

# Atul Shivaji Bhurase vs The State Of Maharashtra on 16 January, 2020

**Bench: N.V. Ramana, Sanjiv Khanna, Krishna Murari**

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IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No(s) . 1913 OF 2010

ATUL SHIVAJI BHURASE

Appellant(s)

VERSUS

THE STATE OF MAHARASHTRA

Respondent(s)

O R D E R

1. Atul Shivaji Bhurase, the appellant, has challenged the judgment dated 15.10.2009 passed by the Nagpur Bench of the High Court of Judicature at Bombay, upholding his conviction under Section 304 Part II of the Indian Penal Code, 1860 (in short, 'IPC') for the murder of Janardan Chafle and the order of sentence imposing rigorous imprisonment for three years with fine of Rs. 5000/-, and in default to suffer further imprisonment of six months.

2. Learned counsel for the appellant has primarily relied upon the findings recorded by the learned Sessions Judge in the judgment dated 18.06.2008 against the co- accused Waman, who was convicted under Section 323, IPC and sentenced to the imprisonment already undergone, which it is stated was about one and a half months. It is submitted that the appellant has undergone rigorous imprisonment for about eight months before he was released on bail by this Court vide order passed on 01.10.2010.

3. It is an undisputed position that Janardan died in the violent incident in which the appellant had participated in view of the affirmative and clear testimonies of Vilas (PW-1), Yashwant (PW-2) and Prakash Kolte (PW-6), who were the eye witnesses. Dr. Chaudhary (PW-7), who conducted post mortem on the body of the deceased Janardan, noticed five distinct injuries on the face and arms of the deceased, and opined that the injuries were ante mortem and sufficient to cause death. The post mortem report (Exh. 39) specifically records that Janardan had died due to a head injury involving fractured nasal bone.

4. The counsel for the appellant has not disputed the appellant's involvement in the occurrence, or the cause and reason for the death of Janardan. On the other hand, the sole contention is that the co-accused Waman had used a crow bar and therefore was primarily responsible for the death of Janardan.

5. The aforesaid contention is not a good ground to set aside either the conviction or the sentence awarded to the appellant, taking into account the role of the appellant and the findings of the trial court. Although the counsel for the appellant suggested that the co-accused Waman was the main accused who was responsible for the death of the deceased, a cursory look at the record would negative this contention of the appellant. The trial court found that the son of the deceased had told the appellant to not interfere in his business, which had resulted in the appellant following him and beating him. The other co-accused came to the support of the appellant subsequently and also beat the son of the deceased. When the deceased attempted to save his son, he was in turn beaten by the accused, including the appellant. The trial court gave a specific finding that the appellant alone lifted the deceased and threw him to the ground, leading to the fracture of the deceased's nasal bone which resulted in his death. On the other hand, there is no such specific finding against any of the co-accused, including Waman. It is for this reason that the trial court convicted the appellant under Section 304 Part II, IPC, while the other co-accused were only convicted under Section 323 IPC.

6. As such, taking into account the role of the appellant, the findings of the trial court and the seriousness of the crime, we are of the opinion that the sentence of three years awarded to the appellant does not merit any reduction. The appeal is accordingly dismissed.

7. The appellant would surrender within a period of four weeks from today to undergo the remaining sentence. In case the appellant fails to surrender, the trial court would take appropriate steps to arrest and detain the appellant to undergo the remaining sentence.

.....J. (N.V. RAMANA) .....J. (SANJIV KHANNA) .....J. (KRISHNA MURARI)  
NEW DELHI;

JANUARY 16, 2020

ITEM NO.109

COURT NO.2

SECTION II-A

S U P R E M E C O U R T O F  
RECORD OF PROCEEDINGS

I N D I A

Criminal Appeal No(s). 1913/2010

ATUL SHIVAJI BHURASE

Appellant(s)

VERSUS

THE STATE OF MAHARASHTRA

Respondent(s)

Date : 16-01-2020 This appeal was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA HON'BLE MR. JUSTICE SANJIV KHANNA  
HON'BLE MR. JUSTICE KRISHNA MURARI For Appellant(s) Mr. S. Rajappa, AOR  
For Respondent(s) Mr. Rahul Chitnis, Adv.

Mr. Aaditya A. Pande, Adv.

Mr. Sachin Patil, AOR UPON hearing the counsel the Court made the following O R D  
E R The appeal is dismissed in terms of the signed order.

The appellant would surrender within a period of four weeks from today to undergo  
the remaining sentence. In case the appellant fails to surrender, the trial court would  
take appropriate steps to arrest him and to detain the appellant to undergo the  
sentence.

Pending applications, if any, are disposed of.

(NEELAM GULATI)  
COURT MASTER (SH)

(RAJ RANI NEGI)  
ASSISTANT REGISTRAR

(Signed Order is placed on the file)