



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

CRIMINAL APPEAL NO.16 OF 2023

Naresh S/o Dajiba Patil
Age about 44 years, Occ: Nil,
R/o Gujgavhan,
Tq. Chimur, Dist. Chandrapur
Presently in Central Prison, Nagpur
-vs-

... Appellant

State of Maharashtra,
Through PSO Shegaon
Tq. & Dist. Chandrapur

... Respondent

Smt Sonali Saware/Gadhawe, Advocate (Appointed) for appellant.
Shri K. R. Lule, Additional Public Prosecutor for respondent.

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

ARGUMENTS WERE HEARD ON : 4th December, 2025
JUDGMENT PRONOUNCED ON : 19th December, 2025

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

The present appellant/original accused has approached this Court being aggrieved by the impugned judgment dated 30/10/2021 passed by the learned Additional Sessions Judge, Chandrapur in Sessions Case No.50/2019 thereby convicting the present appellant for the offence punishable under Section 302 along with Section 449 of the Indian Penal Code (IPC). The trial Court has sentenced the appellant to suffer rigorous imprisonment for life and to pay fine of Rs.3000/-, in default of payment of fine, to suffer simple imprisonment for one year for the offence punishable under Section 302 of the IPC and to suffer rigorous imprisonment for five years and to pay fine of Rs.2,000/- for the offence punishable under Section 449

IPC and in default of payment of fine, to suffer simple imprisonment for six months.

2. Heard Smt Sonali Saware/Gadhawe, learned counsel (appointed) for the appellant and Shri K. R. Lule, learned Additional Public Prosecutor for the respondent-State.

3. The case of the prosecution in brief is as under :

On 02/02/2017 at about 3 pm the appellant trespassed in the house of Nandkishor Shende PW-4-informant and has killed his wife Neeta by causing multiple stab injuries. At that time PW-4 was at Chimur for his bank work and his mother Nirmalabai Vitthal Shende PW-6 was at home and was drying clothes in their court yard. She heard the commotion of deceased. When she entered inside the house, she saw the accused was going out from her house having blood stains over his shirt. On the basis of the aforesaid complaint, the law was set in motion. The respondent investigated the offence and after completion of the same, filed the charge-sheet.

The present appellant pleaded not guilty and claimed to be tried. The trial Court after considering the entire evidence and the arguments of the respective counsel, convicted the present appellant for the offence of murder and trespass and sentenced him to suffer life imprisonment.

4. We have heard the learned counsel appearing for the parties. We have perused the impugned judgment, oral as well as documentary evidence led by prosecution for bringing home the guilt of accused/appellant. 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 deceased Neeta Nandkishor Shende met with homicidal death on 02/02/2017 ?	In the affirmative
(ii)	Whether the prosecution proves that on 02/02/2017 at Mauza Gujvavhan, Tah. Chimur, Dist. Chandrapur, the appellant intentionally and knowingly caused death of Neeta Nandkishor Shende by giving knife blows and thereby committed the offence punishable under Section 302 of the Indian Penal Code ?	In the affirmative
(iii)	Whether the prosecution proves that on the same date and place the appellant committed house trespass by entering into the house of complainant in order to commit the murder of Neeta Nandkishor Shende, punishable with death and thereby committed the offence punishable under Section 449 of the Indian Penal Code ?	In the affirmative
(iv)	Whether interference is called for in the impugned judgment	In the negative
(v)	What order ?	Appeal dismissed.

6. **REASONS :**

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

So far as point No.(i) is concerned, the appellant during the course of trial has not disputed the homicidal death of Neeta. It was

not the case of the appellant that Neeta has committed suicide or has died due to accident. Thus, we do not delve much upon the aforesaid issue as admittedly Neeta has died homicidal death. Post mortem report of deceased Neeta reveals that the Medical Officer found 9 injuries over the body of the deceased as shown in Column-17 of the post mortem report below Exhibit-66 as under :

- 1) *Vertical incised wound lateral side of left eye-brow 1.5 cm x 0.5 cm (in center) depth 1 cm, spindle shaped.*
- 2) *Incised wound near left elbow on lower end of left arm 3 cm x 0.5 cm depth 1 cm, spindle shaped*
- 3) *Incised wound left shoulder 2 cm x 1 cm depth 2 cm.*
- 4) *Incised wound left hand middle finger 1 cm x 0.5 cm depth 0.5 cm.*
- 5) *Vertical penetrating incised wound epigastric region 2 cm x 1 cm depth 7 cm.*
- 6) *Penetrating incised wound left 8th ICS 4 cm x 1 cm depth 10 cm, oblique tract penetrating diaphragm and piercing spleen through and through*
- 7) *Incised wound lateral aspect of left knee 2 cm x 0.5 cm with depth 1 cm*
- 8) *Incised wound left 9th ICS, 3 cm, depth 2 cm.*
- 9) *Incised wound left popliteal fossa 3 cm x 0.5 cm, depth 2 cm.*

All the aforesaid injuries were ante-mortem in nature. They were bleeding injuries which were caused due to hard and sharp object. The Medical Officer has also recorded internal injuries as mentioned in Column Nos.19 and 21 which co-ordinated with the external injuries and specially mentioned that penetrating injuries were caused to the stomach so also spleen and thus the aforesaid injuries were fatal in nature. The aforesaid injuries were grievous and sufficient to cause death in ordinary course of nature. The cause of

death of deceased was due to these grievous and fatal injuries and internal bleeding. The Medical Officer has further deposed that in response to the requisition for query of weapon, he issued query report of the weapon i.e. the knife below Exhibit-68 in respect of injuries over the body of deceased Neeta and has opined that the injuries mentioned in the post mortem report of deceased Neeta could have been possible by the said weapon. Thus, the post mortem report below Exhibit-66, query report Exhibit-68 and the deposition of Medical Officer Dr Sameer Salam Chaus (PW-8) fully supported the case of the prosecution and established that Neeta Nandkishor Shende died a homicidal death. Hence, we record our finding in the affirmative as to point No.(i).

7. Since Neeta has died homicidal death, the next point arises as to who has committed the murder of Neeta ?

The prosecution has come up with the case that the investigation of the aforesaid offence revealed and connected the present appellant to the crime as the main accused. The case of the prosecution is based upon the last seen theory and circumstantial evidence.

8. The prosecution has examined in all 11 witnesses to bring home the guilt of the accused. However, out of these 11 witnesses, the pivotal witnesses are PW-6 Nirmalabai Vitthal Shende and PW-7

Shilpa Mangesh Meshram. PW-6 Nirmalabai was examined at Exhibit-53. She is the mother-in-law of deceased Neeta. She was present in the house at the time of the incident. She has specifically deposed in her examination-in-chief that on day of the incident, at about 3 pm Neeta was sitting in the front room of the house on a cot. PW-6 was collecting clothes which were kept for drying in the courtyard. At that time, she heard commotion of Neeta and she immediately went inside the house. At that time, PW-6 saw the appellant going out of the house and there were blood stains over his shirt. After entering in the house, she saw that Neeta was lying on the floor in the front room of the house. She had sustained bleeding injuries. Knife was lying near the body of Neeta. Thus, PW-6 though has not seen the appellant causing stab injuries to the deceased, however she immediately after hearing the commotion of Neeta went inside the house and saw the appellant coming out of her house. Neeta told her that the appellant had assaulted her by means of knife. Thus, the aforesaid witness clearly connected the appellant to the present offence.

9. We have carefully gone through the testimony of PW-6. Though, this witness is not the eye witness of the incident of assault on the deceased by the appellant, she saw the appellant while coming out from the house wearing blood stained shirt which clearly established the presence of appellant on the spot of incident. On going through the evidence of this witness, it is crystal clear that the appellant was

well acquainted with the deceased. Moreover, it reveals that PW-6 saw the appellant while going out from their house. The version of this witness is quite believable and trustworthy. There are no discrepancies in the testimony of this witness and therefore, the evidence of this witness is sufficient to establish the presence of appellant just adjacent to the spot of incident.

10. Another witness who connected the appellant to the present offence and corroborated the evidence of PW-6 is PW-7-Shilpa Mangesh Meshram, neighbour of deceased. PW-7 Shilpa has deposed in her examination-in-chief that on the day of incident i.e. 02/02/2017 at about 3 pm she heard commotion of the deceased and she immediately came out of her house. She saw the accused/appellant going out of the house of deceased in a hurry. Thereafter she went to the house of Neeta and saw that PW-6 was standing near Neeta in frightened condition. Neeta was lying in a pool of blood and was having multiple injuries. PW-7 further specially deposed that on inquiring Neeta as to what happened, Neeta pointed out to the guilt of the appellant which is reproduced below :

“ On that she told that she was breaking shenga by sitting on a cot and at that time she was alone in the house. She further told that at that time accused had been to her house and started quarreling with her. She further told that thereafter accused assaulted her by means of knife repeatedly and thereby she sustained injuries. After some time she became unconscious.”

We have carefully gone through the lengthy cross examination of PW-7. It seems that PW-7 has denied all the adverse suggestions given to her by the accused-appellant. But she admitted that, she saw the deceased was having injuries over her neck, stomach and backside of the neck. Said facts are sufficient to establish that at the time of incident, the deceased sustained serious injuries over the vital part of her body.

It appears from the evidence of PW-7 Shilpa that she reached on the spot of incident immediately after occurrence of the incident and saw the accused was coming out from the house of deceased hurriedly. Obviously, no omissions or contradictions are found in the testimony of this witness. Hence the testimony of this witness seems to be trustworthy as there are no discrepancies in her evidence. The evidence of PW-7 has fully corroborated to the version of PW-6 Nirmalabai who is mother-in-law of the deceased and was present in her courtyard at the time of alleged incident.

11. Thus, in our opinion, the prosecution has successfully proved the presence of accused-appellant at the spot of incident and the oral information of Neeta to PW-6 Nirmalabai and PW-7 Shilpa clearly points towards the guilt of the accused-appellant.

12. Another striking feature in the present case substantiating the guilt of the appellant is his conduct after the incident. The conduct of the appellant after the incident has been deposed by PW-11 Subhash Kisanrao Barse, Investigating Officer. PW-11 in his evidence-in-chief deposed that on the very same day of the incident at about 4.30 pm, the appellant came in police station on his motorcycle. The motorcycle on which the appellant came was having blood stains. PW-11 further deposed that the appellant came inside the police station and told that he killed the deceased Neeta and consumed poison in the police station. Thereafter he was admitted by police in Rural Hospital, Warora from where he was referred to General Hospital, Chandrapur. Thus, the appellant himself after committing the crime, had gone to the police station admitted the crime and consumed poison. The aforesaid fact of consuming poison by the appellant is substantiated by the discharge card issued by the General Hospital, Chandrapur which is at Exhibit-88. It shows the date of admission of the appellant as 02/02/2017, discharge on 08/02/2017 and diagnosis was consumption of poison. After his discharge, the appellant was arrested by the respondent. While in custody, statement of the accused/appellant under Section 27 of the Indian Evidence Act, 1872 was recorded (Exhibit-36) wherein he pointed out to his suicide note kept in his house. The aforesaid suicide note was duly seized by the prosecution (Exhibit-37) and was referred to the office of State Examiner of Documents, CID, Nagpur. The examiner of document,

after comparing the handwriting and signature in the aforesaid suicide note and the sample of handwriting of the appellant gave opinion on 14/02/2018 (Exhibit-38). The learned trial Court has considered and discussed the aforesaid important aspect and has given a finding in para Nos.49 and 50 of the judgment as below :

“ 49) It is worth to mention here that, while the accused was in custody at that time. Police has recovered one chit and seized the same from the cupboard in the house of accused vide Exh.37 and sent the same to examiner of documents. Thereafter, said chit returned by the examiner of documents to - Police alongwith the documents annexed therewith vide Exh.38. Said chit is placed, on record vide Article-H. So, on going through the opinion of the examiner of documents it is quite clear that, the signature on chit Q-3 is showing similarities with the signatures of the accused vide S-7 to S-12 and N-2. However, the examiner of documents has opined that, it has not been possible to express any definite opinion as regard the identity of signature on chit Q-4 with the signatures of the accused vide S-7 to S-12 and N-2. Further, the examiner of documents has opined that, it has not been possible to express any definite opinion regard the identity of writings on chit Q-1 and Q-2 with the writings of the accused vide S-1 to S-6.

