



2026:CGHC:15001-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1301 of 2022

Rajkumar Nishad S/o Kartik Ram Nishad Aged About 27 Years R/o
Damkadih, Police Station Magarlod, District Dhamtari Chhattisgarh

... Appellant(s)

versus

State of Chhattisgarh Through Station House Officer, Police Station
Shobha, District Gariyaband Chhattisgarh

... Respondent(s)

For Appellant(s) : Ms. Nirupama Bajpai, Advocate

For Respondent(s) : Mr. Priyank Rathi, Government Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

01.04.2026

1. Heard Ms. Nirupama Bajpai, learned counsel for the appellant.
Also heard Mr. Priyank Rathi, learned Government Advocate for
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 01.07.2022 passed by the learned Additional Sessions Judge Gariyaband, District- Gariyaband (C.G.) in Session Case No. 18/2018 by which the appellant has been convicted for the offence punishable under Section 302 (two times) of the Indian Penal Code (IPC) and sentenced to undergo imprisonment for life with fine amount of Rs. 1,000/-, in default of payment of fine additional rigorous imprisonment for 01 year and under Section 201 of the IPC and sentenced to undergo R.I. for 03 years with fine amount of Rs. 1,000/-, in default of payment of fine additional rigorous imprisonment for 01 months.

3. The case of the prosecution, in brief, is that the informant Dhannuram Nishad lodged information before the Station House Officer, Police Station- Shobha, stating that his daughter Santoshi had come to village Shobha along with her husband Rajkumar to work as a labourer and was residing there with her minor daughters, namely Gopi aged about three and a half years and Paridhi aged about one and a half years. It was further informed that Santoshi used to work as a brick maker with Ghanshyam Markam, and on 03.04.2017 at about 05:30 PM, Santoshi along with her minor daughter Paridhi went missing from the village. On the basis of the said information, missing reports were registered at Police Station Shobha with respect to Santoshi and minor

Paridhi as Missing Persons Case Ex.P-36 and Ex.P-37 respectively.

4. During the course of investigation, the memorandum statement of the accused (Ex.P-01) was recorded on 16.12.2017. Thereafter, requisitions (Ex.P-38 and Ex.P-39) were sent to the Block Medical Officer and Sub-Divisional Officer, Mainpur for conducting exhumation proceedings. Upon completion of the exhumation process, notices (Ex.P-11) were issued to the witnesses and the exhumation panchnama (Ex.P-12) was prepared. On the basis of information received, separate inquest proceedings in respect of the deceased Santoshi and minor Paridhi were conducted, and thereafter a First Information Report (Ex.P-34) was registered against the accused under Section 302 of the Indian Penal Code, as reflected in Ex.P-40 and Ex.P-41. The investigating agency also prepared the site map of the place of occurrence (Ex.P-35) and obtained postmortem reports (Ex.P-30 and Ex.P-31).
5. Further during investigation, notices were issued to the witnesses for the purpose of inquest reports (Ex.P-04 and Ex.P-05), and spot panchnama maps of the deceased Santoshi and Paridhi were prepared as Ex.P-06 and Ex.P-07 respectively. During exhumation, clothes of the deceased Santoshi and a leather amulet found on the skeletal remains of Paridhi were seized in presence of witnesses, for which seizure memo (Ex.P-02) was prepared. The skeletal remains were thereafter referred to Jaipur

for medical examination, and examination reports (Ex.P-42 and Ex.P-46) in respect of Santoshi and (Ex.P-43 and Ex.P-47) in respect of Paridhi were obtained. A site map (Ex.P-10) of the exhumation spot was also prepared in presence of witnesses. During further investigation, another memorandum statement of the accused (Ex.P-24) was recorded, and pursuant thereto, on production by the accused Rajkumar, a shovel alleged to have been used in the commission of offence was seized in presence of witnesses vide seizure memo Ex.P-16. Upon finding incriminating material, the accused was arrested vide arrest memo Ex.P-13 and information regarding his arrest was duly communicated to his family members vide Ex.P-14.

6. It is further the case of the prosecution that during investigation, the Patwari submitted an application (Ex.P-44) to the Tehsildar, Mainpur for preparation of a detailed site map, pursuant to which panchnama (Ex.P-18) and site map (Ex.P-19) were prepared. The application for providing the said site map is Ex.P-20. Additionally, upon presentation by Constable Pushpendra Sahu, clothes and other articles of the deceased Santoshi were seized vide seizure memo Ex.P-28, and hair and other materials of minor Paridhi were seized vide Ex.P-29. The investigating agency also seized a copy of the videography of the exhumation from Gaukaran Yadav vide seizure memo Ex.P-21, along with its certificate Ex.P-22. For examination of the seized shovel, a requisition (Ex.P-45) was sent

to CHC Mainpur. Statements of the informant and other witnesses were recorded during the course of investigation.

7. Upon completion of the investigation, finding sufficient evidence against the accused, a charge-sheet was filed under Sections 302 and 201 of the Indian Penal Code before the CJM, Gariaband (C.G.). The case was thereafter committed to the Court of Sessions.
8. The charge was framed against the accused, which was read over and explained to him, however, he denied the same and claimed trial. In support of its case, the prosecution examined as many as 30 witnesses. The accused was examined under Section 313 of the Code of Criminal Procedure, wherein he denied all incriminating circumstances appearing against him, pleaded false implication, and did not adduce any evidence in his defence
9. 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 wife and child, convicted and sentenced him under Section 302 and 201 of the IPC. Hence this appeal.
10. Learned counsel for the appellant submits that the impugned judgment is bad both in facts and in law and is liable to be set aside, as the same has been passed by the learned trial Court on mere conjectures and surmises without proper appreciation of

evidence on record. It is contended that the entire case of the prosecution rests upon circumstantial evidence, there being no eyewitness to the alleged incident, and the chain of circumstances is neither complete nor cogently established so as to unerringly point towards the guilt of the appellant. It is further submitted that the learned Trial Court has failed to properly consider that the prosecution witnesses are not reliable, as most of them are hearsay witnesses who have not witnessed the occurrence, and their testimonies suffer from material contradictions and omissions. It is also urged that the prosecution has failed to prove the case beyond reasonable doubt and has not been able to establish any motive or intention on the part of the appellant for commission of the alleged offence. According to the learned counsel, the evidence adduced by the prosecution is not trustworthy and does not inspire confidence, yet the learned trial Court has erroneously relied upon the same to record conviction, which has resulted in grave miscarriage of justice.

- 11.** Learned counsel for the State, per contra, supports the impugned judgment and submits that the prosecution has successfully established a complete and unbroken chain of circumstantial evidence pointing towards the guilt of the accused. It is contended that the most crucial link is the discovery of facts pursuant to the memorandum statement of the accused (Ex.P-1) under Section 27 of the Indian Evidence Act, wherein the exact place of burial of the

deceased Santoshi and minor Paridhi, which was exclusively within the knowledge of the accused, was disclosed, and acting upon such information, the police, in the presence of the Tehsildar and independent witnesses, recovered the skeletal remains from the riverbank vide Ex.P-12. It is further submitted that pursuant to another memorandum (Ex.P-24), the accused led to the recovery of the weapon of offence, namely a spade (fawda), from his possession vide seizure memo Ex.P-16, thereby further strengthening the prosecution case. Learned counsel submits that the prosecution has also established a clear motive, inasmuch as the accused harboured suspicion regarding the character of his wife and objected to her interaction with other labourers, which ultimately led to the fatal incident. It is additionally contended that the conduct of the accused is highly incriminating, as after committing the murder of his wife and minor child, he attempted to destroy evidence by burying their bodies and further misled the informant and family members by falsely stating that they were alive in Banda (U.P.), thereby demonstrating a guilty mind and conscious attempt to screen the offence. It is further argued that the incident having occurred within the exclusive domain and knowledge of the accused, the burden under Section 106 of the Evidence Act squarely shifted upon him to explain the circumstances leading to the disappearance and death of the deceased, which he failed to discharge, and his false answers under Section 313 Cr.P.C. further strengthen the prosecution case.

Lastly, it is submitted that the medical evidence also lends corroboration, as despite the bodies being in a highly decomposed and skeletal condition, the doctor (PW-28) found ante-mortem fractures on vital parts such as the skull, jaw and spinal cord of the deceased Santoshi, which is consistent with the prosecution theory of a violent assault by a hard and blunt object like a spade, thus conclusively establishing the guilt of the accused beyond reasonable doubt.

12. 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.
13. The foremost question which arises for determination is regarding the nature of death of deceased Santoshi Nishad and minor Paridhi Nishad. In this regard, the Investigating Officer, Sub-Inspector Prashant Mishra (PW-24), has deposed that pursuant to the memorandum statement of the accused (Ex.P-24), exhumation proceedings were carried out in presence of witnesses, and as per exhumation panchnama (Ex.P-12), skeletal remains of two bodies were recovered from a pit on the bank of Shobha Nala. This fact finds due corroboration from the testimony of Dhannu Nishad (PW-1), father of the deceased, who identified the skeletons as those of his daughter Santoshi Nishad and granddaughter Paridhi. The very fact that two human skeletons

were found buried in a concealed pit on the riverbank, coupled with the surrounding circumstances, clearly establishes that the deaths were not natural but homicidal in nature.

- 14.** Dhannu Nishad (PW-1) has further stated that the deceased Santoshi was his daughter and the accused was his son-in-law, and both had come to village Shobha for labour work at the brick kiln of Ghanshyam Markam. Upon learning that Santoshi was missing, he made efforts to trace her, and when unsuccessful, lodged a missing report at Police Station Shobha.
- 15.** The Investigating Officer (PW-24) has supported this version and stated that, on the basis of the information given by the informant, missing person reports (Ex.P-36 and Ex.P-37) were registered in respect of Santoshi and Paridhi.
- 16.** It has further come in the evidence of PW-24 that on 16.12.2017, the accused appeared and, upon interrogation, made a memorandum statement (Ex.P-01), disclosing that he had killed his wife Santoshi and daughter Paridhi and buried their bodies on the bank of Shobha Nala.
- 17.** Thereafter, requisitions (Ex.P-38 and Ex.P-39) were sent to the competent authorities for exhumation, notices (Ex.P-11) were issued to witnesses, and the exhumation proceedings were carried out on 16.12.2017, resulting in recovery of skeletal

remains. The exhumation panchnama (Ex.P-12) was prepared in presence of witnesses, and the remains were identified by Dhannu Nishad and Chandrotin Bai as those of the deceased.

- 18.** The evidence of PW-24 is duly corroborated by (PW-1) Dhannu Nishad and (PW-2) Chandrotin Nishad, as also by independent witnesses Pardeshi (PW-7), Pritam (PW-15) and Tulsi Markam (PW-30), all of whom have supported the exhumation proceedings and recovery of skeletons at the instance of the accused. Their testimonies have remained unshaken in cross-examination.
- 19.** Other witnesses including Dukalu Nishad (PW-7) have also deposed that, on the basis of the information given by the accused, excavation was carried out at the indicated spot and two skeletons, one of a woman and one of a child, were recovered, and panchnamas (Ex.P-06 and Ex.P-07) were prepared in their presence. Thus, the memorandum statement and consequential recovery stand duly proved.
- 20.** The Investigating Officer has further deposed that pursuant to memorandum statement (Ex.P-24), the accused led to recovery of a shovel (fawda), seized vide Ex.P-16 from his hut. The seizure has been duly supported by witnesses Dhannu Nishad (PW-1), Dukalu Nishad (PW-7), Laxman Sahu (PW-8) and Chhotu Ram (PW-17), whose statements have not been effectively challenged.

- 21.** Identification of the skeletal remains has also been established by the testimony of PW-1 and PW-2 on the basis of clothes, ornaments and articles such as bangles and amulet recovered from the spot, which remained uncontroverted.
- 22.** The medical evidence, though limited due to decomposition of bodies, indicates that postmortem examination could not conclusively determine the cause of death. However, Dr. Ulhas Gonnade (PW-28) has noted fractures in vital bones, including the jaw and spinal region, which could be caused by a hard and blunt object. Importantly, there is no indication of natural death.
- 23.** The exhumation proceedings and preparation of site maps and panchnamas by Tehsildar Surendra Singh Dhruv (PW-31) further corroborate the prosecution case and remain unchallenged.
- 24.** The defence contention that the memorandum statement was obtained under pressure and that there is absence of eyewitnesses is not acceptable. The memorandum has been duly proved by independent witnesses, and recovery pursuant thereto lends strong corroboration. In a case based on circumstantial evidence, absence of eyewitness is not fatal when the chain of circumstances is complete.
- 25.** The prosecution has also established motive, as reflected from the memorandum statement and evidence, that the accused suspected the character of his wife and frequently quarreled with

her, which culminated in the incident. Motive, though not essential, assumes significance in a case based on circumstantial evidence.

- 26.** The conduct of the accused in misleading the family members by falsely stating that the deceased were alive and residing in Banda (U.P.), despite having already caused their death and buried the bodies, is an additional incriminating circumstance indicating a guilty mind.
- 27.** The defence has failed to suggest any alternative hypothesis or establish any enmity with any third person, nor any other motive for commission of the crime by someone else.
- 28.** The accused has failed to offer any explanation for the incriminating circumstances appearing against him in his statement under Section 313 Cr.P.C. and has not adduced any defence evidence.
- 29.** Upon meticulous consideration of the entire evidence on record, including the documentary exhibits and testimonies of prosecution witnesses, this Court is of the considered opinion that the learned Trial Court has rightly appreciated the material available before it and has arrived at a just and proper conclusion. The memorandum statement of the appellant (Ex.P-01), duly proved by the Investigating Officer Prashant Mishra (PW-24) and supported by memorandum witnesses, led to the discovery of the

place of burial, and pursuant thereto, exhumation was carried out and skeletal remains of deceased Santoshi and minor Paridhi were recovered vide exhumation panchnama (Ex.P-12), which stands corroborated by the testimonies of Dhannu Nishad (PW-1), Chandrotin Nishad (PW-2), Pardeshi (PW-7), Pritam (PW-15) and Tulsi Markam (PW-30). The identification of the skeletal remains on the basis of clothes and articles has also been consistently proved by PW-1 and PW-2 and remains unshaken.

- 30.** Further, the subsequent memorandum statement (Ex.P-24) led to recovery of the weapon of offence, namely a shovel (fawda), seized vide Ex.P-16, which has been duly supported by seizure witnesses Dhannu Nishad (PW-1), Dukalu Nishad (PW-7), Laxman Sahu (PW-8) and Chhotu Ram (PW-17). The missing reports (Ex.P-36 and Ex.P-37) and subsequent FIR (Ex.P-34, Ex.P-40 and Ex.P-41) also form part of the chain of circumstances. The medical evidence adduced through Dr. B. Bara (PW-26), Dr. Ulhas Gonnade (PW-28) and Dr. Kaleshwar Kumar (PW-29), though limited on account of decomposition of the bodies, indicates fractures on vital parts of the skeleton, consistent with assault by a hard and blunt object, and does not suggest any natural death.
- 31.** The evidence further establishes motive on the part of the appellant, as reflected from the prosecution case and supported by the circumstances brought on record, that the appellant

harboured suspicion regarding the conduct of his wife Santoshi. The conduct of the appellant in misleading the informant and other family members by falsely stating that the deceased were alive elsewhere, coupled with the concealment of the dead bodies, constitutes an additional incriminating circumstance. The testimonies of prosecution witnesses, particularly PW-1, PW-2, PW-7, PW-15, PW-17, PW-24 and PW-30, have remained consistent on material particulars and have not been effectively discredited in cross-examination.

- 32.** In such circumstances, this Court finds that the chain of circumstantial evidence is complete and points only towards the guilt of the appellant. The appellant has failed to offer any plausible explanation in his statement under Section 313 Cr.P.C. with regard to the incriminating circumstances appearing against him, thereby inviting an adverse inference. The findings recorded by the learned Trial Court are based on proper appreciation of oral and documentary evidence and do not suffer from any illegality, perversity or infirmity warranting interference.
- 33.** Accordingly, this Court holds that the prosecution has proved its case beyond reasonable doubt, and therefore, the appeal being devoid of merits is hereby **dismissed**. The conviction and sentence imposed upon the appellant by the learned Trial Court are affirmed.

- 34.** It is stated at the Bar that the appellant is in jail since 17.12.2017, he shall serve out the sentence as ordered by the learned trial Court.
- 35.** 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/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice