

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 724 OF 2024
WITH
INTERIM APPLICATION NO. 3159 OF 2024
IN
CRIMINAL APPEAL NO. 724 OF 2024

Pramod Pandurang Kisale]
Age-36 Years,]
Residing at Shedgaon, Post Dabhad,]
Taluka Bhiwandi,]
District-Thane]
(In Shahapur Jail)] ... Appellant

Versus

1. State of Maharashtra]
Through Shahapur Police Station]
Cr. No.I-66/2013]
]]
2. Smt. Changunabai Krushna Nipurte]
R/o Taharpur, Shahpur]
District-Thane] ... Respondents

Ms. Ruju Thakker a/w Mr. Priyanshu Doshi, for the Appellant.

Ms. Supriya Kak, A.P.P., for the Respondent-State.

Mr. Kartik Garg, appointed Advocate for the Respondent No.2.

CORAM : SARANG V. KOTWAL &
SANDESH D. PATIL, JJ.

DATE : 23rd FEBRUARY, 2026.

JUDGMENT : [PER SARANG V. KOTWAL, J.]

1. The Appellant has challenged the Judgment and Order dated 11/10/2023 passed by the learned Additional Session Judge-2, Kalyan in Sessions Case No.195 of 2013. The Appellant was the sole Accused before the learned trial Court. He was convicted and sentenced as follows:-

(i) The Appellant was convicted for commission of offence punishable under Section 302 of the Indian Penal Code (IPC) and was sentenced to suffer rigorous imprisonment for life and to pay fine of Rs.25,000/- and in default of payment of fine to undergo rigorous imprisonment for six months.

(ii) He was convicted for commission of offence punishable under Section 307 of the IPC and was sentenced to suffer rigorous imprisonment for 10 years and to pay fine of Rs.25,000/- and in default of payment of fine to suffer rigorous imprisonment for six months.

(iii) He was convicted for commission of offence punishable under Section 452 of the IPC and was sentenced to suffer rigorous imprisonment for 7 years and to pay fine of Rs.10,000/- and in default of payment of fine to suffer rigorous imprisonment for three months.

(iv) He was convicted for commission of offence punishable under Section 201 of IPC and was sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.5,000/- and in default to suffer rigorous imprisonment for three months.

All these sentences were directed to run concurrently except the sentence in default of payment of fine amounts. He was granted set off under Section 428 of Code of Criminal Procedure (**Cr. P. C.**). He was acquitted from the charges of commission of offence punishable under Section 498-A of

IPC. Out of the fine amount recovered, Rs.50,000/- was directed to be paid to the mother of the deceased.

2. We have heard Ms. Ruju Thakker, learned Counsel appearing for the Appellant, Ms. Supriya Kak, learned A.P.P. appearing for the Respondent-State and Mr. Kartik Garg, appointed Advocate for Respondent No.2

3. The Prosecution's case in brief is as follows:-

4. The Appellant was married to one Bharti @ Pramila. He had three sons. There were marital discords. According to the Prosecution's case, the Appellant used to harass Bharti. She, therefore, left her matrimonial house and started residing with her brother-Padmakar Nipurte. Her other sister and the sister's husband and son were also residing in the same house. The Appellant wanted Bharti to join him in his matrimonial house but her brother and the other family members were not willing to send her to the Appellant's house. The

Appellant was unhappy because of that. He tried telling Padmakar to send her to his house but when Padmakar refused, the Appellant got angry. On 20/04/2013 there was a pre-wedding ceremony near the house of Padmakar. Some of the family members had gone to attend that ceremony. At about 9:00 p.m., the Appellant went to Bharti's house. He asked Padmakar to send her with him. Padmakar refused. The Appellant took out a knife and assaulted Padmakar on vital parts. Bharti's nephew i.e. her sister's son tried to save Padmakar but he was also assaulted. A crowd gathered. The Appellant left the place. The injured Mahesh Jadhav and Padmakar i.e. deceased were taken to hospital but Padmakar succumbed to his injuries. F.I.R. was lodged by Bharti's brother-in-law Sudam Jadhav vide C.R. No.I-66 of 2013 at Shahapur Police Station. The investigation was carried out. The body was sent for postmortem examination. The injured Mahesh Jadhav was admitted to ICU. Various panchanamas were conducted. The Appellant was arrested on 21/04/2013. According to the Prosecution's case, at his instance, his burnt clothes and the murder weapon were recovered. The articles were sent for chemical analysis. At the

conclusion of the investigation, the chargesheet was filed and the case was committed to the Court of Session.

