



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

**Criminal Appeal No. 491 of 2023**

Shubham S/o Sunil Maraskolhe  
Age 28 years,  
R/o – Sant Tukadoji Nagar,  
Subhash Nagar,  
Behind Telephone Exchange,  
Dist. Nagpur.

**... Appellant**

**- Versus -**

State of Maharashtra,  
through Police Station Officer,  
Police Station - Ranapratap Nagar,  
Dist. - Nagpur.

**... Respondent**

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Ms. Hemlata S. Sing with Mr. Abhishek Tiwari, Advocates for the  
appellant  
Mr. S. S. Doifode, APP for the State/respondent  
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**CORAM : ANIL L. PANSARE AND  
RAJ D. WAKODE, JJ.**

**Date of reserving judgment : 04-11-2025**

**Date of pronouncing judgment : 10-11-2025**

**JUDGMENT** (Per : ANIL L. PANSARE, J.)

The appellant – original accused has filed instant appeal under Section 374 of the Code of Criminal Procedure, 1973. He has taken exception to the judgment and order dated 5-4-2023 passed by learned Additional Sessions Judge-2, Nagpur in Sessions Trial No. 697/2019 whereby the appellant has been convicted for the offence

punishable under Section 307 of the Indian Penal Code (IPC) and is sentenced to suffer life imprisonment and to pay fine of Rs. 5,000/- in default to suffer simple imprisonment for a period of two months.

2. Briefly stated, the facts are as under :-

The victim i.e. Kajal (PW.1) and the appellant were in relationship. The appellant got married sometime in the year 2017. Despite such fact, they continued their relationship. Prior to two months of the incident, appellant's wife, namely, Pooja had been to the house of Kajal and took up a quarrel on account of continuation of relationship. Kajal then stopped talking to appellant. Prior to the incident, appellant had called Kajal on mobile and asked her to revive the relationship, she however, refused. Such status resulted into the incident, which occurred on 19-10-2018. The appellant came to her house and started knocking door. She did not respond. After 10 to 15 minutes, she felt that appellant had left the place, she opened the door. At that time, appellant rushed to her. He was armed with sword. He pushed her on floor and asked her as to why she was not talking with him and threatened to kill her. Thereafter he inflicted blow of sword on her right leg. He was about to inflict blow of sword on her throat but she escaped the same by putting her left hand in between. She sustained blow of sword on her hand resulting into bleeding injury

which ultimately turned out to the fracture at two places. She started screaming loudly. Appellant ran away. She was taken to Government Medical Hospital, Nagpur. She was taking treatment and while doing so, she lodged report against appellant. Accordingly, Crime No. 286/2018 was registered for the offence punishable under Section 307 of the IPC. The investigation was taken up and after collecting evidence, charge-sheet came to be filed. The prosecution examined six witnesses to bring home the guilt of accused. The trial Court found appellant guilty of the offence. The appellant is aggrieved by such finding and hence the present appeal.

3. We have heard Ms. Hemlata S. Singh, learned counsel for the appellant and Mr. S. S. Doifode, learned Additional Public Prosecutor (APP) for the State/respondent. We have gone through the evidence, documents, impugned judgment etc. We will refer the same to the extent necessary to decide the points involved in the appeal.

4. Learned counsel for the appellant initially made an attempt to point out that the trial Court committed an error in convicting the appellant, however, after having pointed out that the evidence of the victim (P.W. 1) and her sister Mahek (P.W. 3) is writ large to show involvement of appellant in the crime, learned counsel for the appellant restricted her argument to the quantum of sentence.

5. We will, therefore, not discuss the evidence in detail. Suffice it to say that the prosecution's case, has been in a way, substantiated in the cross-examination of these witnesses.

6. In the cross-examination of P.W. 1, the presence of appellant at the house of P.W. 1 is established. It is brought on record that when appellant came to her house, she went inside and closed the door. She saw appellant having sword in his hand. Further cross-examination shows that she did not make arrangement of protection, which according to us, is irrelevant. The fact remains that in the cross-examination of P.W. 1, the presence of appellant in her house at the relevant time has been proved. That apart, a case is put up by the appellant that P.W. 1's neighbours attempted to persuade the appellant at that time. It is also brought on record that sword, Article 'A' is heavy and after assault on her, she was shifted to hospital by her neighbours.

