

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 189 OF 2005

MANGALSINGH DEOSINGH RAJPUT & ORS.

Appellant (s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(With appln(s) for bail and office report)

Date: 03/08/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Appellant(s)

Mr. A.V. Savant, Sr.Adv.

Mr.Atul Sharma, Adv.

Mrs.Rekha Palli,Adv.

For Respondent(s)

Mr.Sushil Karanjkar, Adv.

Mr. A.P. Mayee, Adv. For

Mr. V.N. Raghupathy,Adv.

UPON hearing counsel the Court made the following

O R D E R

The appeal is allowed in terms of the signed order.

The appellants, who are in custody, are directed to be released forthwith, if

not required in connection with any other case.

(Meenu Sethi)
rdwaj)

Court Master

(Pushap Lata Bha

Court Master

Signed order is placed on the file

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 189 OF 2005

Mangalsing Deosing Rajput &
Ors. ... Appellants

VERSUS

State of Maharashtra ... Respondent

O R D E R

Three appellants- Mangalsing Deosing Rajput,
Niteen Dhansingh Pardeshi and Amlya @ Dattu Gajanan
Gosavi had preferred this appeal against the judgment
and order dated 19.12.2003 passed by the High Court of
Judicature at Bombay, Aurangabad Bench in Criminal
Appeal No. 64/1999.

Appellant No.2-Niteen Dhansingh Pardeshi, it is
stated at the Bar, has since expired.

Mr. Savant, learned senior counsel appearing on
behalf of the appellants has produced before us a death
certificate showing that he died on 4.11.2005. This
appeal, thus, abates against him.

Appellant No.1- Mangalsing Deosing Rajput was

accused No. 2 and appellant No.3- Amiya @ Dattu
Gajanan Gosavi was accused No.6 before the learned
Sessions Court. The appellant in the connected matter
namely Bhagwan Shamsing Rajput-accused No.4 in the
Sessions Court was tried along with the appellants
herein. He was also one of the appellants before the
High Court. He being aggrieved by and dis-satisfied with
the judgment of the High Court preferred an appeal
before this Court which was numbered as Criminal
Appeal No.523 of 2004. A Division Bench of this Court
by an order dated 3.11.2004 allowed the said appeal
holding:

"In support of its case, the prosecution has
adduced evidence of two eye-witnesses, namely, P.W.1-
Sanjay and P.W. 2- Prafulla Mane. So far as evidence of
P.W. 1 is concerned, the trial Court as well as the High
Court have doubted his very presence at the place of
occurrence and his evidence has been discarded. So far
as P.W.-2 is concerned, he stated that immediately after
the occurrence he met Pramila Bai, widow of the
deceased and before her, disclosed names of accused
No.1- Sanjay Rupsing Rajput and accused No.3-Nitin
Dhansing Pardeshi. In first version of the occurrence
disclosed by this witness before
Pramila Bai which was given even before lodging of the
first information report, the appellant has not been
named. Subsequently, he named the appellant in his
statement before police as well as in Court. In view of

the fact that this witness did not disclose name of the appellant in first version of the occurrence narrated by him before the widow of the deceased, it is not possible to place reliance upon evidence of this witness so far as the appellant is concerned...."

The appellants herein are similarly situated to that of Bhagwan Shamsing Rajput. It is not in dispute that P.W.-2-Prafulla Mane did not name the appellants herein. He named only Sanjay Rupsing Rajput who has been acquitted by the High Court and Niteen Dhansing Pardeshi, the appellant No.2, since deceased.

The Division Bench of this Court, as noticed here-in-before, has considered the evidence of PW-2-Prafulla Mane. The first version of the occurrence as disclosed by him to the Pramila Bai would show that alike the appellant in Criminal Appeal No.523/2004, the appellants herein were also not named before her.

Having regard to the fact that the appellants before us are similarly situated to that of appellant in

Criminal Appeal no. 523/2004, we are not persuaded to

take a different view as was urged by the learned Counsel appearing for the State.

For the reasons aforementioned, we set aside the

judgment of conviction and sentence passed by the High
Court as well as by the trial Court. The appellants, who
are in custody, are directed to be released forthwith, if
not required in connection with any other case.

The appeal is allowed.

.....J.

(S.B.SINHA)

.....J.

(DALVEER BHANDARI)

New Delhi,

August 3, 2006.