Cr.A.No. 423-2018

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CRIMINAL JURISDICTION

CRIMINAL APPEAL NO. 423 OF 2018

VISHAL SUBHASH PAREKAR

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1. **Umesh Yashwant Patil**
Age 26 Yrs.

2. **Sandip Kaka Patil**
Age- 35 Yrs.

3. **Kabir Lahu Karbhari**
Age- 28 Yrs.
All r/o. Umbarde Village,
Near God Shankar Temple,
Kalyan (w), Dist. Thane. … Appellants

vs.

The State of Maharashtra
(C.R. No. 237 of 2012, Kalyan Crime Branch) …Respondent

WITH

CRIMINAL APPEAL NO. 424 OF 2018

Kaka Shankar Patil (since deceased through
Smt. Raghubai Kaka Patil)
Age- 58 Yrs.
r/o. Umbarde Village,
Near God Shankar Temple,
Kalyan (w), Dist. Thane. … Appellant

vs.

The State of Maharashtra
(C.R. No. 237 of 2012, Kalyan Crime Branch) …Respondent

WITH

CRIMINAL APPEAL NO. 425 OF 2018

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1. **Pradeep Baliram Patil**
Age- 27 Yrs.
r/o. Umbarde Village, Near God Shankar Temple,
Kalyan (w), Dist. Thane.
2. **Anil Kaka Patil**
Age- 30 Yrs.

3. **Ranbul @ Ranshya Chandrakant Patil**
Age- 47 Yrs.

4. **Bhagwat Yashwant Patil**
Age- 29 Yrs.

5. **Sanjay Lahu Karbhari**
Age- 39 Yrs.

6. **Kisan Kalu Patil**
Age- 47 Yrs.

7. **Bharat Baliram Patil**
Age- 44 Yrs.

8. **Yashwant Baliram Patil**
Age- 57 Yrs.

9. **Sharad Baliram Patil**
Age- 44 Yrs.

10. **Madhukar Ramchandra Patil**
Age- 57 Yrs.

11. **Baliram Gajanan Patil**
Age- 56 Yrs.
All r/o. Umbarde Village,
Near God Shankar Temple,
Kalyan (w), Dist. Thane. …Appellants

vs.

The State of Maharashtra
(C.R. No. 237 of 2012, Bazarpeth police station,
Kalyan, Crime Branch) …Respondent

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WITH

CRIMINAL APPEAL NO. 316 OF 2018

Minesh Nanu Patil
Age- 26 Yrs.
R/o. Umbarde Village,
Near God Shankar Temple,
Kalyan (w), Dist. Thane. … Appellant

vs.

The State of Maharashtra …Respondent

Mr. Kuldeep Patil a/w. Mr. Anay Joshi, Mr. Sumitkumar Nimbalkar, Mr. Sandeep Salunke, for Appellants in Cri.A. Nos. 423, 424 and 425 of 2018.
Mr. Raju Suryawanshi, for the Appellant in Cri.A. No. 316 of 2018.
Mr. Amit Munde, Spl.PP, for Respondent-State.

CORAM: **MANISH PITALE &**
SHREERAM V. SHIRSAT, JJ.

RESERVED ON: **24th AUGUST, 2026**
PRONOUNCED ON: **21st NOVEMBER, 2026**

JUDGMENT: (*Per Shreeram Shirsat, J.*)

1. The present Appeal has been filed challenging the impugned judgment and order dated 07.03.2018 passed by the District & Sessions Judge- 2 at Kalyan, Mumbai in Sessions Case No. 24 of 2013, whereby the Sessions Court has been pleased to convict all the Accused-Appellants i.e. A-1 to A-16 for the offence punishable under Sections 302, 201 r/w 147 and 149 of the Indian Penal Code, 1860 (IPC). All the Accused-Appellants are also convicted for the offence punishable under Section 302 r/w 149 of the IPC each and

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they are sentenced to suffer Rigorous Imprisonment (R.I.) for Life of each and to pay a fine of Rs. 10,000/- each and in default, to suffer R.I. for further 3 months each. All the Accused-Appellants are also convicted under Section 201 r/w 149 of the IPC each and are sentenced to suffer R.I. for 3 years of each and to pay a fine of Rs. 5,000/- each and in default, to suffer R.I. for 3 months each.

2. Additionally, Accused No. 3 (Umesh Yashwant Patil), Accused No. 10 (Sandeep Kaka Patil) and Accused No. 12 (Kabir Lahu Karbhari) are also convicted for the offence punishable under Section 148 r/w 147 of the IPC each and are sentenced to suffer R.I. for 3 years of each and to pay a fine of Rs. 5,000/- each and in default, to suffer R.I. for further 3 months each.

3. All the Accused/Appellants were acquitted for the offences punishable under Section 120-B r/w 149 of the IPC and Section 37(1) 135 of the Maharashtra Police Act as per provision under Section 235(1) of the Criminal Procedure Code (Cr.P.C). All sentences were directed to run consecutively.

4. Since all the appeals are arising out of the same impugned judgment, all the appeals are being disposed of by a common judgment. The Appellants are also referred to as accused interchangeably for the sake of convenience and for situational reference.

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5. Before proceeding to deal with the facts of the case, it will be advantageous to give the names of all the accused and their respective punishments awarded by the trial court, in a tabular form, for easy reference.

Accused Number	Name of the accused	Sentenced by Trial Court
1.	Kaka Shankar Patil	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149 of IPC
2.	Pradeep Baliram Patil	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149 of IPC
3.	Umesh Yashwant Patil	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149, 148 r/w 147 of IPC
4.	Anil Kaka Patil	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149 of IPC
5.	Ranbul @Ranshya Chandrakant Patil	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149 of IPC
6.	Bhagwat (Bhagwan) Yashwant Patil	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149 of IPC
7.	Sanjay Lahu Karbhari	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149 of IPC
8.	Kisan Kalu Patil	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149 of IPC
9.	Bharat Baliram Patil	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149 of IPC
10.	Sandip Kaka Patil	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149, 148 r/w 147 of IPC
11.	Yashwant Baliram	Convicted u/s 302, 201 r/w 147 and 149, 302

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	Patil	r/w 149, 201 r/w 149 of IPC
12.	Kabir Lahu Karbhari	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149, 148 r/w 147 of IPC
13.	Sharad Baliram Patil	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149 of IPC
14.	Madhukar Ramchandra Patil	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149 of IPC
15.	Baliram Gajanan Patil	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149 of IPC
16.	Minesh Nanu Patil	Convicted u/s 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149 of IPC

6. Brief facts of the prosecution case are as under:

a. It is the case of the prosecution that Vasant Bendu @ Shankar Patil (Complainant/ P.W. 1) was residing at Village- Umbarde, Taluka- Kalyan along with his two sons namely Vilas and Vikas (the deceased), their wives and children. It is further the case of the prosecution that in the year 2012, Vikas (the deceased) was the Manager of Royal Deshi Bar situated at Beturkar Pada, Kalyan. It is further the case that the deceased used to leave for work in the morning at about 6:45 a.m.

b. It is further the case that Raghunath Bendu Patil (brother of the Complainant) and all the accused persons hail from the same vicinity. Raghunath Patil had purchased land from Sitaram Patil and Ganpat Patil, because of which Kaka Patil (A-1) harboured enmity towards

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Raghunath Patil, which the Complainant and both his sons were willing to mediate, but the accused persons were annoyed.

c. It is further the case that on 07.07.2010, the accused had also beaten up the deceased, for which the deceased was admitted to Rukminibai Hospital, Kalyan and an FIR was lodged, but the same was settled at the instance of Kaka Patil (A-1). Even thereafter, the accused continued to pick quarrels with the Complainant and his sons. It is further the case that in 2011 on the eve of 'Ganesh Utsav ', i.e. on 01.09.2011, Kaka Patil (A-1) and his associates were involved in a scuffle with the deceased for which the deceased had complained to the police. It is further the case that on 20.11.2011, Kaka Patil (A-1) picked up a quarrel with the deceased and subsequently lodged a Complaint in connection therewith. In that case, the Complainant, both of his sons and P.W. 2 (Eknath Dagadu Patil) were arrested. It is further the case that following the said incident, the accused have been seeking to falsely implicate the Complainant and his associates.

d. It is further the case that, on 03.10.2012 (date of incident) at about 6:00 a.m., the Complainant had gone to his field for grazing bullocks. It is further the case that at around 7:45 a.m., Dharmik (grandson of the Complainant) came to him and informed him that something had

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happened to the deceased. Therefore, the Complainant rushed towards the house, where P.W. 2 narrated the incident to him. It is further the case that P.W. 2 informed the Complainant that all the accused persons had assaulted the deceased in front of Royal Deshi Bar and caused his death by inflicting injuries with a sword, knife and chopper, as well as by subjecting him to fist and kick blows.

e. It is further the case that thereafter the Complainant rushed to the spot where he found that the deceased was severely injured and was lying supine in front of Royal Deshi Bar was later shifted to Rukminibai Hospital, where the doctor declared him dead. Consequently, the Complainant lodged an FIR with Bajarpeth Police Station on 03.10.2012.

f. It is the case of the prosecution that, upon registration of the FIR, police set the investigation in motion, made an entry regarding the incident in the Station Diary and registered Cr. No. I-237/2012 for the offences punishable under Sections 302, 143, 147, 148, 149 and 120-B of the IPC and Sections 37(1) read with 135 of the Maharashtra Police Act. It is further the case of the prosecution that the initial investigation was carried out by API Ramesh Patil (P.W. 15) and then handed over to ACP Bharat Nimbalkar (P.W. 17) and thereafter to P.I.

