

# Case Commentary: Ajaykumar Sunil Kumar Sharma vs. The State of Maharashtra

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## ABSTRACT

"Case Commentary: Ajaykumar Sunil Kumar Sharma vs. The State of Maharashtra" provides an in-depth analysis of this significant legal case. This blog will include a detailed examination of the facts, legal arguments, and the court's judgment. It will also discuss the implications of the verdict and its impact on the legal landscape. By exploring these elements, the commentary aims to offer a comprehensive understanding of the case and its relevance to contemporary legal issues.

SR. NO.	PROVISION	DEFINITION
1.	Section 395 of IPC	Defines the punishment for dacoity. Dacoity is when five or more persons conjointly commit or attempt to commit robbery.
2.	Section 302 of IPC	Defines the punishment for murder.
3.	Section 397 of IPC	Prescribes punishment for robbery or dacoity with an attempt to cause death or grievous hurt.
4.	Section 396 of IPC	Deals with dacoity with murder. This conviction was set aside by the High Court as the accused was already convicted under Sections 395 and 302 separately.
5.	Section 391 of IPC	Defines dacoity. It states that when five or more persons conjointly commit or attempt to commit robbery, it is called dacoity.
6.	Section 304 Part II of IPC	Culpable homicide does not amount to murder. This was discussed but not applied in this case.

## I. Introduction

This case analysis looks at the judgment given by the Bombay High Court in Criminal Appeal No. 1359 of 2006, where Ajaykumar Sunilkumar Sharma appealed his conviction for crimes under Sections 395, 396, 302, and 397 of the Indian Penal Code (IPC). The incident at Juhu Beach in Mumbai resulted in charges of dacoity with murder. The High Court's decision focuses on significant legal matters concerning culpable homicide, the understanding of medical evidence, and the principles of criminal responsibility in instances of group crime.

## II. Facts of the Case

On the evening of March 25, 2001, between 8:45 PM - 9:00 PM, Nadeema and the late Raju Nambiyar were sitting at Juhu Beach when they were approached by five individuals, one of whom was the defendant. The attackers requested that Nadeema and Raju give up their belongings. The person who filed an appeal allegedly stabbed Raju in the stomach and thighs while he was fighting back. Nadeema requested help and two people from the nearby slums assisted in taking Raju to Cooper Hospital, where he was declared dead upon reaching.

The post-mortem examination revealed multiple stab wounds, such as a 6 cm deep wound on the stomach with intestines sticking out, and injuries on both thighs. The reason for death was identified as hemorrhagic shock due to tears in the mesentery and rupture of the spleen.

The person appealing and two others were captured and identified by the complainant Nadeema and two other witnesses, Kenny and Almeda, in identification line-ups. After the investigation, they faced charges under IPC Sections 395, 396, 302, and 397.

The defendant was convicted on all charges by the lower court. He received a life sentence for breaking laws outlined in Sections 396 and 302, as well as a 5-year prison term for violations of Sections 395 and 397. Distressed by this decision, the appellant submitted the current appeal.

### **III. Issues Before the Court**

The main matters that arose for deliberation in front of the High Court were:

1. Was the legality of the conviction under Section 396 IPC (dacoity with murder) in doubt if the appellant had already been separately convicted under Sections 395 (dacoity) and 302 (murder)?
2. Did the offense of dacoity under Section 395 IPC occur even though no valuables were taken from the victims?
3. Was the murder conviction justified under Section 302 IPC in the absence of a medical opinion explicitly stating that the injuries were fatal in typical circumstances?
4. Was the appellant's identification in the test identification parade reliable?

#### IV. Analysis of the Court's Reasoning

##### 1. Conviction for violation of Section 396 of the Indian Penal Code

The High Court correctly overturned the appellant's guilty verdict for dacoity with murder under Section 396 IPC. The court pointed out that the appellant could not face another conviction under Section 396 since he had already been charged with dacoity and murder under Sections 395 and 302. This maintains the age-old principle of double jeopardy, which prohibits an individual from being penalized twice for the same offense.

##### 2. Applicability of Section 395 IPC (Dacoity)

The defence argued that the lack of actual theft precluded establishing the charge of dacoity under Section 395. Nevertheless, the High Court appropriately dismissed this argument.

The court mentioned the definition of dacoity in Section 391 IPC, which includes an attempt to commit robbery in addition to the actual act by five or more people. The court ruled that the complainant's account of being approached by a group of five individuals requesting their belongings was sufficient evidence to indicate an attempted robbery. This understanding is in line with the goal of Section 391 to cover planning activities for group theft under the law.

##### 3. Conviction for homicide according to Section 302 of the Indian Penal Code

The primary issue in this appeal was the legality of the defendant's murder conviction based on Section 302 IPC, as the medical evidence did not clearly show that the injuries would normally cause death.

The defense used past cases such as *Vadla Chandraiah v. State of A.P.* (2006 AIR SCW 6466) and *Vinod Kolhe v. State of Maharashtra* (2009 1963 AIR 1531) from

the Bombay High Court to support their argument that without medical opinion, the conviction should be changed to culpable homicide not amounting to murder under Section 304 Part II IPC.

Nevertheless, the High Court thoroughly examined the matter and affirmed the murder conviction due to various crucial factors.

- a) Concerning the situation of Virsa Singh versus the State of Punjab (AIR 1958 SC 465):

The court referenced an important ruling from three Supreme Court justices, highlighting that determining if an injury will lead to death requires assessing specific details about the injury. It might not need a clear medical opinion for that to be true.

- b) Type and severity of injuries:

The court thoroughly reviewed the post-mortem results, which showed a 6 cm abdominal wound with intestines protruding, along with intestinal and mesenteric punctures, and splenic tears. The court found that the injuries, especially those impacting essential organs, were enough to cause death under normal circumstances.

- c) Swiftess of Death:

The victim passed away soon after the attack without getting medical help from the nearby hospital. The court viewed the victim's swift death as an indication of the severity of the injuries.

- d) Analysis of motives:

The court thoroughly examined several factors to establish the appellant's intention of causing death.

1. Use of a deadly weapon (knife/chopper)
2. Concentrating on key body regions
3. Being prepared ahead of time (coming up with a plan)
4. Delivering multiple blows

#### 4. Absence of sudden confrontation or provocation.

This elaborate technique for determining the intention to cause death, even in the absence of a formal medical evaluation, demonstrates an advanced application of legal concepts in criminal proceedings. It shows that courts can and should take into account factors beyond medical evidence when deciding on guilt in homicide cases.

#### 5. Accuracy of Test Line-up Identification

The appellant's objection to the test identification parade was dismissed by the court for legitimate legal grounds. It was observed that using approximately 20 dummies (significantly more than the typical 7) would result in some expected differences in appearance. The court highlighted the importance of challenging the parade's fairness by cross-examining the Magistrate who oversaw it. This is in line with the Supreme Court's instructions in *Bharat Singh v. State of U.P.* (**AIR 1972 SC 2478**) regarding the procedures for challenging identification parades.

### **V. Key legal principles arising from the ruling**

1. Double Jeopardy happens when a person cannot be found guilty for both distinct crimes and combination crimes arising from the same actions, like facing charges for dacoity and homicide separately.
2. Attempting to Commit Dacoity: Merely the act of a group accosting people and demanding their valuables can be deemed as trying to commit dacoity under Section 391/395 IPC, even if no theft occurs.
3. Courts can assess if injuries may have led to death naturally by examining their nature, location, and the speed at which the victim passed away, even in the absence of a medical expert's opinion.
4. When evaluating the intention to commit murder, it is important to take into account different elements including the type of weapon, location.

The holistic assessment of the intent to commit murder involves considering various factors such as weapon type, target area, pre-planning, number of strikes, and lack of provocation, rather than relying solely on medical evidence.

Raising procedural objections to test identification parades is best done through cross-examining the conducting Magistrate or investigating officer as mentioned under Section 54A of CRPC.

## **VI. Critical Analysis**

### **Strengths of the Judgment:**

1. **Sophisticated Understanding of Medical Evidence:** The court's willingness to consider factors beyond the absence of a precise medical opinion regarding the severity of injuries shows a practical approach to legal decision-making. It acknowledges that judges have the ability and should make logical conclusions based on all the evidence, instead of being limited by technicalities in expert testimony.
2. **Thorough Evaluation of Purpose:** The court's review of various factors to assess the appellant's intent reflects a comprehensive application of criminal law principles. This method offers useful direction for lower courts facing equivalent situations.
3. **Clarification on Double Jeopardy:** The court's decision to overturn the guilty verdict under Section 396 while upholding it under Sections 395 and 302 reinforces protections against being tried multiple times for the same crime double jeopardy.

### **VII. Potential Areas of Concern:**

1. **Depending on historical rulings:** While the reasoning is sound, the court primarily relies on older Supreme Court judgments (Virsa Singh, 1958; Brij Bhukhan, 1957) rather than more recent ones. A detailed examination of how these principles have evolved in recent court rulings could have enhanced the outcome.
2. **Only a small part of the text discusses Section 397,** with the court giving a brief examination of the conviction for robbery or dacoity with intent to cause death or grievous hurt. A more in-depth examination of the connection between Section 397 and the other charges could have been beneficial.
3. **The decision could have placed more emphasis on evaluating eyewitness credibility,** given the emotional influences and visibility challenges on a beach at night.



### **VIII. Conclusion**

The ruling of the Bombay High Court in the case of Ajay Kumar Sunilkumar Sharma vs. The State of Maharashtra provides a detailed examination of intricate matters in criminal law. It shows how courts can handle the difficulties of interpreting medical proof and deducing criminal intent in situations of violent group crime. The decision finds a middle ground by following legal principles while also preventing technical limitations from obstructing justice. The method used by the judgment in assessing if injuries are severe enough to result in death, even without a direct medical opinion, offers a helpful structure for lower courts. However, it also underscores the significance of healthcare practitioners giving more precise information when talking about the deadly risks of injuries.

Overall, this case serves as a notable illustration of homicide cases, especially those involving collective attacks. It emphasizes the necessity of thoroughly reviewing all evidence, highlighting that the justice system must consider multiple factors for fair decisions.