

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.1208 OF 2010

SHIVRAM @ SHIVAJI

Appellant(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

O R D E R

1. We have heard the learned counsels for the parties.

2. The accused and the deceased were live-in partners who lived in a one room tenement of the accused alongwith a twelve years old child of the deceased. According to the prosecution, it is the accused who had murdered the deceased in the intervening night of 2.10.2004 and 3.10.2004 when they were together alongwith PW-4-Kiran Bajirao Jaybhai in the room. Both the learned trial Court and the High Court found the accused guilty of commission of offence of murder and sentenced him to undergo rigorous imprisonment for life.

3. Admittedly the incident had occurred in the room of the accused where he and the deceased alongwith PW-4 used to reside together. The evidence of PW-4 is to the effect that about 11:00 p.m. the accused and the deceased had come to the room and he had opened the door whereafter three of them had slept. In the morning at about 6:00 a.m he found his mother lying dead in the room. The accused was nowhere to be seen and he had been absconding until he was apprehended by the police. The very fact that the incident had occurred in the circumstances proved by the prosecution, cast upon the accused a duty to explain by virtue of the provisions of Section 106 of The Evidence Act. The accused has no explanation to offer except that PW 1-Tarabai, W/o Dashrath Garad, PW-2-Latabai and PW-3-Vasant Vishwanath Gaikwad who had deposed with regard to the frequent quarrels between the accused and the deceased were biased and partisan witnesses.

4. The evidence of PW-4 has been assailed on the ground that he is too young to comprehend

what had happened. Though the prosecution had succeeded in proving certain other circumstances against the accused including an extra judicial confession, we are of the view that the same need not detain the Court. In the absence of any explanation on the part of the accused and, particularly, as he had absconded immediately after the incident and taking into account the circumstances in which the deceased was found to be dead, we cannot find any fault in the view taken by the learned Courts that it is the accused who had committed the offence. The appeal, therefore, has to fail and is accordingly, dismissed.

....., J.
(RANJAN GOGOI)

....., J.
(NAVIN SINHA)

....., J.
(K.M. JOSEPH)

NEW DELHI
AUGUST 29, 2018

ITEM NO.108

COURT NO.2

SECTION II-A

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.1208/2010

SHIVRAM @ SHIVAJI

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VERSUS

STATE OF MAHARASHTRA

Respondent(s)

Date : 29-08-2018 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE K.M. JOSEPH

For Appellant(s)

Mrs. Sudha Gupta, AOR

For Respondent(s)

Mr. Nishant Ramakantrao Katneshwarkar, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed in terms of the signed order.

(POOJA ARORA)
COURT MASTER

(ASHA SONI)
BRANCH OFFICER

(Signed order is placed on the file)