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SESSIONS CASE NO. 13 OF 2023
(Old Sessions Case No. 309 of 2019)

EXH NO. 131

FORM NO. XXXII Part 'A' (Title Page of Judgment) [Para 44(i) of Chapter VI of Criminal Manual]	
IN THE COURT OF ADDITIONAL SESSIONS JUDGE, WAI (Presided over by B.D.Kadam)	
Date of Judgment :	24.07.2026
SESSIONS CASE NO. (Old Sessions Case No. 309/2019)	13/2023
FIR/Crime No.	196/2019
Police Station :	Lonand, Tq.Khandala, Dist. Satara
Prosecution	State of Maharashtra, through Lonand Police Station
Represented by	Learned APP Shri D.S.Patil
Accused	1) Balu Bhagwan Kale Age: 47 years, Occupation: Labour 3) Kenasha Bhagwan Kale Age: 55 years, Occupation: Labour

	Both resident of Sonawadi Bk., Tq.Phaltan, Dist. Satara.
Represented by	Learned Counsel Shri V. B. Patil

Part 'B'

[Para 44(ii) of Chapter VI of Criminal Manual]

Date of offence	11.07.2019
Date of FIR	12.07.2019
Date of Charge-sheet	14.10.2019
Date of framing of Charges	06.01.2023
Date of commencement of Evidence	09.09.2024
Date on which judgment is reserved	24.07.2026
Date of the Judgment	24.07.2026
Date of the Sentencing order, if any	--

Accused Details

Rank of the accused	Name of accused	Date of arrest	Date of Release on Bail	Offences charged	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during Trial for purpose of Section 428
1	Balu Bhagwan Kale	18.07.2019	U.T.P	302 R/w.34 of Indian Penal Code	Acquitted	NA	NA

3	Kenasha Bhagwan Kale	18.07.2019	11.05.2022	302 R/w.34 of Indian Penal Code	Acquitted	NA	NA
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Part 'C'

[Para 44(iii) of Chapter VI of Criminal Manual]

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**A. PROSECUTION**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, MEDICAL WITNESS, PANCH WITNESS)
PW 1	Shobha Kisan Mulik (Exh. 37)	Witness
PW 2	Buvaso Waman Waghmare (Exh.47)	P.S.O./police witness
PW 3	Aravind Sakharam Kolekar (Exh.51)	Panch to the spot of incident
PW 4	Krushndev Narad Shedge (Exh.55)	Police witness, who recorded the statement of victim
PW 5	Jaywant Anna Bankar (Exh.62)	Panch to the spot-cum-seizure panchanama
PW 6	Pravin Shivhar Swami (Exh.84)	Police witness, Bandgarden P.S., Pune
PW 7	Dr. Sunita Ramhari Veer (Exh.86)	Medical Officer, C.H. Satara
PW 8	Ganesh Vasant Pawar (Exh.96)	Investigating Officer
PW 9	Amol Sidu Adasul (Exh.109)	Police witness/Carrier of muddemal to C.A., Pune
PW 10	Dr. Amol Balwant Shinde (Exh.111)	Medical Officer, B.J. Medical College & Sasoon Hospital, Pune

PW 11	Santosh Sopan Choudhari (Exh.118)	Investigating Officer
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B. DEFENCE WITNESSES, IF ANY

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, MEDICAL WITNESS, PANCH WITNESS)
-	NA	NA

C. COURT WITNESSES, IF ANY

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, MEDICAL WITNESS, PANCH WITNESS)
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. Prosecution :**

Sr. No.	Exhibit	Description
1.	PW 2 - Exh.48	Report of Bandgarden P.S. dated 12.07.2019
	Exh.49	Printed F.I.R.
	Exh.50	Order regarding handing over investigation to PSI Pawar. (Proved during cross-examination)
2.	PW 3 -	
	Exh.52	Summons Report of witness- Jaywant Anna Bankar (Proved during cross-examination)
3.	PW 4 - Exh.56	Statement of the deceased

