



2026:CGHC:16805-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 452 of 2023**

Mahatma Yadav S/o Jangali Yadav Aged About 33 Years R/o Village Hariharpur, Police Station Ramchandrapur, District Balrampur-Ramanujganj (Chhattisgarh)

... Appellant**versus**

State of Chhattisgarh Through Station House Officer, Police Station Ramchandrapur District Balrampur-Ramanujganj (Chhattisgarh)

... Respondent

For Appellant	: Mr. Shailendra Dubey, Advocate
For Respondent/State	: Mr. Priyank Rathi, Govt. Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board**Per Ramesh Sinha, Chief Justice****13.04.2026**

1. Heard Mr. Shailendra Dubey, learned counsel for the appellant as well as Mr. Priyank Rathi, learned Government Advocate, appearing for the appellant.
2. This criminal appeal filed by the appellant/accused under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') is directed against the impugned judgment of conviction and order of sentence dated 23.01.2023 passed by the learned First Additional District & Sessions Judge, Ramanujganj, District –



Balrampur-Ramanujganj (C.G.) in Sessions Trial No. 102 of 2020, whereby the appellant/accused has been convicted for the offence punishable under Section 302 of the Indian Penal Code (IPC) and sentenced to undergo life imprisonment and fine of Rs.500/-, in default of payment of fine, additional RI for 30 days.

3. Case of the prosecution, in brief, is that the complainant, Smt. Anita Yadav (PW-1), appeared at Police Station Ramchandrapur and lodged a written report against the accused stating that on the date of the incident, she was plastering (coating) her parental house when the accused arrived there driving a pickup vehicle. The accused began abusing her over the issue of moving/storing firewood inside the house. At that time, her father (the deceased) came to the spot and tried to restrain the accused. Thereupon, the accused started the pickup vehicle and intentionally hit the deceased and drove the vehicle over him, causing serious injuries. The injured was taken to Ramanujganj for treatment and thereafter was undergoing treatment at Ranchi, but he succumbed to his injuries about nine days after the incident. On the basis of the information given by the complainant, a merger intimation (death report) bearing No. 04/2020 was registered, and subsequently, upon lodging of the First Information Report, Crime No. 07/2020 was registered at Police Station Ramchandrapur against the accused Mahatma Yadav under Section 302 of IPC.
4. During the course of investigation, the Investigating Officer, Sub-Inspector N.K. Painkra (PW-10), visited the place of occurrence



on 03.03.2020 and prepared a spot map (Nazri Naksha) as per the statement of Anita Yadav. For preparation of the Patwari map, a requisition was sent to the Tehsildar, Ramanujganj, and accordingly, the Patwari prepared the map in the presence of witnesses. Notices were issued to witnesses for inquest proceedings, and a Panchnama of the dead body was prepared in their presence. The dead body was sent to Community Health Centre, Ramanujganj for postmortem examination, and the postmortem report was provided by Dr. Sharad Kumar Gupta (PW-12). After the postmortem, the body was handed over to the relatives of the deceased as per customary rites. The constable Manohar Lakra, who facilitated the postmortem and handing over of the body, was issued a duty certificate. The vehicle used in the offence, i.e., a white passenger pickup bearing registration No. JH-03 B-7201 along with its documents, was seized from Musawwar Hussain of Village Kalikapur in the presence of witnesses. During investigation, the statement of witness Mathura Vishwakarma (PW-4) was recorded. On finding sufficient evidence against the accused, he was arrested on 04.03.2020 in the presence of witnesses, and intimation of his arrest was given to his family members.

5. After completion of the entire investigation, the final report (charge-sheet) was filed before the Chief Judicial Magistrate, Balrampur (Ramanujganj). Since the offence was triable by the Court of Sessions, the case was committed vide order dated



25.11.2020 and was registered before the Court of the District and Sessions Judge, Balrampur (Ramanujganj), from where it was transferred to the Court of First Additional District & Sessions Judge, Balrampur, District - Balrapur-Ramanujganj for trial. Thereafter, on 02.01.2021, the charges were framed against the accused under Section 302 IPC. The charges were read over and explained to the accused, who denied the same and claimed trial. In his statement under Section 313 CrPC, the accused pleaded innocence and stated that he had been falsely implicated. However, upon being given an opportunity, the accused expressed his intention to lead evidence in his defence.

