

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

Petition(s) for Special Leave to Appeal (Crl) ..... 2010  
CRLMP.NO(s). 19337

(From the judgment and order dated 02/12/2009 in CRLA No. 247/2004 of  
The HIGH COURT OF JUDICAUTRE AT BOMBAY, BENCH AT NAGPUR)

GAJANAN DASHRATH KHARATE Petitioner(s)

VERSUS

STATE OF MAHARASHTRA Respondent(s)  
With CRLMP.NO(s). 19337/2010 (c/delay in filing SLP)

Date: 20/09/2010 This Petition was called on for hearing today.

CORAM :  
HON'BLE MR. JUSTICE MARKANDEY KATJU  
HON'BLE MR. JUSTICE T.S. THAKUR

For Petitioner(s)  
Mr.Praveen Chaturvedi,Adv. (SCLSC)  
Mr. Jyoti Chaturvedi, Adv.

For Respondent(s)

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

Delay condoned.

Issue notice. Notice on bail returnable in four  
weeks.

We would also request the learned Solicitor  
General of India to assist us in this case as an Amicus  
Curiae. A copy of this order be sent to learned solicitor  
General of India.  
The Registry is directed to send copy of this order to  
the Director, Central Forensic Science Laboratory and the  
Director General of Police, State of Maharashtra.

(Deepak Joshi) (Madhu Sudan)  
Sr. P A Court Master

(signed reportable order is placed on the file)

REPORTABLE

GAJANAN DASHRATH KHARATE

.....Appellant (s)

versus

STATE OF MAHARASHTRA

.....Respondent (s)

O R D E R

Delay condoned.

Issue notice. Notice on bail returnable in four weeks.

This is yet another case in which the prosecution has, for whatever reasons, failed to adduce evidence that could have thrown considerable light on the circumstances in which the alleged murder was committed. The deceased was, as per the case of the prosecution, killed by hitting him on his head and other parts of his body in his house. The fact that the blood stained stone was recovered from the place of occurrence is not in dispute. However, the investigating agency did not take any steps to have the finger print of the accused, who is none other than the son of the deceased, taken from the said weapon of offence.

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There is no gain saying that if the investigating agency had done so, it would have considerably helped the prosecution in proving its case. Unfortunately, however, this was not done.

We have in the past come across cases in which we have noticed similar deficiencies in the investigation of similar cases of heinous nature. We have come across cases where the finger print on the weapon of the offence were not taken even when the weapon alleged to have been used in the offence was seized from the spot or was

recovered pursuant to disclosure made by the accused. We  
have also come across cases where the prosecution has not  
sent to the Ballistic Experts the fire arms used for  
commission of the offence. Cases in which bullets or  
pellets recovered from the body of the deceased have also  
not been referred to the Ballistic Experts to verify  
whether the same were fired from the weapon alleged to  
have been used in the commission of the offence have also  
come to our notice. Similarly, reports of the Serologists  
are not obtained for determining the blood group of the  
deceased and the accused in appropriate cases. The resort  
to DNA test and such other scientific tests which are now  
available because of technological advancement are also  
not taken.

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Wherever necessary technological advancement in the  
field of forensic science today helps the investigator in  
collecting the evidence and establishing the guilt of the  
accused in the crime. The problem is that either the  
State does not have the resources to provide the equipment  
to the investigating agencies or the investigating  
agencies are not trained enough to make use of them.

Investigation of crimes in this country continues to  
be old fashioned, crude and, at times, ineffective. The  
criminals, on the other hand, are making use of these  
deficiencies and go scot free.

Western countries invariably make use of science and  
technology to investigate crimes, e.g., DNA test, finger  
print test, blood test, fibre test, etc. Computers are  
also widely used.

It is in the above back drop that we consider it  
proper to direct the Central Forensic Science Laboratory,  
New Delhi to submit a preliminary report about the  
availability of the facilities for providing scientific  
support to the investigating agencies in the matter of

detection of crime. The Director, Central Forensic Science Laboratory will do the needful and enumerate the resources that his laboratory and other forensic laboratories in India have in terms of equipment or scientifically trained man power.

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We are of the opinion that a proper investigation in criminal cases can only be done if the investigator is scientifically trained and is provided scientific equipment. However, this is usually not done in this country.

We also consider it proper to direct the Director General of Police, State of Maharashtra to submit a report as to whether the State police has taken steps to train its investigating officers in scientific investigation and in making use of scientific equipments for investigation of crimes especially heinous crimes.

We would also request the learned Solicitor General of India to assist us in this case as an Amicus Curiae.

The Registry is directed to send copy of this order to the Director, Central Forensic Science Laboratory and the Director General of Police, State of Maharashtra.

.....J.  
[MARKANDEY KATJU]

.....J.  
[T. S. THAKUR]

NEW DELHI;  
SEPTEMBER 20, 2010