

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO.1034 OF 2025****WITH****INTERIM APPLICATION NO. 4867 of 2025****Amit Sagar Solanki**

Age : 46 years,

Indian Inhabitant,

Having address at on Hingwala Market

Footpath, Hingwala Lane,

Ghatkopar (East), Mumbai

(At present is in Kolhapur Central Prison)

... Appellant

V/s.

The State of Maharashtra

Through Pant Nagar Police Station,

Ghatkopar, Mumbai.

... Respondent

Mr. Madhusudan Pareek, for the Appellant.

Smt. P.P. Shinde, APP for the Respondent-State.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.****DATE : 16th March 2026****JUDGMENT (Per A.S. Gadkari, J.) :-**

1) Present Appeal questions the correctness of Judgment and Order dated 6th June 2025 passed in Sessions Case No. 106 of 2021 by the learned Additional Sessions Judge, City Civil and Sessions Court, Greater

Mumbai, whereby the Appellant stands convicted under Section 302 of the Indian Penal Code and sentenced to suffer imprisonment for life, along with a fine of Rs.2,000/-, in default of payment of fine, to undergo simple imprisonment of three months.

2) Heard Mr. Pareek, learned Advocate appointed by Legal Aid Committee for the Appellant and Smt. Shinde, learned APP for the State. We have also carefully perused the entire record.

3) The prosecution case as deciphered from the evidence available on record, can briefly be stated as under :

3.1) Sanjay Lalchand Ingale (PW no.8) was engaged in shoe polishing at platform No.4 of Ghatkopar Railway Station, knew the Appellant for about 20 years prior to the date of incident. The incident in question took place on 2nd April 2020 at about 10.00 a.m. On that day and time, PW No. 8 was proceeding towards Love Garden for having tea. When he was proceeding through the skywalk towards platform No. 4, he saw Appellant beating a person with an iron pipe/rod.

3.2) The victim fell to the ground due to the said assault. However, the Appellant continued beating him with the said pipe/rod on the chest, leg, both sides of ribs. He beat the victim allegedly for non-fulfillment of the monetary demand. The Appellant required money for procuring drugs / pills.

3.3) PW No.8, along with another person, attempted to intervene

and tried to rescue the victim, but were threatened by the Appellant with the iron pipe. PW No.8 then rushed to the nearest Railway Police Chowki and informed the Police about the said incident. Thereafter, when the Appellant and Railway Police came towards the site of the incident, they saw Appellant running away leaving the victim lying injured there. PW No.8 with the help of another person shifted the victim to Rajawadi Hospital, Ghatkopar where he was declared dead before admission.

3.4) On the basis of the information furnished by PW-8, PSI Vikram Koli (PW-1) then attached to the Pantnagar Police Station, on behalf of the State, registered the First Information Report (Exhibit-13), which was recorded by Vikas Mali (PW-6). The investigation was thereafter handed over to Senior Police Inspector Renuka Buwa (PW-9).

3.5) Prior to that, Vikram Koli (PW No.1) had conducted inquest panchnama (Exhibit-11) of deceased. During the search of clothes of deceased, a chit was found, on which the name and mobile number of one Deepak S. Kulkarni (PW No.5) was written. The Police therefore contacted Deepak S. Kulkarni, who came at Rajawadi Hospital and identified the body of the deceased as Sachin Agale.

3.6) During the course of investigation, Appellant came to be arrested by effecting arrest panchanama (Exhibit – 38), the weapons used in the crime i.e. iron rod (Article 'E') and knife (Article 'F') were recovered by PW-9 from the Appellant in presence of Sagar Parkar (PW No.3). The

memorandum statement of the Appellant and recovery panchanama are at Exhibits 21 and 21-A respectively. The seized articles namely the clothes of the Appellant at the time of his arrest and the weapons recovered were sent for Chemical analysis. Upon receipt of Chemical Analyser's Report and completion of investigation, Investigating Officer (PW-9) submitted charge-sheet against the Appellant in the Court of 34th Metropolitan Magistrate, Vikhroli, Mumbai which was registered as C.C. No. 411/PW/2020.