6. The prosecution has produced in support of its case, the evidence of Mrs. Anita Yadav (PW-1), Kumari Rinki Yadav (PW-2), Sirpati (PW-3), Mathura Vishwakarma (PW-4), Mahesh Yadav (PW-5), Muslim Ansari (PW-6), Baleshwar Yadav (PW-7), Munnu Yadav (PW-8), Shivnath Thakur (PW-9), N.K. Paikra (PW-10), Vijeta Gupta (PW-11) and Dr. Sharad Kumar Gupta (PW-12).
7. In his defence, the accused has produced the evidence of Musabbar Hussain (DW-1), Zafaruddin (DW-2) and Laxman (DW-3).
8. The trial Court upon appreciation of oral and documentary evidence available on record, by its judgment dated 23.01.2023, convicted and sentenced the appellant as aforementioned, against which, this criminal appeal has been filed.



9. Mr. Shailendra Dubey, learned counsel for the appellant submitted that the appellant has been falsely implicated and that the prosecution has failed to establish the essential ingredients of Section 302 of the Indian Penal Code, particularly the existence of intention (*mens rea*) to commit murder. He further submitted that the prosecution's own case indicates that the incident arose out of a sudden quarrel regarding storage of firewood, with no prior enmity or premeditation attributable to the appellant. The alleged act, even if accepted, occurred in the heat of the moment and does not satisfy the threshold of murder. He also submitted that the testimony of the complainant, Smt. Anita Yadav (PW-1), being an interested witness, requires careful scrutiny, and in the absence of strong independent corroboration, cannot be solely relied upon. Furthermore, the deceased succumbed to injuries nine days after the incident while undergoing treatment at different places, which raises doubts about the direct causal link between the act and the death. The medical evidence also does not conclusively establish that the injuries were sufficient in the ordinary course of nature to cause death. It is further submitted that the investigation suffers from material lapses, including the seizure of the alleged vehicle from a third party and the absence of reliable forensic or mechanical evidence to prove its use in the alleged offence. The prosecution has failed to establish a complete and unbroken chain of evidence pointing unequivocally to the guilt of the appellant. In criminal jurisprudence, the burden



lies on the prosecution to prove the case beyond reasonable doubt, and any such doubt must enure to the benefit of the accused. Therefore, the appellant is entitled to acquittal. Alternatively, and without prejudice, even if the prosecution version is accepted in its entirety, the case would at best fall under Section 304 Part II of the Indian Penal Code, as there was no intention to cause death, but at most knowledge that the act was likely to cause harm. Accordingly, it is prayed that the conviction under Section 302 IPC be set aside and appropriate relief be granted.

10. On the other hand, Mr. Priyank Rathi, learned Government Advocate, appearing for the respondent/State supported the impugned judgment and submitted that the prosecution has successfully established the guilt of the accused beyond all reasonable doubt under Section 302 of the Indian Penal Code. The testimony of the complainant, Smt. Anita Yadav (PW-1), is clear, cogent, and trustworthy, and there is no reason to disbelieve her merely on the ground of her relationship with the deceased. Her presence at the scene is natural, and her account of the incident is consistent with the surrounding circumstances. The evidence on record clearly demonstrates that the accused, after being confronted, intentionally started the pickup vehicle and drove it over the deceased, an act which by its very nature is imminently dangerous and sufficient in the ordinary course of nature to cause death. The medical evidence, including the



postmortem report, fully corroborates the ocular testimony and establishes that the death was the direct result of the injuries inflicted in the incident. It is further submitted that the alleged delay in death does not weaken the prosecution case, as the deceased remained under continuous medical treatment and ultimately succumbed to the injuries caused by the accused. The chain of circumstances is complete and points unerringly towards the guilt of the accused. The investigation was conducted in accordance with law, and the seizure of the vehicle, preparation of spot map, inquest proceedings, and recording of witness statements all lend support to the prosecution version. The defence has failed to bring on record any material contradiction or plausible explanation to discredit the prosecution case. The nature of the act clearly reflects intention and knowledge sufficient to attract Section 302 IPC, and no case for reduction to a lesser offence is made out. Therefore, it is prayed that the conviction and sentence awarded by the learned trial court be upheld and the appeal be dismissed.