7. So far as P.W. 3 is concerned, it is brought on record that despite marriage of appellant, her sister and appellant continued their love affair. Wife of appellant came to know about this relationship and took up a quarrel with her sister. The quarrel reached up to the police station. Police had called appellant, his wife and the victim in police station. A case is put up that police obtained undertaking from the victim that she will not meet accused.

8. Thus, in the cross-examination of P.W. 1, the defence has cemented the prosecution version that appellant had been to her house and assaulted her. In the cross-examination of P.W. 3, the motive to commit crime is established. The evidence indicates that P.W. 1 refused to continue relationship and, therefore, appellant got annoyed and assaulted her by means of sword. The evidence, if read with chief examination of these witnesses, the involvement of appellant in the crime is established.

9. Learned APP has invited our attention to Doctor's evidence (P.W. 4). Following injuries were found on the person of injured.

- (i) Fracture on left distal femur with lacerated wound over left knee of size 10 X 6 X 4 Cm;
- (ii) Clean lacerate wound on left arm with fracture (I) at mid shaft humerus of size 10 X 10X 3 cm;
- (iii) Clean lacerate wound on left fore arm of size 20 X 4 X 2 cm with clinically fracture;
- (iv) Clean lacerated wound on forearm of size 15 X 15 X 4 Cm at medial aspect with muscle cut with fracture over both sides of forearm.

The Doctor said that all these injuries were fresh, grievous and were caused by sharp and heavy object. The sword was recovered at the

instance of appellant. The sword was identified by P.W. 1 and P.W. 3 to be the same as was used in crime.

10. The Doctor further deposed that these injuries were sufficient to cause death. Thus, the evidence is sufficient to prove the ingredients of Section 307 of the IPC.

11. This is the reason why learned counsel for the appellant has restricted her argument to the quantum of sentence. The trial Court has assigned following reasons for awarding life imprisonment.

*“48] After giving anxious thought to these rival submissions, I find substance in the submission of learned A.P.P., because there are catena of decisions of Hon'ble Apex court and Hon'ble Bombay High Court in which, it is observed that while imposing sentence, its impact on the society at large is one of the important aspect to be considered and always be kept in mind. No doubt, age of accused and his previous antecedents plays a vital role, but facts of this case are so much disturbing. It s an admitted position that injured Kajal was in love with the accused. The accused was also in love with her. When they were love birds and loving with each other and then it was natural duty of the accused to respect her and to take her every care. He should have given respect to her dignity because she (PW 1 Kajal) was in love with him. On the contrary, the accused married with another lady, for that also, the injured did not raise any objection. It means she scarified a lot because when the accused married with another lady she ended her love ties with the accused. Her evidence clearly shows that wife of the accused scolded and warned the injured to not to meet with the accused. Therefore, injured decided not to continue in love ties with*

*the accused. On 18-10-2018, the accused did her a mobile call and asked her to meet with him, but her evidence shows that she refused for the same. This itself shows that injured Kajal was taking every care of family life of the accused, but what accused did, what he gave her in return is a brutal attack on her on 19-10-2018, that too by means of deadly and dangerous weapon Art-A i.e. sword. In the open court, I inspected sword Art-A. It is so heavy and edged deadly weapon. Even its single forceful blow on vital part will result in death of ordinary person. Here injured was in love with the accused, but what accused did this only because refusal on her part to meet with him. At about 11-00 a.m. in the broad day light he rushed in her house armed with deadly sword, inflicted three blows repeatedly on her, which resulted in causing four fracture injuries to her. A specific suggestion was put to PW 4 Dr. Rathod, who has answered that these injuries were sufficient to cause death. The manner of assault, brutality, cruelty, nature of weapon all these aspects itself show that the accused was having every intention to kill injured by life. Otherwise, if he wanted to give her a punishment for refusal to meet, then atleast accused would have scolded her or slapped her. He would not have inflicted such forceful blows by deadly weapon Art-A sword, unless he had intention to kill. This is a cool minded and planned attempt to kill her by life. As discussed earlier, the age of accused is 28 years, but I am of the considered view that impact of the proposed sentence on the society at large weighs more than the age of the accused. Because a judicial note can be taken that in our society day by day such incidents are repeatedly occurring and increasing. Innocent girls who are of young age, who are refusing for love ties are being attacked by such a young boy. The examples of acid attack, examples of stabbing are there. When we are living in a society, we always expect that there should be peace of mind to every citizens of every age. There should be secured life to every citizen. Secured life will not be imagined merely by a mind, it should be provided by rule of law. Such a conduct on the part of such young age boys should be*

*handled with iron hands of law. If leniency would be shown to this accused in such a scenario of crime, it will spread a wrong message in the society that, to attempt to commit murder of a young girl and set free on minimum sentence. Every young girl in the society should feel that her life is secured and that is the purpose of maintaining law and order. The courts should keep in mind while imposing sentence that impact on victim of the crime and its result on the society are also most important and vital aspects to be kept in mind. No doubt, there are no criminal antecedent on the part of accused, but due to his attack, the injured would have died on the spot itself, but she survived by her luck and timely medical help. When the facts of the case do not warrant leniency, then keeping in view social aspect, I am of the view that maximum sentence needs to be imposed.*

49] *In this case, there was not a mere preparation or attempt to commit murder. It was coupled with a deadly attack by sword, which resulted in causing four grievous fracture injuries to injured Kajal. Section 307, Indian Penal Code provides 10 years imprisonment for a mere attempt to commit murder, but it further provides, in such attempt, if hurt is caused to the victim then the accused shall be liable for life imprisonment or the sentence as otherwise provided in the section itself. Here the facts of the case show that the accused inflicted repeated blows of sword on Kajal, which resulted in causing four fracture injuries to her. Section 307, Indian Penal Code provides for life imprisonment if hurt is caused. Hurt is defined under Section 319 of Indian Penal Code, which is a simple injury, but here not only hurt is caused, but attempt resulted in causing four grievous fracture injuries to her and as per evidence of PW 4 Dr. Rathod, these injuries were sufficient to cause death of the injured. Under such circumstances, I am of the view that against such anti social criminal act, a deterrent approach should be adopted and therefore, I declined to show any leniency to the accused. Thus, with above observation, I proceed to pass following order.”*

12. The trial Court has given weightage to the relationship and the conduct of P.W. 1 to opine that she sacrificed a lot by continuing her relationship, even after appellant got married. The trial Court found the conduct of appellant to be deplorable having assaulted P.W. 1 by means of sword despite her loyalty towards appellant. As such, the trial Court noted that there are no criminal antecedents against the appellant but swayed away with the manner in which he attacked P.W. 1, who continued the loyalty to the appellant but in return was subjected to such attack. The trial Court then referred to Section 307 of the IPC which provides for punishment up to ten years and if such attempt has resulted into hurt, the punishment could extend to life imprisonment. In the present case, since P.W. 1 sustained grievous injuries, the trial Court found the case suitable for imposing life imprisonment.

13. We find this approach to be a little harsh, considering his age at that time. Most importantly, the appellant is not a person whose conduct is such that he should be kept behind bar for the entire life in the sense, his conduct is not of the nature of continuous threat to the society. It is so because there are no criminal antecedents against the appellant. It is nobody's case that he was indulged into any antisocial activities.

14. The reason for commission of crime is refusal by PW. 1 to continue relationship. As such, the act of appellant to insist for such relationship is unethical. However, that by itself will not make him a habitual offender or a person having potential of continuous threat to the society. He has a young son as well. His incarceration for entire life in such a situation is unwarranted.

15. At the same time, one cannot ignore the victim's sufferance. She sustained attack at the hands of appellant for no valid reasons. She was equally young at the relevant time. She refused to continue relationship which is something that is expected from prudent person. She sustained grievous hurt at the hands of appellant. Considering her sufferance and the manner in which the appellant has mounted attack on a defenceless person, we are of the view that ends of justice will meet, if the sentence imposed by the trial Court is reduced to ten years.

16. Accordingly, the appeal is partly allowed. The judgment and order passed by the Sessions Court to the extent of imposing life imprisonment is quashed and set aside, instead the appellant is sentenced to suffer rigorous imprisonment for ten years. Rest of the judgment stands intact.

17. The appeal is disposed of in terms of above.

(RAJ D. WAKODE, J.)

(Anil L. Pansare, J.)

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