3.7) As the offence punishable under Section 302 of the Indian Penal Code is exclusively triable by the Court of Sessions, the learned Magistrate committed the said case to the Court of Sessions in accordance with Section 209 of Code of Criminal Procedure.

3.8) The learned Judge of the trial Court framed the charge below Exhibit-5. The said charge was read-over and explained to the Appellant in a language he knew and was conversant with. The Appellant abjured the charge and claimed to be tried. In order to establish its case against the Appellant, the prosecution examined in all 9 witnesses.

3.9) Upon recording the evidence and hearing the learned Advocates for the respective parties, the learned trial Judge convicted and sentenced the Appellant as noted above.

The aforesaid facts, as set out hereinabove, are borne out from the evidence on record and are not in dispute.

4) Mr. Pareek, learned Advocate appointed to represent the

Appellant, submitted that the prosecution's star witness Sanjay L. Ingale (PW-8), is at best a witness to only a part of the incident, as he had left the spot to inform the police and returned thereafter and thus not witnessed the entire occurrence. He further contended that there is no evidence on record to establish that the Appellant was in fact a drug addict or that he demanded or robbed money from the deceased to satisfy any such alleged addiction.

4.1) He submitted that, while the eye-witness account refers only to an assault with iron pipe, while effecting the recovery of weapons an iron rod (Article 'E') as well as a knife (Article 'F') are recovered as recorded in the Pachamama (Exhibit 21-A). According to him, there is no evidence on record to show that the knife was in fact used by the Appellant to cause injury to the deceased.

4.2) Learned counsel further argued that Sagar S. Parkar (PW-3), who acted as panch witness to both the arrest panchanama (Exhibit-38) as well as the memorandum and recovery panchanamas (Exhibits 21 and 21-A), appears to be a habitual panch witness. It was pointed out that PW-3 admitted in cross-examination that, he was working as a driver for a Police Officer at the relevant time, thereby rendering him an interested witness acting under the influence of the police authorities.

4.3) He reiterated that there is no material on record to indicate that, the Appellant was addicted to or regularly consuming drugs or pills. It

was further submitted that PW-8 is not a reliable witness and his evidence ought to be discarded. He also emphasized that though there were three other witnesses allegedly present at the spot, the prosecution examined only PW-8, and his testimony is silent on the use of the knife.

4.4) On these grounds, Mr. Pareek submitted that, there is no legally admissible evidence to sustain the conviction and that the trial Court failed to consider these material aspects. He therefore urged that the impugned Judgment and Order be set aside and the Appeal be allowed.

5) Learned APP vehemently opposed the Appeal. She submitted that PW-8 is a natural and independent witness and his evidence is wholly reliable. She further submitted that, PW-7 in his testimony has categorically opined that injury No. 4 sustained by the deceased was caused by the knife (Article 'F') and therefore there is no reason to disbelieve its recovery at the instance of the Appellant.

5.1) She submitted that, the Chemical Analyser's Report duly corroborates the prosecution case by indicating the presence of human blood stains on the knife as well as on the clothes of the deceased. According to her, the evidence on record is sufficient to establish the guilt of the Appellant beyond reasonable doubt. She therefore prayed that, the Appeal be dismissed.

6) The present case is based on ocular evidence, with Sanjay L. Ingale (PW-8) being the principal witness. PW-8 has deposed that, he had

known the Appellant for about 20 years prior to the incident. According to him, on 2nd April 2020 at about 10:00 a.m., while proceeding from the skywalk towards Platform No. 4, he saw the Appellant assaulting a person with an iron rod. He has stated that, due to the assault the victim fell to the ground however, the Appellant continued to strike him on the chest, legs, and both sides of the ribs. The assault was allegedly on account of non-fulfilment of the Appellant's demand for money, as he required funds for procuring drugs/pills.

PW-8, along with another person, attempted to intervene and rescue the victim, but the Appellant did not heed their request and instead threatened them with the iron rod. PW-8 then rushed to the nearby Railway Police Chowki and informed the police about the incident. Thereafter, PW-8 returned to the scene along with the police, where they found the victim lying injured, while the Appellant had fled from the spot. PW-8, with the assistance of others, shifted the victim to Rajawadi Hospital, where he was declared brought dead.

6.1) In the course of the detailed cross-examination of this witness, nothing beneficial to the Appellant has been brought on record. On the contrary, certain admissions which are detrimental to the interest of the Appellant have emerged on record.

7) Dr. Prashant S. Bharsakhle (PW No.7) has conducted the autopsy on the dead-body of Sachin Agale. He deposed that, during post-

mortem examination, he found external injuries as mentioned in column No. 17 of the memorandum of post-mortem. The said external injuries are as under : -

- “1. Contusion over Chest left lower antero-laterally, 5x4 cm, reddish’
2. Contusions, multiple, over left thoracic region laterally 18 cm x 7 cm, reddish,
3. Contusion over left leg, lower/3, middly, 4 cm x 3 cm, reddish,
4. Contusion over anal region, 2 x 1 cm, reddish.
5. Contusion over left hand posteriorly of shoulder joint 3x2 cm, reddish”.

. PW No.7 found the following internal injuries, which are corresponding to external injuries.

a. Walls, ribs cartilages	Fracture ribs left 4 to 8 anterolaterally, reddish, Thoracic cavity contains 40 cc blood.
d. Right Lung e. Left lung	Left lung contused, Hemorrhages seen over, lower lobe 16 x 10 cm., reddish, pale edematous.

7.1) PW No.7 has deposed that, the cause of death of the victim was ‘Hemorrhagic shock due to thoracic injury’. That injury nos. 1, 2, 3 and 5 mentioned in column No.17 of Exhibit 32 can be caused by iron pipe and injury No.4 can be caused by knife.

8) As noted earlier, the weapons used in the present offence, namely the iron rod (Article ‘E’) and the knife (Article ‘F’), were recovered at the instance of the Appellant under memorandum and recovery

Pachamama (Exhibit 21-A). These articles were forwarded for chemical analysis. The Chemical Analyser's Report indicates that the blood stains found on both the iron rod and the knife were of human origin.

9) It is further noted that, at the time of arrest, the clothes of the Appellant were seized. The said clothes were also found to be stained with blood. The Chemical Analyser's Report clearly records that, the blood stains on the Appellant's clothes were of human origin, though the blood group could not be determined.

10) All the aforementioned circumstances were put to the Appellant while recording his statement under Section 313 of Code of Criminal Procedure. The Appellant has not offered any explanation to the incriminating circumstances and in response to the final question, he has adopted defence of false implication.

11) At this stage, it would be apposite to refer to the decision of the Supreme Court in the case of *Vadivelu Thevar Vs. The State of Madras* (AIR 1957 S.C. 614) wherein witnesses have been classified into three categories, namely: (i) wholly reliable; (ii) wholly unreliable and (iii) neither wholly reliable nor wholly unreliable.

12) A careful perusal of evidence of PW No.8, in our view, clearly establishes that the said witness is a wholly reliable witness and his testimony cannot be even doubted for consideration. His presence at scene of offence is natural and there is no material to suggest any animosity

against the Appellant so as to falsely implicate him in a crime of such gravity. On the contrary, his evidence indicates that, he attempted to rescue the deceased from the assault, albeit unsuccessfully. Further, the use of the knife by Appellant in causing injury at serial No.4 stands corroborated by the specific medical evidence of PW No.7.

13) Upon an overall appreciation of the evidence and material on record, we are satisfied that the Appellant is the author of the present crime. The prosecution has proved its case beyond reasonable doubt. The trial Court has not committed any error in convicting and sentencing the Appellant on the basis of evidence available on record.

14) In view thereof, we find no merit in the Appeal and it is accordingly dismissed. Consequently, the Interim Application No.4867 of 2025 does not survive and is disposed off.

15) Before parting, we place on record our appreciation for the assistance rendered by Mr. Madhusudan Pareek, learned Advocate appointed by the Legal Aid Committee to espouse the cause of the Appellant. Advocate Mr. Pareek was thoroughly prepared and rendered valuable assistance to the Court.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)