	Exh.57	M.L.C. No.5664 (Proved during cross-examination)
4.	PW 5 - Exh.63	Witness summons of PW5 (proved during cross-examination)
5.	PW 6 - Exh.85	Statement of victim recorded in Sasoon Hospital, Pune
6.	PW 8 - Exh.97	Spot panchanama
	Exh.98	Muddemal Receipt
	Exh.99	Label affixed on Article A-1
	Exh.100	Label affixed on Article A-2
	Exh.101	Label affixed on Article A-3
	Exh.102	Label affixed on Article A-4
	Exh.103	Inquest panchanama
	Exh.104	Dead body Examination Form
	Exh.105	Letter regarding addition of Section
	Exh.106	Arrest panchanama
	Exh.107	Office copy of letter issued to Forensic Science Laboratory
	Exh.108	Report issued to Bandgarden Police Station, Pune dated 17.07.2019 (Proved during cross-examination)
7.	PW 10 - Exh.113	Postmortem Report
	Exh.114	Advance Certificate of Cause of Death
8.	PW 11 - Exh.119	Letter regarding recording statement of PW1-Shobha Mulik u/s.164 of Cr.PC.
	Exh.120	Death Certificate
	Exh.121	Portion marked 'A' in the statement of PW1-Shobha
	Exh.121A	Statement of PW1-Shobha

Documents exhibited vide Section 293 of Criminal Procedure Code.

1.	Exh.90	C.A. Report
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B. Defence :

Sr. No.	Exhibit	Description
1.	--	--

C. Court Exhibits :

Sr. No.	Exhibit	Description
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D. Material Objects:

Sr. No.	Material Object Number	Description
1	Article A1	Burnt pieces of pink colour Saree of the deceased
2	Article A2	Burnt pieces of Saree-petticoat of the deceased
3	Article A3	Burnt purse and thread used to tie around lumbar of small child
4	Article A4	Plastic bottle containing kerosene-some liquid

JUDGMENT**(Delivered on : 24.07.2026)**

The accused are prosecuted for the offence punishable under Section 302 r/w.34 of the Indian Penal Code.

2] Prosecution case in short is that, one Aishwarya Amol Kale was married with Amol Ravindra Kale before 8 to 9 years. Out of their wedlock, they were having five children. Informant-Aishwarya's husband Amol was always raising quarrel with her and also beating her and due to that reason, since two months informant was residing with her mother Shobha at Lonand. On 11.07.2019, informant's mother had gone to purchase the vegetables, that time accused persons and other 2-3 persons by name, Madan Bhagwan Kale, Anil Bhagwan Kale and Bhagwan Mugutrao Kale came to informant and beat her. Thereafter, they poured kerosene on her person and set the fire and went away. Informant's mother came there and she tried to extinguish the fire. Thereafter, informant was referred to Civil Hospital, Satara and she was medically treated. She was 98% burnt. Therefore, her statement was recorded in the hospital and F.I.R. against the accused persons came to be lodged and Crime No.196/2019 was registered against them for the offence punishable under Section 307 r/w.34 of the I.P.C.

3] As the situation of informant became critical, therefore she was shifted to Sasoon General Hospital, Pune. She was medically treated for seven days and thereafter she died. Her statement in Sasoon Hospital, Pune was also recorded, wherein she narrated the incident that the accused persons along-with other 3-4 persons poured kerosene on her person and set the fire. The investigation followed. The spot-cum-seizure panchanama was prepared. Statements of witnesses were recorded. Medical papers

were collected, Postmortem Notes were collected, inquest panchanama was drawn. Seized articles were sent to Chemical Analyzer, Pune and its reports were collected. After completion of investigation, Investigating Officer came to the conclusion that the accused persons poured kerosene on the person of Aishwarya and set the fire and committed her murder. Therefore, Investigating Officer charge-sheeted the accused for the offence punishable under Section 302 read with Sec.34 of the I.P.C.

