

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO.502 OF 2025**

Manoj Mansaram Maraskolle	]	
Age : 38 Years, Occ. Waiter	]	
R/a. Madhav Bhavan Compund, Khadilkar	]	
Road, Girgaon, Mumbai	]	
Permanent Address :	]	
A/P, Tilli, Taluka : Goregaon, Dist. Gondiya	]	
Maharashtra	]	
Presently lodged at Kolhapur Central Prison	]	
as Prisoner No.C-8213	]	... Appellant (Original Accused)

V/s.

The State of Maharashtra	]	
V. P. Road Police Station, Mumbai	]	... Respondent

Mr. Prosper D'souza Appointed Advocate through Legal Aid for the Appellant.

Ms. M. H. Mhatre, APP for the Respondent-State.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

DATE : 18th March, 2026.

JUDGMENT (PER : KAMAL KHATA, J.) :-

1) By this Appeal, the Appellant seeks to set aside the impugned Judgment and Order dated 8th November, 2024 passed by the learned Additional Sessions Judge, Greater Mumbai in Session Case No. 556 of

2022 and consequently seeks acquittal.

2) The Appellant is presently undergoing life imprisonment at Kolhapur Central Prison, Kolhapur (C-8213), having been convicted by the learned Additional Sessions Judge in Sessions Case No. 556 of 2022 for an offence punishable under Sections 302 of the Indian Penal Code, 1860(IPC). He has been sentenced to imprisonment for life with a fine of Rs.2000/-, in default to suffer rigorous imprisonment for four months.

3) The prosecution's case is that the Complainant (PW-1), a resident of the Wadi, was aware that, both the deceased and the Appellant were working in the said area and for the past 8 to 10 years, prior to the date of incident, had been sleeping in front of the Rajashree Card Manufacturing Company.

4) According to PW-1 a social worker, on 3rd March 2022 at about 10 p.m., upon returning to the Wadi area after parking his two-wheeler, he noticed the deceased and Appellant quarreling and scuffling with each other over money in front of the said Rajashree Card Manufacturing Company. He, however, did not intervene, as such incidents were not uncommon.

5) At around 1.58 a.m. on 4th March 2022, PW-2 informed PW-1 that, a person was lying near Rajashree Card Manufacturing Company in a pool of blood with visible injuries. PW-1 immediately proceeded to the spot and found the deceased lying in a pool of blood, with a large blood-stained

stone lying nearby. The Appellant was seen sleeping at a short distance with blood stained clothes. PW-1 woke him and enquired about the assailant, but the Appellant gave vague replies and left the spot on the pretext of going to the urinal.

6) PW-1 then dialed No. 100 and upon receiving no response, contacted the V. P. Marg Police Station and informed them about the incident. The police arrived within a few minutes and shifted the deceased in an ambulance to the J.J. Hospital. PW-1's wife, who had accompanied him, informed him that she had seen the Appellant, with blood-stained clothes, hurriedly leaving the scene and strongly suspected that the Appellant had committed the alleged offence. On this basis, Crime No. 32 of 2022 came to be registered on 4th March 2022 for an offence punishable under Section 302 of the IPC. Upon completion of investigation, a charge sheet was filed against the Appellant for offence under Section 302 of the IPC.

7) On 15th October 2022, charges were framed below Exh. No.02, against the Appellant for an offence punishable under Section 302 of the IPC. The Appellant pleaded not guilty and claimed to be tried.

8) Upon appreciation of the evidence of twelve witnesses, the learned Additional Sessions Judge convicted the Appellant for an offence punishable under Section 302 of the IPC and sentenced him to imprisonment for life with a fine of Rs. 2000/-, in default to suffer rigorous

imprisonment for four months.

9) Mr. Prosper D'souza, Advocate appointed through the Legal Aid for the Appellant submitted that, the chain of circumstantial evidence was incomplete and insufficient to establish the guilt of the Appellant. According to him, the circumstances relied upon were neither fully proved nor of a conclusive nature. He further contended that the prosecution had failed to establish any motive. He pointed out material inconsistencies in the testimony of PW-1 and PW-2, particularly regarding the distance at which the Appellant was allegedly found sleeping – PW-1 stating it to be about 10 feet, whereas PW-2 stated it was about 3 feet. He submitted that if the Appellant had indeed committed the offence, it would be improbable for him to remain asleep in such close proximity to the deceased.