11. We have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
12. The first question for consideration would be whether the deceased died under unnatural circumstances ?
13. Dr. Sharad Kumar Gupta (PW-12), who conducted the post-mortem examination on the deceased, stated that on March 3,



2020, Constable 428 Manoj Lakra presented the body of the deceased, Jangli Yadav, for post-mortem examination. The identifications were made by Mahatma, Ramsevak, and Mahesh. The post-mortem was performed by Dr. Gupta on the same date. The body of the deceased appeared fresh and was of normal height and build. There was no noticeable odor. The neck was at the 10th position and could rotate 180 degrees. Both feet were bent forward, indicating paralysis. Blood was oozing from the nose and mouth. The deceased had wounds on his feet, knees, thighs, and soles, which were in a state of recovery. Swelling was observed on the back of the head. A 1.5-inch wound on the left ankle had been stitched. Upon opening the head, blood clots were found in the brain. The cervix and ribs were pale and congested. A white mass was present in both the right and left lungs. Blood was found in both chambers of the heart and the large vessels. The cervix, intestinal membranes, and pharynx were pale and congested. The stomach and its contents contained clear fluid. The small intestine and large intestine contained blood clots and fecal matter, which were foul-smelling upon opening. The liver and cervix appeared normal. The kidneys were small, while the bladder was normal. Swelling and bone fractures were noted in the neck due to an injury, and all of these injuries occurred before death. On February 21, 2020, a vehicle accident victim was brought to the emergency room of the Community Health Center for treatment. The victim was subsequently referred for better



treatment and was transferred to RIMS Hospital, Ranchi, where he died during treatment on March 2, 2020, at 7:00 p.m. In Dr. Gupta's opinion, the cause of death appeared to be neurogenic shock and brain injury. The nature of the death could be either homicidal or accidental. The deceased had died approximately 20 to 22 days prior to the trial.

14. PW-1, Smt. Anita Yadav, the complainant and daughter of the deceased, stated that the accused, Mahatma Yadav, is her elder brother. About one and a half years prior to the incident, she was living with her husband and children in her maternal home at Hariharpur village, while her in-laws resided in Vidyuli village. A dead Sarai tree had fallen near her father's barn, and she was collecting and storing its wood inside the house along with her family. During this time, the accused arrived in a pickup vehicle. After parking and attempting to leave, he noticed their father, Jangli Yadav, lying unconscious near the house with bleeding injuries on his neck, buttocks, ribs, and other parts of the body. The injured was taken in the accused's vehicle to CHC Ramanujganj for primary treatment and was later referred to RIMS Hospital, Ranchi, where he remained under treatment for 10–12 days before dying on 02.03.2020. On 03.03.2020, PW-1 reported the death at Ramchandrapur Police Station (Ex.P-01), leading to the registration of the FIR (Ex.P-02). A site map (Ex.P-3) was also prepared. In her testimony, PW-1 denied that the accused quarreled over the wood or intentionally hit the deceased



with the pickup. She admitted that she did not witness the incident, as she was inside the house, and only saw her father injured afterward. She acknowledged that her father had objected to a quarrel and that the accused had spoken angrily, but she did not see any collision. In cross-examination, PW-1 admitted there was no dispute over the wood and that no report was filed on the day of the incident. She further admitted that at the hospital, it was stated that the deceased had suffered injuries due to a fall. The accused assisted in taking the deceased to the hospital, paid expenses, and initially reported the injury as accidental. She also admitted that she did not mention any allegation of deliberate assault in the initial report or FIR. Additionally, she stated that she did not see the accused hitting the deceased and only suspected that a vehicle might have caused the injuries. She admitted that there was no apparent reason for the accused to intentionally harm his father.

15. PW-2, Kumari Rinki Yadav, a child witness, stated that she knew the accused, Mahatma Yadav, and described him as her maternal uncle and the deceased as her maternal grandfather. The witness stated that the incident occurred in 2020. Her maternal grandfather, Jangli Yadav, died as a result of injuries sustained when her maternal uncle, Mahatma Yadav, ran over him with a pickup truck. The incident occurred in their barn, and she witnessed it. A dry piece of wood from a Saikhua (Sarai) tree had fallen near their house, leading to a dispute between her maternal



uncle, Mahatma Yadav, and her maternal grandfather, Jangli Yadav. This dispute resulted in her maternal uncle, Mahatma Yadav, hitting her maternal grandfather with the pickup truck, which caused Jangli Yadav's death during treatment. The police interviewed her and recorded her statement. 15. During cross-examination by the defense, the witness admitted that she did not know the exact date of the incident and that her statement was taken approximately 12 days after the incident. The witness voluntarily stated that her statement was recorded after she returned from Ranchi. When giving her statement to the police, she had said, "There was dry wood from a Saikhua (Sarai) tree lying near the house, over which a dispute had arisen between my maternal uncle, the accused Mahatma Yadav, and my maternal grandfather, the deceased Jangli Yadav. Due to this dispute, my maternal uncle, Mahatma Yadav, attacked my maternal grandfather, Jangli Yadav, with a pickup truck." The witness also accepted that her parents live in her maternal grandfather's house, and that the accused, Mahatma Yadav, had disputes with her mother, Anita Yadav. The witness further admitted that the accused Mahatma Yadav also had a dispute with her father, Mahesh Yadav, over wood. The witness acknowledged that there was no dispute between her maternal uncle and her maternal grandfather over the wood. However, the witness denied seeing her maternal grandfather being hit by the accused's vehicle. She also denied that she was telling the story of the incident based on



what others had told her. The witness denied that she was recounting the story of Jangli Yadav being hit by the accused's pickup truck based on information provided by her parents.

16. Based on the evidence presented, the learned trial Court has rightly concluded that the death of the deceased, Jangli Yadav, was homicidal in nature. Dr. Sharad Kumar Gupta (PW-12), who conducted the post-mortem examination, provided crucial testimony regarding the cause of death, identifying neurogenic shock and brain injury as the primary factors. He also noted the presence of significant pre-death injuries, including swelling and fractures in the neck, which were consistent with an intentional attack. The witness, PW-2, Kumari Rinki Yadav, corroborated this finding by describing a violent incident in which her maternal uncle, Mahatma Yadav, ran over her grandfather, Jangli Yadav, with a pickup truck after a dispute over a piece of wood. Despite some inconsistencies during cross-examination, the child witness's statement about the attack was clear in its assertion that the death was a result of intentional harm caused by the accused. The fact that the victim died from these injuries during treatment further substantiates the homicidal nature of the act. The circumstances, including the nature of the injuries and the testimony regarding the dispute leading to the fatal act, support the conclusion that the death was not accidental, but rather a result of a deliberate and violent act by the accused. Thus, the trial Court's finding of homicidal death is justified by the medical



and testimonial evidence presented during the trial.

17. After hearing learned counsel for the parties and after considering their submissions, we are of the considered opinion that the finding recorded by the trial Court that death of deceased Jangli Yadav was homicidal in nature is the finding of fact based on evidence available on record. It is neither perverse nor contrary to record. We hereby affirm that finding.
18. Now, the next question for consideration would be whether the accused/appellant herein is the perpetrator of the crime in question, which the learned trial Court has recorded in affirmative by relying upon the testimony of Dr. Sharad Kumar Gupta (PW-12) and further relying upon the testimonies of eyewitness Rinki Yadav (PW-2), grand daughter of the deceased.
19. Thus, on the basis of testimonies of aforesaid prosecution witnesses, it is clear that it is the appellant herein who on the fateful date and time has caused grievous injuries to the deceased, due to which he died. As such, the learned trial Court has rightly held that it is the appellant/accused who has caused injuries over the body of the deceased and caused his death. Accordingly, we hereby affirm the said finding.
20. The aforesaid finding brings us to the next question for consideration, whether the case of the appellant is covered within Exception 4 to Section 300 of the IPC vis-a-vis culpable homicide not amounting to murder and his conviction can be converted to Section 304 Part-I or Part-II of the IPC, as contended by learned



counsel for the appellant ?

21. The cause of death assigned in the post-mortem report of the deceased as already noticed are ‘the cause of death appeared to be neurogenic shock and brain injury’ and was homicidal in nature. It is a trite law that “culpable homicide” is a genus and “murder” is its species and all “murders” are “culpable homicides, but all “culpable homicides are not “murders” as held by the Hon’ble Supreme Court in ***Rampal Singh Vs. State of Uttar Pradesh***¹. The intention of the accused must be judged not in the light of actual circumstances, but in the light of what is supposed to be the circumstances.

22. The Hon’ble Supreme Court in the case of ***Basdev Vs. State of Pepsu***² has made the following observations :

“Of course, we have to distinguish between motive, intention and knowledge. Motive is something which prompts a man to form an intention and knowledge is an awareness of the consequences of the act. In many cases intention and knowledge merge into each other and mean the same thing more or less and intention can be presumed from knowledge. The demarcating line between knowledge and intention is no doubt thin but it is not difficult to perceive that they connote different things. Even in some English decisions, the three ideas are used interchangeably and this has led to a certain amount of confusion.”

