

p.m. in the evening. After about an hour, he had again gone outside. Subsequently, one of the complainant-wife's relatives, Nenaji-PW5, informed her that the deceased was being beaten by the appellants. The complainant and her relative rushed near the house of one of the appellants, where they saw appellants no. 2 and 3 holding the deceased and kicking him, while appellant no. 1 attacked the deceased's chest and stomach with a knife. The complainant thereafter started shouting to save her husband, and then brought the deceased back to her house with the help of others. The deceased passed away while being transported from their house to the hospital.

3. By judgment and order dated 27.01.2004, the Sessions Court convicted the appellant no. 1 for the offences under Sections 302 and 323, IPC read with Section 34, IPC and for the offence under Section 135, Bombay Police Act, 1951. Appellants no. 2 and 3 were convicted only for the offences under Sections 302 and 323, IPC read with Section 34, IPC. All the appellants were sentenced to life imprisonment with a penalty of Rs. 2000, on default of payment of which they were to further undergo rigorous imprisonment for a further period of six months, for the offence under Section 302, IPC read with Section 34, IPC. The appellants were sentenced to undergo rigorous imprisonment for a period of one month with a penalty of Rs.

100, on default of payment of which they were to further undergo rigorous imprisonment for a further period of seven days, for the offence under Section 323, IPC read with Section 34, IPC. Appellant no. 1 was sentenced to undergo rigorous imprisonment of three months with a penalty of Rs. 100, on default of payment of which he was to further undergo rigorous imprisonment for a further period of seven days, for the offence under Section 135, Bombay Police Act, 1951. The High Court, *vide* impugned judgment, confirmed the findings of the Trial Court and dismissed the appeal filed by the appellants herein. The appellants have filed the present appeal by way of Special Leave Petition challenging the concurrent findings of the Courts below.

4. The learned counsel for the appellants submitted that the High Court and the Trial Court erred in relying upon the testimonies of the eyewitnesses, as their presence at the place of the incident is doubtful, and when there are contradictions in their testimonies. The learned counsel further submitted that notwithstanding the above submission, the fact that the eye-witnesses were related to the deceased, their testimonies should be disregarded as they were the testimonies of interested witnesses.

5. On the other hand, the learned counsel for the respondent-State

submitted that the appellants had not been able to show any material which would merit the interference of this Court in the concurrent findings of the Courts below. The learned counsel submitted that the presence of the eye-witnesses at the scene of the crime was natural, and has been clearly established by the prosecution.

6. Heard the learned counsel for the parties at length.

7. From a perusal of the records, it is clear that the prosecution had examined two eye-witnesses, the complainant-wife and Nenaji-PW5, who was the deceased's cousin. The testimonies of both witnesses were in complete support of the prosecution case, and in line with the medical evidence on record regarding the injuries on the deceased. While the learned counsel for the appellants has vociferously submitted that the testimonies of these witnesses have to be discarded as their presence at the place of the incident was unnatural and could not be proved, the same was not borne out from the record before this Court. Additionally, as noted by the High Court, it is clear that the witnesses resided close to the place of the incident, and their presence was therefore natural.

8. Further, there is no evidence on record which raises any doubt as to the presence of the two witnesses. No material contradictions were elicited in the testimonies of the two witnesses by the defense,

and the testimonies of these two witnesses are believable. Nenaji-PW5, on seeing the scuffle between the appellants and the deceased, went and informed the fact to the wife of the deceased, who resided close to the place of the incident. The two of them then rushed to the place of the incident, and witnessed appellant no. 1 attacking the deceased with a knife, while appellants no. 2 and 3 were holding the deceased and kicking him.

9. As to the submission of the counsel for the appellants, that the testimonies of the aforementioned two witnesses must be discarded as they are interested witnesses, the same can be rejected by stating that, *firstly*, while the witnesses are clearly related witnesses, the counsel for the appellants has not indicated how they were interested. A witness may be called “interested” if he/she derive some benefit from the result of a litigation in the decree in a civil case, or in seeing an accused person punished. [See ***Sudhakar alias Sudharasan v. State***, (2018) 5 SCC 435]

10. *Secondly*, even if witnesses are interested, it is settled law that there cannot be any hard and fast rule that the evidence of such a witness cannot be taken into consideration. An additional burden is cast upon the Court in such cases to be cautious while evaluating the evidence to exclude the possibility of false implication. However, as

has been mentioned before, the defense was not able to point out any material contradiction in the statement of the witnesses, or raise any doubts as to their presence at the scene of the incident. This Court therefore does not find any reason to discard the testimonies of the eye-witnesses, or to interfere with the concurrent findings of the Courts below.

11. The appeal is accordingly dismissed.

.....**J.**
(N.V. RAMANA)

.....**J.**
(MOHAN M. SHANTANAGOUDAR)

.....**J.**
(SANJIV KHANNA)

NEW DELHI;
FEBRUARY 12, 2020.

ITEM NO.102

COURT NO.2

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCriminal Appeal No(s).462/2011

THAKORE JORAJI PRATAPJI & ORS.

Appellant(s)

VERSUS

THE STATE OF GUJARAT

Respondent(s)

Date : 12-02-2020 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR
HON'BLE MR. JUSTICE SANJIV KHANNA

For Appellant(s) Mr. Purvish Jitendra Malkan, AOR

For Respondent(s) Ms. Aastha Mehta, Adv.
Ms. Vishakha, Adv.
Mr. Aniruddha P. Mayee, AORUPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed non-reportable judgment.

(SATISH KUMAR YADAV)
AR-CUM-PS(RAJ RANI NEGI)
ASSISTANT REGISTRAR

(Signed non-reportable judgment is placed on the file)