

MHBI180020852023



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Registered on :- 03/05/2023  
Decided on :- 25/03/2026  
Duration :- Ys. Ms. Ds.  
02 10 22

**Part 'A'**  
**(Title Page of Judgment)**

<b><u>IN THE COURT OF ADDITIONAL SESSIONS JUDGE, KAIJ, DISTRICT BEED</u></b>	
Present : S. B. Bhajipale, Additional Sessions Judge, Kaij, Dist. Beed	
<b><u>Sessions Case No. 257/2023</u></b> <span style="float: right;"><b><u>Exh. 88/A</u></b></span>	
	<b>Crime No. 24/2023</b> Yusufwadgaon Police Station, District Beed  Offences Punishable Under Sections 302 and 498-A of the Indian Penal Code.
Complainant	: <b>State of Maharashtra</b> Through Police Officer, Yusufwadgaon Police Station, District Beed.
Represented by	: Shri. R. B. Birangal, Ld. APP for the State
Accused	Bhagwan Shahurao Thorat, Age- 32 years, Occupation- R/o. Dhakephal, Taluka Kaij, Dist. Beed.
Represented by	: Shri. A. B. Tidke, Ld. Advocate for accused

**Part 'B'**

Date of offence	:	07/02/2023
Date of FIR	:	07/02/2023
Date of charge-sheet	:	06/04/2023
Date of Framing of charges	:	05/01/2024
Date of commencement of evidence	:	18/04/2024

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Date on which judgment is reserved	:	-----
Date of the Judgment	:	25/03/2026
Date of the Sentencing Order, if any	:	-----

### Accused Details

Rank of accused	Name of accused	Date of arrest	Date of Released on bail	Offences Charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for the purpose of Section 428, CrPC.
1]	Bhagwan Shahurao Thorat	08/02/2023	UTP	U/s 302, 304-B and 498-A of IPC	Convicted u/s. 302 of IPC only.	Life imprisonment and Fine of Rs. 10,000/-	3 years 01 months and 17 days

### Part 'C'

#### List of Prosecution / Defence / Court Witnesses

##### A. Prosecution :

Rank	Exhibit	Name of Witness	Nature of Evidence
PW-1	13	Vasant Udhavrao Tarkasbandh	Panch witness
PW-2	30	Ambadas Apparao Shinde	Panch witness
PW-3	36	Vaijinath Maroti Nagargoje	Witness
PW-4	39	Bhausahab Abarao Rodge	Panch witness
PW-5	46	Ajay Ashok Pawar	Informant/ brother of the deceased
PW-6	59	Sachin Uttamrao Solat	Medical Officer
PW-7	65	Parmeshwar Rajabhau Pawar	Witness/ cousin of the deceased
PW-8	67	Yogesh Devidas Ubale	Investigating Officer
PW-9	78	Sachin Devidasrao Ahankare	Staff of eye-bike squad

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

Rank	Name of Witness	Nature of Evidence
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**C. Court Witnesses, if any :**

Rank	Name of Witness	Nature of Evidence
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**List of prosecution / defence / Court exhibits****A. Prosecution**

Sr. No.	Exhibits Number	Description
1	Exh. P-14 (PW-1)	Spot panchanama
2	Exh. P-15 (PW-1)	Inquest panchanama
3	Exh. P-17 (PW-1)	Envelop of article-A
4	Exh. P-18 (PW-1)	Envelop of article-B
5	Exh.P-27 (PW-1)	The Label of article-C
6	Exh. P-31 (PW-2)	The Label of article-E
7	Exh. P-32 (PW-2)	The Label of article-F
8	Exh. P-33 (PW-2)	Seizure panchanama
9	Exh. P-37 (PW-3)	Station diary entry no. 14 dated 07/02/2023
10	Exh. P-40 (PW-4)	Clothe seizure panchanama
11	Exh. P-41 (PW-4)	The Label of article-G
12	Exh. P-42 (PW-4)	The Label of article-H
13	Exh. P-47 (PW-5)	Complaint
14	Exh. P-60 (PW-6)	Carbon copy of letter
15	Exh. P-61 (PW-6)	Postmortem report
16	Exh. P-62 (PW-6)	Provisional Cause of death certificate
17	Exh. P-1-63 (PW-6)	Letter dated 09/02/2023
18	Exh. P-64 (PW-6)	Opinion
19	Exh. P-68 (PW-8)	Arrest panchanama
20	Exh. P-69 & 70 respectively (PW-8)	Letter and 7/12 extract of the spot of incident
21	Exh. P-71 (PW-8)	Letter regarding collecting the Tower location of the deceased and accused
22	Exh. P-72 (PW-8)	Certificate u/s. 65-B of the Evidence Act

