IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.310 OF 2026

Pandurang S/o Bhaurao Rathod,
Age : 47 Years, Occ. Farmer,
R/o. Kesapuri (Tanda) Tq. Majalgaon,
Dist. Beed. ..Appellant
(Orig. Informant)

VERSUS

1. State of Maharashtra,
Through Officer-in-charge of
Asthi Police Station, Tq. Partur,
Dist. Jalna.

2. Eknath Rameshwar chavhan,
Age : 39 Years,

3. Mahandeo S/o Rupchand Chavhan,
Age : 42 Years,

4. Sunita W/o Eknaath Chavhan,
Age : 37 Years,

5. Sunil S/o Mahadeo Chavan,
Age : 22 Years,

6. Vimal S/o Mahadeo Chavan,
Age : 40 Years,

7. Anita W/o Raju Pawar,
Age : 36 Years,

8. Amol S/o Eknath Chavan,
Age : 24 Years, Occ. Education,

All resident of R/o. Kokate Hadgaon Tanda,
Tq. Partur, Dist. Jalna. ..Respondents
(Orig. Accused)

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Mr. B. R. Kedar, Advocate for the Appellant
Mr. G. A. Kulkarni, A.P.P. for Respondent/State.

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CORAM : **SANDIPKUMAR C. MORE AND VAISHALI PATIL-JADHAV, JJ.**

Reserved on : 03.09.2026
Pronounced on : 19.11.2026

JUDGMENT (PER SANDIPKUMAR C. MORE, J.) :

1. The appellant/informant, who is brother of the deceased namely Ankush, has challenged the acquittal of present respondents i.e. original accused Nos. 2 to 8 in Sessions Case No. 99 of 2021, from the offence punishable under Sections 364, 365, 302, 404, 201 read with Section 34 of the of the Indian Penal Code, at the hands of learned Sessions Judge, Jalna (hereinafter referred to as the "learned Trial Judge"), under judgment and order dated 13.01.2026 in the aforesaid case.

2. As per the prosecution case, on 1st November 2020 at about 9.30 a.m. the deceased Ankush Bhaurao Rathod left home stating that he has going to *Watur Phata,* Taluka Partur, District Jalna for bringing labourers and tractor driver for harvesting his sugarcane crop. He left on motorcycle bearing No. MH-23-AL-9274. Thereafter he made phone call to his brother Pandurang (P.W.1) i.e. the present appellant for taking his elder son to clinic in next day morning. However, on 2nd November 2020, when the

appellant tried to contact the deceased, he was found unreachable. The appellant searched for the deceased until 6.14 p.m. on that day, but could not find him. Accordingly, he went to Majalgaon (Rural) Police Station, and filed a missing complaint as per Exhibit 78.

During the inquiry of the said missing complaint, the tower location of cell phone of the deceased was found at Dhokmal Tanda, Taluka Partur. Therefore, further investigation disclosed that the deceased had visited house of accused No.6- Anita and obtained amount of Rs. 1,30,000/-. Likewise the deceased also called accused No.1 Eknath Chavan and asked him to come to Partur Road T-Point and took an amount of Rs. 50,000/- from him. At the relevant time, the deceased had told accused No.1 that he was going to Watur Phata to see labourers and driver. In the afternoon, when the appellant again called the deceased, it was learnt that deceased was still at the same place. Accused No.1 again called deceased at about 6.00 to 6.30 p.m. and at that time deceased told him that, he would stay at Watur Phata only in the night. Thereafter, it was revealed that on the same day at about 8.00 to 8.30 p.m. the deceased was seen at Hadgaon Tanda in front of Maruti temple. The deceased had given Rs. 100/- to one Amol i.e. Child-in-Conflict-with-Law for buying

one *Eno-Sachet*. When Amol, asked the deceased to stay at his house, he refused for that and told Amol for not to tell at home that he had come to Hadgaon Tanda. At that time, Amol had seen two unknown persons waiting at a some distance from the deceased. Therefore, on 5th November 2020, appellant lodged a complaint (Exhibit 79) about abduction of the deceased at the hands of unknown persons in Asthi Police Station. Accordingly, offence under Section 365 of the IPC was registered and the investigation was started through API Sanap i.e. (P.W.11).

3. During the investigation, accused No.1 Eknath was arrested on 17.11.2020. Thereafter on 02.12.2020 accused No.2-Mahadev got arrested and made disclosure statement for showing the spot, where he had thrown the dead body of deceased Ankush. He then showed the said spot from where one motorcycle of the deceased was also seized. Since the accused No.2 confessed about committing murder of the deceased, Sections 302, 201 read with Section 34 of the I.P.C. was added.

Accused No.3-Sunita Chavan was arrested on 03.12.2020 and from her three cell phones, one Saree, petticoat and blouse were seized under panchnama at (Exh. 125).

Then on 4.12.2020, accused No.2- Mahadev again made disclosure statement (Exhibit 171) and took police to the center of the riverbed of Godavari, where the dead body of the deceased was found in decomposed state, tied in a bundle. Accordingly inquest panchnama (Exh. 111) was prepared and *post mortem* was conducted over the said dead body on the same day at about 18.55 hours. On next day, i.e. on 5.12.2020, accused No.3-Sunita under the disclosure statement took the police to Kokate Hadgaon Tanda and pointed out pick-up van bearing No. MH21-X-5008. The said van was seized under panchnama (Exh. 127). Thereafter, accused No.4-Sunil Chavan accused No.5-Vimal Chavan and accused No.6-Anita-Pawar were arrested on 6.12.2020.

On 08.12.2020 accused No.5 under memorandum, produced four gold finger rings of the deceased, whereas accused No.6, under memorandum produced amount of Rs. 1,00,000/- out of Rs. 1,50,000/- given to her by accused No.3, under panchnama (Exhibit 148).

Lastly on 09.12.2020 accused No.4, under memorandum, showed the police the place by taking them to Godavari river bridge at Gangasawangi via Loni, where they had dumped the dead-body and the motorcycle.

4. After completing the investigation, charge sheet was filed against the accused under the aforesaid sections and after conducting the trial, the learned Trial Judge acquitted all the accused.

5. The learned counsel for the appellant vehemently argued that, though there is no direct evidence against these accused, but the prosecution has established all the circumstances leading to the guilt of the accused inclusive of the followings :-

(i) Disclosure statement of accused No.2 about the guilt and recovery of motorcycle of the deceased from the spot.

(ii) Disclosure of accused No.2 about the place from where the dead body of the deceased was found in de-composed state.

(iii) Disclosure by accused No.3 about the Pick-up van at Kokate Hadgaon Tanda, which was used for carrying the dead body of the deceased.

(iv) Recovery of four gold finger rings of the deceased, at the instance of accused No.5 and also recovery of Rs. 1,00,000/- at the instance of accused No.6.

(v) Death of the deceased was un-natural and detection of human blood on the blanket, gunny bag and broken pieces of tiles.

6. Thus, the learned counsel for the appellant submits that, since the complete chain of circumstances as aforesaid leading to the guilt of the accused were established, the learned Trial Judge still ignored the same and acquitted all the respondents/accused erroneously.

7. Heard learned counsel for the appellant and learned A.P.P. for the State and also perused all the material on record along with the impugned judgment.

8. It is significant to note that the case of the prosecution is entirely based on circumstantial evidence, more particularly on the basis of last seen together theory, recovery of dead-body and motorcycle, motive to commit the offence and recovery of gold rings of the deceased as well as the cash amount at the instance of accused persons. The prosecution case is also based on C.D.R./S.D.R details and C.A. Report.

9. So far as theory of last seen together is concerned, the evidence of P.W.3 and P.W.4 is important on that aspect. According to them, deceased was found sitting on *Otta* (Courtyard) of the house of accused No.1 on 01.11.2020. However, statement of P.W.3 was recorded on 03.12.2020, only after the dead-body was found. Moreover, statement of

P.W.4 was also recorded belatedly on 07.12.2020, when the dead-body was already recovered. He has admitted specifically, that the Investigating Officer (P.W.11) had twice recorded his statement, but those statements are not coming forward. Even otherwise also, the deceased was related to accused No.1 and used to visit his house frequently. Thus, merely the fact that, he was found sitting on the *Otta* of house of accused No.1, cannot be given any material significance.

10. So far as recovery of dead-body and motorcycle of the deceased is concerned, it was revealed during the disclosure statement of accused No.2. However, the evidence on record shows that the disclosure statement was made by 16.00 to 16.28 hours, but according to panch witness, it took half an hour for reaching Gangasawangi bridge from police station. The *panchnama* (Exh.107) indicates the timings from 06.13 to 18.58 hours. Therefore, considering the aforesaid time of reaching the spot, from the police station, it is highly unbelievable that *panchas* and police reached to the spot only in two minutes.

