

IN THE COURT OF SESSIONS JUDGE, CHITRAKOOT**Present- Shesh Mani H.J.S.****UPCH010013442025****Sessions Case Number – 319 of 2025**

State of Uttar PradeshProsecution.

Versus

Ramprasad @ Parsadi son of Lalman Kol, Resident of village Jaromafi, P.S. Markundi, District Chitrakoot.

.....Accused.

Crime No. 15/2025

Under Sections- 103(1),352 BNS

(Old Sections- 302, 504 IPC)

Police Station – Markundi

District – Chitrakoot (U.P.)

Counsel for the State- Shri Shyam Sunder Mishra, DGC (Criminal).**Counsel for the Defence-** Shri Gaya Prasad Nishad, (C.L.A.D.C).**JUDGMENT**

First Informant	Meera wife of Shankar Prajapati
Date of Incidence	14.03.2025, 14:30 Hours
Date of registration of FIR	14.03.2025, 21:16 Hours
No. of charge sheet & date of cognizance	Charge Sheet No. 01; date of cognizance : 17.05.2025
Date of framing of Charge	23.06.2025
Date of commencement of recording of evidence	20.08.2025

Date of hearing of last arguments and the date of reserving for judgment	31.03.2026
Date of delivery of Judgment	01.04.2026

Details of the accused persons in brief.

Name of accused	Occupation/ Designation	Date of Arrest	Date of Bail Granted	Charged Offences
Ramprasad @ Parsadi son of Lalman Kol	Labourer	18.03.2025	Bail was rejected by Sessions Judge, Chitrakoot on 19.07.2025	Section 103(1),352 BNS

List of Prosecution Witnesses.

Number of Witness	Name of the witness	Nature of Witness	Papers Proved	Exhibit Number
PW-1	Meera	Wife of deceased	Tehrir	Exhibit Ka-1
PW-2	Satyam Prajapati	Fact Witness	-----	-----
PW-3	Chhavilal	Fact Witness	-----	-----
PW-4	Balram	Inquest Witness	Inquest Report	Exhibit Ka-2
PW-5	H.C. Vivek Kumar	Chik and G.D. Writer	Chik FIR	Exhibit Ka-3
			G.D.	Exhibit Ka-4
PW-6	Dr. Ajay Kumar	Expert Witness	Medical Report of deceased	Exhibit Ka-5
PW-7	Dr. Mukesh Agarwal	Expert Witness	Postmortem Report	Exhibit Ka-6
PW-8	Insp. Shailendra Chandra Pandey	Investigating Officer	Site Plan of place of occurrence	Exhibit Ka-7
			Recovery memo of murder weapon	Exhibit Ka-8
PW-9	Insp. Shiv Asrey	Investigating Officer	Chargesheet	Exhibit Ka-9

List of Defence Witnesses.

Number of Witness	Name of the witness	Nature of Witness	Papers Proved	Exhibit Number
D.W.-1	Rajkali	Defence Witness	-----	-----

List of Court Witnesses.

Number of Witness	Name of the witness	Nature of Witness	Papers Proved	Exhibit Number
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List of Material Exhibits.

Number and Name of Witness	Details of the Materials	Material Exhibit Number of the materials
PW-8 Insp. Shailendra Chandra Pandey	Murder Weapon (axe)	Material Exhibit-1
	Plain and blood-stained soil	Material Exhibit-2

BRIEF INTRODUCTION OF THE CHARGE:

1. Sessions Case Number 319 of 2025 commenced against accused Ramprasad @ Parsadi in Crime Number 15/2025 of Police Station Markundi, District Chitrakoot (U.P.) under Sections 103(1),352 of the Bhartiya Nyaya Sanhita (Old Sections-302,504 IPC) after committal proceeding by learned Chief Judicial Magistrate, Chitrakoot.

PROSECUTION STORY:

2. Facts of the case in brief are that first informant Meera wife of deceased Shankar Prajapati, R/o village Jaromafi P.S. Markundi District Chitrakoot moved a written complaint dated 14.03.2025, to SHO, Markundi, with the allegation that **“On 14.03.2025 at about**

02:30 PM, Ramprasad @ Ramprasadi, son of Lalman Kol, resident of her village, was abusing in a drunken condition and when she and her husband/deceased Shankar Lal Prajapati tried to stop him from abusing, Ramprasad alias Ramprasadi Kol, with the intention to kill, attacked her husband with an axe which he was having in his hands, on the road in front of the house of Chhobulal Prajapati with intention to kill him. Due to this attack, her husband's neck and face got slit. Thereafter, they took her husband to Manikpur Hospital for treatment. They are now taking her husband to Hospital, Satna. Her husband is not able to speak properly. Thus, her report be registered and strict action be taken against Ramprasad @ Ramprasadi.'

3. On the basis of this written complaint- **Exhibit Ka-1**, FIR at Crime Number- 15 of 2025 under Section 109,352 BNS was lodged against Ramprasad @ Ramprasadi on 14.03.2025 at 21:16 hours and investigation of the case was entrusted to Sub-Inspector Shailendra Chandra Pandey. The Chik FIR is **Exhibit Ka- 3** on record. The fact of registration of this FIR was disclosed in GD No. 27 dated 14.03.2025 time 21:16 hours which is available as **Exhibit Ka- 4** on record.

ACTION TAKEN BY THE POLICE:

4. After lodging FIR, Investigating Officer perused the Chik FIR and GD, and recorded statements of the FIR writer and witness Rohit alias Pintu Yadav, and also made telephonic conversations with complainant to enquire about the condition of the injured, and informant told that the injured is not speaking and he is unable to give his statement. Thereafter, he recorded the statements of eye-witnesses Satyam Prajapati (Informant's son), and visited the place of occurrence at his instance and collected blood-stained and plain soil and prepared its recovery memo. He recorded the statements of other witnesses and made several attempts to trace the accused named in the FIR.

5. Thereafter, information was given by Ramchandra Prajapati to the police that injured Shankar Lal Prajapati had died on 16.03.2025

at about 12:00 in the night during treatment at Medical College, Jabalpur, Madhya Pradesh, where postmortem of deceased was conducted on 17.03.2025. Furthermore, he perused the medical report of the injured, wherein doctor reported that the injured has sustained one wound on his left cheek near left ear root antihelix about 7 x 1 cm, of which margin is regular with profused bleeding and muscles are visible.

6. Afterwards, he recorded the statements of the informant Smt. Meera and witness Balram, and perused the death certificate of deceased Shankar Lal Prajapati. On the basis of the evidence collected, Section 103(1) BNS was added. The accused was arrested and the murder weapon, an axe, was recovered at his instance. Recovery memo of murder weapon was prepared and the statements of the accused was recorded. Due to the addition of Section 103(1) BNS, further investigation was undertaken by the then Station House Officer, Inspector Shiv Asrey.

7. After perusal of previous prepared papers, the Investigating Officer, Inspector Shiv Asrey, recorded the statements of witnesses sent the recovered articles including the murder weapon axe to FSL for its analysis and thereafter removed section 109 BNS from the offence and filed chargesheet against the accused Ramprasad @ Parsadi under Section 352, 103(1) BNS.

PROCEEDINGS BY THE COURT:

8. Learned Chief Judicial Magistrate has taken cognizance in the offence registered under crime number-15 of 2025 against accused Ramprasad @ Parsadi under Section 103(1),352 BNS on 17.05.2025.

9. Offence under Section 103(1) being exclusively triable by the Court of Sessions, the case was committed to Sessions for trial vide order dated 30.05.2025 of learned Chief Judicial Magistrate. The charge was framed on 23.06.2025 under Section 103(1) and 352 of Bhartiya Nyaya Sanhita (in short BNS) against the accused who pleaded not guilty and claimed trial.

10. Prosecution has examined as many as 9 witnesses to prove

its case, in which **PW-1** Meera (Wife of deceased), **PW-2** Satyam Prajapati (Fact Witness), **PW-3** Chhavilal (Fact Witness), **PW-4** Balram (Fact Witness), **PW-5** H.C. Vivek Kumar (Chik & G.D. Writer), **PW-6** Dr. Ajay Kumar (Expert Witness), **PW-7** Dr. Mukesh Agarwal (Expert witness), **PW-8** Inspector Bhaskar Mishra (Investigating Officer) and **PW-9** Inspector Shiv Asare (Investigating Officer) were examined. These prosecution witnesses have proved Tehrir (**Exhibit Ka-1**), Inquest Report (**Exhibit Ka-2**), Chik FIR (**Exhibit Ka-3**), G.D. No.- 27, Time 21:16 hours, Dated: 14.03.2025 (**Exhibit Ka-4**), Medical Report of deceased (**Exhibit Ka-5**), Postmortem Report (**Exhibit Ka-6**), Site Plan of place of occurrence (**Exhibit Ka-7**), Recovery memo of murder weapon (Axe) (**Exhibit Ka-8**), Chargesheet (**Exhibit Ka-9**). PW-8 has also identified and proved Murder Weapon (Axe) (**Material Exhibit-1**), Plain and blood-stained soil (**Material Exhibit-2**).

