

---

**(2014) 12 BOM CK 0141**  
**In the Bombay High Court**  
**Case No : Criminal Appeal No. 584 of 2007**

Bhanudas Ranoba Tele

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

---

**Date of Decision :** 24-12-2014

**Acts Referred:**

Penal Code, 1860 (IPC) — Section 147, 148, 149, 201, 302

**Citation :** (2015) 1 BomCR(Cri) 354

**Hon'ble Judges :** P.V. Hardas, J;G.S. Kulkarni, J

**Bench :** Division Bench

**Advocate :** D.G. Khamkar, Advocate for the Appellant; H.J. Dedhia, APP,  
Advocate for the Respondent

---

## Judgement

G.S. Kulkarni, J.—The Appellants/original accused no 1 to 6, who stand convicted for the offence punishable under Section 147, 148, 149, 201, 324, and 302 of the Indian Penal Code and sentenced to suffer imprisonment for life and fine of Rs. 5000/- each, and independent sentences to suffer R.I. for one year for the offence punishable under Section 147, 148 of the Indian Penal Code, R.I. for three years for the offence punishable under section 324 read with Section 149 and R.I. for three years and fine of Rs. 1000/- and in default R.I. for six months under section 201 read with Section 149 of the Indian Penal Code, with a direction that the substantive sentences shall run concurrently, by the Ist Ad hoc Sessions Judge, Pandharpur, by judgment dated 8.5.2007 in Sessions Case no. 102 of 2006, by this appeal challenges their conviction and sentence.

2. Facts as are necessary for decision of this appeal may briefly be stated thus:-

P.W.26 - Gonvind Bhagwan Omase, Police Sub-Inspector attached to Sangola Police Station on 17.7.2006 when on duty was approached by the Complainant PW-20 Satish with a complaint that the accused in the night of the earlier day had assaulted him and his father Narayan with knife and sticks and that his father had not returned home and was missing. Complainant Satish was having injuries. On the basis of this information PSI Govind registered Crime No.

105/06. PSI Govind visited the spot of the incident alongwith the Complainant and the Pancha witness. A panchanama was prepared in the presence of pancha witnesses. PSI Govind collected sample of the blood stained soil, sample of simple soil, one human tooth, one carry bag and stone. These articles were sealed and pasted with labels having signature of panchas. The panchanama is at Exhibit 47.

On the same day (on 17.7.2006) PW-4 Hanmant Ingle, a Gangman working with the Railways approached PW-21 -PSI Rafiq attached to Jat police station and lodged information that parts of a human body scattered at different places and the middle part of the dead body dumped in a gunny bag, were found near the railway track when he was on duty. An inquest panchanama of the dead body found cut into pieces, was prepared, which is at Exhibit 77. PSI Rafique thereafter forwarded the dead body for a postmortem examination. A spot panchanama was prepared, sample of blood stained soil, sample of simple soil, seized eleven articles which included a towel, gunny bag, shirt, pair of footwear, one cloth bag, etc, were collected in the presence of the panch witnesses. The spot panchanama is at Exhibit 30. PSI Rafique addressed a letter dated 17-6-2006 vide Exhibit 78 seeking blood samples of the dead body. A crime was registered at the Jat Police Station under Section 302 of IPC. As the dead body was not identified PSI Rafique telephoned different police stations including the Sangola Police Station informing and describing the dead body.

PSI Govind at the Sangola Police Station, on receiving the information from Jat Police Station that a dead body cut into pieces was found, informed PW-20 Satish-Complaint to approach Jat Police Station. The Complainant approached the Jat Police station and identified the dead body to be of his father Narayan.

On 18.7.2006 PSI Govind arrested accused no. 5 - Pratap Tele. During custodial interrogation on 18.7.2006 accused no. 5 - Pratap expressed his willingness to point out the place where the sticks used in the offence were concealed. Accordingly a memorandum statement at Exhibit 53 was drawn before the panchas. Accused No. 5 Pratap led the police and the panchas to the spot where the said articles were hidden, it was a well in which the sticks were thrown. The sticks were visible inside the well and they were removed with the help of a rope. The sticks were having blood stains. A seizure panchanama of the sticks was recorded and signed by the panch witnesses which is at Exhibit 54.

PSI Govind recorded statements of P.W.18 - Sangita Pandurang Tele at Exhibits 90 and 91. On 19.7.2006 offence under Section 302 read with Section 201 of Indian Penal Code was added in Crime No. 105/06. PSI Govind undertook further investigation and having received information that accused no. 1 - Bhanudas and Accused no. 3 - Tukaram were in the service of MSEB, a letter dated 20.7.2006 at Exhibit 92 was issued by PSI Govind to the MSEB for issuance of an extract of the muster roll in respect of these accused. PSI Govind, thereafter, handed over the investigation to P.W.27 API Prashant Sampate.

3. P.W.27 API Prashant Pandurang Sampate on 20.7.2006 arrested accused nos. 1 to 4 and 6. A supplementary statement of the complainant was recorded on 21.7.2006. API Prashant recorded statements of witnesses namely Mahadeo Kolekar, Balu Burange, Ankush Takale and Pandurang Bandgar. During custodial interrogation on 21.7.2006 accused no. 6-Dattatray Laxman Raut expressed his willingness to show the spot where the dead body was thrown as also show the knife used in committing the offence. Accordingly a memorandum at Exhibit 56 was drawn in the presence of panchas. Accused no. 6-Dattatraya led the police and the panch witnesses to the spot by the Wadegaon-Medshingi road and from there proceeded to Kadlas road. Accused no. 6 asked to stop the vehicle near the turn known as "Mhasoba Valan" (Mhasoba turning), the spot of the incident was shown by accused no. 6. Accused no. 6 further showed the path by which the accused had taken the dead body. Thereafter, accused no. 6 asked to stop the vehicle at Sonand road near water tank and informed that the knife was thrown near the water tank. A search for the knife was undertaken but the knife could not be traced. Thereafter Accused No. 6 led them via Dongargaon to reach at Walekhindi near the railway track. Accused no. 6 showed the spot where the dead body was thrown on the railway track. API Prashant and the panch witnesses noticed blood stains on the soil as also noticed mark of dragging gunny bag. API Prashant accordingly prepared panchanama at Exhibit 57.

On 22.7.2006 during custodial interrogation, accused nos. 1 to 6 expressed their willingness to point the clothes concealed by them. Accordingly memorandum at Exhibit 60 was drawn in the presence of the panchas. Accused No. 1 to 6 led API Prashant and the panch witnesses to the Wasti (village) of the accused. Accused nos. 2 and 3 took out the clothes hidden in their house. There were blood stains on the clothes. A seizure panchanama describing the clothes was recorded in the presence of the panchas. Thereafter, accused no. 1 and accused no. 5 led API Prashant and the panch witnesses near their respective houses from where the clothes were discovered from their houses. The clothes were having blood stains. The clothes namely lungi, pant, T-shirt and full shirt were having blood stains. Thereafter Accused No. 6 -Dattatray led API Prashant and the panchas to his Wasti from where a pant and a shirt were recovered from his house. There were blood stains on the shirt. Thereafter Accused no. 4 - Subhash led API Prashant and the panch witnesses to his house from where one shirt and one dhoti were recovered. There were blood stains on the dhoti. All the clothes so discovered were wrapped in a paper and a seal was put on it. A seizure memorandum at Exhibit 61 was prepared. On 22.7.2006 API Prashant recorded statements of some more witnesses namely Dhanaji Chougule, Bira Satpute, Mohan Gavade. Thereafter on 24.7.2006 API Prashant arrested accused no. 7 - Chandrakant and accused no. 8 - Madhukar. On 24.7.2006 API Prashant visited the Telewasti (area in the village where accused were residing) and seized a red colour motorcycle of Hero Honda make and another motorcycle of similar make of black colour from the house of accused no. 1 - Bhanudas. It was noticed that the motorcycles were just washed. A seizure panchanama to this effect is at Exhibit 51. On the same

day API Prashant sent accused nos. 1 to 8 to the Civil Hospital at Sangola for collection of their blood samples alongwith a forwarding letter in the name of Medical Officer which is at Exhibit 39. On 6.8.2006 the seized articles were forwarded for chemical analysis. Police Constable Happerkar had carried the seized property for chemical analysis and deposited the articles at Chemical Analyser. API Prashant issued a letter to Tahasildar, Pancharpur for drawing map of scene of offence. During investigation, 7/12 extract of the land of the spot of the incident was obtained. On completion of investigation, a final report against accused nos. 1 to 8 came to be filed.

4. P.W.7 - Dr. Sunil Jayram Pawar at the relevant time was serving as a Resident Doctor at the Rural Hospital Jat and was on duty on 17.7.2006. He had received the dead body of deceased-Narayan Satpute for postmortem. While undertaking the postmortem, Dr. Sunil-P.W.7 noticed C.L.W. on scalp over parietal bone on right side size: 6 inch, also noticed C.L.W. on back on right side of size 4 cm. These injuries as noticed were described to be ante-mortem. P.W.7 - Dr. Sunil noticed that the body of deceased Narayan was brought in crush position, there were multiple fractures of rib vertebra and hip fracture on various level. The body was cut into different parts, head was separated, both hands were separated, both legs were separated, abdomen and chest were crushed. He opined that death of deceased Narayan was caused due to multiple extensive injuries. On 18.7.2006 P.W.7 Dr. Sunil had received letter from Jat Police Station seeking his opinion about the injuries as noticed on the person of deceased Narayan. P.W.7 - Dr. Sunil accordingly issued a letter to Jat Police Station informing that the injuries as noticed on the body of deceased Narayan were ante mortem.

5. PW 20 - Satish Satpute was referred by police to the Rural Hospital, Sangola for medical examination in respect of the injuries sustained by him PW 6 - Dr. Manoj Bansode Medical Officer at the Rural Hospital, Sangola examined PW 20 and noticed the following injuries on the person of PW 20 :

"1. Abrasion present over abdomen 3 in numbers, size 6 x 1/2 cm over abdomen on left side over stomach.

2. Abrasion present over neck, centrally 2 in number size 3 x 1/2 cm.

3. Abrasion present over neck on right side size 2 x 1/2 cm.

4. Abrasion present over neck 3 in number on left size 2 x 1/2 cm.

5. Abrasion present over anterior pastoral region size 4 x 1/2 cm.

6. Abrasion present over left scapular region 5 in number size 10x 1/2 cm.

7. Abrasion present over back centrally size 14 x 1/2 cm.

8. Abrasion present over right scapular region 4 in number size 12 x 1/2 cm

9. Abrasion present over right shoulder 4 x 1/2 cm."

He opined that the nature of the injuries were simple with age approximately

within 24 hours and were caused by a hard and sharp object. He opined that injuries as noticed on PW 20 could be possible by the use of a knife. He accordingly issued a certificate to that effect at Exhibit 38.

6. As the offence against the accused were triable exclusively by the Court of Sessions, learned J.M.F.C., Sangola by an order dated 30.10.2006 committed the case to the Sessions Court, Pandharpur. On 11.12.2006 learned Ad hoc Sessions Judge, Pandharpur framed charges against the accused under Sections 147, 148, 324 read with Section 149, Section 504 read with Section 149, Section 504 read with Section 149, Section 506 read with Section 149, Section 364 read with Section 149, Section 302 read with Section 149 and Section 201 read with Section 149 of Indian Penal Code. The accused denied their guilt and claimed to be tried. The prosecution in support of its case examined 27 witnesses. The trial court, upon appreciation of the evidence convicted and sentenced the appellants/accused as aforestated.

7. We have heard Mr. D.G. Khamkar, learned Counsel for the appellants - accused and Mr. H.J. Dedhia, learned APP for respondent - State. In order to effectively deal with the submissions advanced before us by the learned Counsel for the parties, we consider it appropriate to first refer to the prosecution witnesses.

8. Prosecution has examined P.W.16 -Mohan Gavade who is about 20 years of age and a student of 12th standard. He deposed that he knows one Bira Raosaheb Satpute and that one Dhanaji Balu Chougule is his friend. He knew the house of Bira Satpute who was residing at Satputewadi. That in July, 2006 he had been to the house of Bira on a motorcycle alongwith his friend Dhanaji Chougule. They first reached Medshingi from Mangalwedha and thereafter from Medshingi to Satputewadi by taking Medshingi road. At about 10 p.m. when they were at the Mhasoba turn on Medshingi-Kadlas road, they noticed in the light of the motor cycle that 7 - 8 persons were dragging one person from the field. They saw sticks in the hands of 7 - 8 persons. Being afraid, they proceeded on their vehicle at high speed. The accused present in the Court were identified by P.W.16 to be the same persons. He deposed that thereafter they reached the house of Bira Satpute as there was feast at the house of Bira Satpute and they halted at the house of Bira Satpute. In cross-examination, P.W.16 Mohan admitted that he was knowing deceased Narayan Satpute but he was not knowing whether deceased Narayan was cousin of Bira Satpute. He admitted that Bira Satpute was a friend of his friend-Dhanaji. He admitted that Bira Satpute is relative of Dhanaji, and that Dhanaji had invited him at the house of Bira Satpute for feast. P.W.16 deposed that the distance between Mangalwedha and Medshingi is 30 km. and the distance between Tarangewadi and Satputewadi is about 20 k.m. P.W.16 admitted that they did not inform about the incident to the police station.

9. Prosecution has examined P.W.20 - Satish Narayan Satpute who is the son of deceased Narayan and who is an injured eye witness P.W.20-Satish deposed that he was residing at Satputewadi alongwith his parents and brother and they were having 10 to 12 acres of landed property as also they were doing the business of

selling bullocks. He knows the area by name Telewasti which is situated at a distance of 1500 ft from Satpute Wasti. He knew Sangita who was residing at Telewasti. That Sangita was residing at Alegaon from 7 to 8 months and that husband of Sangita namely Pandurang died about 8 to 9 years back. The landed property of the Sangita's deceased husband was being cultivated by them on batai basis. His father deceased Narayan was having illicit relation with Sangita. His father used to visit the house of Sangita also at night. Deceased husband of Sangita had four brothers, out of which Bhanudas is accused no. 1 and Tukaram is accused no. 3. Accused no. 4 is the son of sister of accused no. 1 and accused no. 5 is son of accused no. 1. Accused no. 6 was the relative of accused no. 4. Accused nos. 1, 2, 3 and 5 were residing at Telewasti and accused no. 4 was residing at southern side of Telewasti and accused no. 6 was residing at a distance of 200 ft from Telewasti. As his father-deceased Narayan had illicit relation with Sangita, the accused were threatening his father and asking him to quit the relationship with Sangita, as also they threatened Sangita that she would not be permitted to stay in the village.

P.W.20 deposed that on 16.7.2006 that is on the day of the incident, it was Sunday and there was a weekly bazaar at Sangola. He along with his deceased father and his grandfather went to Sangola to sell their bullocks at the weekly bazaar. They reached Sangola at 8 a.m. and were at the bullock bazaar when at about 12 p.m. accused no. 1 - Bhanudas and accused no. 4 had approached them and threatened his father Narayan that he should give up his relationship with Sangita, and thereafter, accused nos. 1 and 4 went away. Thereafter they sold the bullocks to one Rajendra Nalawade for Rs. 30,500/-, for which Rajendra immediately gave an amount of Rs. 14,000/- to them for which a receipt was prepared. Rajendra assured that he would pay the remaining amount at his house. Thereafter they sent his grandfather to the village, and he and his father came to Pandharpur where Rajendra gave them the remaining amount of Rs. 16,500/- which was kept with his father. Thereafter, he and his father came at Sangola and from Sangola at about 8 p.m. proceeded to Medshingi. They proceeded from Wadegaon Naka, Sangola so as to reach their Wasti (village) via Wadegaon. They were required to proceed from Sangola via Wadegaon Naka to Medshingi and reach Satputewasti (their village). They reached Medshingi at about 9 p.m. where they rested for some time and thereafter proceeded towards their wasti (village) on foot. When they were on the Kadlas-Medshingi Road after a distance of one and half kilometers, they heard some noise from the front side. P.W.20 saw in the light of the torch accused no. 3-Tukaram, accused no. 1-Bhanudas, accused no. 4 - Subhash, accused no. 6-Datta, accused no. 2-Sachin and accused no. 5-Pratap. He was knowing these persons. The accused persons uttered "Stop, we have come to kill you." Accused no. 5-Pratap was having knife in his hand, accused no. 6-Datta was also having knife in his hand and other persons were having sticks in their hands. Accused no. 5-Pratap rushed towards his father with knife in his hand and when P.W.20 intervened, P.W.6 Datta who was also having a knife in his hand took him to the side by dragging SP.W.20 and

putting knife on his person and gave a blow on his stomach. At that time remaining persons were assaulting his father and that his father was raising shouts. When he was being assaulted he escaped from the clutches of these accused persons and ran towards the wasti. He felt that his father also must have escaped from the clutches of these accused persons. When he ran at a distance of about 1500 ft. he saw Bajrang and Anil coming from wasti on motorcycle. On seeing P.W.20 they stopped the vehicle, at that time P.W.20 asked Bajrang and Anil to immediately turn to wasti. He sat on their motorcycle and informed the incident to Bajrang and Anil. Due to fear he decided not to go to the wasti and so all the three went to Khupsungi which was about 30 km away and stayed at the house of Bajrang. In the morning they returned to the house of P.W.20 at about 10 a.m. P.W.20 deposed that he made inquiry about his father with his mother and other family members, he also made inquiry at the neighbouring persons as also made inquiry with Sangita Tele, but his father could not be traced. He searched for his father till 4 p.m. and then decided to proceed towards Medshingi the spot of the incident and reached upto the turn of Mhasoba where the incident had happened the earlier night. He noticed blood stains on the soil and hence suspected that his father had been killed. He, therefore, immediately approached the Sangola Police Station and lodged a complaint against six accused. He identified the complaint which bears his signature. P.W.20 thereafter, being referred to the Rural Health Hospital, took medical treatment in respect of the injuries sustained by him. That point of time when P.W.20 was at Sangola for 2 to 3 hours, he was informed that a dead body was located at railway track at Walekhindi by the police. He informed the description of his father to the police, and as the description as given by him was tallying with the dead body the police had asked him to go to Jat to see the dead body. P.W.20 accordingly went to Jat, the dead body was shown to him in the hospital which was identified by him to be of his father. He saw that there were injuries on the face, nose of his father. After the postmortem was carried out the dead body was handed over to him. He deposed that the dead body was seen cut into pieces. He deposed that news of this was also published in a newspaper.

In the cross-examination P.W.20 admitted to know the temple of Mhasoba situated at Medshingi-Satputewasti road. He admitted that Satputewasti is situated at three and half kilometers from Mhasoba temple. He admitted that there was distance of 1500 sq. ft. between Satputewasti and Telewasti. He admitted that he had stated to the police that they were cultivating landed property of Pandurang-deceased husband of Sangita Tele on batai basis. He admitted that on the day of the incident, they had taken halt at Medshingi for some time and that the distance between wasti of Govind Satpute and Satputewadi was about 3000 ft. He admitted that he had stated to the police in his complaint that accused no. 6-Datta has given blows on his stomach. He admitted that on the relevant day, he and his father had come at Pandharpur and thereafter started to proceed from Medshingi to Satputewadi. He admitted to have correctly deposed that accused nos. 1 to 6 assaulted him and his father by

knife and sticks and that he had escaped from the clutches of the accused and informed the incident to Bajarang and Anil. He denied that he had lodged a false complaint on the basis of suspicion. He denied the suggestion that death of his father was accidental.

10. Prosecution examined P.W.23 - Bajrang D. Chougule who is a cousin brother of the wife of the deceased - Chandrabai. P.W.23 deposed that Narayan and Chandrabai had two sons by name Anil and Satish-P.W.20. He knew Sangita Tele with whom deceased Narayan was having illicit relations. He had given understanding on 2-3 occasions to deceased Narayan in regard to this illicit relations, however, Narayan did not listen and continued his relation with Sangita. On the day of the incident he had been to the house of Chandrabai - his sister where the son of deceased Narayan namely Anil was present. Deceased Narayan and Satish were not present as he was informed that they had gone to bring the amount. He deposed that father-in-law of Chandrabai had informed him that at Sangola, accused no. 1-Bhanudas and accused no. 4-Subhash threatened deceased Narayan on account of illicit relation with Sangita. He deposed that father-in-law of Chandrabai informed him that near the river, accused no. 1-Bhanudas and accused no. 4-Subhash asked him about whereabouts of deceased Narayan and has also abused deceased Narayan. P.W.23 deposed that he was present at the house of his sister Chandrabai till 9 p.m., when the father-in-law of Chandrabai had asked Anil to see as to whether deceased Narayan had come. He deposed that thereafter he and Anil proceeded towards Medshingi on motorcycle. He was riding the motorcycle and Anil was pillion rider. He deposed that on their way to Medshingi, they crossed the river and after crossing the river they noticed Satish-P.W.20 was coming from the other direction and was looking afraid, they therefore, stopped the motorcycle. P.W.20 asked them to turn the vehicle towards their wasti Satputewadi. After going for about 150 ft. there was a D.P. when P.W.20 - Satish asked them to turn the vehicle towards Khupsungi in a fast speed. He accordingly took the vehicle by Alegaon road toward Khupsungi. While on their way P.W.20-Satish informed P.W.5 and Anil that from Bazaar he alongwith his father were proceeding by walk and reached near a turn known as Mhasobache Valan and that they heard noise of some persons. He further deposed that P.W.20-Satish informed that six accused from Telewasti assaulted him and accused no. 6-Datta had taken him to the side and pointed knife to his neck. He deposed that P.W.20-Satish had informed him that he had flashed the battery which he had carried with him and noticed that accused no. 5-Pratap had pointed out knife on his father and other persons were assaulting his father - deceased Narayan by sticks. P.W.20-Satish informed him that he has given a jerk and escaped from them. He deposed that P.W.20-Satish informed him that at noon time at Bazaar, accused no. 1-Bhanudas and accused no. 4-Subhash had threatened them. He alongwith Satish and Anil had reached his village Khupsungi at about 12 p.m. and that night Satish and Anil stayed at his place. He deposed that on the next day at 7 a.m. they proceeded to Satputewasti-village of P.W.20-Satish and Anil. He deposed that at Satputewasti, they had made inquiry in

respect of deceased Narayan, but he was not traced. He deposed that they were trying to search deceased Narayan upto 4 p.m. but he could not traced out Narayan. He deposed that thereafter, P.W.20-Satish, Anil alongwith him went to Medshingi and from Meshingi by a private vehicle went to Sangola Police Station. He deposed that while proceeding to Medshingi from Satputewasti, they proceeded from the turn known as Mhasobache Valan and noticed blood stains on the soil and felt that some mishap had happened and therefore, had decided to approach Sangola Police Station. He deposed that they lodged a complaint at Sangola Police Station. At about 8.30 p.m. a telephone was received from Jat Police Station informing that a dead body was located at railway track at Walekhindi. He deposed that from the police station, P.W.20 Satish was referred to the hospital for medical treatment and from hospital they had gone to Jat Police Station. P.W.20-Satish had given exact description of his father at Sangola Police Station. He deposed that he along with P.W.20-Satish and Anil went to the Jat Police Station where they taken to show the dead body kept in the hospital which was identified by them to be of deceased Narayan. The dead body was cut into pieces and there were injuries on the face. Thereafter funeral on the dead body was performed. He deposed that after the funeral, he remained at Satputewasti for 2-3 days. He deposed that during this stay he was informed by one Mahadeo Kolekar resident of Korsewadi who had come to the house of his sister Chandrabai that on 16.7.2006 he had been to Sonand and that at about 12.30 at night he was turning from Sonand and reached at Dongargaon Valan and was below the electricity pole. He deposed that Mahadeo Kolekar informed him that he noticed one motorcycle and there was one gunny bag and said motorcycle proceeded towards Dongargaon. He further deposed that Mahadeo further informed him that thereafter one more motorcycle came and that accused no. 5-Pratap was driving the said motorcycle. Mahadeo asked accused no. 5 as to where he was going at such a late night and that Pratap replied that he is going to Dongergaon. P.W.23 further deposed that Mahadeo informed him that Mahadeo asked accused no. 5-Pratap about two persons who were pillion riders. Pratap stated their names as Kanta Tele and Madhukar Pandhare.

In cross-examination he admitted that the police had recorded his statement on 19.7.2006 at Sangola Police Station. He admitted to have stated to the police in his statement that they noticed blood stains on the turn of Mhasobache Valan. He denied the suggestion that no incident had taken place as stated by him. He admitted that he had stated in his previous statement the fact that they had noticed blood stains on the turn of Mahosaba. He admitted that PW-20 Satish had informed him of the incident of assault on him and Narayan at the hands of the accused.

11. P.W.24 - Dhanaji Balu Chougule deposed that he knew P.W.16-Mohan Gavade and Bira Satpute who are residents of Satputewasti. He deposed that about 2-3 years back, he was serving with Bira Satpute. About 8 months back he had an occasion to visit house of Bira Satpute for a feast. He and Mohan Gavade-P.W.16 had gone to the house of Bira Satpute on a motorcycle. On their way to the

house of Bira Satpute, they had first reached Mangalwedha from Tarangewadi and thereafter went to Satputewasti via Wadegaon. He deposed that when they were proceeding from Medshingi at Satputewasti there was a turn known as "Mhasobache Valan", where he saw 7 - 8 persons at about 10 to 10.30 p.m. He deposed that he noticed those persons dragging one person towards southern side and that the said person was shouting. They noticed the incident in the light of the motorcycle. He deposed that on watching the incident, they were afraid and proceeded to the house of Bira Satpute. They took meal at wasti of Bira Satpute and took halt and on next day returned to Tarangewadi. He identified 7 - 8 persons who were the accused. In the cross-examination he admitted that he has not lodged any complaint about the incident of dragging of one person by 7 to 8 persons as noticed. He admitted that his statement was recorded by police on 16.7.2006 in the morning.

12. Prosecution has examined P.W.25 - Balu Tulshiram Burange who deposed that he knew one Mahadeo Kolekar and Ankush Takale. He deposed that on 16.7.2006 he had met Ankush and Mahadeo together as they all had been to Sonand on motorcycle. He deposed that they had completed their work between 10 to 11 a.m. at Sonand and thereafter had gone to village Aglavewadi and thereafter at 12 hours at night reached at Sonand. When they were proceeding on Sonand-Dongargaon road, they had stopped at the corner below the electricity pole for eating tobacco and pan, at that time they saw one red colour motorcycle which had come from Kadlas direction. The motorcycle proceeded towards Dongargaon. He deposed that they noticed on a motorcycle there was a gunny bag and only one person was riding the motorcycle. He deposed that the person driving the motorcycle was Dattarao. He deposed that thereafter another black colour motorcycle came from Kadlas direction and there were three persons who were riding on the said motorcycle. P.W.25-Balu deposed that Mahadeo Kolekar who was with him asked those three persons to stop the vehicle and accordingly, the motorcycle stopped. He deposed that a person by name Pratap was driving said motorcycle. Mahadeo asked Pratap about the persons sitting behind him to which Pratap informed that name of those persons were Kanta Tele and Madhu Pandhare. When Mahadeo asked Pratap as to where they were going, Pratap had replied that they are going to Dongargaon. Thereafter the motorcycle proceeded towards Dongergaon. He deposed that thereafter, they had returned to Durangewadi. P.W.25 -Balu deposed that after 4 - 5 days he had occasion to meet Mahadeo who informed him that news was published in a newspaper about murder of Narayan Satpute on 16.7.2006. P.W.25 identified Pratap, Madhukar and Kanta. He identified accused nos. 6, 7 and 8 who were present in the Court.

In the cross-examination P.W.25 admitted that on the day of the incident he had gone to Sonand for worship of Sayyadbaba. He admitted that on the day of the incident they had proceeded from Burangewadi to see his maternal uncle at Agalavewadi. He admitted that they had proceeded from Burangewadi in the morning and thereafter they went to Sonand. He admitted that they reached

Agalavewadi at 11.30 p.m. and from there in about thirty minutes they were at Sonand. He admitted that in his previous statement he had stated about his visit to Agalavewadi. He admitted that he had stated in his previous statement of not taking meal at Sonand. P.W.25 admitted that deceased Narayan was carrying on business of selling bullocks and that he was knowing the deceased four to five years before his death. He has admitted that he had stated to the police in his previous statement that one red colour motorcycle had come from Kadlas side and Dattabhau (Accused no. 6) was driving the said motorcycle. He admitted that he had stated to the police in regard to other motorcycle which came from Kadlas direction. P.W.25 admitted that Datta was driving the red colour motorcycle and they had noticed a gunny bag on the said motorcycle. He admitted that three persons were riding on black colour motorcycle.

13. We now deal with the other witnesses who were instrumental in the investigation. Prosecution has examined P.W.1 - Liyakat Lalbadsha Shaikh who is a panch witness in respect of inquest panchanama and P.W.3-Salim Mohammad Kaktikar who is a panch witness in respect of seizure of clothes of the deceased, but they did not support the case of the prosecution and were declared hostile. Prosecution examined P.W.2-Bhanudas Bajaram Shinde as a panch witness in regard to spot panchanama at Exhibit 30. P.W.2 deposed that on 17.7.2006 he was called by the police from the Jat Police Station near the railway track situated within the area of Walekhindi. He deposed that at the relevant time one Eknath Nalawade was alongwith him. When he reached the spot, police persons and one Ganmant Hanmant were present, who showed a human body which was in a cut position. He noticed blood stains on the soil and also noticed cut pieces of human body. On the spot, he noticed a gunny bag, one footwear, one rope and one towel. He deposed that police seized the blood stains and sample of simple soil. He deposed that gunny bag, rope, footwear and towel were also seized by the police and sealed was put on the seized articles and labels were pasted having signatures of the panch persons on it. He deposed that the spot was situated in between Walekhindi Railway Station and Gulwanchi. He deposed that police had prepared panchanama at Exhibit 30 and that he had put his signature on it. P.W.2 identified the articles as seized by the police. In the cross-examination he admitted that the pieces of human body were lying at the side of the railway track and the same were collected through Mukadam. He admitted that the seizure of the articles and the spot panchanama was recorded in his presence and signed by him.

14. Prosecution examined P.W.4-Hanmant Bhimrao Ingale who is a Gangman working with Railways. P.W.4 deposed that on 17.7.2006 he and other Gangman were proceeding for work at 8 a.m. on the railway tract towards Miraj side. They were proceeding from the track at No. 8505 from Jat side and having reached the distance of 2 to 2 1/2 km. they noticed a human leg lying on the side of the railway track. They further noticed human body and other parts including head, hand, they also noticed middle portion of human body was wrapped in a gunny bag and tied with a wire. He deposed that the body was of a male of about 50

years of age. He deposed that he therefore, went to Police Patil of Navalwadi which is under Walekhindi and informed about the same. He deposed that thereafter he and Police Patil went to the Jat Police Station and lodged information about noticing of a dead body. He deposed that police had taken the information in writing. He admitted the contents of the information at Exhibit 34. In cross-examination he admitted to have informed about noticing of dead body to his superior officer-P.W.I. He admitted that pieces of human body were lying about the distance of 3 to 5 ft from the railway track. He admitted that Police Patil had given information to the police. He admitted that Sangola Police has recorded his statement and obtained his signature.

15. Prosecution has examined P.W.5 - Pandurang Kerappa Bandgar who is a resident of Medshingi who had removed the sticks from the well. P.W.5 deposed that on 18.7.2006 he was present at Medshingi when police persons had come to him and asked him as to whether any person is available to take out sticks from the well. He asked the police the reasons they were required to take out the sticks and informed his willingness to do the work. He accordingly reached on the landed property of one Raut and had carried rope with him. The well was situated at Medshingi-Kadlas road in the field which was showed to him by the police. With the help of rope he entered the well and took out four sticks from the well. He deposed that at the relevant time one accused was alongwith the police. There was no water in the well and it was a dry. He identified the sticks being Article nos. 8, 9, 10 and 11 as shown to him. In the cross examination he admitted that he had taken out sticks from inside the well as asked by the police. He admitted that the police has recorded his statement to this effect.

16. Prosecution has examined P.W.8 - Shivaji Baburao Waghmode, Police Head Constable attached to Jat Police Station. P.W.8 - Shivaji deposed that on 17.7.2006 when he was on duty, P.W.4 Hanmant had come to the police station and lodged an information about a dead body lying on the railway track in cut position. He reduced into writing the contents of the information as lodged by P.W.4 which is Exhibit 34. He therefore registered an offence being Crime No. 64/06 under Section 302, 201 of Indian Penal Code. He thereafter handed over the papers to PSI Shaikh for investigation. He deposed that in the information lodged by P.W.4 Hanmant, the name of the deceased was not mentioned and therefore, the information was sent to other police stations including Sangola Police Station inquiring about the name of the deceased. He deposed that while sending the information to different police stations, he informed description of the dead body. In the cross-examination he admitted that the contents of the information recorded by him at Exhibit 34 to be in his handwriting.

17. Prosecution has examined P.W.9-Balwant Bandu Sarwade, ASI attached to Jat Police Station who deposed that on 18.7.2006 he was on duty from 9 a.m. to 9 a.m. on the next day. He deposed that on 18.7.2006 ASI Kamble had produced clothes of the deceased in Crime No. 64/06 before him to be of deceased Narayan. He had seized the clothes and prepared panchanama in presence of

panch witnesses. The panchanama at Exhibit 45 contained his signature and signatures of panch witnesses. He deposed that contents of the same to be true and correct. He deposed that ASI Kamble had produced one underwear, a piece of sleeve of shirt and two pieces of bandi and one black coloured thread which were Articles 41 to 44 as shown to him. P.W.9 admitted the same as seized by him.

18. Prosecution examined P.W.10 - Sanjay Bira Takale resident of Kadlas as a panch witness in regard to spot panchanama. P.W.10 deposed that on 17.7.2006 he was called by Sangola Police Station and thereafter alongwith the police he reached the spot of incident at Medshingi Kadlas road, near temple of Mhasoba. He deposed that at the relevant time complainant-P.W.20 Satish was alongwith them. He deposed that one Damodar Kale was also present as another panch. Complainant-Satish showed the spot of incident where he noticed the soil as scattered as also noticed blood stains on the soil. He also deposed that he noticed one human tooth and at a distance of 5 feet one plastic carry bag was lying. Satish informed that the said carry bag was belonging to his father-deceased Narayan. On the southern side he noticed the mark of dragging on soil upto distance of 100 ft. and also noticed blood stains on the said mark and the land was scattered. Police seized the blood stained soil and collected sample of simple soil. Police also seized one stone having blood stains as also human tooth and the carry bag as noticed on the spot. Police prepared a panchanama and pasted label having signatures of the panch persons on the seized articles and put seal on it. The spot of incident, was on the turn near the temple of Mhasoba which was situated at the distance of 175 ft. He deposed that the panchanama dated 17.7.2006 contained his signature and signature of another panch. He also identified the articles as seized from the spot of the incident. In the cross-he denied the suggestion that he was in any manner related to deceased Narayan.

19. Prosecution examined P.W.11 Dattatraya Ankush Mali as a panch witness in regard to the seizure of clothes of accused nos. 7 and 8 vide panchanama at Exhibit 49. Prosecution examined P.W.12-Samadhan Babasaheb Satpute as panch witness to the seizure of two motorcycles vide panchanama at Exhibit 51. Prosecution examined P.W.13-Rajkumar Laxman Raskar - panch witness in relation to discovery of sticks vide memorandum panchanamas at Exhibits 53 and 54.

20. Prosecution has examined P.W.14 Audumber Bhimrao Kale resident of Shivane, Taluka Sangola, who deposed that on 21.7.2006 he was called by the police of Sangola Police Station and at the relevant time one Ramhari Burugule was with him. He deposed that at the police station accused no. 6 - Dattatraya had made statement showing his willingness to show the spot of the incident as also to show the spot where the dead body was thrown on the railway track. He deposed that police had reduced into writing the statement made by accused no. 6 Dattatraya and that he had put signature on it. He admitted the memorandum statement at Exhibit 56. He deposed that he alongwith the other panch witness,

accused no. 6 Dattatraya and the police persons proceeded in a police vehicle towards spot being shown at the instance of accused no. 6- Dattatraya. From Sangola they reached Medshingi and proceeded towards Western side and reached at the spot situated at a distance of 1 to 1 1/2 k.m. from Medshingi. Accused no. 6 Dattatraya showed the spot of the incident. Near the spot, there was temple of Mhasoba. When they reached Sonand at the instance of accused no. 6-Dattatraya near the water tank, the vehicle was stopped, accused no. 6-Dattatraya informed that he had thrown knife near the water tank. Despite search, knife was not discovered. He deposed that thereafter they reached the area of Walekhindi via Dongergaon and reached near railway track at the instance of accused no. 6-Dattatraya. Accused no. 6 - Dattatraya pointed the spot on the railway track where the dead body was thrown. At the railway track they noticed blood stains on the soil. Police prepared panchanama of the spots and he put signature on the said panchanama which is at Exhibit 57. He deposed that the contents of the panchanama to be true and correct. He also identified accused no. 6 Dattatraya. In cross-examination he admitted that on 21.7.2006 he had visited the police station on the call by police and that accused no. 6 was present and that accused no. 6 has made statement showing his willingness to show the spot where the knife was concealed and the police had reduced the same into writing and taken his signature. He denied the suggestion that he was relative of P.W.20-Satish.

21. Prosecution has examined P.W.15 -Lalasaheb Mehboob Shaikh who is panch witness to the discovery at the instance of accused nos. 1, 2, 3, 5 and 6 which is the memorandum statement at Exhibit 60 and panchanama at Exhibit 61. P.W.15 deposed that on 22.7.2006 he was called by the police at Sangola Police Station. On the relevant day one Anna Pawar was present in the police station and persons by name Tukaram Tele-accused no. 3, Sachin Tele-accused no. 2, Bhanudas Tele - accused no. 1, Pratap Tele - accused no. 5, Datta Raut - accused no. 6, Subhash Raut - accused no. 4 were present at the police station. These accused persons had shown their willingness to show the clothes on their persons. He made signature on the said memorandum statements of the accused. He deposed that the other persons had also made signatures and admitted the contents of the same to be true and correct. Accordingly he alongwith the other panch witness, the police and the concerned accused had visited the house of each of these accused from where the blood stained clothes of all these accused were seized by the police. He admitted the contents of discovery panchanama dated 22.7.2006 at Exhibit 61.

22. Prosecution has examined P.W.18 - Sangita Pandurang Tele with whom deceased Narayan was alleged to have illicit relation. P.W.18 Sangita did not support the case of the prosecution and was declared hostile.

23. Prosecution examined P.W.19 Ambanna Laxman Ratnakar who was working as a Circle Officer in the office of Tahasildar, in respect of drawing of a map of the scene in Crime No. 105/06 of Sangola Police Station. He deposed that Tahasildar

had directed him to draw a map of the scene of the offence and accordingly, he had drawn a map. He deposed that he had received copy of panchanama of the spot as prepared by the police. He deposed that for drawing map of the scene of offence, he visited the spot of the incident situated at Medshingi and had drawn a map of scene of offence which is Exhibit 71. It was identified by him to be true and correct and bearing his signature. In cross-examination he admitted that Satputewadi is situated on the southern side of Kadlas-Medshingi road and that Satputewadi was situated at 4 k.m. from Kadlas. He admitted that to reach at Medshingi from Sangola one has to go from Mangalwedha road and then has to take turn further to Wadegaon.

24. Having considered the evidence of the prosecution witnesses, we now advert to the submissions as made on behalf of the learned Counsel for the parties. Learned Counsel for the appellants submits that the evidence as led by the prosecution does not inspire confidence to record a finding of conviction against the appellants. He submits that deposition of P.W.20 Satish who is son of the deceased who is also an injured eye witness, cannot be relied upon, the reason being instead of returning home at the night of the incident, P.W.20 went to Khupsungi which is 30 km. away from his house located at Satputewasti. He submits that in the morning P.W.20 did not immediately lodge any report and did not inform anybody about the incident which had taken place the earlier night, but instead searched for the deceased. Learned Counsel for the appellant submits that it cannot be said to be natural for P.W.20 to visit the place of incident instead of going back to his village and undertake search of his father. He therefore, submits that the testimony of P.W.20 is not reliable. He submits that P.W.18 Sangita with whom deceased Narayan was having illicit relation has also not supported the case of the prosecution. He submits that the evidence of P.W.23, P.W.24, P.W.25 who are the other witnesses supporting the case of the prosecution also needs to be discarded. He, therefore, submits that the prosecution has failed to prove the offences with which the appellants are charged beyond reasonable doubt, hence, the conviction and sentence of the appellants as awarded by the Trial Court is required to be interfered and the judgment passed by the Trial Court needs to be set aside. On the other hand, learned APP supported the judgment of the Trial Court. Learned APP submits that this is a clear case in which the offences with which the appellants are charged, stands proved beyond reasonable doubt. He submits that there was a motive for the appellants to cause murder of deceased Narayan. He further submits that the testimony of P.W.20 - the son of the deceased who is an injured eye witness has remained unshaken so as to bring home the guilt of the accused. He submits that apart from the version of the eye witness, there is abundant material by way of discovery of the place of the incident, articles used in the commission of crime by the accused which show conclusively that the appellants to be guilty of committing the crime. He submits that the evidence as regards the discovery at the instance of the accused is clearly seen to be unimpeachable and completely corroborating the version of the eye witness - P.W.20. He, therefore, submits that

the learned Trial Court has appropriately recorded the finding of conviction and sentenced the appellants of committing offence for which they are charged.

25. With the assistance of the learned Counsel for the parties, we have examined the evidence as come on record of the Trial Court. It is clear from the evidence of P.W.20, P.W.23 and P.W.25 that deceased Narayan was having illicit relation with P.W.18 Sangita whose husband Pandurang had expired about 7 - 8 years back. The accused had a grievance about this illicit relation and had warned deceased Narayan to stop the illicit relation with P.W.18-Sangita. This is clear from the testimony of P.W.20-Satish that at the weekly bazar attended by the deceased alongwith his father on 16.7.2006 (day of the incident), accused nos. 1 and 4 had approached deceased Narayan, and P.W.20 and had threatened deceased Narayan to give up his illicit relation with P.W.18 Sangita or else on the same day they will take care of deceased Narayan and they went away. This incident is a pointer in the direction to the motive of the accused to teach a lesson to deceased Narayan of which a clear threat was given by accused nos. 1 and 4 at the weekly bazar at Sangola. Deceased Narayan alongwith P.W.20- his son were returning to the village after selling their bullocks in the weekly bazar and after collecting the balance money of Rs. 16,500/- from Rajendra at Pandharpur. From Sangola via Wadgaon Naka they had reached Medshingi to proceed to their village Satpute Wasti. They reached Medshingi at about 9 p.m. and after spending about half an hour time proceeded to their Satpute Wasti on foot by the Kadlas-Medshingi road. After walking for about one and half kilometer, they heard some noise from the front side. P.W.20 in the light of the torch saw Tukaram - accused no. 3, Bhanudas-accused no. 1, Subhash-accused no. 4, Dattatray-accused no. 6, Sachin-accused no. 2 and Pratap-accused no. 5. He was knowing these accused persons. It has come in the evidence that the accused stated that they have come to kill deceased Narayan and P.W.20-Satish. Accused no. 5-Pratap and Accused No. 6 Datta were having knife in their hand and then other accused persons were having sticks in their hand. Accused No. 5 Pratap rushed towards deceased Narayan and when P.W.20 intervened accused no. 6 Datta rushed towards him with knife in his hand. Accused no. 6 Datta took him to the side by dragging him putting knife on his person and then gave a blow on his stomach. At that time the remaining persons were assaulting his deceased father and his father was raising shouts. P.W.20 struggled and could manage to escape from the clutches of the accused persons. This testimony of P.W.20 goes unchallenged as also finds corroboration from the testimony of PW-23 Bajarang who met PW-20 when he was running towards his house escaping from the clutches of the accused persons, the spot panchanama, the medical evidence in respect of treatment of PW-20. The circumstances which are of considerable significance are namely P.W.20 escaped himself from accused persons in an injured condition and ran towards his village, however, on noticing P.W.23 Bajrang and Anil coming on motorcycle, he stopped their motorcycle and asked them not to take him to his village/Wasti due to fear, but to go to Khupsungi at the house of Bajarang which is 30 km. away from his village Satputewasti, where

P.W.20 alongwith P.W.23 and Anil stayed at night. In the morning P.W.20 went back to his village at about 10 a.m. and started making inquiry at the neighbouring persons about his father as he was of the apprehension that his father must have escaped from clutches of the accused persons the previous night. P.W.20 inquired about his father deceased Narayan with the neighbouring persons as also with P.W.18 Sangita Tele. However, as he could not trace his father despite all these efforts till 4 p.m. he alongwith Bajaranj and Anil proceeded towards Medshingi and reached the spot at Mhasoba turning where the incident had taken place. On reaching the spot of the incident when P.W.20 when they noticed blood stains on the soil they suspected that something has gone wrong to his father. He, therefore, immediately approached Sangola Police Station and lodged complaint against six accused persons. His complaint was taken in writing by the police. Thereafter, P.W.20 also took medical treatment at the Government Hospital in respect of the injuries sustained by him. This was followed by the information received from the Jat Police Station that a body cut into pieces was found at the railway track. The middle portion of the body was dumped into a gunny bag, the head, hands and legs were chopped into pieces and were thrown scattered. It is pertinent that P.W.25 had seen accused no. 5 at about 12 midnight carrying the gunny bag on his motorcycle on the day of the incident and was followed by accused no. 6 alongwith two pillion riders.

26. We are afraid that we cannot accept the submission of the learned Counsel for the appellants that the evidence of P.W.20 is required to be discarded as not reliable. The action on the part of P.W.20 escaping from the attack of the accused in a injured condition and deciding to go to Khupsungi along with Bajaranj and Anil who were coming on a motor cycle in search of deceased Narayan and P.W.20 was absolutely natural inasmuch as he feared that his going back to the village on the background of the attack on him and his father would not be safe. Further the submission on behalf of the appellant that in the next morning when P.W.20 returned to the village, he did not inform anybody of the incident which had taken place on the preceding night and make a report to the police, also cannot be said to be of any assistance to the appellants. This is for the reason that P.W.20 was of the opinion that his father must have also escaped from the accused and therefore, as a natural reaction he undertook search of his father in the village and also at the house of P.W.18 Sangita and when deceased Narayan was not traceable after all these efforts, P.W.20 went to the place of incident, along with Bajaranj and Anil on Kadlas Medshingi road, near Mhasoba temple, and thereafter when he found blood stains on the soil apprehended that his father is killed and thereafter he approached the police station to lodge a complaint against the accused. This cannot be said to be an abnormal circumstance so as to discard the evidence of P.W.20. All these circumstances can in no manner said to make the testimony of P.W.20 unreliable. We are of the clear opinion that all these actions on the part of P.W.20 were absolutely natural which a reasonable and prudent person would undertake in the given situation. We, therefore, reject the submission on behalf of the appellant that evidence of

P.W.20 is not reliable.

27. As regards the other evidence which has come on record, it is clear that the recovery of the sticks, seizure of clothes, the spot of the incident, as also the spot where the dead body of deceased Narayan was thrown is a discovery at the behest of the accused which stands duly proved. The testimony of the panch witnesses in regard to memorandum statements of the accused as also discovery panchanama is required to be given due consideration as no contrary material has come on record to disbelieve the evidence of these witnesses. The deposition of P.W.7 Dr. Surjil J. Pawar, Medical Officer attached to Rural Hospital showed the nature of multiple external injuries on the body of the deceased. The body of the deceased was cut into pieces, head, hands and the middle portion all were separated. This was the brutal nature of the murder of deceased Narayan. The accused had properly planned to cause the murder of deceased Narayan, they had kept a proper watch on the whereabouts of the deceased, they were armed with weapons which were sufficient in the ordinary course to cause death. It was a collective act on the part of the appellants with a common object to cause murder of deceased Narayan. It may be observed that accused nos. 1 and 3 are brothers, accused no. 5 is son of accused no. 1. Accused No. 4 Subash is the Son of sister of Accused No. 1. Accused No. 6 belongs to the bhavaki (relation) of the other accused. The accused are related to each other and have all the reason to have a common object to cause the murder of deceased Narayan. They are related to P.W.18 Sangita who is wife of deceased Pandurang, brother of accused no. 1 and accused no. 3. All the accused were residents of Telewasti and had a grudge against deceased Narayan as he was having illicit relation with P.W.18 Sangita. There is also an additional circumstance that deceased Narayan was cultivating the land of deceased husband of P.W.18 Sangita on batai basis. It has come on record that there was prior incident where the accused nos. 1 and 4 had threatened deceased Narayan to give up illicit relation with P.W.18-Sangita. All these circumstances establish the motive on the part of the accused culminating into the action of the killing deceased Naryan though in view of the clear ocular evidence of P.W.20 motive may become secondary. The accused were undoubtedly members of an unlawful assembly armed with knives and sticks and having common object to commit murder of deceased Narayan and thus assaulted deceased Narayan and killed him. It has come in the evidence of P.W.20 that accused no. 6 Datta rushed towards him with knife and gave blow on his stomach and that the remaining accused were assaulting his father. It is, therefore, clear that the appellants with a common object had formed an unlawful assembly, caused assault on P.W.20 Satish and caused death of father of P.W.20 deceased-Narayan. We are therefore, certain that the conviction of the appellants for the offence with which they are charged as aforesaid is justified and calls for no interference.

28. Learned counsel for the appellants in support of his submissions has relied on the decision of the Supreme Court in the case of Karunakaran Vs. State of Tamil Nadu, " on the proposition that the Court should be circumspect and closely

scrutinise the evidence to come to an unhesitating conclusion that the sole eye witness on whose testimony the conviction is based is absolutely reliable. As observed hereinabove, we see no reason to discard the testimony of P.W.20 as fully corroborated by other evidence which has come on record which leads to a clear conclusion that the accused are guilty of committing murder of deceased Narayan. This decision of the Hon''ble Supreme Court in the facts of the present case does not in any manner assist the case of the appellants.

29. The learned Counsel for the appellants then relies on the decision of the Supreme Court in the case of Shivaji Dayanu Patil Vs. State of Maharashtra, " to submit that the testimony of P.W.20 was required to be discarded as immediately after the incident he had not named the assailants to anybody. In the facts of this decision, the name of the appellant was disclosed only when the statement was recorded by the Investigating Officer and in this context it was held that the conduct of the of the informant was highly unnatural which was not explained in the evidence. It was, thus held that the accused was liable to be acquitted by giving benefit of doubt. The facts in the present case, however, are quite different. As observed above P.W.20 after taking search for his father at different places visited the spot of incident and only after noticing the blood stains on the spot apprehending that something has gone wrong, immediately informed the police which we have observed to be completely natural. This decision of the Supreme Court, in our opinion, would not be applicable in the facts of the present case.

30. On behalf of the appellants reliance is also placed on the decision of the Division Bench of this Court in the case of Narayan Kanu Datavale and others Vs. State of Maharashtra, " on the proposition that the evidence of the injured witness should not be mechanically accepted as also the testimony of such witness should be accepted with the greatest caution and circumspection. It is clear from the aforesaid discussion as to why we have attributed credibility to the evidence of P.W.20 who is eye witness to the incident as also who is a injured witness to the incident which had taken place during night of 16.7.2006. The circumstance before the happening of incident and after the happening of the incident form a complete chain to rule out every possibility of any other persons except the accused and the accused alone causing the murder of deceased Narayan.

31. Learned Counsel for the appellants has further relied on the decision of the Supreme Court in the case of Thulia Kali Vs. The State of Tamil Nadu, " to submit that the delay to lodge first information report which is after more than 12 hours of the occurrence of the incident, ought to be considered to disbelieve the case of the prosecution. In this decision of the Supreme Court has held that the object of insisting upon prompt lodging of report to the police in respect of commission of the offence is to obtain early information regarding the circumstance in which the crime was committed, the name of the actual culprit and part played by them as well as name of eye witnesses present on the scene of occurrence. It is held that

delay in lodging the first information report quite often results in embellishment which is a creature of afterthought and that on account of delay, the report not only gets bereft of the advantage of spontaneity, but there is danger of introduction of coloured version, exaggerated account or concocted story as a result of deliberation and consultation. It was therefore, held that it is essential that delay in lodging FIR should be satisfactorily explained. In the present case, it is quite clear that even if there was a delay of more than 12 hours, the same stood satisfactorily explained in view of the circumstances as revealed in the evidence. Further, we do not find that the testimony of the prosecution witnesses reveal any picture of concoction or embellishment which would go contrary to the version of the report made to the police in the complaint of P.W.20. We find consistency in the evidence which in no manner destroy the initial version as reported to the police so as to hold that the delay of about more than 12 hours has diminished the credibility of the evidence of the prosecution in any manner.

32. We accordingly dismiss this appeal confirming the conviction and the sentence as awarded to the appellants, by the Trial Court.

33. A copy of this judgment be sent to the appellants who are undergoing their sentence in jail.