

MHLA010043382023



Presented on : 08/11/2023
Registered on : 08/11/2023
Decided on : 17/07/2026
Duration : 2Y. 8 M. 10 Ds.

SC Case no.149/2023

Exh. 204

Form no.XXXII

Part 'A'

(Para 44(i) of Chapter VI of Criminal Manual)

<u>IN THE COURT OF SESSIONS JUDGE, LATUR</u> (Presided over by Shri S.J. Bharuka, Sessions Judge, Latur)		
(Arising out of FIR no.67/2023 registered with Gategaon Police Station, for the offence punishable under Sec. 302, 120-B, 341, 504 read with Sec. 34 of Indian Penal Code)		
Complainant/ Prosecution		State of Maharashtra, Through Police Station Officer, Gategaon Police Station, Tq. & Dist. Latur
Presented by		Shri. S.V. Deshpande, A.P.P.
Accused	1.	Pooja Hanmant Katare, Age- 30 Years, Occu.- H.H., R/o. Jawala(Bu), Tq. & Dist. Latur, At present Thombare Nagar, Murud Tq. & Dist. Latur.
	2.	Nirmala Pandurang Dayal, Age- 50 Years, Occu.- H.H., R/o. Thombare Nagar, Murud Tq. & Dist. Latur.
	3.	Rajendra Vidyadhar Nitale, Age- 54 Years, Occu.- Labour, R/o. Borgaon Kale, Tq. & Dist. Latur.
	4.	Dattatraya Nagnath Londhe, Age- 55 Years, Occu.- Labour, R/o. Jagji, Tq. & Dist. Osmanabad.
Represented by Advocate		Adv. Mr. N.S. Shinde / Adv. Mr. S.R. Bajaj for accused nos.1 & 2. Adv. Shri. S.M. Bawage for accused no. 3 Adv. Shri.G.P. Katala/A.D. Mane for accused no. 4

Part-'B'
(Para 44(ii) of Chapter VI of Criminal Manual)

Date of Offence	18/07/2023
Date of F.I.R.	18/07/2023
Date of Chargesheet	08/11/2023
Date of Framing Charge	13/05/2024
Date of Commencement of evidence	16/12/2024
Date on which judgment is reserved	13/07/2026
Date of the Judgment	16/07/2026
Date of Sentencing order, if any	--

Accused Details

Rank of the accused	Name of the accused	Date of arrest	Date of release on bail	Offences charged with	Whether the accused is acquitted or convicted	Sentence imposed	Period of detention undergone during trial for the purpose of section 428 of Cr.P.C.
(1)	Pooja Hanmant Katare	21/7/23	UTP	Sec. 302, 120B, 341, 504 r.w. 34 of IPC	acquitted	---	21.07.2023 to till this date
(2)	Nirmala Pandurang Dayal	21/7/23	21/11/25	--"---"	acquitted	---	21.07.23 to 21/11/25
(3)	Rajendra Vidyadhar Nitale	21/7/23	UTP	--"---"	acquitted	---	21.07.23 to till this date
(4)	Dattatraya Nagnath Londhe	21/7/23	26/8/24	--"---"	acquitted	---	21.07.23 to 26.08.24

Part 'C'
(Para 44(iii) of Chapter VI of Criminal Manual)

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

Prosecution Witnesses:

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Other witnesses)
PW-1	Ankush Pawar (Exh.61)	Inquest Panch

PW-2	Dashrath Giri (Exh.69)	Muddemal carrier
PW-3	Rameshwar Satpute (Exh.73)	Witness
PW-4	Laxmibai Katare (Exh.76)	Witness (mother of deceased)
PW-5	Ram Ghute (Exh.77)	Witness
PW-6	Datta Katare (Exh.80)	Witness
PW-7	Anil Ingale (Exh.81)	Witness
PW-8	Nilkanth Gund (Exh.82)	Panch on disclosure & seizure of iron pipe and wooden handle.
PW-9	Janabai Ghute (Exh. 86)	Witness
PW-10	Vikas Katale	Witness on spot & seizure (i.e. sickle, broken spectacle & clothes of deceased)
PW-11	Dr. Pramod Tike (Exh.105)	Medical Officer
PW-12	Dattaram Angre (Exh. 131)	Nodal Officer (Vodafone/Idea)
PW-13	Tushar Nalawade (Exh. 141)	Nodal Officer (Airtel)
PW-14	Saraswati Uphade (Exh. 160)	Witness
PW-15	Sagar Ghute (Exh. 164)	Witness
PW-16	Dnyandeo Sanap (Exh. 167)	Investigating Officer
PW-17	Babasaheb Nagargoje (Exh.189)	Witness

Defence Witnesses, if any:- Nil

Court Witnesses, if any:- Nil

LIST OF PROSECUTION/DEFENCE/COURT EXHIBIT

Prosecution Exhibits:

S.N.	Exh. nos.	Description
1)	01	Charge sheet
2)	39	Charge
3)	62	Inquest panchanama
4)	70	Letter issued by I.O. to C.A.Office, Nanded.
5)	83	Disclosure panchanama
6)	84	Seizure panchanama of iron rod & wooden handle.
7)	85	Specimen handwriting panchanama of accused no.1
8)	90	Spot panchanama
9)	91	Seizure panchanama (clothes of deceased)

S.N.	Exh. nos.	Description
10)	106	Post-Mortem Report
11)	107 & 108	Letter issued by I.O. to M.O for obtaining weapon query report & Weapon Query Report
12)	109	Specimen handwriting of accused no. 1 (6 papers)
13)	132, 133 & 134	Letter asking details of mobile no. 9860607094, details issued by the company & CDR information.
14)	135	Certificate u/s. 65B of Indian Evidence Act.
15)	136,137 & 138	Information of cell no. 9011995504 given by company, CAF information said cell number and its CDR Information
16)	139	Certificate u/Sec. 65-B of Indian Evidence Act.
17)	142	CDR information letter in respect of Cell nos. 9067995672, 9763781693, 9970973392 & 8623892974.
18)	143	Certificate u/Sec. 65B of Indian Evidence Act.
19)	144 to 147	CAF information of Cell nos. 9067995672, 9763781693, 9970973392 & 8623892974.
20)	148 to 152	Tower location details of cell nos. 9763781693, 9970973392, 9860607094, 8623892974 & 9067995672.
21)	153 to 157	CDR of cell nos. 9860607094, 9763781693, 9067995672, 8623892974 & 9970973392.
22)	168 to 171	Arrest forms of accused nos. 1 to 4
23)	172 & 173	Seizure panchanama of clothes of accused nos. 3 & 4.
24)	174	Seizure panchanama of Indigo Car.
25)	175	Letter issued by I.O. to the Chief State Examiner of Documents for seeking opinion about handwriting of accused no.1 Pooja.
26)	176	Handwriting Expert Opinion.
27)	177	Letter found in the pocket of Hanmant (deceased) purported to be suicide note prepared by Hanmant.
28)	178 & 179	06 specimens of handwriting of accused no. 1 Pooja & its Opinion.
29)	180	Letter issued to MO for collecting blood sample of accused nos. 3 & 4.
30)	181	Letter issued by I.O. to S.P. Latur for obtaining CDR.

S.N.	Exh. nos.	Description
31)	182	Report issued by API, Gategaon Police Station in the name of APP mentioning that Shrimant Ghute is not the accused in the present crime and he may be released on bail.
32)	183	Letter issued by API to file CDR/SDR and C.A. Reports on record.
33)	184 to 186	C.A. Reports.
34)	190	Statement of Pooja / which came to be registered as complaint.
35)	193 to 196	Statement u/Sec. 313 of Cr.P.C. of accused nos. 1-4.

Defence Exhibits:

Sr.no.	Exh nos.	Description
1)	187	Letter send by P.M. Rathod, API, LCB, Latur to Gategaon Police Station in respect of apprehension of accused nos. 3 & 4.

Court Exhibits: Nil

Material Objects:

Sr.no.	Material Object Number	Description
1)	Article-A	Broken spectacle
2)	Article-B	Sickle
3)	Article-C	Clothes of deceased
4)	Article-D	Iron pipe
5)	Article-E	Wooden handle
6)	MO-1 & 2	Clothes of accused no. 3 i.e. cement color pant & white color shirt.
7)	MO-3 & 4	Clothes of accused no. 4 i.e. ash color pant & orange color shirt.
8)	MO-5	Big sealed envelope sent by CID Office, having opinion of specimen signature.
9)	MO-6	White sealed envelope mentioning "Opinion AHW/205/2023".

J U D G M E N T

(Delivered on 17/07/2026)

01. Accused persons are facing trial for the offence punishable under Section 302, 120(B), 341 and 504 read with Section 34 of Indian Penal Code.

02. Case of prosecution in brief is as follows:-

Pooja (accused no.1) is wife of Hanmant (deceased), initially she lodged report that on 18/07/2023 at about 12.00 noon, she was proceeding with her husband Hanmant on motorcycle, when they reached under Dhakni railway bridge, situated at village Ramegaon, at that time Shrimant Ghute and one unknown person stopped their motorcycle and assaulted Hanmant and committed his murder, accordingly crime no. 108/2023 came to be registered in Gategaon Police Station against said Shrimant Ghute and one unknown persons.

03. It is further story of prosecution that, during the investigation, on the basis of confessional statement of Pooja, it was transpired that, she was fed up with the behavior of Hanmant, hence, she hatched conspiracy with her mother Nirmala (accused no.2), they hired services of Rajendra Nitale (accused no. 3) and Dattatraya Londhe (accused no. 4), accordingly accused nos. 3 & 4 made assault on Hanmant and committed his murder, accordingly, investigating officer made all of above as accused and arrested them.

04. During investigation, spot panchanama and inquest panchanama came to be prepared, autopsy came to be performed in the civil hospital, Latur, accused no. 3 Rajendra Nitale gave

disclosure statement, pursuant to that he produced iron pipe and wooden handle, which came to be seized under recovery panchanama, doctor gave weapon query report, seized muddemal came to be forwarded for chemical analysis, specimen of hand writing of accused no. 1 Pooja came to be obtained and sent to get opinion and after completion of investigation charge-sheet came to be filed. As offence is exclusively triable by the Court of Sessions, hence matter was committed.

05. Charge came to be framed by my predecessor below Exh. 39 for the offence punishable under Section 302, 120(B), 341, 504 read with Section 34 of the Indian Penal Code, contents were read over to the accused persons in vernacular, they pleaded not guilty and claimed to be tried. After examination of prosecution witnesses, statement under section 313 of the Code of Criminal Procedure, came to be recorded. Defence of accused persons is of denial and false implication.

06. On the basis of facts of the case, following points arose for my determination and my finding against them with the reasons thereof are as under:

	Points	Findings
1)	Whether prosecution proves that death of Hanmant Katare is homicidal death?	Proved
2]	Whether prosecution proves that on 18/07/2023 in between 11.30 a.m. to 12.00 noon, under the railway bridge, on Dhakni road, in the vicinity of village Ramegaon, Tq. & Dist. Latur in furtherance of their common intention all the accused committed murder of Hanmant Katare,	Not Proved

	Points	Findings
	intentionally assaulting him and thereby committed an offence punishable under Sec. 302 read with Sec.34 of the Indian Penal Code ?	
3]	Whether prosecution proves that, on the aforesaid date, time and place, all the accused in furtherance of their common intention, agreed to do illegal acts or caused to be done illegal means to commit murder of Hanmant and have done act of committing murder of Hanmant in pursuance of their agreement and thereby they committed an offence punishable under Sec. 120(B) read with Sec. 34 of the Indian Penal Code ?	Not Proved
4]	Whether prosecution proves that on the aforesaid date, time and place all the accused in furtherance of their common intention, wrongfully restrained Hanmant and thereby committed an offence punishable under Sec. 341 read with Sec.34 of the Indian Penal Code ?	Not Proved
5]	Whether prosecution proves that on the aforesaid date, time and place, all the accused in furtherance of their common intention, insulted Hanmant in filthy language and thereby gave provocation to him intending or knowing it to be likely that such provocation would cause him to break public peace and thereby committed an offence punishable under Sec. 504 read with Sec.34 of the Indian Penal Code ?	Not Proved
6]	What order ?	As per final order.

Submission of Prosecution

07. Learned DGP S.V. Deshpande submits that, Pooja (accused no.1) was fed up due to behavior of Hanmant, hence she hatched conspiracy with accused Nos. 2 to 4, accordingly, murder

was committed by accused nos. 3 & 4, but to save herself, she lodged false complaint naming one Shrimant Ghute as accused, but during the investigation involvement of Pooja and others came to be revealed, hence, investigating officer made them accused. He further submits that prosecution examined Ram Ghute (P.W.5), Datta Katare (P.W.6) and Sagar Ghute (P.W.15) to show that it was the Pooja, who was in the company of Hanmant (deceased) lastly, after the incident she made phone call to above named witnesses, who rushed to the spot of incident, they saw Pooja was calm and cool in spite of such a serious incident, Pooja was reluctant to disclose description of assailants.

08. He further submits that Laxmibai (P.W.4) has deposed that Hanmant was having suspicion on the character of Pooja, due to conduct of Pooja, prosecution proved homicidal death by examining Dr. Tike (P.W.11) and by examining inquest panch, prosecution examined nodal officer of relevant cellular company to show that accused nos. 1 to 4 were in contact with each other during the relevant period, there is recovery of articles at the instance of accused no. 3 as per the provisions of Sec. 27 of the Indian Evidence Act, though case of prosecution based on circumstantial evidence, prosecution succeeded to establish all the chain of circumstances beyond reasonable doubt. Hence, all the accused may be convicted.

Submission of Defence

09. Whereas, learned Adv. Mr. N.S. Shinde for accused nos. 1 & 2 submits that, motive brought on record by the prosecution is not digestible, as accused no. 2 Nirmala is real sister of Hanmant, whereas accused no. 1 Pooja is daughter of Nirmala and wife of

Hanmant, married life of Hanmant and Pooja was happy and satisfied, no one can imagine to commit murder of close relatives due to petty domestic issues, which occurs in every house, alleged confessional statement given by Pooja cannot be used against her as it is statement made before the police, which hits by the provision of Sec. 25 & 26 of the Indian Evidence Act, though it is alleged that there was conspiracy hatched by the accused persons and they hired services of accused nos. 3 & 4, but no cogent and reliable evidence has come on record to that effect, no iota of evidence has come on record as far as accused no. 2 Nirmala is concerned, who is old aged house hold lady, prosecution has miserably failed to prove any of the circumstances against accused nos. 1 & 2 and hence, they are entitled to be acquitted.

10. Learned Adv. Mr. Bavge for accused no. 3 submits that, though it is the case of prosecution that Rajendra Nitale took Indigo vehicle from Rameshwar P.W.3, but no specific date has come on record in the evidence of Rameshwar, alleged recovery at the hands of accused no. 3 came to be made from open place, which is highly doubtful, though it is the case of prosecution that accused nos. 1 & 2 hired services of accused nos. 3 & 4 by paying Rs. 1 lakh to them, no such amount came to be seized and no details has come on record as to when and where said amount came to be paid, prosecution failed to show any participation of accused no. 3 and hence he may be acquitted.

11. Learned Adv. Mr. Mane for accused no. 4 submits that in confessional statement of Pooja, there is no reference of the name of accused no. 4, investigating officer failed to show that as to how and

from whom involvement of accused no. 4 was revealed to him, there is no recovery of articles at the instance of accused no. 4, CDR and tower location report do not show involvement of accused no. 4, investigating officer failed to trace out real culprit and hence, he carried out investigation in wrong direction assuming that accused persons are real culprit, no evidence has come on record against accused no. 4 and hence, he may be acquitted.

12. I have given thoughtful consideration to the arguments advanced by both the advocates. I have also perused written notes of argument submitted by learned DGP and learned advocate for defence. I have also carefully gone through all the evidence led by the prosecution and proved documents on record. Bearing in mind submissions made by both the advocates and ingredients of Sections 302 of Indian Penal Code, now, I proceed to discuss and appreciate the evidence led by prosecution.

REASONS

As to point no. 1 :-

13. To prove the fact that, death of Hanmant is homicidal, prosecution placed reliance on the evidence of Dr. Pramod Tike (P.W.11) and Ankush Pawar (P.W.1), postmortem report (Exh. 106) and inquest panchanama (Exh. 62).

14. Dr. Tike (P.W.11), who conducted autopsy has deposed that, he found external injuries over the dead body of Hanmant including i) contused lacerated wound over midline of frontal and parietal region exposing underlying skull of size 07 X 0.50 cm in length, ii) contused lacerated wound left side of frontal and parietal region of size 5 cm in length, iii) contused lacerated wound left side

of frontal region 1 x 1 cm. and iv) Contused lacerated wound over right leg upper 3rd of size 2 x 2 cm with corresponding fracture of right tibia and fibula.