50) I have carefully gone through the said chit placed on record vide Article-H. On which prima-facie it reveals that, the entire chit reduced in writing by same stroke of pen. Moreover, the signature put forth by the author is at the end of its recital. Therefore, though the examiner of documents has not expressed his definite opinion except the signature on chit Q-3 showing similarities with the signatures of the accused but, it makes no much difference because the expert has given his concrete opinion confirming the signature of accused appears on chit vide letter. Q-3. Moreover, said chit was recovered from the cupboard in the house of accused and seized by the Police in presence of panchas vide seizure memo below Exh.37. So, the recital of cheat reflected the intention and state of mind of the accused being he was aware about the consequences of crime committed by him.”

Thus, the signature of the appellant has matched with the signature on

the suicide note. Apart from the findings of the learned Sessions Court, the recitals of the suicide note clearly reflect the motive and state of mind of the accused-appellant while committing murder of Neeta. Accused-appellant was having love affair with deceased Neeta since last 15-16 years and on her refusal to continue the said relationship, the appellant was irritated and accordingly committed the aforesaid crime. The aforesaid fact of relationship between the appellant and the deceased Neeta is evident from the defence raised by the appellant during the cross-examination of PW-6 Nirmalabai, mother-in-law of deceased Neeta wherein a specific suggestion was given to her. She denied that there was love affair between the accused and her daughter-in-law since last about 15-16 years of the incident. She denied that she was not liking this fact and therefore they have involved the present appellant in a false case.

The aforesaid suggestion on behalf of the appellant to the prime witness speaks volumes about the motive of the appellant and hence the inference drawn against the appellant is substantiated.

13. Perusal of arrest panchanama of accused-appellant (page 131 of paper-book) clearly reveals that there was a tattoo on his left hand showing the initial of deceased Neeta 'N' drawn inside the figure of a heart and below it the word 'love'. The fact remains that the name of the wife of the appellant is Kalpana. The letter 'N' referred to deceased Neeta. It is duly admitted by the present appellant in his suicide note and

suggestion in cross-examination. The appellant has further admitted his love affair with deceased Neeta though not specifically naming her in his suicide note dated 02/02/2017 (Exhibit-72). When the appellant had consumed poison in the police station, he was admitted to the hospital and when he was in a position to give statement, his dying declaration was recorded by PW-9 Manoj Kalyan Bhosekar. Perusal of aforesaid dying declaration and a specific question by PW-9 as to why the accused-appellant consumed poison, in response (question No.9 page 103) he answered “ प्रेम प्रकरणात तिने धोका दिल्यामुळे विष प्राशन केले.” Though the appellant has not specifically mentioned the name of Neeta in the said declaration, all the surrounding circumstances clearly pointed out towards his love affair with Neeta and the further consequential actions on his behalf. Thus, the sequence of circumstances is sufficient to establish that the appellant had consumed poison which was nothing but the ultimate reaction of assault made on Neeta with intention to kill her.

14. The evidence as discussed above clearly substantiates the guilt of the accused/appellant and the charge that he intentionally and knowingly caused murder of Neeta by giving knife blows. Accordingly, we answer point No.(ii) in the affirmative.

15. So far as point No.(iii) is concerned, the finding of the learned

trial Court in the impugned judgment is not at all being challenged by the appellant. The learned trial Court after considering the entire evidence is justified in holding that at the time of the incident, the accused-appellant committed house trespass by entering in the house of the deceased in order to commit the murder and thereby committed offence punishable under Section 449 of the IPC. The aforesaid finding being not challenged by the appellant, we answer point No.(iii) in the affirmative.

16. The main thrust of the argument of the learned counsel for the appellant Smt Sonali Saware/Gadhawe was that the CA report was relied upon by the learned Sessions Court however, the circumstance of finding of human blood on clothes of accused-appellant and on knife was never put to accused in Statement under Section 313 of Code of Criminal Procedure. However, in the presence of such overwhelming evidence against the present appellant, even if we ignore the CA report placed on record by the prosecution, still the guilt of accused-appellant is proved beyond reasonable doubt.

17. Thus, considering the evidence placed on record and the reasons of the learned Sessions Court which are completely justified and are within the parameters of law, we answer point No.(iv) in the negative.

18. Accordingly, appeal is dismissed in answer to point No.(v).

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

(Raj D. Wakode, J.)

(Anil L. Pansare, J.)