

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1228 OF 2022
WITH
INTERIM APPLICATION NO.5149 OF 2024
IN
CRIMINAL APPEAL NO.1228 OF 2022**

Mr. Bharat Ladak Padavi
Age: about 32 years, Occupation: Services,
R/o. Ashagad Wadupada, Taluka: Dahanu,
District: Palghar, At preset Lodged at Nashik
Rd Central Prison, Nashik as
Convict No. C-11689

...Appellant/
(Orig. Accused)

V/s.

State of Maharashtra
At the instance of Dahanu Police Station
vide FIR @ C.R. No. I-78/2013

...Respondent/
(Orig. Complainant)

Adv. Shashikant Damodarlal Chandak (Appointed Legal Aid) a/w
Adv. Kanchan Shashikant Chandak, for the Appellant.
Ms. Geeta P. Mulekar, APP for the Respondent-State.

**CORAM : SARANG V. KOTWAL &
SHYAM C. CHANDAK, JJ.**

**RESERVED ON : 17th JULY, 2025.
PRONOUNCED ON : 25th JULY, 2025.**

JUDGMENT : (PER SHYAM C. CHANDAK, J.)

. Present Appeal is seeking an exception to the Judgment
and Order dated 13.04.2018, in Sessions Case No.15 of 2014, passed

by the learned Additional Sessions Judge, Palghar. Thereby, the Appellant has been convicted for committing murder of his wife Sangita Padvi (“**deceased**”), an offence punishable under Section 302 of Indian Penal Code, 1860 and was sentenced to suffer imprisonment for life and to pay a fine of Rs.5000/-, with default stipulation.

2) Heard learned Appointed Counsel Mr. Chandak, for the Appellant (“**accused**”) and learned APP Ms. Mulekar, for the Respondent-State. Perused the record.

3) The prosecution story was that, the deceased was sister-in-law (*Nanand/नणंद*) of the first informant Mrs. Mali Walya Gahla, r/o *Aswe Sawarpada*, District Thane. Since last 15 years of the incident, the deceased had love relations with the accused and since then, she was residing with the accused as his wife, at *Ashagad-Wadupada*. However, the deceased could not conceive a child. The accused always used to beat the deceased as she was not conceiving. P.W.1 was intermittently visiting the couple. The deceased was complaining to her other sisters and P.W.1 about the said beating, whenever she was visiting them. However, after a couple of days, the accused used to come and take the deceased with him for cohabitation. At the time of Diwali of 2011, P.W.1 and her husband had visited the deceased at

Wadupada. At that time, the accused had beaten the deceased in their presence. Therefore, P.W.1 had stayed their for a night.

On 30.11.2013, at about 8:00 a.m., Sunder, sister-in-law (नणंद) of the deceased came at P.W.1 and told that something wrong happened with the deceased and to accompany with her, there. Immediately, P.W.1 and other members of her family came to the deceased's house/hut, situated in her mother-in-law's agricultural land at *Ashagad-Wadupada*. There, they saw that the deceased was lying on the floor in the kitchen, in a pool of blood. The accused was present there. On inquiry, the accused told them that on 29.11.2013, at about 12:00 midnight, a quarrel had occurred in between him and the deceased on account of not getting a baby. At that time, in a fit of anger, the accused assaulted the deceased by means of a sickle and pickaxe and caused her death.

4) Thereafter, P.W.1 filed a Report (Exh.12) at Dahanu Police Station which was registered at F.I.R. No.78 of 2013, under Section 302 of I.P.C. against the accused. Investigation Officer P.W.7-Ravindra Patil visited at the spot, recorded the Inquest Panchnama (Exh.16) and referred the body for postmortem examination. Then, he recorded the Spot Panchnama (Exh.20) and seized blood smeared earth, simple

earth, sickle and the pickaxe from the spot. P.W.5-Dr. Prabhakar Bhoys conducted the autopsy and found the following external injuries on the body of the deceased, which were antemortem in nature.

External injuries :-

- (i) CLW over left side of chin, 2.5 cm X 1.5 cm. with well defined edges;
- (ii) Laceration over left cheek just lateral to injury no.1 measuring 2 cm X 1 cm X 1.5 cm;
- (iii) Laceration over left cheek just lateral to injury no.2 measuring 2 cm X 1.5 cm.;
- (iv) Laceration over upper lip middle to left side 1.5 cm length ;
- (v) Laceration over interior part of neck from midline to right at level of upper edge of thyroid cartilage 3.5 cm X 2 cms. with edges well defined;
- (vi) Abrasions 4 in numbers on right side of cheek from right angle of mouth to edge of Jaw, 1 cm X 0.5 cm, 0.5 cm. X 0.5 cm., 1 cm. X 0.3 cm. and 1 cm. X 0.4 cm.;
- (vii) Abrasions over left cheek 5 in numbers between ear and nose measuring 1.5 cm X 0.75 cm, 1.5 cm. X 0.5 cm., 1 cm. X 0.5 cm., 1 cm. X 0.3 cm. and 0.5 cm X 0.5 cm.;
- (viii) Abrasion over forehead above left eye brow 1 cm X 0.5 cm;
- (ix) Abrasion over anterior part of neck suprasternal and both supraclavicular region 3 in numbers, 4 cm X 1 cm, 3.5 cm X 1 cm. and 5 cm. X 1 cm.;
- (x) Abrasion over chest left parasternal region 3 cm X 1 cm.;
- (xi) Abrasion over sternal region of chest 1.5 cm X 1 cm.;

- (xii) Abrasion over anterior part of left shoulder 2.5 cm X 1.5 cm.;
- (xiii) Abrasion over Epigastric region 10 in numbers from xipisternal to umbilicus measuring 1.5 cm X 0.5 cm, 1 cm X 0.5 cm, 1 cm X 0.5 cm., 1 cm X 0.5 cm, 0.75 cm X 0.5 cm., 1 cm X 0.5 cm., 1 cm X 0.5 cm, 0.75 cm X 0.5 cm, 0.5 cm X 0.5 cm, and 0.5 cm X 0.5 cm.;
- (xiv) Abrasion over left lumbar region of abdomen measuring 1.5 cm. X 0.5 cm.

Internal injuries :-

In so far as internal injuries were concerned, P.W.5 noted that, there was haemorrhage under the scalp over left temporal and parietal region measuring 6 cm X 4 cm. Abdomen wall subcutaneous haemorrhage noted over epigastric region from xipisternum to umbilicus. Liver and gall bladder rupture of right lobe at anterior part of medial aspect.

The probable cause of the death was haemorrhagic shock due to multiple trauma with rupture of liver. Accordingly, P.W.5 prepared and issued the Postmortem Report (Exh.30).

5) Police Head Constable VB Patil seized the clothes, bangles and marriage string of the deceased under Seizure Panchnama (Exh.17). P.W.7 arrested the accused and seized the bloodstained clothes on his person under Seizure Panchnama (Exh.21.). He

recorded the statements of witnesses. He forwarded the *muddemal* articles for Chemical Analysis. On culmination of investigation, P.W.7 submitted charge sheet.

6) During the trial, the prosecution examined 7 witnesses :-
P.W.1-Mali Gahla, first informant. P.W.2-Santosh Dhinde, panch witness of Inquest Panchnama and seizure of the clothes etc. of the deceased. P.W.3-Ganesh Gujar, spot panch. P.W.4-Bistura Paadvi, mother of the accused. P.W.5-Dr. Prabhakar Bhoje, Medical Officer. P.W.6-Ananta Padvi, cousin of the accused, who was residing to his neighbour. P.W.7-Ravindra Patil, Investigation Officer.

7) On closure of the evidence, the trial Court questioned the accused u/Sec. 313 Cr.PC. about the incriminating evidence and circumstances. The accused denied all of them and pleaded not guilty.

The defence of the accused was of denial and false implication. It was his specific defence that, there was a land dispute between the accused and his father on one side and the uncles of the accused and their sons on the other. The father of the accused was beaten up by uncle of the accused. Therefore, a complaint was filed against the uncle and his sons. More land was given to the share of the father of the accused, but, P.W.6 sold the land of the share of the

accused, to one Babubhai. Therefore, there was a dispute between P.W.6 and the accused and the brother of P.W.6 had filed complaint against the accused and his mother. Hence, the witnesses have deposed false against the accused.