4] After going through the contents of charge-sheet and record of the case, my Ld. Predecessor Smt.Mangala Dhote has framed the charge against the accused for the offence punishable under Section 302 read with Sec.34 of the I.P.C. at Exh.28. The contents of the charge were read over and explained to the accused. They pleaded not guilty and claimed to be tried. Their defence is of total denial and false implication.

5] The following points arise for determination and my findings recorded thereon are as under :

	Points		Findings
1]	Whether prosecution proves that on 11.07.2019 at about 11.00 a.m., in front of hut of Shobha Kisan Mulik, situated near Bazar Samittee, Lonand, accused along-with absconding accused in furtherance of their common intention, poured kerosene on the person of deceased Aishwarya Amol Kale and set	:	In the negative.

	the fire and committed her murder ?		
2]	What order ?	:	Accused are acquitted.

REASONS

AS TO POINT NO. 1 AND 2 :

6] It is the case of prosecution that on 11.07.2019, informant-Aishwarya was residing with her mother at Lonand. At 11.00 a.m., her mother had gone to market for purchasing the vegetables, that time accused rushed there and beat Aishwarya and thereafter poured kerosene on her person and set the fire and went away. Due to act of accused, Aishwarya was burnt up to 100%. She was initially referred to Civil Hospital, Satara and thereafter she was shifted to Pune. Her statements were recorded in both the hospitals.

7] Prosecution examined PW1 Shobha Mulik as a witness of the incident. PW2 Buvaso Waghmare, the Police Station Officer, who registered the crime. Prosecution examined PW3 Aravind Kolekar and PW5 Jaywant Bankar as a panch of place of incident and seizure of articles. Prosecution examined PW4 Krushndev Shedage and PW6 PSI Pravin Swami, who recorded statements of deceased Aishwarya. Prosecution examined PW7 Dr.Sunita Veer., who initially examined and medically treated patient Aishwarya. Prosecution examined PW8 PSI Ganesh Pawar and PW11 Police Inspector Santosh Choudhari, who carried out the investigation.

Prosecution examined PW9 Police Constable Amol Adasul, who carried the seized articles and handed over to Chemical Analyzer, Pune. Prosecution examined PW10 Dr.Amol Shinde, who carried out the autopsy.

8] Prosecution examined PW3 Arvind Kolekar and PW5 Jaywant Bankar as panch of place of incident and seizure of articles, but both have not supported to the prosecution case and therefore, they are declared as hostile. They are cross-examined by APP, but nothing has been brought on record favourable to the prosecution. Ld.APP submitted that though the panch witnesses have not supported their case does not mean that entire prosecution story is false. Place of incident and seizure of articles can be proved through I.O. I agree with Ld.APP, because if panch witnesses are not supporting, then the place of incident and seizure of articles can be proved through I.O. For that, the evidence of I.O is to be scrutinized.

9] Prosecution examined PW8 PSI Pawar and PW11 PI Choudhari, who carried out the investigation of the case. PW8 PSI Pawar has stated that C.R.No. 196/2019 was entrusted to him for investigation purpose. On 13.07.2019, he visited the place. That place was adjacent to the North side of the wall of Krushi Utpanna Bajar Samittee. In spot panchanama (Exh.97), the same location is mentioned. It means, PW8 PSI Pawar has disclosed the exact location of place of incident and from his evidence, place of incident

is proved.

10] PW8 PSI Pawar has further stated that he found four articles, one was small pieces of burnt Saree, two pieces of half-burnt cloth, one pocket and one bottle in which there was blue colour liquid and all the articles were smelling with kerosene. He seized all the articles. During his evidence, all the articles were shown to him and he identified the same. In his cross-examination taken by defence side, nothing has been brought on record to disbelieve his testimony and therefore, from his testimony, seizure of articles is proved.

11] Prosecution relied upon the report of Chemical Analyzer, which is at Exh.90. As per said report, exh.1 to 3 i.e. the small pieces of burnt cloth etc. having residue of kerosene. According to said report, one bottle having bluish liquid was detected with kerosene. Therefore, it is proved that all the seized articles were having residue of kerosene. But merely place of incident and seizure of articles having residue of kerosene is proved, it does not mean that prosecution proved the incident. Therefore, the evidence of other witnesses is to be scrutinized.

12] Prosecution examined PW7 Dr.Veer, who medically treated Aishwarya. She has stated that on 11.07.2019, she was working as a Medical Officer and attached to the Civil Hospital, Satara. One patient Aishwarya was admitted in their Hospital and

she was 100% burnt. Her condition was serious. She has further stated that Aishwarya was in conscious condition and therefore police were allowed to record her statement. From the evidence of Dr.Veer, it is proved that on relevant date, Aishwarya was burnt up to 100%.

13] Prosecution examined PW10 Dr.Shinde, who carried out autopsy. According to him, one Aishwarya died in the Sasoon General hospital and her body was referred to him for autopsy. He found several injuries on her person and also noticed the percentage of organs which were burnt. Thereafter, he issued Postmortem Notes. The Postmortem Notes is at Exh.113, in which cause of death is mentioned as “Death due to septicemia due to burns”. From the evidence of Dr.Shinde and Postmortem Notes (Exh.113), it is proved that Aishwarya was died because of burn injuries. Though above facts are proved, but it must be proved that because the accused persons have set the fire to Aishwarya and because of which she died. Therefore, prosecution examined PW1 Shobha Mulik as a witness of the incident. She is mother of deceased Aishwarya. She has stated that Aishwarya was her daughter and she was residing with her. Her (Aishwarya’s) husband was arrested and he was in jail. On 11.07.2019, Aishwarya had been to jail to meet her husband. However, jail authority did not allow her to meet him and that time she told the officers to see what she is going to do within 10 minutes. This witness has further stated that on relevant date, she had gone to market and when came to house, Aishwarya was

burnt and she extinguished the fire. Thereafter, Aishwarya was referred to Satara. She identified the seized articles, but denied that accused have poured kerosene on the person of Aishwarya and set the fire. As she did not support the prosecution case, she is cross-examined by APP, but in cross-examination also, she denied all the prosecution story. Only PW1 Shobha is examined as a witness of the incident and she did not support the prosecution case. She is mother of deceased Aishwarya, still she is not deposing anything against the accused.

14] Prosecution examined PW2 ASI Waghmare, but he has only registered the F.I.R. and his role is limited one. Ld. APP submitted that PW4 Head Constable Shedage and PW6 PSI Swami have recorded the statements of deceased Aishwarya and they have recorded her statement as per her say. According to Ld.APP, from the evidence of PW4 and PW6, incident is proved. I do not agree with submission of Ld.APP, because the role of both these witnesses is very limited to the extent of recording the statement of patient Aishwarya. Their evidence is hearsay and indirect. Therefore, from the evidence of PW4 and PW6, incident cannot be said as proved.

15] Important thing is the statements of deceased Aishwarya. She is died, therefore cannot be called as a witness. In general sense, it is principle that the person lying on the bed of death will not tell lie, but this is not universal acceptance. The statement of person, who is dead or cannot be called as witness,

requires corroboration of other cogent and reliable evidence. As mentioned above, PW1 Shobha, who is mother of deceased Aishwarya is not supporting to the prosecution case. Apart that, conviction can be based on the statement of person, who died. Therefore, it is for me to scrutinize the statements of deceased Aishwarya and find out the truth.

16] Aishwary's second statement was recorded in Civil Hospital, Satara. Her second statement is at Exh.49, in which she has stated that on 11.07.2019 at 11.00 a.m., her mother had gone to market. That time, her cousin father-in-law Balu Kale, Madan Kale and Kensha Kale, Anil Kale and Bhagwan Kale came to her and told that they will give money to her. Thereafter, they beat her and poured kerosene on her person and set the fire and ran away. Thereafter, her mother came there and extinguished the fire and thereafter she was referred to Hospital. This is her second statement recorded on 12.07.2019. But her first statement, which is recorded on 11.07.2019 is at Exh.56, in which she has stated that she was having need of money, therefore she demanded money to her cousin father-in-law, who is accused No.1. She along-with her mother was residing in back side of Lonand Police Station. Accused No.1 was angry because of money demanded by Aishwarya. Therefore, he poured kerosene on her person and set the fire. One Mangal Kale, Ramesh Kale and wife of Balya Kale were accompanied with him. According to first statement, two ladies were present while setting the fire. Moreover, Ramesh Kale was

also accompanied with accused No.1. In first statement, she has stated this story, but in second statement, she disclose different names. Moreover, in first statement, her thumb impression is put thereon. But in second statement, which is at Exh.49, it is mentioned that she is 100% burnt and therefore she is unable to put her thumb impression or signature. In fact, first statement is recorded on 11.07.2019 and second on 12.07.2019. In earlier statement, her thumb impression is taken, but second statement, which is recorded on very second day, does not bear her thumb impression and names of the persons, who were present and set the fire are different in both the statements. It clearly shows that Aishwarya was changing her statements day by day and therefore her statement is not sole evidence of the prosecution case. As mentioned above, statement of deceased person can be the sole evidence or base of conviction, but it should be wholly reliable. As mentioned above, in both the statements, Aishwarya has disclosed names of different persons. In first statement, she disclosed names of some ladies, but in second statement she has disclosed some other persons, whose names are absent in the first statement. Therefore, as mentioned above, Aishwarya was changing her statements day-to-day and therefore, her statements are neither reliable nor cannot be sole evidence or base of conviction. Therefore, the statements of Aishwarya are not at all reliable. As mentioned above, only PW1 Shobha is examined as a witness of the incident and statements of Aishwarya are not reliable.

17] PW8 Ganesh Pawar and PW11 Santosh Choudhari are the Investigating Officers and their role is very limited. PW9 Amol Adasul, who is carrier and his role is also limited. As such, on the point of incident, evidence of PW1 Shobha and statements of Aishwarya are the relevant factors. But Shobha did not support the prosecution and Aishwarya has given different statements. Therefore, it is doubtful whether Aishwarya was burnt by the accused persons ? No doubt, her death is caused due to burn injuries, but she might be burnt because of accidental fire, short-circuit or suicide whatever it may be. But prosecution failed to prove that the accused persons have poured kerosene on the person of Aishwarya, set the fire and committed her murder. Therefore, I answer the Point No.1 in negative and in answer to Point No.2, I come to the conclusion that accused are entitled for acquittal. In the result, following order.

ORDER

1] The accused No.1 Balu Bhagwan Kale and No.3 Kenasha Bhagwan Kale are hereby acquitted of the offence punishable under Section 302 read with 34 of the Indian Penal Code and they are set at liberty.

2] The accused No.1 Balu Bhagwan Kale be released immediately and bail bond of accused No.3 Kenasha Bhagwan Kale is cancelled.

3] The seized articles i.e. small pieces of burnt cloth, pocket and plastic bottle are worthless, therefore, be destroyed after appeal

period is over.

4] As there is no evidence, therefore, absconded accused are discharged from the said crime.

5] Both the accused are directed to furnish PR. bond of Rs.15,000/- each for their appearance before Hon'ble Appellate Court, in case appeal is preferred, vide Section 437-A of the Code of Criminal Procedure.

6] Inform accordingly to the concerned Jail Authority.
(Judgment is dictated and pronounced in open Court.)

Wai
Date: 24.07.2026

(B. D. Kadam)
Additional Session Judge,
Wai