

MHOS010024552022



Presented on : 19-09-2022

Registered on : 20-09-2022

Decided on : 29-06-2026

Duration : **03Y. 09M. 09D.****Exh. 157****Part 'A'****IN THE COURT OF SESSIONS, OSMANABAD AT
OSMANABAD.**

Present: A. D. Deo, Sessions Judge

Date of Judgment: 29-06-2026

Sessions Case No.113 of 2022**FIR No. 209/2022**

Tuljapur Police Station, Tuljapur, Tal. Tuljapur & Dist. Osmanabad.

Prosecution	State of Maharashtra Tuljapur Police Station, Tuljapur, Tal. Tuljapur, Dist. Osmanabad. Through: Bhairunath Nana Karande, Age 31 yrs., Occu. Service, R/o. Masla (Khurd), Tal. Tuljapur, Dist. Osmanabad.
Represented By	Shri. M. B. Deshmukh, Public Prosecutor.
Accused	1. Rameshwar Sambhaji Khochre, Age 32 years, Occu. Service, R/o. Yewati, Tal. & Dist. Osmanabad. 2. Anusaya @ Anita Satish Bhosale, Age 40 years, Occu. Agri., R/o as above. 3. Parmeshwar Sambhaji Khochre, Age 29 years, Occu. Agri., R/o as above. 4. Sambhaji Gena Khochre, Age 74 years, Occu. Agri., R/o as above.
Represented by	Shri. Y. D. Khaire, advocate for accused No.1 Shri. A.K.Fatak, advocate for accused No.2 to 4.

Part-B

Date of Offence	09-06-2022
Date of FIR	10-06-2022
Date of Charge-sheet	03-09-2022
Date of Framing of Charges	15-12-2022
Date of commencement of evidence	27-01-2025
Date on which judgment is reserved	N.A.
Date of the Judgment	29-06-2026
Date of the Sentencing Order, if any	N.A.

Accused Details

Name & Rank of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence Imposed	Benefit of Section 428, Cr.P.C.
1. Rameshwar Sambhaji Khochre	10-06-2022	Accused is in jail.	302, 120-B, 107 r.w.34 of I.P.C. & 4 r.w. 25 of Indian Arms Act.	Convicted for the offence p/u/s.302 r.w.34 of I.P.C.	Rigorous imprisonment for life with fine of Rs.25,000/- I.D. S.I. for 6 months	04Y. 19D.
2. Anusaya @ Anita Satish Bhosale	10-06-2022	29-06-2022	--”--	Acquitted	Not applicable.	Not applicable.
3. Parmeshwar Sambhaji Khochre	08-07-2022	06-08-2022	--”--	Acquitted	Not applicable.	Not applicable.

4. Sambhaji Gena Khochre	08-07-2022	06-08-2022	--”--	Acquitted	Not applicable.	Not applicab le.
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Part 'C'

(List of Prosecution/Defence/Court Witnesses)’

A. Prosecution:

Rank	Name	Nature of Evidence
PW-1	Bhairunath Nana Karande	Informant
PW-2	Sanjay Dattatraya Bagal	Spot/seizure/inquest panch.
PW-3	Sharad Laxman Kharade	Eye witness.
PW-4	Vishal Kalidas Kharade	Panch witness regarding recce panchanama dated 20-06-2022
PW-5	Dinesh Hejkel Sasane	C.A. Carrier
PW-6	Jyoti Laxman Hajare	Witness (maternal sister of deceased).
PW-7	Dr.Santosh Harischandra Patil	Medical Officer (conducted P.M.)
PW-8	Vitthal Dinkar Chaskar	Police witness (conducted inquest panchanama).
PW-9	Ajinath Vitthalrao Kashid	I.O.

B. Defence Witnesses, if any:

Rank	Name	Nature Of Evidence
Nil	Nil	Nil

C. Court witnesses, if any:

Rank	Name	Nature Of Evidence
Nil	Nil	Nil

List of Prosecution/Defence/Court Exhibits

A. Prosecution :

Sr. No.	Exhibit Number	Description
1	Exh.P-1/PW-1	F.I.R. dated 09-06-2022.
2	Exh.P-2/PW-2	Printed F.I.R.
3	Exh.P-2/62	Spot panchanama dated 9-6-2022.
4	Exh.63	Label affixed on the envelop of MO-10/PW-1.
5	Exh.64	Label affixed on the envelop of MO-9/PW-1.
6	Exh.65	Label affixed on the envelop of MO-8/PW-1.
7	Exh.66	Label affixed on the envelop of MO-6/PW-1.
8	Exh.67	Label affixed on the envelop of MO-2/PW-1.
9	Exh.68	Label affixed on polythene bag containing cotton balls used for collecting blood sample of the deceased from the spot.
10	Exh.69	Label affixed on envelop containing polythene bag containing blood stained cotton ball
11	Exh.70	Inquest panchanama dated 9-6-2022 of the dead body.
12	Exh.71	Seizure panchanama dated 9-6-2022 of sickle and clothes of the deceased.
13	Exh.72	Label affixed on the envelope of MO-1/PW-1.
14	Exh.73	Label affixed on the envelope of MO-3/PW-1.
15	Exh.74	Label affixed on the envelope of MO-4PW-1.
16	Exh.75	Label affixed on the envelope of MO-5/PW-1.
17	Exh.76	Seizure panchanama dated 9-6-2022 of clothes and mobile phone of the accused No.1.
18	Exh.77	Label affixed on the envelope of MO-11/PW-1.
19	Exh.78	Label affixed on the envelope of MO-12/PW-1.
20	Exh.79	Label affixed on the envelope of MO-14/PW-1.
21	Exh.83	Statement of PW-3 recorded before the Magistrate.

22	Exh.88	Panchanama dated 20-06-2022 in respect of recce.
23	Exh.95	Letter dated 13-6-2022 issued by I.O. to F.S.L. sending seized articles for C.A.
24	Exh.98/1 & 98/2	Stamp papers dated 26-4-2022
25	Exh.103	Post-mortem Report of the deceased.
26	Exh.104	Query report dated 03-9-2022 by the M.O.
27	Exh.107	Report forwarded with the dead body by PW-8.
28	Exh.108	Letter dated 09-6-2022 issued by PW-8 to M.O. for post-mortem.
29	Exh.109	Receipt of dead body dated 09-6-2022
30	Exh.112	Letter dated 12-6-2022 issued by I.O. to M.O. for collecting blood sample of accused No.1.
31	Exh.113	Letter dated 14-6-2022 issued by I.O. to Manager, Hotel Shivar, Tuljapur for providing CCTV footage.
32	Exh.114	Letter dated 14-6-2022 issued by I.O. to Maharashtra Gramin Bank, Tuljapur for providing CCTV footage.
33	Exh.115	Letter dated 14-6-2022 issued by I.O. to Manager, Hotel PPG, Tuljapur for providing CCTV footage.
34	Exh.116	Letter dated 20-6-2022 issued by I.O. to A.R.T.O., Osmanabad for providing information regarding the vehicles in offence.
35	Exh.117	Vehicle particulars of vehicle No.MH-13/CP-7609.
36	Exh.118	Vehicle particulars of vehicle No.MH-25/ZO-545.
37	Exh.119	Letter dated 20-6-2022 issued by I.O. to Tahsildar, Osmanabad for providing ownership documents of the spot of incidence.
38	Exh.120	Letter dated 20-6-2022 issued by I.O. to Sub Registrar, Osmanabad for providing copy of

		sale-deed No.2428/2022.
39	Exh.121	Letter dated 20-6-2022 issued by I.O. to Executive Engineer, Mahavitaran, Osmanabad informing about the offence registered against accused No.1.
40	Exh.121/A	Letter dated 20-6-2022 issued by I.O. to Executive Engineer, Mahavitaran, Osmanabad for providing the information with regard to accused No.1.
41	Exh.122	Letter dated 20-6-2022 issued by I.O. to S.P, Osmanabad for providing SDR and CDR of mobile numbers of accused and witnesses.
42	Exh.123 to 125	Arrest panchanamas of accused Nos.2 to 4.
43	Exh.126	Query letter dated 26-8-2022 issued by I.O. to M.O.

B. Defence:

Sr. No.	Exhibit Number	Description
1	Exh.80	Arrest panchanama of accused No.1.
2	Exh.99	Certified copy of registered sale-deed dated 25-4-2022.
3	Exh.128 to 130	General diary extract Nos.31, 32 & 41 respectively.
4	Exh.131	Page No.114 to 117 of CDR report of mobile No.9527601572.

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1	Exh.147 to 154	Screen shots of video containing in MO-15
2	Exh.155	CDR of mobile No.9527601572

D. Material Objects/Articles:

Sr. No.	M.O. Number	Description
1	MO-1/PW-1	Sickle/Koyta/Katti.
2	MO-2/PW-1	Wooden handle of sickle.
3	MO-3/PW-1	Full sleeve white shirt of deceased stained with blood.
4	MO-4/PW-1	Banlian of deceased stained with blood.
5	MO-5/PW-1	Pant of deceased stained with blood.
6	MO-6/PW-1	Power bank with connector of accused No.1
7	MO-7/PW-1	Handkerchief of accused No.1
8	MO-8/PW-1	Pair of chappal of deceased.
9	MO-9/PW-1	Black coloured head phone of deceased.
10	MO-10/PW-1	Three fold steel tiffin box.
11	MO-11/PW-1	Shirt of accused No.1.
12	MO-12/PW-1	Pant of accused No.1.
13	MO-13/PW-1	Black coloured motorcycle No. MH-25/Z-0545.
14	MO-14/PW-1	Redmi company mobile phone of accused.
15	MO-15	Pen drive No.2
16	Article No.1 to 4	Photographs of the spot of incidence.
17	Article E, F & G	Photographs of vehicle/motorcycles and tiffin lying on the spot.

:: J U D G M E N T ::
(Delivered on 29-06-2026)

Accused Nos.1 to 4 are facing trial for the offences punishable under Sections 302, 120B, 107 r.w. 34 of the Indian Penal Code, 1860 (hereinafter referred to as “I.P.C.” for the sake of brevity) and under Sections 4 r.w. 25 of Indian Arms Act.

Factual Matrix:

2. Shorn of unnecessary details the gravamen of indictment against the accused is as under:-

2.a The informant stated that he resides in a joint family comprising his parents, wife, two children, two brothers and their respective wives. His deceased brother, Dnyaneshwar, was running "Swaraj Job Works and Xerox Centre" situated opposite the State Bank of India, Mangalwar Peth, Tuljapur. He was also managing the State Bank of India Service Centre at Village Masla (Khurd) and assisting his father in agricultural activities.

2.b On 09.06.2022, the informant left for his duties as a wireman at Village Patoda at about 8:30 a.m. After completing his work, while returning home at approximately 5:30 p.m. and reaching near the Latur Bypass Road, Tuljapur, he received a phone call from one Amit Balaji Kadam (Mobile No. 8275114999). Amit informed him that the informant's scooter bearing Registration No. MH-13/CP-7609 was lying on the Tuljapur-Solapur Road near Kakaka Dhaba and that Dnyaneshwar was found lying nearby in a pool of blood with apparent injuries inflicted by a sharp-edged weapon, namely a koyta. Amit further informed him that a Bajaj Discover motorcycle bearing Registration No. MH-25/Z-0545 was also lying at the spot and that a crowd had gathered there.

2.c Upon receiving the information, the informant immediately rushed to the scene situated near the agricultural land of Anantrao Dindore in Sindaphal Shivar, on the highway opposite Kakaka Dhaba. There, he found Dnyaneshwar lying in a pool of blood. He noticed grievous incised injuries on the abdomen and rib region of the deceased.

Significantly, the blade portion of a koyta was embedded in the abdomen of Dnyaneshwar. The informant also found the aforesaid Bajaj Discover motorcycle and his scooter at the spot. He immediately identified the Bajaj Discover motorcycle as belonging to his maternal cousin, Accused No.1 Rameshwar Khochare.

2.d The investigation further revealed that Accused No.1 Rameshwar Khochare, though residing at Osmanabad, was originally from Village Yeoti. One Jyoti Laxman Hajare, resident of Village Kajla and a cousin of both the informant and Rameshwar, was living separately from her husband at her parental home. Accused No.1 Rameshwar and Jyoti were engaged in an illicit relationship.

2.e Deceased Dnyaneshwar had disclosed the said illicit relationship to Accused No.3 Parmeshwar Khochare, Accused No.2 Anita Bhosale and Accused No.4 Sambhaji Khochare. As the relationship was bringing disrepute to the family and adversely affecting the future of Jyoti, Dnyaneshwar actively intervened and convened a meeting attended by Accused No.1, his father Sambhaji, his siblings, Jyoti and her parents. During the said meeting, it was resolved that a plot situated on Sanja Road, Osmanabad, owned by Accused No.1, should be transferred in the name of Jyoti through a registered sale deed in order to secure her future.

2.f As a result of Dnyaneshwar's intervention and insistence, Accused No.1 was compelled to transfer the said property in favour of Jyoti. Accused No.1 harboured deep resentment and animosity towards Dnyaneshwar for exposing the illicit relationship and compelling him to part with his property. Accused Nos.2, 3 and 4 also shared the grievance and developed hostility towards Dnyaneshwar on the same account.

2.g. The prosecution case is that, motivated by the aforesaid grudge and with a common intention to eliminate Dnyaneshwar, Accused No.1 Rameshwar Khochare, in furtherance of the common intention shared with Accused No.2 Parmeshwar Khochare, Accused No.3 Anita Bhosale and Accused No.4 Sambhaji Khochare, assaulted Dnyaneshwar with a koyta and intentionally caused multiple fatal injuries, resulting in his death. The presence of Accused No.1's motorcycle at the scene of offence, coupled with the longstanding motive arising from the exposure of the illicit relationship and the compelled transfer of property, constitutes a strong incriminating circumstance connecting the accused with the commission of the offence of murder.

First Information Report:-

2.h At the instance of the informant crime No. 209/2022 came to be registered at Tuljapur Police Station against accused for the offence under Sections 302 read with 34 of the Indian Penal Code and under section 4/25 of the Indian Arms Act on 10.06.2022.

Investigation :-

2.i The investigation of crime No. 209/2022 swung in motion. During the course of investigation, the Investigating Officer (hereinafter referred to as "the I.O.") promptly visited the scene of offence and prepared the spot panchanama in the presence of panch witnesses. From the spot, the I.O. seized the scooter and motorcycle found at the scene, along with other incriminating articles including a tiffin box, the handle portion of a koyta, mobile earphones, footwear (chappals), and blood-stained as well as control soil samples under due seizure panchanamas.

The I.O. conducted the inquest panchanama over the dead body of the deceased and thereafter referred the body for post-mortem examination. The clothes found on the person of the deceased were seized and preserved for forensic examination. During the post-mortem examination, the blade portion of the koyta embedded in the abdomen of the deceased was removed and seized under a proper seizure panchanama. The said weapon was subsequently forwarded for medical and forensic examination, and a weapon query opinion was obtained from the Medical Officer regarding the possibility of the injuries having been caused by the said weapon.

2.j During investigation, the statements of material witnesses were recorded under Section 161 of the Code of Criminal Procedure. The accused persons came to be arrested in accordance with law, and the clothes of Accused No.1 were seized for forensic analysis. The Investigating Officer also collected the Call Detail Records (CDRs), Subscriber Detail Records (SDRs), and relevant CCTV footage from various locations to ascertain the movements and involvement of the accused.

2.k All seized articles, including the weapon, clothes, and other exhibits, were forwarded to the Forensic Science Laboratory (FSL) for scientific examination and opinion. The Investigating Officer further collected the post-mortem report, medical opinions, forensic reports, and other documentary evidence forming part of the investigation.

2.l Upon completion of a thorough and comprehensive investigation, and having found sufficient material disclosing the involvement and complicity of the accused persons in the commission

of the offence, the Investigating Officer filed the charge-sheet against the accused before the competent Court.

Committal of case:-

3. After securing presence of the accused before the Court, the learned Judicial Magistrate First Class, Tuljapur vide order dated 13-09-2022 committed the case to the Court of Sessions as the offence punishable under section 302 of the IPC, is exclusively triable by the Court of Sessions.

Charge and Defence:

4. On appearance of the accused persons, my learned predecessor has framed charge against them vide Exh. 17 under Sections 302, 120B, 107 r.w. 34 of I.P.C. and under Section 4 r.w. 25 of the Indian Arms Act. It was read over and explained to the accused in vernacular. Accused persons abjured the guilt and claimed to be tried. The plea of accused was recorded vide Exh.18 to 21.

Prosecution Evidence:-

5. At the trial, in order to prove the guilt of the accused, the prosecution examined in all 9 witnesses.

PW-1/Bhairunath Karande(Informant):-

5.a PW-1 Bhairu Nana Karande is the informant and brother of deceased Dnyaneshwar Karande. He deposed regarding the relationship between the parties and stated that accused No.1 Rameshwar Khochare is his maternal cousin (मावस भाऊ). According to him, deceased Dnyaneshwar was engaged in agriculture and was running a Xerox Centre at Tuljapur and used to travel on Scooty No. MH-13/CP-7609.

5.b PW-1 deposed that on 09.06.2022, while returning from duty, he received a phone call from Amit Balaji Kadam informing him that Scooty No. MH-13/CP-7609 and one Discover motorcycle bearing No. MH-25/Z-0545 were lying near Kaka Dhaba on Tuljapur-Solapur Highway and that his brother was lying injured in a pool of blood. PW-1 immediately rushed to the spot and found deceased Dnyaneshwar lying dead with a sickle embedded in his rib region. He identified the Scooty as belonging to him and the Discover motorcycle as belonging to accused No.1. He further noticed a wooden handle of the sickle lying near the dead body, a pair of chappals and headphone of the deceased, and a tiffin box, power bank and handkerchief lying near the Discover motorcycle. According to him, the tiffin box bore the inscription “दिलीप आप्पाराव माने तर्फे दिपालीस आंदण दिनांक ०१.०६.२०१५” and belonged to the wife of accused No.1. He informed the police that accused No.1 was having illicit relations with Jyoti Hajare and that deceased had intervened in the dispute arising therefrom.

5.c PW-1 proved the F.I.R. lodged by him, which is at Exh.P-1/P.W.1, and the printed FIR at Exh.P-2/P.W.1. He identified the weapon and articles seized during investigation, namely sickle (M.O.1), wooden handle of sickle (M.O.2), blood-stained shirt of deceased (M.O.3), blood-stained baniyan (M.O.4), blood-stained pant (M.O.5), power bank (M.O.6), handkerchief (M.O.7), pair of chappals (M.O.8), headphone (M.O.9), steel tiffin box (M.O.10), shirt of accused No.1 (M.O.11), pant of accused No.1 (M.O.12), Discover motorcycle bearing No. MH-25/Z-0545 (M.O.13) and mobile handset of accused No.1 (M.O.14). In his further examination-in-chief, PW-1 stated that he had seen CCTV footage collected during investigation, wherein accused

No.1 was seen keeping watch over the movements of deceased near the Xerox Centre. He identified the clothes worn by accused No.1 in the said footage as M.O.11 and M.O.12. He also identified M.O.13 as the motorcycle found at the scene of offence and M.O.14 as the mobile phone used by accused No.1.

5.d PW-1 further deposed that accused No.1 was maintaining illicit relations with Jyoti Hajare and had transferred a plot in her favour to resolve the dispute arising out of such relationship. According to him, deceased Dnyaneshwar opposed the said relationship and, therefore, accused No.1 nurtured a grudge against him and committed his murder.

5.e PW-1 also stated that while he was present at the spot, one Rameshwar Kharade telephoned accused No.1 on speaker mode and questioned him as to why he had killed Dnyaneshwar. According to PW-1, accused No.1 replied that he had killed Dnyaneshwar because of the latter's objection to his relationship with Jyoti and the consequent transfer of plot in her favour.

5.f During cross-examination, PW-1 admitted that no complaint had ever been lodged regarding the alleged illicit relationship between accused No.1 and Jyoti Hajare. He further admitted that the plot transferred in favour of Jyoti was the self-acquired property of accused No.1. He also admitted that several facts narrated by him in Court regarding the circumstances at the spot and the articles found there were not specifically mentioned in his FIR (Exh.P-1/P.W.1). However, he denied the suggestion that the articles found at the spot did not belong to accused No.1 or that a false case had been lodged due to strained relations between the families. He further denied that accused Nos.1 to 4 had been falsely implicated.

PW-3/ Sharad Laxman Kharade (Eye-Witness)

6.a PW-3 Sharad Laxman Kharade is cited as an eye-witness to the incident. He deposed that on 09.06.2022, after completing his work at SBI, Tuljapur, he was proceeding towards village Masala (Kh) on his motorcycle. At about 5:30 p.m., when he reached Sindhafal Shivar on National Highway No.52 near “Kaka Ka Dhaba”, he saw one person repeatedly assaulting another person lying near a white scooty with a sickle. According to him, on noticing his presence, the assailant left the sickle embedded in the body of the victim and ran towards Solapur. PW-3 identified the assailant as accused No.1 Rameshwar Khochare, whom he knew previously as a resident of his village and maternal cousin brother of deceased Dnyaneshwar Karande. He thereafter approached the injured person and found that it was Dnyaneshwar Karande lying in a pool of blood with injuries on his neck, chest and ribs. He further noticed a black Bajaj Discover motorcycle and a tiffin box lying at the spot. He then shouted for assistance and requested passers-by to call an ambulance. Thereafter, Sanjay Bangar, Police Patil of Sangavi Mardi, family members of the deceased and police personnel reached the spot.

6.b PW-3 further deposed that the deceased was shifted to the hospital and was declared dead. His statement was subsequently recorded by the police and also under Section 164 of the Code of Criminal Procedure before the learned Judicial Magistrate. He identified his statement recorded before the Magistrate, which is marked at **Exh.83**.

6.c The witness identified the sickle (Art-**MO-1**) and wooden handle of the sickle (Art-**MO-2**) as the weapon which he had seen at the spot, embedded in the body of the deceased. He also identified the

three-fold tiffin box (Art-**MO-10**) found at the scene of offence. Further, he identified the Bajaj Discover motorcycle bearing registration No. MH-25/Z-0545(Art-**MO-13**), as the motorcycle lying at the spot. He also identified accused No.1 before the Court as the person whom he had seen assaulting the deceased.

6.d During cross-examination, PW-3 admitted that deceased Dnyaneshwar and his brothers were his relatives and that accused No.1 was also related to the deceased. He further admitted that he neither informed the police nor the relatives of the deceased immediately after witnessing the incident, nor did he lodge any report himself. He stated that although he narrated the incident to the police when they arrived at the spot, his formal statement came to be recorded on 27.06.2022 and his statement under Section 164 Cr.P.C. was recorded on 21.07.2022. He denied the suggestion that he had not witnessed the incident and had falsely implicated accused No.1 at the instance of the informant. He also denied the suggestion that he falsely identified Art-**MO-1, 2, 10 and 13** before the Court.

6.e In the cross-examination on behalf of accused Nos.2 to 4, the witness maintained that the incident had occurred in his presence and specifically denied the defence suggestion that unknown persons had assaulted the deceased or that he had been planted as an eye-witness. He further denied that he had falsely deposed regarding having seen accused No.1 repeatedly assaulting the deceased with the sickle.

PW-2 Sanjay Dattatraya Bagal (Panch Witness) –

7.a PW-2 is the panch witness to the spot panchanama (Exh.62), inquest panchanama (Exh.70), seizure panchanama of the clothes of the deceased and sickle (Exh.71), and seizure panchanama of

the clothes and mobile handset of accused No.1 (Exh.76). He deposed that on 09.06.2022 at about 6.30 p.m., he received a call from the police and proceeded to National Highway No.52 at Sindafal Shivar. On reaching the spot, he noticed the dead body of Dnyaneshwar Karande lying on the road with a sickle embedded in the rib portion. He acted as a panch witness along with another panch, Shri Kadam. According to him, the police prepared the spot panchanama (Exh.62) in their presence. He noticed an Aactiva motorcycle bearing No. MH-13/CP-7609, a Discover motorcycle bearing No. MH-25/Z-0545, a three-fold tiffin box (M.O. No.10), black coloured headphone (M.O. No.9), pair of chappals (M.O. No.8), power bank (M.O. No.6), wooden handle of sickle (M.O. No.2), and blood stains at the spot. He further stated that blood samples were collected from the spot on cotton balls and sealed. He identified the labels attached to the seized articles, marked at Exhs.63 to 69. He also identified the photographs attached to the spot panchanama, marked as Article Nos.1 to 4, and the Discover motorcycle (M.O. No.13).

7.b PW-2 further deposed that after completion of the spot panchanama, he accompanied the police to the Sub-Divisional Rural Government Hospital, Tuljapur, where the inquest panchanama (Exh.70) was conducted. He noticed injuries on the left side of the body and a sickle embedded in the rib portion of the deceased. Thereafter, between 00.10 hours and 00.55 hours on 10.06.2022, police seized one blood-stained baniyan (Art-**MO**-4), one blood-stained ash-grey pant (Art-**MO**-5), one full-sleeved white shirt (M.O. No.3) and the sickle (Art-**MO**-1) removed from the body of the deceased under seizure pan-

chanama (Exh.71). He identified the corresponding labels marked at Exhs.72 to 75.

7.c The witness further stated that on 10.06.2022 at about 1.00 p.m., accused No.1 Rameshwar Khochare was present in Tuljapur Police Station and, in his presence, police seized the shirt (Art-**MO**-11), pant (Art-**MO**-12) and mobile handset (Art-**MO**-14) of accused No.1 under seizure panchanama (Exh.76). He identified the labels attached to those articles, marked at Exhs.77, 78 and 79 respectively. He also identified accused No.1 before the Court as the person from whom the said articles were seized.

7.d In his cross-examination, PW-2 admitted that at the relevant time he was serving as Police Patil of village Sangavi and was acquainted with police officers attached to Tuljapur Police Station. He admitted that the labels at Exhs.63 to 79 were affixed and signed in the Police Station after sealing of the articles and not at the spot. He further admitted that he was not a witness to the arrest of accused No.1, though his signature appears on the arrest panchanama (Exh.80). However, he denied the suggestions that he had signed the panchanamas without being present during the proceedings or that he had deposed falsely at the instance of the police or the informant. Nothing material has been elicited in his cross-examination to discredit his presence during the panchanama proceedings evidenced by Exhs.62, 70, 71 and 76.

