



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [APPA] No.134 of 2026
in
Criminal Appeal No.71 of 2026

Narendra Dnyaneshwar Dhegale and another
vs.

State of Maharashtra, through Police Station Officer, Ner, District Yavatmal

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. Abhay Sambre, Advocate for the Applicants/Appellants.
Mr. A.B. Badar, A.P.P. for the Non-Applicant/Respondent.

CORAM : **ANIL L. PANSARE & NIVEDITA P. MEHTA, JJ.**
DATE : **17th MARCH, 2026.**

Heard.

02. The applicants are convicted for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. The allegation against the applicants is that they were having a love affair. Applicant No.2 (Original Accused No.2) had a married son and a daughter. The daughter is residing at her matrimonial house. Applicant No.1 is a resident of Mozar, Tahsil Ner, District Yavatmal, where applicant No.2 is also residing. According to the prosecution, the son of applicant No.2 had an objection to the relationship of the applicants. The applicants could not carry forward their relationship because of the objection raised by the son of applicant No.2. Accordingly, they decided to eliminate him and on 3rd August, 2020, they allegedly did so.

03. The case of the prosecution, however, is based on circumstantial evidence. The son of applicant No.2 was found dead near the cemetery. When enquired with the learned A.P.P. as to what is the distance between the residence of applicant No.2, where the deceased was residing, and the cemetery, he stated that there is no evidence on this point. It is, however,

nobody's case that the cemetery was in close proximity of the residence of applicant No.2.

04. As such, the case of the prosecution is that the applicants committed the murder of the deceased in the house, however, no cogent evidence is furnished in support thereof.

05. The most crucial point is the relationship between the applicants. According to the prosecution, they were having a love affair. This story is mainly based on the statement of PW-3. Her evidence indicates that it was applicant No.2, who lodged F.I.R. on 4th August, 2020 stating that her son was murdered by some unknown person. PW-3 accompanied applicant No.2. Her statement, however, was not recorded on 4th August, 2020. The statement was recorded on 6th August, 2020. In her statement, she stated that 4-5 persons made her husband consume alcohol and thereafter committed his murder. In the cross-examination, when she was questioned as to whether she had stated so before the police, she denied. Thereafter, her attention was invited to the portion of the statement where she, in fact, had made such allegation. The portion is marked "A". Thus the PW-3 has modified her version on material fact. Further on the point of the relationship between the applicants, she admitted that her husband used to tell her that the applicants were not having any relationship.

06. Despite such evidence, the trial Court in paragraph 27 of the judgment, by referring to her evidence, inferred that the story of love affairs between the applicants remained unshattered in her cross-examination. This finding appears to us to be contrary to the evidence of PW-3.

07. That apart, there is a reason why would PW-3 depose against the applicants. It is brought on record in the cross-examination that she had strained relationship with applicant No.2. They used to quarrel frequently, and that she was of the opinion that applicant No.2 was instigating her husband against her, and that applicant No.2 was always accusing and taunting her on many counts, and that she used to ask her husband to leave her and get married to another girl.

08. Since the case of the prosecution is based mainly on the testimony of PW-3 and considering the fact that the foundation of the prosecution story is destroyed in her cross-examination, we are of the view that the applicants have made out a case for suspension of sentence. In the result, the following order is passed:

- I. The application is allowed.
- II. The substantive sentence imposed upon the applicants by the learned Additional Sessions Judge, Yavatmal in Sessions Case No.7/2021 convicting the applicants under Section 302 read with Section 34 of the Indian Penal Code is hereby suspended pending final disposal of the criminal appeal.
- III. Applicant No.1-Narendra Dnyaneshwar Dhegale and applicant No.2-Smt. Shobha Damdu Chavhan shall be released on bail on their furnishing P.R. Bond each in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or two sureties in the like amount to the satisfaction of the trial Court.
- IV. The applicants shall monitor progress of appeal and shall remain present before the Court at the time of final hearing of the appeal.
- V. The criminal application stands disposed of accordingly.

(Nivedita P. Mehta, J.)

(Anil L. Pansare, J.)

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