



2026:CGHC:12836-DB

| The date when the judgment is reserved | The date when the judgment is pronounced | The date when the judgment is uploaded on the website |            |
|----------------------------------------|------------------------------------------|-------------------------------------------------------|------------|
|                                        |                                          | Operative                                             | Full       |
| 06-02-2026                             | 18-03-2026                               | -                                                     | 18-03-2026 |

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

Judgment reserved on : 06-02-2026

Judgment delivered on : 18-03-2026

**CRA No. 7 of 2014**

1. Hasin S/o Shri Lakhan Lal, aged about 23 years,
2. Ajay S/o Subechand, aged about 21 years,
3. Mohit S/o Shri Chaindas, aged about 22 years,

All are R/o Village Munarbod, Thana-Bemetara, Revenue/Civil District Bemetara (CG)

4. Ranjeet Koshale S/o Shri Sukhchain Koshale, aged about 23 years, R/o Village-Rebeli, Thana-Nandghat, Distt. Bemetara (CG) {Died and deleted as per Hon'ble Court order dated 22.1.2026}

**... Appellants**

**versus**

State Of Chhattisgarh Through Police Station – Bemetara, Distt. Bemetara (CG)

**... Respondent**



---

For Appellants : Mr. Samir Singh, Advocate.  
For Respondent/State : Mr. Krishna Gopal Yadav, Dy. Govt. Advocate.

---

**Hon'ble Smt. Justice Rajani Dubey**  
**Hon'ble Shri Justice Radhakishan Agrawal, JJ**

**CAV Judgment**

**Per Rajani Dubey, J**

Challenge in this appeal is to the legality and validity of the judgment of conviction and order of sentence dated 24.12.2013 passed by the Additional Sessions Judge, Bemetara Distt. Durg in ST No.27/2009, whereby the appellants stand convicted and sentenced as under:

| <b>Conviction</b>                                   | <b>Sentence</b>                                                                                       |
|-----------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| Under Section 304 Part II/149 of Indian Penal Code. | RI for 07 years, pay a fine of Rs.1000/- and in default thereof to suffer additional RI for 01 month. |
| Under Section 147 of Indian Penal Code.             | RI for 03 months.                                                                                     |
| Under Section 148 of Indian Penal Code.             | RI for 06 months.                                                                                     |
| Under Section 323/149 of Indian Penal Code.         | RI for 03 months.                                                                                     |
| Under Section 325/149 of Indian Penal Code.         | RI for 01 year, pay a fine of Rs.100/- and in default thereof to suffer additional RI for 15 days.    |

All the sentences were directed to run concurrently.



02. Case of the prosecution, in brief, is that on 11.3.2009 at 15:00 hours, when Ghanshyam was standing near Dheeraji Grocery Shop at Village Munarbod, the accused persons came there armed with club and axe, and in furtherance of their common object, started filthily abusing, threatening of life and assaulting David Kumar, Dinesh, Ghanshyam Pal, Leeluram, Neelkanth @ Shyam, Teekaram, Kheenuram & Sahinabai and caused them grievous injuries. As a result of injuries suffered by Ghanshyam, he died on 23.3.2009 at Medical College Hospital Raipur during treatment. On the complaint of David Kumar, the police registered offence under Sections 147, 148, 294, 506B, 323/149, 326/149, 302/149 of IPC against the accused persons. The injured were got medically examined and the dead body was sent for postmortem after conducting inquest proceedings. Plain and bloodstained soil were seized from the place of occurrence and statements of the witnesses were recorded. After completing necessary formalities of investigation, charge sheet was filed against the accused persons before the concerned jurisdictional Magistrate.

03. Learned trial Court framed charges under Sections 147, 148, 294, 323/149, 324/149, 325/149, 326/149 & 302/149 of IPC against the accused persons which were abjured by them and they prayed for trial. In order to substantiate its case the prosecution examined 22 witnesses. Statements of the accused were recorded under Section 313 of CrPC wherein they denied all the incriminating circumstances



appearing against them in the prosecution case, pleaded innocence and false implication.

04. After hearing counsel for the respective parties and appreciation of oral and documentary evidence on record, the learned trial Court while acquitting the accused persons of the charges under Sections 302/149, 324/149, 326/149, 294/149 of IPC, convicted them under Sections 304 Part II/149, 147, 148, 323/149 & 325/149 of IPC and sentenced them as mentioned in the opening paragraph of this judgment. Hence this appeal.

05. During pendency of this appeal, appellant No.4 Ranjeet Koshale died on 12.7.2017 and hence as per order dated 22.1.2026, the instant in respect of appellant No.4 stood abated and dismissed as such.

06. Learned counsel for the appellants would submit that the impugned judgment of conviction and order of sentence is contrary to the evidence on record. There are major contradictions, omission and improvements in the statements of the prosecution witnesses. The prosecution has failed to attribute any motive to the accused/appellants for commission of the alleged offence. Thus the prosecution has failed to prove its case against the appellants beyond all reasonable doubt and therefore, they deserve to be acquitted of all the charges by giving them benefit of doubt.



07. On the other hand, learned counsel appearing for the respondent/State opposing the aforesaid contention of the appellants would submit that the learned trial Court after proper appreciation of oral and documentary evidence has rightly convicted and sentenced the appellants by the impugned judgment which calls for no interference by this Court. The instant appeal filed by the appellants being devoid of any substance is liable to be dismissed.

08. Heard learned counsel for the parties and perused the material available on record.

09. As regards homicidal death of deceased Ghanshyam Pal, PW-11 David lodged a report (Ex.P/22) categorically stated therein that on 11.3.2009 at 15:00 hours when Ghanshyam was standing near Dheeraji Grocery Shop at Village Munarbod, the accused persons came there armed with club and axe, and in furtherance of their common object, started filthily abusing, threatening of life and assaulting David Kumar, Dinesh, Ghanshyam Pal, Leeluram, Neelkanth @ Shyam, Teekaram, Kheenuram & Sahinabai and caused them grievous injuries. This witness further states that at the instance of police, they took Ghanshyam and other injured to Govt. Hospital, Bemetara and looking to their serious condition, they were referred to Medical College Hospital Raipur where Ghanshyam died during treatment on 13.3.2009.



10. PW-11 David and PW-3 Hariram have proved the inquest proceedings also. PW-8 Neelkanth, PW-9 Leeluram, PW-10 Dineshpal, PW-12 Kheenuram and PW-13 Teekaram Pal have also stated that Ghanshaym suffered injuries during fight, he was initially taken to Govt. Hospital, Bemetara and then referred to Raipur where during treatment he died.

11. PW-1 Dr. AM Shrivastava states that on 11.3.2009 he medically examined injured Ghanshyam Pal and noticed a lacerated wound of size  $2\frac{1}{2} \times 2\frac{1}{2} \times 2\frac{1}{2}$  inch over his occipital region and opined that it could be caused by hard and blunt object. He advised for x-ray of the injury vide Ex.P/2.

12. PW-16 Dr. RK Singh conducted postmortem of the deceased on 13.3.2009 and noticed three surgical stitched wounds over head, contusion over right forearm and near right eye as also depressed fracture of frontal bone. In his opinion, death was due to cardio-respiratory failure as a result of head injury and its complications. His report is Ex.P/38. He denied the suggestion that all these injuries could be caused due to fall on ground.

13. In view of the aforesaid uncontroverted oral, documentary and medical evidence, it can safely be inferred that deceased Ghanshyam Pal died due to the injuries suffered by him in the above incident and as such, his death was homicidal in nature. Being so, the finding of



learned trial Court holding the death of Ghanshyam homicidal in nature cannot be faulted with.

14. PW-3 Hariram, PW-8 Neelkanth, PW-9 Leeluram, PW-10 Dinesh Pal, PW-11 David and PW-12 Kheenuram have categorically stated that on the day of Holi at around 3 pm, the accused/appellants armed with club, stick and crowbar came together with other co-accused and started assaulting them as a result of which they suffered injuries on various parts of the body. In cross-examination, PWs-9, 10 & 12 admitted the suggestion that in respect of the same incident, a counter case was also registered against them.

15. On 11.3.2009 Dr. AM Shrivastava (PW-1) examined the injured Dinesh Pal, Ghanshyam, Leeluram, Neelakth and Teekaram and found injury over their head which was caused by hard and blunt object, vide their medical reports of Ex.P/1 to P/5 respectively. According to the doctor, injury suffered by Dinesh Pal and Neelkanth was simple in nature and he advised for x-ray of the injury suffered by Ghanshyam, Leeluram and Teekaram. He also examined injured Kheenuram and found incised wound on left cheek and a bone deep cut wound on right elbow which were simple in nature, and a crushed wound on left little finger, for which he advised x-ray to ascertain its nature. His report is Ex.P/6. After receipt of x-ray reports of the aforesaid injured persons, he opined that fracture was found in ulna bone of Leeluram and Shyam



Kumar @ Neelkanth. There was also fracture of metacarpal bone of right hand of Shyam Kumar.

He also examined injured David and found abrasions on right forearm, right shoulder, left hand and a bone deep crushed wound on right side of head. In his opinion, all these injuries were simple in nature. His report is Ex.P/8.

16. On the same day, he also examined the accused persons and found that Kamleshwar sustained lacerated wound on occipital region which was simple in nature vide Ex.D/1; Bhagchand sustained cut wound on right arm, a bone deep cut wound on forehead and cut over lips and advised for x-ray of the injuries vide Ex.D/2. He states that the injury caused over head of Bhagchand was sufficient to cause his death. He also examined accused Rameshwar and noticed a bone deep crushed wound over occipital parietal region caused by hard and blunt object and advised for x-ray vide Ex.D/3. He admits that this injury was sufficient to cause his death. On examination of Subechand he found swelling over left elbow and a crushed wound over temporo-parietal region and advised for its x-ray vide Ex.D/4. He admits that the head injury was sufficient to cause his death. On examination of Chaindas he noticed a crushed wound on right side occipital region and acute pain in right shoulder as also contusion with swelling in right wrist. These injuries were caused by hard and blunt object and he



advised for x-ray of these injuries to ascertain its nature vide Ex.D/5. He states that the head injury was sufficient to cause his death.

17. Learned trial Court minutely appreciated the oral and documentary evidence on record and found that in the incident which took place on 11.3.2009, the accused/appellants caused simple injuries to PW-8 Neelkanth and PW-10 Dinesh Pal by hard and blunt object and grievous injuries to Leeluram, Teekaram, Kheenuram and Shyamkumar. It is also clear from the evidence on record that the accused/appellants being a member of an unlawful assembly assaulted the injured persons in furtherance of their common object and during this process, injured Ganshyam Pal sustained grievous head injuries which led to his death after two days during the course of treatment. Thus, conviction of the accused/appellants u/s 147, 148, 323/149 and 325/149 of IPC recorded by the learned trial Court is just and proper and is hereby affirmed.

18. So far as conviction of the accused/appellants u/s 304-II/149 of IPC is concerned, it is clear from the evidence of PW-1 Dr. AM Shrivastava that he found injury on head of injured Ghanshyam Pal on 11.3.2009 and advised for x-ray. As per PW-16 Dr. RK Singh he also found injury on head of deceased Ghanshyam. Admittedly, he died two days after the incident on 13.3.2009. As per autopsy surgeon (PW-16), cause of death was cardio-respiratory failure as a result of head injury and its complications.



19. The Hon'ble Supreme Court in the matter of ***Halke and another*** (supra) observed in para 3 of its order as under:

“3. We have gone through the judgments of both the courts and the relevant evidence. It is submitted by the counsel for the appellants that the prosecution has not properly explained the injuries found on the accused persons and the circumstances show that the deceased-party could have been the aggressors. The evidence of the injured witnesses also show that the two appellants with sticks inflicted some blows on the deceased as well as on the two witnesses. In this context the medical evidence becomes very relevant. The occurrence is said to have taken place on 15-4-1974. The injured-deceased was admitted in the hospital and the doctor found four contusions. One of them was on the head. Necessary treatment was given and an operation was also performed and unfortunately the deceased died on 22-4-1974. PWS 1 and 9 were also examined by the doctor and similarly he found some lacerated wounds and some abrasions.

Therefore to that extent the medical evidence also corroborates the evidence of PWs 1 and 9. Taking all circumstances into consideration we find that there must have been a fight and it is difficult to hold that the appellants while inflicting stick blows had the knowledge that under the circumstances they were likely to cause the death of the deceased when they themselves have received the injuries at the hands of the prosecution party. Coming to the death of the deceased as noted already the medical evidence shows that the deceased was treated for nearly a week and an operation was also performed and he died only thereafter. No doubt the injury on the head proved to be fatal after lapse of one week but from that alone it cannot be said that the offence committed by the two appellants was one punishable under Section 304 Part II IPC. The injuries found on the witnesses are



also of the same nature and for the same they are convicted under Section 325 IPC. Having regard to the fact that the deceased died after one week the offence committed by them in respect of the deceased would also be the same, punishable under Section 325 IPC. In view of the peculiar facts and circumstances of this case we set aside the conviction of the appellants under Section 304 Part II IPC and the sentence of five years' RI thereunder, instead we convict the appellants under Section 325 read with Section 34 IPC and sentence each of them to undergo nine months' RI. The conviction under Section 325 read with Section 34 IPC is confirmed but the sentence is reduced to nine months' RI. Both the sentences shall run concurrently. The appeal is partly allowed."

20. In the present case also, the incident took place on 11.3.2009 where both the parties assaulted each other and sustained similar injuries. A counter case was also lodged against the complainant party by the accused. PW-1 Dr. AM Shrivastava noticed head injury of Ghanshyam which proved to be fatal and led to his death two days after the incident on 13.3.2009 during treatment. The autopsy surgeon (PW-16) at the time of examination found fracture of frontal bone of size 3.5 x 1.2 cm. Leeluram and Teekaram also suffered head injury which was grievous in nature for which the accused/appellants are convicted u/s 325 of IPC. Thus, keeping in view the aforesaid judgment of the Hon'ble Supreme Court, the manner in which the incident took place where deceased Ghanshyam sustained head injury and died two days after the incident during treatment, we are of the opinion that



learned trial Court was not justified in holding the accused/appellants guilty u/s 304-II/149 of IPC and rather in the facts and circumstances of the case, the act committed by them makes them liable for conviction u/s 325/149 of IPC.

21. As for the sentence u/s 325/149 of IPC, in the totality of facts and circumstances of the case, the fact that the incident took place way back in the year 2009; the accused/appellants also sustained injuries in this incident and filed a counter case against the complainant party; they were on bail during pendency of this appeal and did not misuse the liberty; they have remained in jail for near about a year; we are of the opinion that no fruitful purpose would be served in sending them back to jail at this stage and ends of justice would be met if their substantive jail sentence u/s 325/149 of IPC is reduced to the period already undergone by them and are directed to pay fine of Rs.100/- with default sentence of 01 month.

22. In the result, the appeal is allowed in part. While maintaining conviction of the accused/appellants u/s 147, 148, 323/149 & 325/149 of IPC and the sentence imposed thereunder, their conviction u/s 304-II/149 of IPC is altered into Section 325/149 of IPC and the substantive jail sentence of the accused/appellants under this section is reduced to the period already suffered by them. However, they shall pay a fine of Rs.100/- each thereunder or else shall suffer additional RI for one



month. The fine amount already deposited shall be adjusted accordingly.

The accused/appellants are reported to be on bail, therefore, their bail bonds shall remain in operation for a period of six months from today by virtue of provisions of Section 481 of BNSS, 2023. The record of the trial Court along with copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action.

**Sd/  
(Rajani Dubey)  
Judge**

**Sd/  
(Radhakishan Agrawal)  
Judge**