9.1) It was further submitted that, the CCTV footage did not clearly reveal the identity of the person captured therein. In such circumstances, the learned Trial Judge could not have relied upon the same to corroborate the testimonies of PW-1, PW-3 and PW-9. He submitted that it would be unsafe to base conviction on the testimony of PW-9 (wife of PW-1), who merely stated that she saw the Appellant with blood-stained clothes hurriedly leaving the spot.

9.2) Learned Advocate further submitted that, the medical evidence of autopsy surgeon (PW-12) did not connect the Appellant to the alleged offence and only established that, the death was due to a head injury. He

emphasised that, the incident occurred in an open area where several labourers were sleeping, which possibility was not adequately investigated. He contended that the mere presence of human blood of group 'A' on the Appellant's clothes, matching with the blood on the stone and the floor (farshi), was insufficient to sustain a conviction.

9.3) It was submitted that, the Investigating Officer has failed to examine any other person sleeping in the vicinity. In the absence of cogent and reliable evidence and particularly in light of the Appellant's specific denial, it would be wholly unsafe to conclude that the Appellant committed the alleged offence. It was further contended that, in the absence of any direct medical linkage or conclusive evidence, the possibility of the offence having been committed by some other person could not be ruled out. Mr. D'souza in support of his contentions placed reliance on the following Judgments:

- (a) *Padman Bibhar vs. State of Odisha* reported in 2025 SCC OnLine 1190; particularly paragraphs 12, 17, 20, 21, 22 and 24;
- (b) *State of Rajasthan vs. Hanuman* reported in 2025 SCC OnLine SC 1327; particularly paragraphs 6 and 9;
- (c) *Gambhir Singh vs. State of Uttar Pradesh* reported in 2025 INSC 164; particularly paragraphs 15, 20, 21, 22 and 37;
- (d) *Rambraksh vs. State of Chhattisgarh* reported in (2016) 12 SCC 251; particularly paragraphs 12 and 13;

(e) *Mustkeem vs. State of Rajasthan* reported in (2011) 11 SCC 724; particularly paragraph 19.

10) Smt. Mhatre, A.P.P. for the State opposed the Appeal and supported conviction of Appellant.

11) We have heard both the Advocates and carefully perused the record.

12) *Prima facie*, the present case appears to be one of murder committed by the Appellant. However, upon careful consideration, we find substance in the submissions of Mr. D'souza. The prosecution's case rests substantially on presumptions. The first presumption is that the quarrel between the deceased and the Appellant was on account of money. PW-1, has not disclosed the basis of such assertion. In fact, he had ignored the quarrel and had walked away. In these circumstances, it was incumbent on the prosecution to bring out the foundation for such a statement, that the quarrel was in respect of money, to establish motive or intent. In the absence thereof, any conclusion attributing motive to the Appellant would be speculative.

13) We also find merit in the contention that, the conduct attributed to the Appellant is inconsistent with ordinary human behaviour. If the Appellant had committed the offence, it would be expected that he would flee the scene rather than continue to remain and sleep in close proximity

to the deceased. Whether the said distance was 3 feet or 10 feet is of little consequence. The mere fact that the Appellant walked away when questioned by PW-1 cannot, in our view, be construed as major incriminating circumstance. Similarly, the presence of blood-stains on the clothes, by itself cannot be regarded as conclusive evidence of guilt.

14) In our view, the statement of PW-1 that, the quarrel was over money appears to be a mere assumption. His own conduct in ignoring the quarrel indicates that such altercations were not unusual between the deceased and the Appellant and were trivial in nature. Had the incident been out of the ordinary, PW-1, being a social worker, would have intervened. His failure to do so suggests that such quarrels were routine and not indicative of any underlying motive.

15) It is also significant that the PW-1 does not state that, he overheard any conversation relating to money. In our view, even if the deceased and the Appellant were seen quarreling, assuming for some money, we cannot ignore the statement of PW-1, that the two were sleeping in the same vicinity for more than 8 to 10 years and were found doing so even on the night in question. In such circumstances, it would be contrary to ordinary human conduct, particularly in the absence of any established motive, for the Appellant to have committed the murder and thereafter remained asleep next to the victim.

16) We further find that there is no conclusive evidence connecting

the Appellant with the crime. The CCTV footage is admittedly unclear and does not establish the identity of the person captured therein. In the absence of any other cogent material, the prosecution has failed to establish a complete chain of circumstances.

17) The investigation, in our view leaves much to be desired. The incident occurred in an open area where admittedly several persons were sleeping in close proximity. The Investigating Officer ought to have examined such persons. Their statements could have thrown light on the incident and assisted in establishing the chain of circumstances. The failure to do so creates a serious lacuna in the prosecution case.

18) In a case resting on circumstantial evidence, the burden lies squarely on the prosecution to establish its case beyond reasonable doubt by completing an unbroken chain of circumstances. Strangely, the PW-1, PW-2 or PW-9 too have not divulged any information about other persons sleeping in and around that area on the night in question. The IO too has failed to enquire with the others or take their statement with regard to the incident on the said date. The IO also failed to positively state that there were no other persons found around the victim at the given time. Thus the prosecution has failed to discharge this burden. It has neither ruled out the possibility of the involvement of any other person nor established an unbroken chain of circumstances pointing only to the guilt of the Appellant. The mere presence of blood of group 'A' on the Appellant's clothes,

corresponding with that found on the cement stone and the floor, is by itself insufficient to connect the Appellant with the crime.

19) The legal position is well settled. In *Padman Bibhar vs. State of Odisha* (supra), relying upon *Sharad Birdhichand Sarda vs. State of Maharashtra* (1984) 4 SCC 116 ; *Kanhaiyya Lal v. State of Rajasthan* (2014) 4 SCC 715; *Rambraksh vs. State of Chhatisgarh* (supra) and *Sujit Biswas vs. State of Assam* AIR 2013 SC 3817; the Supreme Court has held that the “last seen together” circumstance is a weak piece of evidence and cannot, in the absence of corroboration, form the sole basis for conviction for an offence under Section 302 of the IPC. There must be something more establishing connectivity between the accused and the crime. Mere suspicion, however strong, cannot substitute proof. The absence of motive further weakens the prosecution case. We are guided by the above decisions by which we are bound.

20) In the present case, it is an admitted position that the deceased and the Appellant had been sleeping in the same area for several years and that quarrels between them were not uncommon. The conduct of PW-1 in ignoring the quarrel, far from incriminating the Appellant, lends support to the defence case that the incident was not out of the ordinary.

21) In *State of Rajasthan vs. Hanuman* (supra), the Supreme Court has held that even the recovery of a blood-stained weapon, when coupled with motive, may not suffice to complete the chain of incriminating

circumstances. The present case stands on an even weaker footing, where the prosecution has failed to establish the motive behind the crime itself.

22) In *Gambhir Singh vs. State of Uttar Pradesh (supra)*, the Supreme Court held that, the three circumstances relied upon by the prosecution, namely 'last seen', "motive" and 'recoveries' at the instance of the appellant-accused were not proved by leading credible evidence. The Court held that, as a consequence thereof, the conviction of the appellant-accused could not be sustained.

23) In *Mustkeem vs. State of Rajasthan (supra)*, the Supreme Court held that, the mere matching of the blood group on the clothes of the deceased with that of the appellant by itself, is insufficient to establish guilt unless it is shown to be directly connected with the crime. In that case, the prosecution failed to establish such a nexus, and the blood found on the sword recovered at the instance of Mustkeem had disintegrated, rendering it unfit for proper examination. It was thus held that, the presence of blood traces on a weapon even if matching cannot *ipso facto* lead to the conclusion that the weapon was used for the murder.

24) In our view, the prosecution has failed to prove the motive and has miserably failed to link the chain of events necessary to establish the guilt of the Appellant and disprove his innocence. Hence the charge is therefore, not proved.

25) The impugned Judgment suffers from infirmity and accordingly

warrants interference.

26) Thus, the Appeal is accordingly allowed. The impugned Judgment and Order dated 8th November, 2024 passed by the learned Additional Sessions Judge, Greater Mumbai in Session Case No.556 of 2022 is quashed and set aside and the Appellant is acquitted of the offences charged against him.

27) The Jail Authorities are directed to release the accused/Appellant forthwith, if not required in any other case/cases.

28) Before parting, we place on record our appreciation for the efforts put in and the assistance rendered by Mr. D'souza, learned Advocate appointed through the Legal Aid Committee, who ably represented the Appellant.

29) All the concerned to act on the basis of authenticated copy of this Judgment.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)