



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPEAL NO. 90 OF 2021

Anil Mahadeo Kudmethe,
aged about 38 years, Occ. Labour,
R/o Petur, Taq. Wani, District – Yavatmal.

...APPELLANT

Versus

The State of Maharashtra,
(Through Police Station Officer),
Police Station Wani, Taluka Wani, District Yavatmal.

...RESPONDENT

Ms S.P. Deshpande, Counsel for the appellant (appointed).
Mr. I.J. Damle, A.P.P. for the respondent/State.

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**CORAM : ANIL L. PANSARE AND
RAJ D. WAKODE, JJ.**

**ARGUMENTS WERE HEARD ON : 2/12/2025
JUDGMENT IS PRONOUNCED ON : 4/12/2025**

JUDGMENT (PER : ANIL L. PANSARE, J.) :

The appellant is aggrieved by judgment and order dated 7/7/2020 passed by the Additional Sessions Judge, Kelapur, District – Yavatmal, in Sessions Trial No. 13/2017. The Sessions Court convicted the appellant for the offence punishable under Section 302 of the Indian Penal Code, 1860 (IPC), and sentenced him to suffer imprisonment for life and to pay fine of Rs.1,000/-.

2] As such, the appellant was tried for the offences punishable under Sections 498A of IPC also, however, the Sessions Court acquitted him for the said offence. The appellant is aggrieved by the order of conviction, and hence, preferred instant appeal.

3] The brief facts relevant to decide the appeal are that the appellant, who is husband of the deceased, namely, Sushma, has, in the intervening night of 17/3/2017 and 18/3/2017, in his house, committed murder of his wife. The law was set into motion by none other than the father of the appellant. He lodged report on 18/3/2017 stating that his elder son Anil (appellant herein) has committed murder of his wife. The Investigating Officer Lodged First Information Report, collected evidence and filed chargesheet. The appellant pleaded not guilty. The prosecution examined eleven witnesses to bring home guilt of the appellant. The defence of the appellant is of total denial. He has not examined any witness in defence. The trial Court, after having considered the evidence, documents and the arguments advanced before it, convicted the appellant.

4] We have heard Ms S.P. Deshpande, Counsel for the appellant, and Mr. I.J. Damle, A.P.P. for the respondent/State. We will refer to the impugned judgment, documents, evidence and other material to the extent necessary to decide whether the prosecution has successfully proved guilt of the appellant.

5] The Counsel for the appellant has not disputed the homicidal death of the deceased Sushma. Her argument is that the case is based on circumstantial evidence, and that, chain of link is not completed.

6] We have, accordingly, and with the assistance of the Counsel for the appellant and the learned A.P.P., gone through the evidence.

7] PW1 – Mahadeo – the informant, deposed that his son Anil and his daughter-in-law Sushma were residing separately in his (PW1's) house at Petur. PW1's daughter Vandana is a widow, who was also residing with him. The incident occurred in house on 17/3/2017. His daughter Vandana got up for urination. She told him that door of Anil's room was open and he was lying outside the house while his wife Sushma was lying on the bed in her room. PW1 along

with his two sons and wife went to room of Anil. He saw Sushma lying motionless on the bed. He asked Anil as to what had happened to Sushma to which he said he killed her by strangulating her neck on account of doubting her character. PW1 and his two sons then beat Anil and tied him with rope. PW1 instructed his son Pravin to call Sarpanch, namely, Natthu Zade. Accordingly, Sarpanch and Tantamukti Committee Chairman came to PW1's house. They made a phone call to Police Station – Wani. PW1 lodged oral report against Anil.

8] In cross-examination, PW1 said that the incident took place between 10:00 to 11:00 pm, and he lodged report at that time. He then said that report was not lodged on next day. He denied that Sushma was suffering from stomach disease. The defence has then brought on record that Anil was addicted to liquor. It is also brought on record that PW1 was illiterate. It is then brought on record that Sushma used to tell them about quarrels between her and her husband. PW1 admitted that he did not see Anil killing his wife.

9] The Counsel for the appellant submits that report was lodged on 18/3/2017, whereas, PW1 stated that he lodged

report between 10:00 to 11:00 pm on 17/3/2017. This discrepancy, according to the appellant's Counsel, will make prosecution version doubtful.

10] We are not in agreement with the said submission. The defence itself has brought on record that PW1 was illiterate. The information of incident was given on phone in night itself. It is also brought on record that Police had recorded PW1's statement on next day morning. In the circumstances, a single statement in the entire evidence that report was lodged with Police Station – Wani between 10:00 to 11:00 pm cannot be read in isolation to discard other part of evidence, which is otherwise trustworthy. It is well settled that entire evidence will have to be looked into to test credibility of a witness.

11] In the present case, the appellant's father has lodged report against his own son saying that he killed his wife. The appellant himself has confessed of commission of crime, that too, in the presence of PW1 and two brothers as also sister.

12] PW3 – Pravin is brother of appellant, and PW6 –

Vandana is sister. Their evidence is in tune with PW1's testimony. PW8 – Sunil is an independent witness, who reached the spot immediately after the incident. The appellant, in his presence, informed PW1 that he killed his wife suspecting her character. Thus, there is an independent witness to the extrajudicial confession made by the appellant.

13] PW4 – Natthu – Sarpanch stated that when he reached the spot, Sushma was lying dead on bed, and accused Anil was tied by rope. Thus, his testimony will corroborate the evidence of PW1.

14] PW9 – Dilip is Sushma's father. He stated that Sushma was subjected to cruelty by appellant on account of failure to conceive and also by suspecting her character.

15] Thus, motive behind crime has been also proved through the testimony of the prosecution witnesses.

16] PW10 – Chandrashekhar is a doctor, who supported the prosecution version on homicidal death. Further, there is corroborative piece of evidence in the form of Chemical Analyzer's report (Exh. 81). Few buttons were found at the spot. Those buttons tallied with the shirt of appellant, which

was seized from his possession.

17] PW2 – Parag is a panch witness to spot panchanama. The spot is not in dispute. PW5 – Jayant is the one, who has prepared map of spot (Exh.4). PW7 – Prabhakar is head constable. His evidence is on the point of Muddemal deposited with the Police Station. We need not discuss evidence of these witnesses in detail as it has no bearing on the outcome of appeal.

18] The trial Court has assessed evidence in detail. The evidence of PW1, PW3, PW6 and PW8 is sufficient to establish guilt of appellant. The offence has been committed in the room, where none else but appellant and his wife were residing. The prosecution has discharged its initial burden to shift the same upon the appellant in terms of Section 106 of the Indian Evidence Act, 1872. The appellant has not discharged his burden under the said provisions. He tendered no explanation as to how did his wife suffer homicidal death.

19] That being so, and considering all attending circumstances, we are of the considered view that the prosecution has successfully proved involvement of appellant in

crime. The judgment passed by the trial Court is a well reasoned judgment. No interference is, therefore, called for in the impugned judgment. There is no merit in the appeal.

20] The appeal is, accordingly, dismissed.

21] Fees of the Counsel appointed to represent the appellant be quantified and paid as per Rules.

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