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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 14 OF 2014

Sham Timanna Gaikwad,
Age : 40 years, Occ.: Labour,
Residing at Bhairu Vasti, Solapur.

Appellant
.. (Orig. Accused No.1)

Versus

The State of Maharashtra,
(Notice to be served on A.P.P. High Court,
A.S., Bombay.)

.. Respondent

-
- Mr. Lokesh Zade, Appointed Advocate for the Appellant
 - Ms. P.P. Shinde, APP for the Respondent - State
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**CORAM : SMT. SADHANA S. JADHAV &
MILIND N. JADHAV, JJ.**

RESERVED ON : APRIL 29, 2022.
PRONOUNCED ON : MAY 06, 2022.

JUDGMENT : (PER MILIND N. JADHAV, J.)

1. This is an appeal against conviction filed by the Appellant against the judgment and order dated 23.03.2007 passed by the learned Ad-hoc Additional Sessions Judge, Solapur whereby the Appellant is convicted for the offences punishable under:- (i) Section 302 of the Indian Penal Code, 1860 (**IPC**) and sentenced to suffer rigorous imprisonment for life and to pay fine of Rs.1,000/- and in default to suffer rigorous imprisonment for three months; and (ii) Section 498-A IPC and sentenced to suffer rigorous imprisonment for three months and to pay fine of Rs.500/- and in default to suffer rigorous imprisonment for one month.

2. The Appellant is convicted for committing the murder of his wife Laxmi (**deceased**) on 01.11.2005. Originally there were two accused; accused No.2 - was mother of accused No.1 and mother-in-law of Laxmi. Original accused No.2 - stands acquitted by the Trial court. Appellant is in jail since 02.11.2005.

3. Such of the relevant facts which are necessary for the purpose of deciding the present appeal are as follows:-

3.1. Appellant and Laxmi were married for 15 years before the incident and have two daughters and a son. Appellant worked as sweeper on daily wages in the police station at Salgar Vasti, Solapur. He was addicted to liquor. He used to quarrel with Laxmi after drinking liquor; abuse her and beat her. He used to harass and demand from Laxmi to bring money from her parents for construction of house and beat her. Whenever Laxmi visited her maternal house, she disclosed behaviour of Appellant to her brother Raju Jadhav (PW-3). Her brother used to give some money on every occasion whenever Laxmi visited his house and send her back to her matrimonial home.

3.2. Two days before the incident, Appellant quarreled with Laxmi and demanded that she bring money from her parents, abused and beat her up. Thereafter with intention to cause harm, Appellant doused Laxmi with kerosene, however she managed to rescue herself from the Appellant and

rushed to her parents' house nearby and narrated the episode to her brother (PW-3). Her brother convinced her that he would call a meeting of the elders to resolve the issue and sent her back asked her to return.

3.3. On 01.11.2005, at about 11:00 p.m. Bharat Gaikwad (PW-5) was walking towards his house near the house of the Appellant, when he saw the Appellant hurriedly coming out of his house in a frightened state and running away. When PW-5 questioned him as to why he was in such a hurry, the Appellant told him that he had killed Laxmi and ran away. Thereafter Bharat Gaikwad came near the house of the Appellant and peeped inside the house, he noticed Guddi (PW-8) minor daughter of the Appellant crying but there was complete darkness in the house. Therefore he immediately went to the house of PW-3, brother of Laxmi and informed him about the incident. Thereafter, PW-3 and his wife rushed to the Appellant's house and noticed Laxmi lying in a dead condition in her house. There were injuries to her forehead and mouth as well as near her left ear and there was bleeding from her mouth and nose. They noticed one *pharashi* - tile (stone) lying near her body.

3.4. Thereafter PW-3 approached the police station at Salgar Vasti and lodged report against the Appellant and original accused No.2 alleging that they caused death of Laxmi by injuring her with the *pharashi* - tile (stone). In the meantime, Anita Gaikwad, wife of the brother of the Appellant also

reached the police station at Salgar Vasti and reported that the Appellant had killed Laxmi by assaulting her with the *pharashi* - tile (stone) on her head. Report was lodged in the station diary and a police constable was deputed to go to the spot of incident. Thereafter, PSI - Raut reached the spot of incident i.e. the house of the Appellant and noticed the body of Laxmi having sustained head injury as well as an injury on her lip and blood was oozing out from her ear and nose. He noticed that there were two pieces of *pharashi* - tile (stone) lying near her body. He drew the spot and inquest panchanama and sent the dead body to the Civil Hospital for postmortem. He prepared the scene of offence panchanama, seized the two *pharashi* - tile (stone) stained with blood and other articles lying on the spot. He recorded the complaint of Raju Jadhav on the spot itself and forwarded the said complaint to the police station for registration of the crime. Head constable Tanaji Chougule registered Crime No.70 of 2005 for offence punishable under Section 302 and 498A IPC and entrusted the investigation to PW-9 - PSI - Raut - Investigating Officer (I.O.).

