW-1 Padmavati has deposed that the Appellant

had confessed to her that he had committed murder of the deceased Omkar. PW-1 Padmavati is a natural witness, who was not only in close relationship with the Appellant but she was wife of the deceased. She had also deposed about the intention expressed by the Appellant to commit murder of the deceased and, therefore, the extrajudicial confession made by the Appellant to PW-1 is acceptable. This circumstance can be taken into consideration with other circumstances while deciding this case.

33. As a result of the above discussion, we are satisfied that the prosecution has proved each of the above incriminating circumstances against the present Appellant beyond reasonable doubt. All these circumstances form a complete chain unerringly pointing to the only hypothesis of guilt of the Appellant. With the result, we do not find any merit in the Appeal. The Appeal is dismissed. With dismissal of the Appeal the connected Application is also disposed of.

(ADVAIT M. SETHNA, J.)

(SARANG V. KOTWAL, J.)

PRADIPKUMAR
PRAKASHRAO
DESHMANE

Deshmane (PS)

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