PW-7/Dr. Santosh Harischandra Patil (Medical Officer):

8.a PW-7 was serving as Medical Officer at Sub-District Hospital, Tuljapur. He deposed that on 09.06.2022 at about 10.50 p.m., API Vitthal D. Chaskar brought the dead body of Dnyaneshwar Nana Karande for post-mortem examination. After perusing the inquest pa-

pers, he noticed that a sickle was embedded in the left iliac region of the body. The sickle was removed from the body in the presence of police and the clothes on the dead body were also removed. After completion of the post-mortem examination, the sickle, blood-stained clothes and sealed blood samples of the deceased were handed over to police under seizure panchanama **Exh.71**. He identified Art-**MO-1** (sickle), Art-**MO-3** (white full-sleeved blood-stained shirt), Art-**MO-4** (white blood-stained baniyan) and Art-**MO-5** (blood-stained pant) as the articles removed from the body of the deceased and handed over to police.

8.b The witness stated that he commenced the post-mortem examination at 10.55 p.m. and completed it at 11.55 p.m. He noted the 9 injuries which were in the form of stab injury, abrasion which were ante-mortem injuries in Column No.17 of the Post-Mortem Report. . The corresponding internal injuries were described in Columns 20 and 21 of the post-mortem report.

8.c On the basis of the post-mortem findings, PW-7 opined that the cause of death was **“Hemorrhagic Shock due to multiple vital organ injury due to stab.”** He further opined that the injuries noted in Columns 17, 20 and 21 of the post-mortem report were possible by assault with the sickle (Art-**MO-2**) which had been removed from the body of the deceased. He proved the Post-Mortem Report at **Exh.103**.

8.d PW-7 further deposed that on receipt of a police query dated 26.08.2022 regarding the weapon of offence and nature of injuries, he furnished his opinion vide letter dated 05.09.2022, which is marked at **Exh.104**. In the said opinion, he reiterated that the sickle had been removed from the body of the deceased in his presence and that the injuries found on the dead body were possible by the said weapon.

8.e In cross-examination, the witness stated that *rigor mortis* was present only in the distal parts of the limbs and denied that death had occurred 10 to 12 hours prior to the post-mortem examination. He admitted that the probable time of death was not mentioned in **Exh.103**. He further stated that injuries Nos.7 to 9 could be possible if a body was dragged from one place to another. However, he denied the suggestion that the post-mortem examination was defective or that the injuries mentioned in **Exh.103** were falsely recorded. He maintained that the injuries described in Columns 17, 20 and 21 of **Exh.103** were possible due to the sickle (Art-**MO-2**) and specifically denied the suggestion that the injuries could have been caused by multiple weapons. He also denied having falsely issued his opinion at **Exh.104**.

PW-4/ Vishal Kalidas Kharade- Circumstantial Witness and Panch Witness to CCTV Footage Collection Panchanama (Exh.88)

9.a PW-4 deposed that he was acquainted with accused No.1 Rameshwar Khochare, who had undertaken electrical work in his village, He also knew deceased Dnyaneshwar Karande, as he is his cousin(Mama cha mulga). According to him, on 09.06.2022 at about 11.00 a.m., while standing on Bhawani Road near the old bus stand at Tuljapur, he noticed accused No.1 proceeding on a motorcycle with his face covered by a cloth. On being questioned, accused No.1 replied that he was occupied with some work and proceeded further. The witness noticed a tiffin box and a bag hanging on the motorcycle of accused No.1.

9.b The witness further deposed that after returning to his village at about 5.00 p.m., he learnt that Dnyaneshwar Karande had been murdered. He immediately proceeded to the spot near “Kaka Ka

Dhaba” on Tuljapur–Solapur Highway. On reaching there, he found the dead body of Dnyaneshwar lying in a pool of blood with a sickle embedded in the left rib region. He also noticed the scooty of the deceased, the motorcycle of accused No.1 and a tiffin box lying near the motorcycle of accused No.1. He identified the sickle(Art- **MO-1**), the three-tier tiffin box (Art.**MO-10**), and the Discover motorcycle bearing registration No. MH-25/Z-0545 (**M.O. No.13**) as the articles which he had seen at the spot.

9.c The witness further stated that on 20.06.2022 he was called by police to act as a panch witness. Along with another panch witness Manoj Kharade, he accompanied police officers to various places at Tuljapur for collection and verification of CCTV footage. The police first visited “**Aaisaheb Xerox Center**”, the shop of deceased Dnyaneshwar, in the presence of the landlord Deodatta Nike. Thereafter, they visited Bank of Maharashtra, PPG Hotel, Vishwanath Corner, Bhawani Road and Chhatrapati Shivaji Maharaj Chowk and viewed CCTV recordings available at those places.

9.d According to the witness, while viewing the CCTV footage, accused No.1 was seen moving near the shop of the deceased with his face covered by a cloth and repeatedly moving in the vicinity. The footage further showed accused No.1 on motorcycle No. MH-25/Z-0545 and, at one stage, deceased Dnyaneshwar proceeding on his scooty, followed shortly thereafter by accused No.1 on his motorcycle. The CCTV footage collected from different locations was copied on separate pen drives and a consolidated panchanama was prepared. The witness proved the CCTV footages collection panchanama (**Exh.88**).

9.e During the demonstration of CCTV footage before the

Court, the witness identified accused No.1 in the footage and pointed out his movements. He specifically identified accused No.1 riding motorcycle No. MH-25/Z-0545 (Art-**MO-13**) and stated that the same motorcycle was seen by him at about 11.00 a.m. on 09.06.2022 and later found near the place of occurrence. He also identified the tiffin box (Art-**MO-10**) as the same tiffin box which he had seen hanging on the motorcycle of accused No.1 earlier in the day and later lying at the scene of offence.

9.f In cross-examination, PW-4 admitted that although he claimed to have seen accused No.1 at about 11.00 a.m. on 09.06.2022 and to have knowledge regarding the involvement of accused No.1, he did not disclose the said facts to police immediately either at the scene of offence or at the hospital. He admitted that his statement came to be recorded subsequently on 09.08.2022. He further admitted that the names of certain locations visited during CCTV collection were not specifically mentioned in his police statement and that the panchanama **Exh.88** does not mention visits to some of the locations referred to in his deposition. He also admitted that similar steel tiffin boxes are commonly available in the market and that motorcycles similar to Art-**MO-13** are commonly seen on roads.

9.g The witness, however, denied the suggestions that the CCTV footage was fabricated, that the proceedings under **Exh.88** were conducted only at the police station, that he had falsely identified accused No.1 in the CCTV footage, or that he was deposing falsely due to his relationship with the deceased. He maintained that accused No.1 was visible in the CCTV footage collected under panchanama (**Exh. 88**) and that he had correctly identified Art-**MO-10** and Art-**MO-13**.

PW-6/Jyoti Laxman Hazare: Motive witness:

10.a PW-6 Jyoti deposed that she was married with Amar Tavale. She stated that after her marriage with Amar Laxman Tavale on 11.06.2015, she started residing at her parental house owing to matrimonial issues.

10.b She deposed that she is the daughter of the maternal aunt of deceased Dnyaneshwar Karande and accused Nos.1 to 4 are the members of the Khochare family related to her through maternal aunt.

10.c PW-6 further deposed that in the year 2018, accused No.1 had taken her to Dharashiv for shopping in connection with the marriage of her brother Sachin. According to her, accused No.1 thereafter developed physical relations with her and, from that time onwards, they maintained an illicit relationship.

10.d She stated that in April, 2022, deceased Dnyaneshwar Karande came to know about the relationship between herself and accused No.1. According to her, Dnyaneshwar advised both of them to discontinue their relationship and further insisted that accused No.1 should transfer his plot situated at Dharashiv in her favour. She deposed that pursuant thereto, accused No.1 executed a registered sale deed in respect of the said plot in her favour on 26.04.2022.

10.e PW-6 further stated that on 26.04.2022, she and accused No.1 executed two consent deeds undertaking that they would not maintain any contact through phone calls, messages or any other mode and would not have any relationship in future. She identified the said documents and the signatures appearing thereon. The said consent deeds are marked at **Exh.98/1** and **Exh.98/2**. She also identified the photographs affixed to the said documents as belonging to herself and

accused No.1.

10.f The witness further identified the certified copy of the registered sale deed executed in her favour by accused No.1, which is marked at **Exh.99**. She admitted that the sale deed bears her signature, photograph and thumb impression as well as those of accused No.1 and that the document came to be registered on 26.04.2022.

10.g PW-6 deposed that on 09.06.2022 she made a telephone call to her cousin Bhairu Karande to ascertain why her parents had gone to village Masala (Khurd). The call was answered by Ganesh Karande, who informed her that accused No.1 had murdered Dnyaneshwar Karande by assaulting him with a sickle. According to her, accused No.1 bore a grudge against Dnyaneshwar because of the transfer of the plot in her favour and, therefore, she believed that accused No.1 had committed the murder.

10.h In cross-examination, PW-6 admitted that she had never disclosed her alleged illicit relationship with accused No.1 to anybody prior to the death of Dnyaneshwar and had never lodged any complaint in that regard. She further admitted that, while giving her police statement, she had not disclosed the specific dates, times and places of the alleged physical relationship with accused No.1. She also admitted that she had not produced any photographs, videos, messages or other material before the police to substantiate the alleged relationship.

10.i The witness admitted that the consent deeds **Exh.98/1** and **Exh.98/2** do not contain any reference either to the alleged illicit relationship between herself and accused No.1 or to the transfer of the plot in her favour on account of such relationship. She further admitted that

the sale deed (**Exh.99**) recites payment of consideration of Rs.2,90,000/- by her to accused No.1, though she volunteered that no consideration was actually paid. She also admitted that deceased Dnyaneshwar and informant Bhairu Karande were not attesting witnesses to the sale deed.

10.j PW-6 further admitted that her knowledge regarding the incident of murder was purely hearsay and that she had no personal knowledge about the occurrence. She admitted that she never lodged any complaint alleging that accused No.1 had murdered Dnyaneshwar due to the transfer of the plot in her favour. She further admitted that after execution of the sale deed on 26.04.2022 and until recording of her statement, she had neither met deceased Dnyaneshwar nor accused No.1.

10.k She denied the suggestions that no illicit relationship ever existed between herself and accused No.1, that the transfer of property had no connection with any such relationship, that she was deposing falsely at the instance of informant Bhairu Karande, or that she had been projected as a witness to create a motive against accused No.1.

10.l Testimony of PW-8 and PW-9 who are investigating officers is of formal nature with regard to investigation carried by them.

Statement of accused under section 313 of Cr. P.C.:-

11. The defence of the accused is of simplicitor denial. In the statement under Section 313 of Cr.P.C., the accused persons claimed their innocence and stated that, they have not any connection with the death of Dnyaneshwar. Accused persons have stated that, the deceased Dnyaneshwar was running mini-bank (SBI) and used to carry the

amount while returning to his village. They stated that, some unknown persons stopped Dnyaneshwar on the road, assaulted him and robbed him and Dnyaneshwar died due to that beating. Accused persons further stated that, there was the past enmity between the family of the accused and the family of the complainant and taking undue advantage of this incident the complainant has filed a false case with the help of witnesses and the police implicated the accused persons.

Points of Arguments:-

12. Heard, learned Public Prosecutor Shri. M. B. Deshmukh for the State and learned advocates Shri. Y. D. Khaire for the accused No.1 and Shri. A. K. Fatak for the accused Nos.2 to 4. Perused the record.

A. Argument by the Public Prosecutor :-

12.1 On behalf of the prosecution the learned Public Prosecutor has submitted as under :-

- a. The defence raised by the learned advocate for the accused that in robbery of cash from Dnyaneshwar the death of deceased was caused by unknown person, is not probable. There is no probable proof brought on record by the defence that on the day of incidence Dnyaneshwar was carrying cash with him.
- b. The F.I.R. is lodged immediately after the incident. The F.I.R. inspires confidence about the happening of the incident.
- c. Testimony of PW-1 to PW-3, PW-7 and PW-8 is consistent that they saw sickle stuck in the body of Dnyaneshwar, there were multiple stab injuries over the body of Dnyaneshwar.

- d. PW-3 is the eye witness who have seen the accused No.1 assaulting Dnyaneshwar.
- e. PW-8 has prepared immediately prepared the spot and seizure panchanama and seized incriminating article pointing toward the involvement of the accused.
- f. Motive behind the offence is clearly made out by PW-1 and PW-6 that as Dnyaneshwar with his intervention had asked accused no.1 to transfer his immovable property in the name of PW-6, to severe illicit relation between accused no.1 and PW-6, the accused persons with common intention, done away with Dnyaneshwar.

Lastly, it is submitted that, the prosecution has proved its case to the hilt and the accused persons be convicted of the charges with optimum sentence.

B. Argument on behalf of the defence:

12.2 *Per contra*, on behalf of the accused no.1, it is submitted that,

- A** The incident as per the case of prosecution was initially informed by Amit Kadam to PW-1, but for the reasons best known to the prosecution, Amit Kadam is not examined by prosecution.
- B** Neither PW-3 nor Amit Kadam, reported about the incident to police, which is unnatural on their part.
- C** Though as per the topography of the incident the spot of incident is situated at highway, opposite Kaka Ka Dhaba, no independent witness is examined by the prosecution.
- D** It is pointed out that, PW-3 though has deposed that when the

person i.e. accused no.1 saw PW-3, accused no.1 who was assaulting Dnyaneshwar, fled from the spot. But statement of PW-3 is recorded at a very belated stage. Hence PW-3 appears to be brought up witness.

12.3 On behalf of accused no. 2 to 4 it is submitted as under:-

- A It is further submitted that, the forensic expert has not collected the finger prints over the articles found on the spot of incidence.
- B Meticulous perusal of the CDR (Exh. 131) filed by the prosecution on record would show that there were in-call on mobile phone of deceased after 18:07:24 which were received and the tower location of the same would show that it was where the shop of Dnyaneshwar was located. Thus, the probability that Dnyaneshwar was at his shop at 18:07:24 hours cannot be ruled out.
- c It is vehemently submitted that there is no evidence to show the link of common intention or conspiracy hatched or common object of accused no. 2 to 4 with accused no.1 in the commission of offence.
- d It is further pointed out that

12.4 It is strenuously submitted on behalf of defence that the prosecution has failed to prove the charge beyond reasonable doubt hence, the benefit of doubt be extended in favour of accused and they be acquitted of the charge.

Point for determination:-

13. In the light of the charge against the accused, evidence on record and the submission made across the bar, following points arise for my determination to which, I have recorded my findings against each of them for the reasons to follow:

	Points	Findings
1.	Does the prosecution proves that the death of deceased Dnyaneshwar Nana Karande is homicidal?	In the affirmative.
2.	Does the prosecution prove that, on 09-06-2022 at around 5.30 p.m., on Tuljapur to Solapur road, in front of Kakaka Dhaba, near the field of Anantrao Dindore situated in the limits of village Sindphal, Tal. Tuljapur, Dist. Osmanabad, the accused persons in furtherance of their common intention, committed murder intentionally and knowingly causing the death of Dnyaneshwar Nana Karande by assaulting him with sickle and thereby committed an offence punishable under Section 302 r.w.34 of the I.P.C.?	Affirmative to the extent of accused No.1 only.
3.	Does the prosecution prove that, on above date, time and place and during the course of same transaction, the accused Nos.1 to 4 in furtherance of their common intention were party to a criminal conspiracy to commit murder of Dnyaneshwar Karande punishable with sentence of death or imprisonment for life and thereby committed an offence punishable under Section 120-B r.w.34 of I.P.C.?	In the negative.
4	Does the prosecution prove that, on above date, time and place and during the course of same transaction, the accused Nos.2 to 4 in furtherance of their common intention instigates accused No.1 to commit murder of Dnyaneshwar Karande and thereby committed an offence punishable under Section 107 r.w.34 of I.P.C.?	In the negative.
5	Does the prosecution prove that, on above date, time and place and during the course of same	

	transaction, the accused No.1 was found in possession of arms like sickle and used the same for committing murder of Dnyaneshwar Karande in contravention of the provision of Section 4 of the Indian Arms Act and thereby committed an offence punishable under Section 25 of the Indian Arms Act?	In the negative.
6.	What order?	As per final order

:: R E A S O N S ::

:: Appreciation of evidence ::

Undisputed Facts:

14. Mother of Dnyaneshwar Nana Karande viz. Surekha has two sisters Vimal and Kamal. Surekha is resident of village Masala, Vimal is resident of village Yevati and Kamal is resident of village Kajala. Vimal is married to Sambhaji Khochare is accused no. 4 in present case, whereas Rameshwar(accused no.1), Parmeshwar (accused no.3) and Anita (accused no. 2) are children of Vimal and Sambhaji. Whereas, PW-6/Jyoti is daughter of Kamal Laxman Hazare r/o Kajala. Thus, Deceased Dnyaneshwar, Informant Bhairunath/PW-1, Accused no.1 Rameshwar, Accused no. 2. Parmeshwar Accused no. 4 Anita PW-6/Jyoti are all cousins in their *inter-se* relation. It is undisputed that Dnyaneshwar would run a photocopy shop at Tuljapur.

As to point No.1:

Cause of death:

15.a At the outset, since the accused persons are charged with the offence punishable under Section 302 of IPC, the primary burden cast upon the prosecution is to establish that the death of deceased

Dnyaneshwar was homicidal in nature. Unless the prosecution first proves that the death was not natural or accidental, but the result of a culpable act, the question of fastening criminal liability upon the accused does not arise.

Evidence Regarding Discovery of the Body and Inquest:

15.b The testimony of PW-8 reveals that on 09-06-2022, while he was on duty as API at Tuljapur Police Station, at about 06.30 p.m., PI Kashid/PW-9 informed that, one murder is committed at Sindfal near 'Kaka Ka Dhaba' and when they reached there, they saw dead body of the deceased Dnyaneshwar Karande, with one Katti approximately adm. 55 to 60 c.m., was found stuck in body, the injuries on dead body were on rib and left side of upper arm and contusion on dead body and with blood smudged which he noted in Inquest Panchanama (Exh. 70).

15.c Informant/PW-1, PW-2, PW-3 and PW-9 have also corroborated the aspect of embedded katti/sickle and injuries around the ribs and other body part.

15.d Though the inquest panchanama is not substantive evidence regarding the cause of death, it is relevant to note the apparent injuries observed on the body at the earliest point of time. The presence of a cut injury over the neck noted during inquest assumes significance when read in conjunction with medical evidence.

Post-Mortem Findings

15.e PW-8 has deposed that he gave requisition letter (Exh.107), to the Medical Officer for conducting post-mortem over the dead body.

15.f PW-7/Medical Officer has corroborated that on 09.06.2022, API Vitthal D. Chaskar/PW-8 brought dead body of

Dnyaneshwar Nana Karande at about 10.50 p.m. He saw the dead body had stab injury and a sickle (Art-MO-2) was stuck at left *iliac bone* of the dead body. He started the Post Mortem at about 10.55 p.m. and observed the injuries over the body which he noted in column no.17 of Memorandum of Post Mortem Examination which are as follows:

1. Stab Injury, left side of chest at auxiliary lines of size Depth 18 c.m., Length 09 c.m., and width 03 c.m.
2. Stab Injury, just below the first injury, left side of chest auxiliary line of size Depth 18 c.m., Length 12 c.m., and width 06 c.m.
3. Stab injury at left flank (iliac) region at auxiliary lines of size Depth 12 c.m., Length 8 c.m., width 5 c.m.,

Injury no.1 to 3 are deeply directed oblique and upward direction.

Due to direction of these injury ribs no.5 to 8 were fractured, heart and lungs were punctured. These injuries were penetrative injuries. Heart was empty.

4. Stab injury at left *illium* at auxiliary line obliquely directed downwards, fracture left *iliac* bone of size Depth 16 c.m. Length 6 c.m., width 2 c.m. Due to this downward nature of injury, penetrative injury to the bladder was caused and it was empty.
5. Stab injury on left arm, lateral aspect directed obliquely upward of size Depth 03 c.m., Length 05 c.m., and width 03 c.m.
6. Stab injury on right side of neck, back side, deep up to transverse process of 4th cervical vertebra of size Depth 04 c.m., Length 04

c.m., and width 1.5 c.m. Due to this injury transverse process of 4th cervical vertebra was fractured.

7. Abrasion over both knee of size 2 c.m. x 2 c.m., each
8. Abrasion over left dorsum of foot of size 4 c.m., x 3 c.m.
9. Abrasion over dorsum of right foot near ankle of size 3 c.m. x 2 c.m.

These injuries no.1 to 9 mentioned in column no.17 of Memorandum of Post Mortem Report (Exh. 103) were ante mortem. PW-7 opined that the probable cause of death, "cause of death is Hemorrhagic Shock due to multiple vital organ injury due to stab.

Corroboration Between Ocular and Medical Evidence

15.g The injury observed by PW-2 and PW-8 during inquest — namely there were multiple stab injuries over the rib-chest of the deceased stands fully corroborated by the medical evidence of PW-7. There is complete consistency between:

- The injury described in the inquest,
- The external injury recorded in the post-mortem report, and

Such consistency lends assurance to the prosecution case.

It is settled law that when medical evidence corroborates ocular or circumstantial evidence, it strengthens the prosecution case. In the present matter, there is no inconsistency between the two.

Weapon Compatibility

15.h PW-7/medical officer has further deposed that vide letter (Exh.-104) the I.O. had sought opinion with regard to seized weapon sickle (Art-MO-1) which were forwarded to him, whether the injuries observed by him, on the body could have been caused by the weapons forwarded to him. PW-7 has opined that the injury sustained on the dead body of Dnyaneshwar was possible due to assault of weapon sickle taken out from the dead body of deceased Dnyaneshwar in his presence. The medical opinion regarding the compatibility of the weapon with the injury provides further corroboration to the prosecution case. There is no material contradiction between the nature of injury and the alleged weapon.

Conclusion on Homicidal Nature:

15.i Upon cumulative consideration of:

- i. The inquest findings,
- ii. The consistent testimony of PW-1, PW-2, PW-3 and PW-8,
- iii. The unimpeached medical evidence of PW-7,
- iv. The post-mortem report (Exh. 103),
- v. The compatibility of injury with the alleged weapon,

this Court satisfied that the death of Dnyaneshwar is the result of a violent multiple injury inflicted upon the vital organs and consequent **hemorrhagic shock**. The prosecution has thus, successfully discharged its burden of proving that the death of deceased Dnyaneshwar was homicidal in nature. Accordingly, **Point No. 1 is answered in the Affirmative.**

As to point no. 2 to 5:

16. As point no. 2 to 5 being inter-linked are discussed together to avoid repetition.

Sec. 302 of IPC:

16.a The accused have been charged for the commission of offence punishable under Section 302 IPC. It is reproduced as under:

"SECTION 302 IPC Punishment for murder.--Whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine." Accused has been indicted for the offence of murder under section 302 IPC. Section 302 IPC provides punishment for committing the offence of murder with death or imprisonment for life, and shall also be liable to fine."

16.b **Section 300 IPC reads as under:**

***Murder**--Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—*

(Secondly)--If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or-- (Thirdly)--If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or--

(Fourthly) --If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

17 It is trite in law that to bring home conviction of accused, the prosecution has to establish its case beyond any reasonable doubt and the accused is presumed to be innocent till the time he is proved

guilty and any benefit of doubt goes in the favour of the accused. This principle is called the Presumption of Innocence.

18 Presumption of Innocence is a re-statement of the rule that in criminal matters the prosecution has the burden of proving guilt of the accused in order to be convicted of the crime of which he is charged.

19 The inalienable interface of presumption of innocence and the burden of proof in a criminal case on the prosecution has been succinctly expounded in the following passage from the treatise "**The Law of Evidence**" fifth edition by Ian Dennis at page 445:

"The presumption of innocence states that a person is presumed to be innocent until proven guilty. In one sense this simply re-states in different language the rule that the burden of proof in a criminal case is on the prosecution to prove the defendant's guilt. As explained above, the burden of proof rule has a number of functions, one of which is to provide a rule of decision for the fact-finder in a situation of uncertainty. Another function is to allocate the risk of mis-decision in criminal trials. Because the outcome of wrongful conviction is regarded as a significantly worse harm than wrongful acquittal the rule is constructed so as to minimise the risk of the former. The burden of overcoming a presumption that the defendant is innocent therefore requires the state to prove the defendant's guilt."

20. In **Data Ram Singh Vs. State of UP**, the Hon'ble Supreme Court on 06.02.2018, observed as under:

"the freedom of an individual is utmost important and cannot be curtailed specially when guilt if any, is yet to be proved. It is settled law that till such time guilt of a person is proved, he is deemed to be innocent..... A fundamental postulate of criminal juris prudence is a presumption of innocence mean-

ing thereby that a person is believed to be innocent until found guilty....."

:: Direct Evidence ::

Appreciation of Ocular Evidence of PW-3:

Legal Principles Governing Appreciation of Ocular Evidence

21. Before advertng to the evidence of PW-3, it would be apposite to recapitulate the settled principles governing appreciation of ocular evidence. It is well settled that the prosecution is required to establish its case beyond reasonable doubt and that the accused is entitled to the benefit of every reasonable doubt. Equally well settled is the principle that evidence has to be weighed and not counted. Section 134 of the Indian Evidence Act does not require any particular number of witnesses for proving a fact. Conviction can safely be founded on the testimony of a solitary eye-witness provided such testimony is found to be wholly reliable and inspires confidence.

22. The Hon'ble Supreme Court in **Adalat Yadav Etc. vs The State Of Bihar (Criminal Appeal Nos. 1788-1789 of 2019** decided on **22nd April, 2026**), after referring to **Lallu Manjhi v. State of Jharkhand (2003) 2 SCC 401**, **Amar Singh v. State (NCT of Delhi) (2020) 19 SCC 165**, and **Shivaji Sahebrao Bobade vs. State of Maharashtra, (1973) 2 SCC 793**, reiterated that conviction can be based on the testimony of a solitary witness if such witness is wholly reliable. The Court reiterated that the quality of evidence and not the quantity is the determinative factor.

23. The settled legal position is, therefore, that the evidence of a solitary eye-witness is required to be scrutinized with care and

caution. Once the Court finds such testimony to be cogent, trustworthy and of sterling quality, it can safely form the sole basis of conviction without insisting upon independent corroboration.

Examination of the Testimony of PW-3

24. PW-3 claims to be the eye-witness to the actual occurrence. According to him, on 09.06.2022, while returning from Tuljapur after completing his banking work, he reached Sindhafal Shivar near "Kaka Ka Dhaba" on National Highway No.52 at about 5.30 p.m. At that time he noticed one person repeatedly assaulting another person lying near a white Scooty by means of a sickle.

25. PW-3 has categorically deposed that immediately after noticing his presence, the assailant fled from the spot leaving the sickle (Art-MO-1) in the body of the injured. He identified the assailant as accused No.1 Rameshwar Khochare. It is significant to note that the identification is not of an unknown person. PW-3 admittedly knew accused No.1 prior to the incident as he belonged to the same village and was the maternal cousin of deceased Dnyaneshwar Karande. Consequently, the possibility of mistaken identity stands considerably minimized.

26. PW-3 further deposed that after approaching the injured he identified him as Dnyaneshwar Karande. He found him lying in a pool of blood having injuries on the neck, chest and ribs. He also noticed the Discover motorcycle, the three-tier tiffin box (article MO-10/PW-1) and the handle of the sickle (Art-MO-2) lying nearby. According to him, he shouted for help and requested passers-by to call an ambulance. Thereafter Sanjay Bangar, Police Patil, followed by the relatives of the deceased and the police reached the spot.

27. The testimony of PW-3 regarding the manner of assault, the weapon used, the position of the deceased, the presence of the motorcycle (article MO-13/PW-1), Scooty, tiffin box (article MO-10/PW-1) and sickle (Art-MO-1) is consistent with the other prosecution evidence and the spot panchanama.

Defence Challenge to PW-3:

28. The learned counsel for the accused has strenuously assailed the credibility of PW-3. It is submitted that although PW-3 claims to have witnessed accused No.1 assaulting the deceased, his statement came to be recorded only on 27.06.2022. It is contended that such unexplained delay creates serious doubt regarding his presence at the spot.

Consideration of Delay in Recording Statement

29. The contention regarding delayed recording of the statement deserves careful consideration. It is true that PW-3 admitted that his statement was recorded on 27.06.2022. However, his evidence further reveals that he had informed the police that he had witnessed accused No.1 assaulting Dnyaneshwar. Once such information was available, the responsibility shifted upon the investigating agency to record his statement without delay. The omission on the part of the Investigating Officer cannot, by itself, be treated as a circumstance sufficient to discard otherwise reliable ocular evidence.

30. In **C. Muniappan and Others vs. State of Tamil Nadu, (2010) 9 SCC 567**, the Hon'ble Supreme Court held that defective investigation by itself cannot be a ground for acquittal. The Court is duty-bound to independently examine the prosecution evidence dehors such lapses and determine whether the evidence is otherwise reliable.

Thus, the delay in recording the statement of PW-3, attributable to the investigating agency, cannot eclipse the evidentiary value of his testimony.

Conduct of PW-3 After the Incident

31. The defence has further contended that PW-3 admitted in his cross-examination that although he was the first person to reach the place of occurrence, he neither informed the police nor the relatives of the deceased about the incident. He further admitted that despite remaining in his village for three days, he did not disclose to anyone that he had witnessed the assault. According to the defence, such conduct is wholly unnatural and renders his testimony unreliable. To bolster their contention, on behalf of accused reliance is placed on the observations in **Shankarlal vs. State of Rajasthan 2004 (3) Mah L R 605**

“His conduct too seems to be unnatural in not informing anyone else in the village until he met Khyali Ram at the village square. We also notice that there is unexplained delay in filing the complaint inasmuch as according to the prosecution the incident in question took place at about 1.30 p.m. and a complaint was lodged only at 3.15 a.m. on 5.4.1980. Though the distance is about 30 miles from the place of incident, the complainant had the facility of using the tractors available in the village and they did use the same for travelling to the Police Station. In such circumstances this unexplained long delay also creates a doubt in our mind as to the genuineness of the prosecution case. Once we are not convinced with the evidence of PW-6 then there is no other material to base a conviction on the appellant hence we are of the opinion that the appellant is entitled to the benefit of doubt therefore this appeal succeeds and is allowed. The judgment and order of conviction of the two courts below are set aside. The appel-

lant is acquitted of the charge framed against him. From the records we notice that the appellant is on bail. If so his bail-bonds shall stand discharged.”

32. I have thoroughly gone through the aforesaid ruling. In the aforesaid citation as relied by defence, the witness PW-6 did not inform the police that he has witnessed the incident. Whereas in the facts in hands, PW-3 has stated in his testimony that he had told to the police that he has witnessed the incident and specifically that he saw Accused no.1 assaulting Dnyaneshwar by means of sickle(Art-MO-1), and when accused no.1 saw PW-3, accused no.1 fled from the spot. Hence, the citation as relied by the defence cannot be squarely applied to the facts in hands.

33. The defence has laid considerable emphasis upon the conduct of PW-3 in not informing either the police or the relatives of the deceased immediately after the occurrence. In my considered view, this circumstance by itself is not sufficient to reject his testimony. Human reactions to unexpected and horrifying incidents are neither uniform nor predictable. Different individuals react differently depending upon their temperament, educational background, mental disposition and the situation in which they are placed.

34. The observations of the Hon'ble Supreme Court in **Bhugin Bhat Kirji v. State of Gujarat reported in 1983 Cri.L.J. 1096 (S.C.)** aptly explain this aspect. The Hon'ble Apex Court observed that an ordinary witness cannot be expected to possess a photographic memory; that witnesses are often overtaken by sudden events; that powers of observation vary from person to person; and that different individuals react differently under similar circumstances.

35. In the present case, PW-3 has consistently stated that after the assailant fled, he approached the injured, attempted to ascertain his condition and shouted for help requesting passers-by to call an ambulance. Such conduct appears to be natural. Merely because he did not himself communicate the incident to the police or the relatives immediately cannot be regarded as a circumstance sufficient to discard his testimony.

PW-3: Whether brought up witness?

36. Another circumstance which lends assurance to the credibility of PW-3 is the absence of any motive on his part to falsely implicate accused No.1. It has come in evidence that PW-3 is a distant relative not only of the deceased and the informant but also of accused Nos.1 to 3. Thus, his relationship is not confined to the prosecution side alone.

37. Significantly, during his cross-examination, the defence elicited that accused No.1 had undertaken the electrical work of the house of PW-3. It has also come on record that although PW-1 himself undertakes electrical fitting work, PW-3 had entrusted his personal electrical work to accused No.1 and not to PW-1. This circumstance clearly indicates that PW-3 shared cordial relations with accused No.1 prior to the incident.

38. Therefore, the evidence on record does not disclose any previous enmity, ill-will or other motive which could have prompted PW-3 to falsely implicate accused No.1 in a grave offence like murder. On the contrary, the circumstances brought on record by the defence itself indicate that PW-3 maintained cordial relations with accused No.1. This circumstance lends further assurance to the impartiality of

PW-3 and substantially rules out the possibility of his being a planted witness or falsely implicating accused No.1 at the instance of the prosecution. This circumstance, when considered along with the consistent and cogent narration of the actual occurrence by PW-3, reinforces the conclusion that his testimony is natural, truthful and wholly reliable.

Minor Discrepancies in the Evidence

39. The defence has also relied upon the variance between the testimony of PW-1 and PW-3 regarding Amit Kadam reaching the spot. According to PW-1, Amit Kadam had on mobile phone informed about the murder of Dnyaneshwar, whereas, as PW-3, PW-1 arrived on spot before Amit Kadam reached on the spot. In the context of the variance, in **Pawan Kumar @ Monu Mittal V State of Uttar Pradesh and Another, (2015) 7 SCC 148**, the Hon'ble Supreme Court observed that after lengthy cross-examination some discrepancies are bound to occur and that only those discrepancies which strike at the root of the prosecution case justify rejection of the evidence.

40. Similarly, in **Thoti Manohar V State of A.P., Criminal Appeal No.1739 of 2007 decided on 15.05.2012**, it has been held that minor discrepancies on trivial matters not affecting the core of the prosecution case deserve to be ignored and that adopting a hyper-technical approach in appreciation of evidence would result in miscarriage of justice.

41. The discrepancy pointed out by the defence pertains only to the sequence regarding Amit Kadam reaching the spot. It neither affects the occurrence itself nor the testimony of PW-3 regarding the

actual assault witnessed by him. Such inconsistency is too insignificant to discredit his otherwise trustworthy testimony.

Effect of Defective Investigation:

42. The delay in recording the statement of PW-3 undoubtedly reflects a lapse on the part of the investigating agency. However, as held in **C. Muniappan and Others vs. State of Tamil Nadu, (2010) 9 SCC 567**, whereon it is held, that

"There may be highly defective investigation in a case. However, it is to be examined as to whether there is any lapse by the IO and whether due to such lapse any benefit should be given to accused.

The law on this issue is well settled that the defect in the investigation by itself cannot be a ground for acquittal. If primacy is given to such designed or negligent investigations or to the omissions or lapses by perfunctory investigation, the faith and confidence of the people in the criminal justice administration would be eroded. Where there has been negligence on the part of the investigating agency or omissions, etc. which resulted in defective investigation, there is a legal obligation on the part of the court to examine the prosecution evidence dehors such lapses, carefully, to find out whether the said evidence is reliable or not and to what extent it is reliable and as to whether such lapses affected the object of finding out the truth. Therefore, the investigation is not the solitary area for judicial scrutiny in a criminal trial. The conclusion of the trial in the case cannot be allowed to depend solely on the probity of investigation."

43. Thus, negligence or omissions in investigation cannot override otherwise reliable evidence available on record. The Court is required to assess the intrinsic worth of the evidence independently of the deficiencies in investigation. The lapse committed by the Investigating Officer cannot enure to the benefit of the accused when the ocular testimony is otherwise found to be cogent and reliable.

Whether PW-3 is a Wholly Reliable Solitary Eye-witness:

44. On behalf of accused no.1 it is vehemently submitted that sole testimony of PW-3 who is solitary eye-witness of prosecution cannot be relied upon. The learned advocate for accused no.1 has placed reliance on the observations in **Tulasareddi @ Mudakappa and anr. Vs. The State of Karnataka & ors.** (Criminal Appeal no. 2120-2121 of 2024) hon'ble Supreme Court has observed as follows:

“TRIAL COURT PROCEEDINGS AND JUDGMENT

.....

(viii) The prosecution case mainly rested upon the deposition given by PW-5 so-called eye-witness as well as on the basis of circumstantial evidence. The alleged motive, last seen theory, recovery, and conduct of the accused were sought to be relied upon to establish the chain of circumstances.

(ix) Upon an exhaustive appreciation of the entire evidence on record, the learned Additional District and Sessions Judge, Gadag, by judgment dated 30.03.2019, acquitted all the accused of all charges. The Trial Court recorded findings that the prosecution had failed to establish a complete and unbroken chain of circumstances pointing only towards the guilt of the accused. The alleged motive was held to be weak and speculative; the theory of conspiracy was found to be unsubstantiated; and crucial links such as last seen together and recovery were not proved beyond reasonable doubt.

(x) The Trial Court specifically held that mere suspicion, however strong, could not take the place of proof, particularly in a case based solely on circumstantial evidence. Consequently, benefit of doubt was extended to all the accused.”

It is vehemently submitted on behalf of defence that based the above observation, the Hon'ble Supreme Court has acquitted the accused persons therein.

45. I have meticulously perused the aforesaid relied citation. The Hon'ble Supreme Court has upheld the observation of trial court for following reasons as mentioned under:

“29. From the aforesaid decisions rendered by this Court, it can be said that if two reasonable conclusions are possible on the basis of the evidence on record, the Appellate Court should not disturb the findings of acquittal recorded by the Trial Court. Further, if the view taken is a possible view, the Appellate Court cannot overturn the order of acquittal on the ground that another view was also possible. The following principles have to be kept in mind by the Appellate Court while dealing with the appeals against an order of acquittal:

(a) whether the judgment of acquittal suffers from patent perversity;

(b) whether the judgment is based on misreading/omission to consider the material evidence on record;

(c) an order of acquittal is to be interfered with only when there are “compelling and substantial reasons” for doing so. If the order is “clearly unreasonable”, it is a compelling reason for interference.’

(d) the appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

(e) if the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

(f) the appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.

30. Keeping in view the aforesaid principles and the law laid down by this Court, if the entire evidence as well as the order of acquittal recorded by the Trial Court and the impugned judgment and order passed by the High Court are examined, we are of the view that the High Court has failed to consider the aforesaid aspect while dealing with the acquittal appeals.”

46. Reverting back to the facts in hands, on an overall appreciation of the evidence, I find that the testimony of PW-3 has remained consistent on all material particulars. His version regarding accused No.1 repeatedly assaulting Dnyaneshwar by means of sickle (Art-MO-1), the accused fleeing after noticing him, leaving behind the sickle (Art-MO-1), the handle (Art-MO-2), the presence of the Scooty, Discover motorcycle and the three-tier tiffin box has remained substantially unshaken during cross-examination. These material aspects receive corroboration from the evidence of PW-1, PW-2, PW-7 and PW-8 as well as the documentary and physical evidence collected during investigation. The discrepancies highlighted by the defence do not affect the core substratum of the prosecution case.

47. Applying the principles laid down in **Adalat Yadav, Lallu Manjhi, Amar Singh**, and **Shivaji Sahebrao Bobade**, I am satisfied that PW-3 falls within the category of a wholly reliable witness whose testimony is of sterling quality.

48. Upon a careful and comprehensive evaluation of the entire evidence on record, I find no justifiable reason to discard the testimony of PW-3 merely because of the delayed recording of his statement or on account of his conduct immediately after the incident. The omissions relied upon by the defence are neither of such magnitude nor of such character as to impair the intrinsic credibility of his evidence.

49. On the contrary, the testimony of PW-3 inspires confidence, is natural, cogent and trustworthy, and stands duly corroborated on material particulars by the surrounding circumstances and the evidence of PW-1, PW-2, PW-7 and PW-8. His evidence clearly establishes that accused No.1 assaulted Dnyaneshwar with sickle (Art-MO-1), inflicting repeated blows which resulted in his death.

:: Circumstantial Evidence ::

First Information Report:

50. PW-1, who is the first informant, has deposed that after the dead body of Dnyaneshwar was sent for post-mortem examination, he approached the concerned Police Station and lodged the First Information Report (Exh. P-1/PW-1).

51. A careful perusal of the First Information Report (Exh. P-1/PW-1) reveals that it came to be lodged on the very day of the incident at about 1:52 a.m. The contents of the report disclose not merely the factum of the homicidal death of Dnyaneshwar but also specifically attribute the commission of the offence to accused No.1, alleging that he assaulted the deceased at the instigation of accused Nos.2 to 4. The report further discloses the motive alleged by the prosecution for the commission of the offence.

52. Though the formal registration of the printed FIR (Exh.P-2/PW-1) bears the date 10-06-2022 at 1:52 a.m., the evidence on record indicates that immediately after the incident, the investigating machinery was engaged in essential preliminary investigative steps, namely preparation of the spot panchanama, inquest panchanama, seizure of articles from the scene of offence, shifting the dead body for post-mortem examination, and thereafter reducing the narration of the informant into writing. The slight interval between the occurrence of the incident and the formal registration of the FIR, therefore, stands satisfactorily explained by the prosecution.

53. The First Information Report (Exh. P-1/PW-1) was thus lodged at the earliest available opportunity without any unreasonable or unexplained delay. Such prompt reporting substantially excludes the possibility of deliberation, embellishment or false implication. Consequently, the FIR lends assurance to the prosecution case and inspires confidence regarding its genuineness and authenticity. Though an FIR is not substantive evidence, it assumes significance as the earliest version of the prosecution case and can be looked into for appreciating the spontaneity and consistency of the prosecution story.

Spot Panchanama

54. To establish the place of occurrence, the prosecution has relied upon the testimony of PW-2 Sanjay Bagal, who was serving as the Police Patil of village Sangvi and acted as a panch witness for the spot panchanama.

55. PW-2 has deposed that on 09-06-2022, he was called by the police to witness the preparation of the spot panchanama. According to him, the place of occurrence was situated opposite Kaka Ka Dhabba on

National Highway No.52, Solapur–Aurangabad Road, at Sindafal Shivar. He has categorically stated that the police prepared the spot panchanama (Exh. P2/62) in his presence. He also identified Article 1 to 4 to be the photographs of the spot of incident.

56. A careful examination of the spot panchanama (Exh. P2-62) reveals that the dead body of Dnyaneshwar was found lying on National Highway No.52, opposite Kaka-ka-Dhabba, at Sindafal Shivar. The panchanama further records the physical features of the place of occurrence and the articles noticed and seized from the spot during the course of investigation.

57. The location described in Exh. P2-62 substantially corroborates the testimony of PW-3 as well as PW-1, both of whom have consistently deposed regarding the place where the incident occurred. Their evidence finds independent corroboration from the contemporaneous documentary evidence in the form of the spot panchanama (Exh. P2/62).

58. Nothing substantial has been elicited in the cross-examination of PW-2 so as to create any doubt regarding the correctness of the place of occurrence or the preparation of the spot panchanama.

59. Consequently, on the basis of the oral testimony of PW-2, read together with the documentary evidence in the form of Exh. P2-62, and its corroboration from the evidence of PW-1 and PW-3, this Court is satisfied that the prosecution has successfully established beyond reasonable doubt the place of occurrence to be on National Highway

NO.52, Sindhphal shivar, opposite Kaka Ka Dhaba on Solapur to Dhule Highway.

60. The law settled by the Hon'ble Supreme Court is that preparation of spot panchanama/ site plan is not a mere formality, but, it is an essential feature in order to reach to the firm conclusion by the Court in order to ascertain whether the offence has been committed by accused or not. The seizure of blood stained soil/earth from the spot of occurrence links, the spot with the commission of offence. Marks on the ground and blood stains, found near the place where murder was committed are relevant fact under section 7 of the Evidence Act, as it is immediate effect of murder. It can be safely concluded that vide Exh.P-2/62, the prosecution has established the spot of incidence.

Seizure of Articles from the spot:

61. As per the version of PW-2 in his presence police had collected blood from spot on cotton swab, Wooden handle of sickle (Art-MO-2), Power bank (Art-MO-6), pair of chappal (Art-MO-8), black coloured Head Phone(Art-MO-9), three tier tiffin (Art- MO-10), Motor bike bearing registration no. MH-25/Z-0545(Art-MO-13) to have been seized by the investigating officer from the spot of incidence by mentioning the seizure in the spot panchanama (Exh.P-2/62)

62. The spot cum-seizure panchanama (Exh. P-2/62) fully corroborates the version of PW-1 and PW-3 that they had seen Wooden handle of sickle (Art-MO-2), Power bank (Art-MO-6), pair of chappal (Art-MO-8), black coloured Head Phone(Art-MO-9), three tier tiffin (Art- MO-10), Motor bike bearing registration no. MH-25/Z-0545 (Art-MO-13) on the spot of incidence.

63. It is vehemently submitted that in Art-MO-1 to Art-MO-4 the photographs of the spot do not reflect both the two-wheeler, vehicles or wooden handle of sickle, or chappals, or power bank. Thus, the seizure of these articles cannot be said to be proved. The learned public prosecutor has pointed out that PW-10 has during his evidence produced the photographs of both the vehicles on record (Article E to G). But I am in agreement with the defence that those photographs of both the vehicles (Article E to G) cannot be taken into consideration, as the source or the whereabouts of those photographs until the recording of evidence of PW-9, is not proved by the prosecution.

64. But, in the case at hand, the omission to collect finger imprints or taking photographs of both the vehicles i.e. scooty or discover motor-bike, power bank, mobile phone, three tier tiffin said to be lying on the spot while preparing spot panchanama, does not demolish the otherwise cogent evidence regarding the preparation of spot panchanama and seizure of incriminating articles.

65. Blood marks at the place of occurrence are relevant under Section 7 of the Evidence Act as immediate effects of the offence. The seizure of blood on the spot, handle of sickle (MO-2/PW-1), tiffin (MO-10/PW-1) firmly establish that the offence occurred at the said spot.

66. Upon cumulative consideration of the evidence of PW-8, corroborated by PW-2, and in light of settled principles of law, this Court finds that the preparation of spot panchanama and seizure of articles have been duly proved. Minor lapses in investigation or procedural irregularities do not efface the core prosecution case.

Arrest and Identity of the Accused persons:

67. In the present case the arrest of the accused persons is not challenged by defence. All the accused persons are relatives of PW-1 and PW-3 hence, there is no contest about their identification.

PW-4/presence of accused no.1 around the shop of Dnyaneshwar:**Appreciation of Evidence of PW-4**

68. According to the prosecution, PW-4 has deposed that on 09.06.2022, at about 11.00 a.m., he had gone to Tuljapur for his personal work. While he was standing on Bhawani Road, adjacent to the old bus stand at Tuljapur, he noticed accused No.1, Rameshwar Khochare, passing by on a motorcycle. PW-4 has stated that the face of accused No.1 was covered with a piece of cloth. On seeing him, PW-4 enquired, "काय चालले आहे रमेश्वर?" (meaning, "What is going on, Rameshwar?"), to which accused No.1 replied, "काही नाही, थोडी गडबड आहे" (meaning, "Nothing, I am in a bit of a hurry"), and proceeded further. PW-4 has further deposed that he noticed a tiffin box (Article MO-10) and a bag hanging on the motorcycle of accused No.1. The aspect of tiffin box Art-MO-10, it is also identified by PW-1 to be lying on the spot of incident. PW-1 has categorically deposed on the said tiffin box it was inscribed "दिलीप आप्पाराव माने तर्फे दिपालीस आंदण दिनांक ०१.०६.२०१५" and the tiffin belonged to the wife of accused No.1

69. The prosecution has further relied upon the testimony of PW-4 by contending that the Investigating Officer collected CCTV footage from the vicinity of the shop of Dnyaneshwar, which allegedly depicts accused No.1 keeping surveillance over Dnyaneshwar and thereafter following him on his motorcycle.

70. In this regard, the learned counsel for the defence has rightly contended that the said CCTV footage is inadmissible in evidence, as it is not accompanied by the mandatory certificate under Section 65-B of the Indian Evidence Act. This Court finds merit in the said submission. Apart from the absence of the requisite certificate under Section 65-B, the prosecution has also failed to satisfactorily establish the source and authenticity of the CCTV footage collected by the Investigating Officer. Consequently, the said electronic evidence cannot be relied upon in support of the prosecution case.

71. Thus, the admissible portion of the evidence of PW-4 is confined to the fact that he had seen accused No.1 at about 11.00 a.m. on 09.06.2022 at Bhawani Chowk, Tuljapur, riding a motorcycle with his face covered and carrying a tiffin box and a bag. This circumstance lends limited corroboration to the prosecution case regarding the presence of accused No.1 at Tuljapur on the relevant date. However, having regard to the considerable time gap between the time when PW-4 claims to have seen accused No.1 and the time of the alleged incident, this circumstance, by itself, is not of decisive or incriminating significance and cannot materially advance the prosecution case.

Discrepancies pointed out by Defence:

Finger-Imprints not collected:

72. Learned defence counsel has strenuously contended that the investigating agency failed to collect finger-imprints from the sickle allegedly used in the commission of the offence and from other articles found at the scene of occurrence. According to the defence, had such scientific evidence been collected and examined, it would have conclusively established the identity of the assailant. It is, therefore,

submitted that in the absence of any finger-print evidence connecting the accused with the weapon or the spot of occurrence, the prosecution has miserably failed to prove the involvement of the accused persons in the commission of the offence.

73. The aforesaid contention, though attractive at first blush, does not merit acceptance. Finger-print evidence is undoubtedly a valuable aid in criminal investigation. However, its absence is not, by itself, fatal to the prosecution case in every matter. The prosecution is required to establish the guilt of the accused by leading cogent, reliable and admissible evidence. Conviction can safely be based on trustworthy ocular or circumstantial evidence even in the absence of scientific evidence, provided the evidence on record establishes the guilt of the accused beyond reasonable doubt.

74. It is also pertinent to note that every lapse or omission on the part of the investigating agency cannot be treated as a circumstance necessarily leading to the acquittal of the accused. Deficiencies in investigation do not by themselves demolish an otherwise credible prosecution case unless such lapses go to the root of the matter and create a reasonable doubt regarding the involvement of the accused.

75. In the present case, the non-collection of finger-imprints from the sickle or other articles may, at the highest, be regarded as a lapse in investigation. However, such omission does not eclipse the other evidence adduced by the prosecution. The evidentiary value of the prosecution case is required to be assessed on the basis of the entire evidence available on record and not merely on account of the absence of one particular piece of scientific evidence.

76. Therefore, this Court is of the considered opinion that the omission to collect finger-imprints from the weapon or other articles at the spot is not sufficient to discard the prosecution case, particularly when the remaining evidence is otherwise found to be cogent, reliable and capable of establishing the guilt of the accused beyond reasonable doubt.

Non-examination of Independent Witness:

77. Learned defence counsel has vehemently contended that the prosecution has withheld a material witness, namely **Amit Kadam**. It is submitted that according to the evidence of **PW-1**, Amit Kadam had informed him about the murder of Dnyaneshwar and had also disclosed the place where the incident had occurred. Further, **PW-3** has also deposed that Amit Kadam was present at the spot of occurrence. According to the defence, Amit Kadam was an important and independent witness whose examination would have established the link between the evidence of **PW-1** and **PW-3** regarding the information received by them about the murder of Dnyaneshwar. It is, therefore, argued that non-examination of Amit Kadam gives rise to an adverse inference against the prosecution.

78. The aforesaid submission deserves due consideration. However, it is equally well settled that merely because an independent witness, though available, has not been examined, the prosecution case cannot be discarded if the evidence adduced is otherwise cogent, reliable and trustworthy. It is a matter of common experience that members of the general public are often reluctant to involve themselves in criminal litigation and avoid appearing as witnesses unless their participation becomes inevitable. In this context, reference is required

to be made to the observations of the Hon'ble Apex Court in **Appabhai and Anr. Vs. State of Gujarat, 1988 Supp (1) SCC 241**, wherein it has been observed:

"Experience reminds us that civilized people are generally insensitive when a crime is committed even in their presence. They withdraw both from the victim and the vigilante. They keep themselves away from the Court unless it is inevitable. They think that crime like civil dispute is between two individuals or parties and they should not involve themselves. This kind of apathy of the general public is indeed unfortunate, but it is there everywhere whether in village life, towns or cities. One cannot ignore this handicap with which the investigating agency has to discharge its duties. The Court, therefore, instead of doubting the prosecution case for want of independent witness must consider the broad spectrum of the prosecution version and then search for the nugget of truth with due regard to probability, if any, suggested by accused."

79. The aforesaid observations aptly explain the practical difficulties faced by the investigating agency in securing the presence of independent witnesses during trial. Merely because Amit Kadam has not been examined, it cannot be presumed that the prosecution case is rendered doubtful, particularly when the prosecution has otherwise led sufficient evidence to establish the circumstances relied upon. The defence has also not demonstrated as to how the non-examination of Amit Kadam has caused any prejudice or created any missing link in the chain of circumstances.

80. Thus, having regard to the aforesaid settled legal position and the common experience regarding the reluctance of independent persons to involve themselves in criminal proceedings, this Court is of

the considered opinion that the non-examination of Amit Kadam does not go to the root of the prosecution case nor does it adversely affect its credibility. It is reiterated that **evidence is to be weighed and not counted**. Therefore, if the evidence adduced by the prosecution is otherwise found to be reliable, trustworthy and inspires confidence, conviction can safely be founded thereon notwithstanding the non-examination of an independent witness.

Consideration of the CDR/SDR (Exh. 155):

81. The defence has relied upon the Call Detail Record/Subscriber Detail Record (CDR/SDR) produced at Exh.155. The document was admitted by the defence and it is contended that it pertains to the mobile phone used by the deceased. Inviting attention to Exh.131, learned counsel for the defence submitted that the CDR demonstrates that the informant had contacted the deceased on 09.06.2022 at the following timings:

Time	Duration (Seconds)	Tower Location
18:07:24	16	Shiv Parvati Lodge, Tuljapur
18:09:27	36	Shiv Parvati Lodge, Tuljapur
18:10:16	43	Shiv Parvati Lodge, Tuljapur

82. It was vehemently argued that these entries establish that at the relevant time the deceased Dnyaneshwar was present at his shop situated opposite the SBI Branch, Tuljapur, and therefore the tower location reflected as "Shiv Parvati Lodge, Tuljapur" probabalises the defence case.

83. Per contra, the learned Public Prosecutor submitted that mere admission or exhibition of a document does not *ipso facto* prove the truth of its contents. It is contended that the prosecution has not examined the Nodal Officer or any competent official of the service provider to explain or prove the technical data contained in Exh.155. It is, therefore, argued that the CDR cannot be read as substantive evidence for proving the location of the deceased.

84. The learned Public Prosecutor further submitted that even assuming the entries in Exh.155 are taken into consideration, they do not conclusively support the defence. The CDR reflects incoming calls on the mobile phone of the deceased at the following timings:

Time	Duration (Seconds)	Tower Location
18:13:10	24	Shiv Parvati Lodge, Tuljapur
19:33:13	1	A/P Sanja, Tal. & Dist. Osmanabad
19:47:03	32	A/P Sanja, Tal. & Dist. Osmanabad
20:08:37	19	Site ID VF5464, Gate No.155/3, Bank Colony, Osmanabad
21:37:53	27	Bhawani Chowk, Sanja Road, Osmanabad

85. It is submitted by the learned PP that the medical evidence shows that the dead body of Dnyaneshwar was received for post-mortem at 10.50 p.m., and prior thereto the inquest (9.50 p.m to 10.50 p.m.) and spot panchanama (6.50 p.m. to 9.10 p.m.) had already been conducted. In these circumstances, the subsequent incoming calls

reflected in the CDR indicate that the mere receipt of calls on the mobile phone cannot necessarily lead to the inference that the deceased himself attended those calls or was alive at the relevant time. According to the prosecution, the possibility that the mobile phone was handled by some other person after the incident cannot be ruled out.

86. Having given anxious consideration to the rival submissions, this Court finds that although Exh.155 stands exhibited, the technical contents thereof have not been proved through the testimony of the Nodal Officer or any competent witness from the concerned telecom service provider. While admission of the document dispenses with formal proof of its production, it does not, in the facts of the present case, dispense with proof of the technical facts sought to be established from the document.

87. The defence seeks to draw an inference regarding the precise location of the deceased solely on the basis of the tower location reflected in the CDR. Such an inference necessarily requires technical evidence explaining the manner in which the CDR was generated, the significance of the entries, the coverage area of the concerned cell tower, and the limitations of tower-location data. These are matters beyond the ordinary knowledge of the Court and require proper explanation by a competent witness.

88. Several material questions remain unanswered. In particular, there is no evidence regarding the geographical coverage of the "Shiv Parvati Lodge, Tuljapur" cell tower, the possibility of overlap with adjoining towers, the accuracy of the location reflected in the CDR, or the methodology adopted by the service provider in generating the records. In the absence of such evidence, the Court cannot safely

infer the exact physical location of the deceased merely from the tower details mentioned in Exh.155.

89. It is also pertinent to note that PW-1 has deposed that when he reached the spot, the police handed over the mobile phone of the deceased. Therefore, the possibility that the incoming calls reflected in the CDR after the occurrence may have been received while the phone was in the possession of some other person cannot be excluded. Consequently, the CDR entries, by themselves, do not conclusively establish the presence or movements of the deceased.

90. The Court is conscious that the matter came to be transferred to this Court after the predecessor Judge had already heard final arguments, who was transferred thereafter. In these circumstances, it would not have been appropriate for this Court, at the stage of pronouncement of judgment, to reopen the prosecution evidence by summoning the Nodal Officer solely to cure the evidentiary deficiency.

91. Accordingly, this Court holds that Exh.155 cannot be relied upon for drawing the factual inferences sought by the defence regarding the location or movements of the deceased. In the absence of the evidence of the Nodal Officer or any competent witness explaining the technical aspects of the CDR, the entries contained therein remain unproved for the purpose for which they are relied upon. Consequently, no substantial evidentiary weight can be attached to Exh.155 in deciding the issues involved in the present case.

92. Moreover, the prosecution case primarily rests upon the direct ocular evidence of PW-3. Even if the CDR had been duly proved in accordance with law, it would have constituted only a corroborative

circumstance and not substantive evidence capable of displacing otherwise reliable direct evidence.

Motive

93. According to the prosecution, as emerging principally from the testimony of PW-1, the accused persons were harbouring a grudge against the deceased Dnyaneshwar. The prosecution case is that Dnyaneshwar had exposed the illicit relationship between accused No.1 and PW-6. In order to preserve the reputation of the family in society, to put an end to the said relationship and to safeguard the future of PW-6, Dnyaneshwar had insisted that accused No.1 should transfer his plot situated at Osmanabad in favour of PW-6. Pursuant to the decision taken in the meeting held between the family members of accused No.1, the parents of PW-6 and Dnyaneshwar, the said plot came to be transferred in the name of PW-6 by registered sale deed (Exh.99). It is, therefore, the case of the prosecution that accused Nos.2 to 4, being the family members of accused No.1, developed animosity against Dnyaneshwar and, in furtherance of the said motive, committed his murder.

94. On the other hand, learned counsel for the defence has vehemently contended that the notarized agreements at Exhs.98/1 and 98/2 do not contain any recital regarding the alleged illicit relationship between accused No.1 and PW-6. It is further submitted that PW-6 has admitted in her cross-examination that she had never demanded any property or other consideration from accused No.1 in lieu of the alleged relationship. PW-6 has also admitted that she did not pay any sale consideration for the transfer of the plot in her favour under Exh.99. It is, therefore, argued that the prosecution has failed to establish the alleged motive.

95. The aforesaid submissions deserve consideration. However, it is pertinent to note that the relationship alleged between accused No.1 and PW-6 falls within the category of prohibited relationship under Hindu Law. In such circumstances, it would be wholly unrealistic to expect that the parties would expressly record the existence of such an illicit relationship in the notarized agreements (Exhs.98/1 and 98/2) or even in the registered sale deed (Exh.99). The absence of any such recital in those documents, therefore, cannot by itself negate the prosecution case regarding the alleged motive.

96. Further, in **Shivaji Genu Mohite v. State of Maharashtra, AIR 1973 SC 55**, it was held that it is a well-settled principle of criminal jurisprudence that where the ocular testimony inspires the confidence of the Court, the prosecution is not required to establish motive. Mere absence of motive does not affect the credibility of a reliable eye-witness. Motive assumes significance principally in cases resting entirely on circumstantial evidence. The Hon'ble Supreme Court observed thus:

"In case the prosecution is not able to discover an impelling motive, that could not reflect upon the credibility of a witness proved to be a reliable eye-witness. Evidence as to motive would, no doubt, go a long way in cases wholly dependent on circumstantial evidence. Such evidence would form one of the links in the chain of circumstantial evidence in such a case. But that would not be so in cases where there are eye-witnesses of credibility, though even in such cases if a motive is properly proved, such proof would strengthen the prosecution case and fortify the court in its ultimate conclusion. But that does not mean that if motive is not established, the evidence of an eye-witness is rendered untrustworthy."

97. The principle that absence or inadequacy of motive loses significance when there is reliable direct evidence has been reiterated

by the Hon'ble Supreme Court in **Biku Pandey vs. State of Bihar, (2003) 12 SCC 616; Rajafopal vs. Muthupandi, (2017) 11 SCC 120; Yogesh Singh vs. Mahabeer Singh, (2017) 11 SCC 195.**

98. Reverting to the facts of the present case, the prosecution version that Dnyaneshwar had intervened in the dispute and had compelled accused No.1 to transfer his plot in favour of PW-6 on account of the illicit relationship appears to be a probable explanation for the animosity alleged against the deceased. Nevertheless, even assuming that the prosecution has not conclusively established the suggested motive, such deficiency would not be fatal to the prosecution case. The present case rests not merely upon motive but also upon the direct ocular testimony of PW-3, who claims to have witnessed the occurrence. As held in Shivaji Genu Mohite (supra), where there is reliable direct evidence of an eye-witness, proof of an impelling motive is not an indispensable requirement for sustaining the prosecution case. At the highest, proof of motive would only lend additional assurance to the prosecution version; its absence does not render otherwise trustworthy ocular evidence unacceptable.

Applicability of Sections 34, 107 and 120-B of the Indian Penal Code

99. The accused Nos.2 to 4 have been charged with the aid of Sections 34, 107 and 120-B of the Indian Penal Code. It is, therefore, necessary to examine whether the evidence on record satisfies the essential ingredients of the aforesaid provisions.

Section 34 of the Indian Penal Code

100. Section 34 of the Indian Penal Code embodies the principle of constructive or joint criminal liability. The provision does not create a substantive offence but only lays down the rule of evidence by which

criminal liability is fastened upon persons who act in furtherance of a common intention. As held in **Gurdatta Mal, AIR 1965 SC 257**, the following two conditions are required to be established before Section 34 can be invoked:

- (i) there must exist a common intention to commit the particular criminal act; and
- (ii) there must be participation by all the accused in the commission of that act in furtherance of such common intention.

99. If these ingredients are established, each participant becomes liable for the criminal act committed by the others as if it had been committed by him alone.

101. It is equally well settled that the essence of Section 34 is participation in the commission of the criminal act. The common intention may be formed prior to the occurrence or even on the spur of the moment, and such intention may be inferred from the conduct of the accused before, during and after the occurrence. Nevertheless, some overt participation in furtherance of the common intention is indispensable.

102. In the present case, the evidence on record does not establish that accused Nos.2 to 4 were present at the place of occurrence when accused No.1 assaulted the deceased Dnyaneshwar. No witness has deposed that accused Nos.2 to 4 participated in the assault, shared any common intention with accused No.1 at the time of the occurrence, or performed any act in furtherance of the alleged common intention. In the absence of evidence showing their participation in the commission of the offence, the essential requirements of Section 34 are not satisfied.

Section 107 of the Indian Penal Code

103. Section 107 of the Indian Penal Code defines "abetment".

A person abets the doing of a thing if he:

- (i) instigates another to do that thing;
- (ii) engages with one or more persons in a conspiracy for doing that thing, provided an act or illegal omission takes place in pursuance of such conspiracy; or
- (iii) intentionally aids, by any act or illegal omission, the doing of that thing.

Thus, to establish the offence of abetment, the prosecution must prove either instigation, intentional aid, or conspiracy coupled with an act or omission in pursuance thereof.

104. Upon careful scrutiny of the evidence, there is no material to show that accused Nos.2 to 4 instigated accused No.1 to commit the murder of Dnyaneshwar. Likewise, there is no evidence that they intentionally facilitated or rendered any assistance to accused No.1 before, during or after the commission of the offence. Mere relationship with accused No.1 or the existence of an alleged motive is not sufficient to attract criminal liability under Section 107 in the absence of cogent evidence establishing instigation or intentional aid.

Section 120-B of the Indian Penal Code

105. To establish an offence punishable under Section 120-B of the Indian Penal Code, the prosecution must prove that there was an agreement between two or more persons to commit an illegal act or to accomplish a legal act by illegal means. The very essence of criminal conspiracy is the meeting of minds to achieve a common unlawful

object. Such agreement may be proved either by direct evidence or by circumstances which unerringly point towards the existence of such an agreement.

106. In the present case, no evidence has been adduced to establish any prior meeting of minds or agreement between accused No.1 and accused Nos.2 to 4 to commit the murder of Dnyaneshwar. There is no evidence of any conversation, conduct or surrounding circumstance from which such an agreement can reasonably be inferred. The prosecution has failed to place on record any circumstance connecting accused Nos.2 to 4 with the planning or execution of the offence.

107. Accordingly, the submission advanced on behalf of the defence deserves acceptance. The prosecution has failed to prove that accused No.1 and accused Nos.2 to 4 shared a common intention within the meaning of Section 34 of the Indian Penal Code, or that accused Nos.2 to 4 abetted the commission of the offence within the meaning of Section 107, or that they entered into any criminal conspiracy punishable under Section 120-B of the Indian Penal Code. The evidence on record is wholly insufficient to attract vicarious criminal liability against accused Nos.2 to 4 under any of the aforesaid provisions.

Charge under Section 4 r.w.25 of Indian Arms Act.

108. With regard to the charge under Section 4 r.w. 25 of Indian Arms Act the prosecution is under obligation to prove that, a weapon was in acquisition or possession of a person in an area specific notified by the Central government. As there is no notification that possession of the weapon Koyta/Katti is prohibited within the jurisdiction of Tuljapur

police station hence, the offence under Section 4 of Arms Act is not made out.

Conclusion

109. Upon meticulous evaluation and judicial appraisal of the entire oral and documentary evidence adduced by the prosecution, coupled with the attendant facts and circumstances brought on record, this Court is of the considered opinion that the prosecution has successfully established its case beyond reasonable doubt.

110. The substratum of the prosecution case rests upon the ocular testimony of PW-1 and PW-3. There is nothing on record to indicate that PW-1 or PW-3 bore any previous enmity, animus or ulterior motive against accused No.1 so as to falsely implicate him in such a grave offence. Their testimonies have withstood the test of cross-examination on all material particulars. The omissions and discrepancies highlighted by the defence pertain only to peripheral or insignificant details and do not strike at the root of the prosecution case. Such minor inconsistencies are natural and inevitable in the testimony of truthful witnesses and, rather than impairing their credibility, lend assurance to their spontaneity and truthfulness.

111. The testimony of PW-3 inspires the confidence of this Court. It is cogent, natural, consistent and trustworthy. PW-3 has categorically deposed that he witnessed accused No.1 assaulting the deceased Dnyaneshwar with a sickle and thereafter fleeing from the spot upon noticing his presence. His presence at the place of occurrence has been satisfactorily established and nothing substantial has been

elicited in his cross-examination so as to discredit his testimony or render it unreliable.

112. The ocular account of PW-3 finds substantial corroboration from the medical evidence regarding the nature and number of injuries sustained by the deceased, the weapon used in the assault and the manner in which the injuries were inflicted. It also receives assurance from the surrounding circumstances proved by the prosecution. The evidence, when appreciated in its entirety, forms a coherent and consistent chain which unerringly points towards the guilt of accused No.1.

113. At the same time, the prosecution has failed to adduce any cogent, convincing or legally admissible evidence connecting accused Nos.2 to 4 with the commission of the offence. As discussed hereinabove, the essential ingredients of Sections 34 or 107 or 120-B of the Indian Penal Code have not been established against them. Mere suspicion, however strong, arising out of their relationship with accused No.1 or the alleged motive, cannot take the place of legal proof. There is no evidence to establish that accused Nos.2 to 4 shared any common intention with accused No.1, abetted the commission of the offence or had entered into any criminal conspiracy for causing the death of Dnyaneshwar.

114. In **Yogesh Singh Vs Mahabeer Singh and Ors** reported in **2016 (4) Crimes 121(SC)**, it is observed by the Hon'ble Supreme Court that,

“Burden of proof to establish guilt of the accused beyond all reasonable doubts, and not all doubts- Lies on prosecution-

Further, if two views are possible on the evidence adduced in the case, on pointing to the guilt of the accused and the other to his innocence-The view favourable to the accused should be adopted .But the rule regarding the benefit of doubt does not warrant acquittal of the accused resorting to surmises, conjectures or fanciful considerations.”

115. Similarly, the Hon'ble Supreme Court in **State of Punjab V Jagir Singh Baljit Singh and Karam Singh, AIR 1973 SC 2407**, observed as under:-

“23. A criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and fantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the crime with which he is charged. Crime is an event in real life and is the product of interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the court has to judge the evidence by the yardstick of probabilities, its intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the courts should not at the same time reject evidence which is ex-facie trustworthy on grounds which are fanciful or in the nature of conjectures.”

116. Bearing the aforesaid principles in mind and upon an independent appreciation of the entire oral and documentary evidence on record, this Court is satisfied that the prosecution has proved beyond reasonable doubt that it was accused No.1 who intentionally assaulted Dnyaneshwar with a sickle, causing multiple injuries which were sufficient in the ordinary course of nature to cause death and which, in fact, resulted in his death. The prosecution has thus succeeded in establishing the guilt of accused No.1 for the offence punishable under Section 302 of the Indian Penal Code.

117. However, insofar as accused Nos.2 to 4 are concerned, the prosecution has failed to establish their complicity beyond reasonable doubt. The evidence adduced against them falls short of the standard required in a criminal trial. They are, therefore, entitled to the benefit of doubt and deserve to be acquitted of all the charges levelled against them.

118. Accordingly, **Point No.2 is answered partly in the affirmative**, holding that the prosecution has proved the charge of murder **only against accused No.1. Insofar as accused Nos.2 to 4 are concerned, Point No.2 is answered in the negative**, and they are entitled to an order of acquittal. **Point No.3 to 5 are answered in negative.**

Hearing of accused no.1 on the quantum of sentence:

119. As accused no.1 is found guilty of the offence punishable under section 302 of IPC, it is necessary to give hearing to accused no.1 on the quantum of charge. Hence, I pause to hear the accused no.1 on quantum of sentence.

Dated: 29-06-2026.

(A.D. Deo)
Sessions Judge, Osmanabad.

Resumed:

120. Heard, accused No.1 on the quantum of sentence. On behalf of accused No.1 his advocate submitted that, since last 4 years accused No.1 is languishing behind the bars. So also his father accused No.4 was with him behind the bars. Hence, minimum fine amount be

imposed as the accused does not have sound financial condition to pay the fine. On behalf of prosecution Public Prosecutor, Mr. M.B. Deshmukh, submitted that optimum sentence be awarded.

121. The mitigating circumstance in favour of convicts particularly with regard to accused No.1 is that he is the first time offender. The aggravating circumstance against convicted person, is that he has committed cold-blooded murder of his cousin Dnyaneshwar.

122. The Hon'ble Apex Court has on number of occasions indicated that the punishment must fit, the crime and that it is the duty of the Court to impose a proper punishment depending on the degree of criminality and desirability for imposing such punishment. In **Sarabhadra V/s State of Karnataka** reported in (1983) 2 SCC 330, the Hon'ble Apex Court observed in para 14 that:

“A sentence or pattern of sentence which fails to take due account of the gravity of the offence can seriously undermine respect for law. It is the duty of the court to impose a proper punishment depending upon the degree of criminality and desirability to impose such punishment as a measure of social necessity as a means of deterring other potential offenders.”

123. On balancing the mitigating and aggravating circumstances, the act of accused No.1 outweighs the mitigating factors, I am of the considered view that accused deserves no leniency and the punishment mentioned in operative order would meet the ends of justice.

Disposal of Muddemal Articles:-

124. Marked muddemal articles i.e. MO-1/PW-1, MO-2/PW-1, MO-3/PW-1, MO-4/PW-1, MO-5/PW-1, MO-7/PW-1, MO-8/PW-1,

MO-10/PW-1, MO-11/PW-1, MO-12/PW-1 & MO-15, being worthless be destroyed after the period of one year or as per the order in appeal, if any, preferred by the parties. Marked muddemal articles i.e. MO-6/PW-1 i.e. power bank with connector, MO-9/PW-1 i.e. Black coloured head phone, MO-13/PW-1 i.e. Black coloured motorcycle No.MH-25/Z-0545 and MO-14/PW-1 i.e. Redmi company mobile phone be returned to its original owners, if not yet returned, after the period of one year or as per the order in appeal, if any, preferred by the parties. Interim custody of unmarked muddemal property i.e. TVS Jupiter Scooty having having registration No.MH-13/CP-7609, chassis No.MD626EG49H1A00352, Engine No.EG4AH1700632 is already given to Bhairunath Nana Karande as per the order passed in Cri.M.A.No.213/2022. Indemnity bond executed by him shall stands cancelled, after the period of one year or as per the order in appeal, if any, preferred by the parties. Remaining unmarked muddemal articles, if any, being worthless be destroyed after the period of one year or as per the order in appeal, if any, preferred by the parties.

Set-off:-

125. Record reveals that the accused No.1 came to be arrested on 10-06-2022. He is under-trial prisoner. Accused No.1 is entitled for set-off as per section 428 of Cr.P.C.

Victim compensation:

126. No compensation can be adequate nor can it be of any respite to the wife and the children of deceased Dnyaneshwar. Victim compensation as per prevalent government scheme be provided to the wife and children of the deceased.

As to Point No.6 :

127. In view of the aforesaid findings to point Nos.1 to 5 following order would meet the ends of the justice. In conclusion, I proceed to pass the following order:

:: O R D E R ::

1. Accused No.1- Rameshwar Sambhaji Khochre stands convicted for the offence punishable under Section 302 r.w.34 of the Indian Penal Code, 1860, as per section 235(2) of the Criminal Procedure Code, 1973 and sentenced to undergo rigorous imprisonment for life and he shall also be liable to pay fine of Rs.25,000/- (Rupees Twenty Five Thousand only) and in default of payment of fine to suffer simple imprisonment for six months.
2. Accused No.1- Rameshwar Sambhaji Khochre is hereby acquitted of the offence punishable under Sections 4 r.w.25 of the Indian Arms Act, as per section 235(1) of Code of Criminal Procedure, 1973
3. Accused Nos.2 to 4 are hereby acquitted of the offence punishable under Sections 302, 120-B, 107 r.w.34 of the Indian Penal Code, 1860 and under Section 4 r.w. 25 of the Indian Arms Act, as per section 235(1) of Code of Criminal Procedure, 1973.
4. Accused No.1 is in jail. He is entitled for set off, for the period already undergone by him in jail, as per Section 428 of the Criminal Procedure Code, 1973.
5. Accused Nos.2 to 4 are on bail. Their bail bonds stand

cancelled.

6. a) Marked muddemal articles i.e. MO-1/PW-1, MO-2/PW-1, MO-3/PW-1, MO-4/PW-1, MO-5/PW-1, MO-7/PW-1, MO-8/PW-1, MO-10/PW-1, MO-11/PW-1, MO-12/PW-1 & MO-15, being worthless be destroyed after the period of one year or as per the order in appeal, if any, preferred by the parties.

b) Marked muddemal articles i.e. MO-6/PW-1 i.e. power bank with connector, MO-9/PW-1 i.e. Black coloured head phone, MO-13/PW-1 i.e. Black coloured motorcycle bearing registration No.MH-25/Z-0545 and MO-14/PW-1 i.e. Redmi company mobile phone be returned to its original owners, if not yet returned, after the period of one year or as per the order in appeal, if any, preferred by the parties.

c) Interim custody of unmarked muddemal property i.e. TVS Jupiter Scooty having registration No.MH-13/CP-7609, chassis No.MD626EG49H1A00352, Engine No.EG4AH1700632 is already given to Bhairunath Nana Karande as per the order passed in Cri.M.A.No.213/2022. Indemnity bond executed by him shall stand cancelled, after the period of one year or as per the order in appeal, if any, preferred by the parties.

d) Remaining unmarked muddemal articles, if any being worthless be destroyed after the period of one year or as per the order in appeal, if any, preferred by the parties.
7. Accused No.1 is informed about his right of appeal.
8. True copy of the judgment be provided to the accused No.1 free

of cost.

9. Accused No.1 is also given understanding that he may approach the District Legal Services Authority, in case of need to challenge the judgment and order, if he desire so.
10. Accused Nos.2 to 4 are directed to furnish P.B. & S.B. of Rs.50,000/- each, with one or more surety in the like amount, in compliance with Section 437-A of Cr.P.C., to appear before the Hon'ble High Court in case the Court issues notice to accused in respect of appeal against the acquittal of accused.
11. The copy of judgment be forwarded to the District Magistrate of the local jurisdiction under Section 365 of the Criminal Procedure Code, 1973.
12. The copy of judgment be forwarded to the District Legal Services Authority, Osmanabad.
13. District Legal Services Authority to provide victim compensation to the wife and children of deceased Dnyaneshwar Nana Karande as per rules.
14. Sessions Case No. 113/2022 stands disposed off.
15. Record and proceeding of Sessions Case No. 113/2022 be consigned to record room.

(A.D. Deo)

Dated: 29-06-2026.

Sessions Judge, Osmanabad.

CERTIFICATE

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

Name of Stenographer	--	A.S.Aghor, Stenographer (Grade-I)
Court	--	District Court, Osmanabad
Date	--	29-06-2026
Order signed by the Presiding Officer on	--	29-06-2026
Order uploaded on	--	29-06-2026