3.5. The I.O. recorded the statements of witnesses, arrested the accused and seized the clothes of the deceased and accused. The accused was referred to medical examination and for taking his blood sample; postmortem report (PM report) was obtained; the seized clothes, blood samples and viscera bottle were sent to the CA for analysis and report. Statements of PW-8 Guddi @ Revati (minor) and PW-1 were recorded before

the Judicial Magistrate First Class. It transpired during investigation that the Appellant and accused No.2 in furtherance of their common intention subjected Laxmi to cruelty and harassed her for fulfillment of their unlawful demand for money and therefore they killed Laxmi by causing injury to her head with the *pharshi* - tile (stone). Charge sheet was filed for offences punishable under Section 302, 498-A read with 34 IPC.

3.6. Since the offence punishable under Section 302 IPC is exclusively triable by the Sessions Court, the learned Judicial Magistrate First Class, Solapur committed this case to the Court of Sessions.

3.7. On hearing both sides, the Ad-hoc Additional Sessions Judge, Solapur framed the charge against the Appellant and original accused No.2 (mother-in-law of Laxmi) for offences punishable under Section 302, 498-A read with Section 34 IPC. The charge was read over and explained to the Appellant in his mother tongue but he did not plead guilty and claimed to be tried. According to the Appellant, death of Laxmi is accidental.

4. The prosecution has examined 10 witnesses to bring home the guilt of the Appellant. Appellant has not examined any witnesses in support of his defence. PW-3 - Raju Tukaram Jadhav is the brother of Laxmi and first informant who reported the offence. PW-8 - Guddi @ Revati Sham Gaikwad is the daughter of the Appellant and Laxmi; she was present at the scene of crime at the time of incident and is an eyewitness; however according to the

prosecution she has turned hostile. PW-1 - Bharat Shankar Gaikwad is a friend of the first informant who met the Appellant outside his house immediately after commission of the offence and on being asked has confessed to have killed Laxmi; PW-2 is the pancha witness of the spot and inquest panchanamas; PW-5 and PW-6 are police witnesses of the seizure memos, who carried the seized articles for chemical analysis and made the station diary entries; PW-7 is neighbor of the Appellant, PW-9 is the Investigating Officer (I.O.); PW-10 is the Judicial Magistrate First Class who recorded the statement of PW-1 and PW-8 (minor) under Section 164 of the Code of Criminal Procedure, 1973 (Cr.PC) and PW-4 is the Medical Officer who conducted the postmortem on the dead body of Laxmi and gave his report.

5. The entire case of the prosecution is based on ocular evidence given by PW-8 (child witness) and corroborated by circumstantial evidence given by PW-1 and medical evidence given by PW-4.

6. It is seen that the spot of incident is a 10 feet x 10 feet room in a slum area and does not have electricity connection. The time of incident is around 11.15 p.m. at night on 01.11.2005. It is alleged that, Appellant was the only person present at the scene of crime alongwith PW-8 - (minor); also admittedly the weapon of offence which is seized is the *pharashi* - tile (stone) admeasuring 24" x 10".

