

**Sessions Case No. 68/2024**  
**CNR No. MHWR010018822024**  
**State Vs. Vilas Kewade +1**  
**Order below Exh.1**

(1) I heard learned APP Smt. Vedika Patil for the prosecution. Accused Nos. 1 and 2 are produced before me by jail authority. Today also they have not engaged private lawyer in spite of adjourning the matter time and again since November, 2024. Today, also I offered them to avail the services of Chief Defence Counsel of L.A.D.C.A. free of costs through DLSA, but they are not ready. Therefore, I have no option, but to proceed with the matter without assistant from the side of the accused, who are not ready to take the help of a lawyer to be appointed at the costs of Government. Due to non engagement of the lawyer by accused, I have minutely gone through the record.

(2) Prima facie material on record shows that on 27-05-2024 about 6.00 to 6.30 pm deceased Babarao Mahadeorao Parise left his house at Namskari, Tah. Tivsa and proceeded towards village Bharaswada in Ashti Taluka within jurisdiction of Talegaon (S.P.) police station. However, on the pathway between Bharaswada and Namaskari near Wardha river within the area of Bharaswada, Babarao, who was father of accused No.2 was murdered. Spot panchanama was prepared by the police on 27-05-2024 about 2.00 am which shows presence of blood stains at the spot of incident as well as dead body of the deceased Babarao in injured condition which was found by accused Nos. 1 and 2. Inquest panchanama and postmortem report show that deceased was having multiple chop wounds and other multiple injuries. The cause of death is head injury with rupture of trachea with hemorrhage.

(3) An intimation of the incident of murder of deceased was given to the police on 27-05-2024 about 11.40 pm and thereafter the police went at the spot of incident and prepared the spot panchanama. Accused No. 2, who is a son of the deceased, filed the report with police station

Talegaon (Shyamjipant) on 28-05-2024 about 6.40 am after preparation of the spot panchanama. The police on the basis of the report of accused No.2 registered the CR No. 337/2024 with Talegaon Police Station for the offence under Section 302 of IPC against unknown person.

(4) Accused No. 1 is a brother-in-law (wife's brother) of accused No.2. During investigation the police found that deceased Babarao was having illicit relation with one lady who was distant relative of the deceased. Therefore, the quarrel was going on between the deceased and his wife Baynabai and his son accused No.2. There are allegations that deceased also was having evil eye over his daughter-in-law, who is the wife of accused No.2 and sister of accused No.1. Accused No. 1 was also residing in the same village of accused No. 2 and the deceased. Therefore, accused No. 1 and 2 both were having grudge against the deceased.

(5) As per the contents of the FIR filed by accused No.2 against unknown assailant of the deceased, his mother Baynabai told him that his father about 6.00 to 6.30 pm went away from their house at village Namaskari to Bharaswada for recharging the mobile sim card, but not returned till late hours and about 9.00 pm she also made search upto the Wardha river, but she could not find him. Therefore, accused No.2 along with his brother in law accused No.1 went on the motorcycle of accused No.1 through the pathway between Namaskari to Bharaswada and about 9.40 pm saw that his father deceased Babarao was lying dead on the pathway in pool of blood and was having injuries. Thereafter, accused No.2 called his brother and other villagers and intimated the incident to the police.

(6) Prima facie material on record show that during investigation the police on 29-05-2024 at the house of accused No. 1 found blood stains on a pant of accused No.1 and it was seized. So also, the police made minute inspection of motorcycle No. MH-27-BR-6507 of accused

No.1 which was used by accused Nos. 1 and 2 while proceeding through the pathway and the police found blood stains on the motorcycle. Therefore, they suspected involvement of accused Nos. 1 and 2 because both of them were together.

(7) The DNA report show that the DNA extracted from the blood stains found on the seized motorcycle of accused No.1 and on his pant matched with the DNA extracted from the blood samples of the deceased as well as from his blood stains found on his worn clothes. Thereafter, accused No. 1 was interrogated on 11-06-2024 and was arrested on 12-06-2024. During investigation on 13-06-2024 accused No.1 gave confessional statement to the police which is recorded under Section 27 of Indian Evidence Act about concealing the weapon i.e. axe and which came to be seized from his house where it was hidden. The opinion report given by the Medical Officer to the query made by Investigating Officer shows that the injury on the body of deceased were possible with the axe which is seized from accused No.1. Thus, prima facie there is a material to frame charge for the offence under Section 302 of IPC against accused No.1.

(8) Accused No. 1 in his confessional statement made before the police also told the role of his brother in law accused No. 2 but such statement inadmissible in law. The police interrogated and arrested accused No. 2 on 12-06-2024. During investigation accused No. 2 on 13-06-2024 gave confessional statement to the police about concealing his clothes which were worn by him at the time of incident and his shirt and pant are recovered from him from his house where they were concealed. On the seized shirt of accused No.2 blood stains are found of which DNA report/CA report yet to be received. However, presence of blood stains on his shirt as well as other circumstances that he was present with accused No.1 about the time when the deceased was killed most probably about 8.30 to 9.45 pm are sufficient to show his

involvement in the murder of his father deceased Babarao.

(9) The statement of witness Sheikh Mohsin Sheikh Hamid shows that on 27-05-2021 about 8.00 pm deceased came at his shop at village Bharaswada and drunk liquor and he went away. Thereafter immediately about 8.30 pm accused Nos. 1 and 2 came into his liquor shop and drunk liquor and went away. As such, it shows that accused Nos. 1 and 2 in fact after 8.00 to 8.30 pm they were at Bharaswada in the liquor shop where they were following the deceased. The CDR of the mobile No. 8788861994 of the deceased show that on 27-05-2024 about 8.23 pm he talked on the mobile No. 8421780687 of his relative lady with whom he was having illicit relation, and his tower location shows at Bharaswada. Thereafter, he was returning from Bharaswada towards his village Namaskari, but on the pathway he was killed about 8.30 to 9.45 pm.

(10) Presence of the blood stains of the deceased on the motorcycle and pant of accused No.1, coupled with the fact that the accused No. 2 was present with accused No.1 and blood stains are also found on the sleeve of shirt of accused No.2 are sufficient to show complicity of accused Nos. 1 and 2 in commission of murder of deceased Babarao. Both the accused about 8.00 pm were together and both were present at Bharaswada and were following the deceased and while he was returning to his village Namaskari through the pathway both the accused appears have killed the deceased by assaulting him with the axe. Therefore, there are blood stains of deceased on the clothes and motorcycle of accused No.1 and on the sleeve of the shirt of accused No.2. Therefore, prima facie there is material on record to frame charge for the offence punishable under section 302 r/w 34 of IPC against both the accused.

(11) So also, prima facie it appears that informant/accused No.2 has given false information to the police that some unknown assailant

committed the murder of deceased Babarao. Therefore, there is a material to frame the charge under Section 203 of IPC against accused No.2.

(12) The prosecution also claims that accused Nos.1 and 2, after committing murder of deceased, have washed the blood stains on the axe into the Wardha river; therefore, they committed offence under section 201 r/w 34 of IPC. However, except the confessional statement of both the accused before the police there is no other material to show that they really washed the blood stains on the axe. The part of their confessional statements about washing the blood stains on the axe into Wardha river is inadmissible as same is not distinctly related with the discovery of the axe from accused No.1 and recovery of clothes of accused No.2. Therefore, in view of bar under Section 25 of Indian Evidence Act this confessional part about washing the blood stains on the axe cannot be used as evidence/material against both the accused to show that they washed the blood stains on the axe. The confessional statement of accused No. 1 which led to the recovery of axe, but blood stains are not found on the said axe. Merely because blood stains are not found on the axe, does not mean that blood stains were washed by accused Nos. 1 and 2. Even the blood stains on the axe due to passage of time between the incident dt. 27-05-2024 till seizure of axe on 13-06-2024 could be wiped out by natural object or evaporated. Therefore, in my view there is no sufficient material to frame charge under Section 201 r/w 34 of IPC against both accused. Therefore, I pass following order :

### Order

- (1) As per Section 228 of Cr.P.C. for the charges offence under Section 302 r/w 34 be framed against accused Nos. 1 and 2.
- (2) Charge for the offence under section 203 be framed against accused No.2.

- (3) As per section 227 of Cr.P.C accused Nos. 1 and 2 are discharged from the offence under section 201 r/w 34 of IPC.

Date : 29/01/2025

(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.*

*(S. M. Puri)*  
*Stenographer (Grade-2)*