



9-Cri.peal-63-21

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

CRIMINAL APPEAL NO.63 OF 2021

Kailas S/o Narayan Uike,
Aged about 38 years, Occ. Not known
R/o Guru Nanak Nagar, Godhani Road,
Yavatmal, Tah. And Dist. Yavatmal

(At present detained in Central Prison,
Amravati (C-5815)

... Appellant

-vs-

The State of Maharashtra,
Thr. Police Station, Awadhut Wadi,
Yavatmal, Tah. And Dist. Yavatmal

... Respondent

Smt S. K. Paunikar, Advocate (Appointed) for appellant.
Shri A. B. Badar, Additional Public Prosecutor for respondent.

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

ARGUMENTS WERE HEARD ON : 11th November, 2025

JUDGMENT PRONOUNCED ON : 5th December, 2025

JUDGMENT : (PER : RAJ D. WAKODE, J.)

The present appellant/original accused has approached this Court seeking challenge to the impugned judgment dated 11/03/2020 passed by the learned Sessions Judge, Yavatmal in Sessions Case No.105/2019 thereby convicting the present appellant for the offence punishable under Sections 302 and 506 of the Indian Penal Code (IPC) and sentencing him to suffer rigorous imprisonment for life and fine of Rs.500/- and in default of payment of fine to suffer rigorous imprisonment for 3 months for the offence punishable under Section

302 of the IPC . The learned Sessions Judge has further sentenced the appellant to suffer rigorous imprisonment for five years and also fine of Rs.500/- for the offence punishable under Section 506 IPC and in default of payment of fine, to suffer rigorous imprisonment for three months.

2. Brief facts as alleged by the prosecution leading to the present conviction of the appellant are as follows :

The first informant PW-1 Chetna Uike was residing with her husband Mangesh, father-in-law Narayan, mother-in-law Shantabai and brother-in-law Kailas i.e. the present appellant. The incident occurred on 02/09/2018 in the afternoon at 2 pm. The first informant was sitting outside her house on ota after finishing her house hold work and was talking with PW-2 her neighbour Sunita Uike when the accused-appellant came and demanded money from his mother, deceased Shantabai for consuming liquor. When deceased Shantabai refused to pay money for consuming liquor, he started abusing his mother and threatened to kill her. Thereafter the appellant came in the room of the first informant PW-1 and asked her as to who she was. The appellant rushed on her person when she was standing by the corner of her room. The appellant took out stone mortar and went in the room of his mother. He was followed by PW-1. Deceased

Shantabai was sleeping on the floor on a quilt. The appellant forcibly pelted the said stone mortar on the head of his mother and killed her. PW-1 got frightened and went to the house of her cousin mother-in-law and both of them saw the appellant Kailas running away carrying the said stone mortar in the bag. PW-1 made a phone call to her husband and when he came to home, she narrated the incident to him. On the same day PW-1 lodged report with the present respondent against the present appellant. On the basis of said report, Crime No.1242/2018 under Sections 302, 201, 504, 506 of the IPC was registered and investigation was carried by PW-5 API Amol Barapatre.

3. PW-5 API Amol Barapatre completed the investigation and filed charge-sheet, of which cognizance was taken by the Court of learned Chief Judicial Magistrate, Yavatmal. The case was then committed to the Court of Sessions for trial. The learned trial Court framed the charge against the appellant which is at Exhibit-4. Particulars of charge were read over and explained in vernacular to the appellant. The appellant pleaded not guilty and claimed to be tried. The defence of the appellant was of total denial. However, no defence witness was examined by the accused/appellant. After hearing both the parties, considering the evidence put forth and recording its findings on the issues framed thereupon, the Sessions Court convicted the present

appellant for the offence punishable under Sections 302 and 506 of the IPC. The learned Sessions Court acquitted the appellant for the offence punishable under Sections 201 and 504 of the IPC under Section 235(1) of the Code of Criminal Procedure.

4. Being aggrieved by the aforesaid conviction, the present appellant has approached this Court assailing the impugned judgment dated 11/03/2020 passed by the learned Sessions Judge, Yavatmal.

5. We have heard Smt S. K. Pounikar, learned counsel for the appellant and Shri A. B. Badar, learned Additional Public Prosecutor appearing for the respondent-State. We have gone through the evidence, documents and the impugned judgment. We will refer to the same to the extent if necessary to decide the following points that arise for our consideration. We have recorded our findings thereon for the reasons to follow :

Sr. No.	Points	Finding
(i)	Does the prosecution prove that the death of deceased Shantabai is homicidal ?	In the affirmative
(ii)	Whether the prosecution proves that on or about 02/09/2018 in the afternoon at about 2 pm at Gurunanak Nagar in the house the accused committed murder of his mother ?	In the affirmative
(iii)	Whether inference is called for in the impugned judgment	In the negative
(iv)	What order ?	Appeal dismissed

6. **REASONS :**

As to Point Nos.(i) to (iii) :

Smt S. K. Pounikar, learned counsel for the appellant while addressing the Court challenging the impugned judgment has not stressed much on the issue of the nature of death of Shantabai. Even otherwise, the prosecution in order to prove the charge of murder punishable under Section 302 of the IPC, in our view, has substantially proved that the death of Shantabai was homicidal by leading cogent evidence. Un-disputedly, Shantabai had sustained injuries on her person/head on 02/09/2018 at about 2 pm when she was at her home. The injuries on the dead body of Shantabai that are mentioned in the inquest panchanama Exhibit-23 and the injuries which are mentioned in postmortem report Exhibit-31 are similar and are not disputed by the appellant. Medical Officer PW-4 in his evidence has specifically mentioned the external as well as internal injuries sustained by deceased Shantabai and had found them to be antemortem and fresh in nature. He has further opined that injury Nos.1, 3 and 4 mentioned in Col. No.17 of the postmortem report with its corresponding internal injuries mentioned in Col. No.19 of the said report are sufficient in ordinary course of nature to cause death. The cause of death as per postmortem report is head injury. PW-4 has also deposed about a query by which PW-5 had inquired about stone mortar and whether the

injury Nos.1 to 4 mentioned in Col. No.17 of postmortem report can be possible by the article provided for the examination. The query report is at Exhibit-32 and as per PW-4, the aforesaid injury could be possible by the weapon which was identified by the accused-appellant as Article-A.

7. The aforesaid evidence, in our considered view substantially proves that the death of Shantabai was not suicidal or accidental but homicidal. The appellant has not explained as to how the aforesaid injuries were caused to Shantabai while she was sleeping at her home. Hence, we answer point No.1 in the affirmative.

8. Once it is proved that deceased Shantabai has suffered a homicidal death, the question arises as to who has committed her murder by forcibly pelting stone mortar on her head as opined in the postmortem report.

Evidence of PW-1 Chetna Mangesh Uike, Exhibit-12 (record page 19 of paper-book) reveals that she is the eye witness to the incident. The learned Additional Public Prosecutor Shri Badar submitted that PW-1 is a star witness of the prosecution who has personally witnessed the accused-appellant while forcibly pelting stone mortar on the head of Shantabai. The evidence of PW-1 has remained

unchallenged in her cross-examination. Her presence on the spot of incident i.e in the house was natural and the incident took place in the afternoon.

9. Smt Pounikar, learned counsel for the appellant has argued that the first informant PW-1 was not present in the house at the time of alleged incident as she had gone to her parents' house in Rudha and thus she has not witnessed the incident. The aforesaid submission of the learned counsel for the appellant does not find support in the evidence as in the cross-examination of the first informant, which was taken by the counsel for the accused-appellant, it has come on record that on 02/09/2018 she had gone to Rudha and on the same day in the morning at 8 a.m. she had returned to her in-laws' house. This fact clearly shows that at the time of incident the first informant was present in her house and the incident in question took place in the afternoon in the house of the first informant. The appellant has failed to place any material on record to show that at the time of incident, PW-1 first informant was not present in house. Hence, the aforesaid submission made by the learned counsel for the appellant is without any support from evidence and thus rejected.

10. The evidence of PW-2 who is the neighbour of deceased clearly reveals that she had witnessed the present appellant while running

away from his house alongwith stone mortar in his bag. The evidence of PW-2 is in corroboration with the evidence of the eye-witness PW-1. The intention and the motive of the appellant behind commission of the present offence is clear as his mother did not provide money to him for consuming liquor and hence he committed murder of his mother.

In our opinion, PW-1 and PW-2 are trustworthy witnesses. The learned counsel for the appellant has also argued that PW-1 and her husband had forcibly implicated the present appellant in the offence as the appellant used to consume liquor and they wanted to grab the house owned by the appellant. The aforesaid defence as taken by the present appellant before the learned trial Court was without any support. The counsel for the appellant during the course of cross-examination of PW-1 or other witnesses has not brought any material or any document on record to show that the appellant was the owner of house when the incident took place and thus the first informant PW-1 and her husband wanted to grab the property and hence the aforesaid submission is without any merit and is accordingly rejected.

The evidence of PW-1 that the appellant took stone mortar from her house and he alongwith said stone mortar went to the room of her mother-in-law and forcibly pelted the stone mortar on the head of her mother-in-law while she was sleeping on floor is corroborated not only by her report at Exhibit-13 but also by the medical evidence. Evidence

of Medical Officer Dr Shubham Mondhe who was examined as PW-4 shows that he and Dr K. S. Patil conducted the autopsy on the dead body of Shantabai. They examined the dead body externally and found following injuries

(1) Lacerated wound over midfrontal region of head extending from mid frontal region to mid parietal region of size 10 cm x 3 cm x bone deep. Margins are irregular and blood infiltrated.

(2) Lacerated over right frontal region above right eye brow of size 5 cm x 3 cm and muscle deep. Margins are irregular and blood infiltrated.

(3) Lacerated wound over left temporo parietal occipital region of head obliquely placed of size 20 cm x 8 cm x cavity deep with pulping of brain matter and evidence of oozing of brain matter, margins are irregular and blood infiltrated.

(4) Lacerated wound over right side of occipital region of head obliquely placed of size 10 cm x cm x cavity deep with pulping of brain matter and evidence of oozing of brain matter. Margins are irregular and blood infiltrated.

(5) Evidence of fracture of nasal bone, on opening margins are irregular and blood infiltrated.

The injuries were fresh in nature and antemortem.

On internal examination of the dead body, they found following injuries :

(1) Multiple underscalp contusion over mid fronto parietal, left temporo parietal occipital region and right occipital region, reddish in colour, corresponding to injury No.1 to 4 mention in column No.17 of the postmortem report.

(2) Evidence of comminuted fracture of skull of size 30 cm x 10 cm. Including midfrontal, both parietal right temporal occipital

bones with evidence of oozing of brain matter. On dissection fracture margins are irregular and blood infiltrated corresponding to injury No.1 and 3 mentioned in col. No.17 of the postmortem report.

(3) Evidence of communicated fracture of base of skull involving anterior middle and posterior fossa of base skull. On dissection fracture margins irregular and blood infiltrated corresponding to injury No.1, 3 and 4 mentioned in col. No.17 of the postmortem report.

(4) Evidence of multiple lacerated wound of brain, oozing of brain matter from fracture side. Meninges tear corresponding to injury No.1, 3 and 4 mentioned in col. No.17 of the postmortem report.

11. The aforesaid injuries, according to PW-4 were sufficient in ordinary course of nature to cause death and are mentioned in the postmortem report. In his evidence, PW-4 also deposed that on 07/09/2018 he received a query letter alongwith the weapon-stone mortar from the Police Station Avadhutwadi. He examined the stone mortar and after examining the same, he came to the conclusion that injury Nos.1 to 4 mentioned in col. No.17 of the postmortem report can be possible by the weapon (stone mortar) provided for examination. Thus, the medical evidence along with undisputed inquest panchanama and postmortem report supports and corroborates the evidence of PW-1 and the fact that the appellant-original accused has committed murder of his mother Shantabai.

PW-3 Jitesh Kishanrao Daware who was examined at Exhibit-16 (record page 16) has specifically deposed about spot panchanama which was conducted in his presence by the respondent on 02/09/2018. He also deposed about the memorandum panchanama wherein the present appellant has agreed to show the place where he had kept the weapon. As per aforesaid memorandum panchanama, accused-appellant produced the aforesaid stone mortar and clothes from the garbage kept near the wall inside Nagar Panchayat Primary School No.17. Seizure panchanama was conducted. All muddemal property was sent to Chemical Analyzer. As per Chemical Analyzer's report, Exhibit-38, blood detected on the aforesaid stone mortar was human blood and blood group was 'A'. Chemical Analyzer's report Exhibit-37 reveals that blood group of deceased Shantabai was 'A' and thus, it clearly proves that the head injury caused to the deceased Shantabai was caused by the said stone mortar on which her blood was detected and which was recovered at the instance of the present appellant.

Apart from PW-1, 2 , 3 and 4, the prosecution has examined the Investigating Officer Amol Prabhakar Barapatre as PW-5. The aforesaid witness clearly deposed about the registration of the offence on 02/09/2018 and the investigation conducted. Thereafter he prepared spot panchanama which is produced at Exhibit-17, inquest

panchanama, postmortem report, memorandum panchanama at Exhibit-18, seizure panchanama at Exhibit-19, further seizure panchanamas (memory card, blood sample and clothes) at Exhibit-25, 27 and 29. He also deposed about forwarding the blood sample to Forensic Laboratory at Amravati vide Exhibit-35 and CA reports at Exhibits-36 to 39. The Investigating Officer also deposed about recording of statement of eye witness under Section 164 of the Code of Criminal Procedure

The counsel for the original accused-appellant could not shatter the evidence of PW-5 in cross-examination.

The prosecution also examined Sandip Anant Mupde as PW-6 who deposed that he was working as Police Sub Inspector (PSI) at Awadhootwadi Police Station on 02/09/2018 when PW-1 informant Chetna Uike came to the Police Station. The report which was typed by him on computer was read over to PW-1. It was signed by her and she had affixed her left hand thumb impression on it. He identified the aforesaid FIR which is at Exhibit-14.

12. At this point, it is relevant to reproduce ground (i) raised by the appellant in his memo of appeal which is as follows :

“ (i) It is pertinent to note that, no oral evidence was adduced by the accused before learned Trial Court in support of his evidence as he was himself not willing to produce any evidence of his defense.

It shows that the accused was not willing to kill his mother but under the influence of liquor and his craziness for the same, the act has been committed by him which is not supporting to the ingredient of Section 302 of IPC and therefore, he is not liable for punishment for life imprisonment.”

In the said ground, the present appellant himself has admitted that he was not willing to kill his mother but under the influence of liquor and his craziness for the same, the act has been committed by him and this ground raised by the appellant in the present appeal speaks volumes about his guilt and is more than sufficient. Apart from the aforesaid fact and on considering the evidence put forth by the prosecution, we answer point No.(ii) in the affirmative.

13. The appellant is also convicted by the learned trial Court for the offence punishable under Section 506 of the IPC wherein the Sessions Court relying on the evidence of PW-1 has held that the prosecution has proved that the present appellant committed criminal intimidation by threatening his mother to cause her murder with intent to cause her alarm. All the necessary ingredients for the offence punishable under Section 506 have been held to be established by the prosecution. The said finding of the learned Sessions Court has not been challenged by the learned counsel for the appellant during the course of argument in the present appeal and thus is held to be proved rightly by the learned Sessions Court.

14. In view of aforesaid discussion and the evidence on record, both documentary and oral, we are of the considered opinion that the learned Sessions Judge was completely justified in convicting the present appellant for the offence of committing murder of his own mother with criminal intimidation and sentenced him to suffer rigorous imprisonment for life and to pay fine of Rs.500/- vide impugned judgment dated 11/03/2020.

Point Nos.(i) and (ii) are answered in the affirmative and point No.(iii) is answered in the negative.

15. Accordingly, the present criminal appeal is dismissed in answer to point No.(iv).

16. Fees of the appointed counsel be quantified and paid as per Rules.

(Raj D. Wakode, J.)

(Anil L. Pansare, J.)