5. During trial, the Prosecution examined 14 witnesses including the first informant, the injured eye-witness, the Appellant's wife, the panchas, the police witnesses and medical officers. The defence of the Appellant was of denial. According to him, he was falsely implicated. The Appellant examined himself as a defence witness. According to the Appellant, he was not present in the village of the deceased, he was at Shedgaon. He gave his mobile phone number to claim that he could show his location at Shedgaon at the relevant time. The learned Judge did not believe his defence, instead, he relied on the evidence of injured eye-witness and other witnesses including the circumstance of the recovery of weapon and the CA Reports. The learned Judge accordingly, convicted and sentenced the Appellant as mentioned earlier.

6. PW-1-Sudam Shankar Jadhav had lodged the F.I.R. He deposed that he resided at Taharpur with his family consisting of his

mother-in-law, brother-in-law-Padmakar Nipurte. His sister-in-law-Bharti was married to the Appellant. The marriage was solemnized about 11 years before the incident. Bharti and the Appellant had three children. The Appellant used to ill-treat her and used to beat her. Because of that Bharti used to come to stay at her brother's house i.e. the deceased's house. At the time of incident, Bharti was at the house of her brother. She had come to reside there since Ganapati Festival in the year 2012. That means for about more than 7 to 8 months, she was staying with her brother's family. Her children were at Shedgaon. They were residing with the Appellant. The Appellant made a phone call and asked Padmakar to send Bharti back to his house. But Padmakar decided to put the matter before respected persons of the village to see whether there was a possibility of settlement. On the date of incident, there was haldi ceremony at the house of one Vasudev Nipurte. At about 9:30 p.m., PW-1 was coming back from that function. He heard shouts from his house. At that time, his wife i.e. Bharti's sister, PW-1's mother-in-law i.e. Bharti's mother, Padmakar and Padmakar's wife were in the house. PW-1 deposed that

he had seen the Appellant running away from his house. He saw that Padmakar was lying at the door of the house. There were injuries to Padmakar on the chest and both hands caused due to knife. PW-1 took Padmakar in a vehicle. PW-1's son had also sustained injuries, he was also kept in the vehicle. Both of them were taken to Shahapur Hospital. The doctor examined both of them and declared that Padmakar was dead. PW-1 admitted his son in the hospital and went to the Police Station to lodge the F.I.R. against the Appellant. The F.I.R. is produced on record at Exhibit-24. Then he again went to the hospital. PW-1's son was shifted to Thane Hospital. On the next day, the Police conducted the spot panchanama. PW-1 had shown the spot. He identified the clothes worn by the deceased at the time of the incident when they were produced in the Court. PW-1 also identified his son's clothes.

In the cross-examination, PW-1 had stated that his family members had not filed any complaint against the Appellant before this case. The distance between his village and the Appellant's village was

about 30 to 45 minutes drive. He admitted that even the Appellant's wife had not filed any complaint against the Appellant. PW-1 denied the suggestion that he and his wife were residing separately from the family of the deceased-Padmakar. The Appellant and his family used to visit their house during festivals and other functions. PW-1 stated that his clothes were also stained with blood while he was taking the injured to the hospital but his clothes were not seized by the police. The distance between the place of incident and the place of haldi function was about 100 to 150 feet. It took about 2 to 3 minutes by walk to reach from the place of haldi to his house. Music was played in the function. The deceased-Padmakar and PW-1's son had not gone to attend the haldi function. He added that generally the Appellant's family was also invited for functions in PW-1's village and they used to attend such functions. On the date of incident, the deceased-Padmakar had not attended his work at BMC, Mumbai. PW-1 admitted that he had a grudge against the Appellant. He admitted that he had not personally seen the incident. He had visited his injured son in the hospital after three days. His son's condition was critical and