23. It requires to be borne in mind that the test suggested in the

1 (2012) 8 SCC 289

2 AIR 1956 SC 488



aforesaid decision and the fact that the legislature has used two different terminologies, 'intent' and 'knowledge' and separate punishments are provided for an act committed with an intent to cause bodily injury which is likely to cause death and for an act committed with a knowledge that his act is likely to cause death without intent to cause such bodily injury as is likely to cause death, it would be unsafe to treat 'intent' and 'knowledge' in equal terms. They are not different things. Knowledge would be one of the circumstances to be taken into consideration while determining or inferring the requisite intent. Where the evidence would not disclose that there was any intention to cause death of the deceased but it was clear that the accused had knowledge that his acts were likely to cause death, the accused can be held guilty under second part of Section 304 IPC. It is in this background that the expression used in Indian Penal Code namely "intention" and "knowledge" has to be seen as there being a thin line of distinction between these two expressions. The act to constitute murder, if in given facts and circumstances, would disclose that the ingredients of Section 300 are not satisfied and such act is one of extreme recklessness, it would not attract the said Section. In order to bring a case within Part 3 of Section 300 IPC, it must be proved that there was an intention to inflict that particular bodily injury which in the ordinary course of nature was sufficient to cause death. In other words, that the injury found to be present was the injury that was intended to be inflicted.



24. The Hon'ble Supreme Court in the matter of ***Sukhbir Singh v.***

State of Haryana³ has observed as under:-

“21. Keeping in view the facts and circumstances of the case, we are of the opinion that in the absence of the existence of common object Sukhbir Singh is proved to have committed the offence of culpable homicide without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and did not act in a cruel or unusual manner and his case is covered by Exception 4 of Section 300 IPC which is punishable under Section 304 (Part I) IPC. The finding of the courts below holding the aforesaid appellant guilty of offence of murder punishable under Section 302 IPC is set aside and he is held guilty for the commission of offence of culpable homicide not amounting to murder punishable under Section 304 (Part I) IPC and sentenced to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.5000. In default of payment of fine, he shall undergo further rigorous imprisonment for one year.”

25. The Supreme Court in the matter of ***Gurmukh Singh v. State of Haryana***⁴ has laid down certain factors which are to be taken into consideration before awarding appropriate sentence to the accused with reference to Section 302 or Section 304 Part II of the IPC, which state as under :-

“23. These are some factors which are required to be taken into consideration before awarding appropriate

3 (2002) 3 SCC 327

4 (2009) 15 SCC 635



sentence to the accused. These factors are only illustrative in character and not exhaustive. Each case has to be seen from its special perspective. The relevant factors are as under :

- (a) Motive or previous enmity;
- (b) Whether the incident had taken place on the spur of the moment;
- (c) The intention/knowledge of the accused while inflicting the blow or injury;
- (d) Whether the death ensued instantaneously or the victim died after several days;
- (e) The gravity, dimension and nature of injury;
- (f) The age and general health condition of the accused;
- (g) Whether the injury was caused without premeditation in a sudden fight;
- (h) The nature and size of weapon used for inflicting the injury and the force with which the blow was inflicted;
- (i) The criminal background and adverse history of the accused;
- (j) Whether the injury inflicted was not sufficient in the ordinary course of nature to cause death but the death was because of shock;
- (k) Number of other criminal cases pending against the accused;
- (l) Incident occurred within the family members or close relations;
- (m) The conduct and behaviour of the accused after the incident.

Whether the accused had taken the injured/the deceased to the hospital immediately to ensure that he/she gets proper medical treatment ?



These are some of the factors which can be taken into consideration while granting an appropriate sentence to the accused.

24. The list of circumstances enumerated above is only illustrative and not exhaustive. In our considered view, proper and appropriate sentence to the accused is the bounded obligation and duty of the court. The endeavour of the court must be to ensure that the accused receives appropriate sentence, in other words, sentence should be according to the gravity of the offence. These are some of the relevant factors which are required to be kept in view while convicting and sentencing the accused.”

26. Likewise, in the matter of ***State v. Sanjeev Nanda***⁵, their Lordships of the Supreme Court have held that once knowledge that it is likely to cause death is established but without any intention to cause death, then jail sentence may be for a term which may extend to 10 years or with fine or with both. It has further been held that to make out an offence punishable under Section 304 Part II of the IPC, the prosecution has to prove the death of the person in question and such death was caused by the act of the accused and that he knew that such act of his is likely to cause death.
27. Further, the Supreme Court in the matter of ***Arjun v. State of Chhattisgarh***⁶ has elaborately dealt with the issue and observed in paragraphs 20 and 21, which reads as under :-

5 (2012) 8 SCC 450

6 (2017) 3 SCC 247



“20. To invoke this Exception 4, the requirements that are to be fulfilled have been laid down by this Court in *Surinder Kumar v. UT, Chandigarh* [(1989) 2 SCC 217 : 1989 SCC (Cri) 348], it has been explained as under : (SCC p. 220, para 7)

“7. To invoke this exception four requirements must be satisfied, namely, (i) it was a sudden fight; (ii) there was no premeditation; (iii) the act was done in a heat of passion; and (iv) the assailant had not taken any undue advantage or acted in a cruel manner. The cause of the quarrel is not relevant nor its I relevant who offered the provocation or started the assault. The number of wounds caused during the occurrence is not a decisive factor but what is important is that the occurrence must have been sudden and unpremeditated and the offender must have acted in a fit of anger. Of course, the offender must not have taken any undue advantage or acted in a cruel manner. Where, on a sudden quarrel, a person in the heat of the moment picks up a weapon which is handy and causes injuries, one of which proves fatal, he would be entitled to the benefit of this exception provided he has not acted cruelly.”

21. Further in *Arumugam v. State* [(2008) 15 SCC 590 : (2009) 3 SCC (Cri) 1130], in support of the proposition of law that under what circumstances Exception 4 to Section 300 IPC can be invoked if death is caused, it has been explained as under : (SCC p. 596, para 9)

“9. The help of exception 4 can be invoked if death is caused (a) without premeditation; (b) in a sudden fight; (c) without the offender's having taken undue advantage or acted in a cruel or unusual manner; and (d) the fight must have been with the person killed. To bring a case within Exception 4 all the ingredients mentioned in it must be found. It is to be noted that the “fight” occurring in Exception 4 to Section 300 IPC is not defined in the Penal Code, 1860. It takes two to make a fight. Heat of passion requires that there



must be no time for the passions to cool down and in this case, the parties had worked themselves into a fury on account of the verbal altercation in the beginning. A fight is a combat between two or more persons whether with or without weapons. It is not possible to enunciate any general rule as to what shall be deemed to be a sudden quarrel. It is a question of fact and whether a quarrel is sudden or not must necessarily depend upon the proved facts of each case. For the application of Exception 4, it is not sufficient to show that there was a sudden quarrel and there was no premeditation. It must further be shown that the offender has not taken undue advantage or acted in cruel or unusual manner. The expression “undue advantage” as used in the provisions means “unfair advantage”.

28. In the matter of **Arjun** (supra), the Hon’ble Supreme Court has held that if there is intent and knowledge, the same would be case of Section 304 Part-I of the IPC and if it is only a case of knowledge and not the intention to cause murder and bodily injury, then same would be a case of Section 304 Part-II of the IPC.
29. Further, the Hon’ble Supreme Court in the matter of **Rambir v. State (NCT of Delhi)**⁷ has laid down four ingredients which should be tested to bring a case within the purview of Exception 4 to Section 300 of IPC, which reads as under:

“16. A plain reading of Exception 4 to Section 300 IPC shows that the following four ingredients are required:

- (i) There must be a sudden fight;
- (ii) There was no premeditation;

⁷ (2019) 6 SCC 122



- (iii) The act was committed in a heat of passion; and
- (iv) The offender had not taken any undue advantage or acted in a cruel or unusual manner.”

