



2026:CGHC:4067-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****ACQA No. 159 of 2010**

State of Chhattisgarh Through The District Magistrate District Bastar
(C.G.)

... Appellant**versus**

1 - Mahadev @ Maharu S/o Basant Singh Aged About 33 Years Caste Dhakad, Occupation Agriculturist R/o Village Badepara Kurandi, P.S. Nagarnar, District Bastar (C.G.)

2 - Mahesh, S/o Basant Singh, Aged About 27 Years Caste Dhakad, Occupation Agriculturist R/o Village Badepara Kurandi, P.S. Nagarnar, District Bastar (C.G.)

3 - Basant Singh, S/o Vikram Singh, Aged About 65 Years Caste Dhakad, Occupation Agriculturist R/o Village Badepara Kurandi, P.S. Nagarnar, District Bastar (C.G.)

... Respondents

For State/Appellant	:	Mr. Saumya Rai, Panel Lawyer
For Respondents	:	Mr. Keshav Dewangan, Advocate

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

Judgment on Board**Per Ramesh Sinha, Chief Justice****23.01.2026**

1. This Acquittal Appeal under Section 378 (1) of the Criminal Procedure Code has been filed by the State/appellant challenging the legality, validity and propriety of judgment dated 26.06.2008 passed by the learned Special Judge (Atrocity) Jagdalpur (C.G.)



in Sessions Trial No.99/2007, whereby the learned trial Court has acquitted the accused/respondents from the offence punishable under Sections 302 read with Section 34 of IPC and 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 holding that the prosecution has failed to establish its case beyond reasonable doubt.

2. The prosecution case, in brief, is that on 22.05.2007, the deceased, Durjan alias Durchand, went to the village to demand the money he had lent to the accused. At that time, the accused allegedly kicked him. As a result, the deceased, Durjan alias Durchand, became unconscious and was taken by his family members to Maharana Hospital, Jagdalpur, for treatment. During the course of treatment, Durjan alias Durchand died on 25.05.2007 at about 7:05 a.m. A report was lodged at Police Station Kotwali, Jagdalpur, on the same day at about 4:30 p.m., pursuant to which a First Information Report (Ex.P/4) bearing Crime No. 0/07 was registered under Section 302 read with Section 34 of the Indian Penal Code and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The death of deceased Durjan alias Durchand was reported by Dr. K.M. Gupta of Makrani Hospital, Jagdalpur, as per Ex.P/9. Since the victim belonged to a Scheduled Tribe and the accused belonged to a non-Scheduled Tribe community, the case was transferred to Ajak Police Station, Jagdalpur, where a First Information Report (Ex.P/14) was registered under Crime No.



19/2007 for the offences punishable under Section 302 read with Section 34 of the IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Thereafter, investigation was carried out. During the investigation, the inquest proceedings were conducted and a Panchnama was prepared. The dead body was sent for post-mortem examination, and the post-mortem report is Ex.P/6.

3. Statements of the witnesses were recorded during the course of investigation. Upon completion of the investigation and on the basis of the evidence collected, a charge-sheet was filed against the accused before the Court of Judicial Magistrate First Class, Jagdalpur. The Judicial Magistrate First Class, Jagdalpur, after supplying copies of the charge-sheet and other documents to the accused as required under law, committed the case to the Court of Sessions for trial. Thereafter, the Sessions Court transferred the case to the Court of Special Judge (Atrocities), Jagdalpur, for trial in accordance with law.
4. When the accused were charged under Section 302 read with Section 34 of the IPC and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act , they denied the charges and claimed trial.
5. In order to prove its case, the prosecution has examined as many as 11 witnesses and exhibited 14 documents. Accused were examined under Section 313 of the Cr.P.C., in which they denied



the circumstances appearing against them and claimed innocence and false implication in crime in question.