7. Mr. Lokesh Zade, learned counsel appearing for the Appellant has vehemently argued that death of Laxmi has taken place accidentally when the *pharashi* - tile (stone) which was kept on the window sill fell accidentally on her head at night; that there is no direct evidence against the Appellant save and except circumstantial evidence to indict the Appellant; that her death was due to a single Contused Lacerated Wound (CLW) on her forehead just above the medial aspect of her left eyebrow leading to heamatoma under the frontal scalp region and skull fracture on the left temporal parietal region. He submitted that the medical evidence given by PW-4 does not support the prosecution's case and on the contrary aids and assists the Appellant's case. He submitted that PW-4 (Doctor) has testified that the aforestated injury caused to Laxmi's head can be caused due to the fall of the *pharashi* - tile (stone) on her head; further PW-4 has opined that if the said *pharashi* falls from a height then the aforestated injury is possible. He submitted that the extra-judicial confession of the Appellant given to PW-1 immediately after the offence is purely circumstantial and the chain of circumstances has not been proved by the prosecution. He submitted that if the Appellant had indeed made the aforesaid confession to PW-1, PW-1's natural reaction would have been to immediately check upon Laxmi's well being; however PW-1 did not do any such thing and instead peeped into the house of the Appellant and heard PW-8 (minor) crying and thereafter proceeded to the house of PW-3 (brother of Laxmi) to inform him of what the Appellant had told him and

thereafter went to his house. He submitted that though PW-1 has stated that he peeped into the house of the Appellant before proceeding to inform PW-3 he did not see Laxmi and only heard PW-8 crying. Hence there are material infirmities in the chain of circumstances deposed by PW-1 which cannot be countenanced. He submitted that the deposition of PW-8 (minor) i.e. Guddi, daughter of the Appellant and Laxmi cannot be accepted in evidence as her statement recorded under Section 164 of the Cr.PC before the PW-10 - Judicial Magistrate is at complete variance with her deposition and both statements are contrary to each other. He has therefore prayed for setting aside and quashing of the impugned judgment dated 23.03.2007 against the Appellant.

8. *PER CONTRA*, Ms. P.P. Shinde, learned APP has argued in support in the impugned judgment dated 23.03.2007 and contended that the prosecution has successfully proved the circumstantial evidence on the basis of the deposition of PW-1, spot panchanama, inquest panchanama, seizure panchanama and the same is supported and corroborated by the medical evidence given by PW-4, the Doctor who conducted the postmortem. She submitted that Laxmi was sleeping in her house and the Appellant committed the offence by causing fatal injury to her head with the *pharashi* - tile (stone) with the intention and knowledge to be likely to cause her death. She submitted that the prelude to the incident has been deposed by PW-3 (brother of Laxmi) that the Appellant used to ill-treat, threaten, harass Laxmi and

demand money from Laxmi and ask her to get the money from her parents; that just two days prior to the incident the Appellant doused Laxmi with kerosene and threatened to burn her if she did not accede to his demand of getting money from her parents. She has therefore argued that the judgment dated 23.03.2007 has been correctly passed after analysing the evidence placed before the Court and deserves to be upheld.

9. We have perused the impugned judgment dated 23.03.2007, heard the learned counsel appearing for the respective parties and with their assistance, perused the depositions of the prosecution witnesses as well as some of the relevant exhibits germane to the matter. Submissions made are on pleaded lines.

10. It is seen that the Appellant was married to Laxmi for 15 years and had a daughter of 7 years (PW-8 - Guddi) at the time of incident (2005). Though it is the prosecution's case that the Appellant was regularly harassing and ill-treating Laxmi and demanding money be brought from her parents, the prosecution has not placed on record any cogent material in the nature of any complaint or dispute ever raised by Laxmi or her family members in respect of the aforestated charge to bring home the motive of the Appellant. This is required to be looked into the 'theory of motive' if the case of the prosecution needs to be accepted. The prelude to the present incident, an incident which took place two days before the date of offence was a serious incident. PW-3 has stated that just two days prior to the incident the

Appellant quarreled with Laxmi, gave threats to her and asked her to bring money from her parents, got annoyed on her and poured kerosene on Laxmi. PW-3 has further deposed that thereafter Laxmi apprehending danger to her life immediately rushed to his house and disclosed the said incident to him. This was a serious incident. Admittedly, no report was lodged with the police authority either by Laxmi or PW-3 about this incident. It is deposed that on the next day, when Appellant visited the house of PW-3, Laxmi was allowed to return back with the Appellant. PW-3 in his deposition has categorically stated that when Laxmi rushed to his house, his neighbors had gathered at his place and tried to persuade Laxmi. None of the said neighbors who would have witnessed Laxmi being doused with kerosene at that time in the house of PW-3 have been examined by the prosecution to prove the theory of motive, intention and threat harbored by the Appellant to eliminate Laxmi. Hence the theory of motive propagated by the prosecution based only upon the deposition of PW-3 does not inspire our confidence.

11. That apart, we now come to the evidence of PW-4 - Dr. Subhashchandra Sangameshwar Sardar, the Medical Officer who conducted the postmortem of the dead body of Laxmi.

11.1. In his deposition PW-4 has stated that on external examination the following two injuries were noticed:

- (i) CLW on forehead just above medial aspect of left eyebrow

oblique 1" x 1/2" muscle deep head compressed on left side.

(ii) CLW on upper lip in the center less than 1/2".

11.2. PW-4 has stated that on internal examination the following two injuries were noticed:

(i) Heamatoma under scalp frontal region; fracture frontal bone left side with fracture base of skull fracture left temporal parietal region.

(ii) Brain - extra dural sub dural haematoma all over brain left temporal and parietal region lacerated brain and its covering oedematus.

11.3. As seen, the two internal injuries correspond to external injury No.1. The injuries are stated in the PM report which is taken in evidence and marked as Exhibit '18'. A careful perusal and analysis of column Nos.17, 18 and 19 of the PM report clearly shows that the two internal injuries stated hereinabove correspond to the external injury No.1. This external injury is a very serious injury about which PW-4 has stated that it is sufficient to cause death in the ordinary course. The cause of death of Laxmi mentioned in the PM report is because of shock and hemorrhage caused due to head injury. PW-4 was shown the *pharashi* - tile (stone) at the time of his deposition and he has opined that the above injury may be caused by the said *pharashi* - tile (stone) if it is hit on the head. In his cross-examination PW-4 has stated that

if the said *pharashi* - tile (stone) fell on the head from a height, then the aforestated injury is possible. Hence the medical evidence is clear and direct and there is no ambiguity as to the cause of death due to the *pharashi* - tile (stone) falling on Laxmi's head. Therefore the only question that now falls for determination is whether the said *pharashi* - tile (stone) fell on Laxmi's head from the window sill or was an act of violence committed by the Appellant.

12. Admittedly Laxmi was asleep at the time of the incident. PW-10 the Judicial Magistrate First Class who recorded the statement of PW-1 and PW-8 (minor - child witnesses) under Section 164 of the Cr.PC has been examined as a prosecution witness. It is pertinent to note that PW-8 (minor) is the child witness and her evidence has to be considered with a greater degree of caution. In her deposition before the Court PW-8 has stated that at the time of the incident Laxmi was sleeping inside the house near the window and the said *pharashi* - tile (stone) was kept on the said window; that two cats were fighting and quarreling with each other outside the said window and one of the cat pushed the window resulting in the *pharashi* - tile (stone) falling on the head of Laxmi.

12.1. Before we consider the evidence given by the minor child witness PW-8 i.e. Guddi, principles laid down by the Apex Court in two decisions, namely *Bhagwan Singh vs. State of Madhya Pradesh*¹ and *Digamber*

¹ (2003) 3 SCC 21

Vaishnav vs. State of Chhattisgarh,² must be kept in mind.

12.2. The Apex Court in *Bhagwan Singh (supra)*, also in relation to the evidence given by a six-year-old minor witness, held that the sole testimony of a child at such a tender age cannot be relied upon without careful evaluation and other corroborative evidence as the child can be an easy prey to tutoring.

Paragraphs 19 and 20 of the decision are relevant and read thus:

“19. The law recognises the child as a competent witness but a child particularly at such a tender age of six years, who is unable to form a proper opinion about the nature of the incident because of immaturity of understanding, is not considered by the court to be a witness whose sole testimony can be relied upon without other corroborative evidence. The evidence of a child is required to be evaluated carefully because he is an easy prey to tutoring. Therefore, always the court looks for adequate corroboration from other evidence to his testimony. (See Panchhi v. State of U.P. [(1998) 7 SCC 177 : 1998 SCC (Cri) 1561])

20. In the case before us, the trial Judge has recorded the demeanour of the child. The child was vacillating in the course of his deposition. From a child of six years of age, absolute consistency in deposition cannot be expected but if it appears that there was a possibility of his being tutored, the court should be careful in relying on his evidence. We have already noted above that Agyaram, maternal uncle of the child, who first met him after the incident and took him along with his younger brothers to his father's village, has not been produced by the prosecution as a witness in the court. It was most unlikely that if the child had seen the incident and identified the three accused, he would not have narrated it to Agyaram as the latter would have naturally inquired about the same. The conduct of his father Radheyshyam who was produced as a witness by the prosecution is also unnatural that before recording the statement of the child by the police, he made no enquiries from the child.”

12.3. The Apex Court in *Digamber Vaishnav (supra)* disregarded the evidence of a nine-year-old child witness as it was fraught with inconsistencies and held that the evidence of a child witness must, as a rule of practical wisdom, be reliable, if adequately corroborated, and evaluated

2 (2019) 4 SCC 522

carefully. Paragraphs 21 to 24 of the decision are relevant and read thus:

“21. The case of the prosecution is mainly dependent on the testimony of Chandni, the child witness, who was examined as PW 8. Section 118 of the Evidence Act governs competence of the persons to testify which also includes a child witness. Evidence of the child witness and its credibility could depend upon the facts and circumstances of each case. There is no rule of practice that in every case the evidence of a child witness has to be corroborated by other evidence before a conviction can be allowed to stand but as a prudence, the court always finds it desirable to seek corroboration to such evidence from other reliable evidence placed on record. Only precaution which the court has to bear in mind while assessing the evidence of a child witness is that witness must be a reliable one.

22. This Court has consistently held that evidence of a child witness must be evaluated carefully as the child may be swayed by what others tell him and he is an easy prey to tutoring. Therefore, the evidence of a child witness must find adequate corroboration before it can be relied upon. It is more a rule of practical wisdom than law. [See Panchhi v. State of U.P. [Panchhi v. State of U.P., (1998) 7 SCC 177 : 1998 SCC (Cri) 1561] , State of U.P. v. Ashok Dixit [State of U.P. v. Ashok Dixit, (2000) 3 SCC 70 : 2000 SCC (Cri) 579] and State of Rajasthan v. Om Prakash [State of Rajasthan v. Om Prakash, (2002) 5 SCC 745 : 2002 SCC (Cri) 1210].]

23. In Alagupandi v. State of T.N. [Alagupandi v. State of T.N., (2012) 10 SCC 451 : (2013) 1 SCC (Cri) 1027] , this Court has emphasised the need to accept the testimony of a child with caution after substantial corroboration before acting upon it. It was held that : (SCC p. 463, para 36)

“36. It is a settled principle of law that a child witness can be a competent witness provided statement of such witness is reliable, truthful and is corroborated by other prosecution evidence. The court in such circumstances can safely rely upon the statement of a child witness and it can form the basis for conviction as well. Further, the evidence of a child witness and credibility thereof would depend upon the circumstances of each case. The only precaution which the court should bear in mind while assessing the evidence of a child witness is that the witness must be a reliable one and his/her demeanour must be like any other competent witness and that there exists no likelihood of being tutored. There is no rule or practice that in every case the evidence of such a witness be corroborated by other evidence before a conviction can be allowed to stand but as a rule of prudence the court always finds it desirable to seek corroboration to such evidence from other reliable evidence placed on record. Further, it is not the law that if a witness is a child, his evidence shall be rejected, even if it is found reliable.

24. It is clear from the testimony of PW 8 that she is not an eyewitness to the incident. She was aged about 9 years at the time of the incident. Her evidence is fraught with inconsistencies. None of the other witnesses have identified the appellants...”

12.4. Keeping in mind the aforementioned decisions and the principles enunciated therein, in respect of reliability of the evidence of a minor child witness, in the present case we find that the deposition of PW-8 Guddi (minor) in court is at complete variance with her statement recorded under Section 164 of the Cr.P.C. by the 5th Judicial Magistrate First Class on 15.11.2005 i.e. 14 days after the incident. In the statement given before the Judicial Magistrate First Class, PW-8 has stated that the Appellant had brought the *pharashi* - tile (stone) from outside into the house and had hit the same on Laxmi's head while she was asleep; thereafter there was bleeding from Laxmi's head; that the Appellant was drunk at that time and thereafter he ran away from the house. Therefore PW-8 during her deposition was declared as hostile and the learned prosecutor was permitted to ask leading questions to her in her cross-examination. PW-8 has thereafter in her deposition completely denied her narration of the incident before the learned Magistrate. Therefore the deposition of Laxmi (the child witness) in the Trial court does not inspire our confidence.

13. The medical evidence in the present case in fact is the guiding factor if analysed carefully. The cause of death in the death Certificate produced by the prosecution at Exhibit '10' is due to shock and hemorrhage because of the head injury. The deposition of PW-4 (Doctor) cannot be doubted or questioned. It is noticed that due to the principal external injury on the left forehead of Laxmi, the head was compressed on the left side due to

the fracture in the frontal bone and the base of skull in the left temporal parietal region. Such an injury is possible only if the *pharashi* - tile (stone) is hit hard or falls on the head of the victim with great force leading to fracture of the skull, bone and compression of the head. In plain words such an injury as described by the Doctor on Laxmi's left forehead fracturing the frontal bone and the base of the skull on the left temporal parietal region can only be caused if the *pharashi* - tile (stone) is hit hard on her head to crush her head. The second external injury above the upper lip which is less than half an inch is not relevant and material to the cause death. The principal external injury has caused heamotoma under the scalp in the frontal region which clearly implies that the said *pharashi* - tile (stone) came to be applied with force on the head of Laxmi. The Appellant's defence that the said *pharashi* was lying on the window sill and fell from the window sill on to Laxmi's head cannot be countenanced for the following reasons:-

- (i) That there is no material evidence on record to show the distance of the window sill from the incident spot where Laxmi was sleeping;
- (ii) that the dimensions of the *pharashi* - tile (stone) placed on record are 24" x 10" which is big and heavy; the slum room where the incident took place is a 10 feet x 10 feet room and the dimensions of the window are not on record;
- (iii) that assuming for the sake of argument that the *pharashi* - tile

(stone) had fallen from the window sill, it would be difficult to assess the extent of the damage to the victim in the absence of the distance from the window sill;

(iv) that considering the medical evidence on record there is no doubt in our mind that the said *pharashi* - tile (stone) was hit and applied with a great degree of force on Laxmi's head.

14. We have also noted that at the time of the incident the Appellant was drunk and under the influence of alcohol. Hence assuming that the Appellant had hit the *pharashi* - tile (stone) to cause the head injury on Laxmi's head, it can be derivated that the Appellant being under the influence of alcohol had no intention and knowledge of his act that it would cause death of Laxmi due to his such act. In so far as the conviction under Section 498-A IPC is concerned, there is no material placed on record to indict and convict the Appellant and therefore the case of the prosecution fails in so far as conviction of the offence under Section 498-A IPC is concerned.

15. On the basis of the above discussion and findings, we are constrained to add that though the Appellant had knowledge that his act of hitting Laxmi on the head with the *pharashi* - tile (stone) would be likely to cause her death, he had no intention to do so. Such an act of the Appellant does not travel beyond the offence of culpable homicide (as defined in Section 299 IPC) not amounting to murder. The punishment for culpable homicide

not amounting to murder has been prescribed under Part II of Section 304 IPC. The facts alluded to hereinabove alongwith our observations come within the ambit of Part II of Section 304 IPC. As such, the Trial Court erred in convicting and sentencing the Appellant for the offence of murder under Section 302 IPC.

16. In view of the above discussion and findings, we are of the firm opinion that the Appellant in a heat of passion and being under the influence of alcohol, acted in a manner that he knew is likely to cause the death of Laxmi but without the intention to kill her. Thus in the present case we find that in view of the prelude to the incident, the act of the Appellant was in the heat of passion without any pre-meditation on his part and hence the Appellant and his such act falls under the provisions of Part II of Section 304 IPC. Therefore, the conviction of the Appellant for the offence of murder of Laxmi is hereby altered to that of culpable homicide not amounting to murder as defined under Section 299 IPC read with Exception 4 of Section 300 IPC. The Appellant, under Part II of Section 304, is hereby sentenced to undergo imprisonment for a period of ten years and to pay a fine of Rs.20,000.00, and in default thereof, to undergo imprisonment for an additional period of six months.

17. The duration of imprisonment that the Appellant has already undergone i.e. from the date of his arrest (02.11.2005) till date shall be

counted towards the imprisonment stipulated in the sentence passed hereinabove. The Appellant shall be released on the completion of the sentence unless required in any other case. If the Appellant has completed the duration of the sentence passed hereinabove, he shall be released forthwith unless required in any other case / cases.

18. Criminal Appeal stands partly allowed in the above terms.

19. Learned appointed Advocate Mr. Lokesh Zade is entitled to the professional fees in accordance with law.

[MILIND N. JADHAV, J.] [SMT. SADHANA S. JADHAV, J.]