therefore, he was referred to other hospital. PW-1 stated that the Police had already reached the hospital before the PW-1 and others could reach the hospital. From the hospital, the Police took him to the police station. He stated that the police had written something and prepared a document in the hospital. PW-1's son Mahesh was also working in BMC. On the day of the incident, Mahesh had returned from service at about 4:30 p.m. He accepted that the Appellant had told Bharti to resume cohabitation for the sake of their children but neither the Appellant nor his family members had come to take Bharti back to their house. Bharti had not filed any complaints during those 11 to 12 years of her marriage. The F.I.R. produced on record substantially corroborates PW-1's evidence.

7. PW-2-Mahesh Sudam Jadhav is the most important witness in this case. He is the injured eye-witness. He is the son of PW-1. PW-2 deposed that his family i.e. he and his parents and his maternal uncle's family i.e. Padmakar and his family were residing together as a joint family. PW-2 deposed that his maternal aunt Pramila was married to

the Appellant. It is the Prosecution's case that Bharti had different names. She was also known as Pramila. There is no dispute that the Appellant was married to PW-2's maternal aunt. PW-2 deposed that the Appellant used to suspect his wife's character and used to assault her. The Appellant used to demand money from her and on that ground also he used to assault her. The Appellant used to drive her out of her matrimonial house but in the past Bharti/ Pramila's brother Padmakar used to convince her to go back to stay with the Appellant. About five to six months before the incident, the Appellant had severally assaulted Bharti with iron rod, kick and fist blows and therefore, she had come to reside with her brother, PW-1 and PW-2. They had decided to call a meeting of the elders in the village to convince the Appellant to treat her well and then send her back to her matrimonial house. In the meantime, the Appellant had sent messages asking them to send Bharti to cohabit with him. But PW-2's family was afraid of sending her to the Appellant's house. On 20/04/2013, the Appellant came to their house at about 9:00 p.m, he asked about his wife and about Padmakar. PW-2 told him that Padmakar could be busy

with the haldi ceremony in the neighborhood. The Appellant got angry. At that time, Padmakar returned home. There was a quarrel between the Appellant and Padmakar. PW-2 was trying to intervene. At that time, the Appellant had a knife with him. He took out the knife and stabbed Padmakar in the middle of the chest. The Appellant also assaulted Padmakar on both hands. The Appellant was asking as to why Padmakar was not sending Bharti to stay with him. At that time, PW-2's mother Aruna Jadhav, grandmother Changuanabai Nipurte and Padmakar's wife Priyanka Nipurte were in the house. PW-2 held the Appellant from behind. At that time, the knife fell down from the Appellant's hand. Padmakar went out of the house from the back door. He was followed by his wife. The Appellant then assaulted PW-2 with fist blow on his face. PW-2's mother intervened and pushed PW-2 to save him. PW-2 followed Padmakar who had gone outside the house but Padmakar had fallen down on the road next to their house. His wife was screaming for help. While PW-2 was trying to lift his uncle Padmakar to take him to the hospital, the Appellant came back with the same knife and stabbed PW-2 from

behind on the left lateral side of his abdomen. PW-2 then pushed him aside but the Appellant tried to attack him again with the knife. PW-2 started running to save himself. At that time, the guests from the haldi ceremony started coming towards the house. Seeing them, the Appellant went away. PW-2 and Padmakar were taken to Government hospital, Shahapur. On arriving at the hospital, Padmakar was declared dead. PW-2 was taken to Platinum Hospital at Thane for further treatment. On the next day, the police inquired with him. His statement was recorded. PW-2 identified his clothes produced in the Court which he was wearing at the time of the incident. He identified the knife produced in the Court.

In the cross-examination, he admitted that there was no complaint against the Appellant prior to the incident. His cross-examination was mostly on the similar lines as that of PW-1. There was one minor omission from his police statement which he had deposed before the Court. It was regarding the Appellant assaulting his wife Bharti with iron rod. That fact was not mentioned by PW-2 in his police statement. According to PW-2, the distance between his house

and the house where the haldi ceremony was going on was at a distance of about 300 to 400 feet. On 21/04/2013, his father had not come to meet him in the hospital but Sunil Nirpute and Dhiraj Nirpute were with him in the hospital. Sunil was with him till 22/04/2013. He admitted that he had not told the police that the Appellant used to suspect Bharti's character. PW-2 stated that on the date of incident, the Appellant had not sent any message or had not called before he came to their house. The Appellant had also got invitation of the marriage ceremony in their neighbourhood. He denied the suggestion that Padmakar had fallen at a distance of 10 to 15 feet from their house. He was admitted in platinum hospital for seven days. PW-2 resumed his service after about twenty-eight days. He denied the suggestion that on 21/04/2013, he was not conscious and was admitted in ICU.

8. PW-3-Pramila alias Bharti Pramod Kisale, was the Appellant's wife. She described the family relations of PW-1, PW-2 and the deceased. She corroborated the depositions of PW-1 and PW-2 about the background as to why she had come to stay with her brother's

family. PW-3 deposed that, when in the past, her brother had come to drop her to her matrimonial house, at that time, the Appellant had assaulted her brother. He had assaulted PW-3 as well and therefore, her mother-in-law had suggested her to go to her maternal house. Accordingly, during the Ganapati festival in 2012, PW-3 had come to reside with her maternal family. She was there for about 5 to 6 months. Two days prior to the incident, the Appellant called her and asked her to come for cohabitation. She had shown her willingness. The Appellant had asked her to tell Padmakar to drop her at her matrimonial house. On the date of incident, she had gone to attend the haldi ceremony. At about 9:15 p.m., the music system at haldi ceremony was turned off. She heard shouts from her house. She rushed to her house. PW-3 saw that her brother had sustained stab injuries on the chest and hands. He had fallen outside their house at the backside of the house. PW-3 deposed that when she came home, she had seen the Appellant running away from the house. However, this important fact was not stated by her to the police in her police statement. This omission is brought out in the cross-examination. PW-

3 had seen that PW-2 had also sustained stab injuries on the left side of the abdomen by the Appellant. Both Padmakar and PW-2, were shifted to the hospital.

In the cross-examination, PW-3 admitted that the Appellant was also invited for the same haldi function. Her police statement did not mention that the Appellant had assaulted Padmakar when he had gone to the Appellant's house with PW-3. She also could not explain as to why her police statement did not mention that two days prior to the incident, the Appellant had called her and she had shown willingness to go back for cohabitation. PW-3 had also not told the police that at about 9:15 p.m., the music system was turned off. These were the omissions brought out from her police statement compared to her deposition before the Court. Apart from that, there was not much cross-examination of this witness.

9. PW-4-Bhagwan Kalu Nipurte was a panch for inquest panchanama. In view of the postmortem notes, this evidence is not of

much significance.

10. PW-6-Mahesh Balu Shelawale was a panch for spot panchanama which is produced on record at Exhibit-37. It was conducted at about 7:00 a.m. on the next i.e. on 21/04/2013. PW-6 deposed about seizing articles like blood stained soil from the spot. The spot of incident was shown by PW-1-Sudam Jadhav.

In the cross-examination, he admitted that PW-6 knew Sudam Jadhav from his childhood. His cross-examination was mainly directed to show that he was an interested witness however, the spot of incident is hardly in dispute.

11. PW-7-Sameer Eknath Lathe, was a panch in whose presence the clothes of the deceased were seized. That panchanama is produced on record at Exhibit-39.

12. PW-5-Sharad Pandurang Nipurte, was a panch in whose presence the Appellant gave his statement leading to recovery of knife

and his clothes. PW-5 deposed that on 25/04/2013, he had gone to Tahsil office, Shahapur for his personal work. The police requested him to act as a panch. He went to the police station. The Appellant was present in the police station. The Appellant gave his name and said that he would show the knife concealed by him at Shedgaon. His statement was recorded. The Appellant took the panch and the police to his farm at Shedgaon. From his farm, he produced the knife which he had concealed there. He had concealed it in the grass. It was seized. Then the Appellant took them to his house. He showed the place where he had burnt his clothes. They saw one piece of burnt pant, which was seized. He then showed the place where he had concealed the motor cycle, it was also seized. The memorandum statement and the other panchanamas were produced on record at Exhibit-33.

In the cross-examination, PW-5 deposed that he was originally from village Taharpur i.e. the village of the deceased and PW-1. He knew the Appellant as the son-in-law of Krushna Nipurte of Taharpur. PW-2 and the deceased were his distant relatives. He had not attended the haldi ceremony. The distant between PW-5's house and Shahapur

Police Station is about 15 minutes. He had met the Appellant prior to the incident. He was acquainted with the Appellant. He knew that the Appellant was residing at Shedgaon. He further stated that he had put his signatures at about six to seven places. In his presence, the police had not enquired whether the house from where the articles were seized belonged to the Appellant. Similarly, they had not verified the ownership of the farm from where the knife was recovered. The panchanama produced at Exhibit-33 corroborates those statements.

13. PW-8, PW-9 and PW-10 are various police officers who had carried the articles to FSL on 02/05/2013, 18/05/2013 and 24/05/2013.

14. PW-11-Dr. Arun Bhanudas Koli, conducted postmortem examination. The postmortem notes are produced on record at Exhibit-45. He deposed that he found following injuries:-

- (i) Stab injury in the chest sternum region 3 x 3 x 7 cm deep.
- (ii) Stab wound right hand joint back side 4 x 3 x 5 cm

deep cut vein artery and muscle.

(iii) Stab wound on the left hand elbow joint back side laterally 2 x 1 x 2 cm deep muscle and artery cut.

On the internal examination, PW-11 found that there was:

- (i) cut on upper and middle lobe centre rupture and blood clot present. Stab wound 3 x 2 x 3 cm.
- (ii) on cut section stab wound in heart chamber size 3 x 2 x 2 cm rupture blood and clots present.

The internal injuries were corresponding to the external injuries. All the injuries were ante-mortem. PW-11 came to the conclusion that death was due to heamorrhagic shock due to stab wound on the chest region on vital organs. The lung and heart were ruptured. He was subjected to a detailed cross-examination but the important facts about the injuries could not be disputed. The cross-examination also could not dislodge his opinion that the injuries were ante-mortem. PW-11 stated that the police did not seek his opinion regarding the weapon. The injuries were possible by any sharp weapon. He accepted that blood samples were not collected.

15. PW-12-Dr. Dhiraj Sopanrao Mahamde had examined the injured PW-2 on 20/04/2013. Mahesh Jadhav had suffered injury on the lower left side of chest. PW-2 was admitted in the hospital. PW-12 and a general surgeon had performed surgery on PW-2. PW-2 had suffered stab injury below 12th rib anterior side of abdomen admeasuring 3 cm x 3 cm x bone deep. According to him, the injury was grievous and it was possible by a sharp edged knife. The injury was possibly fatal to life. PW-12 produced the injury certificate at Exhibit-51.

In the cross-examination, PW-12 stated that the time when patient reached the hospital was not entered. He had not brought the hospital record of the treatment given to PW-2. PW-12 was attached to Platinum Hospital.

16. PW-13-Sandip Laxman Patil, API, was the Investigating Officer. On 20/04/2013, he was on a night duty at Shahapur Police Station. API Vijay Patil had recorded the F.I.R. PW-13 had registered the crime and conducted the initial investigation. Teams were sent to

find the Appellant. PW-13 then had gone to the spot of incident. At about 7:00 a.m. in the morning the spot panchanama was conducted. The spot was shown by PW-1. The blood stained soil was seized. PW-13 made inquiries with PW-2. He had seized clothes of the deceased and the injured person.

In the cross-examination, PW-13 stated that, he did not remember whether there was an entry made in the station diary about any person informing about the incident and the place where the injured was kept. PW-13 did not remember whether any phone call was received in the police station about the incident. He had not accompanied the informant to the government hospital. He had not recorded the statement of PW-1. He admitted that there was no complaint filed previously regarding the dispute between the Appellant and his wife. He proved the omission from the police statement of PW-3. He accepted that all the witnesses were from the village of the deceased and their relations with the informant was cordial.