6. After providing opportunity of hearing to the parties, the learned trial Court has acquitted the respondents from all the charges. Hence, this acquittal appeal.
7. Mr. Saumya Rai, learned Panel Lawyer, appearing for the State/appellant vehemently argued that the impugned judgment of acquittal is bad in law and in facts and circumstances of the case, the learned trial Court failed to appreciate the evidence recorded in the case in its true and correct perspective and succumbed to conjectures and surmises in acquitting the respondents. He further submitted that the learned trial Court failed to appreciate the circumstantial evidence and thus committed grave error in acquitting the respondents by not appreciating the evidence of Shanti Bai (PW-2) and Laxman (PW-4) in their correct perspective. He also submitted that the learned trial Court failed to appreciate that there is motive with the accused to kill the deceased as when deceased went to the accused to demand the money which he had lent to the accused, they assaulted him with hands and fists, due to which he was hospitalized and died because of internal bleeding, which is proved from PM report (Ex.P/6), as such, interference is required by this Court.
8. On the other hand, learned counsel, appearing for the accused/ respondents support the impugned judgment passed by the



learned trial Court and submitted that the learned trial Court, considering the evidence available of record, has rightly acquitted the accused/respondents and as such, the acquittal appeal filed by the State deserves to be dismissed.

9. We have heard learned counsel appearing for the parties, perused the impugned judgment of acquittal and record of the trial Court.
10. This is an appeal against the judgment of acquittal filed by the State under Section 378(1) of the Cr.P.C. In exercising the appellate jurisdiction under Section 378(1) or under Section 378 of the Cr.P.C, the appellate Courts are required to keep in mind that the trial Court had the advantage of looking at the demeanour of witnesses and observing their conduct in the Court especially in the witness-box and also required to keep in mind that even at that stage, the accused was entitled to benefit of doubt. The doubt should be such as a reasonably person would honestly and conscientiously entertain as to the guilt of the accused.
11. As held by the Supreme Court in **C.Antony v. Raghavan Nair**¹, unless the High Court arrives at definite conclusion that the findings recorded by trial Court are perverse, it would not substitute its own view on a totally different perspective and also as held by the Supreme Court in **Ramanand Yadav v. Prabhunath Jha**², the appellate Court in considering the appeal against judgment of acquittal is to interfere only when there are compelling and substantial reasons for doing so. If the impugned

1 AIR 2003 SC 182

2 AIR 2004 SC 1053



judgment is clearly unreasonable and relevant and convincing materials have been unjustifiably eliminated in the process, it is a compelling reason for interference.

12. The scope of interference in appeals against acquittal is well settled. In **Tota Singh and another v. State of Punjab**³, the Supreme Court has held in para 6 as under:-

“.....the mere fact that the Appellate Court is inclined on a reappreciation of the evidence to reach a conclusion which is at variance with the one recorded in the order of acquittal passed by the Court below will not constitute a valid and sufficient ground for setting aside the acquittal. The jurisdiction of the appellate Court in dealing with an appeal against an order of acquittal is circumscribed by the limitation that no interference is to be made with the order of acquittal unless the approach made by the lower Court to the consideration of the evidence in the case is vitiated by some manifest illegality or the conclusion recorded by the Court below is such which could not have been possibly arrived at by any Court acting reasonably and judiciously and is, therefore, liable to be characterised as perverse. Where two views are possible on an appraisal of the evidence adduced in the case and the Court below has taken a view which is a plausible one, the Appellate Court cannot legally interfere within an order of acquittal even if it is of the opinion that the view taken by the Court below on its consideration of the evidence is erroneous.”

³ AIR 1987 SC 1083



13. Applying the law governing the scope of interference in an appeal against acquittal, the Hon'ble Supreme Court in the case of ***State of Rajasthan Vs. Kistoora Ram***⁴ has held as follows:-

"8. The scope of interference in an appeal against acquittal is very limited. Unless it is found that the view taken by the Court is impossible or perverse, it is not permissible to interfere with the finding of acquittal. Equally if two views are possible, it is not permissible to set aside an order of acquittal, merely because the Appellate Court finds the way of conviction to be more probable. The interference would be warranted only if the view taken is not possible at all."

14. In the matter of ***Jafarudheen and others v. State of Kerala***⁵, the Supreme Court held as under:

"25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC. the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."

4 2022 SCC OnLine SC 984

5 (2022) 8 SCC 440



15. While exercising the appellate jurisdiction against judgment of acquittal, the High Courts or the appellate Courts are fully empowered to appreciate and re-appreciate the evidence adduced on behalf of the parties while reversing the judgment of the trial Court. The appellate Court is required to discuss the grounds given by the trial Court to acquit the accused and then to dispel those reasons.
16. In the light of aforesaid dictum and proposition of law, we have examined the evidence adduced on behalf of the prosecution.
17. To prove the charges levelled against the accused/respondents, the prosecution has examined as many as 11 witnesses and exhibited 14 documents.
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 Durjan alias Durchand was homicidal in nature ?**
20. The trial Court, after appreciating oral and documentary evidence available on record particularly relying upon the statement of Dr. L.L. Thakur (PW-6), who had conducted postmortem over the dead body of the deceased Durjan alias Durchand vide Ex.P-6, has come to the conclusion that cause of death of the deceased was shock and hemorrhage due to internal bleeding and it was not homicidal in nature.



21. After hearing learned counsel for the parties and after considering the submissions advanced by learned counsel for the parties, we are of the considered opinion that the finding recorded by the trial Court that death of deceased Durjan alias Durchand was not homicidal in nature is the finding of fact based on evidence available on record. It is neither perverse nor contrary to record. We hereby affirm the said finding.
22. In the present case, there is no direct evidence / eyewitness available on record. The case of prosecution is based on the 'circumstantial evidence'.
23. The Supreme Court in the matter of **Sharad Birdhichand Sarda v. State of Maharashtra**⁶ has clearly laid down the factors to be taken into account in adjudication of cases of circumstantial evidence, which states 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;

6 (1984) 4 SCC 116



(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.”

24. Prosecution witness Shanti Bai (PW-2), the wife of the deceased Durjan alias Durchand, stated that the accused had assaulted Durjan alias Durchand. She further stated that when her husband regained consciousness in the hospital, he told her that he had gone to the accused's house to demand repayment of money that the accused had borrowed, and that the accused had assaulted him. However, Ramchand (PW-7) did not support the testimony of Shanti Bai (PW-2). He contradicted her version by stating that the deceased Durjan was ill and a habitual heavy drinker, and that these factors led to his death. He also disputed Shanti Bai's statement that the accused Basant had borrowed money from the deceased and had beaten him when repayment was demanded. Ramchand (PW-7) further stated that he never told Shanti Bai that the accused had beaten Durjan over the loan amount.
25. As far as the statement of the deceased Durjan alias Durchand regarding having been beaten after regaining consciousness in the hospital is concerned, Shanti Bai (PW-2) has admitted that Durjan alias Durchand was admitted to Maharani Hospital, Jagdalpur, in an unconscious condition. His condition was very



serious, and therefore the doctors had prohibited her from meeting him. She has further admitted that when the doctors informed her that he had regained some consciousness, she went to see her husband, who was wearing a mask on his face, was being administered glucose, and had a tube inserted into his urinary tract. She has also admitted that when she asked her husband whether Mahadev had beaten him, he replied in the affirmative; when she asked whether Basant had beaten him, he again replied in the affirmative; and when she asked whether Mahesh had beaten him, he also replied in the affirmative. Thus, it is clear from the testimony of Shanti Bai that the deceased Durjan himself did not voluntarily state that he had been beaten by Mahadev, Basant, and Mahesh. Rather, this witness suggested the names to Durjan alias Durchand, and he merely responded in the affirmative. Moreover, Shanti Bai did not witness the alleged beating with her own eyes. Therefore, her statement that Durjan alias Durchand, after regaining consciousness, himself stated that the accused had beaten him is not correct. Consequently, the evidence presented by Shanti Bai is not credible beyond reasonable doubt.

26. Another prosecution witness, Aayati (PW-3), stated that Durjan had gone to Kotpad in the morning to buy seeds and, in the evening, went to the accused's house in Kurandi to ask for the money he had lent. She further stated that, that evening, Mahesh brought Durjan in front of her house, threw him down, and left.



She also stated that when Mahesh brought Durjan outside her house, she asked him why he was doing so, whereupon Mahesh told her that there had been a quarrel over the demand for money from Mahadev and that Mahadev had killed him. However, during cross-examination, Aayati (PW-3) admitted in paragraph 5 of her testimony that she does not know to whose house Durjan had gone after returning from Kotpad. Further, in her police statement (Ex. D-1), it was not stated that Basant, Mahadev, and Mahesh had beaten Durjan. It is also not a fact, as per her police statement, that Mahesh brought Durjan and left him in front of her house. The Investigating Officer, D.R.S. Uike, has stated that witness Aayati did not mention in her police statement that her son was brought and left in front of her house, or that she had stated that Mahadev had beaten him. Aayati (PW-3) further admitted in paragraph 6 of her testimony that it was accused Basant who had brought her son and left him there, stating that her son was drunk and that he was only bringing him and leaving him there.

27. Another prosecution witness, Laxman (PW-4), who is the son of the deceased Durjan alias Durchand, stated that at about 5:00 p.m. he was at home when he saw the accused Mahesh coming towards his house along with his father. Mahesh was holding his father and brought him home, where he left him. At that time, his father was unconscious. As no vehicle was available that night, he was not taken to the hospital. He was admitted to Maharani



Hospital, Jagdalpur, the next morning. According to Laxman, his father regained consciousness at around 5:00 p.m. on the same day he was admitted. After regaining consciousness, when the Sarpanch, his mother, and his grandfather went to meet his father, Durjan allegedly told them that Mahesh, Basant, and Mahadev had kicked him in the chest. He further stated that his father complained of severe chest pain and difficulty in breathing and died the next day at about 10–11 a.m.

28. However, Laxman's police statement (Ex. D-2) does not mention that after his father regained consciousness, the Sarpanch, his mother, his grandfather, and he met him, or that his father stated that the accused had kicked him in the chest and stomach, causing difficulty in breathing. For the first time, Laxman has made this statement before the Court, and therefore, his testimony appears to be an afterthought and is not tenable. The Investigating Officer, D.R.S. Uke (PW-10), has stated that Laxman did not mention these facts in his police statement, and hence they were not included therein. Thus, the statement of Laxman is also unreliable beyond reasonable doubt.
29. Another prosecution witness, Sukalu (PW-5), stated that approximately seven months ago, at around 6:00 p.m., he heard a commotion at Durjan's house. He went there and found Durjan unconscious. Durjan's mother and wife claimed that the accused had assaulted him, but Sukalu did not observe any injuries on Durjan's body. This witness was declared hostile by the Public



Prosecutor. It is important to note that Sukalu is Durjan's cousin.

When questioned by the Additional Public Prosecutor, he stated that upon regaining consciousness, Durjan told him that Mahadev and Basant had kicked and punched him in the stomach when he had asked for the money he had lent. Sukalu also admitted during cross-examination that Durjan had not regained consciousness at home and was admitted to the hospital in an unconscious state. He further admitted that while in the hospital, Durjan had told his wife that the accused had assaulted him, and she had conveyed this to them. This means that Sukalu neither witnessed the assault himself nor did the deceased make any statement to him directly. Instead, he has merely narrated hearsay. Therefore, one cannot rely on hearsay as evidence. As a result, this witness's testimony is also unreliable beyond reasonable doubt.

30. The testimonies of the witnesses examined above are plagued by contradictions, inconsistencies, and reliance on hearsay. None of the witnesses provided direct, firsthand evidence of the alleged assault. The statement of Shanti Bai (PW-2) is primarily based on suggestions made by her, while the statements of Laxman (PW-4) and Aayati (PW-3) contain significant discrepancies with their earlier police statements. Additionally, Sukalu's testimony is based entirely on what others purportedly told him, which falls squarely within the category of inadmissible hearsay.



31. In light of the above analysis, it is evident that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt. The evidence presented is riddled with inconsistencies, contradictions, and is largely based on hearsay. The witnesses who testified against the accused have not provided credible and reliable evidence to substantiate their claims.
32. The acquittal of the accused by the trial court was therefore just and proper, and the appeal seeking to overturn the acquittal lacks merit. Accordingly, the appeal is hereby **dismissed**.
33. The Registry is directed to transmit the certified copy of this judgment along with the record to the trial Court concerned for necessary information and compliance.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice