



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

CRIMINAL APPEAL NO. 746 OF 2024

Shri Doma @ Gendlal Hagruji Ghawde,
Aged about 61 years, Occ.: Cultivator, R/o
Banpuri, Tq. Parseoni, District Nagpur

...Appellant

// VERSUS //

1. State of Maharashtra through Police
Station Officer, Police Station Ramtek,
District Nagpur
2. Sushil Dhirajsingh Haihaibanshi,
Aged about 59 years, occ. Labour
R/o c/o Sunil Gade, Shivanagar, Parsoda,
Ramtek, District Nagpur

... Respondents

Shri C.F.Bhagwani, Advocate for the appellant.
Shri A.R.Chutke, APP for the respondent no.1/State.

**CORAM : NITIN B. SURYAWANSHI &
PRAVIN S. PATIL, JJ.**

DATED : 10th MARCH, 2025.

ORAL JUDGMENT (PER : NITIN B. SURYAWANSHI, J.)

By this appeal filed under Section 372 of the Code of
Criminal Procedure, victim challenges the judgment and order dated 10th
May, 2023, passed by learned Additional Session Judge-4, Nagpur in

Session Trial Case No. 202 of 2019, thereby acquitting respondent no.2 from the offence punishable under Section 304 of the Indian Penal Code.

2. Prosecution case is that on 31st May, 2018 at Mouza Khairi area of village Bijewada, Vijay Dhawde who was working on electric pole, was electrocuted and expired on the spot. Non-applicant no.2 being lineman of MSEB was charged under Section 304 of Indian Penal Code. In support of his case, prosecution has examined six witnesses. Trial Court acquitted non-applicant no.2. Hence, the present appeal.

3. Heard Shri Bhagwani, learned advocate for appellant and Shri Chutke, learned Additional Public Prosecutor for respondent/State. Perused the notes of evidence and impugned judgment of acquittal.

4. Learned advocate for appellant assailed the impugned judgment of acquittal contending that inspite of knowing the fact that the deceased was not having any knowledge of electricity work, respondent no.2 asked him to climb the pole to do the electricity work and while doing that work, deceased has expired due to electrocution. Therefore, there is sufficient evidence on record to show that appellant is guilty of commission of offence under Section 304 of Indian Penal Code.

5. Perusal of evidence shows that it has come in the evidence of Rambhau Dhawde (P.W.2) that deceased used to do the work of electric line. To prove commission of offence under Section 304 of Indian Penal Code, prosecution has to prove mens rea on the part of accused. In the present case, prosecution has failed to prove mens rea on the part of applicant no.2.

6. Trial Court has properly appreciated the evidence and has rightly acquitted respondent no.2/accused by passing a well reasoned order. No case is made out by the appellant to interfere in the impugned judgment and order of acquittal. Appeal being devoid of merit is dismissed.

[PRAVIN S. PATIL, J.]

[NITIN B. SURYAWANSHI, J.]