STATEMENTS OF PROSECUTION WITNESSES.

11. PW-1 Meera, has stated in her examination-in-chief that on 14.03.2025, on the day of Holi, at about 1:00 PM, Ramprasad @ Parsadi Kol, who resides at some distance from her house, came at her shop to buy colour (Abeer) at about 1:00 PM. At that time, her husband had gone to Sushil barber in the village while saying that he would meet him on the occasion of Holi and will return after getting his beard shaved. Meanwhile, Ramprasad @ Parsadi Kol, who had consumed liquor, told that her son Satyam had abused him, and he would not leave him if he finds him. She said to him that her son could not have done such a thing. After some time, a lady from her village, whose husband lives outside the village, came to ask whether husband of that lady had sent money through Google to Shankar Lal's mobile or not. PW-1 has stated that she neither knew the women nor knew her husband's name, but she knows that she belongs to her village. She sent her son Satyam to call her husband. When her son and her husband were returning home via C.C. Road, passing in front of the house of Ramprasad @ Parsadi Kol and reached near his house, Ramprasad @ Parsadi was standing there

and started abusing her husband and her son in filthy language. He again alleged that her son had abused him. When her husband objected, Ramprasad @ Parsadi Kol went inside his house, brought an axe, and struck her husband with it, after which he went back inside his house. Thereafter, he fled from the village through another road. The axe struck her husband on the left side of his cheek. Her husband's left cheek was completely chopped, and he fell unconscious at the spot. On hearing the noise, she also reached the place of occurrence. In her presence as well, Ramprasad alias Parsadi had assaulted her husband with the axe. Chhotelal Prajapati of her village was also present at some distance, who had witnessed the incident. He was scolding Ramprasad alias Parsadi and asking him not to assault, but by that time, the accused had already struck her husband. Her husband fell in front of the house of Chhavilal Prajapati, and there was excessive bleeding. By that time, many nearby persons had gathered. Her neighbors Chhavilal Prajapati, Balram Prajapati, and Ramchandra Prajapati also reached the spot. She was shouting to take her husband to the hospital, but some persons were saying that it was a police case and that he would be taken to the hospital only after the police arrives. Someone present there tied a cloth (safi) around her husband's wound, due to which the bleeding stopped. After some time, Balram Prajapati and Ramchandra Prajapati took her husband on a motorcycle to Manikpur Hospital. Thereafter, she also reached Manikpur Hospital with Pintu Yadav. After primary treatment, her husband was referred to the District Hospital. Due to his critical condition, he was advised to be taken to Satna, where they first took him to a private hospital. As his condition did not improve, he was immediately admitted to the Government Hospital, Satna. When there was still no improvement, he was admitted to Health City Hospital, Jabalpur. The doctor informed that blood had clotted in his head and that an operation was required. However, she was not in a position to arrange the amount demanded. Thereafter, they took him to the Medical College, Jabalpur, where her husband died during treatment. She lodged the

report of this incident at Police Station Markundi through Rohit Yadav of her village, who wrote it on her behalf as per her narration. The witness has proved paper no. 5Ka Tehrir, which is marked as **Exhibit Ka-1**.

12. PW-2, minor witness Satyam Prajapati, aged about 12 years, was put to several general questions to which he had answered satisfactorily and was held able/competent witness. The witness has stated in his examination-in-chief that the incident took place on 14.03.2024. On that day, there was a Holi holiday in his school and he was staying at home. His father had gone to the village to get his beard shaved. A lady came to his house and wanted to meet his father. He went to the village to call his father. After calling his father, he was coming back with his father. As they reached the R.C.C. road near the house of Ramprasad @ Parsadi, he was standing there. He started abusing him and his father in filthy language. When his father objected, Ramprasad @ Parsadi went inside his house and brought an axe, and while abusing, struck his father with the axe. As a result of the blow, his father got injured and fell down on the spot. On hearing the noise, his mother also arrived at the spot. He, his mother and Chhotelal Prajapati of his village witnessed the incident with their own eyes. After this incident, when Chhotelal scolded Ramprasad @ Parsadi, he went back inside his house with the axe. After hearing the commotion, Chhavilal Prajapati, Lachchhu and Pintu also reached the spot. Then, Pintu tied a cloth (Safi) around the part from where his father was bleeding. When Chhavilal went to the house of Ramprasad @ Parsadi, he had already fled towards the fields. Thereafter, Ramchandra Prajapati and Balram of his village came and took his father to the Government Hospital, Manikpur, on a motorcycle by seating him in between. Following them, his mother reached to the hospital on Pintu Yadav's motorcycle. Due to the serious condition, his father was referred to the District Hospital, Karwi, Chitrakoot. As his condition did not improve, he was taken to Satna and then Jabalpur. During the course of treatment, his father died. From the

date of incident till the date of death, his father was unable to speak. He witnessed the entire incident with his own eyes. On seeing the accused Ramprasad @ Parsadi present before the Court, the witness stated that he knows him and he is the person who assaulted his father with an axe in his presence.

13. PW-3, Chhivilal, has stated in his examination-in-chief that he is an illiterate, therefore he does not remember the exact date of occurrence. The incident took place last year on the day of Holi, at about 2:00-2:30 PM. On that day, Holi celebration was going on at Balaji Ashram in the village. On receiving information about the incident, he reached at the place of occurrence and saw that a large crowd had already gathered there. At the spot, Shankar Prajapati was lying in an injured condition. There was a deep wound on his cheek and he was bleeding. Before he reached, injured's wife and son Satyam, Chhotelal Prajapati and many other nearby persons were already present there. His(PW-3) wife Krishna, his daughter-in-law Meera, and other persons who were present there told him that Ramprasad @ Parsadi had abused and assaulted Shankar Lal with an axe, due to which he fell down on the spot in an injured condition and became unconscious. He immediately went to the house of Ramprasad @ Parsadi. On seeing him, Ramprasad ran away holding a blood-stained axe in his hand. Ramchandra Prajapati and Balram took injured Shankar Lal on a motorcycle to the Manikpur Hospital for treatment. Following them, Shankar Prajapati's wife Meera also went to the Manikpur Hospital on a motorcycle with Pintu. Due to serious condition, Shankar Prajapati was referred to the District Hospital. Due to his critical condition, Shankar Prajapati was taken to Satna. When his condition did not improve, he was further taken to Jabalpur for treatment, where he died during the course of treatment. The investigating officer had reached at the spot. He had also shown him the place of occurrence where the blood of the injured had fallen.

14. PW-4, Balram, has stated in his examination-in-chief that the incident took place on the day of Holi on 14.03.2025, and he was

playing Holi in the village. At about 2:00-2:30 PM, upon hearing noise, he reached at the place of occurrence and saw that Shankar Lal was lying in injured condition near the house of Chhavilal. There was a large wound on the left side of his cheek, from which heavy bleeding was taking place. Shankar Lal's wife Meera, son Satyam, Chhotelal Prajapati, and many other nearby persons were present on the spot. When he reached there, the people present there informed him that Ramprasad @ Parsadi had abused Shankar Lal and assaulted him with an axe, and after striking him, fled towards his house. He, alongwith Chhavilal, went to the house of Ramprasad @ Parsadi. On seeing them, Ramprasad @ Parsadi ran away from there holding blood-stained axe in his hand. He informed the police about the incident through a phone call. Thereafter, he along with Ramchandra Prajapati, took Shankar Lal to the Government Hospital, Manikpur, on a motorcycle. After some time, Shankar Lal's wife Meera also reached there. Due to his serious condition, the doctor referred him to the District Hospital after providing primary treatment. Due to critical condition, he was further referred to a better hospital, after that they took him to Satna, where he was treated in a private hospital. As his condition did not improve there, they took him to Government Hospital, Satna. When injured did not get any relief, the doctors of Government Hospital, Satna advised to take him to Rewa, but he was admitted to the Health City Hospital, Jabalpur instead of Rewa, where doctors demanded lakhs of rupees for his operation. Due to lack of money, they admitted him to the Medical College, Jabalpur, where Shankar Lal died during treatment. During this period, he, Shankar Lal's wife and Ramchandra remained continuously there. The postmortem of the deceased was conducted at Jabalpur. The inquest proceedings were conducted in his presence. The witness has proved the paper no. 14Ka/1-14Ka/5 **Inquest Report**, which is marked as **Exhibit Ka-2**.