8) On evaluating the prosecution evidence, the learned Judge of the trial Court held that the accused has committed the murder and therefore, convicted and sentence him as noted above.

9) We have gone through the evidence on record with the assistance of the learned Counsel for the accused and the learned APP.

10) In so far as the date, time and place of the incident was concerned, the accused did not dispute the said fact. P.W.5 testified that on 30.11.2013, between 4:00 p.m. to 5:15 p.m., at sub-District Hospital Dahanu, he conducted the postmortem examination and found the aforesaid external and internal injuries on the body of the deceased. Accordingly, he issued the Postmortem Report (Exh.30). P.W.5 deposed that the aforesaid external injury Nos.1 to 5 were possible by the said sickle and the external injury Nos.6 to 14 were possible by the said pickaxe. This oral and the documentary evidence by the expert remained unaffected in his cross-examination. The injuries clearly show that those were intentionally inflicted to cause

the death of the deceased. Therefore, it was established that the deceased died the homicidal death.

11) Mr. Chandak, the learned counsel for the accused submitted that, till the incident, the deceased and the accused cohabited together for 15 years. During that period, there was no occasion or any reason for the informant side and the deceased to file any police complaint against the accused. Even the witnesses have admitted that no such complaint was filed during the relevant period. He submitted that the deceased and the accused both were taking medical treatment to have their own child. As such, the contention of the prosecution cannot be accepted that the accused used to beat the deceased on account of not conceiving a child.

He submitted that there was no eye witness to the murder. Both P.W.1 and P.W.6 are interested witnesses. P.W.7 categorically admitted that the accused was working in the night shift. Therefore, it is safe to presume that at the relevant time, *i.e.*, at 12:00 midnight, the accused was at his work place. He submitted that the seizure of the weapons, clothes of the deceased and the clothes of the accused was not proved because the panch P.W.2 is an interested witness and panch P.W.3 is a got up panch, therefore, their testimony was not

reliable. He submitted that no witness has stated that the accused had worn the said T-shirt and pants at the time of incident. As such, the prosecution has failed to prove the necessary link in the circumstantial evidence leading to only hypothesis that except the accused no other person has murdered of the deceased. He submitted that since P.W.1 and P.W.6 are interested witnesses, their evidence as to the extra-judicial confession of the accused is not trustworthy. However, the trial Court convicted and sentenced the Appellant, which is erroneous.

12) In contrast, Ms.Mulekar, the learned APP for Respondent-State submitted that the evidence of P.W.1 and P.W.6 indicate that the accused used to quarrel with the deceased as she could not conceive a child. There is evidence that the accused and the deceased were taking medical treatment to have a child. Said fact supported the testimony of P.W.1 and P.W.6. The accused has not disputed that the deceased was murdered in the said house, belonging to his mother (P.W.4). The mother of the accused herself stated that sometimes the accused and the deceased used to reside in the said house. The accused failed to explain his whereabouts of the night of the incident. She submitted that the blood found at the spot, on the seized weapons, the clothes of the deceased and the clothes of the accused is

of same blood group 'A'. The blood group of the accused is 'O'. However, the accused failed to explain the blood of the deceased on his seized clothes. She submitted that the deceased died in the custody of the accused. Yet, the accused did not explain the cause behind her death. As such, the circumstances proved by the prosecution lead to only the conclusion that in the relevant night, the accused and the deceased were together and that, the accused committed the murder of the deceased on account of she could not conceive a child. Additionally, she submitted that, the accused had confessed the murder to P.W.1 and P.W.6, who are his close relatives. Details of the relevant land were not brought on record to show that, indeed, there was a land dispute, as suggested to the witnesses in the cross-examination on behalf of the accused. As such, the version of the defence was not probable. Therefore, the impugned Judgment and Order of conviction and sentenced is proper.

13) We have carefully perused the evidence and considered the rival submission made by the learned counsel and the learned APP. At the outset, we found that, the accused has not disputed that he and the deceased had resided together for 15 years, as the husband and wife. The accused has not disputed that the deceased could not

conceive a child from him, out of said relationship.

14) It is trite that where a case rests squarely on circumstantial evidence, the inference of guilt is justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused or the guilt of any other person. As observed by the Hon'ble Supreme Court in ***Udaipal Singh vs. State of Uttar Pradesh***, reported in ***AIR 1972 SC 54***, paragraph 11, "... *In cases where only circumstantial evidence is available, at the out set, one normally starts looking for the motive and the opportunity to commit the crime. If the evidence shows that the accused having a strong enough motive had the opportunity to commit the crime and established circumstances on the record considered along with the explanation, if any, of the accused, exclude the reasonable possibility of anyone else being the real culprit, then the chain of evidence can be considered to be so complete as to show that within all human probability the crime must have been committed by the accused, he may in that event safely be held guilty on such circumstantial evidence. ...*"

15) In the case at hand, the motive for the accused to commit the murder of the deceased was inability of the deceased to conceive a

child. In this regard, P.W.1 has deposed that the deceased was her sister-in-law and she was married with the accused. After the marriage, the deceased was residing with the accused at *Ashagad-Wadupada*. The couple had no child. P.W.1 deposed that there used to be quarrels between the deceased and the accused on account of not having a child. P.W.1 deposed that, they used to take the deceased at their house due to such quarrel and give an understanding to her. She deposed that the accused used to take back the deceased for cohabitation. P.W.1 deposed that, about three and half years prior to the incident, at the time of the Diwali Festival, she and her husband had visited at the house of the deceased. At that time, the accused had tried to beat the deceased by a wooden log.

16) The said evidence of P.W.1 is not suffering from omissions and contradictions. It is corroborated with P.W.1's Report (at Exh.12). Admittedly, the accused and the deceased resided together for 15 years. There was close relationship between P.W.1 and the deceased, as the later was sister of the former's husband. As such, it was natural that, if the deceased had some trouble in the company of the accused or an ill-treatment from him, then she would definitely share it with P.W.1 and others from her paternal side. As such, the evidence of P.W.1

cannot be brushed aside that there used to be quarrels between the deceased and the accused on account of not having a child. Said evidence of P.W.1 find support from the testimony of P.W.6 that sometimes, the accused used to beat his mother and the deceased and that, as the accused had no child, he used to beat the deceased on that count. In the cross-examination of P.W.1, it has come that the accused and the deceased both had taken medical treatment to have their own child. The doctor was from Dahanu. Nothing has come in the cross-examine of P.W.1 and P.W.6 to disbelieve their said testimony. As such, we accept that the accused had the motive to commit the murder of the deceased.

17) P.W.4 specifically deposed that, she had two houses, one at *Ashagad* and another in her field. According to P.W.4, sometimes the accused and the deceased used to stay in the house at Pada and sometimes the couple used to stay in the house/hut, at the field. P.W.1 deposed that, on the day of the incident, the deceased's sister-in-law namely Sunder came at her place and informed them that the deceased had taken ill and she should be removed to the hospital. Sunder also suggested them to accompany with her. Accordingly, P.W.1 along with her husband, brother-in-law Ramesh and others went to

the house of the accused in the said field, at *Ashagad*. P.W.1 deposed that when they reached there, they saw that the deceased had injuries on her head, both the cheeks and stomach. She was lying in the kitchen. The accused was seated there. This evidence virtually went unchallenged in the cross-examination of P.W.1. Although, P.W.4, the mother of the accused did not support the prosecution case, P.W.4 has specifically deposed that at the relevant time, the accused called her at the spot of the incident, therefore, she went there. P.W.6 deposed that, he used to transport vegetables. On 30.11.2013, at about 5:00 a.m., he had been to Dahanu for loading vegetables. He returned home at about 7:30 a.m. Evidence of P.W.6 further indicates that, at that time, the accused informed him about the death of the deceased. This entire evidence clearly shows that the accused was at his house in the field, when P.W.1 went there.

18) Admittedly, P.W.4 was not with the deceased when the deceased was at the said house in the field. The deceased had no reason to go there alone and stay there in the night time. The accused has not explained his whereabouts of the night intervening 29th and 30th November, 2013. Further, the accused has not explained as to how and when he knew about the murder; exactly when he went to the

spot thereafter and why he immediately did he not inform the incident to the police. It was not the case of the accused that, in that night, he was at his work place and somebody informed him about the murder telephonically or in person. Therefore, it is safe to infer that the accused and the deceased were together in the said night intervening 29th and 30th November, 2013.

19) P.W.7 admitted that the accused was working in a balloon company and he was on night duty. He admitted that the accused used to leave his house at 6:00 p.m. and return at 7:00 a.m. Therefore, Mr. Chandak, the learned counsel for the accused urged to accept that when the murder took place, the accused was at his work place and not in the house. Yet these submission cannot be accepted because the accused has not produced any attendance register or similar document to show that, indeed, he was at his work place in the relevant night.

20) The evidence of P.W.2 and P.W.7 cumulatively indicate that on 30.11.2013, in presence of P.W.2 and co-panch Fulwanti Wadu, P.W.7 recorded the Inquest Panchnama (Exh.16) at the spot. The clothes on the body of the deceased were stained with blood. Further, the evidence of P.W.2 and P.W.7 show that, on the same day, at about 5:15 p.m., P.W.7 called P.W.2 and co-panch Anant Padvi at Dahanu

Police Station. In their presence, P.W.7 seized the Blouse (Article-A), Saree (Article-B), Bangles (Article-C) and Marriage String (Article-D) of the deceased, under the Seizure Panchnama (Exh.17). P.W.2 and P.W.7 identified the said articles. Nothing significant has come in the cross-examination of P.W.2 and P.W.7 to discard their said testimony and the seizure.

In cross, P.W.2 admitted that there were other houses in the vicinity of the house of P.W.4. Further P.W.2 admitted that prior to the incident, there was a quarrel between him, the deceased and the accused. P.W.2 admitted that, in that regard, the couple had filed a Non-Cognizable complaint against him. At that time, he had grudge against them. Therefore, the learned counsel for the accused argued that P.W.2 was inimical to the accused and he was an interested witnesses, therefore, his evidence was unsafe to rely upon. However, P.W.2 denied that as he had inimical terms with the accused, he signed the ready-made panchnamas. That apart, in the cross of P.W.2 it has come that he was serving as a clerk in the *Ashagad* Grampanchayat Office. So, P.W.2 was a public servant. Moreover, the evidence of P.W.2 is consistent with the relevant evidence of P.W.7. Hence, we disagree with the said submissions by the learned counsel for the accused.

21) P.W.3 deposed that on 30.11.2013, police had called him and co-panch Mhaya Rama Sawant at the spot of the incident. P.W.1 was present there with them. He deposed that there were bloodstains at the spot. The pickaxe (Article-E) and sickle (Article-F) were lying at the spot. Police took the said two objects and recorded the Spot Panchnama (Exh.20). He deposed that, thereafter, the police called him at the police station. The accused was present there. However, he deposed that he could not tell what action police took in his presence at that time. Thus, P.W.3 did not fully support the prosecution. Therefore, he was cross-examined by the learned APP under Section 154 of the Evidence Act, therein P.W.3 stated that the police seized the bloodstained Pant (Article-G) and Shirt (Article-H) of the accused in his presence, under Seizure Panchnama (Exh.21). He identified the pickaxe, sickle, pant and the shirt.

In the cross-examination for the accused, P.W.3 stated that he had good relations with P.W.1, who was from his village. Their houses were near to each other. It takes about 45 minutes to one hour by walk to go to Wadupada from his village. He admitted that police told him that they have prepared the panchnama and asked him to sign it. Accordingly, he signed the same. He cannot tell on which date

and at what time the Spot Panchnama was prepared. He admitted that the Arrest Panchnama (Exh.21) was already prepared by the police and he was asked to sign it. He did not know the contents of the said panchnamas. He admitted that he put both the signatures at a time. He admitted tat he signed the panchnamas on the say of P.W.1.

22) Looking at the aforesaid evidence of P.W.3, it is apparent that, he was completely hostile to the prosecution. His evidence is not reliable. However, that itself is not sufficient to discard the evidence of P.W.7 in so far as recording of the Spot Panchnama (Exh.20), arrest of the accused and other aspects of the investigation are concerned.

23) P.W.7 deposed that he recorded the Spot Panchnama (Exh.20). He collected blood stained earth and plain earth samples from the spot. He seized the said pickaxe and the sickle from the spot as the same were used in this crime. He deposited that said articles with the *muddemal* clerk under the receipt (Exh.37). He arrested the accused under Arrest Panchnama (Exh.21) and seized the T-shirt (Article-H) and the pants (Article-G), which were on the person of the accused and were stained with blood. He deposited the said clothes with the *muddemal* clerk under the receipt (Exh.38). He deposed that Mr. Patil, Police Head Constable had seized the clothes of the deceased

which were deposited with the *muddemal* clerk under the receipt (Exh.39). P.W.7 deposed that he recorded the statements of witnesses. He forwarded the *muddemal* articles to the FSL alongwith his letter (Exh.40). He collected the Postmortem Report and the CA report. On completion of the investigation he submitted the charge sheet. P.W.7 identified all the aforesaid the pickaxe, sickle and the clothes.

The aforesaid evidence did not receive any dent in the cross-examination for the accused. We, therefore, unhesitatingly rely on the said investigation steps taken by P.W.7 and accept the seizure of the material objects, blood samples etc. from the spot, seizure of the clothes etc. of the deceased and seizure of the clothes of the accused.

24) The CA Report (Exh.45) shows that human blood was present on the pickaxe and the sickle seized from the spot. The blood smeared earth collected from the spot by P.W.7 was containing human blood. The blood found on the blouse, saree and the marriage string of the deceased was of the human origin and of group 'A'. Similarly, the blood found on the T-shirt and the pants of the accused was of human origin and of group 'A'. All this collectively indicates that the accused committed the murder of the deceased, inflicting blows with the pickaxe and the sickle. Therefore, there was blood of the deceased

of group 'A' on the said weapons, at the spot, the clothes etc. of the deceased and the clothes of the accused. The blood of the accused is of group 'O' *vide* CA Report Exh.43. The accused had no injury when he was arrested nor it was his case that in the recent past to his arrest, he had sustained some injury. Therefore, the accused was required to explain the blood of the deceased on his said clothes. However, the accused did not explain that incriminating circumstance.

25) The extra link which the prosecution served in its evidence to comprehensively complete the chain of circumstantial evidence is, the extra-judicial confession made by the accused.

26) P.W.1 has specifically deposed that after reaching at the spot when she inquired with the accused, he clearly confessed to her that he committed the murder of the deceased with the pickaxe and the sickle. Similarly, P.W.6 also deposed that when the accused met him on the morning of 30.11.2013 at 07:30 a.m., the accused confessed to him that he committed the murder. Further, P.W.6 deposed that, hearing the confession he collected certain members and went to the spot. This was completely a natural conduct by P.W.1 and P.W.6. They being close relatives of the accused, it was natural that the accused would confess his crime before them. Therefore, we

rely upon the evidence of P.W.1 and P.W.6 that the accused had confessed to them that he committed this crime.

27) In the backdrop, we hold that the prosecution has proved its case beyond a reasonable doubt that the accused had committed the murder of the deceased.

28) Insofar as the defence story is concerned, the accused failed to bring on record the exact area of the land which his family was having and over which, the families/rival parties were fighting. Not for once, any notice was exchanged between the said parties, fighting for the land. No document pertaining to the said land was produced in the evidence by the accused. There is no material in the prosecution evidence indicating that, during the long 15 years stay of the deceased with the accused, the deceased had enmity with some third person. As such, there was no reason for any such person to come at the house of the accused and commit the murder. Therefore, we do not see any substance in the story of the defence.

29) The conspectus of the above discussion is that, the prosecution has successfully established its case that only the accused committed the murder of the deceased due to the quarrel on account of the deceased could not conceive a child from him despite their long

relationship. The circumstantial evidence which was placed into service by the prosecution, is not leading to any other hypothesis than the above. As such, the conviction of the accused under Section 302 of IPC and the sentence imposed upon him are proper.

30) As a result, the Appeal is liable to be dismissed and is accordingly dismissed.

31) With the disposal of the Appeal, the pending Interim Application does not survive and hence, stands disposed of.

(SHYAM C. CHANDAK, J.)

(SARANG V. KOTWAL, J.)