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Khade. Upon completion of the investigation, the chargesheet came to be filed before the J.M.F.C., Kalyan and thereafter the case was committed to the Sessions Court, Kalyan for trial. The charges were framed against the Accused/Appellants by the Additional Sessions Judge, Kalyan.

g. To bring home the guilt of the Accused-Appellants, the prosecution examined 17 witnesses (P.W. 1 to P.W. 17):

P.W	NAME	ROLE
1	Vasant Bendu *alias* Shankar Patil	Complainant/ Father of deceased
2	Eknath Dagadu Patil	Eye-Witness to the incident
3	Suresh Laxman Dalvi	Eye-Witness
4	Mandubai Sudam Bhoir	Eye-Witness to conspiracy/ Sister of P.W. 1
5	Kishori Vikas Patil	Wife of the the deceased
6	Vinod Balaram Keni	Owner of Royal Deshi Bar
7	Raghunath Bendu Patil	Brother of P.W. 1
8	Rajan Baliram Mhatre	Panch Witness Seizure of the clothes of the deceased and 6-inch chopper blade withdrawn from the body of the deceased on 03.10.2012
9	Devanand Deepak Mali	Panch Witness Recovery of Scorpio and Omni Van at the instance of Sandeep Kaka Patil (A-10) on 08.10.2012
10	Arun Umakant	Panch Witness

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	Chaudhary	Disclosure statement made by Kabir Kharbari (A-12) on 11.10.2012 and the subsequent spot of the place where the weapon was thrown by Kabir (A-12)
11	Ravindra Prabhakar Patil	Police constable who brought the deceased to Rukhminibai hospital.
12	Kishor Vasant Ambavane	Photographer
13	Nandkishor Gayaprasad Pal	Garment Shop Owner (Hostile Witness)
14	Dr. Shobhana Devidas Lavankar	Medical Officer at Rukminibai Hospital, Kalyan who conducted the Post-Mortem (P.M.) of the deceased on 03.10.2012.
15	Ramesh Chandrasingh Patil	Investigating Officer (I.O.) who conducted the initial investigation up to 07.10.2012
16	Dr. Minakshi Brijeshwar Pande	Medical Officer who examined the injuries on Kabir Karbhari (A-12)
17	Bharat Papanna Nimbalkar	Investigating Officer (I.O.) who took over the investigation after 07.10.2012

6. After the completion of investigation, the chargesheet came to be filed against the Accused/Appellants. After conclusion of the trial, the Accused/Appellants were convicted of the offences by the District & Sessions Judge- 2 at Kalyan, Mumbai on 07.03.2018, as already stated above.

7. Against the said judgment and order of conviction, the Appellants have preferred the present appeals. Criminal Appeal No. 424 of 2018 has been preferred by Kaka Shankar Patil (Accused No. 1). Criminal Appeal No. 423 of

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2018 has been preferred by Umesh Yashwant Patil (Accused No. 3), Sandip Kaka Patil (Accused No. 10) and Kabir Lahu Karbhari (Accused No. 12). Criminal Appeal No. 425 of 2018 has been preferred by Pradeep Baliram Patil (Accused No. 2), Anil Kaka Patil (Accused No. 4), Ranbul @ Ranshya Chandrakant Patil (Accused No. 5), Bhagwat Yashwant Patil (Accused No. 6), Sanjay Lahu Karbhari (Accused No. 7), Kisan Kalu Patil (Accused No. 8), Bharat Baliram Patil (Accused No. 9), Yashwant Baliram Patil (Accused No. 11), Sharad Baliram Patil (Accused No. 13), Madhukar Ramchandra Patil (Accused No. 14) and Baliram Gajanan Patil (Accused No. 15). Criminal Appeal No. 316 of 2018 has been preferred by Minesh Nanu Patil (Accused No. 16).

8. It will be pertinent to mention here that these appeals were heard and reserved for judgment. During perusal of the record and proceedings before pronouncement of the judgment, we could not find any records which would indicate whether the Appellants were still languishing in custody or have been released on bail during the pendency of the Appeal. This Court therefore called upon the Ld. Counsels appearing for the Appellants to place on record the present status of the Accused-Appellants with respect to their period of incarceration. The Ld. Counsel for the Appellants tendered a chart of all the Appellants and their status with respect to the period of

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incarceration. The same is taken on record and marked as 'X' for identification. The Ld. APP was also asked to verify the same, which was verified to be correct. From the records we also find that the widow of the deceased (A-1) had filed an Interim Application No. 2908 of 2021 in Cr.A No. 424 of 2018 seeking permission to prosecute the appeal. This Court vide order dated 31.11.2021 had already allowed the said application.

9. Heard Ld. Counsel Shri. Kuldeep Patil for the Accused-Appellants No. 1-15 and Ld. Counsel Raju D. Suryawanshi for Accused- Appellant No. 16 and Ld. APP Mr. Amit K. Munde for the Respondent-State.

10. The Ld. Counsel for the Appellants, at the very outset, assertively submitted that the prosecution has failed to prove the case against the Appellants beyond reasonable doubt. They further submitted that there are a lot of inconsistencies, omissions and contradictions in the evidence of the witnesses, which makes the case of the prosecution doubtful. He further submitted that the statements of eyewitnesses have been recorded belatedly, for which there is no explanation offered by the prosecution. He further submitted that the prosecution has failed to examine any independent witnesses, although P.W. 2 and P.W. 3 have stated that a crowd had gathered at the spot of the incident. He further submitted that there is no recovery of any weapon and there is nothing to connect the Appellants with

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the commission of the offence. The Ld. Counsel for the Appellants therefore urged that benefit of doubt be given to the Appellants and that the Appellants be acquitted.

11. The Ld. Counsel for the Appellants has relied upon a plethora of judgments which are enlisted hereinbelow :

I. *Ganesh Bhavan Patel and Anr. v/s State of Maharashtra*[1]
II. *Harbeer Singh v/s Sheeshpal and Ors. with the State of Rajasthan v/s Sheeshpal and Ors.*[2]
III. *Maruti Rama Naik v/s State of Maharashtra*[3]
IV. *Shahid Khan v/s State of Rajasthan*[4]
V. *Laxman Bapurao Ghaiwane v/s State of Maharashtra*[5]
VI. *Nandkeshwar s/o Shivnarayan Khairwar v/s State of Chhattisgarh*[6]
VII. *Sattatiya alias Satish Rajanna Kartalla v/s State of Maharashtra*[7]
VIII. *Debapriya Pal v/s State of Bengal*[8]
IX. *Thakore Umedsing Nathusing v/s State of Gujarat*[9]
X. *Mustkeem alias Sirajudeen v/s State of Rajasthan*[10.]

12. *Per Contra*, the Ld. APP for the Respondent-State submitted that the prosecution has proved the case against the Appellants beyond reasonable

1 (1978)4 SCC 371
2 (2016) 16 SCC 418.
3 (2003) 10 SCC 670
4 (2016) 4 SCC 96
5 (2012) SCC Online Bom 2313
6 Cri.A. 1390/2015 Dt. 01/09/25 Chattisgargh HC.
7 (2008) 3 SCC 210
8 (2017) 11 SCC 31
9 (2024) SCC OnLine 320.
10 (2011) 11 SCC 724.

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doubt. The Ld. APP submitted that the eye-witnesses have categorically deposed regarding the assault committed by the Appellants upon the deceased. The Ld. APP further submitted that the discrepancies in the testimony of the eye-witnesses are minor in nature and that they are bound to occur in the depositions of natural witnesses and the same do not affect the credibility of their evidence. He further submitted that the witnesses have identified the assailants in the Court and therefore there is nothing to disbelieve the evidence of the prosecution. The Ld. APP therefore, submitted that the Appellants have brutally committed the murder of the deceased and the same can be established by the evidence brought on record. Hence, no case for leniency is made out and thus, all the appeals deserve to be dismissed.

13. We have gone through the evidence on record. Although, this is not a case of circumstantial evidence, but we would broadly categorise the substratum of evidence and deal with the said aspects *in seriatim* as under:

A. **CASE OF HOMICIDAL DEATH :**

In order to prove homicidal death, the prosecution has examined P.W. 14 -Dr. Shobana Devidas. She deposed that she had been attached to Rukminibai Hospital, Kalyan as M.O. since 24.11.2008. She further deposed that on 03.10.2012, she was on her official duty and had conducted P.M. on

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the dead body of Vikas Vasant Patil between 2:30 p.m. and 3:45 p.m. She deposed that there were no signs of decomposition but partial rigor mortis was found over parts of the dead body. She further deposed that upon conducting the Post-Mortem examination, she noticed the following injuries on the dead body of the deceased:

> *"In para 15 of the Post Mortem following injuries were found*
> *1] Incised wound over penis 1" x ½" x skin deep.*
> *2] Injury over left testis, skin over left testis app. 1" x 1" is absent.*
>
> *In para No.16 of P.M. report following injuries were found.*
> *Both upper limbs and lower limbs straight.*
>
> *In para No.17 of P.M. report following injuries were found.*
> *Surface wounds and injuries*
> *1] Incised wound over neck from 1 ½" below left ear to 1 ½" below right ear passing upwards posteriorly approx. 8" x ½" x neck deep upto cervical spine in which two lobes of thyroid gland, trachea, oesophagas, common carotidartery. Internal jugular vein and muscles are cut.*
> *2] Three incised wound over neck below the above incised wound at the level of Isthmus of thyroid gland. No bruises present.*
> *i] 4" x ½" x skin deep over the middle of neck.*
> *i] Right lateral aspect of neck 1 ½" x ½" x skin deep.*
> *iii] Left lateral aspect of neck 1" x ½" x skin deep.*
> *3] Stab wound over left side of chest between left chavicle and left nipple at the level between 4th & 5th rib 2" x ½" x 4" deep.*
> *4] Two stab wounds over left side of back.*
> *i] below left scapula region 1" x ½" x 2 ½".*
> *ii] below the above wound app. 1" x ½" x 2".*
> *5] Stab wound over right side of back app. 3" x 1" x 7".*
> *6] Incised wound over right shoulder 3 ½" x 1" x skin deep.*
> *7] Incised wound over left arm ½" x ½" x skin deep.*
> *8] Incised wound over pubic region above penis app. 1 ½" x ½" x skin deep.*

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9] Abrasion over right side of temporal side app. ½" x ¼" one above left knee joint app. ½" x ½".
10] Incised wound over left thumb ½ cm x ½ cm x skin deep and right ring finger 1 cm x ¼ cm x skin deep.

In para No.18 of P.M. report following injuries were found. Right side posteriorly 7th and 8th ribs cut. These injuries are ante-mortem injuries. In para No.19 of P.M. report following injuries were found. Head-opened. No injuries under the scalp. Skull- No fracture skull. Brain – Congested.

In para No.20 of P.M. report following injuries were found.
1] Right side posteriorly 7th & 8th rib cut along with intercostal space.
2] Pleura – Ruptured.
3] Larynx Trachea and Brouchi- Filled with blood.
4] Right Ling- Stab wounds over right lung middle and lower lobe. One piece of sharp and pointed weapon found in right lung appro. 6" x 2 ¼".
5] Left lung – stab wound over upper lobe.
6] Paricardium – Ruptured.
7] Heart with weight – Stab wound between right ventricle and left ventricle anterior aspect app. 1" x ¼" x Heart muscle deep and over left atrium posteriorly app. ½" x ¼" x Heart muscle deep.
8] Large vessels – Filled with blood……."

14. She deposed that after the Post-Mortem Report, she opined about cause of death as "*haemorrhagic shock due to cut throat injury associated with injuries to vital organs*". She further deposed that the above injuries were fresh injuries. She further deposed that Injury Nos.1 and 2 mentioned in para no.17 of the P.M. report are fatal for life and instant death can occur. She also stated that Injuries Nos. 7 and 10 mentioned in para no. 17 of the P.M. report are possible if the man is avoiding assault. All the injuries

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mentioned in para no. 17 are possible by a sharp edged weapon. It was further stated by her that the abrasions are possible by a blunt part of that weapon or by falling on the ground. She further deposed that a piece of sharp edged weapon was shown to her which she identified to be the same as the one which was found in the lung of that dead body. She further deposed that according to her, the death of that person might have taken place 6-7 hours prior to the receiving of the dead body by their hospital.

15. From the above we are of the opinion that the death of the deceased was homicidal in nature.

16. Once the death is homicidal death, the burden lies on the prosecution to prove that the death was on account of the act committed by the accused with the intention and knowledge that this act would cause the death of the deceased which would amount to an offence of murder.

B. TWO EYE WITNESSES AS CLAIMED BY THE PROSECUTION

17. P.W. 2- Eknath Dagadu Patil and P.W. 3- Suresh Laxman Dalvi have been examined by the prosecution as their star witnesses, who claim to have witnessed the incident in question. Since these two witnesses are the prime witnesses for the prosecution and the case of the prosecution primarily

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hinges on their testimony, it would be necessary to analyse and marshal their evidence in detail.

18. At this stage it will be apposite to refer to the judgment of the Hon'ble Apex Court in the landmark ruling of ***Vadivelu Thevar v/s State of Madras***[11], wherein it was observed that:

> "*Hence, in our opinion, it is a sound and well-established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for, proving or disproving a fact. Generally speaking, oral testimony in this context may be classified into three categories, namely:*
> *(1) Wholly reliable.*
> *(2) Wholly unreliable.*
> *(3) Neither wholly reliable nor wholly unreliable. In the first category of proof, the court should have no difficulty in coming to its conclusion either way-it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court, equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial. "*

19. On this backdrop, we shall analyse the testimony of these witnesses.

P.W. 2 (Eknath Dagadu Patil), a rickshaw driver, deposed that he knows the Complainant- Vasant Patil (P.W. 1) and all the accused persons. He stated there were disputes between P.W. 7, the brother of P.W. 1 and Kaka Patil (A-1) over landed property for the last 7 to 8 years. He further deposed that on 03.10.2012, at around 6:30 a.m., while proceeding by his

11 1957 SC AIR 614.

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auto rickshaw from Khadakpada to the railway station *via* Betturkar Pada Road, he reached in front of Royal Deshi Bar and saw a Scorpio and an Omni van along with Kaka Shankar Patil (A-1). He further deposed about seeing around 15 persons alighting from these vehicles who were from the vicinity, including Kaka Patil (A-1), Sandeep Kaka Patil (A-10), Anil Kaka Patil (A- 4), Kabir Lahu Karbhari (A-12), Sanjay Lahu Kharbari (A-7), Umesh Yashwant Patil (A-3), Bhagwant Yashwant Patil (A-6), Yashwant Baliram Patil (A-11), Baliram Gajanan Patil (A-15), Pradeep Baliram Patil (A-2), Sharad Baliram Patil (A-13), Bharat Baliram Patil (A-9), Madhukar Ramchandra Patil (A-14), and Ranbul Chandrakant Patil (A-5). He deposed that they were carrying *gupti*, sword and chopper in their hands. He further deposed that after parking his rickshaw, he stood there to observe what was happening, when he heard someone say "*kill him like a goat*". He further deposed that the said 15 persons went to the door of Royal Deshi Bar where the deceased was opening the door and began beating him with fists and kicks. He further deposed that Sandeep Patil (A-15) inflicted a sword blow on the back of the deceased, Umesh Patil (A-3) inflicted a *gupti* blow on his private part and Kabir Lahu Kharbari (A-12) cut his throat with a chopper. He further deposed that he was frightened and went to Umbardegaon village and narrated the incident to P.W. 1 and then returned to Betturkarpada where

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the deceased was lying in front of Royal Deshi bar on the gutter with bleeding injuries on his chest, back, neck and private part, having suffered nine weapon blows. He stated that when he returned, police from Bajarpeth police had arrived and the deceased was taken to Rukminibai Hospital where he was declared dead. He further deposed that police recorded his statement and he identified the chopper blade which was in the hands of Kabir Lahu Kharbari (A-12).

20. During his cross-examination, several admissions and omissions were brought on record through this witness. It was brought on record in the cross-examination that this witness and the deceased were in jail together in a case for around 60 days. This witness further admitted that near the spot there is a police chowky. He also admitted that Bajarpeth police station is nearer from the spot than Umbardegaon village. He further admitted that he did not go to the police station immediately. He further admitted that at that time he had a talk with the police that he had seen the incident. He further deposed that in the evening he had gone to the police station and was present there for 15 minutes. He also admitted that even after the funeral of the deceased, he went to the police station again. Further, it has come by way of omission that he had stated to the police that at that time, Sandeep (A-10) had inflicted blow of sword on the back of Vikas (the deceased) and

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Umesh (A-3) had inflicted blow of *gupti* on the private part of Vikas. He further stated that police recorded his statement only once but cannot assign any reason why the police have mentioned the date as 16.10.2012 on his police statement.

21. A perusal of the testimony of this witness would evince that, although a police chowki and Bajarpeth police station were closer to the spot, he did not to go to the police immediately, rather chose to go to Umbardegaon village at 7:15 a.m. to inform P.W. 1 and thereafter returned to the spot at 8:15 a.m. when the police had already arrived. When this witness was present on the spot and had informed the police that he had seen the incident, it is baffling that the police did not record his statement immediately but recorded his statement only after a period of 13 days. Although, within a few hours of the incident, he informed the police about having witnessed the incident, despite which he was not the first informant. The implication of Sandeep Patil (A-10) and Umesh Patil (A-3) has also come by way of omission.

22. Further, we also find that P.W. 2 (Eknath Dagadu Patil), has not identified the remaining accused persons in his substantial deposition. Although, this witness deposes that he can identify the other accused persons if they are shown to him, we do not find any evidence which would show

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that this prosecution witness has identified the rest of the accused persons in Court. Nonetheless, he has attributed a specific role to Kabir Karbhari (A-12).

23. We are therefore of the opinion that the testimony of this witness falls into the category of neither 'wholly reliable' nor 'wholly unreliable'. We are inclined to observe thus, as we find that although the statements have been belatedly recorded, his testimony with respect to the assault by Kabir Karbhari (A-12) is categorical and inspires confidence. He has even identified the chopper blade which was in the hands of Kabir Lahu Kharbari (A-12) in his substantial deposition. Further we also find that there is a certain degree of corroboration to the testimony of this witness with respect to the assault by Kabir (A-12), which we shall discuss in the later part of the judgement.

24. P.W. 3- Suresh Laxman Dalvi deposed that he resides at Betturkarpada and sells ice cream on a handcart and knows the deceased. He deposed that on 03.10.2012, at around 7:20 a.m., while going to purchase salt in front of Royal Deshi Bar, he saw 10 to 15 persons gathered and out of them he knew Kabir Lahu Kharbari (A-12) and Sandeep Kaka Patil (A-10), as they were residents of Umbardegaon. He further deposed that those persons went by white color Omni vans, towards the southern side. He further deposed that at that time Kabir (A-12) was having chopper and Sandeep (A-10) was having

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sword. He further deposed that the clothes of Kabir and Sandeep were stained with blood. He further deposed that he saw the deceased lying in front of Royal Deshi Bar with 11-12 blows and bleeding injuries on his neck, throat, back and private parts with no movement. He further deposed that he took an auto-rickshaw and went to Umbardegaon to the house of Vasant Patil (P.W. 1). He further deposed that as P.W. 1 was not at home, he informed about the incident to the wife of the deceased and to the brother of the deceased. He further deposed that within one minute P.W. 1 arrived and he was informed about the incident. He also deposed that P.W. 2 was also present there. He further deposed that they all went back to the spot where the police were already present. He further deposed that he was aware that there were some disputes between Kaka Patil (A-1) and P.W. 1. He further deposed that he can identify Kabir (A-12) and Sandeep (A-10) alongwith other persons who were present on the spot. Further, he identified Kaka Patil (A-1), Sharad Baliram Patil (A-13), Sanjay Kharbari (A-7), Yashwant Baliram Patil (A-11), Madhukar Ramchandra Patil (A-14), Pradeep Patil (A-2), Anil Kaka Patil (A-4), Sandeep Kaka Patil (A-10), Bhagwan Patil (A-6), Kabir Lahu Karbhari (A-12), Ranbul Chandrakant Patil (A-5), Kisan Kalu Patil to be the same. He wrongly identified Sharad Patil (A-13) as Bharat Patil (A-9) and also wrongly identified Umesh Patil (A-3) as Pradeep Patil (A-2) during

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his examination-in-chief. He further deposed that all the accused persons shown on Video Conference to him were present at the spot at the time of incident.

25. In his cross-examination, this witness stated that the accused persons which were identified by him on Video Conference were well known to him by their names since long however, the same has come by way of omission. He further admitted that he was not called for the test identification parade. He further admitted that there was a crowd at the spot of the incident. He further admitted that he had not informed Dakshata police chowky and that he had not gone to Bajarpeth police station as well. He further admitted that after coming back to the spot he found that police were present there and were making inquiries on the spot, however he had no talk with the police. He further stated that on 04.10.2012 he had stated about the incident to the police, for the first time and on that day the police had recorded his statement. He further stated that police have recorded his statement only once. He however denies that the police recorded his statement on 20.10.2012. He admits that police had read over the statement to him but cannot tell why the date- 20.10.2012 is mentioned on his police statement. He further admits that he had not stated to the police that a wrong date is mentioned on his police statement and that Sr. PI Nimbalkar (P.W. 17) had

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recorded his statement at the police station. Further in the cross-examination, it has come by way of omission that he had stated before the police that at that time 10-15 persons were gathered on the spot. It has also come by way of omission that he had seen 11 to 12 blows on the person of Vikas. He further admitted that at the time of the statement he had stated before the police that out of those persons gathered, he was acquainted with two persons. Further, he stated that he had mentioned before the police that he had seen injuries on the back and private part of Vikas Patil but those injuries were not mentioned in the statement and he cannot assign any reason for the same. He further stated that he had stated before the police that at that time Sandeep Patil (A-10) had a sword in his hand but cannot assign any reason as to why it was not mentioned in his statement.

26. If we analyse the evidence of P.W. 3, we find that his testimony is laced with omissions on material aspects. The fact that he saw 10 to 15 persons gathered there has come by way of omission. Initially, in his examination-in-chief, he deposed that out of those persons, he knew only two persons by name, namely, Kabir Karbhari and Sandeep Kaka Patil. Further in the chief, he improvises his version and deposes that he can identify Kabir Karbhari and Sandeep Kaka Patil alongwith the other persons on the spot by their name. In the cross-examination, he further improvises

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his version and states that the accused persons which he identified on Video Conference by him were well known by their names to him since long and thereafter it has come by way of omission that he had stated before the police that he knows all the persons who were present on the spot, but it is not mentioned in his statement. Even as far as mentioning of the weapon allegedly held by the accused- Sandeep Kaka Patil has come by way of omission. Further, with respect to the date of recording of the statement also there is a discrepancy. He does not dispute that police had read out the statement to him and that he had not stated to the police that the wrong date is mentioned in the police statement. In this context if the deposition of P.W. 17- I.O. is seen, he categorically deposed that the statement of P.W. 3 was recorded on 20.10.2012 as per his say. The rest of the omissions are also proved by the I.O. Taking into consideration the testimony of this witness, it will be unsafe to rely upon the same in totality. However, as we have discussed earlier while dealing with P.W. 2, even in the case of P.W. 3, though the statement has been belatedly recorded and there are material omissions and improvisations, however he is consistent on the point of Kabir (A-12) holding chopper in his hands and there is no cross examination on this aspect to discredit his testimony.

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27. Taking into consideration the evidence of P.W. 2 and P.W. 3, this Court finds that over implication of the accused persons cannot be ruled out. According to their respective depositions, both were present after the police had arrived at the spot and were available to the police, however their statements were recorded after a period of 13 days and 17 days respectively as admitted by P.W. 17. The prosecution has not challenged this aspect of evidence or even sought any clarification.

28. In this context, it would be apposite to refer to the judgment of the Hon'ble Supreme Court in the case of ***Ganesh Bhavan Patel*** (supra) on which the Ld. Counsel for the Appellant No. 1 to 15 has also placed reliance:

> *"15. As noted by the trial court, one unusual feature which projects its shadow on the evidence of PWs Welji, Pramila and Kuvarbai and casts a serious doubt about their being eyewitnesses of the occurrence, is the undue delay on the part of the investigating officer in recording their statements. Although these witnesses were or could be available for examination when the investigating officer visited the scene of occurrence or soon thereafter, their statements under Section 161 of the CrPC were recorded on the following day. Welji (PW 3) was examined at 8 a.m., Pramila at 9.15 or 9.30 a.m., and Kuvarbai at 1 p.m. Delay of a few hours, simpliciter, in recording the statements of eyewitnesses may not, be itself, amount to a serious infirmity in the prosecution case. But it may assume such a character if there are concomitant circumstances to investigator was deliberately marking time with a view to suggest that the decide about the shape to be given to the case and the eyewitnesses to be introduced. A catena of circumstances which lend such significance to this delay, exists in the instant case.*

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29. The Ld. Counsel for the Appellants has also relied upon the judgment of ***Maruti Rama Naik*** (supra) and has invited the attention of this Court to para no. 7 , which is reproduced as under:

> *"7. We will now consider whether the evidence of PW-4 in any manner corroborates the evidence of PW-3 or for that matter the said evidence of PW-4 is acceptable at all. PW-4 has admitted that he is a close relative of deceased Krishna Mahada Naik. While he had noticed the incident of the attack on the deceased Krishna Mahada Naik, he has not spoken in any manner about the subsequent attack which includes the attack on PW-3. According to this witness, at the relevant time, he was going to the bus-stand to board a bus to reach his factory where he was working when he saw the assault on the deceased Krishna Mahada Naik by the assailants including the appellants. Having noticed the incident, he did not go to any one of his relatives' house to inform about the attack in question. He knew at that point of time that Krishna Mahada Naik was injured and still alive, still he did not make any effort whatsoever to get any help to shift the injured to a hospital. According to this witness, even after seeing Krishna Mahada Naik lying injured in a critical condition, he without informing anybody about the incident, went to the bus-stand, took a bus and went to his factory and even at that point of time, he had sufficient opportunity to inform the other people about the incident or for that matter, even the Police which he did not do. It is interesting to note from the evidence of this witness that even though he had an opportunity of approaching the police, he did go to them because he did not know whom he had to inform about the incident in the Police Station. The witness further states that he went to the factory, worked for a while, took leave from the factory and went back home. Even after reaching home, he did not bother to find out from anybody there about the fate of the victims nor did he inform anybody about he having witnessed the incident. It is only at about 6 p.m. when PW-21 recorded the statement for the first time, he came out with the fact of having witnessed the incident. It is rather surprising as to how and in what manner, PW-21 came to know that PW-4 was a witness to the incident. The prosecution has also failed to explain the delay in recording the statement of this witness, therefore, bearing in mind the conduct of PW-4 in not informing anybody about his having witnessed the*

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incident and the delay in recording his statement makes us hesitant to place any reliance on his evidence. The only other piece of evidence relied by the prosecution to support its case against these two appellants is that of recovery which even according to prosecution, was made from a place which was not in the exclusive possession of the appellants and the said place was easily accessible by other people and also the fact that recovery was made almost 9 days after the incident in question, in our opinion, this piece of evidence also would not at all be sufficient to base a conviction of these appellants without further acceptable corroboration. Therefore, we are of the opinion that these appeals must succeed. The conviction and sentence imposed on the appellants are set aside and the appeals are allowed."

30. We may also refer to the judgment of this Court, as submitted by the Ld. Counsel for the Appellants, in the case of ***Laxman Bapurao Ghaiwane*** (supra) wherein it has been held that delay in recording statement not be always fatal to prosecution but where recording of statements was delayed despite there being ample opportunity available to the Investigating Officer to record statements, then the delay is required to be explained to the satisfaction of the court. The relevant paragraphs are referred hereinbelow:

"17. Let it be stated here that the delay in recording statements of witnesses in all cases is not necessarily fatal to the prosecution. It is well settled that the delay in recording statements of the witnesses by itself should not be seen as circumstance adverse to the prosecution. Whether the delay in recording of statements creates a doubt regarding genuineness of the evidence of the witnesses will depend upon the facts and circumstances of each case. There might be a case where the circumstances might have prevented the Investigating Officer to record statements of witnesses within a reasonable time. In such a case, the delay by itself should not be fatal to the prosecution case. However, at the same time, there could be a case where

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recording of statements was delayed despite there being an ample opportunity available to the Investigating Officer to record statements. In such a case, the delay is required to be explained to the satisfaction of the Court.

18. The effect of delay in recording statements of witnesses under Section 161 of the Cr PC was examined by the Hon'ble Supreme Court in the case of State of H.P. v. Gian Chand, reported at (2001) 6 SCC 71: AIR 2001 SC 2075 and it was observed:

"If the prosecution fails to satisfactorily explain the delay and there is a possibility of embellishment in the prosecution version on account of such delay, the delay would be fatal to the prosecution. However, if the delay is explained to the satisfaction of the Court, the delay cannot by itself be a ground for disbelieving and discarding the entire prosecution case."

The effect of delay was also considered by the Supreme Court in the matter of Dilawar Singh v. State of Delhi, reported at (2007) 12 SCC 641: AIR 2007 SC 3234 and it was observed:

"In criminal trial one of the cardinal principles for the Court is to look for plausible explanation for the delay in lodging the report. Delay sometimes affords opportunity to the complainant to make deliberation upon the complaint and to make embellishment or even make fabrications. Delay defeats the chance of the unsoiled and untarnished version of the case to be presented before the Court at the earliest instance. That is why if there is delay in either coming before the police or before the Court, the Courts always view the allegations with suspicion and look for satisfactory explanation. If no such satisfaction is formed, the delay is treated as fatal to the prosecution case."

In the present case, it is admitted position that recording of statements of almost all the witnesses was delayed. The incident had occurred on 9th June, 2006. The matter was reported to police by wife of the deceased within a very short time. She was, however, not witness to the incident. Important witnesses in this case are P.W. 4 Ashish, P.W. 7 Sachin, P.W. 8 Anup and P.W. 10 Ashwin. The dates of recording their statements have already been stated herein above. The first ever statement was recorded

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on 11th June, 2006. The statements of P.Ws. 8 and 9 were recorded on 11th June, 2006.

19. Let us, therefore, look into the cross-examination of these two witnesses to find out whether they were available to the police on 9th and 10th June, 2006 for recording their statements. It is very clear from the evidence of P.W. 8 Anup that the Police Officers had been visiting the village daily from the date of incident and this witness was available to the police. His statement was recorded on 11th June, 2006 at about 11.00 a.m. His brother Ravindra Sahare was present when his statement was recorded. Similarly, P.W. 9 in his cross-examination claims that the police met him in the hospital and that he disclosed to the police that he had seen the incident. His statement was not recorded by the police. The Investigating Officer was cross-examined on this issue. It was suggested to him that he had avoided to record statements of the eye-witness when they had approached him and had insisted to give the statements. He has denied the suggestion. It is admitted by him that he had not recorded the statements of the witnesses on the night of 9th and 10th June, 2006 and thereafter also he did not try to call any eye-witnesses for recording statements."

31. If we take into consideration the ratio laid down in the aforesaid judgments, we find that, in the facts of the present case, there is a considerable delay in recording the statements of the two alleged eyewitnesses. These witnesses were, in fact, available on the very day of the incident. However, the police authorities did not record their statements immediately and instead recorded the same after a lapse of more than 12 days. The I.O. has also failed to offer any explanation for such delay in recording their statements.

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32. As stated above, we find the testimony of P.W. 2 and P.W. 3 to be falling in the third category where their evidence is neither wholly reliable nor wholly unreliable and therefore it will be necessary to further look for corroboration.

33. Before proceeding ahead, what is further intriguing is that these two witnesses claim to have informed the father of the victim P.W. 1 at his residence at about 7:45 am, before reaching the spot at 8:25 am. However as per P.W. 1, after reaching the hospital, when police inquired about his suspicion, he told the names of the suspects and that suspicion was on account of previous disputes with the accused. P.W. 1 could have very well informed the police what was informed to him by P.W. 2 and P.W. 3 with the names of the Appellants but P.W. 1 does not even whisper about P.W. 2 and P.W. 3 and his conversation with them at the hospital. Further, it has come in the evidence of P.W. 1 that there was discussion about the incident with all his family members and relatives. Taking into consideration all these aspects we feel that we should also analyse other aspects and see if we can find any corroboration.

34. We find that this is a case of exaggeration and over implication. It cannot be denied that it is a homicidal death, but whether all the Appellants were present at the time of assault and whether all of them have assaulted

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the deceased is something for which there is no clear evidence. As stated above, we do find that there is sufficient evidence against Kabir (A-12), which we shall discuss later on.

C. MOTIVE

35. Regarding the motive, the prosecution has examined three witnesses namely P.W. 1, P.W. 5 and P.W. 7.

36. P.W. 1, the father of the deceased, deposed that he knows all the accused since their childhood and for the last 7 to 8 years, his brother Raghunath Patil (P.W. 7) and Kaka Patil (A-1), were having a dispute on account of land. He further deposed that as Raghunath Patil (P.W. 7) was his real brother, he and his sons were intending to resolve the dispute, which was not liked by Kaka Patil (A-1) and therefore he was annoyed with him as well as with his sons. Thereafter he has deposed about the incidents of assault, which occurred in the years 2010 and 2011 for which there were police complaints. He further deposed that at that time Kaka Patil (A-1) had amicably mediated the matter. He further deposed that by keeping the grudge of that dispute, Kaka Patil (A-1) had continued his quarrels with his son. He further deposed that all the accused persons had kept a watch on each and every activity of them and the accused persons were threatening

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them that they would be a scapegoat. He further deposed that on 03.10.2012, Eknath Patil (P.W. 2) had come to his residence and narrated the incident and had also given the names of the accused, stating that the accused persons had arrived by Scorpio and Omni van. He further deposed that P.W. 2 informed him that at that time, the deceased was opening the shutter of the bar, after which the accused persons started beating him with kicks and fist blows. He further deposed that P.W. 2 had told him that Sandeep Patil (A-10) was having a sword, Kabir Lahu Karbhari (A-12) was having a chopper, and Umesh Yashwant Patil (A-3) was having a *gupti* and these accused started to beat the deceased with the help of these weapons. He further deposed that P.W. 2 had told that he had seen the incident and ran away from there. He also deposed that P.W. 3 arrived there and informed P.W. 1 and his wife about the incident.

37. In the cross-examination, it has come by way of omission that there was a dispute between Kaka Patil (A-1) and Raghunath on account of land and he and his son had tried to mediate the matter, because of which Kaka Patil (A-1) was annoyed. Further, even the incidents of 2010 and 2011 with respect to the assault on his son have also come by way of omission. However, further he deposed that it is true that Kabir Karbhari (A-12) had lodged a complaint against him, his deceased son, P.W. 2 and others for

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offences under Sections 326, 143, 147, 148, and 149 of the IPC, for which they were arrested and were in jail for two months. He further deposed that at the hospital, the police enquired about his suspicion and accordingly he had told the names of the suspects. He categorically stated that at that time he raised suspicion because of the previous disputes with the accused. He also stated that there were discussions about the incident with all family members and relatives.

38. P.W. 5- Kishori Vikas Patil (the wife of the deceased) deposed that she knew Kaka Patil and there were strained relations between their family and the family of Kaka Patil (A-1). She further deposed that 7 to 8 years prior, there were civil disputes between Raghunath Patil and Kaka Patil (A-1). She further deposed that in that dispute, her husband (deceased) and father-in-law (P.W. 1) used to favor Raghunath Patil and therefore Kaka Patil (A-1) was annoyed. She further deposed that their road passes through the house of Kaka Patil (A-1) and whenever her husband used to proceed on the bike from the house of Kaka Patil (A-1), he and his associates used to stop the bike of her husband and often abuse and threaten him. She further deposed that they used to say that he would be killed like a goat and this fact was told to her by her husband. She further deposed that on 02.10.2012, at about 5:00 p.m. to 5:15 p.m., when she herself and her husband were on the bike

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and reached near Shankar Mandir, at that time, Kabir, Umesh, Sandeep, Madhukar, one Prakash and Bhagwan were present there and they told them that tomorrow they had fixed the killing of a goat. She further deposed that she and her husband discussed this issue at that time and her husband told her that these persons would follow him and she had cautioned her husband by taking note of the previous incidents. She further deposed about the previous incidents of the years 2010 and 2011. With respect to the previous incident, she deposed that she had lodged a complaint with the police authorities that the life of the deceased was endangered. She further deposed that on 03.10.2012, P.W. 3 arrived there and told that her husband was killed by Kaka Patil (A-1) and others by using a sword. In the cross-examination, she admitted that after November 2011, there were no police complaints from either side. She also admitted that in respect of the incident dated 02.10.2012, they had not filed any police complaint.

39. P.W. 7- Raghunath Bendu Patil (the brother of P.W. 1) deposed that P.W. 1 is his real brother. He further deposed that he knows all the accused persons as they hail from the same vicinity. He further deposed that there were quarrels between him and Kaka Patil (A-1), for which a complaint was filed at the police station. In the cross-examination, he further admitted that Kaka Patil (A-1) had lodged a police complaint, which was not liked by him.

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It has come by way of omission that he had stated before the police that at that time Kaka Patil (A-1), his brother and sons had beaten them, for which they had lodged a police complaint against accused Kaka Patil (A-1), his son Sandeep and his brother's son.

40. From the evidence of these three witnesses, we are of the opinion that no doubt there existed a dispute of a civil nature between Kaka Patil (A-1) and the family of the deceased. However, motive is a double-edged weapon. As the prosecution seeks to rely upon the previous disputes as a motive for the alleged offence, the same circumstances demonstrate the possibility of animosity and false implication. P.W. 5 tried to bring on record an incident of the previous day where they were threatened as a proximate motive; however, she admitted that no complaint with respect to the said threat was lodged with the police. Nonetheless, we find that there is some semblance of animosity amongst the deceased and accused persons which has culminated into the occurrence of this incident.

41. The Hon'ble Supreme Court in the case of ***Mahaendra Singh v/s State of Madhya Pradesh***[12] has held that only because motive is established, the conviction cannot be sustained. Thus, even if it is held that motive is proved, that at the most signifies the prior dispute between the parties, but the same cannot be said to be such that it automatically involves the persons who are

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on inimical terms unless there is some cogent and corroborating material to show the involvement.

D. RECOVERY OF VEHICLES

42. The prosecution in order to establish recovery of the Scorpio and Omni vehicle has examined P.W. 9- Devanand Deepak Mali, who has acted as the panch witness to this recovery. P.W. 9 deposed that on 08.10.2012, he was called by the police at Crime Branch, Kamala and asked him to act as a panch. He deposed that Sandeep (A-10) made a disclosure statement before him that he is ready to tender (show) the vehicle which was used in the offence and accordingly the police prepared a panchanama to that effect and obtained his signature on it. He further deposed that they, along with the accused, went in a police jeep to Bhatsayet Farmhouse. He further deposed that after reaching there, the accused opened the gate of that farmhouse and when they entered, they saw one Scorpio vehicle there, which was white in colour. He further deposed that the police seized that Scorpio vehicle and showed it to them, where they saw some bloodstains below the backseat of the Scorpio. He further deposed that the police obtained bloodstains from that Scorpio and the vehicle was seized in the presence of this witness. He further deposed that the accused took them through Kongaon to Adarvadi, where Sandeep (A-10) showed one Omni van, which was parked in front of

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the gate. He further deposed that nothing was found in that Omni van. However, the police seized it and obtained his signature on the panchanama. The panch-witness was cross-examined by the defence counsel.

43. If we analyse the evidence of this witness, it can be seen that the recovery of the Scorpio is from a farmhouse. It is also not clear whether the Scorpio car was locked or it was in an open condition lying at this spot. It has not come in the evidence that keys were used to open the said Scorpio vehicle and even the prosecution has failed to explain how the vehicle was opened in the absence of any key. There is no evidence to establish the actual ownership of this Scorpio. The bloodstain found beneath the rear seat of the Scorpio also does not connect the present Appellants or in particular, Sandeep (A-10) in any manner. Even though the prosecution found bloodstains beneath the rear seat of the Scorpio, there is no forensic evidence to establish that the blood found on this article matches with the blood group either with that of the deceased or of Sandeep (A-10). The mere presence of bloodstains without proof that it is human blood belonging to the deceased or even to the accused renders the recovery inconsequential.

44. The Ld. Counsel for the Appellant has relied upon the judgement of ***Sattatiya alias Satish*** (supra) to buttress this argument. The relevant paragraph is produced hereinbelow:

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> *"26. The next thing which is to be seen is whether the evidence relating to the recovery of clothes of the appellant and the half blade, allegedly used for commission of crime, is credible and could be relied on for proving the charge of culpable homicide against the appellant. In this context, it is important to note that the prosecution did not produce any document containing the recording of statement allegedly made by the appellant expressing his desire to facilitate recovery of the clothes and half blade. The prosecution case that the accused volunteered to give information and took the police for recovery of the clothes, half blade and purchase of handkerchief is highly suspect. It has not been explained as to why the appellant gave information in piecemeal on three dates i.e. 3.10.1994, 5.10.1994 and 6.10.1994. Room No.45 of "Ganesh Bhuvan" from which the clothes are said to have been recovered was found to be unlocked premises which could be accessed by any one. The prosecution could not explain as to how the room allegedly belonging to the appellant could be without any lock. The absence of any habitation in the room also cast serious doubt on the genuineness and bonafides of recovery of clothes. The recovery of half blade from the road side beneath the wooden board in front of "Ganesh Bhuvan" is also not convincing. Undisputedly, the place from which half blade is said to have been recovered is an open place and everybody had access to the site from where the blade is said to have been recovered. It is, therefore, difficult to believe the prosecution theory regarding recovery of the half blade. The credibility of the evidence relating to recovery is substantially dented by the fact that even though as per the Chemical Examiner's Report the blood stains found on the shirt, pant and half blade were those of human blood, the same could not be linked with the blood of the deceased. Unfortunately, the learned Additional Sessions Judge and High Court overlooked this serious lacuna in the prosecution story and concluded that the presence of human blood stains on the clothes of the accused and half blade were sufficient to link him with the murder."*

45. Needless to mention that unless the bloodstain found beneath the rear seat is proved to be that of the deceased, the discovery cannot be said to

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incriminate Sandeep (A-10) or any of the other Appellants beyond reasonable doubt. Therefore, we are inclined to hold that the recovery of the vehicle and the bloodstains found on the rear seat of the Scorpio have not been proved beyond reasonable doubt.

E. RECOVERY OF CLOTHES OF THE ACCUSED

46. In order to establish the recovery of clothes of the accused, the prosecution has examined P.W. 10- Arun Umakant Chaudhari. He deposed that on 14.10.2012, he was called by the police along with a co-panch by name Mhatre. He deposed that at that time, Bhagwan Patil, made a disclosure statement and he showed his readiness to show the clothes which were used at the time of the offence. He further deposed that after drawing the disclosure panchnama in his presence, the accused Bhagwan, along with the panchas, went by police vehicle to village Bhatsayee as per the say of the accused. He further deposed that the accused took them to one farmhouse, where he tendered some clothes, i.e. five shirts and five pants. He further deposed that out of those clothes, three shirts and three pants were blood-stained and those stains were dried. He further deposed that the police seized all these clothes and obtained his signature and the signature of the accused on it.

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47. If we analyse the deposition of this witness, in the first place, we find that there is nothing to indicate that after the police seized these clothes on which there were bloodstains, there was any sealing done on the spot. It is pertinent to note that the recovery of the blood-stained clothes on 14.10.2012 is from the same place from where the Scorpio vehicle was recovered on 08.10.2012. Further, none of the eyewitnesses identify these clothes as the clothes which were worn by any particular accused at the time of the incident and that the prosecution has not even established which shirt or trouser were worn by which of the accused persons. Therefore, even though human blood has been found on some of the articles, the prosecution has not established the nexus between those articles with the deceased or any accused persons. In the absence of such corroboration, we find it difficult to come to a conclusion that the recovery of blood-stained clothes has been proved beyond reasonable doubt.

48. It will be pertinent to refer to the judgment of ***Nandkeshwar*** (supra) as relied upon by the Ld. Counsel for the Appellants. The relevant portion is extracted hereunder:

> *"21. Upon perusal of the record and in light of the decisions of the Hon'ble Supreme Court, it is evident that although the prosecution has produced a soil, stick and clothes of the deceased seized from the spot, there is a complete absence of forensic evidence establishing that the blood found on these articles matches the blood group of the deceased. The mere presence of bloodstains, without proof that it is*

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human blood belonging to the deceased, renders the recovery inconsequential.

"22. The Hon'ble Supreme Court has consistently held that such failure materially affects the evidentiary value of the alleged recoveries. In Kansa Behera v. State of Orissa, (1987) 3 SCC 480, the Court held:
"Unless the blood stains found on the clothes or weapons are proved to be that of the deceased, the discovery cannot be said to incriminate the accused beyond doubt."

"23. Similarly, in Sattatiya @ Satish Rajanna Kartalla v. State of Maharashtra, (2008) 3 SCC 210, it was observed:
"In the absence of a serological report confirming that the blood on the clothes or weapon belonged to the deceased, the recovery is of no substantial help to the prosecution."

"24. Again, in Vijay Shankar v. State of Chhattisgarh, (2022) 10 SCC 353, the Apex Court reiterated:

"The prosecution's failure to establish, through scientific evidence, that the blood found on the weapon or clothes matched that of the deceased creates a serious doubt about the veracity of the recovery and the guilt of the accused."
"25. These authoritative pronouncements make it abundantly clear that mere recovery of blood-stained articles, without scientific corroboration, is insufficient to sustain a conviction, especially when the case is otherwise based on circumstantial evidence."

49. Thus, the trial court erred in observing that it is the defence who has to explain in what circumstances their clothes were blood stained or even how their vehicles were blood stained and that the defence has not clarified any of these facts even under their statement under Section 313 of Cr.P.C. We find that such findings are against the basic tenets of criminal jurisprudence.

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F. RECOVERY OF WEAPONS

50. In order to prove recovery of weapons the prosecution has examined P.W. 10- Arun Chaudhary. He deposed that on 11.10.2012, the police called him at the Crime Branch. He further deposed that Kabir (A-12) made a disclosure statement before him to the police that he is ready to tender (show) the weapons which were thrown below the bridge of Gandhari. He further deposed that police prepared the panchnama in his presence and thereafter they went towards Gandhari bridge by police vehicle. He further deposed that the accused pointed out the spot and told them that he had thrown those weapons in the water. He further deposed that drivers were called to search for the weapon in the water but it was not found. This circumstance is not of any avail to the prosecution to connect the Appellants with the incident in question as no weapons have been recovered.

G. CHEMICAL ANALYSIS

51. The prosecution has also relied upon the Chemical Analyzer (CA) reports to establish its case with respect to the blood stains found on the articles and the clothes. The report at Exhibit 289 is the blood sample of the deceased- Vikas Vasant Patil. The report however indicates that the species origin was not attempted and the ABO blood grouping was unsuitable. The

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species origin of hairs and the nail clippings, although identified as human, was inconclusive as regards the ABO grouping.

52. From Exhibit 275 to Exhibit 291 are the blood examination reports and the results of analysis of the Appellants issued by Assistant Chemical Analyser, FSL, Mumbai. The same is tabulated as under:

Accused No.	Name of the accused	Blood Group
1	Kaka Patil	B
2	Pradeep Patil	A
3	Umesh Patil	B
4	Anil Patil	B
5	Ranbul @ Ranshya Patil	O
6	Bhagwat Patil	A
7	Sanjay Karbhari	B
8	Kisan Patil	AB
9	Bharat Patil	AB
10	Sandip Patil	B
11	Yashwant Patil	AB
12	Kabir Karbhari	O
13	Sharad Patil	A
14	Madhukar Patil	A
15	Baliram Patil	A

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53. The CA report of the clothes of the Appellant and clothes of the deceased records the presence of Human Blood and on certain articles as blood of 'A' group, however in the absence of the identification of blood group of the deceased, the presence of blood group 'A' on the recovered clothes does not take the case of the prosecution any further. Further, the evidence with respect to which accused was wearing those recovered clothes is also convoluted and therefore we are inclined to hold that the prosecution has not been able to successfully establish a nexus between the blood-stained clothes recovered and the involvement of the Appellants in the offence.

H. FINDINGS AND ANALYSIS

54. After taking into consideration the overall conspectus of the case, we find that there are several material discrepancies in the case of the prosecution.

55. While going through the records we find that, the presence of Kaka Patil (A-1) (now deceased) who is considered to be the genesis of the dispute, has not been cogently established. It has been the defence of A-1 that he was not present at the spot but was attending his duty at the Fire Brigade where he was employed. The trial court has observed that it is disagreeing with the defence put forth by Kaka Patil (A-1) as no defence

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witness has been examined, no muster roll is proved or exhibited by the defence in order to show the presence of the accused at the working place when the incident actually took place. However, the trial court failed to appreciate the evidence of the I.O. (P.W. 17) who narrates the investigation done by him. The relevant portion in the deposition of the I.O. (P.W. 17) with respect to Kabir Karbhari (A-1) is as under:

> *"It is true that, accused Kaka Patil was doing a job in Fire Brigade of KDMC. I have recorded statements of witnesses of staff of Fire Brigade of KDMC. I have recorded statements of Satish Mankame, Nakul Karbhari, Kundesh Kumbhar, Dilip Palav, Dilip Gund. I have filed muster roll of accused Kaka Patil showing that on the date of incident he was present on his duty from 6.00 a.m. to 2.00 p.m. On that day at about 9.40 am PSI Patil of Bajarpeth Police Station had taken to accused Kaka Patil for interrogation from his office.."*

56. Therefore, taking into consideration the testimony of P.W. 17, we are of the opinion that the presence of the Kaka Patil (A-1) at the spot cannot be said to be established beyond reasonable doubt. The prosecution has not challenged the said evidence of its own witness or that any clarification has been sought by way of re-examination.

57. Secondly, we found the evidence of P.W. 2 and P.W. 3 to be neither 'wholly reliable' nor 'wholly unreliable' and therefore we were looking for some other evidence for corroboration, however we came to a conclusion that the evidence with respect to recovery of blood stained clothes, recovery of Scorpio and Omni Car, recovery of weapons, the Chemical Analyser

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report, have not been proved beyond reasonable doubt and therefore there is a strong suspicion but lack of admissible evidence connecting the Appellants (excluding Accused No. 12) to the crime in question and the fact that the statements have been recorded belatedly with no explanation coming forth for the delay, the question is further compounded.

58. However, we find that there is incriminating material against Kabir (A-12). P.W. 2 and P.W. 3 have categorically attributed the role to Kabir (A-12). P.W. 3 has even identified the weapon which was in the hands of A-12. The evidence against Kabir Lahu Karbhari (A-12), stands on a different footing from that of the other accused. P.W. 2 has specifically deposed that Kabir was carrying a chopper and that he inflicted a chopper blow on the neck of the deceased. The witness has not merely attributed a general assault to the accused persons collectively but has specifically identified Kabir and attributed the fatal assault to him. We cannot ignore the clear evidence of P.W. 2 and P.W. 3 on this aspect where even the medical evidence further lends assurance to the aforesaid version. The Post-Mortem report records a deep incised injury extending across the neck of the deceased and the opinion that the said injury was fatal and capable of causing instantaneous death. The nature and location of the injury are consistent with the specific allegation of P.W. 2 that Kabir inflicted a chopper blow on the neck of the

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deceased. Even P.W. 3 deposed that A-12 was holding the chopper. The specific allegation of inflicting the chopper blow on the neck of the deceased, coupled with his presence immediately after the incident carrying the said weapon, distinguishes his case from that of the remaining accused. Thus, when the testimony of P.W. 2 is considered alongside the corroborative circumstance emerging from the medical evidence on record, we find that the prosecution has established the case against Kabir Lahu Karbhari (A-12), beyond reasonable doubt.

59. What is also important to note is that there were injuries on the hands of Kabir Lahu Karbhari (A-12) which have not been properly explained. The following are the injuries suffered by Kabir (A-12) as noted and deposed by P.W. 16- Dr. Minakshi Pande. She deposed that when she examined A-12 she found the following injuries: 1)Deep Laceration- Hypothenor eminence of right palm including hypothenor musculation size 10 x 3 cm and 2) Laceration of right index finger Size 3 x 1 cm. She further deposed that the age of the injuries was within 72 hours. She further deposed that these injuries are possible if he assaults other persons with a sharp weapon. However, in her cross-examination this witness has said exactly the opposite of what she has stated in examination-in-chief by saying that if any person tried to assault another person with a weapon then these injuries are not

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possible. Notwithstanding the somersault, considering the nature of injuries, for which there is no explanation given by the A-12, we are satisfied that the A-12 has failed to explain the injuries and the only probable and reasonable inference that can be drawn is that he has suffered those injuries at the time of assault of the deceased. This according to us is a corroborative circumstance which further establishes the involvement of Accused No 12.

60. The law on this aspect is very clear. In the case of ***Takhaji Hiraji v/s Thakore Kubersing Chamansingh & Ors.***[13] it has been held as under:

> *"The first question which arises for consideration is what is the effect of non-explanation of injuries sustained by the accused persons. In Rajendra Singh & Ors. Vs. State of Bihar, (2000) 4 SCC 298, Ram Sunder Yadav & Ors. Vs. State of Bihar, (1998) 7 SCC 365 and Vijayee Singh & Ors. Vs. State of U.P., (1990) 3 SCC 190, all 3-Judges Bench decisions, the view taken consistently is that it cannot be held as a matter of law or invariably a rule that whenever accused sustained an injury in the same occurrence, the prosecution is obliged to explain the injury and on the failure of the prosecution to do so the prosecution case should be disbelieved. Before non-explanation of the injuries on the person of the accused persons by the prosecution witnesses may affect the prosecution case, the court has to be satisfied of the existence of two conditions : (i) that the injury on the person of the accused was of a serious nature; and (ii) that such injuries must have been caused at the time of the occurrence in question. Non-explanation of injuries assumes greater significance when the evidence consists of interested or partisan witnesses or where the defence gives a version which competes in probability with that of the prosecution. Where the evidence is clear cogent and credit worthy and where the Court can distinguish the truth from falsehood the mere fact that the injuries on the side of the accused persons are not explained by the prosecution cannot by itself be a sole basis to reject the testimony of the prosecution witnesses and consequently the*

13 SC Cr.A. 635 of 1992 Dt. 02/05/2001

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> *whole of the prosecution case. The High Court was therefore not right in overthrowing the entire prosecution case for non-explanation of the injuries sustained by the accused persons. The High Court ought to have made an effort at searching out the truth on the material available on record as also to find out how much of the prosecution case was proved beyond reasonable doubt and was worthy of being accepted as truthful."*

61. In the present case, the evidence of P.W. 2, insofar as the remaining accused are concerned, suffers from material omissions and discrepancies. The identification of several accused by P.W. 3 is also not free from doubt, particularly in view of the improvements and mistaken identification brought on record. The alleged recovery of the vehicles and blood-stained clothes has not been satisfactorily established and the Chemical Analyser reports do not establish a conclusive nexus between the deceased and the articles allegedly recovered from the accused persons.

62. We are therefore of the considered opinion that the prosecution has only succeeded in establishing the guilt of Kabir Lahu Karbhari (A-12) beyond reasonable doubt, whereas the evidence against all the remaining accused falls short of the standard required for sustaining their conviction. The benefit of doubt must consequently enure to the remaining accused.

63. The question that would arise for consideration is whether Kabir Karbhari (A-12) can be convicted only under Section 302 IPC, when the

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other accused are being acquitted under Section 302, Section 201 r/w 147 and 149, Section 302 r/w 149 and Section 201 r/w 149 of IPC.

64. At this stage we find it advantageous to refer to the judgment of the Apex Court in the case of ***Parvat Singh & Ors v/s State of Madhya Pradesh***[14] wherein although the Courts below had convicted the accused under section 302 r/w 149 of IPC, the Hon'ble Apex Court analysing the specific role attributed to Accused No. 2 to 5 therein, as compared to the original Accused No. 1 and by also relying on the testimony of P.W. 8 acquitted Accused Nos. 2 to 5, whereas original Accused No. 1 stood convicted.

65. The aforesaid appreciation of evidence also assumes significance in light of the the principle laid down by the Hon'ble Apex Court in the case of ***Nallabothu Venkaiah vs State Of Andhra Pradesh***[15] wherein the simpliciter charge of Section 302 of the IPC was sustained without an aid of Section 149 of the IPC. The relevant paras are referred to hereinbelow:

> "*In Achhey Lal v. State of U.P. AIR 1978 SC 1233 as many as 15 named persons had taken part in the assault on the deceased. 14 accused had been acquitted by the High Court but the conviction and sentences awarded to the appellant by the Sessions Judge were upheld. This Court held that there is no finding by the High Court that after acquittal of the accused the unlawful assembly consisted of five persons or more, known or unknown, identified or unidentified, the provisions of Sections 149 and 147 cannot be invoked for convicting the sole accused as no individual act was assigned to him. Analytical reading of*

14 (2022) 2 SCR 964.

15 SC Cr.A. 517 of 2000 Dt. 20/08/2002

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> *catena of decisions of this Court, the following broad proposition of law clearly emerges: (a) the conviction under Section 302 simpliciter without aid of Section 149 is permissible if overt act is attributed to the accused resulting in the fatal injury which is independently sufficient in the ordinary course of nature to cause the death of the deceased and is supported by medical evidence; (b) wrongful acquittal recorded by the High Court, even if it stood, that circumstance would not impede the conviction of the appellant under Section 302 r/w Section 149 I.P.C. (c) charge under Section 302 with the aid of Section 149 could be converted into one under Section 302 r/w Section 34 if the criminal act done by several persons less than five in number in furtherance of common intention is proved."*

66. We hasten to clarify that the aforesaid benefit cannot be extended to Kabir Lahu Karbhari (A-12). His case stands on an entirely different footing. As discussed hereinabove, P.W. 2 has specifically attributed to A-12 the act of inflicting a chopper blow on the neck of the deceased. This version finds material assurance from the testimony of P.W. 3, who identified the chopper in the hands of A-12, as well as the medical evidence recording a deep incised injury extending across the neck of the deceased, which was opined to be fatal and capable of causing instantaneous death. It would be apposite to refer to the observations made in ***Nallabothu Venkaiah vs State Of Andhra Pradesh (supra),*** wherein it was similarly stated that:

> *"Considering the evidence of important eye witnesses, we are convinced that A1 was definitely present at the scene of offence and the presence of the other accused is doubtful because of inconsistency in the evidence of P.W. 1 to P.W. 3. Therefore, we are of the considered view that the other accused may be entitled for the benefit of doubt."*

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67. The distinction between A-12 and the remaining accused is, therefore, material and founded upon the evidence on record. While the prosecution has failed to establish the requisite intention or common object to commit murder insofar as the remaining accused are concerned, the specific and cogent evidence against A-12, read with the medical evidence, establishes his individual liability for the offence of murder. We are, therefore, satisfied that the conviction of Kabir Lahu Karbhari (A-12) under Section 302 of the IPC deserves to be maintained, whereas the conviction of the remaining accused under all charges deserves to be set aside.

68. We would also like to add that, in view of the aforesaid findings, we find no material to sustain the conviction of any of the accused persons under Section 201 of the IPC. The prosecution has failed to establish the requisite circumstances connecting the accused with the alleged destruction or disappearance of evidence. The conviction under the said provision, therefore, deserves to be set aside.

Hence, the following order.

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ORDER

(1) The judgment and order passed by the District & Sessions Judge- 2 at Kalyan, Mumbai in Sessions Case No. 24 of 2013 dated 07.03.2018 is partly set aside.

(2) Criminal Appeal No. 423 of 2018 preferred by Umesh Patil (A-3), Sandeep Patil (A-10) and Kabir Karbhari (A-12) is partly allowed.

(3) The conviction and sentence of Kabir Karbhari (A-12) for the offence punishable under Section 302 of the IPC is confirmed. However, the conviction and sentence of accused Kabir Karbhari (A-12) for the offences punishable under Section 302 r/w 149, Section 201 r/w 147 and 149, Section 201 r/w 149 and Section 148 r/w 147 of the IPC is set aside, and Kabir Karbhari (A-12) is accordingly acquitted of the said offences.

(4) The conviction and sentence of Umesh Yashwant Patil (A-3) and Sandeep Kaka Patil (A-10) for the offences punishable under Section 302, Section 302 r/w 149, Section 201 r/w 147 and 149, Section 201 r/w 149 and Section 148 r/w Section 147 of the IPC is set aside. Umesh Patil (A-3) and Sandeep Patil (A-10) are in judicial custody. In view of our finding of acquittal,

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they shall be released forthwith upon completion of the necessary procedural formalities, unless their custody is required in any other case.

(5) The acquitted Accused-Appellants, who are in custody, before their release from the custody, shall execute a P.R. Bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) under Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Corresponding to Section 437A of the Cr.P.C.) for their appearances, in the event an appeal is preferred against the acquittal.

(6) Criminal Appeal No. 424 of 2018 preferred by Kaka Shankar Patil (A-1) is allowed. The conviction and sentence of the Accused-Appellant Kaka Shankar Patil (A-1) is set aside. He is acquitted of the charges for the offences punishable Sections 302, 201 r/w 147 and 149, 302 r/w 149, 201 r/w 149 of IPC.

(7) Criminal Appeal No. 425 of 2018 preferred by Accused-Appellants namely Pradeep Baliram Patil (A-2), Anil Kaka Patil (A-4), Ranbul @ Ranshya Chandrakant Patil (A-5), Bhagwat Yashwant Patil (A-6), Sanjay Lahu Karbhari (A-7), Kisan Kalu Patil (A-8), Bharat Baliram Patil (A-9), Yashwant Baliram Patil

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(A-11), Sharad Baliram Patil (A-13), Madhukar Ramchandra Patil (A-14) and Baliram Gajanan Patil (A-15) is allowed.

(8) The conviction and sentence of the Accused-Appellants namely Pradeep Baliram Patil (A-2), Anil Kaka Patil (A-4), Ranbul @ Ranshya Chandrakant Patil (A-5), Bhagwat Yashwant Patil (A-6), Sanjay Lahu Karbhari (A-7), Kisan Kalu Patil (A-8), Bharat Baliram Patil (A-9), Yashwant Baliram Patil (A-11), Sharad Baliram Patil (A-13), Madhukar Ramchandra Patil (A-14) and Baliram Gajanan Patil (A-15) is set aside. These accused are on bail. Each of these Accused-Appellants are acquitted of the charges for the offences punishable Section 302, Section 302 r/w 149, Section 201 r/w 147 and 149 and Section 201 r/w 149 of the IPC.

(9) Criminal Appeal No. 316 of 2018 preferred by Minesh Nanu Patil (A-16) is allowed. The conviction and sentence of the Accused-Appellant Minesh (A-16) is set aside. He is already on bail. He is acquitted of the charges for the offences punishable Section 302, Section 302 r/w 149, Section 201 r/w 147 and 149 and Section 201 r/w 149 of the IPC.

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(10) All the acquitted Accused-Appellants who are out on bail namely, Pradeep Baliram Patil (A-2), Anil Kaka Patil (A-4), Ranbul @ Ranshya Chandrakant Patil (A-5), Bhagwat Yashwant Patil (A-6), Sanjay Lahu Karbhari (A-7), Kisan Kalu Patil (A-8), Bharat Baliram Patil (A-9), Yashwant Baliram Patil (A-11), Sharad Baliram Patil (A-13), Madhukar Ramchandra Patil (A-14), Baliram Gajanan Patil (A-15) and Minesh Nanu Patil (A-16) shall execute a P.R. Bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) under Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Corresponding to Section 437A of the Cr.P.C.) for their appearances, within 7 days from the date of this order.

(11) The Appeal is disposed of in the above terms.

(12) Pending Applications, if any, also stand disposed of.

(SHREERAM V. SHIRSAT, J.) (MANISH PITALE, J.)

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