

## Baban Shankar Daphal & Ors Vs State Of Maharashtra

**Court:** Supreme Court Of India

**Date of Decision:** Jan. 22, 2025

**Acts Referred:** Code of Criminal Procedure, 1973 " Section 379

Indian Penal Code, 1860 – Section 34, 148, 149, 302, 323

Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970 – Section 2(a)

**Hon'ble Judges:** Vikram Nath, J; Prasanna B. Varale, J

**Bench:** Division Bench

**Advocate:** Siddharth Agarwal, Ravindra Keshavrao Adsure, Sagar N.pahune Patil, Yash Prashant Sonavane, Aniruddha Joshi, Siddharth Dharmadhikari, Aaditya Aniruddha Pande

**Final Decision:** Dismissed

## Judgement

Prasanna B. Varale, J

1. The present Criminal Appeal is filed under Section 2(a) of the Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970, read with

Section 379 of Code of Criminal Procedure, 1973 seeking to challenge the impugned judgment and final order dated 25.08.2015 in

Criminal Appeal No. 352 of 1994 passed by High Court of Judicature at Bombay, whereby High Court convicted Accused No. 1 to 4 (appellants)

herein) for the offence punishable under Section 302 read with Section 34 of Indian Penal Code, 1860 and sentenced them to rigorous

imprisonment for life and to pay a fine of Rs. 5000 each, and in default to undergo rigorous imprisonment for one year; and vide the same judgment,

the High Court acquitted Accused No. 7.

2. For the sake of brevity and continuity, the parties are referred to by their original nomenclature. Lalsaheb is the deceased who was married to

Kamal (PW-3), and they had three children: a daughter, Sushila (PW-4), another daughter who has not been examined and a son, Sanjay (PW-7).

Deceased had two brothers—Shankar (Accused No. 5) and Hanmant (Accused No. 6). Accused Nos. 1, 2, and 3 (Baban, Prakash, and Suresh) are

Shankar's sons, while Accused No. 4 is Hanmant's son. Accused No. 7, Kalpana, is Baban's wife. During the proceedings, Accused

Nos. 5 and 6 passed away, leading to the abatement of charges against them.

3. The case of the prosecution in brief is that the relationship between the deceased and his brothers had been strained for nearly 20 years before the

incident. There had been previous criminal complaints filed between them. The deceased worked in a mill in Bombay and returned to his native village,

Brahamanwadi, about 15 days before the incident. During this time, he sold a neem tree to one Shankar Kadam (PW-8). This sale angered Accused

No. 2, who confronted PW-8, claiming a share in the tree and objecting to its felling. The deceased denied Accused No. 2's claim, resulting in a

heated argument between them three days before the incident, on September 23, 1987.

4. On September 26, 1987, around 6:00 PM, deceased and his son Sanjay were returning from their field to their cattle shed, where PW-3 was milking

the cattle. After feeding the cattle, deceased and PW-7 started walking towards their house. About 20 paces away, Accused No. 2 attacked the

deceased with a stick, striking him on the head and causing him to collapse. PW-3 rushed to his aid, shielding his body from further assault. Shortly

after, Accused Nos. 1, 3, 4, and 6 arrived at the scene. Accused No. 7, Kalpana, dragged Kamal (PW-3) away by her hair, enabling the others to

assault the deceased further with sticks.

5. Hearing the commotion, PW-4 rushed to the spot but was prevented from intervening by Accused Nos. 5 and 6. They threatened her with dire

consequences if they tried to help. During the attack, Accused No. 1 twisted the deceased's left hand, fracturing it. After the attackers left, PW-3

and her daughters carried the deceased back to their house. PW-3 and PW-7 then informed the village Police Patil, Vithal Ghorpade (PW-6), who

accompanied them back to their home and assessed the situation. Attempts to transport the deceased to the Civil Hospital in Satara failed due to the

unavailability of a vehicle. Deceased succumbed to his injuries around 11:30 PM that night.

6. The following morning, PW-4 filed a complaint at the Satara Taluka Police Station. Based on her complaint, PSI Inas Kuris (PW-9) registered a

case under Sections 148, 302, and 323 read with Section 149 of the IPC.

7. The investigation began with an inquest and the collection of evidence from the crime scene, including bloodstained soil and sticks. Accused No. 7,

handed over Accused No. 1's bloodstained shirt, which was seized. On September 27, 1987, the accused were arrested. During their

interrogation, Accused No. 2 led the police to recover a stick from his house, and Accused No. 1 led to the recovery of two more sticks. The forensic

reports and post-mortem report were included in the evidence. After completing the investigation, a charge sheet was filed against all seven accused.

8. After the case was committed to the Sessions Court and before the charges were framed, the original Accused No. 5, Shankar, passed away.

Consequently, the Trial Court framed charges against the remaining accused. Accused No.6 also passed away during the pendency of the appeal

before the High Court. All the accused pleaded not guilty and opted for trial.

9. The prosecution presented a total of nine witnesses to support its case. However, after evaluating the evidence, the Trial Court concluded that the

prosecution had failed to establish its case beyond reasonable doubt. As a result, in its order dated March 3, 1994, the Trial Court acquitted all the

accused of the charges brought against them.

10. The Trial Court, after analysing the evidence presented during the proceedings, acquitted the accused persons on multiple grounds. The primary

rationale provided by the Trial Court centered around what it perceived to be serious inconsistencies in the prosecution's case. The court noted

that the testimonies of key witnesses were riddled with contradictions and failed to form a cohesive narrative regarding the alleged incident. Witnesses

who were deemed critical to proving the prosecution's case either did not corroborate each other's accounts or provided statements that were

inconsistent with other evidence on record. It noted discrepancies in the statements of PW-3 and PW-7 regarding the time or instance at which the

deceased's arm was twisted by Accused No. 1. Further, the Trial Court also noted that PW-3 had failed to give a complete testimony, to the

effect that she had not deposed about the attack on her, whereas PW-4 had deposed regarding the attack on PW-3 by Accused No. 1, thus rendering

her testimony unreliable. The Trial Court observed that the witnesses provided differing accounts of the timeline and sequence of events, creating

doubt about their reliability.

11. The Trial Court observed that the main eyewitnesses had delayed reporting the incident to the police, a delay that remained unexplained. Such a

delay, according to the Trial Court, cast doubt on the veracity of their testimonies. Furthermore, the court expressed reservations about the credibility

of certain witnesses due to perceived motives for falsely implicating the accused. The Trial Court emphasized that in cases where the evidence is

primarily circumstantial, the chain of events must be unbroken and unequivocally point towards the guilt of the accused. However, the court found that

the prosecution failed to establish such a chain, leaving significant gaps that raised reasonable doubt about the accused's involvement.

12. Another foundation for the Trial Court's reasoning was the lack of corroborative material evidence. The Trial Court emphasized discrepancies

between the medical evidence and the eyewitness accounts. According to the eyewitnesses, the victim was struck multiple times on the head with

sticks. However, the post-mortem report did not document multiple injuries on the victim's head. The Trial Court observed that if the victim had

indeed been struck on the head with sticks it would have resulted in multiple head injuries. Consequently, the medical evidence failed to corroborate

the eyewitness accounts regarding the alleged repeated blows to the victim's head.

13. The Trial Court further held that the prosecution failed to establish a clear motive for the crime. While it was alleged that the accused had

animosity with the deceased due to a property dispute, the Trial Court found the evidence on this aspect vague and insufficiently corroborated. The

court held that PW-8 had not fully supported the case of the prosecution and denied that Accused No.2 had confronted him regarding his share in the

neem tree. Further, it was held that the witnesses had given contradictory or incomplete testimonies regarding the previous altercations.

14. The Trial Court also observed that the overall prosecution narrative was riddled with gaps and conjectures. For instance, the alleged presence of

certain accused at the crime scene was not corroborated by independent evidence. On these grounds, the Trial Court acquitted the accused, citing

insufficient evidence to convict, and believe the guilt to be have been proved beyond a reasonable doubt.

15. In the appeal preferred by the State against the aforementioned judgment and order of acquittal, the High Court partly allowed the appeal.

16. The High Court conducted a detailed reappraisal of the evidence and scrutinized the reasoning adopted by the Trial Court. It observed that the

Trial Court had failed to appropriately assess the weight and significance of the evidence presented by the prosecution. It noted that the Trial Court

had overly focused on minor inconsistencies in witness testimonies while overlooking the overall credibility and corroborative nature of their accounts.

17. It was observed by the High Court that eye-witnesses had been cross-examined at length by the counsel for defence who had failed to make any

substantive dents in their testimonies. Further, the inconsistencies were minor and natural. The High Court held that discrepancy about the time or

instance at which the arm of the deceased was twisted was only a minor contradiction and did not strike at the core of their testimonies or create

doubt about the act of twisting the arm of the deceased by the Accused No. 1, as consistently deposed by the eye witnesses. Further, the High Court

held that merely because PW-3 did not depose regarding the attack on her, it would not render her entire testimony unbelievable, especially when from

the evidence of PW-3 and the other two eye witnesses it can be inferred that Accused No. 7 had pulled PW-3's hair and removed her from the

body of the deceased.

18. The High Court emphasized that discrepancies in the testimonies of witnesses are not uncommon and should not automatically lead to their

rejection unless they strike at the root of the prosecution's case. The High Court noted that while there were minor discrepancies in the

eyewitness accounts, these did not detract from the core narrative implicating the accused. The testimonies of key witnesses were consistent on

material points, such as the presence of the accused at the scene and the manner of assault. According to the High Court, the Trial Court erred in

placing undue emphasis on trivial inconsistencies rather than evaluating the evidence as a whole.

19. The High Court also underscored the importance of evaluating the testimony of witnesses in light of the surrounding circumstances. It noted that

the Trial Court had failed to consider the natural conduct of witnesses who might delay reporting an incident due to fear or trauma, or unavailability of

resources like any vehicle for transportation as in the present case. In this context, the High Court observed that the delay in filing the complaint and

recording witness statements had been adequately explained by the prosecution. It held that the Trial Court's failure to appreciate these

explanations resulted in an erroneous conclusion about the credibility of the witnesses.

20. The High Court further criticized the Trial Court for failing to appreciate the medical evidence in its proper context. While the Trial Court had

dismissed the forensic reports as inconclusive, the High Court found that these reports, when read in conjunction with other evidence, provided

significant corroboration of the prosecution's case. The post-mortem report detailed five ante-mortem injuries, out of which three were over left

temporal region of the head. The medical examiner opined that the injuries were sufficient to cause death in the ordinary course of nature. The High

Court found that the medical evidence corroborated the prosecution's case and directly implicated the accused.

21. In addition to addressing the merits of the case, the High Court made scathing observations regarding the procedural lapses and reasoning adopted

by the Trial Court. It held that the Trial Court's judgment was perverse and suffered from a lack of proper judicial application of mind. The High

Court observed that the Trial Court had selectively focused on weaknesses in the prosecution's case while completely ignoring the strengths. It

noted that the Trial Court had applied an excessively stringent standard of proof. Such an approach, the High Court observed, was contrary to the

settled principles of criminal jurisprudence and led to an unjust acquittal of the accused.

22. Consequently, the High Court reversed the Trial Court's judgment and held that the prosecution had successfully established the guilt of the

accused beyond reasonable doubt. The High Court convicted Accused No. 1 to 4 of the offence punishable under Section 302 read with Section 34 of

the IPC and sentenced to suffer rigorous imprisonment for life and to pay fine of Rs. 5,000/- each, in default to suffer rigorous imprisonment for one

year; but upheld the acquittal of Accused No. 7 giving her the benefit of doubt.

23. Appellants are before us against this order of conviction and the reversal of their acquittal.

24. The learned counsel for the appellants has submitted before us that the versions put forth by the eyewitnesses are not trustworthy as they are

relatives of the deceased and are thus interested witnesses. The version put forth by PW3, who is the widow, cannot be accepted in toto and is not

consistent with the versions of PW4 and PW7. The medical evidence on record does not corroborate the version of the eyewitness. The prosecution

has failed to establish a motive for the abovementioned incident. The Counsel further states that the recoveries effected from the accused persons

cannot be relied upon. The prosecution has failed to attribute specific roles to the accused persons for the injuries which were sustained by the victim.

25. Opposing the same, the learned counsel for the State of Maharashtra submitted that the High Court has passed a well-reasoned order of

conviction while reversing the acquittal, and thus this appeal should be dismissed.

26. After carefully examining the findings of both the Trial Court and the High Court, it is apparent to us that the High Court has undertaken a

meticulous and thorough analysis of the evidence on record, identified significant errors in the Trial Court's reasoning.

27. One of the contentions of the learned counsel for the appellants is that the eyewitnesses to the incident were all closely related to the deceased

and for prudence the prosecution ought to have examined some other independent eyewitness as well who were present at the time of the unfortunate

incident. This was also the view taken by the Trial Court, but the High Court has correctly rejected such an approach and held that merely because

there were some more independent witnesses also, who had reached the place of incident, the evidence of the relatives cannot be disbelieved. The

law nowhere states that the evidence of the interested witness should be discarded altogether. The law only warrants that their evidence should be

scrutinized with care and caution. It has been held by this Court in the catena of judgments that merely if a witness is a relative, their testimony cannot

be discarded on that ground alone.

28. In criminal cases, the credibility of witnesses, particularly those who are close relatives of the victim, is often scrutinized. However, being a

relative does not automatically render a witness "interested" or biased. The term "interested" refers to witnesses who have a personal stake in the

outcome, such as a desire for revenge or to falsely implicate the accused due to enmity or personal gain. A "related" witness, on the other hand, is

someone who may be naturally present at the scene of the crime, and their testimony should not be dismissed simply because of their relationship to

the victim. Courts must assess the reliability, consistency, and coherence of their statements rather than labelling them as untrustworthy.

29. The distinction between "interested" and "related" witnesses has been clarified in *Dalip Singh v. State of Punjab*, 1954 SCR 145 where this

Court emphasized that a close relative is usually the last person to falsely implicate an innocent person. Therefore, in evaluating the evidence of a

related witness, the court should focus on the consistency and credibility of their testimony. This approach ensures that the evidence is not discarded

merely due to familial ties, but is instead assessed based on its inherent reliability and consistency with other evidence in the case. This position has

been reiterated by this Court in:

i. *Md. Rojali Ali and Ors v. The State of Assam Ministry of Home Affairs through secretary*; (2019) 19 SCC567

ii. *Ganapathi v. State of T.N.*; (2018) 5 SCC 549

iii. *Jayabalan v. Union Territory of Pondicherry*. (2010) 1 SCC 199

30. Though the eyewitnesses who have been examined in the present case were closely related to the deceased, namely his wife, daughter and son,

their testimonies are consistent with respect to the accused persons being the assailants who inflicted wounds on the deceased. As is revealed from

the sequence of events that transpired, one of the family members was subjected to an assault. It was thus quite natural for the other family members

to rush on the spot to intervene. The presence of the family members on the spot and thus being eyewitness has been well established. In such

circumstances, merely because the eyewitnesses are family members, their testimonies cannot be discarded solely on that ground.

31. Further, the High Court rightly rejected the Trial Court's conclusion that the eyewitness accounts were unreliable. The Trial Court based its

findings on perceived inconsistencies between the testimony of the eyewitnesses and the medical evidence. Specifically, the Trial Court found fault

with the eyewitness account of multiple stick blows to the victim's head, contending that the post-mortem report did not show multiple head

injuries. However, the High Court, after analysing the evidence holistically, pointed out that minor inconsistencies in eyewitness accounts do not render

their testimony unreliable, especially when they pertain to incidents involving sudden and brutal violence.

32. It has been consistently laid down by this court that once there is a version of eyewitness and the same inspires confidence of the court it will be

sufficient to prove the guilt of the accused. A profitable reference can be made to the decision of this Court in the case of *Pruthviraj Jayantibhai*

*Vanol vs Dinesh Dayabhai Vala and Ors.*, (2022) 18 SCC 683 wherein it was laid down that:

“17. Ocular evidence is considered the best evidence unless there are reasons to doubt it. The evidence of PW-2 and PW-10 is unimpeachable. It is only in a

case where there is a gross contradiction between medical evidence and oral evidence, and the medical evidence makes the ocular testimony improbable and

rules out all possibility of ocular evidence being true, the ocular evidence may be disbelieved.”

(Emphasis supplied)

33. Hence, a conviction can be based upon the version put forth by the eyewitness and the medical evidence must be considered only for the purpose

of corroboration of the ocular evidence.

34. The High Court emphasized that eyewitnesses are often subjected to intense trauma during violent incidents, which can lead to minor lapses in

their recollection of specific details. In this case, the testimony of the eyewitnesses was consistent on the critical facts: the presence of the accused at

the scene, their involvement in the attack, and the victim being beaten with sticks. The High Court underscored that the core elements of their

testimony remained unshaken under cross-examination and were supported by other evidence.

35. The Trial Court gave undue weight to minor discrepancies in the eyewitness accounts, such as variations in their descriptions of the sequence of

events or the exact number of blows inflicted. It is a well-established principle of law that minor contradictions or inconsistencies in testimony do not

necessarily render it unreliable, as long as the core facts remain intact. The role of the court is to discern the truth by considering the evidence in its

totality and not by isolating individual inconsistencies to discredit an entire narrative. The Trial Court erred by focusing excessively on trivial

discrepancies, thereby losing sight of the broader picture and the compelling evidence against the accused.

36. The High Court appropriately invoked the principle that when direct evidence, such as eyewitness testimony, is credible and reliable, it must be

given due weight unless there are compelling reasons to disbelieve it. In this case, the eyewitnesses were independent and had no motive to falsely

implicate the accused. Their testimony was consistent with the overall circumstances of the case and was corroborated by the medical evidence.

37. In the present case, there were some variations in the statement of eyewitnesses. PW3 had failed to mention about the injuries caused to her while

she was trying to protect her husband from the attack, instead it was PW4 who had mentioned about the assault made on PW3. There was also a

variance regarding the actual time during which the hand of the deceased was twisted, which resulted in a fracture.

38. According to us, these discrepancies are not of such a nature as to render their testimony unbelievable or unreliable. Hence, the High Court has

rightly observed that the dents which are caused in the testimonies of these witnesses by the defence do not cause impediment in inspiring the



confidence of the court. In order to render any witnesses' testimony as unreliable, the inconsistencies shall be material ones and of such a nature

that they create substantive doubts in the mind of the court towards the story or the chain of events as sought to be established by the prosecution.

39. Further, the counsels for the appellants have questioned their role in the present crime and have contended that the postmortem report does not

assist the case of the prosecution, it becomes necessary to go through the postmortem report. The postmortem report of the deceased suggests that

the cause of death was due to "subdural hematoma with intracerebral laceration due to fracture of left tempo parietal region." There were

contused lacerated wounds over the left temporal region and two abrasions. As rightly pointed out by the High Court the injuries which were caused

on the deceased person were inflicted by various assailants. The nature of injuries suffered by the deceased corroborates with the substantive

statement of the eyewitnesses namely PW3, PW4 and PW7.

40. The High Court correctly interpreted the medical evidence, including the post-mortem report, in conjunction with the eyewitness accounts. The

Trial Court's reliance on the absence of multiple head injuries in the post-mortem report to discard the eyewitness testimony was misplaced. The

High Court noted that the post-mortem findings did document significant injuries consistent with an assault using sticks, including head injuries and

other bodily trauma.

41. The medical evidence confirmed the presence of a fatal injury to the head caused by a blunt object, which was sufficient to cause death in the

ordinary course of nature. The absence of additional head injuries does not negate the possibility of multiple blows being inflicted; rather, it reflects the

limitations of forensic science in capturing the full extent of injuries in certain cases. Thus, the medical evidence did not contradict but, in fact,

supported the substance of the eyewitness accounts, as has been observed by the High Court as well.

42. The High Court also correctly highlighted that the Trial Court's approach was contrary to the well-settled principle that the benefit of the doubt

must be based on rational and cogent grounds. Mere conjectures or hypothetical inconsistencies cannot form the basis for acquittal when the evidence,

viewed as a whole, points to the guilt of the accused.

43. Thus, we find enough compelling reasons to uphold the High Court's judgment and its finding that the Trial Court's judgment was

perverse. A judgment is deemed perverse when it ignores material evidence, misinterprets facts, or arrives at conclusions that do not appear to be

reasonable on the basis of the evidence presented. The High Court identified several such errors in the Trial Court's judgment, including

disregarding credible eyewitness testimony without adequate justification; misinterpreting the medical evidence and using it to erroneously contradict

eyewitness accounts; placing undue reliance on minor inconsistencies while ignoring the overwhelming evidence of guilt; failing to consider the

sequence of events and the conduct of the accused in its entirety.

44. The High Court's approach is consistent with established judicial precedents regarding the evaluation of evidence in criminal cases. This Court

has repeatedly held that minor inconsistencies in witness testimony should not overshadow the truth of their statements. Similarly, it has been

emphasized that medical evidence should be viewed as an aid to corroborate eyewitness accounts rather than as the sole determinant of facts. The

High Court adhered to these principles while assessing the evidence in this case, ensuring that its findings were grounded in sound legal reasoning.

45. The brutal nature of the attack and the coordinated actions of the accused demonstrated clear intent to cause grievous harm, leading to the

victim's death. The Trial Court's acquittal of the accused not only undermined the credibility of the justice system but also sent a troubling

message about the consequences of such heinous acts.

46. Therefore, the High Court's judgment represents a well-reasoned and legally sound decision that rectifies the errors of the Trial Court and

ensures that justice is served. The evidence on record, when assessed in its entirety, establishes the guilt of the accused beyond reasonable doubt. The

High Court's observations regarding the reliability of the eyewitness testimony, the corroborative nature of the medical evidence, and the perverse

findings of the Trial Court are compelling and do not warrant any interference.

47. Accordingly, the appeal is dismissed, and the judgment of the High Court is upheld.