11. Pratap Munjaji Raut (P.W.5) has clearly admitted that, the fishermen and fire brigade had already reached to the spot before the police and *panchas*. This fact creates a doubt as to how the spot was already known to them. Therefore, the

discovery also appears doubtful. Moreover, according to Pratap Raut (P.W.5), the informant was not present at the spot, but *panchnama* (Exh. 107) indicates that the informant was present and also identified the motorcycle. Pratap Raut (P.W.5) has specifically stated that these statements in the *panchnama* are incorrect. Thus, a strong doubt has been created about the entire testimony of Pratap Raut (P.W. No.5). It is extremely important to note that, on 02.12.2020 itself, search was started, but it could not be completed, and therefore, stopped due to darkness. However, nothing has come on record that on 03.12.2020, any search was conducted to find the dead-body. Thus, the finding of dead-body is also doubtful. It appears that when police had started searching for motorcycle and dead-body on 02.12.2020 only, then the police should have continued the search for the dead-body after finding the motorcycle. The fact that the accused made another disclosure of 04.12.2020, in respect of the same spot itself clearly makes the disclosure and recovery doubtful.

12. The prosecution has alleged that accused Nos. 1 to 3 eliminated the deceased, since he was having illicit relations with accused No.3-Sunita. However, it appears that the informant/appellant was not having any personal knowledge

about the same. Moreover, he had stated to the police that he learnt about the same. That means, whatever information the appellant was having, as regards the alleged motive, is not admissible in the evidence. There is no direct evidence in respect of the said motive. On the contrary, if there were any such illicit relations, between the deceased and accused No.3, which were in the knowledge of accused No.1, then he would not allow the deceased to come to his house so frequently. As such, the motive in this case appears highly suspicious.

13. So far as recovery of gold rings of the deceased from accused No.5 is concerned, those gold rings, after recovery, were not identified being of the deceased. There is no identification parade conducted in respect of those rings. There is no witness on record to show that, those rings were on the person of deceased at the time of the incident. Even the missing complaint (Exhibit 78) does not reflect that the deceased was wearing any gold rings. Moreover, the house from which the rings were allegedly recovered, was house of mother of the accused and it was locked. It is not the case of prosecution that accused persons were having keys of the said house. Therefore, on that count also, the alleged recovery appears doubtful. Same is the case in respect of recovery of cash of Rs. 1,00,000/- at the instance of accused No.6, which

was allegedly given to her by accused No.3-Sunita. However, no numbers of currency notes, are mentioned in the *panchnama*. There is no evidence on record that the said amount belongs to the deceased. Though the informant alleged that the deceased had collected money from various persons, but there is absolutely no evidence to that effect.

14. The C.D.R. and SDR's though produced, but the prosecution has failed to show any nexus between these CDR's and SDR's and the present case. Nothing is referred by the prosecution about the CDR's, and therefore, the evidence regarding CDR's and SDR's is not having any significance in this matter.

15. Same is the case with the C.A. reports. Though the human blood was found on the blanket, gunny bag and broken pieces of tiles, but it could not be established that it was of the blood group of the deceased. Moreover, those articles were highly de-composed, and therefore, blood group could not be traced. As such, the C.A. reports are also of no help to the case of the prosecution.

16. It is significant to note that when the case of the prosecution is completely based on circumstantial evidence, then for proving the guilt of the accused, all such circumstances needs to be established by trustworthy and

reliable evidence. In the instant case, though the prosecution has adduced evidence on some circumstances, but considering the evidence as per our aforesaid discussion, no complete chain of circumstances leading to the guilt of the accused, is established by the prosecution. The scope of appeal against acquittal is so limited, that if the view other than the view taken by Trial Court is possible, cannot be taken merely it is available. Further, if the view taken by learned Trial Court is based on appreciation of entire material on record, then normally it is not to be interfered with. Therefore, considering the discrepancies and contradictions in the evidence of prosecution as discussed above, we are not inclined to interfere with the impugned judgment. Accordingly, the appeal stands dismissed.

(VAISHALI PATIL-JADHAV)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

Ysk/