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23	Exh. P-73 (PW-8)	Letter dated 13/02/2023
24	Exh. P-74 (PW-8)	Letter issued to FSL regarding viscera
25	Exh. P-75 (PW-8)	Letter regarding adding of Section in the present CR
26	Exh. P-76 (PW-8)	Log book entry extract
27	Exh. P-79 (PW-9)	Certificate u/s. 65-B of the Evidence Act
28	Exh. P-80 (PW-9)	Certificate u/s. 65-B of the Evidence Act
29	Exh. P-81 (PW-9)	Certificate u/s. 65-B of the Evidence Act

**B. Defence :**

<b>Sr. No.</b>	<b>Exhibits Number</b>	<b>Description</b>
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**C. Court Exhibits :**

<b>Sr. No.</b>	<b>Exhibits Number</b>	<b>Description</b>
1.	Exh. 21 to 25	Chemical Analysis Reports

**D. Material objects :**

<b>Sr. No.</b>	<b>Exhibits Number</b>	<b>Description</b>
1	Article-A	Axe
2	Article-B collectively	The Plastic bottle and cotton
3	Article-C	Mangalsutra having yellow black and golden bids
4	Article-D	Mobile
5	Article-E	Blue coloured jeans pant
6	Article-F	Blue coloured shirt
7	Article-G	Saree
8	Article-H	Blouse
9	Article-I and J respectively	Two DVD
10	Article-K	One DVD

**JUDGMENT****(Delivered on 25<sup>th</sup> March 2026)**

The accused is facing trial for the offences punishable under Section 302, 304-B and 498-A of the Indian Penal Code.

**2] The brief facts of the prosecution case are as under :**

On 07/02/2023, at about 03:12 noon accused Bhagwan came to the police station Yusufwadgaon. At that time, the wearing pant of the accused was having blood stains. Police Head Constable Vaijanath Nagargoje was present there. Accused told to said Head Constable that he killed his wife by axe due to doubt on her character. The said Police Head Constable took its entry in Station Diary and informed to API Shri. Ubale. The said API Shri. Ubale at that time was not at Police Station. API Ubale instructed Police Head Constable Nagargoje to take the accused in custody and he himself went on the spot. API Ubale reached on the spot at village Dakephal along with panchas and technical staff. The said Ubale found the dead body of wife of the accused in pool of blood with serious injuries on neck, chin and on left hand by sharp weapon. He also found the axe with blood stains lying on the spot and one mobile handset. He prepared panchanama, seized the articles and thereafter, also prepared inquest panchanama and sent the dead body to Government Hospital, Kaij for postmortem. The deceased was the Aarti by name aged about 22 years and wife of accused Bhagwan.

3] The information of death of Aarti reached to her brother Ajay Pawar. The said Ajay Pawar on same day i.e. on 07/02/2023, came at Yusufwadgaon police station and lodged FIR that the accused was torturing his sister Aarti on account of illegal demand for purchasing

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plot and causing cruelty to her. As per FIR, the accused used to beat Aarti mercilessly. On the day of incident, he received telephone call from the brother of accused that there is a quarrel between accused and Aarti and he should come at Dakephal immediately. When he was reaching to Dakephal meanwhile, he received telephone call from Yusufwadgaon police station that the Aarti has been brought at Government Hospital, Kaij. He therefore, reached at Government Hospital, Kaij with his family. At that time, he saw the dead body of Aarti in postmortem room. He came to know from the peoples who were gathered there that accused killed his sister by axe.

4] The Investigating Officer Shri. Ubale after registration of crime, on the basis of above FIR, took the further investigation in his hand. Accused was present at Police Station, therefore, he was arrested formally at Police Station. The said Investigating Officer thereafter, collected the clothes and piece of bangles of the deceased and also seized the wearing clothes of the accused. He obtained viscera and postmortem report. The said Investigating Officer also inspected the mobile handset which has been seized from the spot. Accused disclosed its password for opening it. During the said inspection, it was found that 13 video were captured on 05/02/2023 and 3 videos were captured on 07/02/2023 in the said mobile handset. The Investigating Officer also obtained the CCTV footage of Yusufwadgaon Police Station. The seized property was sent to Chemical Analyzer. After recording the statement of the witnesses, the Investigating Officer come to the conclusion that the deceased was subjected to mental and physical cruelty. The Section 498-A of the Indian Penal Code is added in the crime. At the conclusion of investigation, the Investigating Officer come to the conclusion that accused Bhagwan caused cruelty to his wife and killed her by axe due to having doubt on her character.

Therefore, the Investigating Officer filed charge-sheet for the offence punishable under Section 302 and 498-A of the Indian Penal Code.

5] By order dated 25/04/2024, after compliance of order under Section 207 of Cr.P.C. the Ld. JMFC Kaij, District Beed, committed the case to the Court of Sessions against the accused.

6] My Ld. Predecessor have framed the charges against the accused for the offences punishable under Sections 302, 304-B and 498-A of the Indian Penal Code vide Exh. 15, to which the accused abjured the guilt and claimed to be tried. His defence was that of total denial and false implication.

7] Accused in his statement U/s 313 of Cr.P.C he simply claimed that false case has been foisted upon him.

8] In the light of charge against the accused, evidence lead by prosecution, statements of accused u/s. 313 of Code of Criminal Procedure and submissions across the bar by Ld. APP and the advocate for accused, the following points arise for my determination. I have recorded my findings thereon for the reasons stated here in after :

**POINTS**

**FINDINGS**

- |  |                         |
|--|-------------------------|
| 1] Whether the death of the Aarti is natural/ homicidal/ accidental/ suicidal ?  | <b>Homicidal.</b>       |
| 2] Whether prosecution proved that Aarti was subjected to cruelty or harassment by accused soon before her death ?                                   | <b>In the negative.</b> |
| 3] Whether prosecution proved that accused being a husband subjected Aarti to cruelty with a view to coercing her to meet unlawful demand of dowry ? | <b>In the negative.</b> |

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- 4] Whether prosecution proved that accused have caused the dowry death of Aarti ? **In the negative.**
- 5] Whether prosecution proved that on 07/02/2023 at about 02:00 p.m. to 03:48 p.m. at Dakephal Shivar, Chausa Wasti, in the house of accused, with knowledge and intention caused such bodily injuries to deceased Aarti Bhagwan Thorat resulting into her death ? **In the affirmative.**
- 6] What order ? **Accused is convicted.**

### **REASONS**

#### **AS TO POINT NO. 1 :-**

9] Ajay Pawar is the brother of deceased Aarti. As per his testimony on 07/02/2023, he received telephone call from the brother of accused at about 03:00 to 03:30 p.m. who told him that quarrel took place between his sister Aarti and accused, therefore, he should come at Dakephal. He further deposed that when he reaching to Dakephal, he received telephone call of Shri. Rathod from Yusufwadgaon Police Station in the middle way. The said Rathod informed him on telephone that Aarti has been brought at Government Hospital, Kaij. Therefore, he reached at Kaij Hospital at about 07:30 p.m., and found that the dead body of his sister was kept in postmortem room. He found the deep injuries on the neck and throat of Aarti.

10] As per testimony of Parmeshwar Pawar who is cousin of the deceased Aarti, on 07/02/2023, he was accompanying with Ajay Pawar at postmortem room of Government Hospital, Kaij. He also noticed the deep injuries on the neck and throat of Aarti. As per testimony of IO Ubale on 07/02/2023, at about 03:45 p.m., he received the call from Police Head Constable Nagargoje and accordingly, he

went to the spot of incident. The said spot of incident is the residence of accused which was shown by one Ashok Thorat. When he reached at the spot of incident, he noticed the dead body of Aarti was lying there and having the deep injuries on neck and throat as well as on left hand by sharp weapon. He also noticed one axe was lying on the spot with blood stains.

11] The oral testimony of all the three above said witnesses remain unchallenged on the particular fact that deceased Aarti had received the injuries on her neck as well as on throat. The inquest panchanama duly corroborate the oral testimony of above said three witnesses. The said inquest panchanama is at Exh. 15. The said panchanama has been duly proved by the prosecution through PW-1 Vasant as well as the Investigating Officer Yogesh Ubale. After going through the said inquest panchanama, the above said injuries were found on the person of deceased Aarti. Doctor Sachin Raut PW-6 is the Medical Officer who conducted the postmortem of Aarti on 08/02/2023. As per said witness, he noticed the injuries chop wound as well as contusion on the dead body of deceased Aarti. As per said Medical Officer, the said above injuries were ante-mortem. He issued the postmortem report which is at Exh. 61. As per said postmortem report Exh. 61, the probable cause of death of Aarti is hemorrhagic shock due to multiple chop wounds and the death is homicidal death. After going through the cross-examination of Doctor Sachin Raut, it appears that the accused is not denying his opinion regarding the cause of death of deceased Aarti as well as the death of Aarti is homicidal death. Rather, it is the defence of the accused that some unknown person killed his wife. Considering the said admitted facts and the evidence came on record, I come to the conclusion that the death of Aarti on 07/02/2023

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is homicidal death. Hence, I recorded my findings on point no. 1 accordingly.

**AS TO POINT NO. 2 TO 4:-**

12] As all the points under reference are interlinked with each other, I have decided to answer them at once.

13] What is required to prove the cruelty and dowry death is that the death of a woman is caused otherwise than the normal circumstances within seven years of her marriage and soon before her death, she was subjected to cruelty or harassment.

14] In a case in hand, the marriage of Aarti and accused Bhagwan solemnized in the year 2017. This fact is not disputed by the accused. The homicidal death of Aarti is caused on 07/02/2023. It means that the death of Aarti is caused otherwise than the normal circumstances within seven years of her marriage. However, only said fact is not required to be proved but it is also to be proved by the prosecution that soon before death, Aarti was subjected to cruelty within the meaning of Section 498-A of the Indian Penal Code.

15] Ajay Pawar PW-5 is the brother of the deceased Aarti. As per his testimony, after marriage, Aarti gave birth to two male child namely Viraj and Vedant. Accused maintained Aarti properly after marriage, but, thereafter, started harassment on the count of money for purchasing plot. Accused asked Aarti to bring the amount from parents. Accused always used to beat his sister. Prior to one year of the incident, Aarti was brought to maternal home and thereafter, one month accused along with his relatives had come there. At that time, they convinced the accused and sent his sister with accused for cohabitation. Even, after that accused was beating to Aarti and her

hand was fractured due to said beating. As per testimony of Parmeshwar Pawar, accused maintained Aarti properly only for one year after marriage and thereafter, started harassing her for bringing amount from parents to purchase the plot. Accused used to take doubt on character of Aarti. Prior to two years of the incident, the hand of Aarti was fractured due to beating by accused. Thereafter, Aarti was taken to their village and after 1 ½ month accused along with his relatives came there to fetch Aarti. At that time, it was stated to accused that they are not in a position to fulfill the demand of money. Even, thereafter, accused used to take the doubt on character of Aarti and used to beat her. Whenever, Aarti came to village at that time, she narrated about it to him. As she was having two child, she was fetch back for cohabitation by giving understanding.

16] After careful scrutiny of the testimony of Parmeshwar and Ajay, it appears that though they are stating that Aarti was subjected to cruelty for purchasing the plot, but, during cross-examination their testimony not appears to be reliable. It is because, both the witnesses though, brother of the deceased Aarti but they have not lodged any police complaint regarding such unlawful demand of accused and alleged cruelty caused to the Aarti. As per Parmeshwar, prior to four to five months ago of the incident Aarti lastly came to their village. However, as per Ajay who is real brother of Aarti he meet with her prior to two to three days of her death. Apart from that during cross-examination he further stated that he had brought Aarti to his home prior to 15 days of the incident. It means that Aarti was in contact with her brother soon before her death. However, she has not narrated any incident of cruelty to her brother. It is because, if, it was so, then, her brother might have taken some action and not sent back Aarti for

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cohabitation to village Dakephal. The cruelty within the meaning of Section 498-A of the Indian Penal Code is the conduct of the accused of such a nature which compel the victim to commit suicide or highly impossible to reside with the accused. Apart from that during cross-examination, Ajay Pawar stated that when her sister meet with him prior to 15 days of the incident, at that time, accused was not intending to purchase any plot or any agricultural land. Parmeshwar Pawar during his cross-examination admitted that accused was running the tractor repairing shop and having the good income from it. This shows that there was no occasion for the accused to make the unlawful demand of money for purchasing the plot. Apart from that the said allegations of demand are appears to be vague in nature as no specific time, date or incident has been stated by both the witnesses. No doubt, the death of Aarti is under suspicious circumstances and it is a homicidal death within the seven years of her marriage, but, it cannot be said that the said death of Aarti is due to demand of dowry and due to cruelty. Considering this evidence, I come to the conclusion that prosecution failed to prove that Aarti was subjected to cruelty or harassment by accused soon before her death, accused being a husband subjected Aarti to cruelty with a view to coercing her to meet unlawful demand of dowry and accused have caused the dowry death of Aarti. Hence, I recorded my findings on point no. 2 to 4 in the negative.

**AS TO POINT NO. 5:-**

17] The entire case of the prosecution is based on circumstantial evidence. In view of that it was necessary to see that whether the entire connected chain of circumstances are proved by the prosecution or not.

18] Vaijenath Nagargoje PW-3 is the Police Head Constable of Yusufwadgaon Police Station. As per his testimony, on 07/02/2023, he was working as Police Station Officer at Police Station, Yusufwadgaon. At about 15:12 accused came into police station and stated to him that he had killed his wife Aarti before some time by taking doubt on her character. Accused also disclosed to him that he gave the blow of axe on the head of Aarti. As per said Vaijenath Nagargoje he took the accused in custody and notice the blood stains on his jean pant. He immediately gave the information to Assistant Police Inspector Shri. Ubale and took the entry in station diary register. The said station diary entry is at Exh. 37.

19] It is the cardinal principal of law that the statement made by the accused to Police is not admissible in evidence except Section 27 of the Evidence Act. In such circumstances, the fact that accused disclosed to Shri. Nagargoje that he had killed his wife by axe on doubt on her character is not admissible.

20] The Ld. Advocate for the accused argued that the entry at station diary Exh. 37 is not reliable document. As per his submission, the said Exh. 37 has been signed by API Ubale who was not present at Police Station during relevant time. However, after careful reading of Exh. 37, it appears that it is a computer print and it mentioned that the entry has been made by Vaijenath Nagargoje at 03:48 p.m. The said station diary entry shows that the information has been given to API Ubale and Shri. Ubale has been sent to the spot of incident. No doubt, the station entry has been signed by API Ubale, but, it is a official procedure, therefore, the said API Ubale signed the station diary entry as being the In-charge of Police Station. The suggestion has been given to Shri. Nagargoje by accused that he is having the independent

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account in software system of computer and the entry Exh. 37 has been taken by him from the account of API Ubale. This shows that the facts remains that at 03:48 the entry has been taken in station diary.

21] The Ld. APP argued that the presence of accused at Police Station with blood stains wearing clothes is a conduct of the accused and it is relevant. He invited my attention towards the CCTV footage of the Police Station recorded in DVD Article-K. On the other hand, the Ld. Advocate for accused argued that the said evidence is not admissible as the proper procedure has not been followed while recording the said CCTV footage in DVD.

22] As per case of the prosecution, CCTV footage of the Police Station dated 07/02/2023 has been copied by Sachin Ahankare PW-9 who was working as eye-bike employee at Sub-Divisional Police Officer Office, Kaij. It means that the said DVD is not the primary evidence. In such circumstances, it was necessary to support the said electronic evidence by certificate as required under Section 65-B of the Indian Evidence Act. On behalf of the prosecution, certificate Exh. 81 has been filed on record. However, the said certificate Exh. 81 is not appears to be admissible as it is not as per provisions of Section 65-B of the Evidence Act. After going through the said certificate Exh. 81, it appears that the said certificate has been issued for the purpose of calculating the hash value of video shooting and it mentioned the use of software for drawing the hash value as well as the information about the DVD. However, what is required under Section 65-B of the Evidence Act is that it should authenticate digital evidence to prove that they are genuine, not tampered and produced by computer in the regular course of business. The certificate must be signed by a person in a responsible position over the device, identifying the electronic record, describing its production and certifying the device's proper

functioning. The said certificate must be issued by the person who owns or operates the original device on which the data was first created rather than just the person who transferred the data. However, in a case in hand, said Sachin Ahankare is not the authorized person to issue the certificate under Section 65-B of the Evidence Act.

23] No doubt, the certificate Exh. 81 is not admissible, but, the oral evidence of Shri. Nagargoje appears to be reliable and cogent. Nothing came on record during cross-examination to disbelieve the testimony of Shri. Nagargoje regarding the entry of accused with blood stains clothes at Police Station. His testimony cannot be discarded only on the ground that he is a Police Officer. It is well settled principal of law that every person is a competent witness unless it is considered that he is preventing from understanding the question or from giving rational answers to those questions. The presumption of honest witness is equally applicable to the Police Officers also. In such circumstances, it was necessary to see that what was the occasion for the accused to went at Police Station in blood stains clothes. The accused in his statement as required under Section 313 of the Code of Criminal Procedure gives the explanation that some unknown person killed his wife and he reached at home, trying to lift his wife and thereafter, went to police station for lodging the FIR. However, the said defence rather we may say the explanation is not appears to be probable one. It is because, nothing came on record that on the basis of complaint lodged by accused the crime has been registered at Police Station, Yusufwadgaon. Thus, the oral evidence of Shri. Nagargoje duly corroborated by the station diary entry Exh. 37. From this, prosecution proved that accused entered into Police Station on 07/02/2023 at about 15:12 p.m.

24] Yogesh Ubale is the Investigating Officer of the present crime. As per his testimony, on 07/02/2023 at about 03:45 p.m., he received a telephone call from Police Station that accused had come at Police Station wearing with blood stains clothes. He himself instructed Nagargoje to take the accused in custody and make the entry in station diary. He also instructed Nagargoje to make the entry in station diary thereby he himself has been departed to the spot of incident. He further deposed that thereafter, he went on the spot which was shown by one person Ashok Thorat. He obtained two panchas from Z. P. School, Dakephal and thereafter, went on the spot. He found the dead body of Aarti lying in a ground with injuries. He also noticed one axe was laying on the spot with blood stains. Thereafter, he entered inside of the house and noticed that one black colour covered mobile handset on a bed and also noticed the blood stains on the wall. He collected blood samples and articles from the spot and prepared spot panchanama Exh. 14 in presence of panchas.