17. PW-14-Dilip Narayan Sawant, PI, was serving as API to

Shahapur police station. He investigated the crime from 21/04/2013 onwards. PW-14 arrested the Appellant on 21/04/2013 drawing arrest panchanama in the presence of two panchas. He received the postmortem notes. Some statements of the witnesses were already recorded. Police Constable Shinde produced clothes of the deceased from the hospital and the same were seized. He recorded statements of some of the witnesses. He sought response from MSEB as to whether there was electricity on 20/04/2013 in village Taharpur. He supervised the recovery panchanama under which the weapon and the burnt piece of pant was seized at the instance of the Appellant. PW-14 sent the articles for CA Analysis to FSL. He filed the chargesheet on conclusion of the investigation.

In the cross-examination, PW-14 accepted that he had not filed any documents regarding ownership of the property from where the articles were seized. In the remand report dated 29/04/2013, PW-14 had not informed the Magistrate about seizure of partially burnt pant. He denied the suggestion that the Appellant had told him to obtain CDR and SDR of the Appellant's phone as he was in his village

and that he intentionally did not get that report.

18. Apart from this oral evidence, the Prosecution produced the CA Reports on record which showed that the knife recovered at the instance of the Appellant showed presence of blood of 'A Group'. The piece of pant which was partially burnt also showed presence of blood of 'A Group'. The clothes of the injured showed presence of blood of 'A Group'.

19. As mentioned earlier, the defence of the Appellant was of total denial. In addition, he examined himself as a defence witness. He deposed that he got married with his wife Pramila in 2001. He had one daughter and two sons. Pramila used to go to her maternal house but there were no disputes between him and his wife. On 20/04/2013, the Appellant was at Shedgaon. He had a mobile phone. He had given his phone number as 9273861606. He came to know about the incident on the next day morning. He had attended the funeral and then he had returned back. The police had called him to make inquiries. He was kept in the police station and then in the lockup.

The property of his wife's parents were in possession of PW-1 and therefore he had lodged a false case.

20. In the cross-examination conducted on behalf of the State, the Appellant accepted that he had sent messages through relatives asking his wife to come back for cohabitation but he denied the suggestion that Padmakar was not willing to send her back and therefore, the Appellant was having a grudge against him. The Appellant did not know whether there was any marriage ceremony at Taharpur on the date of incident.

Submissions of Ms. Ruju Thakker, learned Counsel for the Appellant:-

21. Learned Counsel for the Appellant submitted that PW-1 has admitted that he had not seen the incident. There were atleast three women in the house but none of them was examined by the Prosecution. Therefore, adverse inference needs to be drawn. PW-3 had come to the house subsequently and there is an important omission from her police statement when she claimed that she had seen the Appellant running away from the house. Therefore, both

these witnesses are not reliable.

22. As far as PW-2 is concerned, there is contradiction in his evidence as to whether he was at the house when the incident took place. She submitted that the Prosecution has not led cogent evidence to show that there was sufficient light at the time of incident. This witness was given a suggestion that there was dispute between him and his friends at the time of incident. There is a possibility that the incident had not taken place in the manner in which it was deposed by PW-2. She submitted that it was also quite strange that PW-1 being a father of a critically injured son did not visit PW-2 in the hospital for two days. This also indicates that PW-2 was at fault and was possibly the offender.

23. Learned Counsel for the Appellant submitted that the knife was recovered from an open space. All the panchas, and in particular, the panch for recovery of the knife and the pant were all from the same village and had cordial relations with PW-1.

24. She further submitted that admittedly there was no complaint lodged against the Appellant because of his alleged ill-treatment towards to his wife. The Appellant was acquitted from the charges of commission of offence punishable under Section 498-A of IPC and there is no challenge to that finding. She therefore, submitted that the Prosecution has not proved the motive. She submitted that the evidence of the defence witness was totally ignored. The Appellant had given his phone number and therefore, the Prosecution should have produced the phone record which would have established that he was in his village and not at the place where the incident had taken place.

