IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.762 OF 2021

Shrikant Kamal Chavan
Aged about 29 Years
Occupation : Labour,
R/o. Karnal Tanda, Tal. Sindgi,
District : Vijapur (Vijaypur)
State : Karnataka.
At present detained in
Central Prison Yerwada, Pune. ... Appellant

V/S

The State of Maharashtra
(Through Senior Inspector of Police,
Wanwadi Police Station, Pune) ... Respondent

Ms. Anjali Patil a/w Mr. Tohin Shaikh for the Appellant.
Dr. Dhanlakshmi S. Krishnaiyer, APP for Respondent-State.

CORAM : MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.

RESERVED ON : 4th FEBRUARY 2026

PRONOUNCED ON : 7th MARCH 2026

JUDGMENT *(PER SHREERAM V. SHIRSAT J):*

1. The present Appeal has been filed challenging the Impugned judgment and order dated 17.03.2021, passed by the Additional Sessions Judge, Pune, convicting the accused-appellant for the offence punishable under Section 302 of the Indian Penal Code and sentencing him to suffer imprisonment for life and to pay a fine of Rs. 5,000/- and in default to suffer rigorous imprisonment for six months.

2. Brief facts of the case of the prosecution are as under:

a. It is the case of the prosecution that on 01.04.2019, at about 11.29 am, Complainant Tarabai Jaywant Rathod lodged a complaint at Wanawadi Police Station stating that she was residing at Wadkar Mala, Laxmi Park, Mohammedwadi, Hadapsar, Pune, along with her husband Jaywant, son Uttam and daughter Pallavi. Her elder daughter Sangita Shrikant Chavan was residing since 29.03.2019 in a temporary hut erected in an open space, along with her husband Shrikant Kamal Chavan (the accused) and their two minor children. It is further the case that the complainant and her family members were working as labourers and were residing in temporary huts. It is further the case that Sangita had married the accused about five years prior to the incident and they had two children, Kartik aged about three years and Aniket aged about one and a half years. It is further the case that the accused was addicted to liquor and frequently suspected Sangita's character, resulting in quarrels between them. It is further the case that on 31.03.2019 at about 8:00 p.m. a quarrel ensued between the accused and Sangita, which the complainant overheard from her adjacent hut. It is further the case that after dinner, the accused and Sangita slept in the open space beside their hut on a plastic sheet and the quarrel allegedly continued until about 11:30 p.m., after which the complainant went

to sleep. It is further the case that the complainant woke up on hearing her grandson crying and therefore she went to the place where they were sleeping. She saw the accused running away and found Sangita lying on her stomach on a plastic sheet with blood oozing from below her left ear. It is further the case that despite attempts being made to rouse her, Sangita did not respond and therefore the complainant raised an alarm. It is further the case that she noticed a wooden log and an iron axe lying nearby. She thereafter reported that the accused had murdered Sangita and fled from the scene. On the basis of her report, Crime No. 219 of 2019 was registered on 01.04.2019 under Section 302 of the Indian Penal Code.

3. The Appellant-Accused was arrested on 04.04.2019 from Vijapur. Karnataka. After completion of the investigation, chargesheet came to be filed on 27.06.2019 before the Court of the Judicial Magistrate First Class, Pune, for the offence punishable under Section 302 of the Indian Penal Code. As the offence was exclusively triable by the Court of Sessions, the case was committed to the Sessions Court on 03.07.2019 and registered as Sessions Case No. 562 of 2019.

4. The Additional Sessions Judge framed charge against the accused-appellant on 01.10.2019 under Section 302 of the Indian Penal Code. The

Appellant-accused pleaded not guilty and claimed to be tried. The evidence of prosecution witnesses came to be recorded. Thereafter the statement of the accused under Section 313 of the Code of Criminal Procedure was recorded, wherein he denied the allegations and claimed that he had been falsely implicated.

5. The following witnesses were examined by the prosecution during the course of trial:

Rank	Name	Nature of Evidence
PW 1	Tarabai Jaywant Rathod	Informant who saw the dead body and informed the police; she is the mother of the deceased and mother-in-law of the accused.
PW 2	Shoukin Hakim Sayyed	Panch witness for recovery of Axe, Talwat and Shirt.
PW 3	Dr. Shishir Sunil Vidhate	Medical Officer who conducted the post-mortem examination.
PW 4	Asaram Eknath Shete	Investigating Officer.
PW 5	Bhagwan Dashrath Kamble	Investigating Officer.

6. We have heard Adv. Anjali Patil for the Appellant and Dr.Dhanlakshmi S. Krishnaiyer, APP for the Respondent-State.

7. The learned Counsel for the Appellant has submitted that the Appellant has been falsely implicated. She has submitted that there is a gross delay in registration of the FIR and therefore the possibility of the Appellant having been falsely implicated cannot be ruled out. The Learned

Counsel has further submitted that although the statements of several witnesses were recorded by the police, however, the prosecution chose only to examine three witnesses excluding the Investigating Officer and material witnesses have not been deliberately examined. The Learned Counsel has further submitted that the Appellant was not present at the site but was on his duty and he has submitted the same explanation even in his statement recorded under Section 313 of Cr.P.C., which the Trial Court failed to consider. She has further submitted that the complainant PW 1, who is the mother of the deceased, is an interested witness and had an axe to grind against the Appellant as there were matrimonial disputes between her daughter i.e., the deceased and the appellant and that is the reason he has been falsely implicated. She has further submitted that the appellant was not absconding, but had been to his native place at Vijapur, Karnataka for some work and the police came and arrested him from his native place just because they could not find the real culprit. She has further submitted that the police have commenced the investigation even before registration of FIR, whereas the law is that the FIR should be registered immediately and thereafter the investigation should be carried out, which rules out the possibility of any false implication and such a procedure of carrying out investigation even before registration of FIR is against the established principles of law. She has submitted that although PW4, the I.O., had visited the spot of incident and had met PW 1, still no

FIR was registered till the next day and this time was utilized by the mother of the deceased to falsely implicate the present Appellant and therefore, considering the nature of evidence against the appellant and the possibility of false implication, the Appellant deserves to be acquitted.

8. The Ld. Counsel for the Appellant relied upon the following judgments in support of her contention.

(a) Prakash Nishad Alias Kewat Zinak Nishad V/s. State of Maharashtra [(2023) 16 Supreme Court Cases 357]

(b) Narayan Yadav V/s. State of Chhattisgarh [Criminal Appeal No.3343 of 2025] (Supreme Court).

(c) Mukesh Tiwari V/s. State of U.P. [Criminal Appeal No. 1876 of 2009] @ Indrajit Mishra and Anr V/s. State of U.P. [Criminal Appeal No. 1541 of 2009]

(d) Sekaran V/s The State of Tamil Nadu [Criminal Appeal No. 2294 of 2010] (Supreme Court).

(e) State of A.P. V/s. Punati Ramulu and Ors [1994 Supp (1) Supreme Court Cases 590] (Supreme Court).

(f) Manohar s/o Kondiba Waghmare V/s. The State of Maharashtra (Bombay High Court).

9. *Per contra*, the learned APP has submitted that the trial court has rightly convicted the Appellant as there is sufficient material which points out towards the role of the Appellant in the commission of the offence. She has submitted that there is no deliberate delay in registration of FIR. After the information was received by the investigating officer, the investigating officer visited this spot, and since the deceased was brutally assaulted

which had resulted in death, immediate steps were taken to remove the deceased to the hospital. She has further submitted that even though the Inquest panchnama has been conducted before the registration of FIR, the same is not fatal to the prosecution. She further submitted that it is the prerogative of the prosecution as to which witnesses and how many witnesses are to be examined and if the prosecution is in a position to prove the case by examining the relevant witnesses, it is not necessary that all the witnesses whose statements have been recorded should be examined. She has further submitted that PW 1 is a reliable witness as PW1 has seen the Appellant at the spot, running away and she made an attempt to apprehend the Appellant. She therefore submitted that the Trial Court has rightly convicted the Appellant for the gruesome murder of his wife and therefore the conviction be confirmed.

10. Ld. APP relied upon the following judgments in support of her contention:

(a) *Bathula Nagamalleswara Rao and Ors V/s. State Represented by Public Prosecutor [(2008) 11 Supreme Court Cases 722] (Supreme Court)*

(b) A. N. Venkatesh and Anr V/s. State of Karnataka [(2005) 7 Supreme Court Cases 714] (Supreme Court)

(c) Ravinder Kumar and Anr V/s. State of Punjab [2001 SCC OnLine SC 1033] (Supreme Court)

(d) Appukuttan and Ors V/s. The State [1989 CRI. L. J. 2362] (Kerala High Court)

(e) Asraf Ali V/s. State of Assam [(2008) 16 Supreme Court Cases 328] (Supreme Court)

BRIEF NARRATION OF THE EVIDENCE

11. PW 1 Tarabai Jaywant Rathod, who is the complainant and mother of the deceased Sangita, deposed that at the relevant time she was residing in tents at Hadapsar along with her family and other labour families. She stated that the deceased Sangita was married to the accused and they were residing in one of the tents along with their two minor children. The accused and her husband were working as labourers doing excavation work. She further deposed that the accused was addicted to liquor and used to quarrel with Sangita on suspicion regarding her character. She further deposed that on 31.03.2019, the accused had remained at home and had consumed liquor. During the night Sangita was cooking in her tent and the accused was quarreling with her. After dinner, the accused and Sangita slept outside the tent along with their children. She stated that sometime during the night the accused assaulted Sangita by giving a blow of an axe on her neck and killed her. Upon hearing the children crying, she went to the spot and saw the accused present there. She has deposed that when she attempted to catch him, he ran away. She has further deposed that thereafter she went to the police station and lodged the First Information Report. She identified her thumb impression on the FIR

(Exh.20 and Exh.20-A) and also identified the axe shown to her in Court (Art. A) as the weapon used in the incident.

12. In her cross-examination, PW 1 stated that the incident had taken place sometime between 10:00 p.m. and 12:00 midnight. It was suggested to her that she was sleeping inside the tent and that there was darkness at the time of the incident, which she denied, stating that there was light from two street lights and that a lantern was used inside the tent. She stated that on that day her husband had gone to the village and only women were present in the tents. PW 1 has admitted that she was sleeping at the time when the accused inflicted the axe blow. She also answered in cross examination that she had not intervened when the accused and Sangita were quarreling. She has deposed that Sangita was asking the accused not to quarrel, not to consume liquor and to behave properly. She stated that since the accused and Sangita used to quarrel frequently, she did not initially pay much attention to their quarrel that night.

13. PW 2 Shoukin Hakim Sayyed, is a spot panch witness. He deposed that on 01.04.2019, while he was at the Madarsa, he received a call from A.P.I. Kamble requesting him to come to Wadkar nagar, Mohammadwadi, Pune, for carrying out a panchnama in connection with a murder. Accordingly, he went to the spot along with another panch witness known as Munna. He further deposed that the mother of the deceased showed

them the place of occurrence. He noticed several huts at the spot and observed a plastic gunny bag sheet (Talwat) lying outside a hut with blood stains on it. He also saw an axe and a shirt having blood stains and that blood stains and hair were visible on the axe. He has further deposed that the police seized the said articles, sealed them and prepared a spot panchnama along with a map. He stated that the panchnama was conducted between 11:45 a.m. and 12:45 p.m.

14. In his cross-examination, PW 2 stated that the distance between the spot of incident and the police station was about 4 to 5 kilometers and that the spot was about 3 kilometers from the Madarsa. He admitted that he was acquainted with A.P.I. Kamble prior to the incident due to his social work. It was suggested to him that he had earlier acted as a panch witness and that he had gone for the panchnama only at the instance of the police, which he denied.

15. PW 3 Dr. Shishir Sunil Vidhate, is a Resident Doctor attached to Sassoon Hospital, Pune. He stated that on 01.04.2019 A.P.I. Bhagwan Kamble attached to Wanawadi Police Station brought the dead body of a woman, namely Sangita Shrikant Chavan, for postmortem examination along with an Inquest panchnama and requisition form. He stated that the postmortem examination was conducted between 10:15 a.m. and 11:15 a.m. by him. PW3 deposed that on examination he found a chop injury

over the left side of the face and neck, situated horizontally about 6 cm left lateral to the midline and 1 cm below the left ear cartilage, measuring 4.5 cm x 2.5 cm and bone deep, with underlying bone fracture and extravasation of blood. He further deposed that on dissection of the neck, he found that the left sternocleidomastoid muscle, left jugular vein, external carotid artery and the body and transverse process of the second cervical vertebra on the left side were cut and fractured. He further found that the larynx and trachea were cut with fracture of the second cervical vertebra. He opined that the injuries were ante-mortem and sufficient in the ordinary course of nature to cause death, and that death was due to the chop injury over the neck. He further stated that such an injury could be caused by an axe and identified the axe shown to him as a weapon capable of causing such injury.

16. In his cross-examination, PW 3 stated that such an injury could not be caused by a fall on a roof sheet. He further stated that the injury could be caused by a sharp, heavy weapon with a handle and that such an injury would not be possible if a person fell on a sickle used for cutting grass. He deposed that since the injury was reddish in colour, it had occurred within 24 hours prior to the postmortem examination.

17. PW 4 Asaram Eknath Shete, Assistant Police Inspector attached to Wanawadi Police Station, deposed that he carried out investigation in

Crime No. 219 of 2019. He further deposed that he was on night round duty from 9:00 p.m. on 31.03.2019 to 9:00 a.m. on 01.04.2019. He further deposed that at about 2:30 a.m., he received a phone call from Police Naik Dudhal from Mohammadwadi Police Outpost informing him that a woman had been murdered at Wadkar Mala. He immediately proceeded to the spot, where he saw the dead body of a woman with injuries caused by a sharp weapon. He has further deposed that he informed his superior officers and made a station diary entry, which he identified at Exh.32. He stated before that he recorded the First Information Report of Tarabai Jaywant Rathod. PW 4 deposed that after the dead body was sent to the hospital, he conducted a spot panchnama in the presence of panch witnesses He further deposed that he observed a pool of blood on a plastic sheet outside one hut and at a distance of about 1 to 1 1⁄2 feet towards the west of the sheet, an axe with blood stains and hair on its edge was lying. He has further deposed that at a distance of about 8 to 10 feet towards the east, a bluish shirt with a reddish stain below the left pocket, belonging to the accused was found. He further deposed that he seized the axe, plastic sheet and shirt, sealed them and affixed labels bearing the signatures of the panch witnesses. He has deposed that blood samples from the spot were collected for chemical analysis. He stated that the spot was shown by Tarabai Rathod, mother of the deceased. He further deposed that a

photographer was called and photographs of the scene were taken. He stated that further investigation was carried out by A.P.I. Kamble.

18. In his cross-examination, PW 4 stated that prior to the incident he had not visited the exact spot, which was located about 300 to 400 feet from nearby residential houses and about 1 1⁄2 to 2 kilometers from the main Mohammadwadi road. He described the surrounding area and stated that the dead body was lying about 1 to 1½ feet from the hut and that the huts were situated about 30 to 35 feet from a rough road. He denied the suggestion that there was total darkness at the spot. PW4 stated that he received the call on his personal mobile while he was at Ghorpadi Bazar Police Outpost and reached the spot before 3:15 a.m. and remained there until about 1:00 p.m.. He denied the suggestions that the seized shirt did not belong to the accused, that the panchnama was prepared at the police station, or that habitual panch witnesses were used. He has further admitted that the dead body was sent to hospital at sunrise. He has further admitted that he had spoken to the mother of the deceased at the relevant time and her other relatives were also present over there. He has further stated that the FIR was prepared at Mohammadwadi police outpost and it was recorded at 11:30 am.

19. PW 5 Bhagwan Dashrath Kamble, an Assistant Police Inspector attached to Wanawadi Police Station, deposed that he was on duty at

Mohammadwadi Police Outpost on 31.03.2019. He has deposed that on 01.04.2019 at about 3:45 a.m., he received a call from A.P.I. Shete informing him that a murder had taken place at Survey No. 85, Wadkar Mala, Mohammadwadi, Pune and therefore he went to the spot and saw the dead body of a woman who had sustained an injury below her left ear. He has deposed that he sent the dead body to Sassoon Hospital and conducted an Inquest panchnama. PW5 deposed that he submitted a report dated 01.04.2019 to his superior officers and also sent a requisition to the Medical Officer for collection of blood, nail and hair samples. He stated that he took a photograph of the deceased prior to the Inquest, showing an injury measuring approximately 8 x 3 x 3 cm. He further deposed that he recorded the statements of witnesses and seized the clothes of the deceased under a seizure panchnama. He has further deposed that on 03.04.2019 he arrested the accused He further deposed that on 20.04.2019 he forwarded the seized articles to the Chemical Analyzer under a forwarding letter and upon completion of investigation, filed the charge-sheet against the accused. He stated that investigation revealed that the accused had murdered his wife by assaulting her with an axe on suspicion of her character.

20. In his cross-examination, PW 5 stated that he reached the spot at about 4:30 a.m., when it was dark but there was street light. He stated that the accused was not present at the spot at that time and that the detection

branch team subsequently brought the accused from Vijapur. He denied the suggestion that the panch witnesses to the arrest panchnama were regular panch witnesses of the police station.

21. There are several issues which are raised by the learned Counsel for the Appellant, however, the emphasis was laid on whether the investigation could have been commenced before the registration of the FIR, as it was the contention of the Ld. Counsel that under no circumstances the investigation could have preceded registration of FIR.

22. To deal with this contention, it will be pertinent to see as to what steps have been taken by PW 4 and PW 5 before the registration of FIR. PW5 Bhagwan Kamble has deposed that on 1/4/ 2019 at about 3:45 AM, he received a call from API Shete who informed him that murder had taken place at Wadkar Mala. He has further deposed that he went there and saw the dead body lying at the spot having an injury below her left ear. He has deposed that he carried the body to Sasoon Hospital and thereafter carried out Inquest Panchnama. He has further deposed that he also submitted a report on 1/4/2019 to his superior. He has further deposed that he submitted Report dated 1/4/2019 to medical officer for collecting blood, nails and hair and had taken photograph of the deceased lady before carrying out Inquest. If exhibit 35 is perused for the limited purpose of corroboration, it can be seen that the said letter has been addressed to the

Medical Officer, Sasoon Hospital before carrying out the post-mortem of the deceased and the Post Mortem was concluded at 11:15 am as can also be seen at Exhibit 34 and PM Notes at Exhibit 25. Therefore, what has been done by PW5 before registration of FIR is taking of the dead body to the hospital, preparing the Inquest Panchnama and handing over the body for the Post-mortem. Therefore, the issue which falls for the consideration of this Court is whether the steps taken by the IO before the registration of the FIR are such as would vitiate the entire trial and the resultant conviction?

23. The Hon'ble Supreme Court in the case of ***Harijan Jivrajbhai Badhabhai Versus State of Gujarat, Criminal Appeal No.1694 of 2009*** has been pleased to observe as under:

> *"We have considered the rival submissions and have gone through Page No. 8 of 10 the testimony of the eye witnesses and other material on record. It is true that even before the registration of FIR the inquest was undertaken and the postmortem was conducted. In this case, the assault was made right in the Courtroom which called for immediate action on part of the investigators to clear the Courtroom as early as possible. The Investigating Officer had initially requested the Presiding Officer to lodge a complaint. Upon his refusal, the Investigating Officer then had to make enquiries and record the complaint of PW 30 Bhanji.* ***In the meantime, if inquest was undertaken and the body was sent for post mortem, we do not see any infraction which should entail discarding of the entire case of prosecution.*** *We also do not find anything wrong if the first informant soon after the recording of the assailant corrected himself, as a result of which name of the third assailant came to be dropped. So long as the version coming from the eye witnesses inspires confidence and is well corroborated by the material on record, any such infraction, in our view would not demolish the case of the prosecution in entirety."*
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> *(emphasis supplied)*

24. It will also be pertinent to mention here that the Inquest report is prepared under section 174 Cr.P.C. and the object of Inquest proceedings is to ascertain whether a person has died under unnatural circumstances or an unnatural death and to ascertain what is the cause of death. Inquest report is prepared by the investigating officer to find out prima facie the nature of injuries and possible weapon used in causing those injuries as also the possible cause of death. The contents of Inquest report cannot be termed as evidence. Therefore, even if the FIR is lodged after the Inquest Panchnama is done, the same would not be fatal. In the present case the IO who went to the spot has taken the deceased Sangita to the Sasson Hospital. She was declared dead at about 7:30 am, thereafter the IO has sent the body of the deceased for post mortem and had written letter to the Medical officer to collect the blood, nail and hair samples. The FIR was registered at 11:29 am. Thus in the facts of the case, it cannot be said that conducting inquest panchnama before registration of FIR is fatal or that it has caused any prejudice to the Appellant. In fact, the collection of evidence has indeed commenced after the registration of the FIR as can be seen from the deposition of PW 4. PW 4 in his deposition has narrated about the investigation done by him like seizing of shirt, talwat, Axe after the registration of the FIR. This Court is therefore of the opinion in the peculiar facts of the case, that even if inquest panchanama was undertaken and the body was sent for post mortem before the registration of the FIR,

there is no breach which should entail discarding of the entire case of prosecution. What will have to be considered is whether the witnesses inspire confidence and their version is well corroborated by the material on record. Therefore, the contention of the Ld. Counsel for the Appellant deserves to be rejected.

25. The Ld. Counsel has further argued that there is an inordinate delay in registration of FIR, as the FIR has been registered on 1/4/2019 at 11:29 am with respect to the incident that happened on the previous day between 12:30 to 1 am at night. She has submitted that PW 1 has utilized this time to falsely implicate the present Appellant. She has strenuously argued that there is no explanation given about the delay and therefore submitted that the benefit of doubt must go to the Appellant. She has further submitted that even though PW 4 and 5 had visited the spot at night after the incident, it has not come on record that she has disclosed the name of the Appellant at the first available opportunity and it was only when the FIR came to be registered that the name of the Appellant was revealed and therefore it is her submission that there is every possibility that the Appellant must have been falsely implicated after due deliberation with her relatives. No doubt there is delay in registration of FIR. It is also true that there is nothing on record to show that after PW 4 and PW 5 reached the spot PW 1 had disclosed the name of the assailant to either PW 4 or PW 5. However, just because it has not come on record that when PW

4 and PW 5 reached the spot she has not disclosed the name of the assailant, by itself cannot be a ground to doubt her testimony or question her conduct. It also needs to be considered that neither PW 4 nor PW 5 recorded the statement of PW 1 before registration of FIR. There is also nothing on record to show that PW 1 was questioned about the name of the assailant by PW 4 and PW 5 and she had not revealed the name of any person and out of the blue, during the registration of FIR, she has maliciously roped in the Appellant. In the absence of any such evidence her conduct cannot be questioned. The first available opportunity was at the time of registration of FIR when she had specifically narrated the name of the Appellant. The Inquest Panchnama also could not have recorded the name of the assailant. As stated above, the purpose of Inquest Panchnama is also different and the name and the manner of the assault is not required to be mentioned in the inquest report. Therefore, just because she has not revealed the name of the assailant till the registration of FIR cannot be said to be fatal so as to discard her testimony which is otherwise found to be reliable. Further there is also no cross examination to that effect by the defence which also needs to be considered.

26. On the point of delay in registration of FIR, the Ld. APP has rightly relied upon the judgment of ***Ravinder Kumar and Anr V/s. State of Punjab [2001 SCC OnLine SC 1033]*** wherein it is held as under :

"13. The attack on prosecution cases on the ground of delay in lodging FIR has almost bogged down as a stereotyped redundancy in criminal cases. It is a recurring feature in most of the criminal cases that there would be some delay in furnishing the first information to the police. It has to be remembered that law has not fixed any time for lodging the FIR. Hence a delayed FIR is not illegal. Of course a prompt and immediate lodging of the FIR is the ideal as that would give the prosecution a twin advantage. First is that it affords commencement of the investigation without any time lapse. Second is that it expels the opportunity for any possible concoction of a false version. Barring these two plus points for a promptly lodged FIR the demerits of the delayed FIR cannot operate as fatal to any prosecution case.

"14. When there is criticism on the ground that FIR in a case was delayed the court has to look at the reason why there was such a delay. There can be a variety of genuine causes for FIR lodgment to get delayed. Rural people might be ignorant of the need for informing the police of a crime without any lapse of time. This kind of unconversantness is not too uncommon among urban people also. They might not immediately think of going to the police station. Another possibility is due to lack of adequate transport facilities for the informers to reach the police station. The third, which is a quite common bearing, is that the kith and kin of the deceased might take some appreciable time to regain a certain level of tranquility of mind or sedativeness of temper for moving to the police station for the purpose of furnishing the requisite information. Yet another cause is, the persons who are supposed to give such information themselves could be so physically impaired that the police had to reach them on getting some nebulous information about the incident.

"15. We are not providing an exhausting catalogue of instances which could cause delay in lodging the FIR. Our effort is to try to point out that the stale demand made in the criminal courts to treat the FIR vitiated merely on the ground of delay in its lodgment cannot be approved as a legal corollary. In any case, where there is delay in making the FIR the court is to look at the causes for it and if such causes are not attributable to any effort to concoct a version no consequence shall be attached to the mere delay in lodging the FIR. [Vide Zahoor vs. State of UP (1991 Suppl.(1) *SCC 372;* Tara Singh vs. State of Punjab *(*1991 Suppl.(1) SCC 536); Jamna vs. State of UP (1994 (1) SCC 185). In Tara Singh (Supra) the Court made the following observations:

> *"4. It is well settled that the delay in giving the FIR by itself cannot be a ground to doubt the prosecution case. Knowing the Indian conditions as they are we cannot expect these villagers to rush to the police station immediately after the occurrence. Human nature as it is, the kith and kin who have witnessed the occurrence cannot be expected to act mechanically with all the promptitude in giving the report to the police. At times being grief-stricken because of the calamity it may not immediately occur to them that they should give a report. After all it is but natural in these circumstances for them to take some time to go to the police station for giving the report."*

27. A reference can also be made to the judgment of the Apex Court in the case of ***Palani v. State of Tamilnadu [2018] 13 S.C.R. 658*** wherein it has been observed as under:

> *"16. Case of the prosecution is assailed on the ground that there was delay in registration of FIR and that the FIR reached the court only at 05.00 AM on the next day i.e. on 20.08.1996 after the inquest was over. Learned counsel for the appellant submitted that only after the inquest was over, complaint was prepared and FIR was registered and that is why, the FIR is verbatim repetition of the inquest report. After referring to the prosecution evidence, in particular, evidence of PW-10, the courts below rejected the arguments of the defence as to the delay in registration of FIR. For the occurrence at 05.00/05.30 PM on 19.08.1996, FIR was registered at 08.00 PM. Of course, there was a delay of two and half hours in registration of FIR; there was also delay in receipt of FIR by the Judicial Magistrate that is at 05.00 AM on 20.08.1996. There was attack on PW-1's son-deceased Sankar in the first part near the temple. Thereafter, in the second part, deceased was chased by accused persons and on reaching the paddy field, accused persons surrounded the deceased and attacked him. Therefore, it is quite clear that the entire occurrence did not take place in a split second. The occurrence was held in two parts and in those circumstances, it is quite natural that there is some time gap before the complaint (Ex.-P1) was lodged at 08.00 PM. Deceased Sankar was brutally murdered with eleven incised wounds; naturally it must have taken some time for PW 1-sole eye witness to come to her normal and then discuss with her relatives and then proceed to the police station which is situated at a distance of four kilometres, to lodge the complaint."*
>
> *"18. Delay in setting the law into motion by lodging the complaint is normally viewed by the courts in suspicion because there is possibility of concoction of evidence against the accused. In such cases, it becomes necessary for the prosecution to satisfactorily explain the delay in registration of FIR. But there may be cases where the delay in registration of FIR is inevitable and the same has to be considered. Even a long delay can be condoned if the witness has no motive for falsely implicating the accused. In the present case, PW-1 had no motive to falsely implicate the accused. As pointed out earlier, PW-1 seeing her own son being brutally attacked, the effect of the incident on the mind of the mother cannot be measured. Being saddened by the death of her son, it must have taken sometime for PW-1 to come out of her shock and then proceed to police station to lodge the FIR. The delay of two and half hours in lodging the complaint and registration of FIR and the delay in receipt of the FIR by the Magistrate was rightly held as not fatal to the prosecution case."*

28. Therefore, as observed by the Apex Court that even a long delay can be condoned if the witness has no motive for falsely implicating the accused. In the present case from the evidence that has come on record, this court does not find that PW 1 had any motive to falsely implicate the Appellant. The PW 1 had seen the Appellant at the spot and who tried to run away when PW 1 tried to apprehend him. PW 1 also saw her daughter in a pool of blood having bleeding injuries on the neck. PW 1 being the only lady in the house was thereafter saddled with the responsibility of taking care of two minor children who were crying. The body of the deceased was taken to the hospital and thereafter inquest panchanama was conducted. What cannot be lost sight of is that the daughter of PW 1 was brutally murdered. She saw her daughter in the pool of blood. The dead body in such a state was in front of PW 1 the whole night. As a mother, the happening of such a ghastly incident must have been severely traumatic and she must have taken some time to recover from the shock and the shattering trauma. The minor children aged about 3 years and 1.5 years who had unexpectedly lost their mother had to be taken care of and therefore even though there is delay, it cannot be said to be deliberate, just to falsely implicate the Appellant who is her son-in-law. The most important aspect here which weighs with the court is that she had seen the Appellant at the spot running away and the daughter lying in a pool of blood in an injured condition and therefore there is no reason for the PW 1

to falsely implicate the Appellant. Even in cross examination nothing has been brought out to disbelieve PW 1. There is not even a suggestion put to the witness that delay was exploited to falsely implicate the Appellant. Further the defence counsel tried to put a suggestion that there was darkness so as to raise a defence that the witness could not have seen the Appellant, however that suggestion was denied and the witness has volunteered that there was street light and they used to use lantern inside the tent. Even PW 4 has denied the suggestion that there was total darkness at the spot. This Court is therefore of the opinion that even though there is delay in registration of FIR, in the peculiar facts and circumstances of the case, it cannot be said to be fatal to the prosecution case.

29. The Ld. Counsel has further argued that the case of the prosecution is that the Appellant was absconding after the incident and after 3 days he came to be arrested from his native place at Vijapur at Karnataka. She submitted that the Appellant was not absconding and even assuming that he was absconding, mere abscondance should not be construed as a factor which works against the innocence of the Accused.

30. It will be pertinent to refer to the latest judgment of the Hon'ble Apex Court in ***Chetan Vs State of Karnataka*** reported in ***2025 SCC Online SC 1262*** it is held thus:

> "*10.9.2 It is trite that mere absconding by itself does not constitute a guilty mind as even an innocent man may feel panicky and may seek to evade the police when wrongly suspected of being involvement as an instinct of self-preservation. But the act of abscondence is certainly a relevant piece of evidence to be considered along with other evidence and is a conduct under Section 8 of the Evidence Act, 1872, which points to his guilty mind. The needle of suspicion gets strengthened by the act [See : Matru @ Girish Chandra v. State of Uttar Pradesh, (1971) 2 SCC 75].*"

31. Therefore, the very fact that the Appellant was absconding till the time he was arrested from Vijaypur, Karnataka, is a relevant piece of evidence and is a conduct to be taken into consideration under section 8 of the Indian Evidence Act, 1872. Assuming that the Appellant was not absconding, however his conduct of vanishing from the scene of the offence when his wife has died is an additional factor which points towards the guilt of the Appellant. The Appellant, being the husband of the deceased, is presumed to be the protector of his wife and as such the threshold of explanation and responsibility is on a higher pedestal than a normal person. The lack of explanation of the Appellant with regard to the circumstance under which the appellant had been to his native place even after the death of his wife is a very crucial circumstance which points towards the guilt of the Appellant.

32. Another tangent contention raised by the Ld. Counsel for the Appellant is that, at the time of incident the Appellant was at work. In other words, the Appellant has raised a plea of alibi. However, although such a plea is raised, the Appellant has not been in a position to

substantiate the same. Needless to mention that the burden to establish the plea is on the person taking such a plea and the same must be achieved by leading cogent and satisfactory evidence, which in the present case is conspicuously absent. The Appellant has merely stated in his statement recorded under Section 313 of Cr. P.C. that evidence against him as deposed by PW 1 about his presence at the spot is false and that he was at work. The Appellant has neither led any defence evidence to substantiate his stand nor has produced any document to show that he was at work. Therefore, the plea of alibi cannot be said to be cogently proved.

33. A useful reference can be made to the judgment of the Apex Court in the case of ***Kamal Prasad & Ors. V. The State Of Madhya Pradesh (Now State Of Chhattisgarh) [2023] 13 S.C.R. 810*** wherein it is held as under:

> *"18. Another defence taken by the convict-appellants is that of the plea of alibi. This Court in* ***Binay Kumar Singh v. State of Bihar*** *has noted the principle as:*
> *"23. The Latin word alibi means "elsewhere" and that word is used for convenience when an accused takes recourse to a defence line that when the occurrence took place he was so far away from the place of occurrence that it is extremely improbable that he would have participated in the crime."*
> *"19. The principles regarding the plea of alibi, as can be appreciated from the various decisions of this Court, are:*
> *19.1 It is not part of the General Exceptions under the IPC and is instead a rule of evidence under Section 11 of the Indian Evidence Act, 1872.*
> *19.2 This plea being taken does not lessen the burden of the prosecution to prove that the accused was present at the scene of the crime and had participated therein.*
> *19.3 Such plea is only to be considered subsequent to the prosecution having discharged, satisfactorily, its burden.*
> *19.4 The burden to establish the plea is on the person taking such a plea. The same must be achieved by leading cogent and satisfactory evidence.*

> *19.5 It is required to be proved with certainty so as to completely exclude the possibility of the presence of the accused at the spot of the crime. In other words, a standard of 'strict scrutiny' is required when such a plea is taken.*

34. The Court therefore is of the opinion that in the absence of any cogent material to support the theory of alibi, the said plea raised by the Appellant cannot be said to be proved.

35. The Ld. Counsel for the Appellant has further argued that the prosecution has only examined 5 witnesses although statements of several witnesses were recorded and therefore submitted that serious prejudice is caused to the Appellant.

36. It will be apposite to refer to the latest judgment of the Apex Court in ***Central Bureau of Investigation v Mir Usman @ Ara @ Mir Usman Ali in SLP (cri) No(s) 969/2025*** wherein it has been held that "*Over a period of time, this Court in many of its Judgments and Orders has said that it is the quality of the evidence that is important and not the quantity. If examination of unnecessary witnesses is delaying the trial, it would serve no good purpose."* Therefore, it is not the quantity but the quality of the evidence which is of prime importance. The objection of the Ld. Counsel for the Appellant that only 5 witnesses were examined out of 19 witnesses does not hold any water. The prerogative of examining witnesses is of the Public Prosecutor who is in charge of the criminal trial and therefore his

decision cannot be called in question at this stage in the absence of any prejudice being shown as to number of witnesses being examined.

37. It is further the contention of the Ld. Counsel for the Appellant that statement under 313 Cr.P.C. has not been properly recorded and every circumstance appearing against him has not been properly put to the Appellant by the Trial Court thereby causing prejudice to the Appellant and therefore the Appellant deserves to be acquitted on this count itself. It cannot be gainsaid that the object of examination of the accused under Section 313 is to enable the accused to explain any circumstance appearing against him in the evidence and therefore keeping this principle in mind we have gone through the statement recorded under Section 313 of Cr.P.C. On perusal, we do not find the submission to be correct. The trial court has rightly put the circumstances which are appearing against him. The Appellant, having understood the intelligible questions put to him, has replied to it. We therefore do not find any merit in the submission of the Ld. Counsel for the Appellant that statement under Section 313 of Cr.P.C has not been properly recorded and that any prejudice has been caused to the Appellant.

38. The next contention raised is that no independent witness has been examined by the prosecution and PW 1 being an interested witness, being

the mother of the deceased, her testimony has to be examined with caution and should not be believed without corroboration.

39. The Ld. APP has relied upon the judgment of Kerala High Court in the case of **Appukuttan and Ors V/s. The State [1989 CRI. L. J. 2362]**

> *"31. Learned Counsel for the appellants submitted that the prosecution has not examined the persons in the locality and that among the persons examined, none of the witnesses who belong to the locality has identified the accused. He submitted that it could have been easy for those witnesses to identify (he accused if really the accused had attacked Muraleedharan. We are unable to accept this contention of the learned Counsel. We have already pointed out that PWs. 1, 2 and 4 are not living far away from, the scene of occurrence and we do not find any reason to reject their evidence that they identified A1 to A3 as the persons who attacked Muraleedharan, We cannot also forget the fact that the attack and counter-attacks made by R.S.S. and Communist Party factions have created terror in the minds of the people living in the locality and that naturally they would be very hesitant to come to the Court and give evidence for fear of violence from these factions. In this context we can understand the reluctance of some of the witnesses who have witnessed the occurrence to divulge out the fact that they really identified the accused though they have witnessed the occurrence. Further there is also no evidence to show that any person of the locality other than those who have been examined in the case has witnessed the occurrence. In the circumstances, we do not think that there is any substance in the contention of the learned Counsel that the prosecution version has to be rejected for the failure to examine the witnesses in the locality.*

40. A reference could be made to the judgement of ***Mallikarjun And Others V State Of Karnataka [2019] 11 S.C.R. 609 wherein*** *it is held as under :*

> "1.2 *Evidence of a witness is not to be disbelieved simply because he/she appears partisan or is related to the deceased/prosecution witness. It is to be ascertained whether the witness was present or not and whether he/she is telling the truth or not. The place of occurrence being the house of the deceased, PW-5 mother of the deceased is a natural witness to speak about the occurrence. PW-5-mother of deceased also explained that how she was present in the house and how she happened to be in the place of occurrence. As pointed out by the courts below, even after cross-examination, the defence was not able to establish anything that can create doubt as to the evidence of PW-5. That apart, PW-5 has no reason to falsely implicate the accused. Being*

the mother of deceased, it is highly improbable that PW-5 would have falsely implicated the accused at the instance of the police or anyone else.

41. In the present case also there is nothing to disbelieve the testimony of PW 1. She appears to be a natural witness who has deposed without inflating or embellishing her version. PW 1 has candidly deposed what she has seen and therefore can be termed as a 'reliable witness' and her testimony can be believed without looking for corroboration. The deposition of PW 1 cannot be viewed with suspicion just because she happens to be the mother of the deceased.

42. The prosecution has also brought on record, motive for commission of murder of the deceased. PW 1 has stated that the Appellant used to take drinks and used to quarrel with her daughter. She has also deposed that the Appellant used to suspect her character. It has also come in her evidence that on 31.3.2019, he was at home and was quarreling with her daughter. Even in her cross examination she has stuck to her version that the Appellant was quarreling with her daughter and that her daughter was telling him not to quarrel, not to drink, to do work and behave properly. The defence counsel has not been able to discredit this witness in the cross examination and therefore the motive is duly proved.

43. The next argument of the Ld. Counsel for the Appellant was that the CA report does not indict the present Appellant, as the result of the

analysis is inconclusive. It was therefore submitted that there is no material to correlate the involvement of the Appellant. No doubt it is true that the analysis of blood on the shirt of the Appellant is inconclusive, however the evidence of PW 1 is found to be totally reliable and therefore even though the CA report is inconclusive, the court cannot be oblivious to the evidence of PW 1 which inspires confidence and PW 3 which corroborates the crime in question.

44. ANALYSIS OF THE JUDGMENTS RELIED UPON BY THE LD. COUNSEL FOR THE APPELLANT

(a) Prakash Nishad V. State Of Maharashtra (2023) 16 SCC 357 (Supreme Court) :

- The reliance placed upon the judgment of the Hon'ble Supreme Court in Prakash Nishad v. State of Maharashtra is misplaced, as the said decision turns entirely on its own peculiar facts and circumstances and is not applicable to the present case. The aforesaid judgment arose out of a prosecution case based purely on circumstantial evidence wherein the Hon'ble Supreme Court found serious and fundamental infirmities in the investigation and prosecution. The Court noted material contradictions in the testimonies of witnesses, doubtful recoveries, improper recording of disclosure statements, non-compliance with procedural safeguards

relating to language, serious lapses in maintaining the chain of custody of scientific evidence, and unexplained irregularities in the collection and preservation of DNA samples. The Court held that these cumulative defects created wide gaps in the chain of circumstances, rendering the prosecution case unreliable and entitling the accused to benefit of doubt.

- In the present case, the factual matrix stands on an entirely different footing. The prosecution evidence is consistent and coherent, the witnesses have supported the prosecution version without material contradictions, and the recovery of the weapon from the scene of offence is corroborated by medical evidence. The chain of circumstances is complete and supported by credible testimony. No comparable investigative lapses or procedural irregularities of the magnitude noticed in the cited case are present here. The ratio of the said judgment was founded upon the failure of the prosecution to establish an unbroken chain of circumstances due to grave investigative defects, which is not the situation in the present matter. It is well settled that precedents based on appreciation of circumstantial evidence are heavily dependent upon their own factual context. The judgment in the cited case is therefore distinguishable as one rendered on entirely different facts and

circumstances and does not govern the adjudication of the present case.

(b) Narayan Yadav Versus State Of Chhattisgarh Criminal Appeal No. 3343 Of 2025 (Supreme Court)

- The reliance placed upon paragraphs 42, 48, 49 and 50 of Narayan Yadav v. State of Chhattisgarh for invoking Exception 4 to Section 300 IPC is misplaced and factually inapplicable to the present case. The cited case relates to a sudden fight arising out of a quarrel in the heat of passion, where both parties participate and the offender does not take undue advantage or act in a cruel or unusual manner. Further, paragraphs 48 to 50 of the said judgment referred to by the Ld. Counsel for the Appellant, dealt with the distinction between Sections 300 and 304 IPC in the context of a case that ultimately turned on absence of legally admissible and reliable evidence. The Supreme Court itself recorded that the prosecution in that matter suffered from evidentiary infirmities leading to acquittal. The present case stands on an entirely different footing. Here, the prosecution evidence is consistent and corroborated by recovery of the weapon from the scene and supporting medical testimony. Since the foundational requirements of Exception 4 are not satisfied and the present case does not suffer from the evidentiary defects noticed

in the cited judgment, the ratio of the said decision is distinguishable on facts and does not assist the defence.

(c) Mukesh Tiwari V/s. State of U.P. [Criminal Appeal No. 1876 of 2009] @ Indrajit Mishra and Anr V/s. State of U.P. [Criminal Appeal No. 1541 of 2009]

- This judgment is clearly distinguishable on facts as well as on evidentiary appreciation and therefore does not advance the case of the defence in the present matter. In the aforesaid case, the prosecution story concerned a group assault involving multiple accused persons, including relatives and even an unrelated individual. The High Court found that the possibility of false implication could not be ruled out, particularly in light of strained relations and absence of a cogent motive. In contrast, the present case pertains to a homicide wherein the sole accused is the husband of the deceased. The matrimonial relationship itself establishes proximity, access, and opportunity, thereby eliminating concerns of over-implication of unrelated persons. Further, in the said case the alleged firearm was not recovered and there existed serious inconsistencies between the ocular testimony and the medical evidence. The High Court noted material contradictions in the statements of prosecution witnesses, as well as investigative lapses,

including deficiencies in recovery and procedural irregularities. The cumulative effect of these infirmities led to the grant of benefit of doubt. In the present case, however, the prosecution evidence is internally consistent and corroborated by material evidence. The axe used in the commission of the offence was recovered from the scene of occurrence itself. The medical evidence unequivocally supports that the injuries sustained by the deceased could have been caused by the said weapon. There is no conflict between medical and ocular evidence. The witnesses examined viz., the informant (mother of the deceased), the doctor, the panch witness, and the investigating officers have remained consistent and unshaken in their testimonies. Moreover, unlike the cited case where motive was found weak and speculative, the present case demonstrates a clear and established motive arising from continuous domestic discord, suspicion cast by the accused upon the character of the deceased, and habitual quarrels fueled by alcoholism. The chain of circumstances is therefore complete and coherent. It is also pertinent that in the cited case, the delay in lodging the FIR was viewed in conjunction with several other suspicious circumstances and evidentiary contradictions. In the present case, the delay of approximately ten hours in lodging the FIR stands as an isolated factor. The occurrence took place in the late hours of the night within a hut, the informant

discovered her daughter's body in a pool of blood, and minor children were present at the scene. In such circumstances, some delay attributable to shock, trauma cannot be termed fatal, particularly when the prosecution evidence is otherwise reliable and corroborated. Therefore, the cited judgment is wholly misplaced and distinguishable on facts. In the said case, the acquittal was based on cumulative infirmities including contradictory eyewitness testimony, absence of motive, non-recovery of the weapon, and serious inconsistencies between medical and ocular evidence. In the present case, the prosecution evidence is consistent and cogent. The murder weapon, namely the axe, was recovered from the scene and medically linked to the injuries. The informant is a natural witness who discovered the body and saw the accused fleeing. A clear motive arising from domestic discord is established. The only alleged similarity is delay in lodging the FIR, which by itself is not fatal when the prosecution case is otherwise trustworthy and supported by medical and circumstantial evidence. Hence, the cited precedent has no application to the facts of the present case.

(d) Manohar vs. The State of Maharashtra CRIMINAL APPEAL NO. 38 OF 2022 (Bombay High Court)

- The reliance placed upon the cited case is clearly distinguishable on facts. In the said case, the High Court found that the incident arose out of a sudden scuffle, the genesis and origin of which remained unclear. The evidence suggested a mutual altercation, with injuries on both sides, and it was not established who the aggressor was. The medical evidence did not indicate assault, and the circumstances showed that the occurrence was not a calculated attack but arose during a quarrel. It was in that factual background of the fight, uncertainty regarding the aggressor, and limited injuries that the Court considered the case outside the ambit of murder.
- In the present case, the factual matrix is materially different. There is no evidence of a scuffle or injuries sustained by the accused. The deceased was unarmed, and the fatal injury was a decisive axe blow on a vital part of the body, namely the neck. Unlike the cited case, where the origin of the incident and the role of the aggressor were doubtful, the present case discloses a clear and direct homicidal act supported by medical and corroborative evidence. The ratio of the cited judgment, which turned upon scuffle and absence of clarity regarding aggression, is therefore inapplicable and distinguishable on facts.

(e) Sekaran Vs The State Of Tamil Nadu Criminal Appeal No. 2294 Of 2010 (Supreme Court)

- The reliance placed on paragraphs 23 and 24 is wholly distinguishable on facts and of no avail to the defence. In the cited case, the Supreme Court treated abscondence as insignificant only after finding serious infirmities in the prosecution case, including unexplained delay in lodging the FIR, withholding of material independent witnesses, contradictions in medical and ocular evidence, and the possibility of an accidental cause of death. It was in that backdrop of an already doubtful prosecution case that the Court held that mere abscondence could not fill evidentiary gaps. In the present case, however, the prosecution evidence is consistent and corroborated by medical testimony and recovery of the weapon from the scene, and there is no theory of accidental death or evidentiary vacuum comparable to the cited matter. Unlike the factual scenario in cited case, where the Supreme Court found that the cumulative circumstances did not unequivocally point to the accused and false implication could not be ruled out, the present case presents a chain of incriminating circumstances supported by reliable witness testimony. Abscondence of the accused here is not being relied upon as a solitary incriminating factor but only as an

additional circumstance reinforcing otherwise cogent prosecution evidence. Therefore, the principle stated in paragraphs 23 and 24 of the said judgment, which was applied in the context of a fundamentally weak prosecution case, is inapplicable to the present facts and is clearly distinguishable.

(f) State Of A.P. Vs. Punati Ramulu And Others 1994 Supp (1) Scc 590 (Supreme Court)

- The reliance placed on this ruling is also distinguishable on facts and does not assist the defence. In the cited case, the Supreme Court found that the investigating officer had deliberately failed to record the earliest information of a cognizable offence in the general diary and instead prepared the FIR only after reaching the scene following deliberation and consultation. The Court treated the purported FIR as a statement recorded during investigation and held the entire investigation to be tainted, thereby rendering it unsafe to rely upon the testimony of related witnesses in the absence of strong independent corroboration. The decision thus turned on a finding of deliberate suppression of the earliest information and fabrication at the threshold of investigation. In the present case, no such deliberate withholding or fabrication of the FIR is established. The FIR, though lodged

after a delay, was registered on the basis of the informant's complaint and there is no material to show that the police suppressed prior information or conducted a clandestine investigation before recording it. The prosecution evidence is otherwise consistent and corroborated by recovery of the weapon and supporting medical testimony. Unlike in the cited case, where the investigation itself was held to be fundamentally tainted, the present case does not suffer from comparable defects. The ratio of the cited judgment, which is confined to cases of demonstrably manipulated investigation at the inception, is therefore inapplicable and clearly distinguishable.

45. Taking into consideration the entire evidence that has been brought on record by the prosecution viz the evidence of star witness PW 1 who has seen the Appellant running away from the spot, her daughter lying in the pool of blood, finding the weapon near the body and corroborated by the evidence of PW 3, the doctor who has given a clear opinion about the injury mentioned in column 17 which is possible by Axe and that the injury had occurred within 24 hours coupled with other witnesses, this Court comes to the conclusion that the prosecution has proved the case beyond reasonable doubt and the resultant conviction is proper. The Appeal therefore stands dismissed and the conviction of the Appellant is upheld.

46. Appeal stands disposed of accordingly. Pending Application is also disposed of.

(SHREERAM V. SHIRSAT, J.) (MANISH PITALE, J.)