



2026:CGHC:3319



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HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 529 of 2014

1 - Kali Bai W/o Hansu Ram Gond Aged About 35 Years,

2 - Jhuniya Bai W/o Mannu @ Manohar Pandre Aged About 22 Years,

Both are R/o Village Larbaki Thana Taregaon Jangal Civil And Rev. Distt.
Kabirdham Cg, District : Kawardha (Kabirdham), Chhattisgarh

... Appellants

versus

State of Chhattisgarh S/o Through PS Taregaon Jangal Distt. Kabirdham
Kawardha Cg, Chhattisgarh.

---- Respondent

For Appellants : Shri Ajit Singh, Advocate
For State/Respondent : Shri Himanshu Yadu, PL

Hon'ble Smt. Justice Rajani Dubey
Judgment on Board

20/01/2026

1. This appeal has been preferred by the appellants/accused being aggrieved with the judgment of conviction and order of sentence dated 27.05.2014 passed by the Fast Track Court of Additional Sessions Judge, Kabirdham (Kawardha) (C.G.) in Sessions Case



No.10/2014, whereby the trial Court has convicted and sentenced the appellants as under :

Conviction	Sentence
Under Section 326(B)/34 of the IPC	Rigorous Imprisonment (RI) for 05-05 years and fine amount of Rs.500-500/- and in default of payment of fine, additional RI for 06-06 months

2. According to the case of prosecution is that applicant Mohan left his first wife, Chandrabai, four years prior to the incident and adopted Baigebai as his wife a year ago. This is why the applicant's first wife and children harbor a grudge against the applicant. Accused Jhuniyabai married Mannu a year ago in Larbakki village. On the date of the incident, around 10:00 a.m., he went from Larbakki to his in-laws' village, Auragobra. While returning around 7:00 p.m., he encountered accused Jhuniyabai's father-in-law near Larbakki. He told the applicant and his second wife, Baigebai, to eat dinner and leave. The applicant then accompanied Baigebai to her in-laws' house. While they were sitting and discussing the matter, the accused arrived and began assaulting her. When the applicant tried to intervene, they threatened to kill him and poured acid from a bottle on him, burning him. Then the petitioner ran away to save his life with his second wife and after reaching the village, told the villagers about



the incident.

3. On the information of the applicant, after the dehati nalishi (Ex.P/1), the case was taken into investigation. After registration of FIR (Ex.P/18) under Crime No. 75/13 Section 326 (a)(b)/34 IPC at Police Station, Taregaon Forest. The accused were arrested.
4. The medical examination of the injured was done as per Exhibit P/11. The site map of the incident was prepared as per Exhibit P/5 and Ex.P/6. After the medical report Exhibit P-10, query report Exhibit P-12, statements of witnesses were taken.
5. After completion of investigation, and on finding evidence of crime against the accused, charge sheet was filed before the Court of Chief Judicial Magistrate, Kawardha on 20.12.2013.
6. On 05.02.2014, charges were framed against the accused under Section 326 (a)(b)/34 of IPC and were read out and explained to them. The accused denied the charges and sought trial.
7. To prove the guilt of the accused/appellants, the prosecution has examined as many as 11 witnesses. Statements of the appellants under Section 313 of the Cr.P.C. were recorded, wherein accused/appellants have pleaded their innocence and false implication in the matter.
8. After completion of trial, the trial Court convicted and sentenced



the appellants as mentioned in paragraph one of this judgment.

Hence, this appeal.

9. Learned counsel appearing for the appellants contended that the learned trial Court has wrongly been convicted the appellants without any sufficient and clinching evidence available on record against the appellants. He further contended that on perusal of the statements of the witnesses, no one have supported the case of the prosecution. The prosecution was started the matter after receiving the memo of hospital there after they collected the material because the doctor stated that the victim itself dose not speak about the burn by acid. Even otherwise the prosecution has collected the entire material at village Larbaki which is dense forest tribe aria where the getting of plastic bag is not possible; the police have sized the acid. He further contended that the learned trial Court has failed to see the case behind reasonable doubt. When the prosecution has failed the established the case under Section 326(B)/34 of IPC then there is no occasion to convict the appellants for R.I. of 05 years. Looking to the entire material on records apart of the statements of witness there is no such evidence has come, the appellants are thrown acid upon the victim. It is said to the case one innocent persons are behind the bar.

10. Reliance has been placed on the judgment passed by the Hon'ble



Apex Court in the matter of **Jayantibhai Chaturbhai Patel Vs.**

State of Gujarat, reported in **2025 INSC 1443. Para – 10** of the

said judgment is as under :

“10. This Court, in the case of **State of Rajasthan v. Bhawani, (2003) 7 SCC 291**, has held that where the witness has been declared hostile, the court should be slow to act on the testimony of such a witness. Similar stance was reiterated by this Court in the case of **Paramjeet Singh v. State of Uttarakhand, (2010) 10 SCC 439**. The relevant paragraph of Bhawani (supra) reads as under:

"10. The fact that the witness was declared hostile by the Court at the request of the prosecuting counsel and he was allowed to cross-examine the witness, no doubt furnishes no justification for rejecting en bloc the evidence of the witness. But the court has at least to be aware that prima facie, a witness who makes different statements at different times has no regard for truth. His evidence has to be read and considered as a whole with a view to find out whether any weight should be attached to the same. The court should be slow to act on the testimony of such a witness and, normally, it should look for corroboration to his evidence.”

- 11.** Further reliance has been placed in the matter of **Vishnu Narayan Shipuri Vs. State of UP** passed on **16th August, 2018** in **Criminal Appeal No.1248 of 2014** by the Hon’ble High Court of Judicature at Allahabad, Lucknow Bench. **Para-15** of the said judgment is as under :

“15. It has been held in the case of Yogesh Singh vs.



Mahabeer Singh and others reported in (2017)11 Supreme Court Cases 195:

16. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. [Vide Kali Ram Vs. State of Himachal Pradesh, (1973) 2 SCC 808; State of Rajasthan Vs. Raja Ram, (2003) 8 SCC 180; Chandrappa & Ors. Vs. State of Karnataka, (2007) 4 SCC 415; Upendra Pradhan Vs. State of Orissa, (2015) 11 SCC 124 and Golbar Hussain & Ors. Vs. State of Assam and Anr., (2015) 11 SCC 2421.

12. He further contended that on perusal of the statements of the witnesses and chemical report it is crystal clear that the burn was by any other substance. But now the police has made up mind to implicate the appellants. It is therefore, most respectfully prayed that this Court may kindly be pleased to allow this appeal and set-aside the impugned judgment of conviction and sentence dated 27.05.2014, and the appellants may kindly be acquitted, in the facts and circumstances of the case.
13. Per contra, learned counsel for the State/respondent opposes the argument raised by counsel for the appellants, supported the impugned judgment and submits that sentence awarded by the trial Court is just and proper and requires no interference.
14. I have heard learned counsel for the parties and perused the



impugned judgment and other material available on record with utmost circumspection.

15. It is clear from the record of the learned trial Court that the learned trial Court has framed the charge against both the appellants under Section 326(A)(B)/34 of IPC and on appreciation of oral and documentary evidence, the learned trial Court has acquitted the appellants under Section 326(A)/34 of IPC and convicted under Section 326(B)/34 of IPC.
16. Complainant – Mohan (PW-1) has stated in his examination-in-chief is that the incident occurred before Diwali last year. His second wife - Baigi Bai, and he were returning from Aurahoghara. On the way, he met his daughter Jhuniya Bai's in-laws' house. His brother-in-law asked him where he had been. He told him that he had been to Aurahoghara. His relative and sister-in-law told him to eat. He then stopped to eat. He said that it will take some time for the lentils to cook on the stove and he is going home. Then his daughter said that the food will be cooked, wait. He started going home in a hurry and then his foot collided with the wood in the stove, due to which the pulses scattered and fell on his left arm, left back and front chest, due to which the said area got burnt.
17. This witness has turned hostile and on cross-examining, he denied suggestions of prosecution. He only admitted his signature on *dehati nalshi* (Ex.P-1), hence, he denied the police statement



(Ex.P-2). He also denied seizure of his cloths as per Ex.P-3. He admitted the suggestions of defence that the appellants/accused Baggi Bai cannot speak or hear properly, but she voluntarily stated that she understands gestures and communicates through gestures.

18. Ganiya Bai (PW-2), Keshuram (PW-3) and Manti Bai (PW-6) these all witnesses only stated that Mohan came to his daughter's home and he was in cross-examination, they denied the suggestions of prosecution.
19. Dr. P.C. Prabhakar (PW-4) who examined the injured- Mohan and stated that he examined the injured person and found that he had 4.50% burns on his body and left shoulder. There were 4.5% burns on the left chest. There was 4.5% burn on the left stomach. There were 4% burns on the front of the left thigh and the burns were extending 0.9% towards the back. He gave his report Ex.P-10. He also gave fitness certificate for statement of injured as Ex.P-11 and held the query report of the Investigating Officer as Ex.P-12. In query report, he answered that the said burn injury can also be caused by acid.
20. The learned trial Court mainly appreciated oral and documentary evidence and on the basis of *dehati nalshi* and other document of the prosecution and as per medical report, convicted both the appellants, but it is clear that the injured himself stated that he received sustained injuries due to his negligence and he was burnt



by the pulses scattered which fell on his left arm, left back and front chest.

21. Dr. P.C. Prabhakar (PW-4) also in his query report answered that he did not definitively state what could have caused the burns if the burns were not caused by acid. The prosecution also filed the FSL report as Ex.P-17, but as per Ex.P-17, no chemical was found on the body of the injured.
22. Considering the judgment passed by the Hon'ble Apex Court in the matter of **Jayantibhai Chaturbhai Patel** (supra) and the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench passed the judgment in the matter of **Vishnu Narayan Shipuri** (supra).
23. In the light of the present case, also the injured – Mohan (PW-1) himself not supported the case of prosecution and he stated that he sustained injuries due to his negligence, but the learned trial Court did not appreciated the statement of the injured-Mohan and other witnesses and wrongly convicted the appellants, therefore, it is clear that the prosecution has failed to prove its case against the appellants beyond reasonable doubt. Therefore, the finding recorded by the learned trial Court is not sustainable. Thus, the judgment and order of conviction passed by the learned trial Court is set aside. Accordingly, the appeal is allowed. Consequently, the appellants are acquitted of the alleged offences.



24. The appellants are reported to be on bail. Keeping in view the provisions of Section 437-A of Cr.P.C. (481 of the B.N.S.S.), the appellants are directed to forthwith furnish a personal bond in terms of Form No. 45 prescribed in the Code of Criminal Procedure of sum of Rs.25,000/- with one surety (each appellant) in the like amount before the Court concerned which shall be effective for a period of six months along with an undertaking that in the event of filing of Special Leave Petition against the instant judgment or for grant of leave, the aforesaid appellants on receipt of notice thereof shall appear before the Hon'ble Supreme Court.
25. The trial Court record along with a copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action.

Sd/-

(Rajani Dubey)
Judge