30. The Hon’ble Supreme Court in a recent judgment in the case of ***Anbazhagan vs. The State represented by the Inspector of Police*** in Criminal Appeal No.2043 of 2023 disposed of on 20.07.2023 has defined the context of the true test to be adopted to find out the intention or knowledge of the accused in doing the act as under:

“60. Few important principles of law discernible from the aforesaid discussion may be summed up thus:

(1) When the court is confronted with the question, what offence the accused could be said to have committed, the true test is to find out the intention or knowledge of the accused in doing the act. If the intention or knowledge was such as is described in Clauses (1) to (4) of Section 300 of the IPC, the act will be murder even though only a single injury was caused. To illustrate: ‘A’ is bound hand and foot. ‘B’ comes and placing his revolver against the head of ‘A’, shoots ‘A’ in his head killing him instantaneously. Here, there will be no difficulty in holding that the intention of ‘B’ in shooting ‘A’ was to kill him, though only single injury was caused. The case would, therefore, be of murder falling within Clause (1) of Section 300 of the IPC. Taking another instance, ‘B’ sneaks into the bed room of his enemy ‘A’ while the latter is asleep on his bed. Taking aim at the left chest of ‘A’, ‘B’ forcibly plunges a sword in the left



chest of 'A' and runs away. 'A' dies shortly thereafter. The injury to 'A' was found to be sufficient in ordinary course of nature to cause death. There may be no difficulty in holding that 'B' intentionally inflicted the particular injury found to be caused and that the said injury was objectively sufficient in the ordinary course of nature to cause death. This would bring the act of 'B' within Clause (3) of Section 300 of the IPC and render him guilty of the offence of murder although only single injury was caused.

(2) Even when the intention or knowledge of the accused may fall within Clauses (1) to (4) of Section 300 of the IPC, the act of the accused which would otherwise be murder, will be taken out of the purview of murder, if the accused's case attracts any one of the five exceptions enumerated in that section. In the event of the case falling within any of those exceptions, the offence would be culpable homicide not amounting to murder, falling within Part 1 of Section 304 of the IPC, if the case of the accused is such as to fall within Clauses (1) to (3) of Section 300 of the IPC. It would be offence under Part II of Section 304 if the case is such as to fall within Clause (4) of Section 300 of the IPC. Again, the intention or knowledge of the accused may be such that only 2nd or 3rd part of Section 299 of the IPC, may be attracted but not any of the clauses of Section 300 of the IPC. In that situation also, the offence would be culpable homicide not amounting to murder under Section 304 of the IPC. It would be an offence under Part I of that section, if the case fall within 2nd part of Section 299, while it would be an offence under Part II of Section 304 if the case fall within 3rd part of Section 299 of the IPC.



(3) To put it in other words, if the act of an accused person falls within the first two clauses of cases of culpable homicide as described in Section 299 of the IPC it is punishable under the first part of Section 304. If, however, it falls within the third clause, it is punishable under the second part of Section 304. In effect, therefore, the first part of this section would apply when there is 'guilty intention,' whereas the second part would apply when there is no such intention, but there is 'guilty knowledge'.

(4) Even if single injury is inflicted, if that particular injury was intended, and objectively that injury was sufficient in the ordinary course of nature to cause death, the requirements of Clause 3rdly to Section 300 of the IPC, are fulfilled and the offence would be murder.

(5) Section 304 of the IPC will apply to the following classes of cases : (i) when the case falls under one or the other of the clauses of Section 300, but it is covered by one of the exceptions to that Section, (ii) when the injury caused is not of the higher degree of likelihood which is covered by the expression 'sufficient in the ordinary course of nature to cause death' but is of a lower degree of likelihood which is generally spoken of as an injury 'likely to cause death' and the case does not fall under Clause (2) of Section 300 of the IPC, (iii) when the act is done with the knowledge that death is likely to ensue but without intention to cause death or an injury likely to cause death.

To put it more succinctly, the difference between the two parts of Section 304 of the IPC is that under the first part, the crime of murder is first established and



the accused is then given the benefit of one of the exceptions to Section 300 of the IPC, while under the second part, the crime of murder is never established at all. Therefore, for the purpose of holding an accused guilty of the offence punishable under the second part of Section 304 of the IPC, the accused need not bring his case within one of the exceptions to Section 300 of the IPC.

(6) The word 'likely' means probably and it is distinguished from more 'possibly'. When chances of happening are even or greater than its not happening, we may say that the thing will 'probably happen'. In reaching the conclusion, the court has to place itself in the situation of the accused and then judge whether the accused had the knowledge that by the act he was likely to cause death.

(7) The distinction between culpable homicide (Section 299 of the IPC) and murder (Section 300 of the IPC) has always to be carefully borne in mind while dealing with a charge under Section 302 of the IPC. Under the category of unlawful homicides, both, the cases of culpable homicide amounting to murder and those not amounting to murder would fall. Culpable homicide is not murder when the case is brought within the five exceptions to Section 300 of the IPC. But, even though none of the said five exceptions are pleaded or prima facie established on the evidence on record, the prosecution must still be required under the law to bring the case under any of the four clauses of Section 300 of the IPC to sustain the charge of murder. If the prosecution fails to discharge this onus in establishing any one of the four clauses of Section 300 of the IPC, namely, 1stly



to 4thly, the charge of murder would not be made out and the case may be one of culpable homicide not amounting to murder as described under Section 299 of the IPC.

(8) The court must address itself to the question of mens rea. If Clause thirdly of Section 300 is to be applied, the assailant must intend the particular injury inflicted on the deceased. This ingredient could rarely be proved by direct evidence. Inevitably, it is a matter of inference to be drawn from the proved circumstances of the case. The court must necessarily have regard to the nature of the weapon used, part of the body injured, extent of the injury, degree of force used in causing the injury, the manner of attack, the circumstances preceding and attendant on the attack.

(9) Intention to kill is not the only intention that makes a culpable homicide a murder. The intention to cause injury or injuries sufficient in the ordinary course of nature to cause death also makes a culpable homicide a murder if death has actually been caused and intention to cause such injury or injuries is to be inferred from the act or acts resulting in the injury or injuries.

(10) When single injury inflicted by the accused results in the death of the victim, no inference, as a general principle, can be drawn that the accused did not have the intention to cause the death or that particular injury which resulted in the death of the victim. Whether an accused had the required guilty intention or not, is a question of fact which has to be determined on the facts of each case.

(11) Where the prosecution proves that the accused



had the intention to cause death of any person or to cause bodily injury to him and the intended injury is sufficient in the ordinary course of nature to cause death, then, even if he inflicts a single injury which results in the death of the victim, the offence squarely falls under Clause thirdly of Section 300 of the IPC unless one of the exceptions applies.

(12) In determining the question, whether an accused had guilty intention or guilty knowledge in a case where only a single injury is inflicted by him and that injury is sufficient in the ordinary course of nature to cause death, the fact that the act is done without premeditation in a sudden fight or quarrel, or that the circumstances justify that the injury was accidental or unintentional, or that he only intended a simple injury, would lead to the inference of guilty knowledge, and the offence would be one under Section 304 Part II of the IPC.”

31. Reverting to the facts of the present case in light of principles of law laid down by their Lordships of the Supreme Court in the above-stated judgments (*supra*), it is quite vivid that on the date of the incident, while Smt. Anita Yadav (PW-1) was plastering (coating) her parental house, the accused arrived there driving a pickup vehicle. The accused began abusing her over the issue of moving/storing firewood inside the house. At that time, the deceased also came to the spot and tried to restrain the accused. Thereupon, the accused started the pickup vehicle and intentionally hit the deceased and drove the vehicle over him, causing serious injuries, due to which the deceased died during treatment. Though there was no motive or premeditation on the



part of the appellant to cause death of deceased, but by driving the vehicle over the deceased, causing serious injuries he has intention to cause death of deceased and by doing so, he must have had the knowledge that such injuries inflicted by him would likely to cause death of the deceased, as such, his case would fall within the purview of Exception 4 of Section 300 of IPC, as the act of the appellant herein completely satisfies the four necessary ingredients of Exception 4 to Section 300 IPC *i.e.* (i) there must be a sudden fight; (ii) there was no premeditation; (iii) the act was committed in a heat of passion and (iv) the appellant had not taken any undue advantage or acted in a cruel or unusual manner.

32. Considering the aforesaid facts and circumstances of the case and also taking into consideration that at present appellant-Mahatma Yadav was aged about 33 years at the time of incident, and he is in jail since 04.03.2020 and he has already undergone about 06 years of imprisonment, the conviction of the appellant under Section 302 of the IPC can be altered/converted to Section 304 Part-I of the IPC.
33. **Accordingly, conviction of the appellant under Section 302 of the IPC is set aside, however, he is convicted under Section 304 Part-I of the IPC and sentenced to undergo rigorous imprisonment for 10 years.**
34. The criminal appeal is **partly allowed** to the extent indicated hereinabove.



35. It is stated that the appellant is in jail, he shall serve out the remaining sentence as modified by this Court.
36. Registry is directed to send a certified copy of this judgment along with the original record of the case to the trial court concerned forthwith for necessary information and compliance and also 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.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice