



2025:CGHC:39046-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 1171 of 2023**

Harish Ganjir S/o. Udhoram Ganjir, Aged About 41 Years R/o. Sakin
Ward No. 13 Gundardehi Police Station Gundardehi District Balod
Chhattisgarh

... Appellant(s)**versus**

State Of Chhattisgarh Through Police Station Gundardehi District Balod
Chhattisgarh

... Respondent(s)

For Appellant(s) : Mr. Shivam Mishra holding brief of Ms. Neha
Sahu, Advocate

For Respondent(s) : Mr. Swajeet Ubeja, Panel Lawyer

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Bibhu Datta Guru, Judge****Judgment on Board****Per Ramesh Sinha, Chief Justice****06.08.2025**

1. Heard Mr. Shivam Mishra holding brief of Ms. Neha Sahu, learned
counsel for the appellant. Also heard Mr. Swajeet Ubeja, learned Panel
Lawyer, appearing for the respondent/State.



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 08.02.2023 passed by the learned Sessions Judge, Balod, District- Balod (C.G.) in Session Case No. 08/2019 by which the appellant has been convicted for the offence punishable under Section 302 of the Indian Penal Code (IPC) and sentenced to undergo rigorous imprisonment for life with fine amount of Rs. 1,000/-, in default of payment of fine additional rigorous imprisonment for 0 month for murder of deceased Udhoram Ganjir and under Section 302 of the Indian Penal Code (IPC) and sentenced to undergo rigorous imprisonment for life with fine amount of Rs. 1,000/-, in default of payment of fine additional rigorous imprisonment for 0 month for murder of deceased Sushila Bai and under Section 201 of the Indian Penal Code (IPC) and sentenced to undergo rigorous imprisonment for 07 years, in default of payment of fine, 15 days additional rigorous imprisonment (All the sentences are directed to run concurrently).

3. Case of the prosecution, in brief, is that on 19-10-2018 Ashwani Kumar Ganjir informed the Gunderdehi police station that his younger brother Harish Sahu had informed that his father Udhoram Ganjir is not alive and has died. On receiving the information, he went home and found that his father Udhoram had fallen from the stairs along with his mother Sushila Ganjir two days ago. He had got injured due to the fall and had been given ointment. The cause of death is unknown. On the information, a numbered inquest was registered against an unknown



person and the case was taken up for inquest. During the inquest, many injuries and electric shock marks were found on the body of the deceased Udhoram. A panchayatnama was prepared and a map of the body of the deceased Udhoram was prepared. After conducting PM and taking the statements of witnesses and inspecting the crime scene, it was found that Udhoram was murdered at first sight. The suspect accused Harish was questioned and his memorandum was taken and on his indication the stick and electronic wire used in the crime were seized. Sushila Ganjir was admitted to Government Hospital, Gunderdehi due to serious injuries, from where Sushila was referred to Bhimrao Ambedkar Hospital, Raipur. She died during treatment on 10-11-2018. The map of the dead body was also prepared and the post-mortem of the dead body was done. Crime No. 286/2018 was registered against the accused and the seized property was sent to FSL, Raipur. After taking the statements of witnesses and after the remaining necessary investigation, the charge-sheet was presented in the court of JMFC, Gunderdehi. Since the Sessions Court has the jurisdiction to try the case by Judicial Magistrate, First Class, Gunderdehi, the case was transferred to the Sessions Court, Balod.

4. Against the accused, Sections-302, 302, 201 of IPC have been registered. Under the said act, the charges were framed against him and he was read out to him and explained to him, and he denied having committed the offence.

5. When the accused was examined under Section 313 of the



CRPC, he said that he was innocent and that he was falsely implicated.

No witness was examined on behalf of the accused in his defence.

6. In order to bring home the offence, the prosecution examined as many as 12 witnesses and exhibited 44 documents.

7. The learned trial Court, upon appreciation of oral and documentary evidence on record opining that it is the appellant who has committed the murder of his mother and father, convicted and sentenced him under Section 302 and Section 201 of the IPC, against which the instant appeal under Section 374(2) of the Cr.P.C. has been preferred.

8. Learned counsel for the appellant argued that conviction of the appellant is substantially based on the circumstantial evidence, without there being any eye witness, though the chain of circumstances are missing and not completed to each other. He further submits that the impugned judgment of conviction and sentence is illegal & contrary to law and hence liable to be set-aside. The Appellant has been falsely trapped in the present case based on the balled and bare suspicion. Not a single iota of evidence available on record to show that the Appellant had committed the murder of his mother and father. On the contrary, it has been mentioned in the inquest memo and other documents that they have received injuries on account of fall from the stairs due to slip of legs. Further, as per the evidence adduced by the prosecution in this case, it appears that who has committed the murder of deceased persons is not proved. The conviction and sentence awarded by the trial



Court is very hard and higher side comparatively the offence committed by the accused, therefore, it is not sustainable in the eye of law. Thus looking to the entire evidence available on record, there is not a single iota of evidence to show that the appellant had committed murder or involved in this crime. Evidence adduced on behalf of the prosecution is suspicious in nature and same is not safe for placing reliance that too for conviction of the appellant for commission of heinous offence of murder, therefore, the appellant is entitled for benefit of doubt.

9. On the other hand, learned Panel Lawyer, appearing for the respondent/State, supports the impugned judgment and submits that the statement of the prosecution witnesses clearly proved that, the deceased have been murdered by the accused/present appellant, as it has also been observed by the learned trial Court that, as per the postmortem report (Ex.P-20), Dr. Datta Sorate (PW-4)/Medical Officer has clearly opined that, the deceased Udhoram Ganjir died between 36 to 72 hours before his PM was conducted. The cause of death of the deceased was shock due to excessive bleeding caused by forceful hitting of a hard and blunt object on his chest, injury to his ribs and liver etc. The death of the deceased was unnatural. The nature of death of the deceased was not suicidal. In the cross examination, the said witness Dr. Datta Sorate (PW-4) has clearly stated that, there is no possibility that the deceased died due to falling from stairs. Further, Dr. Omprakash Tandon, who conducted the postmortem of the deceased Sushilabai has opined in postmortem report that death was due to cardio respiratory failure as a result of multiple injuries to the body & its



complications. The learned Trial Court has appreciated the entire evidence available on record including the deposition of witnesses and thereafter, arrived at the finding of guilt of the appellant, which is supported by the credible and cogent evidences, as the learned trial Court has specifically observed that, from the medical evidence, it is clearly proved the death of the deceased persons is homicidal in nature. Thus, looking to the gravity of the offence and the quality of the evidences, there is no reason for showing any leniency to the present appellant, thus, the trial Court has rightly convicted the appellant for the offence punishable under Section 302 of the IPC and therefore, the appeal deserves to be dismissed.

10. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the original records of the learned trial Court with utmost circumspection.

11. In order to appreciate the arguments advanced on behalf of the parties, we have to examine the evidence adduced on behalf of the prosecution.

12. The first question for consideration would be, whether the trial Court was justified in holding that death of deceased to be homicidal in nature ?

13. In this regard, Dr. Datta Sorate (PW-4) has stated in his statement that on the date on 20.10.2018 at 10.20 am, constable No. 61 Sagar Kumar of Gunderdehi Police Station brought the body of deceased Udhoram Sahu for postmortem. The body was identified by the police



personnel present there and his family members. He further stated in his statement that the deceased Udhoram Sahu was of normal height and was wearing maroon coloured underwear with Big Boss written on it. Both eyes were closed, pupil was dilated and steady, the eye was in a state of decomposition. Both eyes had undergone cataract surgery. Mouth was closed, teeth were not visible. Tongue was inside the mouth. PM liquidity on the back side had gone. Body stiffness had gone. The body of the deceased was in a state of advanced decomposition. Marbling was also visible on the chest, back and neck of the body. Blisters were visible all over the body. On conducting the postmortem of the dead body, the following injuries and conditions were found on its external parts:-

- 1. The scratch was on the forehead above the right eyebrow, measuring 1 x 1/2 cm.*
- 2. There was a bruise below injury no. 1, measuring 1.5 x 0.5 cm.*
- 3. A lacerated wound between the right and left parietal bone Its size was 3 x 3 cm and it was deep into the bone.*
- 4. There was a lacerated wound in the right occipital part, measuring 4 x 1 cm, which was deep to the bone.*
- 5. Another lacerated wound was present in the right occipital region, measuring 3.5 x 0.5 cm, which was deep into the bone.*
- 6. There was a lacerated wound on left face measuring 1 x 1/2 cm.*



7. There was a scratch near the right eyebrow. Its size was 1/2 x 1/2 cm.

8. Was dislocated near the left wrist.

9. There was a scratch on the upper part of the left palm, the size of which was 1.5 x 1/2 cm.

10. There was a scratch between the left wrist and elbow.

11. There was a scratch on the left elbow measuring 2 x 1 cm.

12. There was a lacerated wound between the left arm and elbow measuring 3 x 2.5 cm. It was deep into the muscle.

13. There was a 6 x 6 cm scratch mark on the left chest, which was deep into the muscle.

14. The said medical witness has further stated in his statement that on internal examination of the deceased Udhoram Sahu, the following conditions were found:-

1. Rib numbers 2 to 4 on right side were fractured.

2. All the ribs on the left side were fractured.

3. There was a fracture near the fourth joint of the sternum part.

4. The right lung was congested and lacerated.

5. There was swelling in the left and right lungs and it had become a state of decay.

6. The trachea was intact Chest filled with about 400 to 500 ml of blood clots

8. were. Liver, spleen, kidney, bladder, and pancreas



were intact.

9. There was undigested food in the stomach.

10. There was a lacerated umbilical cord in the liver.

11. The blood coming out of the liver had collected in the stomach and had formed a clot.

15. According to the said medical witness, all the internal and external injuries found on the body of the deceased were before his death. The deceased died between 36 to 72 hours before his PM was conducted. The cause of death of the deceased was shock due to excessive bleeding caused by forceful hitting of a hard and blunt object on his chest, injury to his ribs and liver etc. The death of the deceased was unnatural. The nature of death of the deceased was not suicidal. The postmortem report given by this witness is Ex.P-20.

16. So far as deceased Sushila Bai is concerned, though the prosecution has not recorded the statement of Dr. Omprakash Tandon, who conducted the postmortem of the deceased Sushila Bai, as she had died. The PM report of the deceased Sushila Bai is attached in the case, in which the doctor has stated the following injuries on Sushila Bai's body:-

1. Old wound with hypopigmented scar mark present on, right forearm 7x8 c.m. left forearm 4x4 c.m. & back at left side 6x4 c.m.

2. Fracture present on left radius & ulna lower end.

3. Ruptured cellulites present on right lower limb.



17. In the said PM report the doctor has opined that death was due to cardio respiratory failure as a result of multiple injuries to the body & its complications. Duration of death was within 24 hours prior to postmortem examination.

18. The trial Court, relying upon the statements of Dr. Datta Sorate (PW-4), who has conducted postmortem on the body of deceased Udhoram Ganjir, vide Ex.P/20, has clearly come to the conclusion that cause of death of the deceased was shock due to excessive bleeding caused by forceful hitting of a hard and blunt object on his chest, injury to his ribs and liver etc and the nature of death is homicidal and also relying upon the postmortem of report of deceased Sushila Bai, in which Dr. Omprakash Tandon has opined that death of the deceased was caused due to cardio respiratory failure as a result of multiple injuries to the body & its complications. The said finding recorded by the trial Court is a finding of fact based on evidence available on record, which is neither perverse nor contrary to record. Even otherwise, it has not been seriously disputed by the learned counsel for the appellant. We hereby affirm the said finding.

19. The next question for consideration would be, whether the trial Court has rightly held that the appellant is author of the crime by relying upon the following circumstances:-

- (i) Homicidal death was proved by the prosecution as per postmortem report (Ex.P/20) of the deceased Udhoram Ganjir, conducted by Dr. Datta Sorate (PW-



(ii) As per the case of the prosecution, the fact of death of deceased was within the knowledge of the appellant, however, there was no any explanation given by the appellant in his statement under Section 313 of the Cr.P.C. Thus, burden of proof was on the appellant to explain such circumstance, which he failed to explain.

20. It is the case of no direct evidence, rather conviction is based on circumstantial evidence.
21. We may also make a reference to a decision of the Supreme Court in **C. Chenga Reddy and Ors. v. State of A.P., (1996) 10 SCC 193**, wherein it has been observed thus:

“In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete and there should be no gap left in the chain of evidence. Further the proved circumstances must be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence....”.

22. In **Padala Veera Reddy v. State of A.P. and Ors., AIR 1990 SC 79**, it was laid down by the Supreme Court that when a case rests upon circumstantial evidence, such evidence must satisfy the following tests:



“(1) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;

(2) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused;

(3) the circumstances, taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and

(4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence.”

- 23.** In **State of U.P. v. Ashok Kumar Srivastava, (1992 Cri.LJ 1104)**, it was pointed out by the Supreme Court that great care must be taken in evaluating circumstantial evidence and if the evidence relied on is reasonably capable of two inferences, the one in favour of the accused must be accepted. It was also pointed out that the circumstances relied upon must be found to have been fully established and the cumulative effect of all the facts so established must be consistent only with the hypothesis of guilt.
- 24.** Sir Alfred Wills in his admirable book “Wills’ Circumstantial Evidence” (Chapter VI) lays down the following rules specially to be observed in the case of circumstantial evidence: (1) the facts alleged as the basis of any legal inference must be clearly proved



and beyond reasonable doubt connected with the factum probandum; (2) the burden of proof is always on the party who asserts the existence of any fact, which infers legal accountability; (3) in all cases, whether of direct or circumstantial evidence the best evidence must be adduced which the nature of the case admits; (4) in order to justify the inference of guilt, the inculpatory facts must be incompatible with the innocence of the accused and incapable of explanation, upon any other reasonable hypothesis than that of his guilt, (5) if there be any reasonable doubt of the guilt of the accused, he is entitled as of right to be acquitted”.

25. Five golden principles which constitute *Panchseel* of proof of case based on circumstantial evidence have been laid down by the Supreme Court in the matter of **Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116** which state as under :-

“(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned “must” or “should” and not “may be” established;

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;

(3) the circumstances should be of a conclusive nature and tendency;

(4) they should exclude every possible hypothesis except the one to be proved; and



(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”

26. The Supreme Court in the matter of **Suresh and Another v State of Haryana, (2018) 18 SCC 654** has observed that cases of circumstantial evidence, the courts are called upon to make inferences from the available evidence, which may lead to the accused's guilt. The court at paras 41 and 42 has observed thus :

“41. The aforesaid tests are aptly referred as Panchsheel of proof in Circumstantial Cases (refer to Prakash v. State of Rajasthan). The expectation is that the prosecution case should reflect careful portrayal of the factual circumstances and inferences thereof and their compatibility with a singular hypothesis wherein all the intermediate facts and the case itself are proved beyond reasonable doubt.

42. Circumstantial evidence are those facts, which the court may infer further. There is a stark contrast between direct evidence and circumstantial evidence. In cases of circumstantial evidence, the courts are called upon to make inferences from the available evidence, which may lead to the accused's guilt. In majority of cases, the inference of guilt is usually drawn by establishing the case from its initiation to the point of commission wherein each factual link is ultimately based on evidence of a fact or an inference thereof. Therefore, the courts have to identify the facts in the first place so as to fit the case within the parameters of “chain link theory” and then



see whether the case is made out beyond reasonable doubt. In India we have for a long time followed the “chain link theory” since Hanumant case, which of course needs to be followed herein also.”

27. The Supreme Court in the matter of *Sailendra Rajdev Pasvan and Others vs. State of Gujarat Etc.*, AIR 2020 SC 180

observed that in a case of circumstantial evidence, law postulates two-fold requirements. Firstly, that every link in the chain of circumstances necessary to establish the guilt of the accused must be established by the prosecution beyond reasonable doubt and secondly, all the circumstances must be consistent pointing out only towards the guilt of the accused. We need not burden this judgment by referring to other judgments as the above principles have been consistently followed and approved by this Court time and again.

28. In the present case, the prosecution has proved the following circumstantial evidence against the appellant:-

(i) The accused and his parents were living together..

(ii) Conduct of the accused after the incident.

(iii) Seizure of property and clothes used in the incident on the basis of memorandum of the accused.

(vi) Dr. Datta Sorate (PW-4), who has conducted postmortem on the body of deceased Udhoram



Ganjir, vide Ex.P/20 has opined that cause of death was shock due to excessive bleeding caused by forceful hitting of a hard and blunt object on his chest, injury to his ribs and liver etc. and the nature of the death of the deceased was unnatural.

(v) Dr. Omprakash Tandon has opined that death of the deceased Sushila Bai was caused due to cardio respiratory failure as a result of multiple injuries to the body & its complications.

29. It can thus clearly be seen that it is necessary for the prosecution that the circumstances from which the conclusion of the guilt is to be drawn should be fully established. The Court holds that it is a primary principle that the accused 'must be' and not merely 'may be' proved guilty before a court can convict the accused. It has been held that there is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved'. It has been held that the facts so established should be consistent only with the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty. It has further been held that the circumstances should be such that they exclude every possible hypothesis except the one to be proved. It has been held that there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the



accused and must show that in all human probabilities the act must have been done by the accused.

- 30.** It is settled law that the suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proved guilty beyond a reasonable doubt.
- 31.** In the light of these guiding principles, we will have to examine the present case.
- 32.** On a perusal of the judgment of the Trial Judge, it would reveal that the main circumstance on which the Trial Judge found the appellant guilty of the crime is the recovery of various articles at his instance. The Trial Judge has further found that on the basis of memorandum statement of the appellant, stick, electric wire pliers, scissors, spoon, perfume bottle used in the crime and the clothes worn by Udhoram before his death and clothes of the accused were recovered.
- 33.** According to Lalit Jain (PW-5), whose shop is next to the shop of the accused, the accused and his parents Udhoram and Sushila Bai lived together, no one else lived with them. Similarly, Guruprasad (PW-6) and Satyaprakash Sahu (PW-7) in their statements have equally stated that the accused lived with his mother Sushila Bai and father Udhoram.



34. According to Ashwani Ganjir (PW-1), the son of the deceased, the accused had informed him that his father Udhoram had died and his mother Sushila Bai had been injured after falling from the stairs i.e., the accused himself had informed his brother about the incident i.e., he lived with his parents. The statements of the above witnesses have been irrefutable. Their statements prove that the accused lived with his parents and no other person lived with them.

35. At this stage, it would be appropriate to notice Section 27 of the Indian Evidence Act, 1872, which states as under: -

“27. How much of information received from accused may be proved.—Provided that, when any fact is depoted to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”

36. Section 27 of the Indian Evidence Act is applicable only if the confessional statement relates distinctly to the fact thereby discovered.

37. The Supreme Court in the matter of **Asar Mohammad and others v. State of U.P., AIR 2018 SC 5264** with reference to the word “fact” employed in Section 27 of the Evidence Act has held that the facts need not be self-probatory and the word “fact” as contemplated in Section 27 of the Evidence Act is not limited to “actual physical material object”. It has been further held that the discovery of fact arises by reason of the fact that the information



given by the accused exhibited the knowledge or the mental awareness of the informant as to its existence at a particular place and it includes a discovery of an object, the place from which it is produced and the knowledge of the accused as to its existence. Their Lordships relying upon the decision of the Privy Council in the matter of **Pulukuri Kotayya v. King Emperor, AIR 1947 PC 67** observed as under: -

“13. It is a settled legal position that the facts need not be self-probatory and the word “fact” as contemplated in Section 27 of the Evidence Act is not limited to “actual physical material object”. The discovery of fact arises by reason of the fact that the information given by the accused exhibited the knowledge or the mental awareness of the informant as to its existence at a particular place. It includes a discovery of an object, the place from which it is produced and the knowledge of the accused as to its existence. It will be useful to advert to the exposition in the case of *Vasanta Sampat Dupare v. State of Maharashtra*¹, in particular, paragraphs 23 to 29 thereof. The same read thus:

“23. While accepting or rejecting the factors of discovery, certain principles are to be kept in mind. The Privy Council in *Pulukuri Kotayya v. King Emperor* (supra) has held thus: (IA p. 77)

“... it is fallacious to treat the ‘fact discovered’ within the section as equivalent to the object produced; the fact discovered embraces the place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to this fact. Information as to past user, or the past history, of the object produced is not related to its discovery in the setting in which it is discovered. Information supplied by a person in custody that ‘I will produce a knife concealed in the roof of my house’ does not lead to the discovery of a knife;

¹ (2015) 1 SCC 253



knives were discovered many years ago. It leads to the discovery of the fact that a knife is concealed in the house of the informant to his knowledge, and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant. But if to the statement the words be added 'with which I stabbed A', these words are inadmissible since they do not relate to the discovery of the knife in the house of the informant.

xxx	xxx	xxx
xxx	xxx	xxx
xxx	xxx	xxx"

38. The Supreme Court in the matter of **Perumal Raja alias Perumal v. State, Rep. By Inspector of Police, 2024 SCC OnLine SC 12** has defined the 'custody'. It held that the expression "custody" under Section 27 of the Evidence Act does not mean formal custody. It includes any kind of restriction, restraint or even surveillance by the police. Even if the accused was not formally arrested at the time of giving information, the accused ought to be deemed, for all practical purposes, in the custody of the police.
39. The Supreme Court in the matter of **Boby v State of Kerala, 2023 SCC OnLine SC 50** held that the basic idea embedded in Section 27 of the Evidence Act is the doctrine of confirmation by subsequent events. The doctrine is founded on the principle that if any fact is discovered as a search made on the strength of any information obtained from a prisoner, such a discovery is a guarantee that the information supplied by the prisoner is true.



The information might be confessional or non-inculpatory in nature but if it results in discovery of a fact, it becomes a reliable information. Section 27 puts a bar to use the confessional statement, but the fact that discovery and information which proved to reliable would be a circumstantial evidence.

- 40.** According to Ashvani Ganjir (PW-1), when he reached his house and went to his room and asked his mother Sushila Bai about her injuries, she told him that she had fallen from the stairs, due to which she had got hurt. But in the statement of this witness under section 161 Cr. P.C., (Ex.P-14), there is no mention of his mother Sushila Bai telling him that she had got hurt due to the fall. This shows that this witness is exaggerating the fact that his mother had told him the above mentioned thing, the natural and logical reason for which is that after the death of his parents, he should save his brother accused from being punished for the crime.
- 41.** It has been proved from the statements of the examined witnesses that when they went to the house of the accused and saw, Udhoram was lying dead in an injured condition and Sushila Bai had injuries on her body. If Udhoram and Sushilabai had been injured due to falling, the natural conduct of the accused would have been to take them to the hospital immediately, but despite being a person with I.T.I. education, there is no mention of him making any effort in this direction. Whereas according to Assistant Sub-Inspector D.L. Raote (PW-10), he has stated to have seen



Sushila Bai unconscious on the cot in an injured condition at the scene of incident i.e. her condition was serious.

42. According to Amrikabai (PW-2), when she went to work in the house of the accused, one of the rooms was locked, due to which she did not clean that room.
43. According to Basant Kumar Sahu (PW-3) when he went to the spot and saw, the main gate was locked which the accused opened and later the accused opened the room in which he had kept his father Udhoram, who had died. Similarly Lalit Jain (PW-5) has stated that when the accused opened the lock of the room of his house, he saw Udhoram in a dead state.
44. The statement of the above witnesses has been irrefutable, whose statement proves that the accused had locked his dead father inside the room and he had the key to it. Whereas according to Dr. Dutta Sorte (PW-4), who conducted the postmortem of Udhoram, he died about 2-3 days before the room was opened.
45. According to Roopchand Jain (PW-4), the accused had bought 38 perfumes from his shop and taken them with him. In the statement of witness Lalit Jain (PW-5), it has come to light that when he went to the room where the dead body of Udhoram was kept, there was a strong smell of spray and incense sticks i.e. the accused had bought perfume from the shop and sprayed it in the room where the dead body of Udhoram was kept to hide the smell



of the 2 day old dead body. If the deceased Udhoram and Sushila Bai had been injured accidentally, then the accused would have been guilty of murder. The natural behavior would have been to immediately inform the people around him, instead of keeping the corpse locked up for two days until advanced decomposition had taken place and spraying some perfume to hide the presence of the body.

46. According to Dr. Datta Sorte (PW-4), Udhoram had blisters all over his body and according to Assistant Sub-Inspector D.L. Raote (PW-10), Udhoram's body had turned black, there were burn marks on his body and blisters on his back. The accused has not given any explanation for the burn injuries on Udhoram's body.
47. According to the investigation officer Saeed Akhtar (PW-12), on 20-10-2018, he took the suspected accused Harish Ganjeer into custody and questioned him in front of witnesses Ashwani and Guruprasad. During the questioning, he told that he had hidden the stick, electric wire pliers, scissors, spoon, perfume bottle used in the crime in a corner of the store room of his house and had taken off the clothes worn by Udhoram before his death and his own clothes and thrown them in the garden, and he would get them recovered.
48. Ashwani (PW-1) testifies before the Investigating Officer supporting the statement, he has stated in his statement that accused Harish was interrogated in his presence and his



memorandum (Ex.P-10) was recorded. Similarly, another witness Guru Prasad (PW-6) supporting the statement of the Investigating Officer regarding Exhibit P-10 has stated that the accused was interrogated in his presence and his memorandum (Ex.P-10) was recorded. During interrogation the accused had stated that he would get recovered the items used in the incident like stick, electric wire, pliers, scissors, spoon, perfume bottle, cloth, which he has thrown in the house and yard.

- 49.** According to the investigating officer Saeed Akhtar (PW-12), when the accused produced the body from the store room inside his house, following things were seized :-

(1) A bamboo stick about 4.5 feet long and about 4 inches thick having blood like marks on its core on both sides and a red colour lead wire 86 inches long having three wires red-green-black fitted inside it and a plug pin fitted at the other end having one pin and two holes which was triangular in shape.

(2) A black wire 79 inches in length and there was a red and black wire inside and a red and yellow colored wire wrapped around it whose length was about 75 inches and a small steel scissor with a red colored plastic attached at the back with two holes in it and was pointed at the front.

(3) A spade about 8 inches long with a 5-inch handle and bandan-coloured plastic attachment.

(4) A steel spoon about 6 inches long.



(5) Two perfume bottles, each containing white or black lid was on and the bottle had Riya Bindas, APPAREL, PERFUME written on it. It was a 30 ml flat bottle and was seized.

- 50.** This witness has further stated in his statement that the accused in front of him took out and presented the cotton vest from the kitchen garden behind his house which they had confiscated. Witnesses Ashwani and Guruprasad supported his statement and have stated that a plier, steel spoon, a stick, long electric wire were seized from the accused when he produced them from the house as per seizure memo (Ex.P-11) and a underwear, white vest which had blood like stains on it were seized when he produced them from the backyard of the house as per seizure memo (Ex.P-12).
- 51.** According to the Investigating Officer Saeed Akhtar (PW-12), on 01.11.2018, he had sent one piece of sando vest and one white vest with sleeves seized as per Exhibit P-12 in Crime No. 286/18 in a sealed condition and had written an application to Assistant Professor, Department of Forensic Medicine, GMC, Rajnandgaon for querying the seized properties as per property seizure sheet (Ex.P-11). After receiving the query report, the said properties were sent for FSL examination through the Superintendent of Police, Balod.
- 52.** The same witness has further stated in his statement that on 30.10.2018, Constable Prahlad Sahu presented the blood of



deceased Udhoram Ganjir in a sealed bottle for blood grouping and in a sealed bottle for blood alcohol and in a sealed bottle for blood grouping containing blood gauze powder and in a sealed packet a yellow shroud and maroon underwear and on presenting the same to constable Kunwar Singh and Nilesh, the seizure was made in the presence of the witness as per seizure memo Exhibit P-31. According to the same witness, he had also sent the blood of Udhoram Ganjir for chemical testing for blood alcohol through the Superintendent of Police, Balod to the FSL. The report received in respect of all the properties sent for FSL is Exhibit P-37.

53. According to Exhibit P-37, it is mentioned that ***blood was found in the vest of accused Harish and the stick, lead wire, wire, scissors, spoon seized from the accused.***
54. Dr. Datta Sorate (PW-4) explains the death of Udhoram was caused by shock due to forceful hitting of hard and blunt object on the chest and excessive bleeding due to injury to ribs, liver etc. As mentioned above in his statement, it is confirmed that deceased Udhoram was injured in the chest and stomach, hence excessive bleeding occurred due to injury to his ribs, liver etc. If he had been injured due to falling, then it would have occurred in one, two or three parts of the body at the most, whereas deceased Udhoram had fractures in the internal parts of the body and many injuries in the external parts as stated by the said doctor.



- 55.** Therefore, in view of all the above circumstances, the defence's defence that deceased Udhoram was injured due to a fall cannot be accepted. Though the doctor has not mentioned the exact nature of the deceased's death in his PM report, it is clear from the injuries sustained by deceased Udhoram and circumstantial evidence that his death was "homicidal" in nature and the death of deceased Sushila Bai being "homicidal" is evident from the above circumstances and her PM report, which mentions that Sushila Bai died due to respiratory obstruction caused by complications in the injuries sustained. Thus, on the basis of the above discussion of evidence, the prosecution has succeeded in proving that the death of deceased Udhoram and deceased Sushila Bai was "homicidal" in nature and it is proved from the circumstantial evidence that the said murder was committed intentionally by the accused.
- 56.** Now, the question is, whether the prosecution has discharged its initial or general burden or primary duty of proving the guilt of the accused beyond reasonable doubt?
- 57.** In this regard, the findings of the trial Court is that the deceased are the father and mother of the accused/appellant and from the statements of Investigating Officer/Inspector Saeed Akhtar (PW-12) and Dr. Datta Sorate (PW-4) and memorandum statement (Ex.P/10), the vest of accused Harish and the stick, lead wire, wire, scissors, spoon were seized, in which, during blood was found as per FSL report (Ex.P-37). Also, Dr. Datta Sorate (PW-4),



who has conducted the postmortem of deceased Udhoram has clearly come to the conclusion that death of Udhoram was caused by shock due to forceful hitting of hard and blunt object on the chest and excessive bleeding due to injury to ribs, liver etc and the nature of death is homicidal that Sushila Bai died due to respiratory obstruction caused by complications in the injuries sustained which amply reveal that such an incident of murder had taken place. Thus, there is unbreakable chain of circumstantial evidences against the accused appellant, which clearly indicate the guilt of accused/appellant.

58. Applying the aforesaid well settled principles of law and taking into consideration the facts in totality and considering the facts and circumstances of the case, in our considered view the prosecution was able to establish the guilt of the accused beyond reasonable doubt. The impugned judgment of conviction and order of sentence is just and proper warranting no interference of this Court.
59. For the foregoing reasons, the criminal appeal being devoid of merit is liable to be and is hereby **dismissed**.
60. It is stated at the Bar that the the appellant is in jail, he shall serve out the sentence as ordered by the learned trial Court.
61. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the Appellant is undergoing the jail term, 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/-

(Bibhu Datta Guru)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice