



2026:CGHC:17780-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 188 of 2024

1 - Badri Yadav S/o Kausal Yadav Aged About 30 Years R/o Village Bachedi,
Police Chowki Devkar, P.S. - Saja, District - Bemetara, Chhattisgarh.

... Appellant

Versus

1 - State of Chhattisgarh Through - P.S. - Saja, District - Bemetara,
Chhattisgarh.

... Respondent(s)

For Appellant	:	Shri Navneet Kumar Yadav, Advocate.
For Respondent	:	Shri Nitansh Jaiswal, Dy. Govt. Advocate.

Hon'ble Shri Justice Ramesh Sinha, CJ

Hon'ble Shri Justice Ravindra Kumar Agrawal, J

Judgment on Board

20.04.2026

Per, Ravindra Kumar Agrawal, J.

- 1 Though the matter was listed for consideration on application for suspension of sentence and grant of bail, however, with the consent of parties, the matter has been heard finally.
- 2 The present appeal under Section 374 (2) CrPC has been filed by the appellant against the impugned judgment of conviction and order of sentence dated 17.08.2023 passed by First Additional Sessions Judge, Bemetara, in Sessions Trial No.18/2023 whereby the appellant has

been convicted for the offence under Section 302 IPC (on two counts) and sentenced to undergo Rigorous Imprisonment for life with fine of Rs.2000/- (in two counts), upon failure to pay which, additional RI for two months (in two counts).

- 3 Brief facts of the case are that, on 24.03.2023 the complainant Mohan Yadav, PW-1, gave a merg intimation to the police that his son Ajay informed him that appellant is assaulting deceased Vinod Yadav by Danda near the house of Panchu Nishad at Dehri road. When the went on the spot, he found the deceased Vinod Yadav lying unconscious near the house of Panchu Nishad and also found another deceased Suresh Dhurve having injury on his head who was being taken to hospital where he was declared dead. With respect to injured Suresh Dhurve, merg intimation Ex.P/1 and with respect to injured Vinod Yadav, merg intimation Ex.P/2 was recorded by the police. Inquest of dead body of deceased Suresh Dhurve Ex.P/5 and inquest of dead body of deceased Vinod Yadav Ex.P/6 were prepared in presence of witnesses and both the dead bodies were sent for postmortem to Community Heath Centre, Saja, where PW-25, Dr. Vinay Kumar Patil conducted postmortem of the dead bodies and gave his report Ex.P/27 with respect to deceased Vinod Yadav and Ex.P/28 with respect to Suresh Dhurve. While conducting postmortem of the dead bodies of the deceased, he noticed multiple lacerated and stab injuries on the bodies of both the deceased persons including fracture of skull bone and opined that cause of death is hemorrhagic shock as a result of head injury, manner of death is unnatural (manner of causation of injury is consistent with those injuries observed in homicidal cases. With

respect to nature, mode and cause of death of both the deceased persons, the doctor opined the similar findings on the basis of the postmortem finding. FIR Ex.P/7 was registered against the appellant for the offence under Section 302 IPC. Spot map Ex.P/8 was prepared by the police and P/9 by the Patwari. One motorcycle of deceased Vinod Yadav, motorcycle of deceased Suresh Dhurve, motorcycle of appellant Badri Yadav, three pairs of Chappal, one keypad mobile phone of deceased Suresh Dhurve, one touch screen mobile phone of deceased Vinod Yadav, mirror of motorcycle and one pointed iron pipe were seized from spot vide seizure memo Ex.P/11. The registration certificate of motorcycle of deceased Suresh was also seized vide Ex.P/10. Bloodstained and plain soil was seized from the place where dead bodies of deceased were lying vide seizure memo Ex.P/12. The chappals were identified by the witnesses to be of deceased persons Vinod Yadav and Suresh Dhurve and one pair of Chappal of Panchu Nishad and identification Panchnama Ex.P/14 was prepared. Numbered FIR Ex.P/23, P/24 and P/25 were registered. The appellant was arrested on 25.03.2023 and his memorandum statement Ex.P/19 was recorded. Based on his memorandum statement, one bloodstained Danda was seized vide Ex.P/20. Bloodstained shirt and jeans pant of the appellant was seized vide Ex.P/21. The iron pipe was seized from the spot, Danda seized from appellant were sent for its query report to doctor who gave his query report Ex.P/29 and opined that injuries found on the dead body of deceased persons could have been caused by the said weapons. He referred the said weapon for its chemical examination. The seized articles were sent for its chemical

examination to FSL Raipur. The shirt and jeans pant of appellant was also sent for its query report and by its query report Ex.P/30 it was also referred for its chemical examination. CDR and CAF of the mobile phones seized from spot were obtained by the police from its service provider company along with certificate under Section 65-B of the Evidence Act which are Ex.P/43 & 44.

- 4 Statement of witnesses under Section 161 CrPC and statement of witness Shankar Dhurve under Section 164 CrPC were recorded and after completion of usual investigation, charge sheet was filed against the appellant for the offence under Section 302 IPC before the Judicial Magistrate First Class Saja. The case was committed to the Court of Sessions Judge Bemetara from where it was transferred to the trial Court for its trial.
- 5 The trial Court framed charge against the appellant for the offence under Section 302 IPC on two counts for commission of murder of deceased Vinod Yadav and Suresh Dhurve. The appellant abjured his guilt and claimed trial.
- 6 In order to establish charge against the appellant, the prosecution has examined as many as 29 witnesses. Statement under Section 313 CrPC of the appellant has also been recorded in which he denied the circumstances appears against him, pleaded innocence and have submitted that he is innocent and falsely implicated in the offence.
- 7 After appreciation of oral as well as documentary evidence led by the prosecution, the trial Court has convicted the appellant and sentenced him as mentioned in the opening para of this judgment. Hence this appeal.

- 8** Learned counsel for the appellant would submit that the prosecution has failed to prove its case beyond reasonable doubt. There are material inconsistencies in the evidence of witnesses which cannot be made basis to convict him for the alleged offence. The witnesses are not consistent in a particular point of assault made by the appellant to the deceased persons. There is no motive to commit murder of the deceased persons. The witnesses are interested witnesses as they are closely related with the deceased persons. The memorandum and seizure of articles from the appellant is also not proved and thus the same cannot be connected the appellant with the offence in question particularly in absence of any FSL report. There is every possibility that deceased persons received injuries on their body by a road accident as their bodies were found beside the road and their motorcycles were also seized from the spot. The time of incident is about 8:30 in the night and it was a dark night, yet witnessing the incident by the witnesses who are closely related with the deceased persons, is suspicious and therefore the appellant is entitled atleast for benefit of doubt and he may be acquitted from the alleged offence by setting aside the impugned judgment.
- 9** On the other hand, the counsel for the State opposes the submissions made by the counsel for the appellant and have submitted that there is ample evidence against the appellant to convict him for the alleged offence, but for minor omissions or contradictions, the evidence of prosecution witnesses are fully reliable and sufficient to hold him guilty for the offence in question. The incident is witnessed by PW-3, Santosh Yadav, PW-11, Dhanush Sinha, PW-13, Panchu Nishand and PW-14

Shankar Dhurve who are consistent in saying that appellant caused injuries to the deceased persons by a pointed iron pipe and Lathi. He would also submit that in the FSL report, human blood was found on the sent articles for which the appellant has not offered any explanation in his 313 CrPC statement. There are other witnesses before whom the appellant made extra judicial confession. The appellant has brutally assaulted the deceased persons causing their death and therefore there are sufficient evidence on record to convict him for commission of murder of deceased persons. Therefore, there is no merit in the appeal and the same is liable to be dismissed.

- 10** We have heard the counsel for the parties and perused the records trial court.
- 11** The homicidal death of deceased persons are not in dispute. The homicidal death has been proved by the prosecution from the evidence of Mohan Yadav, PW-1, who gave the merg intimation Ex.P/1&P/2. Further, from the evidence of PW-6 Kuleshwar Dhurve, PW-2 ManoharYadav, PW-10 Ajay Dhurve who are witnesses to the inquest and seen multiple injuries on the dead bodies of deceased persons, have duly proved the injuries on their body and deceased died due to said injuries. Further, from the evidence of doctor PW-25, Vinay Kumar Patil who conducted the postmortem of the dead bodies of the deceased, the homicidal death of the deceased persons have been proved. He has stated in his evidence that on 25.03.2023 he conducted postmortem of the dead body of deceased Vinod Yadav and found following injuries on his body-

- lacerated wound over parietal bone of skull

- lacerated wound over left ear
- eyes were blackish and swelling both left upper and lower eyelid conjunctival hemorrhagic present on both eyes, peri orbital hemorrhage in both eyes.
- Fracture of maxilla, zygomatic and mandible and nasal bone.
- Commuted fracture of frontal and parietal bone of skull.
- Fracture of lower incisor and canine teeth. Contusion of gum, lacerated wound over gum.
- Stab wound over left side of maxilla circular in shape.
- Stab wound over left mandible area of face, circular in shape and stab wound over left frontal bone circular in shape.

The doctor opined that cause of death is hemorrhagic shock as a result of head injury, the manner of death is unnatural (manner of causation of injury is consistent with those injuries observed in homicidal cases and gave his report Ex.P/27.

12 While conducting postmortem of dead body of deceased Suresh Dhurve, the doctor found following injuries on his body:

- multiple contusion present on left side of head
- lacerated wound extended over left frontal area of skull to left orbit of eye.
- Mutilated of both eyes, fracture of both eye orbit.
- Fracture of upper incisor and canine teeth, contusion of gum.
- Fracture of maxilla zygomatic, mandible and nasal bone.
- Lacerated wound over upper lip.
- Over left maxilla area of face stab wound circular in shape.
- Stab wound over left maxilla area of face, circular in shape.

- Lacerated wound over chin.
- Fracture of frontal parietal bone of skull.

The doctor opined that cause of death is hemorrhagic shock as a result of head injury, the manner of death is unnatural (manner of causation of injury is consistent with those injuries observed in homicidal cases and gave his report Ex.P/28.

- 13** The doctor also proved the query report Ex.P/29 and P/30. Not a single question was put by the defence in his cross examination so that his evidence could be disbelieved or the homicidal death of the deceased persons can be challenged. Thus, homicidal death of both the deceased persons are not in dispute and proved by the prosecution.
- 14** So far as involvement of appellant in the offence in question is concerned, the case of prosecution is based on the evidence of eyewitness PW-3, PW-11, PW-13 and PW-14.
- 15** PW-3, Santosh Yadav, is the brother of deceased Vinod Yadav. He stated in his evidence that when he was returning back to his house after selling milk, on the way, he was informed by the vehicle driver not to go ahead because Badri Yadav is assaulting two persons by Danda. When he went on spot, he saw that accused Badri Yadav was assaulting his brother Vinod Yadav and one Suresh Dhurve by Danda and pointed iron pipe. He tried to intervene, but appellant continued assaulting. With the help of Milk container he intervened and then the appellant went beside the road and told that he killed his brother. He saw his brother Vinod who received injuries on his head and face and blood was oozing. His statement under Section 164 CrPC was recorded before the Magistrate at Saja. In informed the incident to his

nephew Ajay Yadav and thereafter his nephew and other villagers came on spot and took the injured persons to the Hospital. He saw the incident in street light. In his cross examination, he firmly denied the suggestion that he has not seen the incident assaulting the appellant to the deceased persons. He further states that he tried to intervene in the assault, but the appellant continued his act of assault. Nothing substantive could be extracted from the evidence of this witness to disbelieve his evidence. Being eyewitness to the incident, he firmly stated about the assault made by the accused to the deceased persons.

- 16** PW-11, Dhanush Sinha, is another eyewitness. He stated in his evidence that about 8 PM when he was returning from Temple and reached near the house of Panchu Nishad, he saw two injured persons lying and appellant Badri Yadav was standing there having Danda in his hand. He identified one of them as Vinod Yadav and due to injuries he could not identify another. When he inquired from appellant about the incident, he admits that he assaulted both of them and he (appellant) advised him to go away. He informed the incident to his uncle Govind that appellant is assaulting Vinod Yadav and another person near the house of Panchu Nishad. He witnessed the incident of assault made by the appellant to deceased persons. In cross examination, the defence could not extract any material to challenge the statement made by him in his examination in chief. Rather, suggestion was given to him that assault was made by his uncle whereas his uncle Govind was nowhere in picture throughout the investigation.

17 PW-13, Panchu Nishad is another eyewitness. The incident was occurred near the house of this witness. He has stated that at about 8 PM when he was about to sleep, he heard the noise of quarrel. He saw the incident from window that appellant Badri Yadav was assaulting deceased Suresh Dhurve by Danda having pointed iron covering. He was assaulting him on his head. At the same time the deceased Vinod Yadav came there and the appellant also assaulted Vinod Yadav on his head. There was sufficient street light and the place was visible. Due to fear he could not came out from his house, however, he tried to stop the appellant not to assault the deceased persons from the door of his house, but the appellant continued with his act of assault. Subsequently, he came to know that both the deceased persons are died.

In his cross examination, the defence has cross examined that he has not seen the incident from his window and tried to bring discrepancies that whether this witness has seen the incident from window or not, however, that itself would not be sufficient to discredit his evidence. The incident is occurred just in front of his his house and he saw the incident of assaulting deceased persons by the appellant. His presence on the spot is quite natural and his conduct was not abnormal.

18 Another eyewitness PW-14, Shankar Dhurve, have stated that on the date of incident when he was in his farm house, the appellant was roaming. The appellant was having as Danda and hurling threat that “Mar Dunga” “Mar Dunga”. Due to fear he went inside his farm house along with children and after sometime when he came out from his

farm house, he saw both the deceased persons lying injured condition and appellant was having Danda in his hand. When the appellant assaulted the deceased persons, he could intervene, but he saw the incident. In his cross examination, he remain firm in saying that when he came out from his farm house, the appellant was having Danda in his hand and both the deceased persons were lying in injured condition. Since the appellant was hurling threat that he will kill the person who intervenes, due to fear he could not intervene.

19 The other piece of evidence produced by the prosecution is the evidence of PW-5, Sandhya Yadav, the daughter of deceased Vinod Yadav. She has stated in her evidence that when her elder father came to her house and asked about her father, she disclosed that her father is not returned till now. When her sister Hema Yadav made a telephonic call to her father Vinod Yadav, the appellant received the mobile call and told that he killed her father and asked her to took his dead body. Thereafter, she along with other persons of vicinity went on the spot and found the dead body of her father. The appellant was also present there who confessed that he killed her father and when he chased her, she ran away from the spot. The suggestion was also given to her that it was Govind who assaulted the deceased persons, but she vehemently denied and stated that Govind Sinha was in her house and he could not commit any offence with the deceased.

20 PW-8, Hema Yadav, is another daughter of the deceased Vinod Yadav. She too have corroborated the evidence of her sister PW-5, Sandhya Yadav, and made almost similar statement as made by PW-5 that she had a telephonic call with the appellant at the same time and the

appellant informed her that he killed her father. She identify the voice of appellant as he is the resident of same vicinity and duly acquainted with him. The evidence of these two witnesses have been considered by the trial court as *res-gestae* as provided under Section 6&8 of The Indian Evidence Act, 1872.

- 21** The recovery of Danda from the appellant based on his memorandum statement has been proved by its witnesses PW-18, Jethu Thakur and PW-23, Pramod Yadav, who duly supported the memorandum statement of appellant and recovery based thereon. On the instance of the appellant, bloodstained Danda was seized from the shrubs of Surahi River. They have also proved memorandum Ex.P/19 and seizure Ex.P/20. The bloodstained shirt and jeans pant of appellant has also been seized vide seizure memo Ex.P/21 which has also been proved by the witnesses of memorandum and seizure. Their evidence was duly supported by the evidence of investigating officer Tulsi Ram Kosima, PW-28. Nothing could be extracted by the defence from their cross examination to discredit their evidences.
- 22** The prosecution has also proved CDR Ex.P/43 and certificate issued under Section 65-B of the Evidence Act, Ex.P/44 in support of the evidence that the appellant has disclosed before Hema Yadav PW-8 that he committed murder of her father. As per the CDR Ex.P/43, it transpires that from the mobile SIM No.7470846626, the first call was made at 08:50 AM to mobile SIM No.9993422704 and the last call on the day was made on 20:23 hours and 20:26 hours. The said timing of 20:23 and 20:26 hours are the relevant time when PW-8 Hema Yadav had a conversation with the appellant and he informed that he

committed murder of her father. The voice of appellant was duly identified by Hema Yadav which she stated in her evidence that since the appellant is of same vicinity, she could identify his voice. The trial court found the said CDR Ex.P/43 corroborative with the allegation against the appellant in view of the other evidences available on record. The said CDR and certificate Ex.P/44 have also been proved by PW-29, Lokesh Singh, who is Head Constable posted at Cyber Cell Bemetara.

- 23** The next corroborative evidence in the present case is the FSL report. Along with memo dated 23.05.2023 Ex.P/33, the bloodstained and plain soil of the place where the dead bodies were found, shirt and jeans pant of appellant, pointed iron pipe, bloodstained Danda and clothes of deceased persons were sent for its chemical examination to FSL Raipur, from where the FSL report dated 19.06.2023 was received. Though the FSL report could not be exhibited during trial of the case, however, it is available in the record of trial court and the trial court has also considered the FSL in paragraph 29 of its judgment. Keeping in view the provisions of Section 293 of CrPC the trial court has considered and discussed it in its judgment and found that in the jeans pant of appellant and iron pipe seized from spot, Danda seized from the appellant as also in the clothes of deceased Vinod Yadav and Suresh Dhurve, human blood was found, which is also a connecting evidence against the appellant to implicate him in the offence in question.
- 24** From all these evidences, this court is of the opinion that the prosecution has proved its case beyond reasonable doubt against the

appellant for causing murder of deceased persons Vinod Yadav and Suresh Dhurve and the trial court after proper appreciation of evidence convicted the appellant and sentenced him for the alleged offence, in which we do not find any perversity or illegality.

- 25** In the result, the appeal fails and is hereby **dismissed**. The appellant is reported to be in jail. He shall undergo the entire sentence as awarded by the trial court.
- 26** Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.
- 27** The records of the case along with a copy of this judgment be sent back immediately to the trial court concerned for compliance and necessary action.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice