

MHAU040000702014



Received on 29.01.2014

Registered on 29.01.2014

Decided on 04.05.2026

Duration Y M D  
12 03 05**Part 'A'****IN THE COURT OF ADDITIONAL SESSIONS JUDGE****AT VAIJAPUR, DISTRICT AURANGABAD****(Present: Smt.S.K. Upadhyay)****[Date of the Judgment : 4<sup>th</sup> May, 2026]****SESSIONS CASE NO.12/2014****Exh.No.123**

FIR/Crime No.	82/2013
Police Station:	Shiur, Tq.Vaijapur, District Aurangabad.

Prosecution	:	The State Of Maharashtra, Through Assistant Police Inspector, Police Station Shiur, Tq.Vaijapur, Dist. Aurangabad
Represented By	:	Mr.K.S.Gande – Learned A.P.P. for the State
<b>Versus</b>		
Accused	:	1. Gorakh Chintaman Pawar Age : 52 years, Occ.: Labour R/o : Babhulgaon, Tq.Vaijapur, Dist. Aurangabad

		2. Laxman Chintaman Pawar Age : 49 years, Occ. : Labour R/o : Babhulgaon, Tq.Vaijapur, Dist. Aurangabad
		3. Kadubai Gorakh Pawar Age : 43 years, Occ. : Labour R/o : Babhulgaon, Tq.Vaijapur, Dist. Aurangabad
Represented By	:	Mr.N.S.Ghanekar and Mr.S.M.Jeurkar, Learned advocate for all accused

**Part-'B'**

Date of offence	:	29.08.2013
Date of F.I.R.	:	31.08.2013
Date of Charge-sheet	:	27.11.2013
Date of framing charge	:	20.03.2015
Date of commencement of evidence	:	28.11.2019
Date on which judgment is reserved	:	29.04.2026
Date of Judgment	:	04.05.2026
Date of sentencing order if any	:	---

**Accused Details**

Name & Rank of Accused	Date of Arrest	Date of Release on Bail	Offence charged with	Whether acquitted or convicted	Sentence Imposed	Benefit of Section 428, Cr.P.C. (Set off)
1.Gorakh	31.08.2013	18.01.2014	Section	Acquitted	--	--

Chintaman Pawar			302 and 323 r/w 34 of IPC.			
2.Laxman Chinatam Pawar	31.08.2013	15.10.2013	- do -	Acquitted	--	--
3.Kadubai Gorakh Pawar	31.08.2013	15.10.2013	- do -	Acquitted	--	--

**Part 'C'**

(List of Prosecution/Defence/Court Witnesses)

**A. Prosecution:**

Sr.No.	Rank	Name	Nature Of Evidence
1.	PW-1/ Exh.No.50	Chandrakala Balu More	Informant
2.	PW-2/ Exh.No.64	Dr.Vivek Vasantrao Kamble	Medical Officer- who conducted post- mortem of deceased
3.	PW-3/ Exh.No.80	Nandkumar Bhausahab Jadhav (Hostile)	Panch on memorandum statement of accused no.2 seizure panchnama
4.	PW-4/ Exh.No.81	Sambhaji Chhaburao Jadhav (Hostile)	Another panch on memorandum statement of accused no.2 and seizure panchnama
5.	PW-5/ Exh.No.95	Somnath Janardhan Pawar (Hostile)	Witness

6.	PW-6/ Exh.No.98	Dilip Bhimrao Tejankar (Hostile)	Eye Witness
7.	PW-7/ Exh.No.99	Akash Devidas Tupe (Hostile)	Eye witness
8.	PW-8/ Exh.No.101	Bhausahab Gorakh Pawar (Hostile)	Witness
9.	PW-9/ Exh.No.117	PSI Shaikh Rajjak Shaikh Hussain	IO of A.D.No.24/13
10.	PW-10/ Exh.No.120	API Daulat Shivram Jadhav	Investigating Officer

