



2026:CGHC:12425-DB



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****ACQA No. 66 of 2023**

State of Chhattisgarh Through Police Station Jashpur, District Jashpur
(C.G.)

--- Appellant(s)**versus**

Rajnit Bhagat S/o Sukhnath Aged About 45 Years R/o Village Bankitoli
Jashpur, Police Station Jashpur, District Jashpur (C.G.)

--- Respondent(s)**CRA No. 1162 of 2022**

Yogesh Bhagat S/o Late Sukhnath Ram Aged About 30 Years R/o
Village- Bankitoli, P.S.- Jashpur, District- Jashpur, Chhattisgarh

---Appellant(s)**versus**

The State of Chhattisgarh Through P.S.- Jashpur, District- Jashpur,
Chhattisgarh

---Respondent(s)

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Pradeep Kumar Singh, Advocate in CRA No. 1162 of 2022.
For Respondent/State	:	Mr. Priyank Rathi, Government Advocate in CRA 1162 of 2022 & ACQA No. 66 of 2023.



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

Judgment on Board

Per Ramesh Sinha, Chief Justice

16.03.2026

1. Since both the Criminal Appeal filed on behalf of the accused/appellant as well as Acquittal Appeal filed on behalf of the State arise out of same judgment, they are clubbed and heard together and are being disposed off by this common order.
2. Heard Mr. Pradeep Kumar Singh, learned counsel for the accused/appellant in CRA No. 1162 of 2022 as well as Mr. Priyank Rathi, learned Government Advocate, appearing for the State/appellant in ACQA No. 66 of 2023 and for State/respondent in CRA No. 1162 of 2022.
3. ACQA No. 66 of 2023 has been filed on behalf of the State, challenging the legality, validity and propriety of judgment dated 29.06.2022 passed by the learned Sessions Judge, Jashpur, District Jashpur (C.G.) (for short, 'learned trial Court') in Sessions Trial No. 58 of 2019, whereby the learned trial Court has acquitted the accused/respondent – Rajnit Bhagat from the offence punishable under Section 201 of the Indian Penal Code (for short 'the IPC'), holding that the prosecution has failed to prove its case beyond reasonable doubt against the accused/respondent.
4. CRA No. 1162 of 2022 has been filed by the appellant – Yogesh



Bhagat challenging the legality, validity and propriety of very same judgment dated 29.06.2022 passed by the learned trial Court in Sessions Trial No. 58 of 2019, whereby the appellant has been convicted and sentenced as under:

Conviction under Section	Sentence
Section 302 of the IPC	Rigorous imprisonment (<i>for short, 'R.I.'</i>) for life and fine of Rs. 100/-, in default of payment of fine, 02 months R.I. more.

5. The case of the prosecution, in brief, is that the complainant, Ganesh Ram Barik (PW-1), is a resident of Village Kharijhar, Police Station Kunkuri. His elder brother, Umesh Barik, resided at Gamharia, Jashpur, along with his wife and children and was employed as a driver. On 05.09.2019, at about 11:00 p.m., the complainant received a telephone call from his sister, Draupadi Barik (PW-8), informing him that at around 9:00 p.m. on the same day, Umesh Barik had been assaulted at the house of Ranjit Ram Bhagat, situated at Bankitoli, Jashpur. It was alleged that the accused, Yogesh Bhagat, attacked him with a sharp-edged weapon, namely an axe, with the intention to kill, thereby inflicting a grievous head injury. The injured was thereafter admitted to the District Hospital, Jashpur, for treatment.

6. Upon receiving the said information, the complainant immediately proceeded to the District Hospital, Jashpur, along with his sister Draupadi. On reaching the hospital, he found that his elder brother,



Umesh Barik, had succumbed to his injuries and his body was lying on a stretcher in the mortuary. He noticed a deep injury on the middle of the head of the deceased, apparently caused by a sharp-edged weapon. His sister Draupadi further informed him that the incident had been witnessed by Ranjit Ram Bhagat (PW-9), the elder brother of the accused, as well as by Smt. Chameli Bhagat and Smt. Parvati (PW-14). Ranjit Bhagat also disclosed that the accused, Yogesh Bhagat, harboured suspicion that his wife was having an illicit relationship with the deceased, Umesh Barik, and frequently quarrelled with her, even alleging that she was a woman of immoral character. It was on account of such suspicion that the accused assaulted and killed Umesh Barik with an axe.

7. On the basis of the information furnished by the complainant, Ganesh Ram Barik (PW-1), a merg intimation (Ex.P/1) was recorded at Police Outpost Jashpur, and Merg No. 121/2019 was registered under Section 174 of the Code of Criminal Procedure for the purpose of inquiring into the cause of death. Subsequently, on the report lodged by the complainant at Police Station Jashpur, a First Information Report (Ex.P/2) was registered against the accused under Section 302 of the Indian Penal Code, bearing Crime No. 242/2019, and investigation was commenced.

8. During the course of investigation, the Investigating Officer prepared the spot map (Exs. P/3 and P/4), and a site map (Ex.P/20) was also prepared by the Patwari. The body of the deceased was



inspected in the presence of witnesses, and an inquest report (Ex.P/6) was prepared. Considering the suspicious nature of the death, an application (Ex.P/34) was submitted to the District Hospital, Jashpur, for conducting the postmortem examination. As per the seizure memo (Ex.P/9), plain as well as blood-stained soil, cement, gravel, and one red-coloured TVS Phoenix 125 motorcycle were seized from the spot. A dog-search panchnama (Ex.P/11) was also prepared. Further, as per seizure memo (Ex.P/21), the registration certificate and insurance documents of motorcycle bearing No. CG-14/MC-1401 were seized. The blood-stained clothes of the deceased, including a shirt, vest, and full pant, were seized under seizure memo (Ex.P/16). The accused was taken into custody and interrogated, and his memorandum statement (Ex.P/7) was recorded. Pursuant to his disclosure, a blood-stained iron axe, along with his lower garment and T-shirt, were recovered and seized under seizure memo (Ex.P/8). The accused was formally arrested vide arrest memo (Ex.P/10), and intimation of his arrest was duly given to his relatives (Ex.P/33). Upon examination of the seized axe (Ex.P/18), the medical officer opined that the injuries sustained by the deceased could have been caused by the said weapon.

9. The seized articles, including blood-stained and plain soil, the clothes of the deceased, and the iron axe, were sent for chemical examination to the Regional Forensic Science Laboratory, Ambikapur, vide application (Ex.P/32). The chemical examination report (Ex.P/36) was subsequently received, which confirmed the presence of human blood on all the seized articles, except the plain soil.



10. The statements of witnesses were recorded under Section 161 of the Cr.P.C. Upon completion of the investigation, a charge-sheet was filed against the accused before the competent criminal Court. The case was thereafter committed to the Court of Session and was ultimately transferred to the Court of the learned Sessions Judge, Jashpur, District Jashpur (Chhattisgarh), for trial.

11. In their statements recorded under Section 313 of the Cr.P.C., the accused denied the allegations and claimed that they had been falsely implicated in the case.

12. In order to substantiate the charges, the prosecution examined a total of 19 witnesses and exhibited 36 documents. In contrast, the defence did not examine any witnesses nor produce any documentary evidence.

13. The learned trial Court, upon hearing the parties and appreciating the evidence on record, delivered the impugned judgment whereby the accused/respondent Ranjit Bhagat was acquitted, while the accused/appellant Yogesh Bhagat was convicted and sentenced as aforementioned. Aggrieved thereby, the accused/appellant Yogesh Bhagat preferred a criminal appeal against his conviction, and the State also filed an acquittal appeal challenging the acquittal of Ranjit Bhagat.

14. Learned counsel for the appellant submits that the learned trial Court has erred in convicting the appellant under Section 302 of the IPC, as the prosecution has failed to prove the charge beyond reasonable doubt. It is contended that the conviction is based primarily



on circumstantial evidence; however, the prosecution has failed to establish a complete and unbroken chain of circumstances that points conclusively to the guilt of the appellant and rules out every hypothesis consistent with his innocence. In the alternative, it is submitted that even if the prosecution case is accepted in its entirety, the incident in question occurred on the spur of the moment, without any premeditation, in the heat of passion arising out of a sudden quarrel between the appellant and the deceased. It is argued that there was neither intention nor pre-existing motive on the part of the appellant to cause the death of the deceased. Therefore, the act would fall within the ambit of Exception 4 to Section 300 of the Indian Penal Code, and would amount to culpable homicide not amounting to murder. Consequently, it is prayed that the conviction under Section 302 of the IPC be altered to one under Section 304 Part I or Part II of the IPC.

15. It is further submitted that the appellant has been enlarged on bail by this Court vide order dated 05.04.2023 and has already undergone incarceration for a period of 03 years, 06 months, and 30 days. Hence, in the event of alteration of conviction, the sentence may be restricted to the period already undergone. Accordingly, it is prayed that the appeal be allowed, either wholly or in part.

16. *Per contra*, learned State counsel has supported the impugned judgment and order of sentence. It is submitted that the prosecution has successfully proved the charge under Section 302 of the IPC beyond reasonable doubt. It is further contended that the medical



evidence on record fully corroborates the ocular testimony of the prosecution witnesses and clearly establishes that the death of the deceased was homicidal in nature. In view of the consistent and cogent evidence led by the prosecution, coupled with the material available on record, it is submitted that the learned trial Court has rightly convicted the appellant for the offence punishable under Section 302 of the IPC. It is further argued that the appellant has committed a grave and heinous offence of murder, and the facts and circumstances of the case do not warrant any alteration of conviction to Section 304 Part I or Part II of the IPC. Therefore, the present criminal appeal deserves to be dismissed.

17. In the acquittal appeal, learned State counsel submits that the learned trial Court has erred in acquitting the accused/respondent, Ranjit Bhagat, of the charges framed against him. It is contended that the learned trial Court failed to properly appreciate the evidence of the complainant and other prosecution witnesses in its correct perspective and instead based its findings on conjectures and surmises. It is further submitted that the learned trial Court was not justified in discarding the testimonies of the complainant and prosecution witnesses (PW-1 to PW-9) without assigning cogent and convincing reasons. The approach adopted by the trial Court in evaluating the evidence is alleged to be perverse and contrary to settled principles of law. Accordingly, it is argued that the finding of acquittal recorded by the learned trial Court is unjust, improper, and unsustainable in law, and therefore liable to be set aside.



18. We have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

19. The first question for consideration would be, whether death of deceased was homicidal in nature ?

20. In this regard, Dr. Ajeet Kumar Bande (PW-11), who conducted the postmortem examination on the body of the deceased at the District Hospital, Jashpur (C.G.), deposed that the deceased had a sutured wound over the upper part of the head in the mid-parietal region, measuring approximately $9 \times 1 \times 12$ cm. No other external injuries were found on the body of the deceased. He further opined that the cause of death was excessive hemorrhage resulting from the head injury, leading to hypovolemic shock and intracranial hemorrhage. The time since death was estimated to be within 24 hours prior to the postmortem examination. According to his opinion, the nature of death was homicidal. The postmortem report was duly proved and exhibited as Ex.P/17.

21. Dr. Bande further deposed that on 18.10.2019, Constable Kishun Sai (No. 291) (PW-15) from Police Station Jashpur produced an axe for examination. Upon examination, he found that the axe, fitted with a handle, had a total length of 74.5 cm. The circumference at one end of the handle was approximately 8 to 9 cm, and at the front end it was about 9.5 cm. The iron blade fixed to the handle measured 13 cm in length, with a sharp edge width of 8 cm and a back width of 5 cm.



22. Upon being queried whether the injury found on the head of the deceased could have been caused by the said axe, the doctor opined that such injury could have been caused by the seized weapon, as the dimensions of the iron blade corresponded with the injury observed on the deceased. He further opined that the injury caused by such a weapon was sufficient in the ordinary course of nature to cause death.

23. After hearing learned counsel for the parties and upon due consideration of the evidence, we are of the considered opinion that the finding of the learned trial Court that the death of the deceased was homicidal in nature is fully borne out from the medical evidence on record. Such finding is neither perverse nor contrary to record, and we accordingly affirm it.

24. Now, the next question for consideration would be whether the accused herein is the perpetrator of the crime in question ?

25. Ganesh Ram Barik (PW-1) stated that on the night of 05.09.2019 at about 11:00 p.m., his sister, Draupadi Barik (PW-8), informed him over the phone that Yogesh Bhagat had killed Umesh Barik and that he had been taken to the hospital. Upon receiving this information, he immediately proceeded from Village Kharijharua to the District Hospital, Jashpur, where he found the dead body of his brother lying in the mortuary. He thereafter informed Police Station Jashpur regarding the death of his brother, upon which merged intimation (Ex.P/1) was recorded, followed by registration of FIR (Ex.P/2). The police also prepared a spot map of the mortuary (Ex.P/3). The witness further



stated that he was acquainted with the accused and that the deceased, Umesh Barik, was his elder brother residing at Bankitoli, Jashpur. On the following morning, he went to Police Station Jashpur, where he met Ranjit (PW-9), the elder brother of the accused, and his wife Chameli. They informed him that on the night of the incident, both the accused and the deceased had come to their house. Umesh declined food but accepted tobacco (khaini) and sat in the room, while the accused was moving about. Suddenly, the accused assaulted Umesh with an axe, causing a head injury. Thereafter, the police prepared the site map of the place of occurrence (Ex.P/4) in his presence. The witness further contended that Ranjit informed him that when he attempted to report the incident, the accused prevented him from entering the house and threatened him. However, in cross-examination (Para 10), the witness admitted that at the time of the incident he was present in his village Kharijharia and had no direct knowledge of the occurrence, having learned about it from his sister Draupadi. He also stated that he met the accused and his relatives only on the following day at the police station. Thus, his testimony regarding the occurrence is based on information received from Ranjit and Draupadi.

26. The Investigating Officer, Lakshman Singh Dhurve (PW-19), deposed that on 06.09.2019 at about 5:30 a.m., on the information given by the complainant, he registered merg intimation (Ex.P/1) regarding the death of Umesh Barik, which bears the signatures of both the complainant and himself. Upon receiving information that the death was homicidal and caused by the accused Yogesh Bhagat, he



registered the FIR (Ex.P/2). He also prepared the spot map of the government hospital (Ex.P/3). He further stated that notices under Section 175 CrPC (Ex.P/5) were issued to witnesses to be present during the inquest proceedings, and the inquest panchnama (Ex.P/6) was prepared. Raju Ram Bhagat (PW-10), Constable, corroborated that he took the dead body for postmortem examination and, after completion, submitted the return memo (Ex.P/14). Thereafter, the dead body was handed over to the relatives of the deceased, namely Thunu Ram, against receipt (Ex.P/15).

27. Draupadi Barik (PW-8) stated that she knew the accused, also known as "Tote," and that the deceased was her brother. On 05.09.2019 at about 10:30 p.m., she received information that the accused had assaulted Umesh with an axe at the house of Ranjit Ram, causing a head injury, and that he had been taken to the hospital. She immediately informed her family members and, along with them, went to the District Hospital, Jashpur, where she saw the dead body of her brother in the mortuary with an injury on the middle of his head. She further stated that at Police Station Jashpur, she met Ranjit Ram and his sister Parvati, who informed her that they had witnessed the incident. According to them, at about 9:00 p.m., the accused and the deceased came to their house; while Umesh was sitting in the room, the accused was moving about. When Ranjit got up after dinner, he heard a sound and saw the accused striking Umesh on the head with an axe, as a result of which Umesh collapsed. The accused thereafter threatened them. She also stated that prior to the incident, the accused



had threatened the deceased. On the next day, she visited the place of occurrence and noticed blood stains in the room and courtyard.

28. Meena Yadav (PW-7), wife of the deceased, stated that she came to know at about 10:45 p.m. from Anuj Mishra that the accused had assaulted her husband with an axe and that he had been admitted to the hospital. Upon reaching the District Hospital, she found that her husband had died and noticed a head injury. She also stated that about a week prior to the incident, the accused had threatened her husband; however, this fact was not recorded in her police statement. Her testimony regarding the injury and death of the deceased remains unshaken.

29. Ranjit Ram Bhagat (PW-9), an alleged eyewitness who was later arrayed as an accused, turned hostile. He denied witnessing the incident and stated that he was not present at home at the relevant time. He admitted that he did not want his younger brother, the accused, to be implicated. His testimony, therefore, does not inspire confidence and is unreliable.

30. Sanjeev Kispotta (PW-2) and Amrit Minj (PW-3) deposed that the accused, in their presence, made a memorandum statement (Ex.P/7) stating that he had concealed the axe and blood-stained clothes behind his house in a construction site. Pursuant thereto, the police recovered the axe, lower garment, and T-shirt (Ex.P/8), all stained with blood. The witnesses supported the recovery and denied any fabrication.

31. The Investigating Officer further deposed that a dog squad was



requisitioned and a dog search panchnama (Ex.P/11) was prepared.

The dog handler stated that after smelling the blood-stained axe, the tracker dog led the police towards bushes behind the house, where the accused was found hiding and was apprehended. The panchnama was prepared in the presence of witnesses, whose testimony remained unchallenged.

32. On perusal of the FSL report (Ex.P/36), it is found that no human blood was detected on Article A (plain soil). However, human blood was detected on Article B (blood-stained soil), Article C (axe), Article D (lower garment of the accused), Article E (T-shirt of the accused), and Article F (clothes of the deceased marked F1 to F3). Blood group “B” was detected on Articles C, D, and F3.

33. In the present case, the accused did not sustain any injuries; therefore, the presence of blood on his clothes and the weapon cannot be attributed to him. The presence of human blood on the axe and the clothes of the accused is attributable to the deceased, who sustained a head injury caused by the axe. The FSL report also establishes that the blood group of the deceased was “B.”

34. 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 ?



35. The distinction between intention and knowledge in the context of Section 299 and Section 300 IPC is crucial in determining the culpability of the appellant. Intention denotes a conscious desire to bring about a particular result, whereas knowledge implies awareness that a particular consequence is likely to ensue. In the present case, while the appellant's actions were undoubtedly culpable, the circumstances suggest that he did not intend to cause the death of deceased. However, it is evident that he knew that his actions were likely to cause harm.

36. Reverting to the facts of the present case, the following facts are salient:

- *No premeditation or prior motive has been proved by the prosecution.*
- *The incident occurred inside the home following a sudden quarrel late at night.*
- *There was one fatal blow with a axe; there is no evidence of repeated assault or pursuit.*

37. The Hon'ble Apex Court in the matter of **Anbazhagan v. The State Rep. By The Inspector of Police**, reported in **2023 INSC 632**, readily held when a case would fall under Section 304 Part II of the IPC rather than Section 302 of the IPC, emphasizing that Part II applies where "murder is never established" and only knowledge (not intention) is attributable; it also surveys classic "single blow" cases altering Section 302 to Section 304 Part II (e.g., Jawahar Lal, Camilo Vaz, Jai Prakash, Kulwant Rai, Hem Raj, Pulicherla Nagaraju) and ultimately



converts the conviction to Section 304 Part II. Relevant paras of the judgment are reproduced hereinbelow:-

“20. The word "intent" is derived from the word archery or aim. The "act" attempted to must be with "intention" of killing a man.

21. Intention, which is a state of mind, can never be precisely proved by direct evidence as a fact; it can only be deduced or inferred from other facts which are proved. The intention may be proved by res gestae, by acts or events previous or subsequent to the incident or occurrence, on admission. Intention of a person cannot be proved by direct evidence but is to be deduced from the facts and circumstances of a case. There are various relevant circumstances from which the intention can be gathered. Some relevant considerations are the following:-

- 1. The nature of the weapon used.*
- 2. The place where the injuries were inflicted.*
- 3. The nature of the injuries caused.*
- 4. The opportunity available which the accused gets.*

22. In the case of Smt. Mathri v. State of Punjab, AIR 1964 SC 986, at page 990, Das Gupta J. has explained the concept of the word 'intent'. The relevant observations are made by referring to the observations made by Batty J. in the decision Bhagwant v. Kedari, I.L.R. 25 Bombay 202. They are as under:-

"The word "intent" by its etymology, seems to have metaphorical allusion to archery, and implies "aim" and thus connotes not a



casual or merely possible result-foreseen perhaps as a not improbable incident, but not desired-but rather connotes the one object for which the effort is made-and thus has reference to what has been called the dominant motive, without which, the action would not have been taken."

23. In the case of *Basdev v. State of Pepsu*, AIR 1956 SC 488, at page 490, the following observations have been made by Chadrasekhara Aiyar J.:-

"6. 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 had led to a certain amount of confusion."

24. In para 9 of the judgment, at page 490, the observations made by Coleridge J. in *Reg. v. Monkhouse*, (1849) 4 COX CC 55(C), have been referred to. They can be referred to, with advantage at this stage, as they are very illuminating:-



"The inquiry as to intent is far less simple than that as to whether an act has been committed, because you cannot look into a man's mind to see what was passing there at any given time. What he intends can only be judged of by what he does or says, and if he says nothing, then his act alone must guide you to your decision. It is a general rule in criminal law, and one founded on common sense, that juries are to presume a man to do what is the natural consequence of his act. The consequence is sometimes so apparent as to leave no doubt of the intention. A man could not put a pistol which he knew to be loaded to another's head, and fire it off, without intending to kill him; but even there the state of mind of the party is most material to be considered. For instance, if such an act were done by a born idiot, the intent to kill could not be inferred from the act. So if the defendant is proved to have been intoxicated, the question becomes a more subtle one; but it is of the same kind, namely: was he rendered by intoxication entirely incapable of forming the intent charged?"

25. Bearing in mind the test suggested in the aforesaid decision and also bearing in mind that our 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



proper to hold that 'intent' and 'knowledge' cannot be equated with each other. They connote different things. Sometimes, if the consequence is so apparent, it may happen that from the knowledge, intent may be presumed. But it will not mean that 'intent' and 'knowledge' are the same. 'Knowledge' will be only one of the circumstances to be taken into consideration while determining or inferring the requisite intent.

26. In the case *In re Kudumula Mahanandi Reddi*, AIR 1960 AP 141, also the distinction between 'knowledge' and 'intention' is aptly explained. It is as under:-

"Knowledge and intention must not be confused.

17. Every person is presumed to intend the natural and probable consequences of his act until the contrary is proved. It is therefore necessary in order to arrive at a decision, as to an offender's intention to inquire what the - natural and probable consequences of his acts would be. Once there is evidence that a deceased person, sustained injuries which were sufficient in the ordinary course of nature to cause death, the person who inflicted them could be presumed to have intended those natural and probable consequences. His offence would fall under the third head of sec. 300, I.P.C.

18.A man's intention has to be inferred from what he does. But there are cases in which death is caused and the intention which



can safely be imputed to the offender is less grave. The degree of guilt depends upon intention and the intention to be inferred must be gathered from the facts proved. Sometimes an act is committed which would not in an ordinary case inflict injury sufficient in the ordinary course of nature to cause death, but which the offender knows is likely to cause the death. Proof of such knowledge throws light upon his intention.

19. ...Under sec. 299 there need be no proof of knowledge, that the bodily injury intended was likely to cause death. Before deciding that a case of culpable homicide amounts to murder, there must be proof of intention sufficient to bring it under Sec.300. Where the injury deliberately inflicted is more than merely likely to cause death' but sufficient in the ordinary course of nature to cause death, the higher degree of guilt is presumed."

It has been further observed therein as under:-

"26. ... Where the evidence does not disclose that there was any intention, to cause death of the deceased but it was clear that the accused had the knowledge that their acts were likely to cause death the accused can be held guilty under the second part of sec. 304, I.P.C. The contention that in order to bring the case under the second part of sec. 304. I.P.C. it must be brought within one of the exceptions to sec 300, I.P.C. is not acceptable."

27. Thus, while defining the offence of culpable



homicide and murder, the framers of the IPC laid down that the requisite intention or knowledge must be imputed to the accused when he committed the act which caused the death in order to hold him guilty for the offence of culpable homicide or murder as the case may be. The framers of the IPC designedly used the two words 'intention' and 'knowledge', and it must be taken that the framers intended to draw a distinction between these two expressions. The knowledge of the consequences which may result in the doing of an act is not the same thing as the intention that such consequences should ensue. Except in cases where mens rea is not required in order to prove that a person had certain knowledge, he "must have been aware that certain specified harmful consequences would or could follow." (Russell on Crime, Twelfth Edition, Volume 1 at page 40).

28. This awareness is termed as knowledge. But the knowledge that specified consequences would result or could result by doing an act is not the same thing as the intention that such consequences should ensue. If an act is done by a man with the knowledge that certain consequences may follow or will follow, it does not necessarily mean that he intended such consequences and acted with such intention. Intention requires something more than a mere foresight of the consequences. It requires a purposeful doing of a thing to achieve a particular end. This we may make it clear by referring to two passages from leading text-books on the subject. Kenny in his Outlines of Criminal Law, Seventeenth Edition at page 31 has observed:-



"To intend is to have in mind a fixed purpose to reach a desired objective; the noun 'intention' in the present connexion is used to denote the state of mind of a man who not only foresees but also desires the possible consequences of his conduct..... It will be noted that there cannot be intention unless there is also foresight, since a man must decide to his own satisfaction, and accordingly must foresee, that to which his express purpose is directed..... Again, a man cannot intend to do a thing unless he desires to do it."

29. Russell on Crime, Twelfth Edition, 1st Volume at page 41 has observed:-

"In the present analysis of the mental element in crime the word "intention" is used to denote the mental attitude of a man who has resolved to bring about a certain result if he can possibly do so. He shapes his line of conduct so as to achieve a particular end at which he aims..... Differing from intention, yet closely resembling it, there are two other attitudes of mind, either of which is sufficient to attract legal sanctions for harm resulting from action taken in obedience to its stimulus, but both of which can be denoted by the word "recklessness". In each of these the man adopts a line of conduct with the intention of thereby attaining an end which he does desire, but at the same time realises that this conduct may also produce another result which he does not desire. In this case he acts with full knowledge that he is taking the



chance that this secondary result will follow. Here, again, if this secondary result is one forbidden by law, then he will be criminally responsible for it if it occurs. His precise mental attitude will be one of two kinds-(a) he would prefer that the harmful result should not occur, or (b) he is indifferent as to whether it does or does not occur."

30. The phraseology of Sections 299 and 300 respectively of the IPC leaves no manner of doubt that under these Sections when it is said that a particular act in order to be punishable be done with such intention, the requisite intention must be proved by the prosecution. It must be proved that the accused aimed or desired that his act should lead to such and such consequences. For example, when under Section 299 it is said "whoever causes death by doing an act with the intention of causing death" it must be proved that the accused by doing the act, intended to bring about the particular consequence, that is, causing of death. Similarly, when it is said that "whoever causes death by doing an act with the intention of causing such bodily injury as is likely to cause death" it must be proved that the accused had the aim of causing such bodily injury as was likely to cause death.

31. Thus, in order that the requirements of law with regard to intention may be satisfied for holding an offence of culpable homicide proved, it is necessary that any of the two specific intentions must be proved. But, even when such intention is not proved, the offence will be culpable homicide if the doer of



the act causes the death with the knowledge that he is likely by his such act to cause death, that is, with the knowledge that the result of his doing his act may be such as may result in death.

32. The important question which has engaged our careful attention in this case is, whether on the facts and in the circumstances of the case we should maintain the conviction of the appellant herein for the offence under Section 304 Part I or we should further alter it to Section 304 Part II of the IPC?

SECTIONS 299 AND 300 OF THE IPC:-

33. Sections 299 and 300 of the IPC deal with the definition of 'culpable homicide' and 'murder', respectively. In terms of Section 299, 'culpable homicide' is described as an act of causing death (i) with the intention of causing death or (ii) with the intention of causing such bodily injury as is likely to cause death, or (iii) with the knowledge that such an act is likely to cause death. As is clear from a reading of this provision, the former part of it emphasises on the expression 'intention' while the latter upon 'knowledge'. Both these are positive mental attitudes, however, of different degrees. The mental element in 'culpable homicide', that is, the mental attitude towards the consequences of conduct is one of intention and knowledge. Once an offence is caused in any of the three stated manners noted-above, it would be 'culpable homicide'. Section 300 of the IPC, however, deals with 'murder', although there is no clear definition of 'murder' in Section 300 of the IPC. As has been repeatedly held by this Court, 'culpable homicide' is the genus and 'murder' is its species and



all 'murders' are 'culpable homicides' but all 'culpable homicides' are not 'murders'. (see Rampal Singh v. State of U.P., (2012) 8 SCC 289)

34. In the case of State of Andhra Pradesh v. Rayavarapu Punnayya, (1976) 4 SCC 382, this Court, while clarifying the distinction between these two terms and their consequences, held as under:-

"12. In the scheme of the Penal Code, 'culpable homicide' is genus and 'murder' is species. All 'murder' is 'culpable homicide' but not vice-versa. Speaking generally, 'culpable homicide not amounting to murder'. For the purpose of fixing punishment. proportionate to the gravity of this generic offence, the Code practically recognises three degrees of culpable homicide. The first is what may be called 'culpable homicide of the first degree'. This is the greatest form of culpable homicide, which is defined in Section 300 as 'murder'. The second may be termed as 'culpable homicide of the second degree'. This is punishable under the first part of Section 304. Then, there is 'culpable homicide of the third degree'. This is the lowest type of culpable homicide and the punishment provided for it is, also, the lowest among the punishments provided for the three grades. Culpable homicide of this degree is punishable under the second part of Section 304."

35. Section 300 of the IPC proceeds with reference to Section 299 of the IPC. 'Culpable homicide' may or may not amount to 'murder', in terms of Section 300 of the IPC. When a 'culpable homicide is



murder', the punitive consequences shall follow in terms of Section 302 of the IPC, while in other cases, that is, where an offence is 'culpable homicide not amounting to murder', punishment would be dealt with under Section 304 of the IPC. Various judgments of this Court have dealt with the cases which fall in various classes of firstly, secondly, thirdly and fourthly, respectively, stated under Section 300 of the IPC. It would not be necessary for us to deal with that aspect of the case in any further detail.

36. The principles stated in the case of Virsa Singh v. State of Punjab, AIR 1958 SC 465, are the broad guidelines for the courts to exercise their judicial discretion while considering the cases to determine as to which particular clause of Section 300 of the IPC they fall in. This Court has time and again deliberated upon the crucial question of distinction between Sections 299 and 300 of the IPC, i.e. 'culpable homicide' and 'murder' respectively. In Phulia Tudu v. State of Bihar, (2007) 14 SCC 588, this Court noticed that confusion may arise if the courts would lose sight of the true scope and meaning of the terms used by the legislature in these sections. This Court observed that the safest way of approach to the interpretation and application of these provisions seems to be to keep in focus the keywords used in the various clauses of these sections.

37. This Court in Phulia Tudu (supra) has observed that the academic distinction between 'murder' and 'culpable homicide not amounting to murder' has



always vexed the courts. The confusion is caused if courts losing sight of the true scope and meaning of the terms used by the legislature in these sections, allow themselves to be drawn into minute abstractions. The safest way of approach to the interpretation and application of these provisions seems to be to keep in focus the keywords used in the various clauses of Sections 299 and 300 of the IPC. The following comparative table will be helpful in appreciating the points of distinction between the two offences:-

Section 299	Section 300
<i>A person commits culpable homicide if the act by which the death is caused is done-</i>	<i>Subject to certain culpable homicide is murder if the exceptions act by which the death is caused is done-</i>
INTENTION	
<i>(a) with the intention of causing death; or</i>	<i>(1) with the intention of causing death; or</i>
<i>(b) with the intention of such causing bodily injury as is likely to cause death; or</i>	<i>(2) with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused; or</i> <i>(3) with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or</i>
KNOWLEDGE	



<i>(c) with the knowledge that the act is likely to cause death</i>	<i>(4) with the knowledge that the act is so imminently dangerous that it must in all probability cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as is mentioned above.</i>

38. Recently, in **Velthepu Srinivas v. State of A.P.**, reported in **2024 SCC OnLine SC 107**, the Supreme Court converted a Section 302 of the IPC conviction to Section 304 Part II for one accused, sentencing him to 10 years, where the role and circumstances evidenced lack of intention but knowledge that the act was likely to cause death. Relevant paras of the judgment are reproduced hereinbelow:-

“28. Even though, A-3 might not have had the common intention to commit the murder, nevertheless, his participation in the assault and the wielding of the stone certainly makes him culpable for the offence that he has committed. While we acquit A-3 of the offence under Section 302 read with Section 34 of the IPC, he is liable for the offence under 304 Part II IPC. The law on Section 304 Part II has been succinctly laid down in Camilo Vaz v. State of Goa, (2000) 9 SCC 1, where it was held that:

14. This section is in two parts. If analysed, the section provides for two kinds of punishment to



two different situations: (1) if the act by which death is caused is done with the intention of causing death or causing such bodily injury as is likely to cause death. Here the important ingredient is the “intention”; (2) if the act is done with the knowledge that it is likely to cause death but without any intention to cause death or such bodily injury as is likely to cause death. When a person hits another with a danda on a vital part of the body with such force that the person hit meets his death, knowledge has to be imputed to the accused....

29. In the past, this Court has considered factors such as lack of medical evidence to prove whether the act/injury was individually sufficient to cause death 1, a single blow on head with a hammer² and lack of cogent evidence of the eye-witnesses that the accused shared a common intention to commit murder 3 as some factors to commute a sentence from Section 302 to Section 304 Part II IPC.

30. Returning back to the facts of the case, there is certainly no escape from coming to the conclusion that A-3 should have had the knowledge that the use of a stone to hit the head of the deceased is likely to cause death. However, as demonstrated 1 Bawa Singh v. State of Punjab, 1993 Supp (2) SCC 754. 2 Sarup Singh v. State of Haryana, (2009) 16 SCC 479. 3 Ghana Pradhan & Ors. v. State of Orissa, 1991 Supp (2) SCC 451. before, the evidence is insufficient to deduce a conclusion that he shared a common intention with the other accused to commit the murder



of the deceased. Considering the role that A-3 has played, we hold him guilty of the offence under Section 304 Part II IPC.

31. The perusal of the evidence would reveal that it is not the case of the prosecution that A-3 was along with the other accused while the deceased was dragged to the house. The deposition would reveal that after the other accused assaulted the deceased with sword, A-3 came thereafter and assaulted the deceased with stone lying there. We, therefore, find that the prosecution has not been in a position to establish that A-3 shared the common intention with the other accused to cause the murder of the deceased.

32. For the reasons stated above, we uphold the conviction and sentence of A-1, A-2 and A-4 under Section 302 read with Section 34 IPC and dismiss their Criminal Appeal No. 2852 of 2023 against the judgment of the High Court of Telangana in Criminal Appeal No. 308 of 2005 dated 26.04.2022. We acquit A-3 of the conviction and sentence under Section 302 read with Section 34 and convict him under Section 304 Part II and sentence him to undergo imprisonment for 10 years. To this extent, the appeal of A-3 is allowed by altering the conviction under Section 302 to Section 304 Part II IPC.”

39. A grievous injury on a vital part of the body, such as the head, is undoubtedly sufficient in the ordinary course of nature to cause death. However, the determinative question is not merely the capacity of the injury, but whether, in the facts and circumstances of the case, it can be safely inferred that the appellant intended to cause death or to inflict such particular injury. In the present case, considering the heat-of-



passion arising out of a sudden domestic quarrel, absence of premeditation, the appellant being in an intoxicated state, and the fact that only a single blow was inflicted, we are not persuaded that the prosecution has proved the requisite intention beyond reasonable doubt.

40. At the same time, it cannot be ignored that the appellant, by striking the deceased on the head with a tangi (axe), must be attributed with the knowledge that such an act was likely to cause death. This element of knowledge squarely attracts the provisions of Section 304 Part II of the IPC.

41. The material on record satisfies the well-established fourfold test for invoking Exception 4 to Section 300 IPC, namely: (i) the incident occurred upon a sudden quarrel; (ii) there was no premeditation; (iii) the act was committed in the heat of passion; and (iv) there is no evidence of the appellant having taken undue advantage or having acted in a cruel or unusual manner, as is evident from the fact that only a single blow was inflicted and there was no repetition of assault. Thus, Exception 4 is clearly attracted, and the offence cannot be classified as murder.

42. Insofar as the recovery and medical evidence are concerned, the recovery of the tangi (axe) at the instance of the appellant and the medical opinion confirming that the said weapon could have caused the injuries sustained by the deceased, lend strong assurance to the prosecution case and establish the authorship of the crime. However,



these circumstances, by themselves, are insufficient to elevate the offence to one punishable under Section 302 of the IPC, particularly when the surrounding circumstances unmistakably indicate that the occurrence took place during a sudden quarrel.

43. Upon a comprehensive appreciation of the oral and documentary evidence on record, this Court finds no infirmity in the finding of the learned trial Court that the death was homicidal in nature and that the appellant was the author of the fatal injury. The said findings are well-supported by evidence and warrant no interference. However, on the question of the nature of the offence, this Court finds merit in the alternative submission advanced on behalf of the appellant. The evidence on record clearly establishes that the incident occurred without premeditation, in the course of a sudden quarrel, and the assault was limited to a single blow, without any element of cruelty or undue advantage.

44. In these circumstances, while the injury proved fatal, it cannot be conclusively held that the appellant intended to cause death or such bodily injury as was sufficient in the ordinary course of nature to cause death. Nevertheless, the appellant can safely be attributed with the knowledge that his act was likely to cause death. Accordingly, the case falls within the ambit of Exception 4 to Section 300 of the IPC and is punishable under Section 304 Part II of the IPC.

45. Consequently, the conviction of the appellant under Section 302 of the IPC is liable to be altered to one under Section 304 Part II IPC.



46. Insofar as the acquittal of the co-accused is concerned, this Court finds that the view taken by the learned trial Court is a plausible one based on the evidence on record. The alleged eyewitness having turned hostile and in the absence of any reliable independent evidence, no perversity or illegality can be attributed to the order of acquittal. It is well-settled that unless the findings of the trial Court are manifestly erroneous or wholly unreasonable, interference in an appeal against acquittal is unwarranted. Accordingly, the appeal preferred by the State deserves to be dismissed.

47. As regards the sentence, it is not in dispute that the appellant has already undergone incarceration for a period of 03 years, 06 months, and 30 days. Considering the nature of the incident, absence of premeditation, and the fact that the occurrence arose out of a sudden quarrel, this Court is of the opinion that the ends of justice would be adequately met if the sentence is restricted to the period already undergone by the appellant.

48. Accordingly, the criminal appeal filed by the appellant – **Yogesh Bhagat** is **partly allowed**. The conviction under Section 302 of the IPC is altered to Section 304 Part II of the IPC, and the appellant is sentenced to the period already undergone. The fine amount imposed by the learned trial Court shall remain intact.

49. The appeal filed by the State against acquittal is **dismissed**.

50. The appellant is on bail and is not required to surrender. However, in compliance with Section 437-A of the Cr.P.C. (now Section



481 of the Bharatiya Nagarik Suraksha Sanhita, 2023), his bail bonds shall remain in force for a further period of six months.

51. The Registry is directed to forthwith transmit the record of the trial Court along with a certified copy of this judgment to the Court concerned for information and necessary compliance.

**Sd/-
(Ravindra Kumar Agrawal)
Judge**

**Sd/-
(Ramesh Sinha)
Chief Justice**