

CASE NO.:
Appeal (crl.) 439 of 2008

PETITIONER:
Shankar Ragho Bhagane

RESPONDENT:
State of Maharashtra

DATE OF JUDGMENT: 04/03/2008

BENCH:
Dr. ARIJIT PASAYAT & P. SATHASIVAM

JUDGMENT:
J U D G M E N T

CRIMINAL APPEAL NO. 439 OF 2008
(Arising out of S.L.P. (Crl.) No.6437 of 2006)

DR. ARIJIT PASAYAT, J.

1. Leave granted.
2. Challenge in this appeal is to the judgment passed by a Division Bench of the Bombay High Court dismissing the appeal filed by the appellants questioning his conviction for offence punishable under Section 302 of the Indian Penal Code, 1860 (in short 'IPC') and sentence for imprisonment for life.
3. Background facts in a nutshell are as follows:

The case of the prosecution unfolded at the trial may briefly be stated thus:

Girja Ragho Bhangne (hereinafter referred to as the 'deceased') from village Wavghar was the mother of the accused. Parvati Sakham Kanim (PW2) is the married daughter of the deceased. She is given in marriage in the same village. The deceased-Girja was pretty old and blind. Her husband was also blind and deaf. The accused and his parents were residing together. The accused often quarreled with and assaulted his wife and hence she had taken shelter in the house of neighbour. The accused did not look after his parents. Therefore, there was nobody else to look after the deceased and her husband. Parvati (PW2) was looking after her blind parents and providing them meals, breakfast and all other things from her own house. The accused did not like it. Therefore, he was angry with his sister. It appears that the marriage of the accused was frustrated, he was angry with his mother also. On account of that he often quarreled, abused and assaulted his mother. One day before the date of incident Parvati (PW2) went to her parents by taking with her water for her bath. She told the mother to take bath. But the deceased told her daughter that she was beaten by the accused at night time and hence there were pains in her body. She also told that she would take bath later on. Parvati (PW2) then went back to her house by keeping water. On the same day at night time the accused had gone to the house of Parvati (PW2). On going there he threatened her that he would get her house on fire, and he would cut her legs. He also told her that she should come to his house in the next day morning to see what he was going to do.

The unfortunate incident had taken place on the night between 20th and 21st January, 1999. On that night the accused went to his house. His blind parents were in the house. His wife was not residing with him in the house. On going to the house the accused demanded meal from his blind mother. She could not give meal to him as she herself was helpless and depending upon her daughter. Thereupon, the accused got furious and started beating his mother with stick. This incident was witnessed by Darshana Daulat Bhagane (PW3) who is the daughter-in-law of the accused and was residing in the adjoining house. The accused then went away. The husband of Darshana (PW3), who had gone for Bhajan returned to the house at about 1.30 a.m. She narrated the incident to him, but he overlooked it as he thought that it was a daily routine.

Parvati (PW2), took breakfast and came to her parents in the morning at about 8.00 to 8.30 a.m. on 21.1.1999. She called out to her mother, but there was no response. So she moved her hand on the face of her mother. She also carefully saw face of her mother. Her hand was smeared with blood. She realized that her mother was dead. She started weeping. She informed of the incident to neighbours. The neighbours came and saw the dead body of Girja. PW1 on getting the information of the incident went to Dapoli Police Station and lodged the First Information Report. The offence came to be registered. It was investigated by Police Sub-Inspector Sanjay Shamsunder Kurundkar (PW6). The inquest panchnama of the dead body was drawn. The dead body was forwarded to the Primary Health Centre at Phansu. Post mortem on the dead body was made by Dr. D.L. Khabade (PW 5). In all, five injuries were noticed by him on the dead body. Injury to the brain was also noticed. Dr. D.L. Khabade opined that the death was caused due to cardio respiratory failure due to injury to brain. Head injuries were found to be enough to cause the death in ordinary course of nature. The Police Sub-Inspector Sanjay Kurundkar drew the scene of occurrence panchanama. One stick smeared with blood and on which hair were attached was recovered from the place of offence. The accused was apprehended. The panchanama of his arrest was made. The clothes on his person were seized. Later on the clothes of accused, stick, the clothes recovered from the dead body of the deceased and sample of the blood of accused were sent to Chemical Analyser, Pune for examination. The Chemical Analyst examined them and issued the reports. When the investigation was over the accused was challenged for committing murder of his mother. The case was registered. It came to be committed to Sessions Court for trial.

The Trial Court placed reliance on the evidence of eye-witness PW3 and PW2.

It was held that the prosecution had established its case beyond doubt and accordingly conviction was recorded and sentence was imposed. The High Court did not find any substance in the appeal and dismissed it.

4. Learned counsel for the appellant submitted that the evidence of PWs. 2 and 3 does not inspire confidence.

5. Learned counsel for the State on the other hand supported the judgment.

6. PW3 is the daughter-in-law of the accused. Admittedly,

she was residing in the house adjoining the house of the deceased. According to her testimony she saw the occurrence. She has graphically described the scenario.

7. She has stated that in the night of the occurrence she was in the house and her husband had gone to a religious festival. Her mother-in-law was sleeping. She stated that she heard the accused demanding food from her mother. As her mother did not give food to him, the accused started beating the deceased which she saw. She has also stated when her husband came, she narrated the incident to him. He did not take any serious notice. In the morning, she told her sister-in-law about what she had seen. Her evidence does not suffer from any infirmity to warrant rejection. The Trial Court and the High Court have rightly relied on her evidence.

8. So far as PW2 is concerned, she is the sister of the accused. She has also graphically described the conduct of the accused before the incident. The accused had threatened to set her house on fire and cut her legs. According to her, the accused was unhappy with her as she was looking after his parents. There is nothing discrepant in her evidence to cast doubt on her testimony.

9. In the instant case, the prosecution has been established. In spite of detailed cross-examination nothing infirm has elicited from PW3.

10. Above being the position, the Trial Court and the High Court were justified in holding the accused guilty and convicting him for offence punishable under Section 302 IPC.

11. The appeal has no merit and deserves dismissal which we direct.