

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO.986 OF 2024
WITH
INTERIM APPLICATION NO.3626 OF 2024
IN
CRIMINAL APPEAL NO.986 OF 2024**

Namdeo Yashwant Ghatal

.... Appellant/
Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Chetan Deshmukh, Advocate for Appellant/Applicant.
- Ms. Kranti Hiwrale, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL &
ASHISH S. CHAVAN, JJ.**

DATE : 04th AUGUST, 2026

JUDGMENT : (PER : SARANG V. KOTWAL, J.)

1. The Appellant has challenged the Judgment and Order dated 22/07/2024 passed by the learned Additional Sessions Judge, Nashik, in Sessions Case No.429/2021. The Appellant was convicted for commission of offence punishable u/s 302 of the Indian Penal Code and was sentenced to suffer imprisonment for life and to pay a fine of Rs.5,000/-.

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2. Heard Mr. Chetan Deshmukh, learned counsel for the Appellant/Applicant and Ms. Kranti Hiwrale, learned APP for the State.

3. The prosecution case is that the Appellant was addicted to liquor. He was residing with his wife and two children. The incident occurred in the night of 21/09/2021. The children of the Appellant had gone out to a different village in the previous evening. During the night, there was a quarrel. The Appellant picked up a wooden log in the house and gave forceful blows on the head of his wife. In the morning, the villagers came to know about it. The Police Patil along with other villagers opened the door. The Appellant was found inside with the dead body of the deceased. He confessed his crime before the villagers. The police were informed. C.R. No.66 of 2021 was registered at Peth Police Station at about 3:47 PM. The investigation was carried out. The Appellant was arrested. The statements of witnesses were recorded. The FIR was lodged by the son of the deceased when he returned to the village on coming to know about the incident. The seized articles viz. the wooden log, the clothes of the

deceased and the Appellant were sent for chemical analysis. At the conclusion of the investigation, the charge-sheet was filed and the case was committed to the Court of Session.

4. During trial, the prosecution examined nine witnesses, including the first informant, i.e. the Appellant's son, Medical Officer, Panchas, the villagers and the Investigating Officer. The defence of the Appellant was of total denial.
5. The learned Judge relied on the evidence of the villagers in respect of the extra-judicial confession. He also observed that, the Appellant had not explained this aspect. On this basis, he convicted and sentenced the Appellant.
6. P.W.1 Amol Ghatal was the son of the deceased and the Appellant. He did not support the prosecution case. He deposed that on 20/09/2021, he along with his other sister had gone to village Vilholi for work. His parents were at home. He stated that, before leaving the house, nothing had happened. He was declared hostile. Learned APP cross-examined him. However, nothing much was elicited from his cross-examination. In any

case, he was not an eyewitness to the incident. However, importantly, he accepted that his statement was recorded in the Court on 29/09/2021. That statement was recorded u/s 164 of Cr.P.C. It was produced on record at Ex.24. He deposed that the contents were recorded as per his narration. Therefore, this statement assumes importance.

In the cross-examination, conducted by the defence, he stated that his parents never quarreled with each other. His mother was addicted to liquor, and she used to go around in intoxicated condition and that on multiple occasions she had fallen down on the road. He also accepted the suggestion that he got the information that his mother had fallen down on the ground in intoxicated condition and had died. His FIR is produced on record at Ex.22.

7. P.W.8, ASI Ramesh Patel, who had registered the FIR, deposed that it was registered as per the say of P.W.1. The statement of the first informant recorded u/s 164 of Cr.P.C. is important because P.W.1 had accepted that he had given that statement before the Court. In that statement, he mentioned

that the Appellant was addicted to liquor. He used to beat the informant's mother every day.

8. On 20/09/2021, the informant and his sister had left the village. On the next day, he came to know about the incident. Thus, his statement u/s 164 of Cr.P.C. gives the background of the incident that the Appellant was addicted to liquor and he used to assault the his wife every day.

9. P.W.2, Dr. Shubham Hekare had conducted the postmortem examination. He was serving as the Medical Officer at Rural Hospital, Peth. The postmortem notes are produced on record at Ex.30. On examination, he found contusions over both eyes. There was swelling over the face. There was a lacerated wound of the size 4 × 5 cm on the parietal region. There was fracture and hematoma of skull bone. There was trauma above right eye with fracture of scalp bone. Both knees had mild abrasion. There was laceration over the scalp behind the right ear of the size 3 × 8 cm. There was subdural hematoma. The deceased had succumbed to the blunt trauma to the head. The cause of death was mentioned as, “probable cause of death

could be blunt trauma to head and brain led to hematoma compressing the vital center leading to death". The postmortem notes are produced on record at Ex.30. On the same day, i.e. on 21/09/2021, the police sent the wooden log seeking his opinion as to whether those injuries were possible by that wooden log. As per the opinion of this witness, the injuries suffered by the deceased could be caused by that wooden log.

In the cross-examination, he deposed that traces of alcohol were found during autopsy. He specifically stated that the injuries found on the dead body could not be caused due to fall on the ground.

10. P.W.3, Milind Dusane was a Pancha for the spot Panchnama. The Panchnama is produced on record at Ex.35. He deposed that he along with the police had gone to the house of the Appellant. They saw the dead body. There were multiple bloodstains on the spot. The police seized the blood mixed soil and simple soil. Police also seized a half-burnt wooden log from the earthen stove having bloodstains. According to him, the

Appellant was present there. He handed over the wooden log to the police. P.W.3 identified the Appellant before the Court through video conferencing. He identified the articles produced in the Court. The police also seized the blood-stained clothes of the deceased and the blood-stained vest and towel of the Appellant in his presence.

11. P.W.4, Bhaskar Bhivsan, is an important witness. He was the Police Patil of village Dolharmal. He deposed that on 21/09/2021, two villagers informed him that something had happened in the house of the Appellant. Therefore, P.W.4 went there with 7 to 8 people. He forced open the door of the Appellant's house. They saw the dead body with blood on the ground. The Appellant was present there. On inquiry, the Appellant told them that he had a dispute with his wife regarding the proceeds of grains, and the incident occurred during the quarrel. P.W.4 kept the Appellant in the house of the ex-Police Patil of the village and informed the police from the spot. After some time, the police arrived and apprehended the Appellant. He identified the Appellant in the Court.

In the cross-examination only suggestions were put to him, which he denied. He denied that the Appellant had not informed him about the dispute with his wife and the incident.

12. PW.5, Manohar Mahale, was another villager, but he did not support the prosecution case. He was examined on the point of extra-judicial confession made by the Appellant in his presence, but he denied the Appellant having made any such statement. This contrary portion from his police statement was read over to him. He denied having made that statement. That statement is proved through the evidence of the Investigating Officer. It is produced on record at Ex.46. However, Ex.46 is the bracketed portion, which is not in respect of the extra-judicial confession. Therefore, we are ignoring the evidence of this witness.

13. PW.6, Manohar Bathale, was another villager. He deposed that the Appellant and the deceased were residing together in their house. Their children were residing at some other place. P.W.6's house was adjacent to a temple. On

21/09/2021, the villagers, along with the Police Patil and the Appellant, gathered near the temple. The Appellant told the villagers that in the afternoon, he had a quarrel with his wife and that he beat her with a wooden log. Then, the Police Patil and the villagers went to the Appellant's house. In the meantime, the Police Patil informed the police. P.W.6 saw the dead body lying in a pool of blood inside the house. The police recorded his statement. He identified the Appellant in the Court.

In his cross-examination, only suggestions were put to him, which he denied. But he added that the deceased and the Appellant were cohabiting happily. To that extent, he did not support the prosecution case.

14. P.W.7, Bhaskar Ghatal was a cousin of the Appellant. He did not support the prosecution case. His evidence was also about the extra-judicial confession, but since he did not support the prosecution case, not much reliance can be placed on his evidence.

15. P.W.8, ASI Ramesh Patel, as mentioned earlier, had registered the FIR as per the say of P.W.1.
16. P.W.9, PI Divansing Vasave, was the main Investigating Officer. He deposed about the investigation carried out by him. He had conducted the spot Panchanama. He had seized the wooden log and the clothes. He had arrested the Appellant. The articles were sent for chemical analysis. He proved the contradictory portions of the hostile witnesses from their police statements. The cross-examination was in the form of suggestions, which he had denied.
17. After examining P.W.9, the prosecution closed its evidence. After that, the prosecution produced the C.A. report on record. However, in this case, the C.A. report cannot be taken into consideration because the learned Judge had not asked any questions about the C.A. report to the Appellant. He was not given any opportunity to explain as to why his towel and the wooden log showed presence of human blood. Since the Appellant was not given an opportunity to explain that fact, we are not holding this circumstance against him.

18. The learned counsel for the Appellant made the following submissions:

The case is based only on circumstantial evidence. The prosecution has to prove each of the circumstances beyond reasonable doubt. The chain of circumstances is not complete. The motive is not established. PW.1, 5, and 7 have not supported the prosecution case. There are material contradictions between the evidence of PW.4 and PW.6. PW.1 did not know about the incident, and therefore, the FIR is based on hearsay evidence. The recovery of weapon could not be held as an incriminating evidence against the Appellant. The postmortem notes do not show whether the injuries were postmortem or antemortem.

19. On the other hand, the learned APP submitted that though the case is based on circumstantial evidence, the prosecution has proved its case beyond reasonable doubt. The motive was brought out by PW.1 himself through his statement recorded u/s 164 of Cr.PC. The wooden log was the murder weapon. It was found inside the house. The Appellant had

pointed out that weapon to the police, and therefore, it is an incriminating piece of evidence. The dead body was lying inside the house. The Appellant had not offered any explanation about the same. The evidence of P.W.4 and P.W.6 is consistent regarding the extra-judicial confession and the events that took place after the offence came to light. The assault by wooden log is corroborated by the evidence of P.W.2, Medical Officer.

20. We have considered these submissions. The evidence of P.W.1 has some relevance, though he has turned hostile and has not supported the prosecution. At the same time, he accepted the correctness of the statement given by him before the Court, i.e. regarding the statement recorded u/s 164 of Cr.P.C., which is produced on record at Ex.24. In that statement, he has stated that the Appellant was addicted to liquor. He used to drink liquor almost every day. The present incident is also a result of such assault on the deceased.

21. There is another circumstance of extra-judicial confession. For that purpose, the prosecution has examined

P.W.4, Bhaskar Bhivsan, and P.W.6, Manohar Bathale. P.W.4, Bhaskar Bhivsan, who was the Police Patil, is a reliable witness. He was the Police Patil of the village. He deposed that on receiving the information, he went to the house of the Appellant with 7 to 8 villagers. They forced open the door. The Appellant was found inside. The dead body was lying inside. The Appellant confessed to his crime. This amounts to extra-judicial confession, and there is no reason to doubt the veracity of this evidence given by P.W.4. The Appellant was apprehended at the spot itself. The Appellant was asked to wait in the house of the ex-Police Patil and in the meantime the police had reached the place of incident.

22. Though the learned counsel for the Appellant tried to contend that P.W.6 Manohar Bathale's evidence, is contrary to P.W.4, we do not find any material contradiction. According to the learned counsel for the Appellant, P.W.6 had deposed that the Appellant was present with the Police Patil when he confessed to the crime before this witness near the temple. According to him, therefore, the evidence of P.W.4 was

inconsistent because according to PW.4 the Appellant confessed at the spot. We do not find substance in this argument. PW.4 had gone to the house of the Appellant with the villagers at the first instance after coming to know about the incident. After that, the Appellant was always with the Police Patil, and it seems that the Appellant had confessed to his crime before the other villagers. In either case, we do not find any material contradiction between the evidence of PW.4 and PW.6. In fact, both of them have consistently deposed that the Appellant had confessed to his crime before the arrival of the police, which would amount to extra-judicial confession. In this case, we do not find that it is a weak piece of evidence. It is a strong evidence corroborated by other material from the evidence.

23. The finding of the Appellant inside the house along with the dead body is another incriminating circumstance. The Appellant's children were elsewhere. They were not present inside the house during the night. The incident had taken place in the night or before morning. Only the Appellant was in the house. Therefore, the incident was exclusively within his

knowledge. He has not offered any explanation whatsoever. The burden to explain this aspect was on the Appellant u/s 106 of the Indian Evidence Act. He has not discharged that burden. This is yet another incriminating circumstance against the Appellant. The learned Judge has considered these aspects properly.

24. As a result, we do not find any merit in the appeal. The prosecution has proved the case against the Appellant beyond reasonable doubt. The Appellant cannot be acquitted.

25. Hence, the following order :

ORDER

- (i) The Appeal is dismissed.
- (ii) With dismissal of the Appeal, the connected application is also disposed of.

(ASHISH S. CHAVAN, J.)

(SARANG V. KOTWAL, J.)