

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1359 OF 2024
WITH
INTERIM APPLICATION NO. 5395 OF 2024
IN
CRIMINAL APPEAL NO. 1359 OF 2024

Raju Raghu Sadavarte
Aged around 36 years
Occupation : Labour, residing at :
Savargad Bhagade, Post – Yewale
District Jalna, also residing at
Survey No.34, Raiwood Colony,
Lonavala, Taluka Maval, Dist. Pune,
Presently at Yerwada Prison, Pune.

...Appellant

Versus

1. The State of Maharashtra
Through PS Lonavala City,
Pune, Maharashtra – 410 401.
2. Legal Heirs of Anirudha Satvaji Nalkar
Through PS Lonavala City,
Pune, Maharashtra – 410 401.

...Respondents

Ms. Sahana Manjesh for the Appellant.

Ms. Mahalakshmi Ganapathy, Addl.PP for the Respondent-State.

None for the Respondent No.2.

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

DATE : 4th FEBRUARY, 2026

JUDGMENT (PER SARANG V. KOTWAL, J):

1. The Appellant has challenged the Judgment and Order dated 7th October, 2024 passed by the learned Additional Sessions Judge, Vadgaon, Taluka Maval, District Pune, in Sessions Case No.218 of 2022. By the impugned Judgment and Order, the Appellant was convicted for commission of offences punishable under Sections 302 and 201 of the Indian Penal Code ('IPC'). He was sentenced to suffer imprisonment for life and to pay fine of Rs.5,000/- and in default, to suffer rigorous imprisonment for six months for commission of offence punishable under Section 302 of the IPC. He was also sentenced to suffer simple imprisonment for one year and to pay fine of Rs.500/- and in default, to suffer further simple imprisonment for 15 months for commission of offence punishable under Section 201 of

the IPC. The substantive sentences were directed to run concurrently. The default sentences were directed to run consecutively. The compensation was directed to be given to the legal heirs of the victim.

2. Heard learned Counsel Ms. Sahana Manjesh for the Appellant and Ms. Mahalakshmi Ganapathy, Addl.P.P for the State.

3. The prosecution case in brief is as follows :

The deceased - Aniruddha Nalkar and the Appellant were labourers working together. In the night, at around 9.30 p.m. on 24th April, 2017, there was a quarrel between both of them. The Appellant did not like Aniruddha talking with the Appellant's wife. The others present there had pacified both of them. On the next day, early morning, Aniruddha Nalkar was found dead at the same spot where they were sleeping. The Appellant was not seen anywhere. The Police Officers of Lonavala City Police Station, Pune were informed. They registered the offence vide C.R.No. 59 o 2017 at about 11.32 a.m. The investigation was carried out. It is the prosecution case that in the

morning of 25th April, 2017, the Appellant met one Babassaheb Ingale and confessed to having killed one person. The Appellant was arrested on 25th April, 2017 itself. The investigation continued. Different panchanamas were conducted.

According to the prosecution case, the murder weapon was a hammer, which was recovered at the instance of the Appellant on 27th April, 2017 from a park. In the meantime, the Post Mortem examination was conducted. The seized articles were sent for Chemical Analysis. At the conclusion of investigation, chargesheet was filed and the case was committed to the Court of Session.

4. During trial, the prosecution examined nine witnesses including the first informant, the person to whom the alleged extra judicial confession was made, the panchas, the medical officer and the investigating officers. The defence of the Appellant was of total denial.

5. The learned Judge relied on the circumstances, motive, recovery of hammer and extra judicial confession. Based on the circumstantial evidence, the learned Judge convicted and sentenced the Appellant as mentioned earlier.

6. PW1- Vijay Manaji Harpude had lodged the FIR. He deposed that in the year 2017, he used to give his open space temporarily to labourers, coming to work in Lonavala. He was knowing those labourers as they used to come every year. They used to cook food in the open space.

On 24th April, 2017, at about 9.30 p.m., he heard sound of quarrel and abuses from that open space. He went there. He saw that the Appellant and the deceased - Aniruddha were fighting. PW1 stopped their fight. According to PW1, the Appellant asked the deceased as to how his son had died. After that, PW1 returned home. On the next day, at about 5.30 a.m., some women came to him and told him that Aniruddha was not waking up. He went there and saw that Aniruddha lay on the ground. He had sustained injury on his

head. There was blood at the spot. The Appellant was not seen. PW1's son and the Appellant's brother went in search of the Appellant. But, he could not be found. PW1 then lodged the FIR against the Appellant. The FIR is produced on record at 'Exhibit-14'. PW1's supplementary statement was recorded on 28th April, 2017.

