

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1099 OF 2023
WITH
INTERIM APPLICATION NO. 3032 OF 2025
IN
CRIMINAL APPEAL NO. 1099 OF 2023

Amit @ Monty Bajarang Purohit
Age 41 years, Occupation : Vegetable Seller
Resident of Jogeshwari Apartment,
3rd Floor, Behind Mhaskar Hospital,
Rambaug Lane No.06, Kalyan,
District Thane.

...Appellant

Versus

The State of Maharashtra
(At the instance of Senior Inspector of Police
Mahatma Phule Chowk Police Station, Kalyan)
(Vide their C.R.No. I – 194 of 2014)

...Respondent

Mr. Mohammed Umar Kazi a/w Ms. Sonia Santis for the Appellant.

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

CORAM : SARANG V. KOTWAL &
SANDESH D. PATIL, JJ.
DATE : 15th APRIL, 2026

JUDGMENT (PER SANDESH D PATIL, J.) :

1. The present appeal is directed against the Judgment and Order dated 31st August, 2023, passed by the learned Additional Sessions Judge, Kalyan, in Sessions Case No. 131 of 2011. By the impugned Judgment and Order, the Appellant was convicted for commission of the 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.10,000/- and in default of payment of fine amount, to suffer rigorous imprisonment for six months. The Appellant was given set off vide Section 428 of the Criminal Procedure Code, 1973.

2. Heard learned Counsel Mr. Mohammed Umar Kazi for the Appellant and Ms. Mahalakshmi Ganapathy, Addl.P.P for the State.

3. The case of the prosecution in brief is as follows :

The deceased – Prathamesh was attending the last rites of

his friend's grandmother at Giri Colony, near Datta Mandir, Kalyan-Murbad Road, Kalyan. The preparation of last rites of the grandmother of his friend Viresh Giri was going on. At that time, the complainant, the deceased and some other friends of the complainant were sitting on the stairs of Sai Arts Radium Shop. At about 10.45 p.m., the Appellant and his friend arrived on a motorcycle and stopped near them. The Appellant was the pillion rider on the motorcycle. The Appellant got down from the motorcycle and stabbed 5 to 6 times on the chest and stomach of Prathamesh (deceased). The complainant tried to rescue the deceased, however, the Appellant tried to stab the complainant as well, due to which he moved. The Appellant, thereafter, fled away by sitting on the motorcycle. The deceased, after walking 5 to 6 paces, fell down. There was a huge amount of blood oozing from the chest and stomach of the deceased. The complainant alongwith his friend Viresh Giri took Prathamesh to the hospital in an auto rickshaw, where he was declared dead.

During trial, the prosecution has examined about seven witnesses in support of their case. The defence of the Appellant was of total denial.

Evidence Of Witnesses

4. PW1 – Deepankar Bagade is the complainant. He has narrated that at about 10.45 p.m., he, the deceased and his other friends were sitting on the stairs of one shop and were waiting for the preparation of the last rites of the grandmother of Viresh Giri. At that time, the Appellant arrived there on a motorcycle. He was the pillion rider. He got down from the motorcycle and stabbed 5 to 6 times to Prathamesh on the chest and stomach by a sharp edged weapon. The FIR was lodged by PW1 at about 12.00 midnight. The same was produced before the Court at 'Exhibit – 26'. The said witness has stated that, on the next day, his supplementary statement was recorded to correct the name of the father of the deceased.

In his cross-examination, the witness was asked whether

the deceased was the natural son of Sunanda Krishnakant Gupte. He replied that the deceased was not the natural son. He deposed that Pratapsing Pardeshi and Tejas Patil were his friends. He was knowing the deceased since 2 to 3 years prior to the date of incident. He admitted that the deceased was not doing any work. He stated that he did not know whether he was in the habit of playing cards. He stated that he did not know whether the deceased was involved in various crimes registered at the Mahatma Phule Chowk Police Station. He stated that he did not recollect whether a car could be passed through the lane of Giri Colony. He stated that he saw a weapon for the first time with the Appellant when the Appellant raised his hand to assault him. He stated that the clothes of the deceased were stained with blood and his clothes were also stained with blood. He stated that neither he himself nor his friends noted down the registered number of the motorcycle.

5. PW2 – Tejas Patil was the spot panch. He deposed that he was taken to the spot while drawing the spot panchanama. The spot

panchanama was drawn near the shop named as Sai Art Radium. He stated that at that time, another co-panch was present with him. He noticed blood on the steps of Sai Art Radium Shop. There were two motorcycles. He also noticed the blood on the steps of Atmaram Cycle Mart. The said panchanama was produced before the Court at 'Exhibit – 27'.