**B. Defence Witnesses, if any :**

Rank	Name	Nature Of Evidence
Nil	Nil	Nil

**C. Court witnesses, if any :**

Ran k	Name	Nature Of Evidence
Nil	Nil	Nil

**Part 'D'**

**List of Prosecution/Defence/Court Exhibits**

**A. Prosecution :**

Sr. No	Exhibit Number	Description
-----------	-------------------	-------------

1.	Exh.N.51	Report
2.	Exh.No.112	Opinion of medical officer about cause of death
3.	Exh.No.113	Letter to MO for medical treatment
4.	Exh.No.114	Medical Certificate
5.	Exh.No.118	Seizure panchnama of clothes
6.	Exh.No. 121, 122 and 123	Arrest panchnama of accused no.1 to 3 respectively
7.	Exh.No. 124	Memorandum statement panchnama of accused Laxman
8.	Exh.No.125	Panchnama in respect of statement given by accused Laxman
9.	Exh.No.126	Portion Marked-A in the statement of Somnath PW-5
10.	Exh.No.127	Portion Marked-A in statement of Dilip PW-6
11.	Exh.No.128	Portion Marked-A in statement of Akash PW-7
12.	Exh.No.129	Portion Marked-A in statement of Bhausahab PW-8
13.	Exh.No.130	7/12 extract of provision shop of Laxman Darekar
15.	Exh.No.131	Muddemal Receipt
14.	Exh.No.132	Portion Marked-A in the report of informant
15.	Exh.No.133	Portion Marked-B in the report of informant
16.	Exh.No.134	Portion Marked-C in the report of informant
17.	Exh.No.135	Portion Marked-D in the report of informant

**B. Defence: Admitted by accused -**

<b>Sr.No.</b>	<b>Exhibit Number</b>	<b>Description</b>
1	Exh.No.52	Spot Panchnama dated 30.08.2013
2	Exh.No.53	Spot Panchnama dated 31.08.2013
3	Exh.No.54	Inquest panchnama
4	Exh.No.55	Seizure Panchnama of full sleeves shirt
5	Exh.No.56	Seizure panchnama of mobile
6	Exh.No.57	Postmortem Report of deceased

**C. Court Exhibits -**

<b>Sr.No.</b>	<b>Exhibit Number</b>	<b>Description</b>
Nil	Nil	Nil

**D. Material Objects -**

<b>Sr.No.</b>	<b>Exhibit Number</b>	<b>Description</b>
Nil	Nil	Nil

**:: J U D G M E N T ::**

(Delivered on this 4<sup>th</sup> Day of May, 2026 in open Court)

1. Accused no.1 to 3 are stands charge-sheeted for the offences punishable under sections 302 and 323 read with 34 of the Indian Penal Code (in short 'IPC').

**2. The prosecution case is as follows :-**

Informant Chandrakala Balu More is wife of deceased Balu Macchindra More. she lodged report that she resides along-with her husband (deceased Balu Macchindra More) and three children at Bhivgaon and does labour work of cutting sugarcane. She was residing with her parents in the village Pathri at the time of the incident. Her husband used to visit her for 2-3 days and then returned to his village, Bhivgaon.

3. Prior to 3-4 days of the incident, her deceased husband visited her at Pathri and stayed with her for a day. He then returned to Bhivgaon the next day. At that time, the informant was at paternal home. At around 5.00 p.m., she was sitting in front of her house on ota, when accused Gorakh Chintaram Pawar came near her house at Pathri. He asked her where her husband was, and she replied that she didn't know. He then told her that her husband had taken his mobile phone of rupees three thousand from his son and fled away.

4. At that time Gorakh was angry and said that “तो जर मला सापडला तर मी त्याच तंगड मोडुन सायकलीला बांधुन दारुवाल्याकड नेईन”. At that time some children told Gorakh that her husband was lying in the village near shop. On hearing it accused Gorakh left. After some time he came on bicycle and by murmuring went towards, Bhivgaon. After

half an hour wife of accused Gorakh, his brother and other 3-4 persons went towards shop. Wife of accused Gorakh was holding wooden log in her hand.

5. In the evening, the informant, along with her brother Shankar and Laxman, went to bring her husband home. They saw him lying in the dark in front of Darekar's shop, blinking his eyes and smelling liquor. She thought he was under the influence of alcohol and lifted him to their house. His shirt button was broken, banyan was torn, and he was silent. The informant slept and put deceased to sleep. She woke up at 5 a.m. and woke him, but he was not moving. She informed her father, who confirmed his death. They then informed the police. Hence, the FIR.

**Registration of FIR –**

6. Pursuant to FIR the crime No. 82/2013 for the offences under section 302 read with section 34 of the IPC.

7. The investigation of Crime No.82/2013 put into motion. Initially A.D. was registered on the report lodged by police patil and its investigation was handed-over to PSI Shaikh Rajjak Shaikh Hussain. During investigation of A.D. he prepared spot panchnama, dead body was sent to post-mortem and conducted inquest panchnama of dead body of deceased Balu Maddhindra More. He seized clothes of deceased. Thereafter the wife of deceased lodged report. On the

basis of report crime No. 82/2013 further investigation was handed-over to API Daulat Shivram Jadhav.

8. During investigation of API Daulat Jadhav went to spot of incident and prepared panchnama, arrested accused, seized mobile and prepared seizure panchnama. As per memorandum statement given by accused no.2 Laxman he prepared memorandum panchnama and prepared seizure panchnama. Recorded statement of witnesses. Obtained extract of shop of Laxman Darekar, obtained post-mortem report of deceased. Thereafter further investigation was handed-over to PI D.P.Bhoye and after that to API Dinesh V. Aher. Upon findings sufficient evidence against all accused, charge-sheet was filed.

**Committal –**

9. The Ld. JMFC, took cognizance of the offence. Since, the offence under section 302 of the IPC is exclusively triable by the Sessions Court, hence the Ld. J.M.F.C. committed the case vide its order dated 24.01.2014.

**Charge -**

10. The charge vide **Exh.23/A** was framed and explained to all accused by my learned predecessor. All accused abjured the guilty and claimed for trial.

**11.** The prosecution examined ten witnesses. Statement of accused under section 313 of the Cr.P.C. recorded. Defence of accused of total denial and false implication They came with defence that false case is lodged against them on the count of property dispute . Accused led no evidence in their defense.

**12.** At the conclusion of the trial, I have heard the Ld. APP Mr.N.S.Gande for the State and the learned advocates Mr.N.S.Ghanekar/ Jejurkar for all accused.

**13.** The following points arise for my determination. I have recorded my findings thereon for the reasons to follow as under.

Sr.No	Points	Findings
1.	Does the prosecution prove that Balu Macchindra More died homicidal death ?	Yes
2.	Does the prosecution prove that on 29.08.2013 in between 05.00 to 06.00 p.m. beside the road, in front of shop of Laxman Darekar at Pathri village, Tq.Vaijapur, Dist. Aurangabad, accused in furtherance of their common intention, committed murder of husband of informant i.e. Balu Macchindra More, and thereby committed an offence punishable under section <b>302 r/w 34</b> of IPC ?	No

3.	Does the prosecution prove that you all accused in furtherance of their common intention, voluntarily caused hurt to deceased Balu Macchindra More, and thereby committed an offence punishable under section 323 r/w 34 of IPC ?	No
4	What order ?	Accused no.1 to 3 are acquitted, as per final order

### REASONS

#### Evidence of prosecution -

14. To bring home guilt of accused, the prosecution has examined in all ten witnesses.

15. Informant Chandrakala Balu More (PW-1) is the wife of the deceased Balu Macchindra More. She testified in accordance with the contents of the FIR. She further testified that accused Gorakh Pawar approached her and inquired about the deceased. Accused Gorakh was angry and threatened to cut off her husband's legs. She also stated that she saw several individuals carrying wooden logs accompanied by accused Gorakh. She deposed that they assaulted her husband with the wooden logs. She subsequently went to the spot and found her husband in a state with a 3 broken shirt button and a he was blinking his eyes. There was continuous sound coming from his

throat. She brought him home and sleep and also put deceased to sleep .The following morning at 04:00 a.m. she awoke but her husband was still asleep. She informed her father who upon seeing the deceased declared him dead. Her father then informed the Police Patil of their village and the police patil subsequently informed the Shiur police station. The police arrived, took her husband for a post-mortem examination. Thereafter she lodged report Exh.51.