25] The panch witness Vasant Tarkasband has been examined by the prosecution who also identified his signature on the panchanama and thereby proved the said panchanama. Nothing came on record during cross-examination to disbelieve the testimony of the said panch witness. The suggestion has been given to the witness that when he reached on the spot all the household articles were scattered on the spot. The suggestion was also given that accused also came there after one hour when they reached on the spot. This shows that the presence of panch witness on the spot is not denied by the accused. After going through the panchanama Exh. 14, it appears that the spot of incident is the residential house of the accused. It also appears from the said panchanama that the dead body of Aarti was lying and blood stains axe was lying on the ground. It also appears

from the said panchanama that the Mangalsutra of Aarti was scattered on the ground. It also appears from the said panchanama that one mobile handset was lying on the bed in the room. The said panchanama Exh. 14 shows that the axe has been seized by the Investigating Officer as well as blood samples were collected from the spot and one mobile handset of Redmi company also has been seized.

26] As per testimony of Investigating Officer Shri. Ubale, he prepared inquest panchanama and thereafter, returned to Police Station. As per his testimony, he asked the brother of the deceased to lodge complaint. Investigation was handed over to him. After that he duly arrested the accused who was in Police Station and prepared arrest panchanama as per Exh. 68. He also seized the clothes of the accused in presence of panchas as per Exh. 33. The said panchanama Exh. 33 has been proved by the prosecution through the witness Ambadas Shinde. The said seizure panchanama Exh. 33 shows that the clothes of the accused were stained with blood.

27] The Ld. Advocate for the accused argued that the blood sample of the accused as well as the blood stains found on the clothes of the deceased were not compared with the blood stains found on the clothes of the accused. In view of that it cannot be said that the blood found on the clothes of the accused is of deceased Aarti. However, the said argument is not appears to be convincing. It is because, the accused is not denying the fact that there were blood stains on his clothes. The accused himself gave the explanation that he tried to lift his wife, therefore, his clothes were stained with blood. In view of that explanation it was not necessary to again establish that the blood stains found on the clothes of the accused were from the blood of Aarti.

28] The seizure cum spot panchanama Exh. 14 shows that the axe was seized from the spot of incident which was stained with blood. The said axe is at Article-A. As per Doctor Sachin Raut, the injuries found on the body of Aarti are possible due to use of axe Article-A. It has not been suggested to the Medical Officer that the injuries found on the body of Aarti are not possible due to the axe Article-A. The said Article-A is a sharp weapon and the injuries found on the body of Aarti are possible if semi sharp weapon is used.

29] Ajay Pawar who is the brother of deceased Aarti lodged FIR at Police Station, Yusufwadgaon. After going through his testimony, it appears that on 07/02/2023, when he was reaching to Dakephal at the house of his sister, he received telephone call from Police Station, Yusufwadgaon. He went to the hospital, Yusufwadgaon and thereafter, lodged FIR as per Exh. 47. As per his testimony, accused used to beat his sister and prior to one year of the incident he had taken his sister to his village and thereafter, his sister had gone to the house of the accused. Even after that accused used to beat his sister and her hand was fractured due to said beating. Parmeshwar Pawar duly corroborated the testimony of Ajay Pawar by deposing that accused was taking the doubt on the character of Aarti and the hand of Aarti was fractured prior to two years of the incident. Both the witnesses are villagers. In such circumstances, it is not proper to expect the exact details of the beating by the accused to deceased Aarti. However, the fact remains that due to beating by accused, the hand of Aarti was fractured. The evidence regarding the fracture of the hand of Aarti due to beating by the accused is remained unchallenged. Thus, from the said evidence it is proved that accused was always beating to Aarti by taking doubt on her character.

30] The Ld. APP again invited my attention towards the DVD Article- I and Article- J. These are the DVD's which contains the video clipping recorded in the mobile handset of the accused. As per testimony of Investigating Officer Shri. Ubale, he inspected the mobile handset of the accused and noticed that on 05/02/2023, 13 videos has been recorded and 3 videos were recorded on 07/02/2023. As per Investigating Officer he prepared the CD's of the said video clipping. However, the said CD cannot be used in evidence for want of certificate under Section 65-B in a proper form as required under Section 65-B of the Indian Evidence Act.

31] As per Investigating Officer and seizure panchanama, the mobile handset of the accused has been seized from the spot. It is not came on record that how the mobile handset of the accused came on the spot when as per defence of accused he was not present at home, but, he was present at his shop at the time of incident. The Ld. Advocate for the accused argued that the prosecution has not proved the ownership of said mobile handset with the accused. However, after going through the evidence of Investigating Officer, it appears that the password of the mobile handset was stated by the accused in Police Station. The said testimony of Investigating Officer is duly supported by the testimony of Sachin Ahankare who also deposed that the password of the mobile was disclosed by the accused. The password of the mobile handset is the fact which is exclusive in the knowledge of the accused. The Investigating Officer unlock the mobile handset on the basis of information furnished by the accused. The said information provided by the accused is not hit by Section 25 and 26 of the Evidence Act, but, it is admissible under Section 27 of the Evidence Act. This itself proves that the mobile handset of the accused was found on the

spot of incident where the Aarti was killed. As I discussed above, the testimony of Police Officers Shri. Vaijenath Nagargoje and Shri. Yogesh Ubale is found to be reliable and cannot be discarded only on the ground that they are the Police Officers. It is not a case of the accused that both the Police Officers having inimical terms with him and they have falsely implicated him. In such circumstances, the testimony of Vaijenath Nagargoje and Yogesh Ubale is found to be cogent, reliable and trustworthy.

32] The reliance has been put by the accused on the judgment of the Hon'ble Supreme Court in case of ***Nandu Singh V/s. State of Madhya Pradesh 2022 Live Law SC 229***. It has been argued that there is no motive in a case in hand which is in favour of the accused. However, it is no so in the case in hand. It is because the accused Bhagwan was taking the doubt on the character of Aarti and he was having grudges against the Aarti in his mind.

33] In case of ***Prafulla Sudhakar Parab V/s. State of Maharashtra 2016 (3) ACR 2573***, the Hon'ble Supreme Court laid down the principal that the absence of clear motive does not necessarily undermine the prosecution case if other circumstantial evidence is compelling.

34] The reliance has been put by the accused on the judgments of the Hon'ble Apex Courts in case of ***State of UP V/s. Madan Mohan (1989) AIR (SC) 1519***, in which the Hon'ble Supreme Court held that withholding of eye-witnesses of the thickly populated locality may put doubt on the prosecution version. In a case in hand, no doubt, the house where the Aarti is killed is surrounded by the other houses, but, it cannot be ignored that the said houses are of relatives of the accused Bhagwan. Presently, the tendency of the peoples is growing that not to

came forward to assist the Police. It doesn't mean that only eye-witness can prove the allegations against the accused. The material produced by the prosecution itself sufficient to prove the guilt of the accused then Court should not insist the evidence from other witnesses.

35] Accused also put reliance on the judgment of the Hon'ble Supreme Court in case of ***Narayan Yadav V/s. State of Chattisgarh 2025 ALL SCR (Cri) 1914***. However, the facts before the Hon'ble Supreme Court was that on the basis of confession statement by accused, FIR was registered. In a case in hand, it is not so.

36] The reliance has been put on the judgment of the Hon'ble Supreme Court in case of ***Dasari Sivaprasad Reddy V/s. The Public Prosecutor, High Court of AP, 2004(4) Criminal CC 697***. In the said case, the Hon'ble Supreme Court observed that if, the offence is not proved beyond doubt that accused was in house on the night of murder, then, the said suspicion cannot be basis of conviction. The facts of the present case are entirely different than the facts before the Hon'ble Supreme Court.

37] The reliance has been put on the judgment of the Hon'ble Supreme Court in case of ***Narsinbhai Prajapati V/s. Chhatrasingh Kanji, 1977 DGLS (SC) 84***. In the said case, only recovery of blood stains clothes from the accused are not sufficient to sustain the charge of murder. However, in a case in hand, the seizure of the clothes of the accused also supported by the other incriminating material such as mobile handset found on the spot of incident is material.

38] Accused also put the reliance on the judgment of the Hon'ble Bombay High Court in case of ***Kisan Pal V/s. State of***

**Maharashtra DLD (Cri) 2022 1471.** In a case before the Hon'ble Bombay High Court, the statement of accused before Police was admitted as a evidence by the Trial Court. However, it is not so in the case in hand.

39] The reliance has been put by the accused on the judgment of the Hon'ble Bombay High Court in case of **Ramesh Shelke V/s. State of Maharashtra DLD (Cri) 2023 2894.** The Hon'ble Bombay High Court held that merely because the accused is husband of the deceased and she was found murdered in her house, the presumption under Section 106 of the Indian Evidence Act are not attracted. However, in a case in hand, the facts are different.

40] In a case in hand, the accused made a false statement that some unknown person killed his wife and he sustained blood stains on his clothes when he tried to lift his wife. The said statement of accused is proved to be a false statement. This false statement is also significantly in the chain of circumstantial evidence. The accused Bhagwan himself went to the Police Station and give the information. On the basis of said information, the Investigating Officer reached on the spot. The fact of reaching accused at Police Station along with its entry in station diary itself is admissible as a conduct of accused under Section 8 of the Indian Evidence Act.

41] In case of **Swami Shradhanand V/s. State of Karnataka (2007) 12 SCC 288,** it was enunciated by the Hon'ble Supreme Court that if, it is proved that the deceased died in an unnatural circumstances in her bedroom which was occupied only by the deceased and her husband, law requires the husband to offer and explanation in this behalf. Absence of any explanation by the husband would lead to an inference which would lead to a circumstances against

the accused.

42] The accused Bhagwan was taking the doubt on the character of Aarti and he was having grudges in his mind against the Aarti. This fact is duly proved by the both brothers of Aarti. The mobile handset found on the spot of incident is of the accused. The blood stains were found on the clothes of the accused. The entry of the accused at Police Station and the important fact is that the deceased Aarti has been killed in the house of the accused. All these chain of circumstances duly proved by the prosecution. From this facts it is proved that accused was taking doubt on the character of Aarti. He use the axe to gave the blow on the neck and throat of the Aarti. This shows that he was having intention to kill the Aarti. Use of axe for causing injuries on neck and throat by the accused shows that he was having knowledge that such injuries would cause the death of Aarti. This chain of circumstances duly proved that accused Bhagwan killed his wife Aarti. Thus, I come to the conclusion that on 07/02/2023 at about 02:00 p.m. to 03:48 p.m. at Dakephal Shivar, Chausa Wasti, in the house of accused, with knowledge and intention caused such bodily injuries to deceased Aarti Bhagwan Thorat resulting into her death. Hence, I recorded my findings on point no. 5 in the affirmative and hold accused guilty.

**AS TO POINT NO. 6:-**

43] The prosecution successfully established that the accused Bhagwan killed his wife Aarti by taking doubt on her character hence, accused Bhagwan is hold guilty for the murder of his wife Aarti, it was necessary to heard the accused on the point of sentence. Hence, I took pause in order to hear the accused on the point of sentence.

44] Heard accused in person as well as the Ld. Advocate for the accused. On behalf of accused it has been submitted that he is the only male member of his family and having two small children. His old age parents are depend on him.

45] On the other hand, the Ld. APP submitted that the punishment provided as per law be awarded to the accused in view of brutal murder of his wife.

46] Heard both sides and considered the aggravated circumstances and mitigating circumstances, in order to award the punishment. It appears that the wife of accused Aarti was residing in a custody of the accused as being wife. The accused use to take the doubt on her character. Accused used the axe and gave its multiple blow on the person of the Aarti. The accused is having two kids and old parents is not a circumstances to show leniency in case of murder. Apart from that at the time of hearing the accused on sentence he nowhere plead regret for his act. This shows that there are no chances for rehabilitation of the accused. So, considering all these circumstances, in answer to this point, I proceed to pass following order;

### **ORDER**

- 1] Accused Bhagwan Shahurao Thorat is hereby convicted for the offences punishable under Section 302 of the Indian Penal Code vide Section 235(2) of the Code of Criminal Procedure.
- 2] Accused Bhagwan Shahurao Thorat is sentenced to suffer life imprisonment and to pay fine of Rs. 10,000/-. In default of payment of fine, accused to suffer simple imprisonment for three months.

- 3] The benefit of set off under Section 428 of Cr.P.C. be extended to accused Bhagwan Shahurao Thorat against substantive sentence, as he is in jail from 08/02/2023.
- 4] The accused Bhagwan Shahurao Thorat is hereby acquitted for the offences punishable under Section 498-A and 304-B of the Indian Penal Code vide Section 235(1) of the Code of Criminal Procedure.
- 5] The seized muddemal property i.e. Mangalsutra having yellow black and golden bids Article C be returned to its owner, if claimed, after appeal period is over.
- 6] The seized muddemal i.e. the plastic bottle and cotton-Article B collectively, blue coloured jeans pant-Article-E, blue coloured shirt- Article-F, Saree-Article-G, Blouse- Article-H, Two DVD- Article-I and J respectively and one DVD- Article-K, being worthless, be destroyed after appeal period is over, as per rules.
- 7] The seized muddemal i.e. axe Article-A be sent to District Magistrate for disposal according to law after appeal period is over.
- 8] The seized muddemal i.e. Mobile Article-D be returned to its owner, on due verification, after appeal period is over.
- 9] The other marked or unmarked muddemal, if any, be destroyed after appeal period is over, as per rules.
- 10] The copy of Judgment be given to accused Bhagwan Shahurao Thorat, free of costs.

(26)

11] As the matter is disposed off by this judgment, the record and proceeding be sent to the Record Department.

(Judgment pronounced in open Court.)

Kaij,  
Date : 25/03/2026

(S. B. Bhajipale)  
Additional Sessions Judge, Kaij

( 27 )

Sessions Case No. 257/2023  
CNR No.MHBI180020852023  
(Judgment) (Exh.88/A)

CERTIFICATE

I affirm that the contents of this P.D.F. file Judgment/order are word to word, as per the original Judgment/order.

Dictated on : 25/03/2026  
Transcribed on : 25/03/2026  
Checked and signed on : 25/03/2026

Sd/-  
(G. N. Ghayal)  
Stenographer Grade I