



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

CRIMINAL APPEAL No. 270/2024

Deorao S/o Ganpatrao Mohije : APPELLANT
Aged about 68 years,
Occupation : Retired Lineman,
R/o Karia Chowk, Wardha,
Tq. & Dist. Wardha.

Vs.

State of Maharashtra, : RESPONDENT
Through Police Station Officer,
Police Station, Ram Nagar, Wardha,
Tq. & Dist. Wardha

Ms. Nisha Gajbhiye (Wasnik), Advocate for the Appellant,
Mr. K.R. Lule, Addl.P.P. for the Respondent/State.

CORAM: ANIL L. PANSARE AND
NIVEDITA P. MEHTA, JJ.

Date of reserving the judgment : 05.02.2026

Date of pronouncing the judgment : 16.02.2026

JUDGMENT : (Per : Nivedita P. Mehta, J.)

The present appeal is directed against the judgment and order dated 06.03.2024 passed by the learned Additional Sessions Judge, Wardha in Sessions Case No. 29 of 2019, whereby the appellant came to be convicted for the offence punishable under Section 302 of the Indian Penal Code (for short "IPC") and sentenced to suffer imprisonment for life and to pay a fine

of Rs.5,000/-, in default of payment of fine, to undergo rigorous imprisonment for three months.

2. The prosecution case, in brief, is that the PW 1, informant, Pinky Gopal Kawale was residing at Natala along with her parents, deceased Rekha Deorao Mohije and appellant Deorao Ganpatrao Mohije. The appellant, who had retired from service at the M.S.E.B. office, Wardha, was habituated to consuming liquor and frequently quarrelled with and assaulted his wife Rekha.

3. On 17.10.2018, at about 4.00 a.m., the appellant left the house to consume liquor and returned at about 9.00 a.m. in an intoxicated condition. He abused and assaulted Rekha and, when she served him food, he threw the plate and beat her. The informant was present at that time. The appellant threatened both the informant and Rekha to leave the house or else he would kill them. Thereafter, at about 9.30 a.m., Rekha left the house for labour work and the PW 1 also proceeded to her place of work.

4. At about 10.00 p.m., when the PW 1 returned home, upon entering the house and switching on the lights, she noticed Rekha lying in the front hall in a pool of blood, with blood collected around her head. When PW 1 checked up on Rekha, she was unresponsive. The informant raised shouts, whereupon neighbours gathered. She then went to the house of her

sister Sangita and informed her that the appellant had killed their mother. Thereafter, the relatives assembled at the spot.

5. On the basis of the oral report, First Information Report bearing Crime No. 782/2018 came to be registered at Police Station Ramnagar for the offence punishable under Section 302 of the IPC against the appellant. During investigation, the spot panchnama of the house at Nataka Punarvasan, Wardha was drawn and blood stains from the hall were collected on cotton swabs, and a pair of chappals found in the verandah was seized. Inquest panchnama was conducted and the dead body was sent for post-mortem. The autopsy disclosed stab injuries on the chest and abdomen and a contusion on the head, and the cause of death was opined as shock and haemorrhage. Blood-stained clothes, blood samples and viscera of the deceased were seized and a site map was prepared

6. The appellant, who had absconded, was traced at Ambika Chowk, Wardha. At the time of apprehension, he was found with a knife and had inflicted a stab injury on his own abdomen. He was hospitalized and the knife was seized. His clothes and blood samples were also collected. The seized articles were forwarded to the Forensic Science Laboratory for chemical analysis. Statements of witnesses were recorded during investigation. After completion of investigation, the charge-sheet came to be filed before the learned Judicial Magistrate First Class, Wardha. Since the

offence was exclusively triable by the Court of Sessions, the case was committed to the Court of Sessions. The trial Court framed Charge (Exhibit 3) under Section 302 of the IPC, to which the appellant pleaded not guilty and claimed to be tried. The prosecution examined sixteen witnesses.

7. After appreciation of the evidence, the trial Court held that the death of Rekha Mohije was homicidal, as the post-mortem revealed fatal stab injuries on the chest and abdomen causing haemorrhagic shock, thereby ruling out any accidental or natural cause. The trial Court noted that the appellant was quarrelling with the deceased on the morning of the incident under the influence of liquor and had threatened her, which established motive.

The trial Court further found that the deceased returned home in the evening and was seen in the company of the appellant at about 7:00 p.m., and within a short time thereafter, she was found murdered inside the house. Relying on the "last seen together" circumstance, the appellant's abscondence, and his failure to offer any plausible explanation as to how his wife sustained fatal injuries inside their shared house, the trial Court invoked the principle under Section 106 of the Evidence Act. Holding that the chain of circumstantial evidence was complete and consistent only with the guilt of the appellant, the trial Court convicted him for the offence punishable under Section 302 of IPC and sentenced as stated above.

8. We have heard the learned Counsel Ms. Nisha Gajbhiye (Wasnik) for the appellant and the learned Additional Public Prosecutor Mr. K.R. Lule for the State.

9. Learned Counsel for the appellant submits that the impugned judgment suffers from serious errors in appreciation of evidence and is unsustainable in law. She contends that the conviction is based solely on circumstantial evidence and the prosecution has failed to establish a complete chain of circumstances. It is further contended that there is no eye-witness and the testimony of related witnesses suffers from omissions and embellishments, with no independent corroboration regarding the alleged quarrel or presence of the appellant at the relevant time. The “last seen” circumstance is stated to be weak, as the evidence only shows the appellant on the roof and not in the company of the deceased immediately before her death. The appellant further submits that the prosecution has failed to prove motive. Mere allegations of past quarrels or suspicion do not constitute a proximate or compelling motive for murder. The medical evidence also does not conclusively support the prosecution case, as the viscera report showing alcohol raises an alternative hypothesis, and the forensic evidence is inconclusive since no blood was detected on the knife and the blood group on seized articles could not be determined. Therefore, the learned Counsel urges that on these grounds, the benefit of doubt ought to be extended to the

appellant and prays that the conviction under Section 302 of the IPC be set aside.

10. Per contra, the learned Additional Public Prosecutor for the State submits that the homicidal nature of Rekha's death is conclusively established by the medical evidence showing fatal stab wounds. He contends that the appellant's motive is observed through his prior assaults and suspicion of the deceased which has been duly proven. He further submits that the "last seen together" circumstance is firmly established through the evidence of the neighbour who saw the deceased return home in the evening when the appellant was present there. His absconding and failure to explain the circumstances attract the adverse inference under Section 106 of the Evidence Act. He contends that circumstances form a complete chain pointing only towards the guilt of the appellant and are inconsistent with any hypothesis of innocence. Thus, the learned Additional Public Prosecutor submits that the conviction under Section 302 of IPC calls for no interference and prays for dismissal of the appeal.

11. Before delving into the merits of the case by framing the points for determination and recording findings thereon, it is necessary to discuss and appreciate the evidence led by the prosecution.

12. PW 1-Kavita @ Pinky Gopal Kawale is the daughter of the deceased and the appellant. PW 1 stated that the appellant used to consume

alcohol and quarrel with and assault the deceased suspecting her character. On the date of incident, in the morning, the appellant abused and beat the deceased and threatened to kill both of them. PW 1 left for work and returned at about 10:00 p.m., when she found her mother lying dead in a pool of blood in the hall. The appellant was absent from the house. PW 1 raised alarm, informed her sister Sangita and later returned to the house, where police had already arrived. PW 1 also referred to prior disputes between the appellant and the deceased. PW 1 lodged the FIR. In cross-examination, she stated that the appellant was not present when she returned home and that no articles were stolen or damaged. She denied the defence suggestions that an unknown person had entered the house or that she had filed a false complaint.

13. PW 2-Praful Borge stated that on 18.10.2018 he acted as a panch at the scene of offence in the house of the deceased. He deposed that the police inspected the spot, found the deceased lying in the hall with blood present, collected blood samples, and seized a pair of slippers under a panchnama which he signed. His evidence corroborates the place and manner of occurrence. He denied the defence suggestion that his signatures were taken mechanically or that he was deposing falsely.

14. PW 3-Rupesh Prabhakarrao Gaikwad, a neighbour of the appellant, stated that he knew the appellant and his family and that the

appellant used to quarrel with his wife after consuming alcohol. He deposed that on 17.10.2018 between 7:00 and 7:30 p.m. he saw the deceased returning from work and the appellant was present at the house, and that no other person was there at that time. He thereafter left for Navratri Visarjan. He further stated that around 10:30–11:00 p.m., on receiving information from his father, he returned and saw the deceased lying in the hall with blood around her and injuries on her body. In cross-examination, he stated that he had no direct knowledge of the incident and denied the defence suggestions.

15. PW-4 Sudhakar Gajanan Dandade, a neighbour residing a few houses away, deposed that on the morning of the incident he saw the accused quarrelling with the deceased. He further stated that around 10:00 p.m. he learnt about the death of the appellant's wife and, on going to the house, saw her lying in the hall with blood nearby while many persons had gathered. This evidence corroborates PW 1 regarding quarrel before the incident. He denied the defence suggestions in cross-examination.

16. PW 5-Ratnadeep Parasram Dange stated that on 18.10.2018 he was called to Ramnagar Police Station. He stated that a seizure panchnama was prepared and signed by him and another witness. He proved seizure of knife stained with blood. The weapon was later examined by the Medical Officer.

17. PW 6-Raja Shankarrao Sarsar stated that on 13.11.2018 he was called to Ramnagar Police Station where, in his presence, clothes of the appellant were seized under a panchnama which he signed. In cross-examination, he stated that the clothes were already with police and were opened and inspected in his presence and that similar clothes are available in the market. He denied the defence suggestions.

18. PW 7-Sangita Subhash Shirnathe, daughter of the deceased and the appellant, stated that the appellant used to consume alcohol and assault and abuse her mother and other family members. She deposed that two days prior to the incident and again on the morning of the incident, the deceased had informed her about being beaten by the appellant. She stated that the deceased worked in the field with her till evening and thereafter returned home. At about 10:00 p.m., PW 1 came to her house and informed that their mother had died, after which she went to the parental house and saw the deceased lying in the hall with blood near her. She stated that police arrived and a complaint was lodged. She denied the defence suggestions.

19. PW 8-Kajal Ashwin Bawane, another daughter of the deceased and the appellant, stated that the appellant used to drink alcohol and beat the deceased and that earlier complaints had been lodged against him. She deposed that on 17.10.2018 she was at Nagpur and received a phone call from PW 1 informing her about her mother's death. On reaching the house at

night, she saw the deceased lying in the hall with blood nearby and police present. She stated that thereafter they went to the police station where the complaint was lodged. She denied the defence suggestions in cross-examination.

20. PW 9-Dr. Sandip Charde, Medical Officer, Civil Hospital, Wardha, conducted the post-mortem on the dead body of Rekha Mohije on 18.10.2018. He noted stab injuries on the chest and abdomen and a contusion on the head, all ante-mortem, with corresponding internal injuries. He opined that the cause of death was shock and haemorrhage due to the injuries sustained. As per the viscera report, alcohol was detected in the body of the deceased, which, according to him, did not affect the cause of death. He further examined a knife sent by police and opined that the stab injuries were possible by that weapon, while the head injury was possible by blunt impact. In cross-examination, he stated that death had occurred within about 12–24 hours prior to the post-mortem and that the head injury could be possible by a fall. He denied the defence suggestions.

21. PW 10-Ravindra Aade, PW 11-Majruddin Kazi & PW 13-Panjab Rathod, Police Constables, proved safe transportation of sealed muddemal and viscera to the Chemical Analyzer, establishing chain of custody.

22. PW 12-Shailendra Deshmukh stated that, on police requisition, he visited the place of occurrence, inspected the spot, and prepared the site map, which he identified in Court. He denied the defence suggestions in cross-examination.

23. PW 14-Parvati Mahind, a co-worker of the deceased, stated that on the day of the incident she and the deceased had gone for labour work and returned in the evening, and that the deceased's husband was present when they left in the morning. She deposed that later at night the deceased's daughter came shouting that her father had killed her mother, after which she went to the house and saw the deceased lying dead with blood present nearby. She also stated that there used to be quarrels between the deceased and her husband-appellant. She further stated that due to poor eyesight she was unable to identify the appellant in the Court.

24. PW 15-Ashok Choudhari, the Investigating Officer, stated that he took over investigation of Crime No. 782/2018 on 18.10.2018. He deposed about seizure of the clothes and blood samples of the deceased and the seizure and sealing of the knife. PW-15 stated that the appellant had absconded and was later traced and hospitalized after sustaining a self-inflicted knife injury. PW-15 further stated that he recorded witness statements, sent seized articles and viscera for chemical analysis, and obtained medical and forensic reports during investigation. After completion

of investigation, he filed the charge-sheet before the trial Court. In cross-examination, he denied the defence suggestions.

25. PW 16-Sandip Kharat, a Police Constable, stated that while searching for the absconding appellant, he and another constable apprehended him at Ambika Chowk. PW 16 deposed that at that time the appellant sustained a knife injury to his own stomach and was taken to the hospital. He stated that the knife removed by the doctor was handed over to the Investigating Officer and seized under panchnama. He denied the defence suggestions in cross-examination.

26. Points for Determination :

The following points arise for consideration:

<u>Sr.No.</u>	<u>Points</u>	<u>Findings</u>
(i)	Whether the prosecution has proved that the death of Rekha Mohije was homicidal ?	In the Affirmative.
(ii)	Whether the prosecution has proved that the appellant caused the death of Rekha Mohije?	In the Affirmative.
(iii)	Whether the circumstances relied upon by the prosecution form a complete chain leading only to the guilt of the appellant and ruling out any hypothesis of innocence?	In the Affirmative.
(iv)	Whether interference is called for in the impugned judgment?	In the Negative.
(v)	What order?	As per final Order.

REASONSAs to Point No. (i) :

27. PW 9, the Medical Officer, who conducted the post-mortem examination, has given a detailed account of the injuries found on the body of the deceased. On external examination he found:

- (i) *stab wound over right chest wall 6 c.m. lateral to mid-line 1 c.m. below right clavicle of size 4 x 0.5 x 12 c.m. measuring depth, directed obliquely upward cutting right carotid artery piercing the trachea.*
- (ii) *stab wound over abdomen in mid-line 7 c.m. above umbilical of size 3 x 1 c.m. cavity deep,*
- (iii) *contusion over right occipital parietal region of head of size 6 x 2 c.m. All above injuries were ante-mortem.*

On internal examination of head, he found under scalp heamatoma right occipital parietal region of size 10 x 4 c.m. was found. This internal injury co-relate with above external injury No.3. On internal examination of thorax, there was heamatoma of size 6 x 7 c.m. present over right chest wall.

28. The Medical Officer has unequivocally opined that the cause of death was shock and haemorrhage due to the said injuries. Notably, injury No.1 involved damage to vital structures and, by itself, was sufficient in the ordinary course of nature to cause death. The cross-examination of the Medical Officer does not bring forth anything to doubt his opinion. The suggestion that the contusion on the head could be caused by a fall does not

advance the defence case, since the fatality is clearly attributable to the stab injuries.

29. The viscera report indicates presence of alcohol in the body. However, PW 9 has clarified that the same has no bearing on the cause of death. It neither explains the injuries nor reduces their fatal nature. There is no suggestion of accidental or suicidal death supported by medical evidence. Hence, it conclusively establishes homicidal death. Accordingly, Point No. (i) is answered in the Affirmative.

As to Point Nos. (ii) and (iii) :

30. The case is admittedly one based on circumstantial evidence. There is no eye-witness to the actual assault. The question, therefore, is whether the appellant caused the death of Rekha Mohije and that whether the circumstances proved on record, when taken together, lead to a definite conclusion about the involvement of the appellant.

31. The evidence shows that the deceased Rekha and the appellant were residing together in their house at Natala. PW 1, their daughter, was also residing there temporarily. It is not disputed that Rekha returned home from labour work in the evening of 17.10.2018. Within a few hours thereafter, she was found lying dead in the hall of the very same house in a pool of blood. The spot panchnama and photographs leave no manner of

doubt that the assault occurred inside the house itself. There is no sign of theft, ransacking or forcible entry. PW 1 has specifically stated that no articles were missing. Her cross-examination does not bring out any material contradiction or reason for false implication. Mere relationship with the deceased does not render her testimony unreliable when it is otherwise consistent and natural. The incident, therefore, was not the handiwork of an unknown intruder.

32. The evidence of PW 1, PW 7 and PW 8 consistently brings on record that the appellant was addicted to alcohol and used to quarrel with and assault the deceased. The aspect of continuous domestic discord and strained marital relations is not only confirmed by the family members but also the independent neighbours like PW 3 and PW 4 who have corroborated the same. Though they are not eyewitnesses to the assault, their evidence supports the prosecution version regarding the strained marital relationship and it being a matter known in the neighbourhood. Previous complaints lodged by the deceased against the appellant in earlier crimes were proved and identified by PW 1. Further, the evidence shows that on the very morning of the incident, the appellant had returned home drunk, he then abused and assaulted Rekha, and threatened her. This part of the prosecution version has not been contradicted in any cross examinations or by any material on record. This cumulatively establishes the strained relationship and supplies a motive, though motive by itself is not decisive.

33. PW 14-Parvati, who worked with deceased Rekha, has stated that on the day of the incident she went to work with Rekha and that the appellant was present at home when they left for work in the morning. She further stated that Rekha returned home in the evening between 6.00 to 7.00 p.m. This is consistent with the evidence of PW-3, who has stated that at about 7.00 p.m. he saw Rekha returning home and the appellant standing on the steps of the house. Thus, the evidence shows that Rekha had returned to the home where the appellant was present and nothing is brought on record to indicate the presence of any third person in the house thereafter. It is within a short span thereafter that Rekha was found dead inside the very house. This proximity of time and place assumes significance.

34. What assumes importance is the conduct of the appellant thereafter. He was not present in the house when the body was discovered. He had absconded. On the next day, PW 16 (police) traced him at Ambika Chowk. Upon noticing the police presence, the appellant inflicted a knife injury on himself. The evidence of PW 15 (I.O) and PW 16 regarding this incident is clear and consistent. Such conduct cannot be brushed aside as neutral. A person falsely implicated would ordinarily be available and protest his innocence. Here the appellant was evading and then attempted self-harm when apprehended.

35. In such a situation, when the homicidal death occurs inside the matrimonial home shared by the spouses, the husband is expected to offer some explanation consistent with innocence as to how the deceased sustained fatal injuries. The appellant has not offered any explanation either in cross-examination or statement under Section 313 Cr.P.C. regarding the circumstances leading to the death. In view of the law laid down in ***Trimukh Maroti Kirkan vs. State of Maharashtra, (2006) 10 SCC 681***, and ***State of Rajasthan vs. Kashi Ram, (2006) 12 SCC 254***, when a death occurs inside the house and the accused offers no explanation, an adverse inference can be drawn under Section 106 of the Evidence Act. The appellant has failed to discharge this burden. That failure in the backdrop of motive, last-seen evidence and his subsequent conduct forms additional link in the chain of circumstantial evidence.

36. The defence has emphasized that blood group could not be determined and that forensic evidence is not decisive. These aspects, in our view, do not dislodge the prosecution case. The medical evidence fully corroborates the ocular and circumstantial evidence. PW 9 has clearly opined that the injuries sustained by the deceased were possible by the seized knife and that the cause of death was shock and haemorrhage due to stab injuries. The medical evidence rules out accidental fall or self-inflicted injuries, it firmly supports the prosecution version and clearly establishes homicidal death by stabbing. The scene of offence shows the assault occurred inside the

house. The surrounding circumstances point towards the appellant. In such a situation, limited forensic lapses cannot outweigh the direct circumstances proved on record. Forensic evidence is corroborative and not substantive.

Similarly, the contention regarding alcohol in the viscera does not advance the appellant's case, as the Medical Officer has clearly stated that it did not contribute to the cause of death.

37. The evidence of formal witnesses and the Investigating Officer establishes the registration of the offence, proper investigation, and safe custody and transmission of the muddemal articles. Nothing material has been elicited in cross-examination to doubt the fairness of the investigation.

38. When considered cumulatively, the circumstances proved on record cannot be treated as isolated pieces of evidence. They form a consistent chain pointing towards involvement of the appellant. The homicidal death of Rekha inside the house, the evidence of prior ill-treatment and quarrels, the fact that she had returned to the house where the appellant was present shortly before her death, and the failure of the appellant to offer any explanation as to how she sustained fatal injuries inside the house, are all circumstances which stand firmly established.

Nothing on record suggests the intervention of any third person, nor does any reasonable alternative hypothesis arise from the evidence. The

circumstances proved are compatible only with the guilt of the appellant and are inconsistent with his innocence.

39. On a careful appreciation of the entire evidence, we are satisfied that the prosecution has established a complete chain of circumstances which unerringly points to the guilt of the appellant and excludes every hypothesis of innocence. Point Nos. (ii) and (iii) are, therefore, answered in the Affirmative.

As to Point No. (iv):

40. In the present case, the trial Court has carefully appreciated the oral, medical and circumstantial evidence on record. The conclusions drawn by the trial Court are supported by evidence and are in consonance with settled principles governing cases based on circumstantial evidence. We do not find any material omission or misreading of evidence in the approach adopted by the trial Court.

41. It is well settled that an appellate Court would not substitute its own view merely because another view is possible, so long as the view taken by the trial Court is reasonable and supported by evidence.

42. We, therefore, find no reason to interfere with the judgment of conviction and sentence recorded by the trial Court.

As to Point No. (v) :

43. In view of the aforesaid discussion and the evidence on record, both documentary and oral, there is no merit in the appeal. Hence, we proceed to pass the following order.

Order

- (i) Criminal Appeal stands dismissed.
- (ii) The impugned judgment and order dated 06.03.2024 passed by the learned Additional Sessions Judge, Wardha in Sessions Case No. 29 of 2019, is hereby confirmed.
- (iii) The appellant shall continue to undergo the sentence imposed upon.

(NIVEDITA P MEHTA, J.)

(ANIL L. PANSARE, J.)