15. Dr. Tike further deposed that there were fracture injuries, which are mentioned in column no. 18 of P.M. Report i.e. i) parietal bone depressed comminuted fracture and ii) fracture of right tibia and fibula, on internal examination, he found i) contused lacerated wound over left fronto parietal region, subgaleal contusion involving left fronto parieto temporal region, communicated fracture of left fronto parietal and temporal bones of skull, all the injuries are ante-mortem, as per his opinion cause of death is 'Head Injury' and he proved postmortem report, which is at Exh. 106.

16. Crux of cross-examination of Dr. Tike (P.W.11) admits that head injury can be possible in accident cases also, injuries mentioned in column no. 17 to 19 in P.M. Report (Exh. 106) can be possible, if someone meets with an accident, he has not mentioned depth of any injury in P.M. Report. He further admits that he has not mentioned size of injury no. 2 in column no. 17, size of width helps to determine thickness of object, by which injury sustained, injury nos. 2 & 3 of column no. 17 can be possible, if someone falls on the stone, injury no. 4 can be caused due to fall from the motorcycle, but in that case, there would not be any associate injury like abrasions and hence, same is not possible in present case. He further admits that if someone falls from stationary two wheeler, then injuries mentioned in column no. 17 can be possible, only on the side of fall, in the present case injury No. 1 is on mid line, injury No. 2 and 3 are at left side and injury No. 4 is on right side, so, all above injuries can

not be possible due to fall on one side.

17. Dr. Tike denied the suggestions that, in respect of fracture injuries mentioned in column no. 18, opinion of orthopedic doctor would be prevail over his opinion, considering the thickness of weapons, injuries mentioned in P.M. report are not possible.

18. On perusal of evidence of Dr. Tike (P.W.11) and postmortem report (Exh. 106), it appears that, Hanmant sustained head injuries, which are mentioned in column no. 17, 18 & 19 and said injuries are ante-mortem. It appears that in the cross-examination, different possibilities have been brought on record for different injuries mentioned in the P.M. Report. It is pertinent to note that one can not sustain, one injury in road traffic accident and other injury by falling on the stone. Moreover, if Hanmant had sustained injuries in the road traffic accident, then his motorcycle must have got damaged, but no such evidence has come on record.

19. It is pertinent to note that Dr. Tike is well experienced doctor, who has conducted many autopsies. It appears that Dr. Tike was cross-examined at length, but nothing fruitful has come on record to disbelieve his version and findings recorded in postmortem report. In view of above, defence of accused persons, that Hanmant sustained injuries due to accident, does not appear to be probable.

20. Version of Ankush Pawar (P.W.1) and contents of inquest panchanama (Exh. 62) indicates that, Hanmant sustained head injuries. Postmortem report (Exh. 106) shows that, cause of death is due to head injuries. After considering evidence of Dr. Tike (P.W.11), it appears that prosecution proved injuries sustained to Hanmant and cause of death. After considering above documents

and evidence of both the witnesses, this court finds that the prosecution has proved that death of Hanmant Katare is homicidal death. Thus, I answer point no.1 as 'proved'.

As to point nos. 2 and 3 :

21. Point nos. 2 & 3 are interlinked with each other and hence they are discussed together. Admittedly, entire case of the prosecution is based on circumstantial evidence. Before appreciating the evidence on record, it would be beneficial to see some important observations made by the Hon'ble Apex Court in few judgments, while dealing the cases, which are based on circumstantial evidence.

22. One of the landmark decision on the point of circumstantial evidence, is in the case of **Hanmant Govind Nargundkar Vs. State of M.P.**, [AIR 1952 SC 343], in which the Hon'ble Apex court held that circumstances from which an inference of guilt of accused is to be drawn, should be fully established, they should be consistent and such circumstances must be proved beyond all reasonable doubts, circumstances so relied, should be conclusive in nature, must form a complete and unbroken chain, pointing to the accused alone, as a guilty person.

23. The law on circumstantial evidence has been discussed at length in case of **Sharad Sarada vs. State of Maharashtra – 1984(4) SCC 116** in which Hon'ble Apex Court has observed as under -

"It is well settled that the prosecution must stand or fall on its own legs and it cannot derive any strength from the weakness of the defence. This is trite law and no decision has taken a contrary view. Before using the additional link, it must be proved that all the links in the chain are complete, which do not suffer from any infirmity and the onus was on the

prosecution to prove that the chain is complete, falsity of the defence set up by the accused cannot be made basis for ignoring serious infirmities in the case of prosecution."

24. In **Ramreddy Rajesh Khanna and another vs. State of A.P. [2006 (10) SCC 172]** Hon'ble Apex Court held that it is well settled that suspicion, however grave, it cannot be substitute for a legal proof and the Court shall take utmost precaution in finding the accused guilty only on the basis of circumstantial evidence.

25. In the light of above legal position, now, I consider whether in the present case prosecution succeeded in establishing the chain of circumstances leading to an inescapable conclusion that accused persons have committed murder of Hanmant.

26. Before considering the circumstances against accused persons and appreciating the evidence of witnesses, it is necessary to mention few admitted facts of the present case, which are as under :-

- i) Accused no. 1 Pooja is daughter of accused no. 2 Nirmala and wife of Hanmant (deceased). accused no. 2 Nirmala is real sister of Hanmant. Sachin Dayal is the son of Nirmala.
- ii) Laxmibai Katare (P.W.4) is mother of Hanmant (deceased), Nirmala (accused no. 2), Datta Katare (P.W.6) and Janabai Ghute (P.W.9) and all of them used to reside jointly at village Murud.
- iii) Shrimant Ghute (initially, who was shown as accused) is husband of Janabai Ghute (P.W.9), Sagar Ghute (P.W.15) is their son.
- iv) Matrimonial dispute has been going on between Shrimant & Janabai, hence Janabai used to reside in her parental house.
- v) Ram Ghute (P.W.5) is son of Wanmala, who is sister of Nirmala and Janabai.
- vi) Accused no. 1 Pooja married with Hanmant Katare long back

and she is having four children out of her wedlock.

- vii) No matrimonial case or complaint came to be lodged either Pooja or Hanmant against each other prior to present incident.
- viii) Pooja is having two sisters and one brother, who are also resident of village Murud.
- ix) Accused no. 3 Rajendra is resident of village Borgaon (Kale), which is about 8 k.m. away from village Murud. accused no. 4 Dattatraya is resident of village Jagji, Tq. & Dist. Osmanabad, which is 30 k.m. away from village Murud.

Circumstances Relied by the Prosecution

27. On perusal of record, prosecution wants to rely following circumstances to connect the accused persons with present crime.

- i) Initially Pooja lodged oral report in respect of present crime against Shrimant Ghute.
- ii) Evidence of investigating officer to whom, name of Pooja and others, came to be transpired, as accused.
- iii) Unnatural behavior of Pooja on the spot of incident.
- iv) Disclosure statement of accused no. 3 Rajendra and pursuant to that recovery of weapons.
- v) Weapon Query Report of iron pipe and wooden handle.
- vi) Seizure of Indigo Car used by accused no.3 Rajendra.
- vii) CDR & SDR of accused persons & Hanmant (deceased).
- viii) Chemical Analysis Reports.
- ix) Last seen theory.
- x) Suicide Note found in the pocket of Hanmant.
- xi) Motive.

28. Now, I will discuss above circumstances one by one. Let's first see, as to what is the contents of oral report lodged by Pooja (then first informant), in Gategaon Police Station on 18/07/2023.

Contents of FIR lodged by Pooja (1st Circumstance)

29. In oral report (Exh. 190), it is mentioned that on 18/07/2023 at about 11.15 a.m. Pooja was proceeding with her husband Hanmant on motorcycle, when they reached under Dhakni railway bridge, at that time Shrimant Ghute and one unknown person stopped their motorcycle and they assaulted Hanmant, she informed the incident to her family members Datta and Ram, thereafter she lodged report mentioning name of Shrimant Ghute, accordingly, crime no. 108/2023 came to be registered in Gategaon Police Station against Shrimant Ghute and one unknown person.

Further story of prosecution after registration of crime.

30. It is the version of investigating officer Mr. Sanap that on 21/07/2023, he made enquiry with Pooja (then first informant) and at that time he came to know that, she herself, her mother Nirmala, Rajendra Nitale and one unknown person hatched conspiracy and committed murder of Hanmant, accordingly, investigating officer recorded statement of Pooja on the same day and he made Pooja and others as accused in the present crime.

