
(2023) 01 BOM CK 0005

Bombay High Court

Case No: Criminal Appeal No. 840 Of 2022, Interim Application No. 2817 Of 2022

Vinod Narbahdur
Bhandari

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

Date of Decision: Jan. 2, 2023

Acts Referred:

- Indian Penal Code, 1860 - Section 302
- Evidence Act, 1872 - Section 106

Citation: (2023) 01 BOM CK 0005

Hon'ble Judges: A.S.Gadkari, J; Prakash D. Naik, J

Bench: Division Bench

Advocate: M. S. Ansari, M. H. Mhatre

Final Decision: Dismissed/Disposed Of

Judgement

A.S. Gadkari, J

1. Appellant has impugned Judgment and Order dated 27th November, 2019 passed in Sessions Case No. 326 of 2013 by learned Additional Sessions

Judge, Pune, convicting him under Section 302 of the Indian Penal Code (for short "the IPC") and sentenced to undergo imprisonment for life

and to pay fine of Rs.2,000/-, in default of payment of fine to further suffer rigorous imprisonment for three months.

2. Heard Mr. Ansari, learned Advocate appointed to represent Appellant and Mrs. Mhatre, learned APP for State. Perused entire record.

3. The date and time of incident was 9th October, 2012 between 1.00 a.m. to 1.30 a.m.. The name of deceased is Smt. Talashi, the wife of Appellant.

3.1. Record reveals that, Balasaheb N. Jawalkar (PW-1) prior to one month of the date of incident had started one farm house in the name and style

as Tarai Guest House near Panshet road. He had employed Appellant as a cook and Madan N. Yogi @ Kancha (PW-4), who is original resident of

Nepal, as a waiter at his guest house. Appellant was addicted to liquor, he used to take suspicion on the character of his wife Smt. Talashi and on that

count there were frequent quarrels between them.

3.2. That, on 8th October, 2022 at about 10.00 a.m. Prakash Puri and Hemant Limbu had been to the house of Lokpal P. Gosavi @ Giri (PW-3).

Prakash Puri and Hemant Limbu were related to each other as uncle and nephew. Prakash Puri, Hemant Limbu and Appellant consumed liquor.

Appellant picked up quarrel with his wife at about 8.00 p.m.. Lokpal P. Gosavi @ Giri (PW-3) came at Tarai Guest House and went away with

Prakash Puri and Hemant Limbu. Balasaheb N. Jawalkar (PW-1) also came at the guest house, took a round, inspected the guest house and went

away. Thereafter also there was quarrel between Appellant and his wife. Appellant was hurling abuses in filthy language to his wife.

3.3. At about 1.00 a.m. of 9th October, 2012, Smt. Talashi i.e. wife of Appellant shouted loudly as "Kancha bachao Kancha bachao". Madan N.

Yogi (PW-4) rushed at the scene of offence and noticed that, the Appellant was beating his wife severely. Madan N. Yogi (PW-4) got frightened and

went to Lokpal Giri (PW-3). He narrated the said incident to him. Lokpal Giri informed the said incident to Balasaheb N. Jawalkar (PW-1) on phone.

Balasaheb N. Jawalkar (PW-1) rushed to Tarai Guest House. The door of the room of Appellant was opened. Balasaheb N. Jawalkar (PW-1),

Lokpal Giri (PW-3) and Madan N. Yogi @ Kancha (PW-4) saw that, wife of Appellant was lying on the floor in the pool of blood. Appellant tried to

run away from the scene of offence however said three witnesses caught him. Information was given to the Police.

3.4. Police immediately came at the scene of offence. Bajrang S. Kapse (PW-6) was then attached to Haveli Police Station, Pune as Police Sub

Inspector (PSI). Balasaheb N. Jawalkar (PW-1) went to Police Station and lodged his report. The same was scribed by PW-6. It is at Exh-14.

Bajrang S. Kapse (PW-6) thereafter filled up the printed First Information Report (Exh-15). The said FIR was signed by PW-1. On the basis of

statement of Balasaheb N. Jawalkar (PW-1) C.R. No. 637 of 2012 dated 9th October, 2012 was registered with Haveli Police Station, Pune.

3.5. PW-6 thereafter conducted inquest panchanama (Exh-39). The said panchanama has been admitted by the defence. He thereafter went to the

spot of incident. He noticed a bunch of hair on the carpet at scene of offene. He also collected samples of blood which was splashed on the wall,

broken pieces of bangles and mangalsutra, one white coloured full sleeves shirt stained with blood, one blue coloured jean pant stained with blood, one

blue coloured jeans bermuda pant stained with blood, one orange coloured odhani/dupatta stained with blood and other articles found at the scene of

offence. He accordingly drew spot panchanama (Exh-17). He arrested Appellant.

