

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.875 OF 2011

SHIVANNA BHIMSEN LOKHANDE

APPELLANT(S)

VERSUS

THE STATE OF MAHARASHTRA

RESPONDENT(S)

O R D E R

1. This appeal questions the judgment and order dated 16.04.2009 passed by the High Court of Judicature at Bombay dismissing Criminal Appeal No.1126 of 2004 and thereby affirming the conviction and sentence of the appellant for the offence punishable under Section 302 of Indian Penal Code, 1860.

2. Relying upon circumstantial evidence, the trial Court found that the prosecution had succeeded in proving the case that the appellant had inflicted injuries by crushing the face of his wife - Sakhubai by stone and caused her death. The crucial circumstances relied upon by the trial Court were:-

(a) Said Sakhubari employed as a maidservant in the house of PW-4 and PW-7 - Mr. and Mrs. Pillay was addicted to liquor. According to PWs- 4 & 7, on 3<sup>rd</sup> May, 2002, soon after her work was over in the house of PW-4 & PW-7 she found to be under the influence of liquor. Said PWs-4 and 7 had thereafter

called the appellant so that the said Sakhubai could be safely taken away by him. These two witnesses are clear on this aspect of the matter and have been relied upon by the prosecution in support of the theory that the deceased was last seen in the company of the accused.

(b) A shirt and trouser worn by the appellant were found to be blood stained. The stains were of a particular group which matched with the blood group of the deceased.

3. The submission was made on behalf of the accused that the prosecution had failed to establish the identity of the dead body and whether the body in question was that of said Sakhubai or not. Reliance was placed on the fact that the face was completely crushed and it was impossible to identify the person in question. It is true that both PWs - 4 and 7 were taken to the morgue for the purposes of identification. Though PW-4 - Mr. Pillay failed to identify the dead body, PW-7 Mrs. Pillay was able to identify the dead body from the body structure and clothes worn by the lady. Further more, PW-8, brother of the deceased Sakhubai who was called in to identify, also identified the body to be that of Sakhubai, his sister. In the circumstances, it stands completely established that the dead body in question was of Sakhubai.

4. The facts on record conclusively establish that on the

previous day, the appellant had taken Sakhubai while she was under the influence of alcohol. Both PWs - 4 & 7 have categorically established this part. Once the appellant was the last person who was seen in the company of the deceased and especially when the deceased was his wife, it was definitely for the appellant to have established as to when he parted company. Nothing is forthcoming on record.

5. In any event of the matter, the circumstances which have been culled out were rightly relied upon by the trial Court as well as High Court to conclude that the offence stood established as against the appellant.

6. Having gone through the matter, we are not persuaded to take any view other than the one which weighed with the High Court. We, thus, affirm the view taken by the Courts below and dismiss this appeal. The record indicates that the appellant has been in custody since 10.05.2002 and has, thus, completed more than 16 years of actual imprisonment. In our view, a case is made out for consideration of the matter by the State Government in its jurisdiction under Section 432 & 433 of the Code of Criminal Procedure, 1973. Papers shall be immediately made over to the appropriate authorities of the State Government within a month by the Jail authorities. The concerned State authorities shall consider the matter purely on merits, whether the case for remission is made out or not.

7. Before we part, we must place on record sincere appreciation for the efforts put in by Mr. Ashok Kumar Panda, learned senior counsel to assist us as Amicus Curiae in the matter.

.....J.  
[UDAY UMESH LALIT]

.....J.  
[DEEPAK GUPTA]

**NEW DELHI**  
**15<sup>th</sup> June, 2018**

ITEM NO.102

COURT NO.5

SECTION II-A

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 S

Criminal Appeal No(s). 875/2011

SHIVANNA BHIMSEN LOKHANDE

Appellant(s)

VERSUS

THE STATE OF MAHARASHTRA

Respondent(s)

Date : 15-06-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT  
HON'BLE MR. JUSTICE DEEPAK GUPTA  
(VACATION BENCH)Mr. Ashok Kumar Panda, Sr. Adv. (A.C.)  
Mr. Manoranjan Paikaray, Adv.  
Mr. Aniruddha Purushotham, Adv.

For Appellant(s) Mr. Javed Mahmud Rao, AOR

For Respondent(s) Mr. Nishant Ramakantrao Katneshwarkar, AOR  
Ms. Suvarna Damle, Adv.UPON hearing the counsel the Court made the following  
O R D E RThe appeal is dismissed in terms of the signed order.  
Pending applications, if any, shall also stand disposed  
of.(SWETA DHYANI)  
SENIOR PERSONAL ASSISTANT(JAGDISH CHANDER)  
BRANCH OFFICER

(Signed order is placed on the file)