

S.C.No.88/2019
 CNR No.MHWR010010372019
State Vs. Ramesh
Order below Exh.1

(1) I heard learned P.P. Shri G.V.Takwale and perused draft charge Exh.57 and charge-sheet. Advocate for the accused is absent. The accused have not made any submissions. The charge-sheet is filed for the offence under Section 302 r/w Sec. 34 and 120B of I.P.C.

(2) Following point arose for my determination and I have recorded my finding thereon :

Points	Finding
(1) Whether there is material to show that the accused Nos.1 to 3 along with a juvenile in conflict with law have made criminal conspiracy to commit murder of deceased Shrawan Pandhram ?	: Yes.
(2) Whether the material on record if remain un rebutted would warrant to presume that accused Nos.1 to 3 along with a juvenile in conflict with law, in furtherance of their common intention, have committed murder of deceased Shrawan Damduji Pandhram ?	: Yes, (but accused Nos.2 and 3 only)
(3) What order ?	: As per final order.

Reasons as to Point No.1 and 2 :

(3) *Prima facie* it appears from the FIR, statements of witnesses, spot panchanama and post-mortem report that on 30/01/2019 about 8:00 to 8:30 p.m. Shrawan Damduji Pandhram was murdered in the field survey No.876 of his employer

informant Mangesh Suresh Bhankhede. The report filed by informant Mangesh shows that about 8:30 p.m. he went in his field and that time saw that some persons ran away from his field and also heard slump of falling something into the well and then he rushed there and found that one boy (who is revealed to be juvenile in conflict with law) was fallen into the well and he took out him out of the well with the help of rope. Afterwards the said boy ran away by giving jerk to the informant.

(4) Thereafter the informant called various villagers suspecting that some thieves have come there; and after arrival of the villagers they made search and found that Shrawan Damduji Pandhram was laid in injured condition near a fire place (Shekoti) in the field. So also goryed wooden handles of the spade and mattock were found near the injured and they were not of the informant. Thereafter they carried injured to the hospital, but he died on 31/01/2019 about 10:45 a.m. in the hospital. The inquest panchanama and post mortem report shows that deceased was having multiple injuries on his body and he died due to head injuries. Thus, prima facie material on record shows that deceased Shrawan was murdered. Informant Mangesh Bhankhede filed the report against unknown persons including unknown juvenile in conflict with law suspecting that they have committed murder of deceased, and the police on 31/01/2019 early in the morning registered Crime No.82/2019 for the offence under Section 307 r/w Sec. 34 of I.P.C.

(5) During investigation the police on the basis of certain specific marks on the wooden handles, which were used to kill

the deceased, approached to the hardware shop owner Abdul Kudrus from whose shop at Nachangaon wooden handles were purchased by a juvenile in conflict with law. Abdul Kudrus and his son Mohd Aifaz have identified the juvenile in conflict with law as a same person who purchased the wooden handle of mattock. Accused No.1 and deceased Shrawan were knowing to each others and hail from same village Injala, Ta. Deoli. The material on record further shows that accused Nos.1 and 2 are co-brothers and two days before the incident the son of accused No.1 died.

(6) The statements of statements of Sanjay Dhumne, Pawan Bhakare, Mohd. Aifaz, Abdul Kudrus, Mahendra Bawane, Mangesh Bhanhede have been recorded under Section 161 Cr.P.C. as well as Sec. 164 of Cr.P.C. The statements of witness Sanjay Dhumne prima facie show that accused No.1 lost his son having age about 17 to 18 years and accused No.1 was suspecting that deceased Shrawan made some black magic upon his son which resulted into his death. The statement of Sanjay further shows that 2-3 months before the incident accused No.1 told him that he wanted to kill the deceased and that time he advised accused No.1 not to do such things.

(7) The statement of witness Mahendra Bawane shows that on 29/01/2019 about 3:00 p.m. while he was present at the house of one Sachin Ramteke, accused No.2 came there with accused No.1 who was introduced by accused No.2 with Mahendra as his co-brother and also told to Mahendra and Sachin Ramteke that his son has died due to spells/doing evil act

(Karni), and accused No.1 was ready to pay the amount of Rs.5000/- and accused No.1 also told that he was ready to pay Rs.5000/- to the person who will kill the deceased.

(8) Witness Mahendra told that they agreed for doing such act and he along with Sachin Ramteke and accused No.2 went at Pardhi Beda, consumed liquor and came back to village Injala and accused No.2 also shown the field where the deceased was working as watchman. Mahendra further disclosed that on 30/01/2019 near the house of Sachin Ramteke, accused No.2 came and that time accused No.3 came there, and afterwards accused No.2 take accused No.3 separately and in presence of this witness, asked accused No.3 to kill the deceased in consideration of Rs.5000/- and accused No.3 agreed for the same. The statement of Mahendra further shows that on 31/01/2019 about 8:00 a.m. the juvenile in conflict with law made extra judicial confession before him that accused Nos.2 and 3 have killed the deceased as per say of accused No.1.

(9) Further, there is a statement of witness Pawan Bhakare which show that on 30/01/2019 about 10:30 p.m. (after incident) accused No.2 and he went on motorcycle No.MH32/AL-2336 belonging to accused No.1 and took accused No.3 on the motorcycle from Akoli canal and thereafter they drunk liquor at Pardhi Beda. His further statement show that at that place accused No.2 asked accused No.3 whether the deceased died and then accused No.3 told that the deceased was died on the spot of incident and he killed the deceased as per say of accused No.1. So also the statement of Pawan shows that on 31/01/2019, the

accused No.2 made extra judicial confessional statement that he, accused No. 3 and juvenile in conflict with law have killed the deceased as per say of accused No.1 for payment of Rs.5000/-.

(10) The disclosure statement of accused No.3 is recorded by the police is lead to the recovery of amount of Rs.2600/- which is part of the crime proceed out of Rs.5000/- paid by accused No.1 and his clothes. So also the motorcycle of accused No.1 came to be seized as per disclosure statement of accused No.2 as also his clothes have been seized.

(11) Thus, the statements of witnesses particularly Pawan Bhakare, Mahendra Bawane, Abdul Kudrus and Mohd. Aifaz and Sanjay Dhomne, extra judicial confessions by accused No.2 and the juvenile in conflict with law, attempt made by accused No.2 and 1 to give the contract to kill the deceased to witness Mahendra Bawane and Sachin Ramteke, prima facie show that there is a material which show that accused Nos.2,3 and juvenile in conflict with law on 30/01/2019 about 8:00 to 8:30 p.m. committed the murder of deceased Shrawan Pandharkar. So also there is material to show that accused Nos.1 to 3 and the juvenile in conflict with law made criminal conspiracy to kill the deceased. However, the material on record shows that accused No.1 was not present with accused Nos.2,3 and juvenile in conflict with law while killing the deceased. Therefore, there is sufficient material to frame charge under Section 120B against accused Nos.1 to 3 and charge under Section 302 r/w Sec.34 of IPC against accused Nos.2 and 3. Accordingly, I answer point Nos.1 and 2 and pass following order.

Order

- (1) As per Section 228 of Cr.P.C. charge for the offence punishable under Section 302 r/w Sec. 120B of I.P.C. be framed against the accused Nos.1 to 3.
- (2) The charge under Section 302 r/w Sec.34 of IPC be framed against accused Nos.2 and 3.

Date : 09/07/2024

(N.B. Shinde)
Addl. Sessions Judge,
Wardha.

CERTIFICATE

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

*(Vinod V.Kadu)
Stenographer (Grade-1)*