In the cross-examination, he deposed that he was working as a supervisor and his duty hours were from 8.00 a.m. to 10.00 p.m. He had not made any agreement with the labourers who were residing on his open space. He did not know where those labourers were working. He used to take Rs.150/- to Rs.200/- from each of them as monthly rent. According to him, the Appellant had not given rent to PW1 for that particular month. He had not made any complaint regarding the fight between the Appellant and the deceased that had taken place on the previous night. He admitted that the quarrel between both of them was trifle in nature and therefore, he had not lodged any complaint. After seeing Aniruddha in injured condition, he had not called any doctor, but he had lodged a complaint to the Police. He accepted that he had not told the Police in his statement

that the Appellant had asked the deceased as to how his son had died. He could not explain this omission from his Police statement. He also could not explain the omission from his Police statement of the fact that some women came to him and told him that Aniruddha was not waking up. He denied the suggestion that since the Appellant had not given rent to him, there was a quarrel between PW1 and the Appellant and therefore, he had falsely implicated the Appellant in this case. He further accepted that on the day of incident and prior to the day of incident, the Appellant was under influence of liquor. He did not know whether there was dispute between the deceased - Aniruddha and other people.

7. The FIR produced at 'Exhibit-14' mentions that the offence was registered at 11.32 a.m. and the incident had occurred between 10.00 p.m. on 24th April, 2017 to 5.30 a.m. on 25th April, 2017.

8. PW2 – Babasaheb Ingale is another important witness. He

is examined on the point of extra judicial confession allegedly made by the Appellant. He deposed that he was working in Lonavala as a Mason. He used to come to Lonavala for work after Diwali festival and used to stay there till June. He and his family alongwith 8 to 10 other families from Ryewood were residing at PW1's place. PW2 was residing in a room and the other couples were residing in huts put up on PW1's open plot. The Appellant was residing there. He has not deposed about the deceased residing at that place. He did not give the exact date of incident, but he deposed that prior to 5-6 years of recording of his deposition, he, his wife and the Appellant had gone for work. On the next date, he and his wife did not attend the work. Their daily salary was not paid. It used to be given by the Contractor. On that occasion, the Appellant had taken his and his wife's one day's salary. This was told to PW2 by the Contractor. The Appellant met him at Labour Naka, Lonavala. PW2 demanded his and his wife's money. The Appellant told him that he would return his money by withdrawing that amount from ATM. They went to ATM. The Appellant told him that he had drank liquor in large quantity and

therefore, he was unable to withdraw the money from ATM. He also told to PW2 that he had spent the money. According to PW2, the Appellant told him that he was there from the night and that he had killed one person. PW2 did not believe him. He took mobile phone and ATM card from the Appellant and they went to Ryewood. He saw Police vehicles. He met the Appellant's sister-in-law who informed PW2 that the Appellant had committed murder of the deceased - Aniruddha. PW2 stated that he knew Aniruddha as he was residing with them at Ryewood. The Police recorded his statement. After that his statement was also recorded by a Magistrate under Section 164 of the Criminal Procedure Code (**Cr.P.C.**). That statement is produced on record at Exhibit-26. He identified the Appellant produced on V.C.

According to him, he had given his statement to the Police. He did not mention the month and year of giving his statement. He also could not tell when his statement under Section 164 of Cr.P.C was recorded. According to him, he had demanded his salary from the Appellant dtd. 25th. The accused met him at Lonavala at about 8.00

a.m. He denied the suggestion that as the Appellant had not given his money, there was a quarrel between them. He could not explain as to why his Police statement did not mention that he had taken ATM card of the Appellant. He could not explain as to why he did not immediately tell the Police that the Appellant had told him that he had killed one person. The record shows that his statement under Section 164 of Cr.P.C was recorded on 7th June, 2017.

9. PW3 – Gajanan Jaywanta Ingale was a panch witness for Inquest Panchanama which is produced on record at ‘Exhibit–28’. There is hardly any dispute about the nature of injuries caused to the deceased.

10. PW6 – Dr. Pravin Sonu Kandade had explained the injuries suffered by the deceased in his post mortem examination. The Post Mortem report is produced on record at ‘Exhibit–37’. According to PW6, the deceased had suffered seven contused lacerated wounds on the right side of the face causing serious injuries to the face, mandible,

scalp and ear. All the injuries were grievous. They were caused by heavy, hard and blunt object. They were sufficient to cause death. There was fracture of skull, right maxilla and right mandible. There was grievous injury to the brain. The injuries were possible by the hammer recovered during investigation which was shown to him.

In the cross-examination, he could not explain as to what were the clothes found on the body of the deceased.

11. PW4 – Namdev Dnyandeo Lagade was a panch witness for Spot Panchanama which is produced on record at ‘Exhibit–31’. There is hardly any dispute about the spot of incident. It was shown by PW1 – Vijay Harpude. It was on the open space between the cow shed and compound wall of Vijay Harpude’s house. The Police seized blood stained soil from the spot. The panchnama was conducted between 11.52 a.m. to 12.45 p.m.

12. PW5 – Sachin Arvind Bhalerao was a panch. In his

presence, one hammer was recovered at the instance of the Appellant. The memorandum statement panchanama and the recovery of hammer panchanama are produced on record at 'Exhibit-33' and 'Exhibit-34'. These panchanamas were conducted after 2.30 p.m. on 27th April, 2017.

PW5 deposed that he was called by the Police at Lonavala City Police Station on 27th April, 2017. The Appellant showed willingness to point the place where he had kept the hammer. It was under a tree at Ryewood park. He led the Police and the panchas to that spot near the tree. He took out that hammer with wooden handle from there. It was seized. The panchanama shows that the Appellant had taken the panchas and the Police towards that tree and had pointed at a trunk of the tree. He also pointed to the hammer lying there. It was seized by the Police.

13. PW7 – Santosh Maruti Shelke was a panch witness in whose presence the clothes of the Appellant were seized on 25th April, 2017 vide the panchanama produced at 'Exhibit-41'. He deposed

that on 25th April, 2017, he was called by the Police at the Police Station. He went there. The Appellant was present in the Police Station. The Police made him change his clothes in the presence of the panchas and seized those clothes. PW7 was also a panch witness in whose presence, in the same evening on 25th April, 2017, clothes of the deceased were seized at the Police Station. That panchanama is produced on record at 'Exhibit-42'.

In the cross-examination, PW7 admitted that the clothes of the Appellant were not removed in his presence from his person.

14. PW8 – PSI Iqbal Jamal Shaikh was the first investigating officer. He had registered the offence. He supervised the spot panchanama. He recorded statements of some of the witnesses. On 25th April, 2017 itself he arrested the Appellant under an Arrest Panchanama which is produced on record at 'Exhibit-52'. On the same day, he seized the clothes of the Appellant under the panchanama at 'Exhibit-41'. He deposed that after the Post Mortem, Police Constable – Kute produced clothes of the deceased. They were

seized by him under the panchanama at 'Exhibit – 42'. He sent the Appellant for medical examination. He supervised the recovery of iron hammer at the instance of the Appellant. He sought opinion of the Doctor, as to whether the injuries on the deceased were possible by the same hammer. He recorded the statement of PW2 under Section 164 of Cr.P.C. In the cross-examination, initially he denied the suggestion that the hammer was seized from the open space. However, he corrected himself and then stated that it was an open space.

15. PW9 – PSI Prakash Krushnrao Shitole had completed the remaining investigation and had filed the chargesheet.

16. Apart from this ocular evidence, the prosecution produced the C.A. Report on record which shows presence of blood on the clothes of the Appellant as well as on the deceased. The blood found on the hammer was human, but the blood group could not be determined. The blood sample of the Appellant was not useful in

determining the blood group. Even the blood of the deceased could not show what was the blood group. The analysis was inconclusive. This, in short, is the evidence led by the prosecution.

17. Learned Counsel for the Appellant made the following submissions :

The case rests on the circumstantial evidence. The prosecution has failed to prove the individual circumstances beyond reasonable doubt. The prosecution could not complete the chain of circumstances against the Appellant to rule out the possibility that no one else could have committed the murder. She submitted that since it was a case of circumstantial evidence, the motive was very important. But in this case, there was no motive for the Appellant to commit the murder. The quarrel between the Appellant and the deceased cannot be a circumstance of last seen together. At that time, the deceased was not in exclusive company of the Appellant. There was a time gap between 9.30 p.m. on 24th April, 2017 when the quarrel had taken place and 5.30 a.m. in the morning on 25th April, 2017 when the

deceased was found dead. It was a night time and therefore, it cannot be said that no other person could have committed the murder, but the Appellant. The prosecution has not examined any of the other labourers, who were residing in that area including the women who had told PW1 about the deceased not getting up.

18. Learned Counsel further submitted that the next circumstance is about the extra judicial confession. However, the evidence itself shows that the Appellant was heavily drunk and hence could not be in his senses to make a rational statement in the nature of confession to PW2. Even otherwise, PW2 had grudge against the Appellant as there was money dispute between them. Therefore, his evidence cannot be the basis for concluding that the Appellant had confessed about the crime. PW2 is not a reliable witness.

19. The next circumstance is about recovery of hammer. But the evidence shows that it was recovered from an open space in a park accessible to all. Therefore, it is not an incriminating circumstance.

20. The seizure of clothes of the deceased is another weak piece of evidence. The prosecution has not examined the Doctor who produced the clothes or the constable who had taken it from the hospital to the Police Station. The important link is missing. The prosecution has not ruled out the possibility that the blood found on the clothes of the Appellant was his own blood. The blood group of the deceased as well as the Appellant was inconclusive. Importantly, this particular circumstance was not put to the Appellant during his examination under Section 313 of Cr.P.C.

21. Learned Addl.PP, on the other hand, submitted that the quarrel between the Appellant and the deceased on the previous night furnishes sufficient motive for the murder. The Appellant was last seen in the company of the deceased in the night and the incident had occurred in the night itself. Therefore, the prosecution has established the circumstance of last seen together. She submitted that there is no reason to disbelieve PW2. The money dispute between them was on a petty issue for which PW2 would not implicate the Appellant falsely.

The Appellant has not taken up a specific defence that he was under influence of liquor to that extent as he would not be in a position to make a statement orally to PW2 accepting his guilt. The conduct of the Appellant after the incident points to his guilt. PW1 and PW2 had no reason to falsely implicate him. Though the recovery of hammer was from the open space, only the Appellant knew where the hammer was kept. Doctor has opined that the injuries were possible by the said hammer. The clothes of the deceased and the Appellant had the same blood group i.e. 'B'. The hammer also had human blood that can be seen from C.A. Report. All these circumstances formed a complete chain. The learned Judge has accepted those circumstances and has rightly convicted the Appellant.

22. We have considered these submissions. As rightly submitted by the learned Counsel for the Appellant as well as the learned Addl.P.P, the case is based purely on circumstantial evidence. Therefore, it was necessary for the prosecution to establish each of the circumstances beyond reasonable doubt and then form a complete

chain excluding any other hypothesis, but the theory of commission of murder by the Appellant. In this particular case, the motive assumed importance. For that purpose, the prosecution had examined PW1 – Vijay Harpude. Undoubtedly, he has spoken about the quarrel between the Appellant and the deceased at 9.30 p.m. on 24th April, 2017, however, he has also admitted that the quarrel was trifle in nature and therefore, he did not take it seriously to lodge a complaint. Thus, the said quarrel by itself did not furnish sufficient motive for the Appellant to take the extreme step of committing murder of the deceased.

23. Since the Appellant, the deceased and many other labourers with their families were residing together at the same open space, it cannot be said that it was only the Appellant who was seen last in the company of the deceased. Even as per the prosecution case, the deceased was sleeping at his usual space. Therefore, the petty quarrel in the night is not an incriminating circumstance.

24. PW1 had seen the deceased dead on the spot at around 5.30 a.m. and the FIR is registered at 11.30 a.m. He has not explained as to why they had not immediately informed the Police. Even as per the prosecution case, between 5.30 a.m. and 11.30 a.m. on 25th April, 2017, the Appellant was with PW2 who was also a labourer, residing at the same plot. Therefore, it cannot be said that the Appellant had absconded or was not found.

25. The next circumstance is about extra judicial confession allegedly made to PW2. The evidence of PW2 shows that he himself, his family and many other labourers including the Appellant were residing on the same plot. According to him, on 25th April, 2017 i.e. on the day of murder, he had met the Appellant and demanded salary from him at about 8.00 a.m. By that time, the dead body was already discovered. But, surprisingly, PW2 has not spoken a word about this fact. He only stated that since the Appellant had taken salary of PW2 and his wife on the previous day, he demanded it back from the Appellant and at that time, the Appellant expressed his inability to

return the money as he had spent it. At this point of time, according to PW2, the Appellant had made the extra judicial confession that he had killed somebody. It is quite obvious that PW2 did not know, who that somebody was though he was residing on the same plot. This itself is not believable.

26. Apart from that, PW2 has deposed that when he demanded money from the Appellant, the Appellant told him that he would return the money by withdrawing the amount from ATM. At that time, both of them went to ATM, but since the Appellant had consumed large quantity of liquor, he was unable to withdraw money from the ATM, that means he was not in his senses when he informed this to PW2. In continuation of the same, he allegedly told PW2 that he had killed one person. Thus, it is quite clear that at that point of time, the Appellant was not in his senses and therefore, his statement made to PW2 is even more doubtful. According to PW2, he had taken the Appellant's credit card. But, there is no trace of the same in the investigation.

27. The Police had recorded PW2's statement on 27th April, 2017 and his statement under Section 164 of Cr.P.C was recorded on 7th June, 2017. Thus, there is no immediate disclosure on his part.

28. Considering all these aspects even the circumstances, extra judicial confession is not proved by the prosecution beyond reasonable doubt.

29. The next circumstance is about recovery of hammer. For that purpose, the prosecution has relied on the evidence of panch witness PW5 – Sachin Arvind Bhalerao. The Police had recorded memorandum statement panchanama 'Exhibit-33' and Recovery Panchanama 'Exhibit-34' of the said witness. This evidence clearly shows that the hammer was recovered from a park which was a public park and hence accessible to general public. The panchanama mentions that it was recovered from under a tree near the trunk. That can hardly be said to be a place where the hammer was 'concealed'. However, the panchanama also does not show that it was concealed

behind any tree, bush or was buried under that tree. It was just lying in open place. In this view of matter, it cannot be said that there was authorship of concealment on the part of the Appellant or that he was the only person who knew where the murder weapon was kept.

30. In view of this matter, this recovery evidence loses its character as an incriminating piece of circumstance. Moreover, though the C.A. Report shows that there was blood found on the hammer, the blood group was inconclusive. More importantly, this finding of blood on the hammer was not pointed out to the Appellant in his examination under Section 313 of Cr.P.C. He was not given an opportunity to explain that circumstance.

31. Looking at the nature of injuries, it is clear that those injuries were possible by any hard, blunt and heavy object and not necessarily could be caused only by that particular hammer.

32. One more circumstance which the prosecution has tried to bring on record is that the clothes of the deceased as well as the

clothes of the Appellant showed presence of blood of 'B' group. In this connection, the learned Counsel for the Appellant rightly submitted that there is no linking evidence as to how the clothes of the deceased were brought to the Police Station. The Medical Officer who had removed those clothes from the body of the deceased, is not examined. PW6 – Dr. Pravin Kandade has not spoken a word about the clothes of the deceased having been handed over to the Police. Even, the Police Constable, who brought the clothes from the hospital to the Police Station, is not examined. The prosecution has not taken any precaution to show that the clothes which were produced at the Police Station in the evidence, were kept separate from the accused or there was no possibility of the clothes of the deceased and the Appellant coming in contact with each other. Again importantly, this particular circumstance is not brought to the notice of the Appellant in his examination under Section 313 of Cr.P.C. Thus, even this circumstance cannot be used against the Appellant.

33. As a result of the above discussion, we are of the opinion that the prosecution has failed to prove each of the above circumstances beyond reasonable doubt. Consequently, the prosecution has not completed a chain of circumstances beyond reasonable doubt to prove the guilt of the Appellant. In this view of the matter, the benefit of doubt must be given to the Appellant and he deserves to be acquitted. Hence, the following order :

ORDER

- (i) The Appeal is allowed.
- (ii) The Judgment and Order dated 7th October, 2024, passed by the learned Additional Sessions Judge, Vadgaon Maval in Sessions Case No.218 of 2022 convicting and sentencing the Appellant is set aside.
- (iii) The Appellant is acquitted of all the charges in this case.

(iv) The Appellant is in custody. He shall be released forthwith, if not required in any other case.

(v) Before being released, the applicant shall execute the P.R.Bond in the sum of Rs.15,000/- under Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for his appearance in case appeal is preferred against the Judgment and Order of acquittal.

34. The appeal is disposed of on the aforesaid terms.

35. In view of the disposal of the appeal, the connected interim application is also disposed of.

SANDESH D. PATIL, J.

SARANG V. KOTWAL, J.