31. In view of above development after registration of crime, it was not possible for prosecution to examine Pooja to prove the contents of FIR. Hence, prosecution examined Babasaheb Nagargoje (PW.17), who took the oral report of Pooja and he proved oral report of Pooja, which is at Exh. 190. It appears that though contents of oral report (Exh. 190) is proved by prosecution by examining Babasaheb Nagargoje (PW.17), but in view of change of accused, (i.e. Shrimant Ghute to accused nos. 1 to 4) contents of oral report (Exh. 190), is

not useful to show the involvement of accused nos. 1 to 4. In view of above, this circumstance is not useful for the case of prosecution.

Evidence of I.O. Mr. Sanap, to whom name of Pooja and others came to be transpired as accused. (2nd Circumstance).

32. It is the version of investigating officer that after registration of crime against Shrimant Ghute, when he made enquiry with Pooja, (then first informant), it was transpired that, Pooja was fed up with the behavior of Hanmant, hence, she hatched conspiracy with her mother Nirmala (accused no.2), they hired services of Rajendra Nitale (accused no. 3) and Dattatraya Londhe (accused no. 4), accordingly, accused nos. 3 & 4 made assault on Hanmant and committed his murder. In view of said information, investigating officer recorded statement of Pooja on 21/07/2023 and on the basis of said information, he made Pooja and others as accused in the present crime.

33. In above background, version of the investigating officer indicates that as to how initially Shrimant Ghute was made accused and then how name of Pooja and others came to be transpired to him on the basis of confessional statement of Pooja. Admittedly, alleged confessional statement of Pooja is inadmissible piece of evidence. So, this circumstance is useful for very limited purpose showing that, investigating officer got suspicion on Pooja and others as accused.

Unnatural behavior of Pooja on spot of incident (3rd Circumstance)

34. It is the case of prosecution that on 18/07/2023, incident of assault on Hanmant took place, thereafter at about 12.00 noon Pooja (accused no. 1) made phone call to the family members i.e. Datta Katore (P.W.-6) and Ram Ghute (P.W.-5) informing the incident,

accordingly, first, Datta Katare with Anusaya Katare reached on the spot, then Sagar Ghute (P.W.-15) and then Ram Ghute (P.W.-5) and Laxmibai (P.W.4) reached there, some of them found that, Pooja was calm and cool and there was no reaction on her face, which is unnatural behavior on her part.

35. Now, let's see, as to what evidence has come on record to show unnatural behavior of Pooja and for that purpose, it is necessary to see relevant evidence of Datta (P.W.6), Ram (P.W.5), Sagar (P.W.15) & Laxmibai (P.W.4).

36. Crux of evidence of Datta Katare (P.W.-6) is that, on 18/07/2023 at about 11.00 a.m., he received phone call of Pooja from the cellphone of Hanmant informing that, two unknown persons assaulted Hanmant under the bridge of village Dhakani, accordingly, he alongwith Anusaya went on the spot of incident, he found that Hanmant was lying on the ground, who sustained head injury, Rahul came there with four wheeler, Hanmant was taken initially to Sahyadri hospital and then Civil hospital, Latur, where doctor declared him to be dead, upon inquiry, Pooja informed that 2 persons came on motorcycle, stopped them and assaulted Hanmant on head.

37. Crux of the evidence of Ram Ghute (P.W.-5) is that, on 18/07/2023, he received phone call of Pooja from the cellphone of Hanmant informing that "two unknown persons made assault on Hanmant by means of iron rod", accordingly he went on the spot in car, at that time Datta (P.W.-6) was present, Hanmant sustained injury on his head, Pooja was standing there, all of them put

Hanmant in a car, at that time Pooja was not ready to sit in the car, but on the say of Datta Katare, Pooja came with them, while proceeding to hospital, Pooja did not disclose description of assailants.

38. It is the version of Sagar Ghute (P.W.-15) that when he reached on the spot of incident, he found Hanmant was lying in injured condition, Pooja was present there peacefully and there was no reaction on her face in respect of assault made to Hanmant.

39. It appears that though Ram Ghute deposed that Pooja was not ready to sit in the car and she did not disclose description of assailants, but neither Datta (P.W.-6) nor Sagar Ghute (P.W.-15) have deposed anything to that effect. So, there is no corroboration to the version of Ram Ghute to that extent. It is pertinent to note that though it is the version of Sagar Ghute (P.W.-15) that, Pooja was present on the spot peacefully and there was no reaction on her face in respect of assault made to Hanmant, but surprisingly, neither Datta (P.W.6) nor Ram Ghute (P.W.5) has corroborated said version of Sagar Ghute (P.W.15).

40. It has come on record that Laxmibai (P.W.4) also came on the spot of incident, but she has not deposed any of the fact, as deposed by Ram Ghute (P.W.5) & Sagar Ghute (P.W.15). So, there is no corroboration in her evidence also. It appears that Anusaya was also present on the spot of incident, but prosecution has not examined her. Investigating officer Mr. Sanap admits that, since 18/07/2023 till 21/07/2023, none of the prosecution witness had showed any suspicion against Pooja (accused no.1).

41. It has come on record that all the nearest family members went to Gategaon Police Station alongwith Pooja, where Pooja lodged complaint against Shrimant Ghute. If conduct of Pooja had been found suspicious on the spot of incident, then close relatives must have disclosed their suspicion to police against Pooja and they must not have allowed Pooja to lodge the complaint. Record indicates that none of them had expressed any suspicion on Pooja till 21/07/2023 i.e. till recording of alleged confessional statement made by Pooja, which is very unnatural and surprising.

42. As per the case of prosecution, it was the Pooja, who made phone call to Datta (PW.6), Ram Ghute (PW.5) informing the incident. This conduct of Pooja indicates that she wanted to inform the incident immediately to the close relatives to get necessary help.

43. It is pertinent to note that human reactions to a sudden and traumatic incident are not uniform. Some persons may cry or panic, while others may remain silent due to shock & emotional numbness. Assuming that, Pooja was found calm, no adverse inference can be drawn, on that basis only as she did not react in the manner, expected by some prosecution witnesses.

44. In view of above, it appears that version of Ram Ghute and Sagar Ghute are inconsistent, their version has not been corroborated by any witnesses. So, version of Ram Ghute and Sagar Ghute does not inspire confidence so far as unnatural behavior of Pooja is concerned. Consequently, this circumstance cannot be treated as an incriminating circumstance forming a link in the chain of circumstantial evidence.

Disclosure Statement of accused no. 3 Rajendra & Recovery of Iron pipe and wooden handle. (4th Circumstance)

45. Next circumstance is disclosure statement (Exh. 83) made by accused no. 3 Rajendra and pursuant to that recovery of iron pipe and wooden handle under recovery panchanama (Exh.84).

46. To bring the case under section 27 of the Evidence Act, it is necessary for the prosecution to establish that, based on the information given by the accused while in police custody, it had led to the discovery of the fact, which was distinctly within the knowledge of the maker of the said statement. It is only so much of the information as relates distinctly to the fact thereby discovered would be admissible.

47. To understand the scope of Sec.27 of Evidence Act, it would be useful to see the judgment of **Babu Sahebgouda Rudragoudar v. State of Karnataka [2024 INSC 320]** in which the Hon'ble Apex Court examined the aspect regarding the standard of proof of information provided by the accused to the Investigating Officer under Section 27 of Evidence Act and relevant portion is as under:

61. *The statement of an accused recorded by a police officer under Section 27 of the Evidence Act is basically a disclosure of confession of the accused recorded by the investigating officer during interrogation which has been taken down in writing. The **confessional part** of such statement is inadmissible and only the part, which distinctly leads to discovery of fact, is admissible in evidence.*

62. *Thus, when the investigating officer steps into the witness box for proving such disclosure statement, he would be required to narrate what the accused stated to him. The*

investigating officer essentially testifies about the conversation held between himself and the accused which has been taken down into writing leading to the discovery of incriminating fact(s).

48. It is the case of prosecution that, accused no. 3 Rajendra made disclosure statement before two panch witnesses, accordingly, he produced one iron bar and one wooden handle, which came to be seized under panchanama. Keeping the above principle in mind, let us now examine the testimony of Nilkanth Gund (P.W.8), who is one of the panch witness, investigating officer Sanap (P.W.16), disclosure statement (Exh.83) and recovery panchanama (Exh.84).

49. Crux of examination in chief of Nilkant (PW.8) on the point of disclosure statement is that, on 24/07/2023 he went to police station alongwith one Balaji Savant to act as a panch, he met with PSI Sanap, at that time Rajendra (accused no.3) was called, who gave information before them that, “he is ready to produce the weapon, by which he committed the crime”, accordingly, said information was reduced into writing, which is at Exh. 83.

50. He has further deposed that he alongwith police staff, accused and others went to railway bridge, situated at Dhakani Fata in police jeep as per the say of accused Rajendra, then Rajendra showed the spot of incident. He has further deposed that thereafter all of them came to near Dhakani Fata, there were Nilgiri trees on the right side of the road, accused Rajendra produced one iron rod (Article- D) and wooden handle (Article-E) from the said bushes, which came to be seized under panchanama (Exh. 84). In the cross examination, Nilkanth (PW.8) admits that, recovery of articles was done from the open place, which is situated by the side of road.

51. Record indicates that similar version has come on record in the evidence of investigating officer Mr. Sanap (para no. 9). On perusal of evidence of Nilkanth (P.W.8), I.O. Mr. Sanap (P.W.16) and disclosure statement (Exh. 83), it appears that accused allegedly showed his readiness to show two places i.e. the spot of incident and the place, where he concealed the weapons. As far as spot of incident is concerned, said place was well within the knowledge of investigating officer, as spot panchanama came to be prepared by him on 19/07/2023 itself. So, this part of disclosure statement is not helpful to the prosecution.

52. On perusal of disclosure statement (Exh. 83), it appears that there is no reference in respect of nature & description of weapon and as to where it was concealed. It is pertinent to note that neither Nilkanth (P.W.8) nor investigating officer Sanap (P.W.16) has deposed what is the nature & description of weapon and as to where it was concealed.

53. Considering the scope of Section 27 of the Indian Evidence Act, it is necessary to mention, 'nature of weapon & place of its concealment' in the disclosure statement. It appears that alleged disclosure statement and version of both the witnesses are vague on both counts i.e. nature of weapon and where it was concealed.

54. Mr. Sanap also admits that, accused no. 3 produced articles from the open place. Moreover, seizure panchanama (Exh. 84) also indicates that, recovery came to be made from open place, situated by the side of road. It is pertinent to note that neither

Nilkanth Gund nor Mr. Sanap has deposed that articles kept in the bushes, are not visible from the road. So, it appears that said place is open, visible and accessible to all.

55. In the case of **Raja Naykar Vs. State of Chhattisgarh, (2024) 3 SCC 481**, there was recovery of article from an open place, which was accessible to all. Hence the Hon'ble Apex Court has not placed any reliance on the recovery of said articles.

56. When this Court carefully considers disclosure statement of accused no. 3 Rajendra, pursuant to that recovery of articles and evidence of both the witnesses under the light of guiding principle mentioned above in the judgments of **Babu Sahebgouda and Raja Naykar** (cited supra), it appears that there is no reference in disclosure statement about 'nature of the weapon and place of concealment', alleged recovery has been effected from an open place, which is accessible and visible to all. Hence, this Court finds that, prosecution has failed to fulfill the mandatory requirements of Sec. 27 of the Indian Evidence Act. Consequently, the alleged recovery cannot be treated as a reliable incriminating circumstance against accused no. 3.

Weapon Query Report (5th Circumstance)

57. It is the case of prosecution that one iron pipe and one wooden handle came to be forwarded to medical officer for weapon query report. Accordingly, Dr. Tike gave weapon query report which is at Exh.108.

58. In recovery panchanama (Exh. 84), there is reference that length of iron pipe is 3 feet 6.5 inch, which comes 107 cm, but

in weapon query report (Exh.108) length of iron pipe is mentioned as 110 cm. Likewise length of wooden handle is 2 feet 5.5 inch, which comes 74.93 cm, but in weapon query report, length of wooden handle is mentioned as 78 cm. Defence has asked specific question to the investigating officer in respect of length of iron pipe and wooden handle, but investigating officer could not give any explanation as to why length of said articles are differ in the recovery panchanama (Exh. 84) & weapon query report (Exh.108). Due to this inconsistency, it creates doubt whether alleged recovered weapons at the instance of accused no. 3, came to be forwarded to the medical officer for weapon query report. Hence, this circumstance is also not helpful to the case of prosecution.

Seizure of Indigo Car used by accused no. 3 Rajendra.

(6th Circumstance)

59. It is the version of investigating officer that, it was transpired to him on 23/07/2023 that accused no. 3 Rajendra used Indigo car bearing registration no. MH15-CM-6189, which is owned by one Rameshwar Satpute (P.W.3).

60. Record indicates that alleged disclosure statement of Rajendra Nitale came to be recorded on 24/07/2023. So, investigating officer was not having any knowledge about the use of Indigo car till 24/07/2023, as in the statement of Pooja, there is reference of use of 'two wheeler' by accused no. 3.

61. In view of above, it was necessary for investigating officer to clarify in his evidence, as to from whom, he came to know on 23/07/2023 itself, about using of Indigo car by accused no. 3 Rajendra. But, surprisingly, investigating officer is silent on said

crucial point.

62. Prosecution examined Rameshwar (PW.3) and crux of his evidence is that, he is the owner of Tata Indigo car bearing registration no. MH15-CM-6189, Rajendra (accused no.3) had taken his vehicle in the month of July 2023 and returned it by 3.00 p.m. on the same day. In the cross-examination on behalf of accused no. 3 he admits that, Rajendra is having his own car.

63. On perusal of evidence of Rameshwar (PW.3) it appears that, he has not deposed as to on which date and time accused Rajendra took his car. So, prosecution could not establish that accused no. 3 Rajendra took the Indigo car from Rameshwar on the date of incident. It is pertinent to note that, it is not the case of prosecution that any incriminating things came to be seized from the said car. In view of above, seizure of said car is not useful to the case of prosecution.

CDR & SDR of accused persons & Hanmant (7th Circumstance)

64. It is the case of prosecution that on 18/07/2023, Pooja made phone call to Datta (PW.6) and Ram (PW.5) from the mobile of Hanmant, all the accused were in contact with each other since long, on the day of incident also they were in contact and to prove their CDR and tower location, prosecution examined Dattaram Angre (PW.12) and Tushar Nalawade (PW.13). In view of above, now let's see as to what evidence has come on record in respect of CAF, CDR and tower locations of accused persons and Hanmant (deceased).

65. Prosecution examined Dattaram Angre (C.W.12), who is nodal officer of Vodafone/Idea cellular company. First, let's see as to

what evidence has come on record in respect of cell no. 9860607094, which belongs to Hanmant (deceased).

66. Crux of evidence of Dattaram Angre (C.W.12) is that, cell no. 9860607094 came to be issued by his company to Hanmant (deceased), his company provided information in respect of CAF (customer application form) & CDR of said number from 01/05/2023 to 21/07/2023, as per CDR of this SIM number, (page no. 35 & 36) it reflects that, said number was functional on 18/07/2023 and user made the phone calls on cell no. 9579442037 (which is of Ram Ghute P.W.5) for 05 times from 12.09 p.m. to 12.18 p.m. (in noon time).

67. Evidence of Dattaram Angre (P.W.12) indicates that, cell no. 9860607094 was of Hanmant (deceased), on 18/07/2023 at about 12.00 noon phone calls were made on the cell no. 9579442037 of Ram Ghute (P.W.5). It is the version of Ram Ghute that he received phone call from the cell phone of Hanmant, which was made by Pooja informing the incident. In view of above, prosecution succeeded to show that on the day of incident Pooja made phone call to Ram Ghute by using cell phone of Hanmant.

68. It is the case of prosecution that cell no. 9011995504, was in use of Rajendra Nitale (accused no. 3), cell no. 9970973392, in use of Nirmala (accused no. 2) and cell no. 8623892974, was in use of Pooja (accused no.1). In view of above, now let's see as to what evidence has come on record in the evidence of Dattaram Angre (P.W.12).

69. Further crux of evidence of Dattaram Angre (P.W.12) is that cell no. 9011995504 came to be issued to Shankar Rajendra

Nitale (son of accused no.3), he provided information in respect of CAF & CDR of said number from 01/05/2023 to 21/07/2023, CDR Exh. 138 reflects that user made phone calls on cell no. 9970973392 (Sachin Dayal, son of accused no.2) for 03 times on 03/06/2023. Said CDR also indicates that user made phone call on the cell no. 8623892974 (accused no. 1 Pooja, but SIM was issued to Saraswati Ufade (PW.14) for many times from 03/06/2023 to 21/06/2023. It is pertinent to note that date of incident is 18/07/2023.