In the cross-examination, he stated that it was true that all friends of the deceased were present at the Police Station. After the incident, Giri, himself and co-panchas were present on the spot with the Police.

6. PW3 – Dattatray Kadam was a panch witness to the recovery panchanama. He stated that since there was a murder, the Police requested him to act as a panch. The Police disclosed to him that the Appellant was saying something which was to be recorded. After his statement was recorded, the Police and the Appellant sat in the vehicle and went to the place shown by the Appellant. The

Appellant got down from the vehicle and they reached to Korane Hospital. There was a building namely Sai Sadan building. Behind the Sai Sadan Building, there was a drainage. The Appellant removed a knife and his clothes hidden under a tile of drainage. Police seized those articles. The knife which was recovered was marked as 'Article – A' and the clothes were marked as 'Articles – B and C'. The said witness stated that except name and address, the Appellant never disclosed to them anything else when they had gone to the Police Station before proceeding towards Sai Dham Building. At that juncture, the learned Addl.PP submitted to grant permission to cross-examine the said witness. In the cross-examination, the said witness has stated that the Appellant disclosed to them that he was ready to produce the blood stained clothes and the knife concealed by him. The said statement was reduced into writing and signatures of the panchas were obtained. The Appellant had also put his signature in their presence. The said statement was produced before the Court at 'Exhibit – 29' and the seizure panchanama which was conducted, was produced at 'Exhibit – 30'.

In cross-examination, the said witness has stated that he was present in the Police Station for 20-25 minutes. He further stated that there were number of buildings near to the Sai Sadan Building. After reaching to the said building, the articles were produced within 10 minutes. He also stated that the writer was in Police uniform, and that after the panchanama, they returned to the Police Station. He, however, denied that on 28th February, 2011, when Sr.PI Patil called him to the Police Station and asked him to put his signature on 'Exhibits – 29 and 30', he had put his signature.

7. PW4 – Vikramsing Pardeshi was examined by the prosecution. The motorcycle was seized near Murbad Road near Hanuman Mandir in the presence of this witness. It was a Bajaj Pulsar motorcycle having its registration number MH-05 AH 5797. He stated that he went to the spot from Mahatma Phule Police Station alongwith the Police and the accused. The Police seized the said motorcycle under a panchanama. The panchanama was drawn in his presence and the same was produced before the Court at 'Exhibit – 35'.

This witness stated that nobody made any statement before him before leaving the Police Station. At this stage, learned Addl.P.P, therefore, sought permission to cross examine the witness.

In his cross-examination by the learned Addl.P.P, he stated that it was true that the Appellant stated before him that he is ready to show the motorcycle kept by him on Murbad Road. The Police then recorded the statement of Appellant in his presence. The said witness stated that the statement shown to him was made by the Appellant. The said statement was marked at Exhibit - 36.

In cross-examination of the said witness by the learned Counsel for the Appellant, it was stated that he had gone to the Police Station when Prathamesh expired and had stayed there the whole night and the Police told him to come on the next day. He further stated that during the said night, co-panch – Mitesh was with him. He also stated that one of his friends informed him over the phone that he had to act as a panch witness, as other friends had already acted as

panch witness. He denied that he had not accompanied the Appellant to any place. He did not recollect exactly where he signed the panchanama.

8. The prosecution examined PW5 – Omkar Pramod Inamdar was the friend of the deceased Prathamesh. This witness stated that the incident occurred on 23rd February, 2011. He stated that he alongwith some other friends including the complainant were sitting on the stairs. At about 10.45 p.m., the Appellant and his friend had arrived there on a motorcycle. The Appellant was a pillion rider. The Appellant got down from the motorcycle. The Appellant directly went to the deceased and caught hold of the collar of the deceased by his left hand and then dealt blows on his chest and stomach. All other friends tried to intervene. The Appellant, however, sat on the motorcycle and went away. He stated that blood was oozing from the chest of deceased and he collapsed after 5 to 6 paces. The injured was then taken to the hospital, where he was declared dead.

In his cross-examination, he stated that he was knowing the deceased 2-3 years prior to the incident. He stated that the deceased was a friend of Viresh Giri. He denied that various NCs and cases were registered against the deceased. He denied that the deceased was of quarrelsome nature and had quarreled with others. He stated that the Appellant had a shop of Chinese food and the deceased used to visit the kiosk of Appellant where he was running the Chinese food shop. He admitted that prior to the incident, there was a quarrel between the deceased and the Appellant. The said witness however, denied knowledge as to whether the quarrel between the deceased and the Appellant had taken place as the deceased did not pay the bill of the Chinese food.

9. PW6 – Shankar Sawant is the Police Officer who had recorded the FIR. He stated that on 24th February, 2011, he had recorded the FIR of PW1 as per his say. He identified his signature and the signature of the informant on the FIR which was marked at Exhibit – 26. He specifically stated that he had entrusted the

investigation to Sr.PI S.R.Patil,who had expired.

In cross-examination, he accepted that nobody had come to lodge the FIR prior to the FIR on 24th February, 2011. He stated that when he registered the FIR, at that time, neither the clothes of the informant nor the clothes of any other person were seized.

10. PW7 – Dr. Sanjay Sali, is the Medical Officer who had performed the Post Mortem on the body of deceased. He stated that he had noticed external injuries on dead body as under :

- (i) Stab wound on left side of chest, below and medial to left nipple, measuring 5 c.m. x 3 c.m. x 8 c.m.
- (ii) Incised wound left side of chest below left nipple, measuring 5 c.m. x 4 c.m. x 3 c.m.
- (iii) Incised wound left axilla, measuring 2 c.m. x 1 c.m. x 1 c.m.
- (iv) Incised wound below left pectoral region, measuring 3 c.m. x 2 c.m. x 2 c.m.
- (v) Incised wound below above injury measuring 1 c.m. x 1 c.m. x 1

c.m.

(vi) Incised wound right side of chest, measuring 2 c.m. x 1 c.m. x 1 c.m.

He stated that he had noticed the following internal injuries as well:

Pericardium torn at the left lateral aspect. Pericardium cavity filled with blood. Heart ruptured at the apex.

He opined that the death was caused due to shock due to multiple injuries on the body. The Post Mortem notes which were prepared in his handwriting, were produced at Exhibit – 42.

In his cross-examination, several questions were asked to him regarding the functions of various parts of the body mentioned above. He stated that he had seen the Muddemal – knife for the first time in the Court. It was having a sharp edge at one side and the length of the blade was 7 c.m. from the handle. He stated that the

said weapon having a sharp edge on one side, could cause clean-cut injuries if sufficient force is applied. The said witness stated that the dimension and measurement of the weapon corresponds the injury.

11. The prosecution has also produced the FSL Report at Exhibit – 40. The said FSL Report mentioned that the blood group found on the clothes of the deceased was same as the blood found on the weapon i.e. knife.

12. The learned Judge, after examining the aforesaid evidence has come to a conclusion that the Appellant has committed an offence punishable under Section 302 of the IPC and had sentenced him to undergo rigorous imprisonment for life.

Submissions on behalf of learned Counsel for the Appellant

13. Learned Counsel appearing for the Appellant submitted that the witnesses which are examined, are all interested witnesses. He submitted that they are the friends of the deceased and therefore,

they were interested witnesses. He submitted that inspite of the fact that independent corroboration was available, the prosecution has chosen not to bring forth the said evidence. He submitted that there was no motive for the commission of the crime. He submitted that there was no pre-meditation and there was no intention. He submitted that there was no dispute between the appellant and the deceased. He submitted that the recovery of the knife was from an open space and as such, it could not be considered admissible under Section 27 of the Indian Evidence Act. Learned Counsel argued that PW1 and PW5 claimed that they were called at the Police Station and they deposited their clothes, however, the panchanama stated otherwise. He submitted that the evidence on record was not enough to convict the Appellant. He submitted that the impugned Judgment and Order is not sustainable and requires interference at the hands of this Court.

Submissions on behalf of learned Addl.P.P.

14. The learned Addl.P.P on the other hand argued that the blood on the clothes and the knife was the same i.e. blood group 'O'.

She argued that the recovery of the knife was at the instance of the Appellant. She submitted that there were two eye-witnesses who were examined and that their evidence certainly is required to be appreciated in favour of the prosecution. She stated that the Post Mortem Report shows the nature of the injuries. She stated that there are about six injuries which are quite grievous in nature which would be enough to cause death. She further stated that it was very difficult to disbelieve the eye-witnesses. She submitted that there was surely a motive for commission of offence. She submitted that the impugned Judgment and Order does not require any interference.

Reasons and Conclusion

15. After considering the submissions made before us and the evidence of the witnesses, the case of the prosecution is that the Appellant had come to the place where the deceased and the other friends had gathered mainly for preparation of last rites of the grandmother of the friend of the deceased. At that time, the complainant as well as PW5 and other friends were sitting on the

stairs near a shop. The Appellant arrived there at 10.45p.m. on the motorcycle and stopped near the deceased. He caught hold of the deceased and thereafter, assaulted the deceased 5 to 6 times by a sharp edged weapon on his chest and stomach. The evidence of PW1 as well as PW5 who were eye-witnesses, clearly states the manner in which the deceased was assaulted by the Appellant. Both the said witnesses have clearly stated the manner in which the assault was carried out. Both the witnesses have also stated the time at which the incident had occurred. They were eye-witnesses. Although it was argued by the Appellant that they were friends of the deceased and therefore interested witnesses, we do not assign much importance to the said arguments precisely because they were the natural witnesses who were present at that point of time. The evidence of both the said witnesses is consistent and inspires confidence.

Their evidence is further corroborated by the evidence of PW7 – Dr. Sanjay Sali who had performed Post Mortem. The said Post Mortem Report is at Exhibit - 42. This report clearly states the

nature and extent of the injuries caused. This witness has clearly stated that the injuries which are caused, can be caused by Article – A knife. He has also stated the extent and the manner in which the grievous injury was caused to the deceased. There is no reason to doubt the evidence of the eye-witnesses namely PW1 and PW5. Only because there was a possibility that some other independent witnesses were available would not mean that these witnesses could be doubted in absence of any strong and cogent reason to doubt the veracity of the said witnesses.

16. The argument of the learned Counsel appearing for the Appellant that there was no motive or intention to commit the crime was without any substance. Both the eye-witnesses PW1 and PW5 have categorically stated that it was the Appellant who had come near the deceased when he came on the motorcycle as a pillion rider. Both the said witnesses stated that the deceased was assaulted by the Appellant. As far as the issue of intention and motive is concerned, the Appellant has stated in his statement recorded under Section 313

of the Cr.P.C, that the deceased had taken Rs.8,000/- from him as hand loan and he did not return it. He has further stated that he had gone to demand money from him, but he threatened him and therefore, he had lodged the FIR to Mahatma Phule Chowk Police Station. The argument of the learned Counsel appearing for the Appellant that there was no intention or no pre-meditation is not correct. There was admittedly dispute over money.

17. The argument of the learned Counsel appearing for the Appellant that the knife was recovered from an open space is also not correct. The said recovery panchanama was produced by the prosecution through PW3. PW3 clearly states that behind the Sai Sadan Building, there was a drainage. The Appellant removed the knife and the clothes hidden under a tile of the drainage and the Police seized the articles. It is not that the said recovery was from an open space, but was from beneath the tile of drainage. The articles were concealed. Thus, the said recovery can very well be believed. The arguments of learned Counsel appearing for the Appellant that the

recovery does not adhere to the standard as prescribed under Section 27 is not correct. We are inclined to believe the said recovery panchanama as well as the statements which are marked and exhibited. It is no doubt true that initially, PW3 was declared as hostile, however, it was only to a limited extent that except the name and address, the Appellant never disclosed to them anything, when they had gone to the Police Station. However, later on, he has clearly stated that the Appellant disclosed to them that he is ready to produce blood stained clothes and the knife concealed by him. Thereafter, in the cross-examination, his statement as well as panchanama was produced at Exhibit – 29 and 30 and therefore, merely because the said witness is declared hostile would be of no use to the Appellant.

The contention of the learned Counsel appearing for the Appellant that independent corroboration was available inasmuch as, there were many other witnesses too, is not correct. In this case, there are two eye-witnesses namely PW1 and PW5 who can be believed. Their evidence is trustworthy. There was no need of any other

independent eye-witness to corroborate. The arguments that the said eye-witnesses were friends of the deceased, is also of not much avail inasmuch as, they are the natural witnesses who had consistently stated about the incident which they had seen. As far as the arguments of the learned Counsel appearing for the Appellant regarding the deposit of clothes of PW1 and PW5 is concerned, it is to be stated that the said clothes were of the said witnesses and not of the deceased and therefore, it would not be correct to state that there is discrepancies in the factum of the recovery of the clothes of the deceased.

18. The FSL Report which is produced at Exhibit – 40 proves that the blood group which was found on the knife corresponds to the blood group of the deceased. The report at Exhibit – 40 also corroborates the evidence of the PW1, PW5 and PW7.

19. The entire circumstances of the case, the evidence on record, shows the severity with which the offence had taken place. It is corroborated by Exhibit – 42, the Post Mortem Notes which shows

that there were grievous injuries which were caused to the deceased. There were two injuries on the left side of the chest. The heart had ruptured at Apex. Taking into consideration the number of injuries as well as severity with which the injuries were caused and the direct evidence, we find no reason to deviate from the well reasoned findings rendered by the learned trial Court.

20. The learned Trial Court had correctly considered the evidence on record and correctly given the reasons for coming to the conclusion as stated above. For these reasons we find no merits in this appeal.

21. The appeal is therefore, dismissed.

22. In light of dismissal of the appeal, the interim application also does not survive and is accordingly disposed of.

SANDESH D. PATIL, J.

SARANG V. KOTWAL, J.