



2026:CGHC:13113-DB



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1920 of 2017

[Arising out of judgment dated 12.09.2017 passed in Sessions Trial No.546/2011 by the Additional Sessions Judge, Ramanujganj, Surguja, Chhattisgarh.]

- Shiv Prasad @ Ladhu S/o Shri Jagdharan, Aged About 40 Years, R/o Village Madva Sarharipara, P. S. Chando, District Balrampur Ramanujganj Chhattisgarh.

... Appellant

versus

- State of Chhattisgarh, Through Police Station Chando, District Balrampur Ramanujganj Chhattisgarh.

... Respondent

For Appellant :- Mr. Viprasen Agrawal, Advocate.

For State-Respondent :- Mr. Rahul Tamaskar, Government Advocate.

Division Bench

Hon'ble Shri Justice Sanjay K. Agrawal &

Hon'ble Shri Justice Sachin Singh Rajput

Judgment On Board

(19.03.2026)

Sanjay K. Agrawal, J

1. This criminal appeal under Section 374(2) of the CrPC preferred by the appellant-accused is directed against the impugned



judgment of conviction and order of sentence dated 12.09.2017 passed by the Additional Sessions Judge, Ramanujganj, Surguja Chhattisgarh in Sessions Trial No. 546/2011 by which the appellant herein has been convicted for offence under Section 302 of the IPC and sentenced thereunder to suffer imprisonment for life with fine of ₹ 1,000/-; in default of payment of fine he has to undergo additional rigorous imprisonment for six months and also for offence under Section 201 of the IPC and sentenced therein to suffer rigorous imprisonment for 2 years and to pay fine of ₹ 100/-; in default of payment of fine to undergo additional rigorous imprisonment for 1 month. Both sentences are directed to run concurrently.

2. Case of the prosecution in, nutshell, is that in the intervening night of 30.08.2011 and 31.08.2011, at village Madva Sarharipara, Police Station Chando, the appellant assaulted his wife Naihari by hand and fist by which she suffered grievous injuries and died. To screen himself from the offence, he made the last rituals and gave the wrong information to others. Against the said act of the appellant, Sukhram (PW-6) reported the matter to the police pursuant to which merg intimation and FIR were registered vide Exs.P/6 & P/11, respectively. Crime details form was prepared vide Ex.P/12. Nazari



naksha was prepared vide Ex.P/17. Inquest proceeding (Ex.P/3) were conducted and the dead body of the deceased was subjected to postmortem. As per postmortem report (Ex.P/8) proved by Dr. R.S. Markam (PW-7) cause of death was haemomorrhage leading to shock (collapse of right lung) and homicidal in nature. Wheels of investigation started running and the appellant was arrested.

3. After due investigation, appellant herein was charge-sheeted for the aforesaid offence and the case was committed to the Court of Sessions for trial in accordance with law. The appellant / accused abjured his guilt and entered into defence.
4. In order to bring home the offence, prosecution has examined as many as 12 witnesses and exhibited 17 documents and defence in support of its case has neither examined any witness nor exhibited any document.
5. The learned trial Court after appreciating the oral and documentary evidence available on record, convicted the appellant / accused for the offences as mentioned in the opening paragraph of the judgment, against which this appeal has been preferred by the appellant herein questioning the impugned judgment of conviction and order of sentence.



6. Mr. Viprasen Agrawal, learned counsel for the appellant, would submit that appellant has falsely been implicated in crime in question and he has been convicted by recording a finding which is perverse to the record. He would also submit if the case of the prosecution is taken, as it is, at best, the conviction for offence under Section 304 Part-I or Part-II would be made out. He would further submit that the appellant was behind the bars for more than 10 years as he was in jail from 22.09.2011 and on 06.05.2022 he was granted bail by this Court and, as such, it is a fit case where conviction of the appellant for offence under Section 302 of the IPC can be converted/alterd to an offence under Section 304 Part-I or Part-II of IPC. Thus, the present appeal deserves to be allowed in full or in part.
7. On the other hand, Mr. Rahul Tamaskar, learned State counsel, would support the impugned judgment and submit that prosecution has been able to prove the offences beyond reasonable doubt and the trial Court has rightly convicted the appellant for the aforesaid offences. He would also submit that it is not the case of alteration of offence from under Section 302 of IPC to Section 304 Part-I or Part-II of the IPC where the



conviction of the appellant can be modified for lesser offence, therefore, the instant appeal deserves to be dismissed.

8. We have heard learned counsel for the parties, considered their rival submissions made herein-above and perused the records meticulously.
9. The first question, as to whether the death of the deceased was homicidal in nature, has been answered by the trial Court in affirmative relying upon the postmortem report (Ex.P/8) proved by Dr. R.S. Markam (PW-7), which, in our considered opinion, is a correct finding of fact based on evidence available on record which is neither perverse nor contrary to the record. Accordingly, we hereby affirm the finding of the trial Court holding that the death of the deceased was homicidal in nature.
10. Now, the question for consideration would be whether the appellant has assaulted the deceased?
11. The trial Court has convicted the appellant basically on the statement of Anita (PW-2), daughter of the appellant and deceased, who in her statement before the Court has stated that the her mother told her that the appellant assaulted her



(deceased) and thereafter she died. Also, the conviction of the appellant is based on the postmortem report (Ex.P/18) proved by Dr. R.S. Markam (PW-7), as in the postmortem report, it was opined by doctor (PW-7) that the cause of death of the deceased was haemorrhage leading to shock due to collapse of right lung and the ribs No.4, 5 & 6 were fractured on account of which right lung was collapsed and homicidal in nature. As such, the trial Court has rightly held that it the appellant who caused the injuries to the deceased and we hereby affirm the said findings of the trial Court.

12. Now, the question for consideration is whether the conviction of the appellant for offence under Section 302 of the IPC can be converted/alterd to an offence under Section 304 Part-I or Part-II of IPC as contended by learned counsel for the appellant?
13. In the matter of Arjun v. State of Chhattisgarh¹, the Supreme Court has held that if there is intent and knowledge, the same would be case of Section 304 Part-I of 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 IPC.

¹ (2017) 3 SCC 247



14. Bearing in mind the principles of law laid down by their Lordships of the Supreme Court in above-stated judgment and as per the prosecution case, it is quite vivid that the quarrel took place between the appellant and the deceased due to which out of anger, the appellant is said to have assaulted the deceased by hand and fist and on account of which ribs No.4, 5 & 6 got fractured and right lung got collapsed. As such, considering the nature of injury which has occurred on the body of the deceased and further considering the medical evidence available on the record, it is quite vivid that there was no intention on the part of the appellant, but he must have had knowledge that such injury inflicted by him on the body of the deceased would likely to cause her death, therefore, this is a case in which the conviction of the appellant for offence under Section 302 of the IPC can be converted/altered to an offence under Section 304 Part-II of the IPC.

15. In view of the aforesaid discussion, the conviction of the appellant for offence punishable under Section 302 of IPC as well as the sentence of life imprisonment awarded to him by the learned trial Court is hereby set aside. Considering that there was



no intention on the part of the appellant to cause death of his wife Naihari (deceased), the appellant is convicted for offence punishable under Section 304 Part-II of IPC and sentenced to the period already undergone by him as he was in jail from 22.09.2011 and on 06.05.2022 he was granted bail by this Court, meaning thereby, he has already suffered jail sentence of more than 10 years. However, the fine amount imposed by the learned trial Court shall remain intact.

16. So far as the conviction and sentence of the appellant for offence under Section 201 of the IPC are well merited and the appellant has already completed his jail sentence awarded by the trial Court for the said offence i.e. R.I. for 2 years, as he has already undergone R.I. for more than 10 years of his jail sentence and the sentences were directed to run concurrently. However, the fine amount imposed by the learned trial Court shall remain intact. Since the appellant is stated to be on bail, he need not surrender. However, his bail bond shall remain in operation for a period of six months as per provisions contained in Section 437-A of the CrPC.
17. This criminal appeal is **partly allowed**.



Let a certified copy of this judgment along with the original record be transmitted to the trial Court concerned forthwith for information and necessary action, if any.

Sd/-
(Sanjay K. Agrawal)
Judge

Sd/-
(Sachin Singh Rajput)
Judge

Ankit