



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPEAL NO. 83 OF 2014
WITH
INTERIM APPLICATION NO. 1122 OF 2022**

Pandit @ Baban Chimaji Bhutekar,
Residing at, Plot No.19,
Kamlabai Zopadpatti,
Opp. Hakkani Masjid, Road. 10,
Baigainwadi, Govandi, Mumbai-43,
At present undergoing the sentence
imposed upon him at Kolhapur
Central Prison, Kolhapur.

...Appellant/Applicant
(Orig. Accused No.3)

V/s.

The State of Maharashtra
(at the instance of
Senior Inspector of Police,
Shivaji Nagar Police Station, Mumbai
District Mumbai
vide C.R. No.359 of 2010

...Respondent

**WITH
CRIMINAL APPEAL NO. 310 OF 2014**

Vijay @ Bapu Chimaji Bhutekar,
Having address at Plot No.19,
Kamlabai Zoparpatti,
Opp. Hakkani Masjid, Road. 10,
Bainganwadi, Govandi,
Mumbai-400 043,
Kolhapur Jail Prison No.5282.

...Appellant
(Orig. Accused No.2)

V/s.

The State of Maharashtra
At the instance
Shivaji Nagar Police Station,
Mumbai.

...Respondent
(Orig. Complainant)

**WITH
CRIMINAL APPEAL NO. 554 OF 2014**

Arvind Ganpat Lavte,
Age: years, Occup.: Labour,
R/o Plot No.19, Kamlabai Zopadpatti,
Opp. Hakkani Masjid,
Govandi, Mumbai-400 043,
(confined as Convict No.C-6068
Kolhapur Central Prison,
Kalamba, Kolhapur.

...Appellant
(Orig. Accused No.1)

V/s.

The State of Maharashtra
(at the instance of
Shivaji Nagar Police Station, Mumbai)
in C.R. No.359 of 2010
tried in Sessions Case No.157 of 2011

...Respondent

Dr. Yug Mohit Chaudhry for the Appellant in Appeal No.83 of 2014 and for the Applicant in Interim Application No.1122 of 2022.
Mr. Abhaykumar Apte, Appointed Advocate for the Appellant in Appeal No.554 of 2014.
None for Appellant in Appeal No.310 of 2014.
Ms. G.P. Mulekar, APP for the Respondent-state.

**CORAM : A. S. Gadkari And
Prakash D. Naik, JJ.**

**RESERVED ON : 8th MARCH, 2023.
PRONOUNCED ON : 16th JUNE, 2023.**

JUDGMENT (Per- A.S. Gadkari, J.) :-

1) Appellants, (Orig. Accused No.3 in Appeal No.83 of 2014, Orig. Accused No.2 in Appeal No.310 of 2014 and Orig. Accused No.1 in Appeal No.554 of 2014) by these separate Appeals have impugned Judgment and Order dated 6th September, 2013 passed in Sessions Case No.157 of 2011 by the learned Additional Sessions Judge, Greater Mumbai, convicting them

under Sections 302 and 506 (II) read with Section 34 of the Indian Penal Code (for short, "IPC") and are sentenced to undergo imprisonment for life and to pay a fine of Rs.1,000/- each, in default to undergo rigorous imprisonment for six months, for the offence punishable under Section 302 r/w Section 34 of the IPC and to undergo rigorous imprisonment for one year and to pay fine of Rs.500/- each in default to undergo rigorous imprisonment for two months for the offence punishable under Section 506 (II) r/w Section 34 of the IPC. The trial Court has directed that, both the sentences shall run concurrently.

2) For the sake of brevity, the Appellants hereinafter will be referred to as per their original nomenclature before the trial Court i.e. Appellant in Appeal No.83 of 2014-Pandit @ Baban C. Bhutekar as accused No.3 (A-3); Appellant in Appeal No.310 of 2014-Vijay @ Bapu C. Bhutekar, as accused No.2 (A-2) and Appellant in Appeal No.554 of 2014-Arvind G. Lavte, as accused No.1 (A-1).

3) Heard Dr. Chaudhry learned Advocate for the Appellant in Appeal No.83 of 2014 and Interim Application No.1122 of 2022, Mr. Abhaykumar Apte, Appointed Advocate for the Appellant in Appeal No.554 of 2014 and Ms. Mulekar, learned APP for the Respondent-State.

In pursuance of Order dated 19th January, 2023, Advocate Arvind V. Bedekar was appointed by the High Court Legal Services Committee, Mumbai, to represent Appellant in Appeal No.310 of 2014. As

none appeared for the Appellant (A-2) on the date of hearing, we requested Dr. Chaudhry, to also represent and espouse the cause of A-2. He gracefully acceded our request and argued the case of A-2 at length on merits.

4) Shorn of unnecessary details, the prosecution case in brief is as under:-

i) Sayyed Khan (PW-1) and Sarver Khan (deceased) used to take contracts for renovation of old huts in the vicinity of Kamlabai Zopadpatti, Govandi, Mumbai. They were allotted work of renovation of huts in plot No.19, Road No.10 of Kamlabai Zopadpatti. Appellants and juvenile in conflict with law, namely Vikram Bhutekar i.e. son of Vijay @ Babu Bhutekar (A-2) were residing in plot No.19.

ii) On 4th November, 2010, Vijay (A-2) demanded a party from Sarver Khan. Arvind (A-1) also demanded a party from Sayyed Khan (PW-1). A-1 and A-2 both threatened Sayyed Khan (PW-1) and Sarver Khan (deceased) of serious consequences if the party is not given, therefore Sarver Khan (deceased) demanded money from PW-1 for giving party to them, but PW-1 refused to give money.

iii) On 7th November, 2010 at about 7.00 p.m. Sayyed Khan (PW-1), Sarver Khan (deceased), Mohammad Salim Mohammad Saeed Malik (PW-5) and Juber Ahmed Vashiullah Shaikh (PW-14) came together in front of Hakkani Masjid. Sarver Khan (deceased) was talking with PW-1,

PW-5 and PW-14. At that time, all the Appellants along with juvenile accused came at the said place. Vijay (A-2) abused deceased in filthy language and questioned him as to why he was not giving party. All the accused caught Sarver Khan (deceased) and abused him in filthy language. Vijay (A-2) took out Gupti (sword stick) which was concealed on the back side of his trouser and assaulted Sarver Khan on his chest and hand. Pandit @ Baban (A-3) assaulted Sarver Khan on his neck by a Gupti. Juvenile accused assaulted deceased with a Gupti on his back. Arvind (A-1) dealt a blow of Gupti on the right side of waist of Sarver Khan.

iv) Sarver Khan fell on the ground and screamed for help. However, all the accused threatened PW-1, PW-5 and other persons by showing their weapons and told them that, if anybody comes forward for help, they would be cut. PW-1, PW-5 and other persons got frightened and people in the vicinity closed their shops. All the accused thereafter left the spot of incident.

v) Sayyed Khan (PW-1), Mohammad Salim Mohammad Saeed Malik (PW-5) and Juber Shaikh (PW-14) then went to Sarver Khan (deceased), put him in an auto-rickshaw and took him to Shatabdi Hospital. Mr. Riyaz Khan i.e. father of Sarver Khan (deceased) met them in the way and also joined them to go to hospital. Sarver Khan was declared dead before admission by the hospital authority.

vi) After receipt of information about the death of Sarver Khan, Shivaji Awati (PW-15), Police Sub-Inspector who was on duty on 7th November, 2010 as S.H.O. at Shivaji Nagar Police Station, Govandi, Mumbai, accompanied by A.P.I. Mr. Valatkar went to Shatabdi Hospital. First Information Report dated 7th November, 2010 (Exh-24) was given by PW-1 and recorded by PW-15. Inquest panchanama (Exh-28) and spot panchanama (Exh-30) were drawn by PW-15. Clothes of deceased Sarver Khan were seized under a panchanama (Exh-32). Appellants were arrested in due course of time and their clothes were also seized.

vii) Dr. Shivaji V. Kachare (PW-12) conducted autopsy on the dead body of Sarver Khan. He was working as Medical Officer at Rajawadi P. M. Centre at the relevant time. The Post-Mortem Report is at Exh-50. He noticed following external injuries which are recorded in column No.17 of Post-Mortem Report-

- i) Incised wound at right lateral of neck region 2 cm, below from right ear pinna, size of 2 cm x 1 cm x 1.5 cm deep. Radish brown in colour one angle acute.
- ii) Incised wound at anterior of right chest below right clavicle size of 3 cm x 2 cm, Cavity deep, Radish brown in colour, One angle acute.
- iii) Incised wound at right chest anteriorly below injury no.2 size of 3 cm x 2 cm, Cavity deep, Radish brown in colour, One angle

acute.

- iv) Incised wound at anterior of right chest below injury no.3. Size of 3 cm x 2 cm, Cavity deep, Radish brown in colour, One angle acute.
- v) Deep penetrating wound at right illiac fossa above right illiac crest, size of 3 cm x 1.5 cm, Cavity deep (through & through up to posterio region) Radish brown oval shape one angle acute.
- vi) Incised wound at posterior of right scapula, vertical size of 3.5 cm x 1.5 cm mussel deep, Radish brown one angle acute.
- vii) Incised wound at anterior of left middle finger size of 3 cm x 1 cm bone deep (evidence of fracture dislocation first phalyngeal of middle finger.) Radish brown irregular shape.
- viii) Incised wound at right lumber region. Para vertebra line size of 2 cm x 1 cm, Muscle deep, Radish brown one angle acute.
- ix) Incised wound (Exit of injury no.5 at Right lumber size of 3 cm x 1 cm, Cavity deep, Radish brown over shaped.)

All these injuries were anti-mortem. He also noticed following internal injuries which are recorded in column Nos.20 and 21 of Post-Mortem Report-

- i) Column 20(A) walls ribs cartilages—evidence of fracture 3,4,5,6 right sides ribs posteriorly. Radish and hemorrhagic 20(b) pleura ruptured at anterior and posterior region right side

hemorrhagic. Right lung evidence of incised wound at right apical region 2 cm x 2 cm into muscle deep, Radish brown. Evidence of inside wound right middle lobe size 1.5 cm x 1.5 cm Muscle deep. Radish brown.

- II) In column no.21 corresponding injuries mentioned as follows-
- i) Walls and peritoneum—ruptured wall at right pelvic and right iliac and hypochondrium region. Radish. Small intestine and large intestine-evidence of rupture ilium, part of jejunum, caecum and descending and sigmoid colon. Radish and hemorrhagic.
 - ii) Liver-evidence of rupture at right side base of liver, Radish.
 - iii) Kidneys-right kidney superior pole and right supra region rupture hemorrhagic.

He opined that, the cause of death was due to shock and hemorrhage due to multiple incised wounds (unnatural).

viii) Further investigation of the crime was carried out by Police Inspector Mr. Vikas D. Sonawne (PW-16). Weapons used in the crime were recovered at the instance of accused persons by complying with necessary legal formalities. Deceased's clothes and blood stained samples were sent for chemical analysis. After receipt of reports from FSL and completion of investigation of the crime, PW-16 submitted charge-sheet in the Court of Metropolitan Magistrate, 56th Court Kurla, Mumbai.

5) As the offence punishable under Section 302 of the Indian Penal Code is exclusively triable by the Court of Sessions, the learned Magistrate committed the case to the Court of Sessions. The trial Court framed charge below Exh-12 on 6th August, 2011. The charge was read over and explained in Marathi vernacular to the accused to which they pleaded not guilty and claimed to be tried.

Prosecution in support of its case, examined in all 16 witnesses. The statements of accused under Section 313 of the Cr. P. C. were recorded which are at Exhs-76 to 78. Accused No.2 entered into witness box as defence witness and examined himself. All the accused questioned and controverted the case of the prosecution.

6) The trial Court after hearing learned Advocates for the respective parties, was pleased to convict and sentence Appellants by its impugned Judgment and Order dated 6th September, 2013 as noted hereinabove.

7) At the outset, it is to be noted here that, the trial Court has not accepted the recovery of weapons and seizure of clothes of the Appellants and has in fact rejected the evidence laid by the prosecution in that behalf. The detailed discussion with respect to the rejection of evidence of prosecution for seizure of weapons and clothes is discussed in detail by the trial Court in paragraph Nos. 63 to 67 of the impugned Judgment. The trial Court has not accepted the evidence of seizure of clothes and weapons

predominantly on the ground that, the weapons were not sealed on seizure and the clothes of the Appellants were not described as having blood stains in the respective panchanamas. The weapons used by the Appellants have not been identified by the prime witnesses i.e. PW-1 and PW-11. That, the said panchanamas and the testimonies of the relevant witnesses suffer from material contradiction.

8) It is not in dispute that, the prosecution has not challenged the said findings recorded by the trial Court. Therefore, what remains for our consideration is the ocular evidence of material witnesses i.e. PW Nos.1, 5, 13 and 14 only.

It is necessary to note here that, Juber Shaikh (PW-14) did not support prosecution case and therefore was declared hostile by the prosecution. In his elaborate cross-examination by the learned APP, nothing beneficial to the prosecution has been elicited and brought on record.

9) PW-1 in his testimony has deposed that, he was residing in the vicinity and at the said address for last 17-18 years along with his wife and two children. In the year 2010, he was taking small contracts of construction in the said area. On some occasions, he used to do the construction work with Sarver R. Khan (deceased) and some times independently. That, on 4th November, 2010 he received some work of construction repairing at plot No.19. He was doing the said work along with Sarver Khan. In the afternoon, during lunch break Sarver Khan

informed him that, A-2 was demanding a party from him and therefore Sarver Khan asked money from PW-1. A-1 had also demanded a party in the evening and had told him that otherwise he will look at him. PW-1 did not give money to Sarver Khan and told him that, the Accused persons are from their area and they would see them afterwards. On 7th November, 2010 at around 7.00 p.m. PW-1 and Sarver Khan came back from work to Road No.10 near Hakkani Masjid. PW-1 along with PW-5, 14 and Sarver Khan (deceased) was standing near a table at a tea stall. All the accused along with juvenile accused Vikram came at the said spot and started abusing him by saying that, why he did not give party to them. PW-1 along with other witnesses moved behind. All the Appellants took out Gupti and stabbed Sarver Khan. A-2 assaulted Sarver Khan on chest and hand, A-3 assaulted Sarver Khan on his neck, juvenile accused Vikram assaulted Sarver Khan on the back. A-1 assaulted Sarver Khan on the lower side of his waist. As the crowd gathered there, A-1 threatened them saying that, no one should come forward or else he would see them. Sarver Khan fell down and was screaming. All the four accused went from the scene of offence. PW-5, PW-14 and Rajubhai (Riyaz Khan) picked up Sarver Khan, put him in an auto-rickshaw and took him to Shatabdi Hospital. The doctor present at hospital, after examining Sarver Khan informed that, he was already dead. Rajubhai is father of Sarver Khan. His statement (Complaint) dated 7th November, 2010 (Exh-24) was recorded by police.

PW-1 knew all the accused persons as they were residing in the same area.

In his cross-examination he has admitted that, two cases were registered against him with Shivaji Nagar Police Station, Mumbai under Section 326 of the Indian Penal Code. That, one of the case was registered against him for assaulting the wife of A-2 i.e. Vijay Bhutekar on her head. That, the said case was registered after the arrest of A-2 in the present case and when he was in jail. That, he was not released on bail in the said case. He has admitted that, near the spot of incident there was a shop of wholesale of betel-nut, one Pan (betel leaf) shop and 4-5 other shops.

10) PW-5 in his testimony has deposed that, since last 18-20 years prior to the incident, he was residing opposite Hakkani Masjid, Govandi, Mumbai. He knew complainant (PW-1) and Sarver R. Khan (deceased) so also all the accused persons as all of them were residing in the same area. On 7th November, 2010 in the evening between 6.45 to 7.00 p.m., he, PW-1, Sarver Khan (deceased) and Juber Shaikh (PW-14) were present in front of Hakkani Masjid and were chit-chatting. All the accused along with juvenile accused came near them. After seeing PW-1 and Sarver Khan, the said accused persons abused them and scolded, why they are not giving party. They dragged Sarver Khan. A-2 took out Gupti from the back side of his trouser and give blows on the chest and middle finger of the hand of Sarver Khan, A-3 took out Gupti and gave blow of it on the neck of Sarver Khan, A-1 gave blow of Gupti on the right side above the waist of the Sarver Khan.

He saw this assault and went back. Sarver Khan fell down on the ground. He along with others went to help Sarver Khan. At that time, all the accused showed Gupti to them and the mob, abused in filthy language and threatened of dire consequences if somebody comes forward. Accused persons then dispersed from the spot. Thereafter, he, PW 1, PW-4 and Riyaz Khan i.e. father of deceased of Sarver Khan took Sarver Khan to Shatabdi Hospital. Doctor examined Sarver Khan and declared him dead. Police recorded his statement on 8th November, 2010.

In his cross-examination he has admitted that, he did not go by rickshaw in which deceased was taken to hospital. He did not help to lift deceased and take him to rickshaw. PW-1, PW-14 and Riyaz Khan lifted Sarver Khan, put him in the rickshaw and took him to the hospital. It required 45 minutes for him to reach the hospital from Hakkani Masjid.

11) PW-13 has deposed that, since 2-3 years prior to the date of incident, he was residing at Bainganwadi, Govandi, Mumbai and was running a Pan (betel leaf) Shop near Hakkani masjid on road No.10. He knew PW-1 and Sarver Khan (deceased). He also knew all the accused persons. All the accused used to reside in plot No.19 of Bainganwadi. The incident occurred on 7th November, 2010 at 7.00 p.m. near the shop of Yusuf Chinesewala, which was located in front of his Pan Shop. That, PW-1 and deceased were chit-chatting in front of the shop of Yusuf Chinesewala. After some time, Appellants and juvenile accused arrived there and

altercation took place between PW-1, Sarver Khan and accused persons and they started fighting. All the three accused took out Gupti and gave blows of it on deceased. Deceased started shouting. Some persons tried to save deceased however they saw Gupti in the hands of Appellants and therefore they had no daring to rescue the scuffle. He thereafter closed his shop and stopped there for some time. Sarver Khan was lying on the ground. PW-1 and some other persons took Sarver Khan to hospital by rickshaw. On the next day, when he went to open his shop, his neighbours informed him that, Sarver Khan succumbed to death. Police interrogated him and recorded his statement on 11th November, 2010. His statement under Section 164 of the Cr.P.C. was also recorded before the Metropolitan Magistrate, Kurla.

12) Perusal of aforesaid testimonies would indicate that, PW-13 is an independent witness. He has deposed about the presence of PW-1 at the scene of offence at the time and date of incident, however has not deposed about the presence of PW-5.

13) At this stage, a useful reference can be made to a decision of the Supreme Court in the case of *Vadivelu Thevar vs. The State of Madras reported in AIR 1957 S.C. 614*, wherein the Supreme Court has enumerated three categories of witnesses namely, (i) wholly reliable (ii) wholly unreliable (iii) neither wholly reliable nor wholly unreliable.

14) Admittedly, PW Nos.1 and 5 were friends of deceased Sarver Khan. Therefore they were having every reason to put-forth an

exaggerated version of the incident. They have not deposed about presence of PW No.13 at the scene of offence. According to us, PW Nos.1 and 5 would fall in the category of '*neither wholly reliable nor wholly unreliable*' witnesses as has been termed by the Hon'ble the Supreme Court in the case of *Vadivelu Thevar (Supra)*. PW No.13 is an independent witness and perusal of his evidence would clearly indicate that, he is a wholly reliable witness.

15) Both the learned Advocates appearing for the Appellants submitted that, the incident occurred after altercation between the Appellants and PW-1 along with deceased which was ensued in a free fight. The Appellants did not act in cruel and unusual manner and they did not assault Sarver Khan as soon as he fell on ground, therefore Exception 4 of Section 300 of IPC would apply to the present case and the act committed by the Appellants would fall within the purview of Section 304 (part-II) of the IPC.

16) To bring a case within Exception 4 to Section 300 of IPC, all the ingredients mentioned in it must be found. It is to be noted that the word 'fight' occurring in Exception 4 to Section 300 of IPC is not defined in the IPC. It takes two to make a fight. To invoke Exception 4 to Section 300 of IPC, four requirements must be satisfied viz.:-

- i. It was a sudden fight;

- ii. There was no premeditation;
- iii. The act was done in the heat of passion and
- iv. The assailant had not taken undue advantage or acted in a cruel or unusual manner.

The cause of the quarrel is not relevant nor it is relevant as to who offered the provocation or started to assault first, but what is important is that the occurrence must have been sudden and not premeditated and the offender must not have acted in a fit of anger and must not have taken any undue advantage or acted in a cruel or unusual manner. When during the course of a sudden quarrel, a person in the heat of moment, attacks the other person and causes injury, one of which proves to be fatal, the accused would be entitled to the benefit of this exception.

The Hon'ble Supreme Court in the case of *Sukhbir Singh Vs. State of Haryana, reported in (2002) 3 SCC 327*, while analyzing the provisions of Exception 4 of Section 300 read with Section 304(II) of I.P.C. has held that, to avail the benefit of Exception 4 the defence is required to probabalise that the offence was committed without premeditation in a sudden fight, in the heat of passion upon a sudden quarrel and the offender had not taken any undue advantage and the offender had not acted in a cruel or unusual manner. The exception is based upon the principle that in the absence of premeditation and on account of total deprivation of self-control but on account of heat of passion, the offence was committed

which, normally a man of sober urges would not resort to. Sudden fight, though not defined under the Act, implies mutual provocation. It has been held by the courts that a fight is not per se palliating circumstance and only unpremeditated fight is such. The time gap between quarrel and the fight is an important consideration to decide the applicability of the incident. If there intervenes a sufficient time for passion to subside, giving the accused time to come to normalcy and the fight takes place thereafter, the killing would be murder but if the time gap is not sufficient, the accused may be held entitled to the benefit of this exception.

The evidence of PW-13 clearly reveals that, initially there was altercation which followed in a free fight and then Appellants assaulted the deceased. The evidence on record shows that the appellants did not act in a cruel or unusual manner. They did not assault deceased the moment he fell on ground and fled from the spot. Looking to all these facts, we are of the considered opinion that the present case will be squarely covered by exception 4 of Section 300 and would fall under the perview of Section 304 (Part II) of IPC.

16) As noted earlier, PW-13 is an independent witness and a minute perusal of his testimony would clearly reveal that, after the Appellants along with juvenile accused arrived at the spot of incident, an altercation took place between PW-1 and Sarver Khan on one side and accused persons on the other-side. The said altercation ensued in a fighting

and thereafter all the three accused persons took out Gupti and gave blows of it on the deceased. Deceased fell on the ground and started screaming. The Appellants thereafter left the scene of offence by threatening the people gathered there. The testimony of PW-13 is fully reliable and therefore his evidence is binding on the prosecution.

17) Undoubtedly, the above criminal act of the Appellants which must be held to be conclusively proved in view of the evidence on record, clearly indicate that, they shared some common intention however the question arises for consideration, as to whether their common intention was to commit the murder of Sarver Khan. According to us, there is no evidence on record to indicate that, the Appellants wanted to do away with Sarver Khan and by conspiring for committing the said act, they came at the scene of offence.

In the instant case, concededly there was no enmity between the parties and there is no allegation of prosecution that, before the occurrence of the incident i.e. actual assault on the Sarver Khan, the Appellants premeditated to commit the crime in question.

18) Perusal of evidence on record clearly indicates that, the prosecution has established beyond reasonable doubt that, the Appellants are also guilty of the offence under Section 506(II) read with Section 34 of the IPC.

19) After taking into consideration the entire evidence of prosecution, this Court is of the view that the act committed by the Appellants falls within the purview of Exception 4 of Section 300 and therefore the Appellants are guilty of commission of offence under Section 304 (II) read with Section 34 of the IPC.

Taking into consideration the facts of the present case in its totality and its overall view, we are of the opinion that the sentence imposed upon the Appellants under Section 506(II) read with Section 34 of the IPC by the trial Court be run consecutively after they undergo sentence under Section 304(II) of the IPC.

Hence, the following Order.

ORDER

- a) All the Appeals are partly allowed.
- b) Appellants have been held guilty for commission of crime under Section 304(II) read with Section 34 of the Indian Penal Code and are sentenced to suffer rigorous imprisonment for a period of ten years and to pay a fine of Rs.1 lac each, in default of payment of fine to further undergo rigorous imprisonment of one year.
- c) Appellants are also held guilty for the commission of offence under Section 506(II) read with Section 34 of the IPC and are sentenced to suffer rigorous

imprisonment for a period of one year and to pay a fine of Rs.5,000/- each, in default of payment of fine to further undergo rigorous imprisonment of three months.

- d) The sentences to run consecutively.
- e) Record indicates that, the Appellants were arrested on or about 8th November, 2010 and are in jail till today. Appellants thus have undergone entire sentence including in default sentence till today and therefore are entitled to be released from jail forthwith, if not required in any other case.

Appellants therefore are released from jail on their production of the copy of the present Order, if not required in any other case.

- f) In view of disposal of Appeal No.83 of 2014, Interim Application No.1122 of 2022 does not survive and is also disposed off.
- g) All the concerned to act on the basis of an authenticated copy of this Judgment.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)

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SHARNAPPA
MASHALKAR
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by SANJIV
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