70. On perusal of evidence of Dattaram Angre (PW. 12), it appears that, though it is proved that cell no. 9011995504 allotted to Shankar Nitale, who is son of accused no.3, but nothing cogent has come on record to show that said cell number was in use of accused no. 3 Rajendra. Due to the relations of son and father, one cannot presume that said cell phone must be in the use of father. So, prosecution failed to prove that prior to the incident and on the date of incident, cell no. 9011995504 was in use of Rajendra Nitale (accused no.3). It appears that CDR of cell no. 8623892974 was provided till 21/06/2023, whereas date of incident is 18/07/2023. So, it appears that said cell number was not used on the date of incident.

71. Prosecution examined Tushar Nalawade (C.W.13), who is Nodal officer of Airtel cellular company. Crux of his evidence is that, cell no.9067995672 was issued to Rajendra Nitale (accused no.3), cell no. 9763781693 to Dattatarya Londhe (accused no.4), cell no. 9970973392 to Sachin Pandurang Dayal (son of accused no.2) and cell no. 8623892974 was issued to Saraswati Suresh Uphade (who lost her mobile) and he provided customer application form in

respect of all the above cell numbers vide Exh. 144 to 147 respectively.

72. He has also provided tower location in respect of above cell numbers i.e. cell no. 9763781693 of Dattatarya Londhe (accused no.4), cell no. 9970973392 of Sachin Pandurang Dayal (son of accused no.2), cell no. 9860607094 of Hanmant Katare (deceased), cell no. 8623892974 of Saraswati Suresh Uphade and cell no. 9067995672 of Rajendra Nitale (accused no.3) vide Exh. 148 to 152 respectively.

73. He also provided CDR in respect of cell no. 9860607094 of Hanmant Katare (deceased) vide Exh. 153, cell no. 9763781693 of Dattatarya Londhe (accused no.4) vide Exh. 154, cell no. 9067995672 of Rajendra Nitale (accused no.3) vide Exh. 155, cell no. 8623892974 of Saraswati Uphade vide Exh. 156 and cell no. 9970973392 of Sachin Dayal (son of accused no. 2) vide Exh. 157.

74. In the cross-examination for accused nos. 4, Tushar Nalawade (PW.13) admits that certificate under section 65-B of Indian Evidence Act, Exh-143 is provided commonly for all the above cell numbers, there is no reference in respect of particular operating system and from which printer, said print was taken, he has not taken any education in respect of computer science, but he voluntaries that he has possessed degree of BCA.

75. In the cross-examination for accused nos. 1 & 2, Tushar Nalawade (PW.13) admits that data in respect of CDR, is stored in 26 columns information, in CDR information there is reference of IMEI number of cell phone to suggest that, particular SIM card is used by

using said cell phone, if handset of cell phone is changed then IMEI of handset is also changed.

76. On perusal of evidence of Tushar Nalawade (PW.13), it appears that, though it is proved that cell no. 9970973392 was issued to Sachin Pandurang Dayal, but no cogent evidence has come on record that it was either in use of accused no.2 Nirmala being his mother or accused no. 1 Pooja being his sister. It further appears that, though it is proved that, cell no. 8623892974 was issued to Saraswati Suresh Uphade, which was lost by her grandson, but nothing cogent has come on record to show that as to how it came in possession of either accused no. 3 Rajendra or accused no. 1 Pooja. In view of above, prosecution failed to prove that cell no. 9970973392 was in use of accused no. 2 Nirmala or accused no. 1 Pooja. Likewise, prosecution failed to prove that cell no. 8623892974 was in use of accused no. 1 Pooja.

77. On perusal of tower location report vide Exh. 148 to 152, it appears that, said reports came to be issued for the period 1/5/2023 to 21/7/2023, but no dates are mentioned to show the spot of user of said cell phones and what is the meaning of numbers mentioned in the column "cell ID". On perusal of evidence of Tushar (PW.13), he has not deposed that on which dates and which persons has made phone call to whom. Tushar (PW.13) has not deposed that as per tower location report, person, holding which cell number, was present on the spot of incident on the relevant date and time.

78. It has come on record in the cross-examination of Dattaram Angre (PW.12) that range of the tower in the city is about 500 meter to 1 k.m. and in village area said range is about

3 to 4 k.m. Admittedly, spot of incident falls in village area, where range of tower is about 3 to 4 km., which is very big area. In view of above, it appears that tower location reports are not capable and sufficient themselves, to show exact location of the person on relevant date and time.

79. It is pertinent to note that investigating officer has not seized any cell phone and SIM card of accused persons, for the reasons best known to him. Investigating officer Sanap (PW.16) has not deposed that after obtaining relevant CDR and tower location reports of phone numbers of accused persons, deceased and the witnesses, he has gone through the same and he has come to any conclusion to show the involvement of accused persons, due to this technical evidence. It is pertinent to note that learned DGP could not point out as to how CDR & tower location reports filed on record, are useful to the case of prosecution and how they show involvement of accused persons in present crime.

80. It is pertinent to note that, mere exhibition of CDR & tower location will not ipso-facto helpful to the case of prosecution in the absence of necessary evidence. After careful analysis of CDR, tower location reports, evidence of nodal officers & case of prosecution, it appears that above electronic evidence is not helpful to the case of prosecution to show the involvement of accused nos. 1 to 4 in the present crime, for the reasons as discussed above.

Chemical Analysis Reports (8th Circumstance)

81. Record indicates that, PHC Dashrath Giri (P.W.2) deposited seized muddemal in respect of present crime to RFSL,

Nanded and he obtained acknowledgments (Exh. 70) to that effect. It appears that three chemical analysis reports came to be filed on record, which are at Exh. 184 to 186.

82. C.A. Report Exh. 184 indicates that human blood stains of Blood Group 'A' were found on cotton swab, soil, spectacle & clothes of deceased (i.e. pant, shirt & banian). No blood stains found on seized articles i.e. wooden handle and iron pipe and on clothes of accused nos. 3 & 4. No blood was found on the seized sickle and clothes of Shrimant Ghute (initial accused)

83. C.A. Reports Exh. 185 indicates that blood group of Hanmant was 'A'. C.A. Report Exh. 186 indicates that blood group of accused no. 3 Rajendra & accused no. 4 Dattatraya is of 'O'. In view of above, C.A. Reports are not helpful for the prosecution to show involvement of accused no. 3 & 4 in the present crime.

Last Seen Theory (9th Circumstance)

84. It is the case of prosecution that, Hanmant was lastly seen alive in the company of Pooja. It has come on record in the evidence of Babasaheb Nagargoje (P.W.17) that he registered the crime on the oral report given by Pooja. It has come on record in the evidence of Datta (P.W.6), Ram (P.W.5), Sagar (P.W.15) & Laxmibai (P.W.4) that after the incident of assault, Pooja made phone call to them, accordingly all of them reached on the spot, where Pooja was present. CDR of cell no. 9860607094 of Hanmant indicates that, after the assault on Hanmant, Pooja made phone call from the cell number of Hanmant to Ram Ghute.

85. It appears that though, investigating officer Mr. Sanap admits that he did not find any witness, who saw Hanmant lastly in the company of Pooja, in view of above evidence, prosecution succeeded to show that Hanmant was lastly seen alive in the company of Pooja.

86. It is pertinent to note that, it is the version of Pooja that two unknown persons made assault on Hanmant. Prosecution could not succeed to show that Pooja hatched conspiracy and pursuant to that said unknown persons made assault on Hanmant. In view of above, last seen of Pooja with Hanmant will not suffice any purpose of prosecution to show the involvement of Pooja and other accused in the present case.

Suicide Note found in the pocket of Hanmant (10th Circumstance)

87. It is the story of prosecution at the time of preparing inquest panchanama, one letter was found in the pocket of Hanmant, during the investigation, it was transpired that accused no. 3 Rajendra asked Pooja to prepare one letter, purporting that Hanmant committed suicide, accordingly she prepared one letter (Exh. 177) and kept in the pocket of Hanmant.

88. It appears that to prove that Pooja has written contents of letter (Exh. 177) in her handwriting, prosecution obtained opinion of handwriting expert (Exh. 179), after taking specimen handwriting of Pooja, but said opinion is negative. Contents of letter (Exh. 177) does not reflect that, it can be a suicidal note. Admittedly, assault was made on Hanmant, in which he sustained severe injuries and died. In view of above, by no stretch of imagination, said letter

(Exh. 177) would be helpful to the case of prosecution.

Motive (11th Circumstance)

89. It is the case of prosecution that Pooja used to speak on cell phone with someone, Hanmant did not use to like said conduct of Pooja, Hanmant used to take suspicion on her character, Pooja got fed up due to behavior of Hanmant, hence, she hatched conspiracy with her mother to commit murder of Hanmant, accordingly, they hired services of accused no. 3 and 4. In view of above motive, let's see, as to what evidence has come on record to show the strained relationship between Hanmant and Pooja.

90. It has come on record in the cross-examination of Datta Katare (P.W.6) that, he & Hanmant used to reside together alongwith their families and their mother Laxmibai (P.W.4) at Thombre Nagar, Murud, relations between Hanmant and Pooja were cordial, both of them have four children out of said wedlock, who are aged between 15 to 20 years. Laxmibai (P.W.4), who is mother of Datta & Hanmant also admits that relations between Hanmant and Pooja were cordial and no matrimonial dispute was pending between them either in police station or court. Janabai (P.W.9), who is sister of Hanmant, also admits that relations between Hanmant and Pooja were cordial.

91. In the cross-examination, Mr. Sanap admits that he did not find any written complaint made by Pooja against Hanmant. If relation between Pooja and Hanmant were strained, then above witnesses, who are close relatives and used to reside with Hanmant, must have deposed to that effect, but all of them have deposed that relations were cordial.

92. It has come on record that Pooja is having 4 children out of her wedlock and they are between the age group of 15-20 years respectively. It is pertinent to note that prosecution has not examined any of the children of Pooja to show that relation of Pooja with Hanmant was strained. It has come on record that, no matrimonial dispute was pending either in the court or in police station between Pooja & Hanmant.

93. It has come on record that accused no. 2 Nirmala is not only mother of Pooja, but also sister of Hanmant, Pooja married to Hanmant in the year 2008, they have 4 children out of said wedlock, Pooja is house hold lady, who resides in small village, she is having two sisters and one brother, who are also resident of same village, there are many members in the family of Hanmant also and alleged behavior of Hanmant, stated in the confessional statement, is general scenario in many families. Considering the above facts, if really, there had been any behavioral problems on the part of Hanmant, then family members of Pooja must have tried to give understanding to Hanmant or any complaint must have been lodged to that effect, but surprisingly nothing has come on record to that effect.

94. It has come on record that financial position of Pooja and Nirmala was poor. Nothing has come on record to show that accused no. 3 Rajendra and accused no. 4 Dattatraya were having any criminal antecedent. In this backdrop, it is very difficult to digest that Pooja, who is mother of 4 children, decided to commit murder of her husband as she got fed up on petty domestic issues, she took help of her mother, Nirmala, who is old aged rustic lady and real sister of Hanmant, none of them try to give understanding to

Hanmant for his behavior, both of them contacted one unknown person, paid Rs. 1 lakh to him by selling gold ornaments and hatched conspiracy to commit murder of Hanmant and accordingly, they executed the said conspiracy. I failed to understand as to why all above questions have not come in the mind of investigating officer, while carrying out the investigation.

95. In view of above, prosecution failed to prove that, relation between Hanmant and Pooja was strained and Pooja got that much fed up from the behavior of Hanmant, that she decided to commit his murder. In view of above, no motive has come on record. Hence, this circumstance is also not helpful to the case of prosecution.

Confessional Statement of Pooja & Rajendra

96. As per the version of investigating officer, name of Pooja as well as other accused persons came to be transpired to him on the basis of statement given by Pooja on 21/07/2023. It is further version of investigating officer that Rajendra Nitale (accused no.3) has also given important information showing involvement of accused persons & said information is mentioned in recovery panchanama (Exh. 84).

(For the sake of brevity and clear understanding, statement given by Pooja and information given by accused no. 3 Rajendra is hereinafter called as 'confessional statement').

97. It is pertinent to note that as per Sec. 25 of the Indian Evidence Act, statement made before police is inadmissible piece of evidence. But, considering the peculiar facts of the present case and to unfold the entire story of prosecution, when contents of both the

confessional statements came to be perused, following material inconsistencies are found in them, which are mentioned as under.

(1) Use of vehicle by accused no. 3 Rajendra.

98. In the statement of Pooja, there is reference that accused no. 3 came '**on motorcycle**' on the spot of incident. Whereas, in the statement of Rajendra, there is reference that '**one Indigo car**' came to be used by accused nos. 3 & 4 to reach on the spot.

(2) Presence of accused no. 2 Nirmala on the spot.

99. In the statement of Pooja, there is no reference that Nirmala (accused no. 2) was present on the spot of incident at the time of assault. Whereas, in the statement of Rajendra, there is reference that Nirmalabai was present on the spot of incident.

(3) Conspiracy hatched at Murud Bypass.

100. In the statement of Pooja there is reference that prior two months of incident i.e. 01/05/2023 or thereafter Pooja & Nirmala met with Rajendra at Murud Bypass, where they hatched conspiracy, it was decided that Rs. One lakh would be paid to Rajendra to commit murder of Hanmant. Whereas, there is no such reference in the statement of Rajendra to that effect.

(4) No reference of Dattatraya (accused no.4)

101. In the statement of Pooja there is no reference of the name of Dattatraya Londhe (accused no.4). Whereas, in the statement of Rajendra there is a reference, that Pooja & Nirmala approached to Rajendra through Dattatraya. So, both the statements are not consistent on material point.

(5) No witness has deposed that Rajendra gave information

102. Record indicates that prosecution examined Nilkanth Gund (P.W.8), who is one of the panch witness on recovery panchanama (Exh. 84). On perusal of his evidence, it appears that he has nowhere deposed that, accused no. 3 Rajendra narrated information to them, as to how conspiracy came to be hatched by accused persons. It is pertinent to note that, Mr. Sanap has also not deposed that Rajendra narrated information to them, as to how conspiracy came to be hatched by accused persons. In view of above, story of prosecution to that effect appears to be highly doubtful.

103. Admittedly, confessional statement of Pooja is hit by sections 25 & 26 of the Indian Evidence Act, except to the limited extent, permissible under Section 27 of the Evidence Act. It is not the case of prosecution that on the basis of said statement there is any admissible discovery, satisfying the requirements of section 27. At the most, such confessional statement can provide a lead for investigation, but the guilt of the accused is required to be established by admissible and reliable evidence.

Evidence of other Witnesses

104. Prosecution examined Anil Ingle (P.W.7), in whose car, Hanmant was taken to hospital at Latur for treatment and Saraswati Ufade (P.W.14), to whom cell no. 8623892974 came to be allotted. Their evidence indicates that, it is not useful for the case of prosecution, hence same is not discussed.

Lapses committed by Investigating Officer:

105. On perusal of record, it appears that investigating officer Mr.

Sanap has committed many lapses during his investigation, which are discussed one by one as under:

(1) From whom & when involvement of accused nos. 3 & 4 was revealed:

106. First, let's see what is the source of information to the investigating officer about the involvement of accused no. 3 Rajendra Nitale.

107. There is a letter dated 21/07/2023 (Exh. 187) on record, written by Mr. Rathod, API, LCB, Latur to API, Gategaon Police Station, which indicates that, at about 11.00 a.m. on 21/07/2023, LCB was in search of suspect accused, upon secret information, they apprehended accused Rajendra. So, crime branch was having knowledge about the involvement of accused no. 3 in the present crime at about 11.00 a.m. itself.

108. Chargesheet indicates that, investigating officer had called one Amrapali Sarvade, Member of Mahila Dakshata Committee, before whom statement of Pooja came to be recorded. Statement of Amrapali Sarvade indicates that, statement of Pooja (accused no.1) came to be started to record after 6.00 p.m. on 21/07/2023. It is the version of investigating officer that, first time, he came to know involvement of Pooja and Rajendra on the basis of statement given by Pooja.

109. In view of above, naturally, question will arise, as to how local crime branch came to know about the involvement of accused no. 3 Rajendra, at about 11.00 a.m. on 21/07/2023, before the knowledge of investigating officer, but surprisingly, no plausible explanation has come on record.

110. Now let's see, what is the source of information to the investigating officer about the involvement of accused no. 4 Dattatraya. Confessional statement of Pooja reflects that, she herself was not aware, who was the unknown person accompanied with accused no. 3, till 21/07/2023. So, investigating officer was not having any source of information till 21/07/2023 to show involvement of accused no. 4 Dattatraya.

111. If name of the accused is known to investigating officer, who is absconding, then local crime branch also take parallel search of said accused. In the present matter, name of accused no. 3 was transpired to investigating officer after 6.00 p.m. on 21/07/2023.

112. Mr. Sanap admits that, he cannot tell whether before his knowledge, crime branch was aware about the involvement of accused nos. 3 & 4. In this backdrop, said question put to him, is having much significance, but he has avoided to answer the said question very skillfully, which creates doubt, whether he really came to know about the involvement of accused nos. 3 & 4, on the basis of statement of Pooja.

(2) Sickle was not forwarded to medical officer.

113. Record indicates that prosecution proved spot panchanama (Exh. 90) and seizure of broken specific (Article-A) & sickle (Article-B) by examining Vikas Katale (PW 10) and similar is the version of investigating officer Mr. Sanap on the said point.

114. It has come on record in the evidence of investigating officer Mr. Sanap that, he has not forwarded said sickle to obtain

opinion of the concerned medical officer. He gave explanation that, during further investigation, it was transpired to him that assault was made by means of iron pipe and wooden handle, hence, he has not forwarded sickle (Article-B) for weapon query.

115. In FIR (Exh. 190), there is reference that assault was made to Hanmant by means of sickle and as per spot panchanama one sickle was found. So, it was the duty of investigating officer to seek opinion of the medical officer, who is an expert in the said field. It appears that sickle was forwarded to RFSL, Nanded. If, investigating officer was so sure that sickle was not used in the crime, then no explanation has come on record as to why the I.O. forwarded the said sickle to RFSL, Nanded. So, it appears that approach of investigating officer was very casual, while carrying out the investigation, which creates big question about fair investigation.

(3) No Witness, who saw accused nos. 2 to 4 together

116. It is the case of prosecution that Rajendra Nitale took Nirmala & Dattatraya in his car from village Murud to the spot of incident and after the incident of assault, they again left the spot of incident in the said car.

117. It is pertinent to note that village Murud is small village, where generally villagers know each other. No evidence has come on record to show that any of the witness either seen all of them together in the car, while proceeding towards the spot of incident or while returning to Murud. So, in the absence of said evidence, case of prosecution becomes highly doubtful.

(4) Duty of Investigating Officer.

118. When a two set of facts have come before the investigating officer, indicating that first informant may be the perpetrator of the crime, when it is not sure, who is actual perpetrator of the crime i.e. first informant or person named in the FIR, in that case, it is duty of investigating officer to proceed more carefully and shift the focus on the investigation by keeping all probabilities open. But, unfortunately, in the present case, investigating officer has failed to discharge his duty, which is expected from him.

Conduct of investigating officer needs to bring in the notice of Superintendent of Police.

119. On careful perusal of evidence of witnesses and record, it appears that approach of the investigating officer was very casual, while carrying out the investigation, in such type of serious crime. This conduct of Mr. Dnyandeo Sanap needs to bring to the notice of the Superintendent of Police, Latur for information and necessary action, if so required.

120. Considering the facts of the present case, it is useful to see the judgment of the Hon'ble Supreme Court in the case of **Shankarlal Gyarsilal vs State, 1981 AIR 765**, wherein it is observed that, '*human nature is too willing, when faced with brutal crimes, to spin stories out of strong suspicions*'.

121. In recent judgment, in the case of **Ashok Mhatre Vs. State, 2026(1) AIR Bom (Cri) 481**, the Hon'ble Bombay High Court acquitted appellant /accused holding that, '*establishing one or two circumstances is not sufficient to hold that entire chain is complete*'.

122. The fundamental presumption in the administration of criminal law is the innocence of the accused, till the charges are proved beyond reasonable doubt, on the basis of cogent and credible evidence. Mere suspicion, however strong, it cannot be substituted for the legal proof, required to substantiate the charge of commission of crime.

123. In the catena of judgments, the Hon'ble Apex Court has held that, circumstances from which an inference of guilt of accused is to be drawn, should be fully established, they should be consistent and such circumstances must be proved beyond all reasonable doubts, circumstances so relied should be conclusive in nature, must form a complete and unbroken chain pointing to the accused alone as a guilty person.

Duty of the Court

124. This Court is conscious about the well settled principle of criminal jurisprudence that, even if, the investigation is defective, the rest of the evidence in criminal trials must be scrutinized independently, otherwise the criminal trial will plummet to the level of investigation. Criminal trials should not be made casualties for any lapses committed by the investigation officer and even if, there was deficiencies in the investigation, that cannot be a sole ground for discrediting the prosecution version.

125. When this Court carefully examined entire evidence and proved documents, in the light of judgments (cited supra), it appears that, prosecution could not prove that, Pooja lodged false oral report Exh. 190, no trustworthy evidence has come on record about

unnatural behavior of Pooja on the spot of incident, discloser statement of accused no. 3 Rajendra and recovery of articles appears to be highly doubtful, prosecution failed to bring cogent evidence to prove that cell no. 9970973392 was in use of Nirmala and Pooja.

126. Prosecution also failed as to how CDR & SDR are useful to show the involvement of accused persons, no incriminating evidence has come in C.A. Reports against accused nos. 3 & 4, prosecution failed to prove that Pooja was having any grudge against Hanmant due to his behavior, hence she took help of her mother and hired services of accused nos. 3 & 4 by paying Rs. 1 lakh and hatched conspiracy to commit murder of Hanmant. Considering the facts of the case, it appears that motive brought on record is highly improbable.

127. In the present case evidence of the witnesses scrutinized independently by ignoring the lapses committed by investigation officer, but said evidence is not cogent, trustworthy and reliable to connect the accused persons with present crime. On the contrary, circumstances on which prosecution relied, are not of conclusive in nature, they are not form a complete and unbroken chain, pointing to the accused persons as guilty to commit murder of Hanmant, for the reasons as discussed above. Hence, this Court answer point nos. 2 & 3 as 'not proved'.

As to Point Nos. 4 & 5 :-

128. Record indicates that accused persons are also facing trial for the offence punishable under sections 341 and 504 of the I.P.C.. On perusal of record, it appears that no iota of evidence has come on

record to prove any of the charge against any of the accused. Hence, this Court answer point no. 4 & 5 as 'not proved'.

129. Considering all the facts and circumstances, I come to the conclusion that prosecution has failed to prove the charges levelled against accused persons beyond reasonable doubt and they are entitled to be acquitted. In the result, I proceed to pass following order:

ORDER

- (1) Accused nos. 1 to 4 Pooja Hanmant Katare, Nirmala Pandurang Dayal, Rajendra Vidyadhar Nitale and Dattatraya Nagnath Londhe are acquitted as per Section 235(1) of the Code of Criminal Procedure for the offence punishable under Sections 302, 120(B), 341 & 504 r/w Section 34 of the Indian Penal Code.
- (2) Bail bonds of accused nos. 2 & 4 stand cancelled.
- (3) The jail authority is directed to release accused no. 1 Pooja Hanmant Katare and accused no. 3 Rajendra Vidyadhar Nitale forthwith, if they are not required in any other crime.
- (4) Accused nos. 1 to 4 shall furnish surety of Rs. 25,000/- with P.R. Bond of like amount in view of Section 437-A of the Code of Criminal Procedure.
- (5) Muddemal Articles i.e. Broken spectacle, clothes of deceased, clothes of accused nos. 3 & 4 and clothes of Shrimant Ghute, iron pipe, wooden handle, being worthless, be destroyed after one year of this judgment, if there is no appeal.
- (6) Seized sickle, be sent to the District Magistrate, for disposal after one year of this judgment, if there is no appeal.
- (7) Record indicates that, seized Indigo Car bearing registration no. MH15-CM-6189 came to be handed

over to its registered owner, on supratnama vide order below Exh. 14 dated 19/12/2023. Said order is hereby confirmed.

- (8) Copy of this judgment be forwarded to S.P., Latur for information and necessary action, if so required against Mr. Dnyandeo Sanap, the then API of Gategaon Police Station.

Date : 17/07/2026

**(S. J. Bharuka)
Sessions Judge, Latur.**

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER".

C.R. Kulkarni
Stenographer (Grade-1)

Name of the Judge(With Court Room No.)	Shri. S.J. Bharuka, Sessions Judge, Latur. (22)
Date for pronouncement of Judgment/Order	17/07/2026
Judgment/Order signed by P.O. on	17/07/2026