Submissions of Ms. Supriya Kak, the learned A.P.P. for the State and Mr. Kartik Garg, learned Counsel for the Respondent No.2 :-

25. On the other hand, the learned A.P.P. and the learned Counsel for the Respondent No.2 i.e. victim's mother submitted that PW-2 was an injured eye-witness and therefore, his evidence assumes more importance. There is no reason to disbelieve him. He is a only reliable witness. Based on his evidence alone, the Prosecution has proved its case beyond a reasonable doubt. The defence of the Appellant was not

believable and he has not examined any other witness from his village to show that he was in his village at that point of time. The recovery of knife and the burnt pant showing presence of the blood group of the injured is also an incriminating piece of circumstance.

Reasons and Conclusion :-

26. We have considered these submissions. In this case, the F.I.R. was immediately lodged in the night at 11:30 p.m. on 20/04/2013. It was immediately registered, there was no delay at all. There was no scope for concocting a false story. Before lodging the F.I.R., both the injured were taken to hospital. The incident had taken place between 9:00 p.m. to 9:30 p.m. This is an important aspect of this case.

27. Though PW-3 had not stated before the police that she had seen the Appellant running away from the house. But, PW-1 had stated in his deposition that he had seen the Appellant running away from the spot. There is no omission in his police statement given as a F.I.R., regarding this aspect. Therefore, at the very first point of time, the witnesses had stated about the Appellant's presence near the house

and the fact that he was running away from the spot with a knife. In this background, the evidence of PW-2 will have to be tested. After scrutiny of his evidence, we are of the opinion that PW-2 is a reliable witness. PW-2 has described the incident in detail. He is a natural witness. He was residing in the same house. He himself was injured. He tried to save the deceased but the Appellant repeatedly came near him to attack him and in the process he suffered a serious injury on his abdomen which required surgery. He has given the background of the case. Therefore, just because no complaint was lodged against the Appellant prior to the incident regarding his dispute with his wife, it does not mean that the incident had not taken place. There was no reason for PW-2 to implicate the Appellant falsely. In view of his clear deposition, non-examination of the other women in the house does not affect the Prosecution's case. There is no dispute about the spot where the injured had fallen. The spot panchanama shows that blood stained soil was taken from that spot. It was just on the backside of the house where the deceased was assaulted by the Appellant. We do not find any infirmity in the evidence of PW-2. Hardly any material is brought out in the cross-examination challenging his clear deposition.

28. In addition to the direct evidence of PW-2, there is a corroborative piece of evidence in the form of recovery of the knife and burnt pant. Though the knife was recovered from the grass, it was from the Appellant's farm. It was concealed by him. It was not lying open which could be seen by the people. Similarly, he had shown the place where he had tried to destroy the evidence by burning his clothes but some piece of his pant still remained which was seized and was sent for analysis. Both these articles show presence of blood of 'A Group' which was the blood group of the injured PW-2. Therefore, this piece of evidence is also an incriminating corroborative piece supporting the Prosecution's case.

29. Compared to this reliable and cogent evidence led by the Prosecution, though the Appellant has examined himself, he was not even able to prove his alibi beyond the standard of probability. He had given his phone number but he has not produced any record to show that the phone number stood in his name or that there could be witnesses who could depose that he was using that particular phone number. It was possible for him to get such evidence. Merely by giving

a phone number and stating that he was in his village does not prove his case of alibi. He needed to bring a more reliable evidence to prove his alibi. Though the Appellant is acquitted from the charges of Section 498-A of IPC, the incident of murder and attempt to commit murder of PW-2 is sufficiently proved by the Prosecution. The learned trial Judge has considered the evidence on record properly. We do not see any reason to interfere with the well reasoned judgment passed by the learned trial Judge. With the reasons mentioned above, we do not find any merit in the Appeal. Accordingly, we pass the following order:-

ORDER

(i) The Criminal Appeal No.724 of 2024 is dismissed.

(ii) In view of dismissal of Appeal, the connected Interim Application No. 3159 of 2024 is also disposed of.

(SANDESH D. PATIL, J.)

(SARANG V. KOTWAL, J.)