15. PW-5, H.C. Vivek Kumar, has stated in his examination-in-chief that he was posted as Head Constable at P.S. Markundi on 14.03.2025 and on the same day Meera wife of Shankar Lal

Prajapati, submitted a Tehrir written by Rohit Yadav, on the basis of which, case at crime no. 15 of 2025 was registered under Sections 109,352 BNS and the fact of registration of FIR was disclosed in G.D. No. 27; time 21:16 Hours, dated: 14.03.2025. This witness has proved paper no. 4 Ka/1 - 4 Ka/3 computerized Chik FIR and paper no. 6 Ka/4 computerized GD which are marked as **Exhibit Ka-3 and Exhibit Ka-4** respectively.

16. PW-6, Dr. Ajay Kumar, has stated in his examination-in-chief that on 14.03.2025 he was on duty in the emergency ward at the Community Health Center, Manikpur. At about 3:27 PM, an injured Sankar Lal Prajapati, aged about 36 years, was brought to the hospital for treatment. He had given primary treatment to the injured. As the wound and the condition was serious, after giving initial treatment, he referred injured to the District Hospital for X-ray and further treatment. The injured had a wound measuring 7 x 1 cm on his left cheek extending up to the ear. The muscles were visible inside the wound and there was bleeding from it. The relatives who came with the injured informed that he had been attacked with an axe by Ramprasad alias Parsadi. Upon examination of the injury, he found that the margins of the wound were regular, which shows that the injury was caused by a hard and sharp-edged object. This witness has proved paper no. 7 Ka/1 - 7 Ka/2 **Medical Report** which is marked as **Exhibit Ka-5**.

17. PW-7, Dr. Mukesh Agarwal, has stated in his examination-in-chief that on 17.03.2025, he was on duty in the mortuary of the Medical Hospital, Jabalpur. On the same day, the dead body of the deceased, Shankar Lal Prajapati, was received in the mortuary after inquest proceedings. The body was identified by the nephew of the deceased, Ramchandra Prajapati and his cousin, Motilal Prajapati, who had accompanied the dead body. He conducted the postmortem of the deceased. During the postmortem, it was found that the death of the deceased Shankar Lal was caused due to injuries inflicted on the head and face by a heavy sharp-edged weapon. The injuries were antemortem. The time between death

and postmortem examination was within 24 hours.

Injury No.-1: Swelling on the left cheek.

Injury No.-2: A stitched wound of about 4 inches in length on the left cheek.

Injury No.-3: On opening the stitches of Injury No. 2, a chop wound was found, which had cut the lower jaw bone on the left side and several blood vessels. The injury was reddish-brown in color, and clotted blood was present at the site.

This witness has proved paper no. 16 Ka/6 - 16 Ka/8

Posmortem Report which is marked as **Exhibit Ka-5**.

18. PW-8, Insp. Shailendra Chandra Pandey, has stated in his examination-in-chief that at the time of the incident, he was posted as Senior Sub-Inspector at Police Station Markundi. On 14.03.2025, the investigation of Crime No. 15/2025, under Sections 109, 352 BNS, State vs Ramprasad alias Ramparsadi, resident of Village Jaromafi, Police Station Markundi, was entrusted to him by the Station House Officer. Since it was night, he perused Chik FIR and GD, and recorded the statement of Chik FIR writer. On 15.03.2025, he recorded the statement of witness Rohit alias Pintu Yadav, collected evidence, and also contacted the complainant on her mobile phone to obtain information about the incident and the condition of the injured. On 16.03.2025, he recorded the statements of eye-witness Satyam Prajapati and witnesses Chhavilal Prajapati and Lachhu alias Laghuwa Prajapati. On the pointing of Satyam, the son of the informant, he visited the place of occurrence and collected blood-stained and plain soil from the spot, sealed them separately and prepared its recovery memo, and made efforts to trace the accused. On 17.03.2025, he continued the search and tracing of the named accused. On 18.03.2025, he perused the medical report of the injured, recorded the statement of the informant Smt. Meera, visited the place of occurrence at her instance, and perused the death certificate of her injured husband Shankar Lal Prajapati, who had died during treatment at Medical College, Jabalpur (Madhya Pradesh). He also recorded the statement of

witness Balram Prajapati. On the basis of the evidence collected, Section 103(1) BNS was added in the present case. He along with the team, proceeded from the station on 18.03.2025 in search of the accused, who was arrested at about 22:40 hours. At the instance of the accused, the murder weapon an axe was recovered from bushes near Chirghati Chek Dam at about 23:20 hours. The recovered weapon was sealed at the spot and its recovery memo was prepared. Thereafter, the statement of the accused was recorded. On 23.03.2025, further efforts were made to trace additional witnesses for evidence. Due to the addition of Section 103(1) BNS on 18.03.2025, the further investigation was handed over to the S.H.O. as per rules. Thereafter, the investigation up to the filing of the charge sheet was conducted by the then Station House Officer, Shri Shiv Asrey. The witness has proved paper no. 8Ka Site plan of place of occurrence and paper no. 9Ka Recovery memo of murder weapon, which are marked as **Exhibit Ka-7 and Exhibit Ka-8** respectively. Paper No. 7Ka/3 death certificate of deceased was also filed by him. The witness has also proved the murder weapon, an axe, and the blood-stained and plain soil collected from the place of occurrence, which are marked as **Material Exhibit-1 and Material Exhibit-2**, respectively.

19. PW-9, Insp. Shiv Asrey, has stated in his examination-in-chief that on 14.03.2025, he was posted as the S.H.O (In-charge Inspector) at the police station Markundi. The investigation of the case crime no. 15/2025, under Sections 109, 352 B.N.S., was initially being conducting by the then Senior Sub-Inspector, Sri Shailendra Chandra Pandey. After the addition of the Section 103(1) B.N.S. in the said case, the investigation was carried out by him. After perusal of all the previous papers, recorded the statement of the witness Raghuraj Yadav. An application was moved before the Court for the remand of the accused. He perused the covering letter, Postmortem Report, Inquest Report along with 14 other papers received from the office of Superintendent of Police, Jabalpur, Madhya Pradesh. He recorded the statement of Inquest witnesses

Motilal Prajapati, Balram Prajapati, Vivek Prajapati, Chandan Patel. Afterward, the accused was remanded for 14 days. After sealing the recovered items, murder weapon an axe and blood-stained and plain soil were sent to the FSL and perused and recorded the statement of Constable Tej Singh Pal. He also recorded the statement of eye-witness Chhotelal Prajapati, witnesses Ramchandra Prajapati and Ramsaran. Further, he recorded the statement of Head Constable Vinay Kumar, who conducted the inquest proceedings, and Dr. Mukesh Agarwal, who conducted the postmortem. He also recorded the statement of Dr. Ajay Kumar of Community Health Center, Manikpur. On the basis of collected evidence and statement of witnesses, Section 109 BNS was deleted and charge sheet bearing no. 19/2025 dated 29.04.2025, was submitted against the accused Ramprasad Kol @ Parsadi, aged about 40 years, resident of village Jaromafi, P.S. Markundi, District Chitrakoot under Sections 103(1) and 352 B.N.S. The witness has proved the paper numbers 3Ka/1-5, Chargesheet, which is marked as **Exhibit Ka-9**.

20. No other witness was examined by the prosecution.

21. After recording statements of above 9 witnesses, the prosecution has concluded its evidence and then statement of accused was recorded under Section 313 Cr.P.C. wherein, the accused, while denying and controverting the prosecution case, pleaded his innocence and has stated that wrong case proceeded against him and he has been falsely implicated in this case due to enmity.

22. After recording the statement of accused under section 313 Cr.P.C., opportunity was given to him to produce evidence in his defence wherein accused had produced DW-1 Rajkali in defence.

23. DW-1 Rajkali has stated before Court on oath in her examination-in-chief that the incidence took place at about 3 PM. It was Holi festival that day. She had not seen Shankar beaten by anyone. She and her son were present inside house. The quarrel took place between Chhavilal, Chhotelal, Shankar and their women

and children. Shankar was not present there at first and had reached there later. All of them were in influence of liquor and bhang. Hearing the noises, she and her son Ramprasad @ Parsadi reached on the spot. The quarrel had already taken place till then. Her son Ramprasad @ Parsadi had been implicated falsely and he had not assaulted anyone. No axe was recovered from the possession of her son Ramprasad @ Parsadi.

24. Cross-examinations of the prosecution as well as defence witnesses shall be discussed at relevant places.

25. Heard the arguments of learned DGC Criminal on behalf of State of Uttar Pradesh, learned counsel for the defence and have also gone through the record.

SUBMISSIONS BY THE DEFENCE COUNSEL

26. Learned counsel for the defence has argued that accused had not committed any crime and false case has been lodged against him. The accused had been implicated falsely in the case due to enmity. Nothing incriminating was recovered from his possession and false recovery has been shown against him. There are material contradictions in the statements of the prosecution witnesses. With these arguments, the learned defence counsel has stated that the prosecution has miserably failed to prove its case and has prayed for acquittal of accused from the charge leveled against him.

SUBMISSIONS BY THE PROSECUTION

27. Per Contra, learned DGC (Criminal) has argued that the accused started quarreling with deceased and while abusing him, he hit an axe blow at his face due to which deceased sustained serious injuries and he died subsequently while his treatment. The prosecution witnesses have seen the incidence happening and have effectively deposed against the accused before the court. The prosecution has fully been able to establish the offence committed by the accused beyond reasonable doubt. With these arguments, learned DGC Criminal has prayed for suitable punishment to the accused for the charges leveled against him.

ANALYSIS, REASONING AND CONCLUSION.

28. The deep evaluation and comparative examination of oral evidence, documentary evidence and medical evidence of the prosecution may enlighten the path to reach to conclusion. The comparative evaluation and scrutiny of entire prosecution evidence may be the pioneer to meet the ends of justice.

29. On the basis of rival contentions advanced by the learned counsels for the parties and the facts and circumstances of the case and keeping in view the provisions contained under Sub-section 1 of Section 393 of the BNSS (old 354(1) of the Cr.P.C.), the following points of determination are hereby framed in the present matter-

1. Whether the accused had any motive to commit the offence?
2. Whether the accused had committed the offence?
3. Whether the offence under section 103(1) & 352 BNS is made out against the accused?

30. Now the court proceeds to analyze the points of determination serially.

Point No.-1.

31. Under this point, it is to be analyzed as to whether the accused had any motive to commit the offence?

32. It has been contended by the learned counsel for the defence that the accused had no motive to kill the deceased.

33. Per contra, learned DGC (Criminal) has submitted that accused had first made complaint to the wife of the deceased that her son had abused him and he will see him. Moments thereafter, the accused found deceased and his son and he started abusing them and when deceased asked him not to abuse, he brought axe and struck an axe blow on the face of the deceased and subsequently, the deceased breathed his last during his treatment in couple of days.

34. Perusal of record shows that PW-1, first informant Meera has stated in her statements regarding the cause of incidence and motive of accused behind committing the incidence. PW-1 Meera,

has stated that on 14.03.2025, the day of Holi, at about 1:00 PM, Ramprasad @ Parsadi Kol, who was in drunken state complained her that her son Satyam had abused him, and he would not leave him if he finds him. She said to him that her son might have never done so. Thereafter, she sent her son Satyam to call her husband. When Satyam and her husband were returning home and reached near house of Ramprasad @ Parsadi, the accused Ramprasad @ Parsadi was standing there and started abusing her husband and her son with filthy words. He again alleged that her son had abused him. When her husband objected, Ramprasad @ Parsadi Kol went inside his house, brought an axe, and struck her husband with it, after which he went back inside his house and then fled away. During her cross-examination, PW-1 has stated that there was no dispute between accused Ramprasad @ Parsadi and her husband, rather Ramprasad @ Parsadi was saying that her son Satyam was abusing him. PW-1 has further stated that when her husband had stopped Ramprasad @ Parsadi from abusing them, the altercation took place. She has further stated during her cross-examination that she had no dispute with accused prior to the incidence.

35. These statements of PW-1 shows that initially Ramprasad @ Parsadi was not having any altercation to the deceased or his family prior to the incidence and it was the day of Holi festival when Ramprasad @ Parsadi reached to the shop of PW-1 in drunken state and complained that her son Satyam had abused him and he will not leave him. Moments later, accused met with deceased and her son Satyam and started abusing them and again made complaint that her son had abused him and when his husband stopped him from doing so, he brought axe and launched attack on her husband. This shows that the accused was not having any motive at all prior to the incidence and it was the instant reason/motive that he just complained that deceased's son Shivam had abused him and when he met with Shivam and Deceased Shankar Lal, he started abusing them and the matter deteriorated when Shankar Lal asked him not to abuse and then accused

brought axe and struck Shankar Lal. Here, accused was not having any previous motive and he became aggressive after making complaint to Shivam's mother that Shivam had abused him and as soon he found Shivam with his father he started abusing them and the matter ended abruptly.

36. If it is taken that motive behind the case does not gets proved, still it has no adverse effect on the prosecution case.

37. In the case of **Arjun Vs. State of U.P.; ACC 2003 (46) page 223**, it has been held by the Hon'ble Allahabad High Court that if prosecution fails in proving the motive behind any case, then also it has no adverse effect on the prosecution case.

38. In the case of **Atley Vs. State of UP; AIR 1955 SC, 807**; the **Hon'ble Supreme Court held-** *"That is true; and where there is clear proof of motive for the crime, that lends additional support to the finding of the court that the accused was guilty but the absence of clear proof of motive does not necessarily lead to the contrary conclusion"*.

39. *Similarly, in the recent decision of Hon'ble Apex Court in the case of State of Himachal Pradesh Vs. Chamanlal; 2026 INSC 57, it is held by the Hon'ble Court that absence of strong proof of motive is not fatal to the prosecution where there is clear and credible direct evidence.*

40. From the discussions made above it may be seen that the prosecution has succeeded in pointing out that the accused attacked the deceased while getting aggressive on the issue of being abused by deceased's son but if it is presumed that no motive of accused gets proved then also under the light of case laws cited above, it may easily be held that absence of clear proof of motive does not necessarily lead to the contrary conclusion in as much as present matter is based on direct evidence and not on circumstantial evidence. **Point No.-1 is decided accordingly.**

Point No.-2.

41. Under this point, it is to be analyzed as to whether the

accused had committed the offence?

42. It has been contended by the learned counsel for the defence that the accused is innocent and he had not killed the deceased.

43. Per contra, learned DGC (Criminal) has submitted that when deceased asked accused not to abuse, accused brought axe and struck axe blow on the face of the deceased and subsequently, the deceased breathed his last during his treatment in couple of days.

44. It is the prosecution case that accused had an altercation to the deceased on the issue that deceased's son had abused him. During altercation, accused Ramprasad @ Parsadi started abusing Shankar Lal and hit an axe blow on his face due to which Shankar Lal sustained serious injury and he was taken to various hospitals for treatment but he could not survive and died during treatment.

45. The case in hand is a direct evidence case and PW-1 Meera, PW-2 Satyam Prajapati, PW-3 Chhavilal and PW-4 Balram are the witnesses of fact, whereas PW-5 Head Constable Vivek Kumar, PW-6 Dr. Ajay Kumar, PW-7 Dr. Mukesh Agrawal, PW-8 Inspector Shailendra Chandra Pandey and PW-9 Inspector Shiv Asrey are the formal witnesses and are Chik Writer, Expert Witnesses and Investigating Officers of the case.

46. In the FIR, the first informant Meera, wife of deceased had made allegations that on 14.03.2025 at about 02:30 PM, Ramprasad @ Ramprasadi, of her village, was abusing in drunken condition and when she and her husband/deceased Shankar Lal Prajapati tried to stop him from abusing, Ramprasad alias Ramprasadi Kol, with the intention to kill, attacked her husband with an axe which he was having in his hand, on the road in front of the house of Chhobbulal Prajapati and due to this attack, her husband's neck and face got slit. Thereafter, her husband was taken to the hospital, Manikpur for treatment, and they are taking the injured to the District Hospital, Satna. Her husband was not able to speak properly.

47. Perusal of statements of fact witnesses PW-1, PW-2, PW-3 & PW-4 shows that basically PW-1 Meera and PW-2 Satyam had stated that they were present on the spot at the time of incidence

and are the eyewitnesses of the incidence whereas PW-3 Chhavilal and PW-4 Balram had deposed that they reached on the spot after the incidence.

48. The first informant Meera, while deposing as PW-1 before the Court, has reiterated her allegations of the FIR and has stated that Ramprasad @ Parsadi Kol, who was in drunken state told her that her son Satyam had abused him, and he would not leave him if he finds him. After a while, she sent her son Satyam to call his husband. When they were returning home, they reached near house of Ramprasad @ Parsadi who was standing at his house and he started abusing her husband and her son in filthy words. He again alleged that her son had abused him. When her husband objected, Ramprasad @ Parsadi Kol went inside his house, brought an axe, and struck her husband with it, after which he went back inside his house and fled away from there. The axe struck her husband on the left side of his cheek. Her husband's left cheek was completely cut, and her husband fell unconscious at the spot. Ramprasad @ Parsadi had assaulted her husband with the axe in her presence. Chhotelal Prajapati of her village was also present at some distance, who also had witnessed the incident. Her neighbors Chhavilal Prajapati, Balram Prajapati, and Ramchandra Prajapati also reached the spot. Someone present there tied a cloth (safi) around her husband's wound, due to which the bleeding stopped. After some time, Balram Prajapati and Ramchandra Prajapati took her husband on a motorcycle to Manikpur Hospital. Thereafter, she also reached Manikpur Hospital with Pintu Yadav. After primary treatment, her husband was referred to the District Hospital. Due to his critical condition, he was advised to be taken to Satna, where they first took him to a private hospital. As his condition did not improve, he was immediately admitted to the Government Hospital, Satna. When there was still no improvement, he was admitted to Health City Hospital, Jabalpur. The doctor informed that blood had clotted in his head and that an operation was required. However, she was not in a position to arrange the amount demanded. Thereafter, they took him

to the Medical College, Jabalpur, where her husband died during treatment.

During cross-examination PW-1 has stated that when her husband was referred from District Hospital, they parked the ambulance on the way and lodged their complaint. Injured was in unconscious state in ambulance at the time of lodging the report. The tehrir was scribed by Rohit Yadav in the ambulance and she had submitted it to police station Markundi. Injured Shankar Lal died at 12 midnight on 16.03.2025. PW-1 has further stated that the incidence took place on the CC Road in front of doors of Chhavilal and she herself had witnessed the incidence. A lot of blood had spread at the place where assault had taken place. Her husband was returning home at the time of incidence with her son and her husband never consumes liquor. Distance between her house and house of accused is just of three houses. When accused was attacking, members of accused's family were present there. Chhota Prajapati and she herself also were present there. Since neck and tongue of her husband had got slit, he was not able to speak and had fainted. Her son was also present there and later several villagers had reached there.

49. PW-2, minor witness Satyam Prajapati, aged about 12 years, after being declared as able witness has deposed before the Court that on 14.03.2024 he went to the village to call his father and was coming back with his father. As soon as they reached the R.C.C. road near the house of Ramprasad @ Parsadi, accused Ramprasad @ Parsadi was standing there and he started abusing them with filthy words. When his father objected, Ramprasad @ Parsadi went inside his house and brought an axe, and while abusing, struck his father with the axe. As a result of the blow, his father got injured and fell down on the spot. Hearing the noise, his mother also had arrived at the spot. He, his mother and Chhotelal Prajapati of his village witnessed the incident with their own eyes. After this incident, when Chhotelal scolded Ramprasad @ Parsadi, he went back inside his house. After hearing the commotion, Chhavilal Prajapati, Lachchhu

and Pintu also reached the spot. Then, Pintu tied a cloth (Safi) around the area from where his father was bleeding. When Chhavilal went to the house of Ramprasad @ Parsadi, he had already fled towards the fields. Thereafter, Ramchandra Prajapati and Balram of his village came and took his father to the Government Hospital, Manikpur, on a motorcycle by seating him in between. Following them, his mother reached to the hospital on Pintu Yadav's motorcycle. Due to the serious condition, his father was referred to the District Hospital, Karwi, Chitrakoot. As his condition did not improve, he was taken to Satna and then Jabalpur. During the course of treatment, his father died. From the date of incident till the date of death, his father was unable to speak. He witnessed the entire incident with his own eyes.

During cross-examination, PW-2 has stated that there are three houses situated between his house and house of Ramprasad. These houses belongs to Chhavilal, Lachchhu and Sanju. The incidence took place at about 2 PM on 14.03.2024 and Chhotelal Prajapati and Chhavilal Prajapati also had witnessed the incidence. The incidence took place near the house of Chhavilal. His father was taken for treatment after half an hour from the incidence. He had not gone to Manikpur and had not seen his father when he was admitted in hospital and he got the information through phone about treatment taken place at Satna and Jabalpur. He was student of class III at the time of incidence.

50. These statements of PW-1 and PW-2 clearly points out the act of accused that he was abusing Shankar Lal and his son Satyam and when Shankar Lal stopped him from doing so, he brought axe from home and hit the axe blow to face of Shankar Lal due to which Shankar Lal sustained fatal injury and later he died during his treatment at hospital.

51. Learned defence counsel had contended that since PW-2 is a minor witness of tender age of about 12 years, thus his statements loses credence as there is possibility to tutor and influence the witness. In reply thereof, learned DGC (Criminal) representing State

of Uttar Pradesh has submitted that PW-2 is a star witness of this case. He was present with his father (deceased) on the place of occurrence at the time of incidence and he had witnessed the entire incidence. Learned DGC (Criminal) has further submitted that prior to recording his statement, the Court had made few queries in order to test his competency as witness. PW-2 has given sufficient answers of the queries made by Court. Learned DGC (Criminal) has also submitted that statement of PW-2 is also supported by the statements of other fact witnesses, therefore, merely on the ground that PW-2 is child witness, his entire statement cannot be thrown out. He has also submitted that the defence had made the cross-examination of this witness but he did not shatter in the cross-examination.

52. The Indian Evidence Act, 1872 does not prescribe any particular age as a determinative factor to treat a witness to be a competent one. On the contrary, Section 118 of the Evidence Act envisages that all persons shall be competent to testify, unless the court considers that they are prevented from understanding the questions put to them or from giving rational answers to these questions, because of tender years, extreme old age, disease - whether of mind, or any other cause of the same kind. A child of tender age can be allowed to testify if he has intellectual capacity to understand questions and give rational answers thereto.

53. In **Dattu Ramrao Sakhare v. State of Maharashtra reported in (1997) 5 SCC 341** Hon'ble Court has held that as long as a child witness is found to be competent to depose i.e., capable of understanding the questions put to it and able to give rational answers, the testimony of such witness can be considered as evidence in terms of Section 118 of the Evidence Act, irrespective of their tender age or absence of any oath. The only additional factor to be considered is that the witness must be found to be reliable, exhibiting the demeanour of any other competent witness, with no likelihood of having been tutored. It further clarified that there is no requirement or condition that the evidence of a child witness must be

corroborated before it can be considered, and rather the insistence of any corroboration is only a rule of prudence that would depend upon the peculiar facts and circumstances of each case.

54. Similarly in **Pradeep v. State of Haryana reported in 2023 SCC OnLine SC 777** Hon'ble Court emphasized on the importance of preliminary examination of a child witness. It held that although oath cannot be administered to a child witness under 12-years of age yet, as per Section 118 of the Evidence Act it is the duty of a Trial Judge to conduct a preliminary examination before recording the evidence of the child witness to ascertain if the child is able to understand the questions put to him and that he is able to give rational answers to the questions put to him. It held that the Trial Judge must record its opinion and satisfaction that the child witness understands the duty of speaking the truth and state why he is of the opinion that the child understands the duty of speaking the truth. It further held that the questions put to the child in the preliminary examination must also be recorded so that the appellate court can go into the correctness of the opinion of the Trial Court. The relevant observations read as under: -

“8. Under the proviso to sub-Section (1) of Section 4, it is laid down that in case of a child witness under 12 years of age, unless satisfaction as required by the said proviso is recorded, an oath cannot be administered to the child witness. In this case, in the deposition of PW-1 Ajay, it is mentioned that his age was 12 years at the time of the recording of evidence. Therefore, the proviso to Section 4 of the Oaths Act will not apply in this case. However, in view of the requirement of Section 118 of the Evidence Act, the learned Trial Judge was under a duty to record his opinion that the child is able to understand the questions put to him and that he is able to give rational answers to the questions put to him. The Trial Judge must also record his opinion that the child witness understands the duty of speaking the truth and state why he is of the opinion that the child understands the duty of speaking the truth.

9. It is a well-settled principle that corroboration of the testimony of a child witness is not a rule but a measure of caution and prudence. A child witness of

tender age is easily susceptible to tutoring. However, that by itself is no ground to reject the evidence of a child witness. The Court must make careful scrutiny of the evidence of a child witness. The Court must apply its mind to the question whether there is a possibility of the child witness being tutored. Therefore, scrutiny of the evidence of a child witness is required to be made by the Court with care and caution.

10. Before recording evidence of a minor, it is the duty of a Judicial Officer to ask preliminary questions to him with a view to ascertain whether the minor can understand the questions put to him and is in a position to give rational answers. The Judge must be satisfied that the minor is able to understand the questions and respond to them and understands the importance of speaking the truth. Therefore, the role of the Judge who records the evidence is very crucial. He has to make a proper preliminary examination of the minor by putting appropriate questions to ascertain whether the minor is capable of understanding the questions put to him and is able to give rational answers. It is advisable to record the preliminary questions and answers so that the Appellate Court can go into the correctness of the opinion of the Trial Court.”

55. The statements of PW-2 clearly shows that several questions were put to the witness and the minor witness had shown his intellectual capacity to understand questions and give rational answers thereto. During his deposition also the witness has effectively deposed the scenario at the time of the incidence and he had stood firmly to the tricky cross-examination of the learned defence counsel. On careful and cautious scrutiny of the evidence of the child witness PW-2, it does not show as if PW-2 was just narrating any tutored answers and he actually had witnessed the incidence and is an eyewitness of the incidence in this case. Under such circumstances, PW-2 is found fully credible witness.

56. Both PW-1 and PW-2 had unanimously stated the act of accused and had deposed that they personally had witnessed the incidence and accused Ramprasad @ Parsadi had hit deceased with axe in their presence.

57. As far as statements of rest two fact witnesses PW-3 and PW-4 are concerned, they have stated that they reached on the spot after hearing the chaos.

58. PW-3 Chhavilal has stated before the Court that on the day of incidence, Holi celebration was taking place at Balaji Ashram in the village. On receiving information about the incident, he reached at the place of occurrence and saw that a large crowd had already gathered there. At the spot, Shankar Prajapati was lying in an injured condition. There was a deep wound on his cheek and he was bleeding. Before he reached, injured's wife and his son Satyam, Chhotelal Prajapati and many other nearby persons were already present there. His(PW-3) wife Krishna, his daughter-in-law Meera, and other persons who were present there told him that Ramprasad @ Parsadi had abused and assaulted Shankar Lal with axe, due to which he fell down at the spot in an injured condition and became unconscious. He immediately went to the house of Ramprasad @ Parsadi. On seeing him, Ramprasad ran away holding a blood-stained axe in his hand. Ramchandra Prajapati and Balram took injured Shankar Lal on a motorcycle to the Manikpur Hospital for treatment. Following them, Shankar Prajapati's wife Meera also went to the Manikpur Hospital on a motorcycle with Pintu. Due to serious condition, Shankar Prajapati was referred to the District Hospital but due to his critical condition, Shankar Prajapati was taken to Satna. When his condition did not improve, he was further taken to Jabalpur for treatment, where he died during the course of treatment.

During cross-examination, PW-3 has stated that he had not seen the happening of the incidence. He had reached on the spot after 10 – 15 minutes from the incidence. He had not taken Shankar Prajapati to hospital rather Ramchandra and Balram had taken him there. He had not seen Ramprasad @ Parsadi consuming liquor, neither had seen him abusing nor assaulting.

59. PW-4, Balram, has stated before the court that the incident took place on 14.03.2025, and he was playing Holi in the village on the day. At about 2:00-2:30 PM, hearing noise, he reached at the

place of occurrence and saw that Shankar Lal was lying in injured condition near the house of Chhavilal. There was a big wound on the left side of his cheek, from which heavy bleeding was taking place. Shankar Lal's wife Meera, his son Satyam, Chhotelal Prajapati, and many other nearby persons were present on the spot. When he reached there, the people present informed him that Ramprasad @ Parsadi had abused Shankar Lal and assaulted him with an axe, and after striking him, fled towards his house. He along with Chhavilal, he went to the house of Ramprasad @ Parsadi. On seeing them, Ramprasad @ Parsadi ran away from there holding blood-stained axe in his hand. He informed the police about the incident through a phone call. Thereafter, he along with Ramchandra Prajapati, took Shankar Lal to the Government Hospital, Manikpur, on a motorcycle. After some time, Shankar Lal's wife Meera also reached there. Due to his serious condition, the doctor referred him to the District Hospital after providing primary treatment. Due to critical condition, he was further referred to a better hospital, after that they took him to Satna, where he was treated in a private hospital. As his condition did not improve there, they took him to Government Hospital, Satna. When no relief was obtained, the doctors of Government Hospital, Satna advised to take him to Rewa, but he was admitted to the Health City Hospital, Jabalpur instead of Rewa, where doctors demanded lakhs of rupees for his operation. Due to lack of money, they admitted him to the Medical College, Jabalpur, where Shankar Lal died during treatment. During this period, he, Shankar Lal's wife and Ramchandra continuously remained present there. The postmortem of the deceased was conducted at Jabalpur. The inquest proceedings were conducted in his presence.

During cross-examination, PW-4 has stated that he had not seen the incidence occurring. He reached on the spot at 2 PM after hearing noises. He and Ramchandra had taken Shankar Lal to Manikpur Hospital. He had called Ramchandra through phone. They reached at Manikpur Primary Health Center at 2:40 PM on

14.03.2025. He had prepared signatures at Manikpur hospital. Doctors had referred injured to District Hospital where they reached at 7 PM and deceased remained admitted there for 2 – 2 ½ hours. PW-4 has further stated that when Shankar Lal was admitted at Satna, his slow voice was heard but thereafter his one side where he sustained axe blow had become senseless. The deceased died at Subhash Chandra Bose Medical College at 12 midnight on 17.03.2025. He had informed the death of deceased to Markundi police station by phone. Inquest and postmortem took place at Jabalpur.

60. Statements of PW-3 and PW-4 shows that although they were not present on the spot at the time when accused had attacked the deceased but after reaching on the spot, they saw Shankar Lal in injured condition. They also had stated that people present there had informed them that accused Ramprasad @ Parsadi had assaulted Shankar Lal. It is necessary to point out the statements of these witnesses where PW-3 states that he immediately went to the house of Ramprasad @ Parsadi. On seeing him, Ramprasad ran away holding a blood-stained axe in his hand. Similarly PW-4 has stated that he along with Chhavilal, went to the house of Ramprasad @ Parsadi. On seeing them, Ramprasad @ Parsadi ran away from there holding blood-stained axe in his hand. Their such statement shows that although they were not present on the spot when the deceased was assaulted but they reached on the spot just after the incidence and saw deceased in injured condition and they both were informed by the people present on the spot that it was accused Ramprasad @ Parsadi who had inflicted injury to Shankar Lal and had fled to his house. Thereafter, both of them reached in the house of accused Ramprasad @ Parsadi and seeing them, accused Ramprasad @ Parsadi fled away from the house with blood stained axe in his hand.

61. All these statements sufficiently shows that accused Ramprasad @ Parsadi first hit Shankar Lal in front of PW-1 and PW-2 and inflicted serious injuries to him and fled in his house and on

hues and cries, when PW-3 and PW-4 reached there they obtained information from the people present there that accused is hiding in his house after committing the incidence and when PW-3 and PW-4 reached inside the accused's house, accused Ramprasad @ Parsadi fled away from his house with the blood stained axe in his hands. All these fact witnesses have clearly deposed the guilt of the accused and there is nothing in the cross-examinations of these witnesses to controvert their such statements.

62. DW-1 produced in defence of accused before the court is Ramjaki, the mother of accused Ramprasad @ Parsadi, and she had although stated that she and her son were present inside their home and the accused had not committed any offence, but during her cross examination she had stated that he had not made complaints to higher authorities regarding false implication of accused.

63. It is important to point out here that the incidence had taken place near the house of accused in the day hours and witnesses are clearly deposing against the accused. The accused was arrested in the incidence and is in jail since the initial stages of trial and yet the family of accused had not made any representation/complaint before any higher authorities regarding false implication of accused makes the statement of defence witness unreliable.

64. Learned defence counsel had submitted that there are material contradictions in the statements of fact witnesses, however, learned defence counsel has not pointed out towards any major contradiction in the statements of the fact witnesses. The contradictions pointed out by the learned defence counsel are the natural and minor contradictions having no effect on the prosecution case.

65. In the case of '**Mukesh Vs State of NCT of Delhi & Others; AIR 2017 SC 2161 (Three-Judge Bench)**'; Hon'ble Apex Court has held that *'if there are no material discrepancies or contradictions in the testimony of a witness, his evidence cannot be disbelieved merely on the basis of some normal, natural or minor contradictions,*

inconsistencies, exaggerations, embellishments etc. The distinction between material discrepancies and normal discrepancies are that minor discrepancies do not corrode the credibility of a party's case but material discrepancies do so.'

66. Hon'ble Apex Court has also cautioned about attaching too much importance on minor discrepancies of the evidence of the witnesses in the case of **Bharwada Bhoginbhai Hirjibhai Vs. State of Gujrat; (1983) 3 SCC 217**; wherein it is held that-

"5. We do not consider it appropriate or permissible to enter upon a reappraisal or re-appreciation of the evidence in the context of the minor discrepancies painstakingly highlighted by the learned counsel for the appellant. Overmuch importance cannot be attached to minor discrepancies. The reasons are obvious:

- (1) By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.
- 2) Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.
- (3) The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind, whereas it might go unnoticed on the part of another.
- (4) By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape-recorder.
- (5) In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guess work on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.
- 6) Ordinarily a witness cannot be expected to recall accurately the sequence of events which takes place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up

when interrogated later on.

(7) A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross-examination made by the counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The subconscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him—perhaps it is a sort of a psychological defence mechanism activated on the spur of the moment.”

67. The prosecution witnesses of fact have clearly deposed against the accused and their evidences clearly proves the involvement of accused in the incidence and under such circumstances, the normal and minor discrepancies in the statements of the prosecution witnesses of facts are not going to harm the prosecution case in any manner.

68. The witnesses of fact had clearly deposed against the accused and had stated that it was the accused Ramprasad @ Parsadi who had attacked the deceased and inflicted fatal injuries to him which resulted into his death during his treatment just within couple of days.

69. It is next to be seen whether the recovery made and the medical evidences available on record supports the prosecution case or not.

70. Exhibit Ka-8 is the recovery memo of murder weapon “axe” on indication of accused Ramprasad @ Parsadi after his arrest. Perusal of this recovery memo shows that accused Ramprasad @ Parsadi was arrested by the police on 18.03.2025 and whereabouts of the murder weapon axe was enquired from him and on his indication, the murder weapon was recovered from bushes situated 100 meters away from the place of arrest of accused. The recovered axe contained blood upon it and the accused had informed that the axe was used in committing murder of the deceased. It is also mentioned in the recovery memo Exhibit Ka-8 that due to lonely place and night

hours, no independent witness could be found during recovery of the murder weapon.

71. PW-8, Insp. Shailendra Chandra Pandey, has stated that he along with police team, proceeded from the station on 18.03.2025 in search of the accused, who was arrested at about 22:40 hours. At the instance of the accused, the murder weapon an axe was recovered from bushes near Chirghati Chek Dam at about 23:20 hours. The recovered weapon was sealed at the spot and its recovery memo was prepared and statement of accused was recorded.

During cross-examination, PW-8 has stated that the murder weapon axe was recovered by him at the instance of accused from bushes situated near Chirghati Chek Dam. The place of recovery of murder weapon was situated at a distance of 3 km from the place of incidence and there was no population at the place of recovery. He alongwith S.I. Subhash Upadhyay, Constable Abhishek, Constable Suryakant and accused Ramprasad @ Parsadi were present at the time of recovery of murder weapon and none else was present there. The murder weapon was recovered on 18.03.2025 at about 23:20 hours. The accused was arrested on 18.03.2025 at 22:40 hours. He had made attempts to take two reputed persons with him at the time of recovery but due to late night none got ready to accompany them. Blood was found on the blade of the axe.

72. The recovery memo Exhibit ka-8 and the Statement of PW-8 shows that the murder weapon axe was recovered at the instance of the accused and the axe contained blood upon it. The accused had disclosed that the axe was used in committing murder of the deceased.

73. Learned defence counsel had contended that only police personals are the witnesses in the recovery and there is no independent witness of recovery and thus the recovery made is not reliable.

74. In the case of **Mukesh Vs. State for NCT of Delhi and Others, AIR 2017 SC 2161 (Three Judge Bench)**, Hon'ble Court

has been pleased to hold that if anything or weapons etc. are recovered at the instance of the accused, only in the presence of police party and there is no public witness to such recovery or recovery memo, the testimony of the police personnel proving the recovery and the recovery memo cannot be disbelieved merely because there was no witness to the recovery proceedings or recovery memo from the public particularly when no witness from public could be found by the police party despite their efforts at the time of recovery. Seizure memo need not be attested by any independent witness and the evidence of police officer regarding recovery at the instance of the accused should ordinarily be believed. The ground realities cannot be lost sight of that even in normal circumstances, members of public are very reluctant to accompany a police party which is going to arrest a criminal or is embarking upon search of some premises.

75. In the case **Pramod Kumar Vs. State (NCT of Delhi); AIR 2013, SC; 3344**, *Hon'ble Supreme Court has observed that testimony of police personal should be tested in the same manner as the testimonies of any other witnesses. There is no principle of law that without corroboration of independent witness, the testimony of police personal could not be ruled on."*

76. Thus, on the basis of above pronouncements of the Hon'ble Courts, the court is of the view that the testimony of the police personnel proving the recovery and the recovery memo cannot be disbelieved merely because there was no witness to the recovery proceedings or recovery memo from the public particularly when no witness from public could be found by the police party despite their efforts at the time of recovery. The recovery memo is duly signed even by the accused. There is no reason to disbelieve these police witnesses.

77. The recovered axe was sent to FSL for its forensic analysis and paper no. 22 Ka is the FSL report available on record perusal of which shows that human blood was found on the axe recovered at the instance of the accused.

78. From these evidences, it gets proved that an axe was recovered on the pointing of the accused and human blood was found by the FSL during forensic analysis of the recovered axe. Finding human blood on the axe recovered on the pointing of accused only adds to the credibility of the prosecution case.

79. Now, coming to the medical evidences available on record, PW-6 Dr. Ajay Kumar and PW-7 Dr. Mukesh Agrawal are examined before the Court as expert witnesses and they have conducted medical examination and postmortem examination of Shankar Lal respectively.

80. PW-6, Dr. Ajay Kumar, has stated that on 14.03.2025 at about 3:27 PM, injured Sankar Lal Prajapati, aged about 36 years, was brought to the Community Health Center, Manikpur for treatment. He had given primary treatment to the injured. As the wound and the condition was serious, after giving initial treatment, he referred injured to the District Hospital for X-ray and further treatment.

The injured had a wound measuring 7 x 1 cm on his left cheek extending up to the ear. The muscles were visible inside the wound and there was bleeding from it. Upon examination of the injury, he found that the margins of the wound were regular, which shows that the injury was caused by a hard and sharp-edged object.

The relatives who came with the injured informed that he had been attacked with an axe by Ramprasad @ Parsadi.

During cross-examination, PW-6 has stated that injured had one injury. He had advised for X-Ray to assess the nature of the injury. If anyone falls on sharp edged hard object, he may sustain such injury.

81. PW-7, Dr. Mukesh Agarwal, has stated that on 17.03.2025, he was on duty in the mortuary of the Medical Hospital, Jabalpur. On the same day, the dead body of the deceased, Shankar Lal Prajapati, was received in the mortuary after inquest report. He conducted the postmortem of the deceased. During the postmortem, it was found that the death of the deceased Shankar Lal was caused due to injuries inflicted on the head and face by a heavy sharp-

edged weapon. The injuries were antemortem. The time between death and postmortem examination was within 24 hours.

Injury No.-1: Swelling on the left cheek.

Injury No.-2: A stitched wound of about 4 inches in length on the left cheek.

Injury No.-3: On opening the stitches of Injury No. 2, a chop wound was found, which had cut the lower jaw bone on the left side and severed blood vessels. The injury was reddish-brown in color, and clotted blood was present at the site.

During cross-examination, PW-7 has stated that total 3 injuries were found on the dead body of deceased. Injury no. 2 and 3 were the same injury. There was swelling in the brain of the injured which was the result of injury. Injury no.-1 was the result of injury no. 2 and 3. Injury no.-2 was not the result of any operation. It was the chopped wound which was possible to have been inflicted through sharp edged heavy object. It may not be sustained due to falling.

82. Statements of these two expert witnesses shows that both of them had stated that the injury sustained by the deceased was a sharp edged injury. PW-6 has deposed that the injured had sustained a wound measuring 7 x 1 cm on his left cheek extending up to the ear. The muscles were visible inside the wound and there was bleeding from it. The margins of the wound were regular, which shows that the injury was caused by a hard and sharp-edged object. Similarly PW-7 has stated that during the postmortem, it was found that the death of the deceased Shankar Lal was caused due to injuries inflicted on the head and face by a heavy sharp-edged weapon. PW-7 has further stated that injury of deceased was the chopped wound which was possible to have been inflicted through sharp edged heavy object. It may not be sustained due to falling. Such statements of these expert witnesses clearly corroborates the statements of the fact witnesses where the fact witnesses have stated that accused Ramprasad @ Parsadi had inflicted injury to the deceased by hitting axe blow to him.

83. Even the nature of injury is as such which shows that the inflicted injury may be possible to get inflicted through the recovered object 'axe' and potentially cause death to the deceased and thus the recovery made fully corroborates the medical evidence available on record.

84. In this way, the medical evidences and the recovery made fully corroborates the statements of the fact witnesses and subsequently corroborates the prosecution case.

85. From the above discussions, it gets proved that accused Ramprasad @ Parsadi first hit Shankar Lal by axe and inflicted serious injuries to him. The eyewitnesses PW-1 and PW-2, the wife and minor son of deceased respectively, had seen the accused hitting Shankar Lal with axe and inflicting serious injuries to the Shankar Lal. The accused, after inflicting injuries to Shankar Lal had hidden in his house and on hues and cries, when PW-3 and PW-4 reached there they obtained information from the people present there that accused is hiding in his house after committing the incidence and when PW-3 and PW-4 reached inside the accused's house, accused Ramprasad @ Parsadi fled away from his house with the blood stained axe in his hands. The accused was subsequently arrested and the murder weapon axe was recovered on his instance. Human blood was found on the axe by the FSL during its forensic analysis. Sharp edged weapon injury was found during medical and postmortem examination of the deceased. The medical evidences available on record and the recovery made fully corroborates the statements of the fact witnesses and subsequently corroborates the prosecution case. Thus, it gets fully proved that the offence was committed by the accused and none else. **Point no.-2 is thus decided accordingly.**

Point No.-3.

86. Under this point, it is to be analyzed as to whether the offence under section 103(1) & 352 BNS is made out against the accused?

87. It has been proved above that accused had launched attack

on the deceased Shankar Lal and had hit axe blow on the left cheek of the deceased and the injury extended upto the ear of the deceased from his left cheek. The injury was such severe that the muscles were visible inside the wound. The witnesses have deposed that the injured was not able to speak and had fainted after the axe blow. Shankar Lal was hit by the accused on 14.03.2025 at about 14:30 Hours and Shankar Lal succumbed to his injuries during the course of this treatment on 17.03.2025 at 12:00 midnight i.e. just within couple of days. A fatal blow on the vital part of the body and that too by deadly weapon axe and used with such force which proved to be fatal to the deceased, is sufficient to hold that it is a case of murder within the definition of section 101 of the BNS.

88. In the case **Prasad Pradhan and Another Vs. State of Chhattisgarh; 2023 INSC 79**, the Hon'ble Apex Court ruled that the liability of murder, accused will not be diminished merely because the death of the victim occurred after a considerable lapse of time from when he suffered injuries due to the acts of accused.

89. There can be no stereotypical assumption or formula to conclude that it is a case of culpable homicide not amounting to murder only because the death occurred after a lapse of some time after sustaining injuries. The nature of injury inflicted to the deceased was fatal in nature, the selection of weapon and the face opted to strike the deceased clearly shows the intention of the accused that he was intending to kill the deceased. The force applied by the accused while hitting the face of the deceased was such harsh that it had slit the muscles of the face and the nerves beneath it and the injured became unable to speak right after the axe blow and fell unconscious. PW-4 has stated that even one side of the injured where the axe was hit had become senseless. The injury was such fatal that the family of the injured Shankar Lal took him to as many as half a dozen hospitals but were not able to save him and his condition became bad to worse and ultimately the injured lost his life and succumbed to his injuries.

90. Thus, from the above discussions, it gets fully proved that

offence under section 103(1) BNS is fully made out against the accused.

91. Similarly, there are specific and uncontroverted evidences available on record that accused had hurled filthy abuses to the deceased and his son causing intentional insult with intent to provoke breach of the peace prior to hitting the deceased and when deceased stopped him from abusing them, the accused subsequently committed murder of the deceased by hitting him with axe. Thus, offence under Section 352 BNS is also made out against the accused. **Point No.-3 is thus proved accordingly.**

92. Thus, under totality, it gets fully proved that the accused Ramprasad @ Parsadi had abused and inflicted grievous injuries to the deceased Shankar Lal Prajapati by hitting him by axe. PW-1 and PW-2 are the eyewitnesses of the incidence and they deposed that they have witnessed the whole incidence and had effectively deposed the whole incidence before the Court. PW-3 and PW-4 reached inside the house of accused after the incidence and seeing them the accused fled away from the house with the blood stained axe. PW-3 and PW-4 had deposed this conduct of the accused before the court. There is nothing in the cross-examinations of the fact witnesses to controvert the prosecution case. The accused was arrested by the police and murder weapon axe was recovered on his instance. It was reported by the FSL that human blood was found on the axe during its forensic analysis. The nature of the injury inflicted to the deceased are as such which may be inflicted with the axe recovered at the instance of the accused.

93. These evidence clearly proves that it was none but the accused Ramprasad @ Parsadi who had inflicted injuries and resulted in death of the deceased. The weapon used, region opted for hitting, force applied during the attack clearly proved the intention of the accused that he actually was intending and had decided to kill the deceased. The deceased was taken to as many as half a dozen hospitals for treatment but his condition worsened and ultimately the deceased succumbed to his injury in hospital during his treatment.

Prior the attacking the deceased, the accused had hurled filthy abuses to the deceased and his son causing intentional insult with intent to provoke breach of the peace. All these clearly proves offence under Section 103(1), 352 BNS against the accused.

94. In this way, the charge under Sections 103(1), 352 BNS gets fully proved against accused Ramprasad @ Parsadi beyond all reasonable doubts. There are sufficient evidences available on record to show that the accused Ramprasad @ Parsadi had killed the deceased Shankar Lal while inflicting fatal injury to him on the fateful day. Thus, accused Ramprasad @ Parsadi deserves to be convicted under Sections 103(1), 352 of the BNS.

ORDER

Accused Ramprasad @ Parsadi is held guilty in Sessions Case No. 319 of 2025 State of U.P. Vs. Ramprasad @ Parsadi, Crime No. 15 of 2025, Police Station Markundi, for the offence under Sections 103(1), 352 of the BNS and is hereby convicted.

The accused is in jail. He shall be produced before the Court in custody on 02.04.2026 for hearing on the quantum of sentence.

Dated: 01.04.2026

(Shesh Mani)
Sessions Judge
Chitrakoot
J.O. Code- UP 5751

02.04.2026:

Case called out.

Convict **Ramprasad @ Parsadi** is present in custody with his learned counsel. Learned D.G.C. Criminal is also present for the State. Heard learned counsels of both parties on the quantum of sentence.

Learned counsel for the convict submits that convict is a poor villager and has responsibility of his family and thus a lenient view should be taken while awarding sentence against the convict.

Per Contra, learned D.G.C. Criminal submits that convict had reacted intensely upon a smaller issue of abuse by a child and had committed murder of deceased Shankar Lal Prajapati while abusing deceased and his child and thus he is not liable for any leniency.

Considered the facts and circumstances of the case and also being agreed that our criminal justice delivery system is reformatory and not punitive, I am of the considered view that in the present matter, if convict Ramprasad @ Parsadi, who has been found guilty in present Sessions Case Number 319 of 2025 State of Uttar Pradesh Vs. Ramprasad @ Parsadi, Crime Number 15/2025 Police Station Markundi District Chitrakoot (U.P.), under Sections 103(1), 352 BNS, is sentenced with imprisonment for life and a fine of Rs. 10,000/- (Rs. Ten Thousand Only) for offence under Section 103(1) BNS, rigorous imprisonment for 6 months and a fine of Rs. 1000/- (Rs. One Thousand Only) for offence under Section 352 of the BNS, the purpose of justice would be served.

ORDER

Convict **Ramprasad @ Parsadi**, in Section **103(1) BNS**, is sentenced with **imprisonment for life and a fine of Rs. 10,000/- (Rs. Ten Thousand Only)** and in case of **default of the said fine**, he shall undergo **simple imprisonment of one month**.

In **Section 352 of the BNS**, the convict is sentenced with **rigorous imprisonment for 06 months and a fine of Rs. 1,000/- (Rs. One Thousand Only)** and in case of **default of the said fine**,

he shall undergo **simple imprisonment of 15 days.**

All the sentences shall run concurrently, and the period already spent in prison earlier shall be adjusted as per Section 468 of BNSS (old Section 428 Cr.P.C.) from the term of imprisonment imposed upon him.

Out of the total fine amount, on being deposited, Rs. 6,000/- (Six Thousand Only) shall be paid as compensation to PW-1, the wife of the deceased in the case. The said amount shall not be paid till the period of appeal and in case appeal is preferred, the said amount shall be paid subject to the order of the Hon'ble Court in appeal.

Conviction warrant of the convict **Ramprasad @ Parsadi** be prepared and he be sent to jail forthwith for serving out the sentence awarded to him.

The material exhibits, shall be disposed of according to Rules after expiry of the period of appeal or in case any appeal is filed, it shall be disposed of as per direction of the Appellate Court.

Free copy of this Judgment be provided to the convict **Ramprasad @ Parsadi** forthwith as per rules.

Dated: 02.04.2026

(Shesh Mani)
Sessions Judge
Chitrakoot
J.O. Code- UP 5751

Judgment signed, dated and pronounced today by me in open Court.

Dated: 02.04.2026

(Shesh Mani)
Sessions Judge
Chitrakoot
J.O. Code- UP 5751