3.6. Dr. Amol B. Shinde (PW-5) conducted autopsy on the dead body of Smt. Talashi V. Bhandari on 9th October, 2012 between 11.00 a.m. to 12.00

noon. He found following external injuries :-

(i) Lacerated wound present over forehead in middle, vertical of size 3 X 1.5 cm. margins irregular, contused, reddish.

(ii) Lacerated wound present over right eyebrow horizontal of size 5 X 1 cm. margins irregular, contused, reddish.

(iii) Multiple Abrasion present over right malar region of sizes varying from 0.5 X 0.5 cm. to 0.5 X 0.25 cm. irregular, reddish.

(iv) Multiple Abrasion present over left malar region of sizes varying from 0.5 X 0.5 cm. to 0.5 X 0.25 cm. irregular, reddish.

(v) Lacerated wound present over forehead on left side 2 cm. left to midline, 1.5 cm. above left eyebrow of size 2 X 0.5 cm. margins irregular, contused, reddish.

(vi) Abrasion present 1 cm. above injury No.5 of size 1 X 1 irregular, reddish.

(vii) Abrasion present left elbow of size 1 X 1 irregular, reddish.

(viii) Abrasion present 1.5 cm. below injury No.7 of size 1 X 0.5 irregular, reddish.

(ix) Contusion present over left arm in middle third, anterolaterally of size 4 X 2 cm. irregular, bluish.

(x) Contusion present over left shoulder superolaterally of size 2 X 1 cm. irregular, bluish.

(xi) Contusion present over right breast interior and medial quadrant of size 3 X 2 cm. irregular, bluish.

(xii) Contusion over medial canthus of right eye 1 X 1 cm. irregular, bluish.

(xiii) Contusion over medial canthus of left eye 1 X 5 cm. irregular, bluish.

(xiv) Contusion over right eyebrow laterally 1 X 0.5 cm. irregular, bluish.

All the above injuries are anti-mortem and fresh.

After examination he found following internal injuries :-

Brain :- Dura Mater intact, congested.

Subdural hematoma present all over brain.

Subarachnoid haemorrhage present all over brain.

Brain oedematous, congested.

3.7. After completion of post mortem on the dead body of Smt. Talashi, PW-5 gave his opinion as to the probable cause of death was due to head

injury (homicidal assault). This witness has proved post mortem notes (Exh-35). He opined that, the aforesaid injuries were possible by

inflicting blow by hard and blunt object. It can be caused by banging the head on wall. He has deposed that, the injuries mentioned hereinabove were

sufficient to cause death in ordinary course of nature.

3.8. The Chemical Analyzer's report (Exh-42 colly.) reveals that, the blood group of deceased i.e. Smt. Talashi was AB. The blood group

of Appellant could not be ascertained as the sample was hemolyzed and hence unsuitable for grouping. That, the blood which was found on the cloths

of Appellant namely full pant, bermuda and baniyan i.e. Exhibit Nos.12, 13 and 15 respectively was of human origin and of Añâ,~ËœABÃ¢â,~â,,¢ group. It is

thus proved by the prosecution that, blood of deceased was found on the cloths of Appellant.

4. The aforestated facts narrated in para No.3 above are culled out from the evidence of the said witnesses. In their elaborate cross-examination by

the defence/Appellant except a minor contradiction with respect to the timing of incident stated by PW-3 and 4, nothing beneficial to the Appellant has

been brought on record. However the said contradiction does not create doubt about the truthfulness of the testimonies of the said two witnesses.

Perusal of spot panchanama (Exh-17) alongwith the testimony of

Dr. Amol B. Shinde (PW-5) would clearly indicate that, Appellant banged head of the deceased multiple times on the wall and/or on the floor of the

said room, due to it a bunch of her hair from the skull got segregated and fell on the carpet in the said room i.e. the spot of incident. PW-4 had heard

shouts of deceased calling him as Ã¢â,~ËœKancha bachao Kancha bachao Ã¢â,~â,,¢ from the said room and thereafter immediately he called PW-3 for his

help. PW-1, 3 and 4 had seen the Appellant coming out of his room while his wife was lying on the floor in the pool of blood. The said witnesses

caught Appellant when he tried to run away from the scene of offence. Appellant has not offered any explanation to rebut the presumption under

Section 106 of the Evidence Act.

5. The aforestated circumstances would clearly lead to draw an irresistible conclusion that, Appellant is sole perpetrator of the present crime and has

committed murder of his wife namely Smt. Talashi on the date and time of incident.

6. After minutely perusing the entire evidence on record and impugned Judgment and Order, we are of the considered view that, the Trial Court has

not committed any error while convicting and sentencing Appellant.

Appeal is accordingly dismissed.

10. In view of disposal of the Appeal, Interim Application No. 2817 of 2022 does not survive and is also disposed off.