**16.** Dr.Vivek Vasantao Kamble/PW-2 issued postmortem report Exh.57.

**17.** Nandkumar Bhausahab Jadhav/PW-3 and Sambhaji Chhaburao Jadhav/PW-4 are panch on memorandum statement given by accused no.2 Laxman. They deposed that on 02.09.2013 PI of Shivar police station had called them but they declined that police produced accused Laxman from lockup before them, he gave statement, as per statement made by him police prepared memorandum panchnama, went to spot at Pathri village and accused showed the spot. The learned APP cross-examined witnesses at length but nothing could be extracted from their cross-examination to prove that alleged memorandum statement and panchanama . Therefore, these witness are not helpful to the prosecution .

**18.** Somnath Janardhan Pawar/PW-5 independent witness .However he also turned hostile.During cross examination by

Ld App he denied that, on 29.08.2012 at about 04.00 p.m. he went Zholegaon Pati to drop his relative. He denied that Laxman Chintaman Pawar called him and told him that mobile of Gorakh Pawar was stolen by person of Bhivgaon village and asked him to go and see whether it was stolen by son-in-law of village Pathri. He denied that he went along-with Laxman on his motorcycle. He denied that while going to Pathri he met Shivnath Sonwane who informed that relative is lying after drinking liquor, accordingly they went behind Shivnath. He further denied that Laxman went near the deceased and asked him where he has kept the stolen mobile and Laxman gave two slaps near deceased ear, at that time accused Gorakh and his wife were standing near deceased. He denied that when the Laxman caught hold the collar of deceased, at that time he had told that he has sold mobile to liquor seller for Rs.600/-. He denied that at that time the accused were present on the spot and they assaulted the deceased. He denied that thereafter they all went to Babhulgaon for bringing mobile of Gorakh Pawar. Thus nothing fruitful has come during cross-examination of learned APP to support case of prosecution.

**19.** Dilip Bhimrao Tejankar PW-6 is allegedly eye witness of assault to deceased by accused. He deposed that he used to go to the village accused Babhulgaon therefore he knew accused. He also knew Laxman Darekar as his shop is adjacent to his house. Incident occurred on 29.08.2013 in between to 04.00 to 05.00 p.m. near the

shop of Laxman Darekar. On that day he had been to Babhulgaon for market and returned back at 03.00 to 04.00 p.m. and thereafter he went to his field. While he was going to his field he heard noise of quarrel but he ignored and went to his house. On next day he came to know that during quarrel one person by name Balu died. He turned hostile and denied that while he was going to field accused where assaulting and abusing one person in front of shop of Laxman darekar due to which that person died.Learned APP cross-examined him at length but nothing could be elicited from his evidence as to witnessing the incident.

**20.** Akash Devidas Tupe/PW-7 . He is eye witness.He deposed that incident occurred on 29.08.2012 in between 04.00 to 05.00 p.m. in front of shop of Laxman Darekar. His school is in front of shop of Laxman and after school time at about 04.00 p.m. he was playing there along-with Saurabh Darekar and Gaurav Tejankar. At that time there were many people gathered and quarrel was going on but he couldn't state between whom quarrel held . He also turned hostile. During cross-examination by learned APP he denied that he know the person who assaulted deceased. He denied that he has seen the quarrel. He denied that accused had assaulted deceased.

**21.** Bhausahab Gorakh Pawar/PW-8 also turned hostile. He denied that while he was at home deceased had been to his house, he had lunch at his house and thereafter deceased had demanded Rs.50/-

from his mother. He denied that thereafter deceased took him in the market and he demanded money from him and he stated that if he will not give money he will snatch his mobile. Thereafter deceased slapped him and flee away with his mobile. Thereafter he went to search him but he did not trace deceased. He denied that he learnt deceased had sold the mobile to one Arjun from whom his father brought the mobile. The learned APP cross-examined him at length but nothing could be brought on record from his evidence.

22. PSI Shaikh Rajjak Shaikh Hussain/PW-9 deposed that in the year 2010 to 2017 he was working at Shiur police station. Enquiry of AD bearing No. 24/2013 was registered and its investigation was given to him.

23. Daulat Shivram Jadhav/PW-10 at Exh.120. He is an investigating officer. He deposed about the steps undertaken during investigation.

24. **Submissions :**

The learned APP with stock of aforesaid evidence submitted that the informant who is wife of deceased has lodged the report and set the law in motion. The informant has categorically deposed that accused had been to her and he had enquired about deceased and threatened that he will break the leg of deceased. She has categorically deposed that accused Gorakh accompanied with

other person who were holding wooden log. She had seen that her husband was lying in injured condition and his shirt buttons were broken. The evidence of informant is sufficient to prove the conduct of accused that they have assaulted deceased, due to which he succumbed to death. It is further submitted that medical officer has proved the cause of death of deceased by strangulation. Thus, prosecution has proved that death of deceased was homicidal. The prosecution has proved the cause of death which is corroborative to the testimony of informant. The prosecution has proved the motive for commission of offence since deceased has taken mobile of accused and sold it to liquor shop-keeper, hence accused committed murder of deceased. The Prosecution witnesses have though turned hostile but their evidence is proved through investigating officer. There is no reason to disbelieve investigating officer. Thus, prosecution has proved corroborative and cogent evidence that the accused committed murder of deceased on account that deceased has taken mobile of accused and sold it to liquor shop-keeper. Thus, prosecution has proved guilt of accused beyond reasonable doubt. Hence the evidence led by the prosecution is sufficient to prove the guilt of accused and hence prayed to convict the accused.

**25.** Per contra, the learned counsel of accused submitted that prosecution failed to prove guilt of accused. He submits that the prosecution witnesses PW-3 to PW-8 have turned hostile therefore no direct or circumstantial evidence is adduced on record to bring home

guilt of accused. There is two days delay in lodging FIR. He submits that memorandum panch/PW-3 and PW-4 have turned hostile therefore neither the memorandum panchnama nor recovery at the hands of accused is proved by prosecution. Although it is the case of prosecution that accused was assaulted by wooden log but wooden log is not seized by investigating officer. Informant alleged that she has informed police patil about the incident but the statement of police patil is not recorded by investigating officer. There is no evidence of eye witnesses to support the case of prosecution. The prosecution witnesses have turned hostile and nothing extracted during their cross-examination to bring home guilt of accused. Thus, there is no clinching, corroborative and cogent evidence produced by prosecution. With this, he submitted that the benefit of doubt must be given to accused and he prayed to acquit the accused.

**As to Point No.1 –**

**Analysis of Evidence -**

26. Whether the death of Balu More is homicidal? is first and foremost question. Spot panchnama Exh.52 and 53 is proved by the investigating officer and same is admitted by accused. It shows that the dead body of deceased was found in front of grocery shop of Laxman Darekar. Shop licence Exh.130 shows that said shop belongs to Laxman Darekar which is situated in grampanchayat, Shivganga Pakhari. The A.D. report 24/13 shows that it was registered by PHC Rajjask Shaikh/PW-9 on the report of police patil of village Bhivgaon.

He had prepared spot panchnama Exh.52 and inquest panchnama Exh.54. Said spot panchnama Exh.53 shows that deceased was found in front of grocery shop at Babhulgaon. Inquest panchnama Exh.54 shows that ligature mark all around the neck as well as abrasion near chin was found on the body of deceased.

**27.** The autopsy surgeon/PW-2 Dr.Vivek Kamble conducted post-mortem on the dead body of deceased Balu More and found following injuries -

- i. Ligature mark all around the neck from below the chin around both sides around neck and back of neck, 1 cm in breadth and approximately 20 cm in length.
- ii. There were no signs of decomposition. The postmortem lividity was present over buttocks. The rigor-mortis was developed on over whole part of body.

He opined the probable cause of death was “due to Hypoxiya due to cardio respiratory arrest due to strangulation” and the death of deceased was caused within 42 to 60 hours prior to postmortem examination.

**28.** This evidence of autopsy surgeon Dr.Kamble has not been challenged by accused. Thus, it is clear that deceased died due to due to hypoxiya due to cardio respiratory arrest due to strangulation. Hence, looking to the cause of death the only inevitable conclusion can be drawn said death is caused by human being. Thus it is proved

that deceased Balu More died homicidal death. Hence, point no.1 is answer in affirmative.

**As to Point No.2 and 3 -**

29. Both points are interwoven hence I have taken all the points together for discussion.

**Culpability of the Accused -**

30. The prosecution has alleged that all the accused with common intention and knowledge have caused the murder of deceased Balu More. Thus, this takes me to next question whether accused are author of crime of murder of deceased Balu.

31. Prosecution case is based on direct evidence. Prosecution has mainly relied upon sole testimony of informant PW-1 . I am mindful of the legal position that it is not the quantity but quality of evidence matter. The Hon'ble Supreme Court in case of ***Veer Sing Vs. State of U.P. AIR 2014 S.C. (Supp)615*** has pleased to hold that ,

*“As a general rule the court can and may act on testimony of single witness provided, he is only reliable”.*

32. The scrutiny of evidence presented by PW-1 reveals inherent improbabilities. She deposed that on the relevant date after meeting her husband he informed her he was going home. On the same evening the accused Gorakh Pawar visited her house and

enquired about the deceased. PW-1 stated she did not know but the accused appeared angry and threatened to cut the leg of her husband or the deceased. She also witnessed that some other individuals accompanied the accused with a wooden log. PW-1 subsequently went to the village and found her husband in an injured condition. She then took him home and allowed him to rest.

**33.** Considering the evidence, it raises the question as to why PW-1 did not immediately lodge a complaint against the accused after learning of the threat and assault. This delay is not explained by the prosecution. Although she stated in her chief examination that she was under shock and therefore delayed in lodging a complaint, this is not a natural response. If she had witnessed her husband being assaulted, she would have immediately rushed to the police station. It is difficult to accept that even after knowing the deceased had been assaulted by the accused, she remained silent and stayed at home. This suggests inherent improbabilities in her evidence.

**34.** Informant/PW-1 deposed that during the night she slept and she also allowed the deceased to sleep. She denied portion marked-D of the FIR, which states that on the spot of incident when she reached and saw the deceased “she smelled liquor, therefore she thought that the deceased was under the influence of liquor. Therefore, she lifted the deceased to her house with the help of her brother.” The said portion marked D is proved through the investigating officer.

Thus, the contents of the FIR show that the informant did not suspect any assault on the deceased. She herself suspected that the deceased was drunk and therefore took the deceased with the help of his brother to her house by lifting him. Thus, this is another inherent improbability in the case of the informant.

**35.** The informant in the FIR has stated that the deceased had an addiction to liquor, but during cross-examination, she denied the said portion marked-A, which is proved through the investigating officer, and the said contents show that portion marked-A was in respect of the fact that the deceased had an addiction to liquor. Further, portion marked-B is also denied by the informant, which is in respect of the fact that when the accused Gorakh had been to her for inquiring about the deceased, at that time one small child present there informed that her husband was lying in the village near one shop. Similarly, she also denied portion marked-C that after hearing the said information of the said child, the accused Gorakh went there. These material infirmities in the FIR and cross-examination show that the informant has attempted to suppress the fact that the deceased had an addiction to liquor. This also shows that she was not aware of where the deceased was actually lying.

**36.** The testimony of informant is here say in nature as she has not actually seen the ocular of incident as to causing the assault to deceased. Although the informant has deposed about the

conduct of accused as well as intention of accused to cause hurt to deceased as in the FIR she alleged that the accused threatened that he will cut the leg of deceased. However deceased was not found murder on the spot of incident. Admittedly as per informant she had taken the deceased with the help of her brother to her house and she allowed deceased to sleep, which shows that deceased has not expired on the said date when he was allegedly assaulted. As per informant deceased expired in the morning at 04.00 a.m. it shows that neither the intention nor the knowledge or the presence of accused on the spot has been come on record to hold that accused have committed murder of deceased.

**Delay in FIR -**

**37.** Admittedly, there appears to be a delay in lodging the FIR. The informant in the FIR, as well as in her testimony, has stated that when she went to the spot of the incident on 29.08.2013 in the evening, she found her husband lying there. However, she did not lodge a complaint immediately on 29.09.2013 but instead lodged the complaint on 31.08.2013. No plausible explanation is offered by the prosecution for the delay caused in lodging the FIR by the informant.

**38.** As per evidence of informant she had been to spot with her brother but neither the brother suspected deceased assaulted nor informant. If the brother of informant would have suspected assault to

deceased even he could have lodged report. Silence on the part of informant and her brother shows inherent improbability in the case of the informant.

**39.** Most materially, the informant alleged that the accused were found with wooden stick but neither seizure panchnama nor the memorandum of statement of accused shows that the wooden log was seized from accused. Most materially the inquest panchnama as well as post-mortem report does not shows injury on the person of deceased suggesting that it is caused by hard and blunt object. These inherent improbabilities makes the testimony of informant untrustworthy.

**40.** Apart from above inherent improbabilities it appears that seizure panchnama and memorandum panchnama are although admitted by accused but nothing incriminating has come against accused in order to show that accused have caused the murder of deceased.

**41.** Further the evidence of material witnesses PW-5 to PW-8 have also turned hostile. Though they are cross-examined at length but nothing extracted during their cross-examination to corroborate the testimony of informant. Thus, there is no eye witness of the incident to prove that accused have caused murder of deceased Balu More. Although the prosecution attempted to prove statements of PW-5 to

PW-8 through investigating officer but in absence of substantive, cogent credible evidence it is unsafe to rely upon the testimony of investigating officer.

**42.** Even the version of informant/PW-1 is untrustworthy as to commission of offence by accused. Then under such circumstances, it is unsafe to rely on the testimony of investigating officer. None of the prosecution witnesses have corroborated the testimony of informant. Thus, I find that the evidence of sole witness informant/PW-1 suffers from inherent improbabilities. Her evidence is inconsistent with ordinary course of human nature. Her evidence also suffers from material variances. These aspects make her version unworthy of credence. Her evidence is not corroborated by any of the eye witnesses PW-5 to PW-8. The evidence in nature of recovery of mobile is not of conclusive of nature. In this circumstances, it is unsafe to rely upon the sole testimony of informant/PW-1.

**43.** Thus, in the light of above discussion, in cumulative result, I conclude that the prosecution failed to prove the guilt of accused beyond reasonable doubt. The entire FIR as well as testimony of informant is silent about the overtact other two accused i.e. accused no.2 Laxman Chintaman Pawar and accused no.3 Kadubai Gorakh Pawar. The prosecution failed to prove that all the accused

with their common intention have committed murder of deceased Balu. In view of above discussion, I conclude that prosecution miserably failed to prove guilt of accused. Hence, accused are liable to be acquitted by giving benefit of doubt.

**44. Conclusion :**

- i. The testimony of informant is hearsay in nature.
- ii. There are inherent improbability in the case of the informant.
- iii. There is delay in lodging FIR and no plausible explanation offered for the same.
- iv. No direct or circumstantial evidence to link the accused with commission of offence.
- v. All eye witnesses turned hostile.
- vi. The Bamboo stick which is alleged to be used for commission of offence was not seized by investigating officer.

**45.** As a result, the accused are entitled for benefit of reasonable doubt. Hence, I hold that prosecution failed to prove accused in furtherance of their common intention committed the murder of deceased Balu More. Thus, accused are liable to be acquitted of the said charge levelled against them. In view of this, point no.2 is answered in negative. In result, in answer to point no.3, I proceed to pass the following order -

**ORDER**

1. Accused no.1 Gorakh Chintaman Pawar, accused no.2 Laxman Chintaman Pawar and accused no.3 Kadubai Gorakh Pawar are acquitted of the offences punishable under section 302 and 323 read with 34 of the Indian Penal Code, vide Section 235 (1) of the Code of Criminal Procedure.
2. Their bail bonds stands cancelled and their surety stands discharged.
3. Seized muddemal faint yellowish full sleeves shirt, one bluish colour jeans pant, one pink colour baniyan, one maroon colour underwear being worthless, be destroyed, after the period of appeal is over.
4. Mobile of Micromax company be given to its owner, after the period of appeal is over.
5. Accused no.1 to 3 are directed to furnish P.B and S.B. of Rs.15,000/- each in compliance to Section 437-A of the Code of Criminal Procedure.

(The judgment dictated and pronounced in open court.)

Date : 04.05.2026

(Smt.S.K. Upadhyay)  
Addll.Sessions Judge,  
Vaijapur.

**CERTIFICATE**

I affirm that the contents of this PDF file judgment are same, word to word, as per the original judgment.

Name of the Stenographer : R.V.Kulkarni

Name of the Court : Smt. S. K. Upadhyay, District Judge-1, Vaijapur.

Date of deliver judgment : 04.05.2026

Direct dictation given on : 02.05.26 & 04.05.2026

Judgment checked

by the presiding officer on : 04.05.2026

Judgment signed on : 04.05.2026

Judgment uploaded on : 04.05.2026