



2026:CGHC:18926-DB



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1541 of 2025

Shesh Narayan Pandey S/o Lt. Moti Ram Pandey Aged About 72 Years R/o Gerwa Ghat, Atal Awaas No. 31, Ps- Kotwali- Korba, Distt.- Korba (C.G.)

... Appellant(s)

versus

State Of Chhattisgarh Through Sho, Ps- Ajak/kotwali- Korba, Distt.- Korba, (C.G.)

... Respondent(s)

(Cause-title taken from Case Information System)

For Appellant : Shri Ravish Verma, Advocate
For Respondent/State : Shri Shashank Thakur, Addl AG

Hon'ble Shri Justice Ramesh Sinha, Chief Justice
& Hon'ble Shri Justice Ravindra Kumar Agrawal
Judgment on Board

Per Ravindra Kumar Agrawal, J.

24.04.2026

1. Present appeal has been filed by the appellant under Section 415 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 r/w 14A(1)(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'SCST Act'), against the impugned judgment of conviction and order of sentence dated 26.04.2017 passed by the learned Special Judge for SCST Act, Korba, District-Korba in Special Criminal Case-31 of 2020, whereby the appellant has been convicted and



sentenced in the following manner with default stipulation, and to run the sentences concurrently:

Conviction	Sentence
Under Section 302 of the IPC	RI for life and to pay fine of Rs.25000/-
Under Section 307 of the IPC	RI for 10 years and to pay fine of Rs.25,000/-
Under Section 3(2)(v) of the Prevention of Atrocities of Scheduled Tribe and Scheduled Caste Act, 1989	RI for life and to pay fine of Rs.25000/-

2. Brief facts of the case are that complainant- Laxmi Prasad Chouhan gave merg intimation to the Police Ex.P11 that on 05.09.2020 at about 3 p when he was in his house along with his family members, they heard noise of a person and when they came out from their house, they saw that the appellant was assaulting PW1-Uma Yadav. All of sudden, he came towards them and assaulted his wife Gauribai on her abdomen by knife and she fell down. Blood was oozing and her intestines came out from her body. When he intervened the incident, appellant fled away from the place. They took the injured- Gauribai to the hospital, where she died. Based on the merg intimation, Dehati First Information Ex.P12 was recorded by the Police, and then Police started investigation. Inquest of the dead-body of the deceased Ex.P24 was prepared in presence of the witnesses and the dead-body was sent for its postmortem to the District Hospital, Korba, where PW6-Dr Ram Kumar Divya conducted postmortem on the dead-body of deceased and gave his



report Ex.P9. While conducting postmortem, the doctor has noticed 1)an abrasion over left side chest, 2)stab injury over left hypochondrium 5cm away from epigastrium region reaching to cut the both lobes of liver, lower surfaces of body of stomach, length of stab wound is 12", and death of the deceased is homicidal in nature. Injured PW1- Uma Yadav was also sent for her treatment to the District Hospital, Korba, where PW6-Dr Ram Kumar Divya medically examined her and gave his report Ex.P7. Injured Uma Yadav received 1)incised wound over right forearm, 2)incised wound over right arm, 3)incised wound over right shoulder joint, 4)incised wound over left mandible region, 5)incised wound over left pinna, lower part and the doctor opined that injuries caused by hard and sharp object and she was referred for expert opinion from surgical specialist. Injured was admitted at the district hospital, Korba from 05.09.2020 to 08.09.2020, her bed ticket has been obtained vide Ex.A1. The dying declaration of injured-Gauribai Ex.P1, spot map Ex.P2 was prepared by Patwari, Ex.P13 was prepared by the Police. From the floor, and door of house of injured Uma Yadav, pieces of blood soaked cotton, and plain piece of cotton have been seized from the spot vide seizure memo Ex.P14. Blood spots wiped out with piece of cotton, and plain piece of cotton have been seized from the house of deceased-Gauribai vide Ex.P15. Blood spots from the auto have been wiped out with respect to injured Uma yadav, by piece of cotton, plain piece of cotton have been seized from Uma Yadav vide seizure memo Ex.P16. Clothes of injured Uma Yadav and deceased-Gauribai have been seized vide Ex.p19 and Ex.P27 respectively. Merg



intimation Ex.P18 was sent to the jurisdictional Police Station Kotwali Korba, where FIR Ex.P20 was registered against the appellant for the offence under Section 302 and 307 IPC. Social status certificate of deceased-Gauribai, Adhar Card of the complainant, copy of ration card issued in the name of deceased-Gauribai, social status certificate issued by the Sarpanch in name of late Suraj Kumar have been seized vide seizure memo Ex.P36. The genealogical tree certificate has also been seized from Suraj Kumar vide seizure memo Ex.P39, in which it has been shown that he is the legal representative of the deceased-Gauribai.

3. Appellant was arrested on 05.09.2020 and his memorandum statement Ex.P3 was recorded. Based on his memorandum statement, blood stained banian, gamcha, underwear, and knife have been seized vide seizure memo Ex.P4. Seized knife was sent for its query report to PW6-Dr Ram Kumar Divya, who conducted postmortem of the dead-body of the deceased, who gave his report IEx.P10, whereby he opined that the injuries found on the dead-body of the deceased as well as on the injured could have been caused by the said knife.

4. Plain cotton and blood stained cotton seized from the house of injured- Uma yadav, Article-A; Another blood stained cotton seized from the door of house of injured Uma Yadav, Article-B; plain piece of cotton, Article-C; blood stained cotton seized from the door of house of the deceased-Gauribai, Article-D; plain piece of cotton, Article-E; blood stained cotton seized from the auto, Article-F; plain piece of cotton,



Article-G; blood stained cotton with respect to blood stains spread at various parts, Article-H; Banian of the appellant, Article-I; gamcha, Article-J, underwear of the appellant, Article-L; knife seized from the appellant, Article-M; Sari of the injured Uma Yadav, Article-N, blouse of the injured Uma Yadav, Article-O; petticoat of the injured Uma Yadav, Article-P; and clothes of the deceased-Gauribai, Article-Q were sent for their chemical examination to the Regional FSL Bilaspur, from where FSL report Ex.P38 was received, according to which, except the Article-C, Article-E and Article-G, blood stains found on all other articles i.e Article-J, Article-M, 'O' Group of human blood was found. In the Article-A, B, D, H, I, J, L, M, N, O, P, and Article-Q1 to Q3, human blood was found.

5. Statement of the witnesses under Section 161 of the CrPC have been recorded and after completion of usual investigation, charge-sheet was filed against the appellant for the offence punishable under Section 302, 307 and 450 IPC, 25&27 of the Arms Act, and Section 3(2)(v) of the SCST Act before the learned trial Court.

6. The learned trial Court has framed charge against the appellant for the offence under Sections 450, 302 and 307 of the IPC, 25&27 of the Arms Act and Section 3(2)(v) of the SCST Act. He denied the charge and claimed trial.

7. In order to prove the charge against the appellant, prosecution has examined as many as 10 witnesses. Statement of the appellant under Section 313 of the CrPC has also been recorded in which he denied the



circumstances appearing against him, pleaded innocence, and submitted that he has been falsely implicated in the alleged offence.

8. After appreciation of oral as well as documentary evidence led by the prosecution, the learned trial Court has convicted and sentenced the appellant as mentioned in the earlier part of the judgment. Hence this appeal by the appellant.

9. Learned counsel for the appellant would submit that prosecution has failed to prove its case beyond reasonable doubt. There are material omissions, and contradictions in the evidence of prosecution witnesses which cannot be made basis for conviction of the appellant. The so called eyewitnesses are interested witnesses. Independent witnesses have not supported the prosecution case. There is no motive proved by the prosecution to prove the prosecution case and only on suspicion, applicant has been made accused in the present case. In alternative, he would further submit that the injured-Uma Yadav borrowed an amount of Rs.8,500/- from the appellant, and when she has not returned the money back, he demanded the same from her but instead returning the money, she raised quarrel with him. In that process, altercation took place between them, PW1-Uma Yadav received injuries in heat of passion and due to sudden quarrel. Only one stab would has been found on the body of the deceased. Quarrel which was occurred was with the injured-Uma Yadav, and not with the deceased-Gauribai. Only one stab would was found on the body of the deceased and there is no repeated blow.



Learned counsel further submits that had the appellant to commit her murder, he would have inflicted repeated blows on her body. Therefore, offence of the appellant, if any, does not travel beyond the scope of Section 304 IPC. He would also submit that offence under the atrocities Act is also not applicable in the present case, as the appellant was unaware about the caste of the deceased and the social status of the deceased has not been proved in accordance with law. Until and unless the said social status of the deceased has been proved by the prosecution, appellant cannot be convicted under the atrocities Act. Therefore, by altering the conviction of the appellant from the offence of Section 302 IPC to Section 304 Part-I or Part-II IPC, his sentence may be reduced for the period already under by him.

10. On the other hand, learned counsel for the State opposes, and would submit that the prosecution has proved its case beyond reasonable doubt. But for minor omissions, or contradictions the evidence of prosecution witnesses are sufficient, which further corroborated with each other, to held guilt of the appellant for commission of murder of the deceased. Appellant initially assaulted the injured-Uma Yadav who received numerous injuries on her body, and he made assault of deceased-Gauribai. Blood has been found on the clothes of the appellant which further connect him with the offence in question. Looking to injuries found on the body of the injured, as well as the deceased, and the manner in which it was committed, learned trial Court has rightly convicted the appellant for the offence under Sections 302 and 307 IPC.



He would further submit that since the deceased belongs to the SC/ST Community and the appellant is held guilty for commission of murder of the deceased, the offence under Section 3(2)(v) of the Atrocities Act attracted and he is also entitled for conviction under the said offence. Thus, learned trial Court has rightly considered the evidence available on record which needs no interference by this Court.

11. We have heard learned counsel for the parties, and perused the record of the case with utmost circumspection.

12. The first and foremost question arises for consideration is, nature of death of the deceased as to whether the deceased died due to homicidal death, or not.

13. Prosecution case is based on the eyewitnesses as well as PW6- Dr Ram Kumar Divya, who conducted postmortem on the dead-body of the deceased-Gauribai. From the merged intimation Ex.P11 and Dehati FIR Ex.P12, which was lodged by the complainant-Laxmi Prasad Chouhan, husband of deceased, it transpires that appellant caused injuries by knife to the injured-Uma Yadav, as well as deceased-Gauribai, who received injuries on her abdomen, and her intestines came out from the body. Witnesses to the inquest Ex.P24 have also proved the injuries of deceased-Gauribai. Homicidal death of the deceased is further proved by the postmortem report Ex.P9, which was given by PW6-Dr Ram Kumar Divya. While conducting postmortem of dead-body of the deceased, doctor has found stab injury reaching to cut of her liver and intestines.



He opined that mode of death is shock due to hemorrhage as a result of stab injury over left hypochondrium 5cm away from epigastrium region reaching to cut the both lobes of liver, lower surfaces of body of stomach, length of stab wound is 12", and the death is homicidal in nature.

In cross-examination of PW6-Dr.Ram Kumar Divya, defence could not extract any material so that death of the deceased could have been held by any other reason, and not by the injuries inflicted by the appellant. He also gave query report Ex.P10, in which he corroborated that the injury found on the body of the deceased could have been caused by the said knife which was produced before him for its query report.

14. From the injuries found on the body of deceased, and from the evidence of the witnesses, prosecution is able to prove that the deceased- Gauribai died homicidal death, which the learned trial court has also rightly considered in its judgment.

15. So far as the injuries of the injured-Uma Yadav are concerned, same doctor, PW6-Dr Ram Kumar Divya has medically examined her and gave report Ex.P7. Doctor has found numerous injuries on various parts of the body of the injured. They are, 1)incised wound over right forearm, 2)incised wound over right arm, 3)incised wound over right shoulder joint, 4)incised wound over left mandible region, 5)incised wound over left pinna, lower part and the doctor opined that injuries caused by hard and sharp object and she was referred for expert opinion from surgical specialist.



From the document Ex.A1, it reflected that injured-Uma Yadav remained hospitalized from 05.09.2020 to 08.09.2020.

16. Thus, the injuries caused to the injured-Uma Yadav by the appellant though the doctor could not opined nature of injuries whether they were grievous in nature or simple. However, the fact remains that there are numerous injuries found on the body of injured-Uma Yadav.

17. So far as involvement of the appellant in the offence in question, case of the prosecution rests upon the injured witness, PW1-Uma Yadav and other witnesses PW2-Anjani Yadav, PW8-Durgeshwari Chouhan, and PW9-Shalini Yadav.

18. PW1-Uma Yadav is the injured witness, who sustained injuries in the incident. She stated in her evidence that on 05.09.2020, at about 2.30 pm, she was sitting outside of her house along with PW8-Durgeshwari Chouhan, and PW9- Shalini Yadav. At that time, appellant came from her backside and started assaulting her by knife. The first blow was given on her back, and when she turned around, appellant made repeated knife blows which have been inflicted on her right and left part of the body, and also on the left side of her face. After hearing her cries, other witnesses came there and the appellant fled away from the spot. At the same time, neighbour Gauribai came out from her house. Appellant also assaulted on her abdomen by knife, by which she received injuries and ultimately, died. She admitted that she borrowed Rs.8,500/-



from the appellant, and she could not repay the same. Therefore, appellant assaulted her by knife.

In cross-examination, she remained firm in saying that appellant caused her knife injury and also to the deceased-Gauribai. Nothing could be extracted from this witness so that her evidence could be disbelieved. Thus, she become the injured witness and remained firm. Her evidence alone is sufficient to hold the appellant guilty and perpetrator of the crime in question.

19. PW2-Anjali Yadav, neighbour stated in her evidence that when she heard the noise of injured-Uma Yadav, she came out from her house, and saw that injured-Uma Yadav lying near the door of her house and the appellant was assaulting her with knife. After hearing the noise of injured Uma Yadav, deceased- Gauribai came out of her house, and appellant gave her a knife blow on her abdomen. Seeing the incident, she came near Uma Yadav, and by then, appellant fled away from the spot.

In her cross-examination, she remained firm that she witnessed the incident. Though she shown her ignorance regarding money transaction between the appellant and the injured, but for substantial allegation of assault made by the appellant to the injured as well as the deceased, she firmly stated.

20. Another witness PW8- Durgeshwari Chouhan has stated in her evidence that on the date of incident, she had gone to the house of Uma



Yadav and by that time, appellant came there and altercation started. Thereafter, she came back to her house. She turned hostile and not supported the prosecution case.

21. PW9- Shalini Yadav is another witness who was sitting with the injured-Uma Yadav at the time of incident. She stated in her evidence that on the date of incident, she was sitting along with Uma Yadav in her house. At that time, appellant came there and on the issue of money transaction, quarrel started between them. Appellant gave a knife blow upon the injured- Uma Yadav. After seeing the incident, she afraid of and rushed towards her own house. When she came back along with her mother, she saw both the persons i.e injured and deceased.

In her cross-examination, she remained firm in saying that when the appellant made assault to the injured-Uma Yadav, she rushed towards her house, and denied that she has not witnessed the incident.

22. From evidence of all these witnesses, prosecution unerringly proved that it was the appellant, who assaulted the injured-Uma Yadav, as well as deceased-Gauribai by knife, and thus, the involvement of the appellant in the offence in question has been proved.

23. The next question for consideration is, whether case of the appellant is covered within Exception-4 to Section 300 IPC *vis-a-vis* culpable homicide not amounting to murder and his conviction can be



converted to Section 304 Part-I or Part-II of the IPC, as submitted by the learned counsel for the appellant.

24. Hon'ble Supreme Court in the matter of **Sukhbir Singh v. State of Haryana**, (2002) 3 SCC 327 observed as under:-

“21. Keeping in view the facts and circumstances of the case, we are of the opinion that in the absence of the existence of common object Sukhbir Singh is proved to have committed the offence of culpable homicide without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and did not act in a cruel or unusual manner and his case is covered by Exception 4 of Section 300 IPC which is punishable under Section 304 (Part I) IPC. The finding of the courts below holding the aforesaid appellant guilty of offence of murder punishable under Section 302 IPC is set aside and he is held guilty for the commission of offence of culpable homicide not amounting to murder punishable under Section 304 (Part I) IPC and sentenced to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.5000. In default of payment of fine, he shall undergo further rigorous imprisonment for one year.”

25. Hon'ble Supreme Court in the matter of **Gurmukh Singh v. State of Haryana**, (2009) 15 SCC 635, laid down certain factors which are to be taken into consideration before awarding appropriate sentence to the accused with reference to Section 302 or Section 304 Part II of the IPC, which states as under :-

“23. These are some factors which are required to be taken into consideration before awarding appropriate sentence to the accused.



These factors are only illustrative in character and not exhaustive. Each case has to be seen for its special perspective. The relevant factors are as under :

- (a) Motive or previous enmity;
- (b) Whether the incident had taken place on the spur of the moment;
- (c) The intention/knowledge of the accused while inflicting the blow or injury;
- (d) Whether the death ensued instantaneously or the victim died after several days;
- (e) The gravity, dimension and nature of injury;
- (f) The age and general health condition of the accused;
- (g) Whether the injury was caused without premeditation in a sudden fight;
- (h) The nature and size of weapon used for inflicting the injury and the force with which the blow was inflicted;
- (i) The criminal background and adverse history of the accused;
- (j) Whether the injury inflicted was not sufficient in the ordinary course of nature to cause death but the death was because of shock;
- (k) Number of other criminal cases pending against the accused;
- (l) Incident occurred within the family members or close relations;
- (m) The conduct and behaviour of the accused after the incident. Whether the accused had taken the injured/the deceased to the hospital immediately to ensure that he/she gets proper medical treatment ?

These are some of the factors which can be taken into consideration while granting an appropriate sentence to the accused.

24. The list of circumstances enumerated above is only illustrative and not exhaustive. In our considered view, proper and appropriate sentence to the accused is the bounded obligation and duty of the court. The endeavour of the court must be to ensure that the accused receives appropriate sentence, in other words, sentence should be according to the gravity of the offence. These are some of the relevant factors which are required to be kept in view while convicting and sentencing the accused.”



26. Likewise, in the matter of **State Vs. Sanjeev Nanda**, (2012) 8 SCC 450, Hon'ble Supreme Court has held that once knowledge that it is likely to cause death is established but without any intention to cause death, then jail sentence may be for a term which may extend to 10 years or with fine or with both. It has further been held that to make out an offence punishable under Section 304 Part II of the IPC, the prosecution has to prove the death of the person in question and such death was caused by the act of the accused and that he knew that such act of his is likely to cause death.

27. Further, the Supreme Court in the matter of **Arjun Vs. State of Chhattisgarh**, (2017) 3 SCC 247, has elaborately dealt with the issue and observed in paragraphs 20 and 21, which reads as under :-

“20. To invoke this Exception 4, the requirements that are to be fulfilled have been laid down by this Court in *Surinder Kumar v. UT, Chandigarh* [(1989) 2 SCC 217 : 1989 SCC (Cri) 348], it has been explained as under : (SCC p. 220, para 7)

“7. To invoke this exception four requirements must be satisfied, namely, (i) it was a sudden fight; (ii) there was no premeditation; (iii) the act was done in a heat of passion; and (iv) the assailant had not taken any undue advantage or acted in a cruel manner. The cause of the quarrel is not relevant nor it is relevant who offered the provocation or started the assault. The number of wounds caused during the occurrence is not a decisive factor but what is important is that the occurrence must have been



sudden and unpremeditated and the offender must have acted in a fit of anger. Of course, the offender must not have taken any undue advantage or acted in a cruel manner. Where, on a sudden quarrel, a person in the heat of the moment picks up a weapon which is handy and causes injuries, one of which proves fatal, he would be entitled to the benefit of this exception provided he has not acted cruelly.”

21. Further in *Arumugam v. State* [(2008) 15 SCC 590 : (2009) 3 SCC (Cri) 1130], in support of the proposition of law that under what circumstances Exception 4 to Section 300 IPC can be invoked if death is caused, it has been explained as under :

“9. xxxxxxxx

18. The help of exception 4 can be invoked if death is caused (a) without premeditation; (b) in a sudden fight; (c) without the offender's having taken undue advantage or acted in a cruel or unusual manner; and (d) the fight must have been with the person killed. To bring a case within Exception 4 all the ingredients mentioned in it must be found. It is to be noted that the “fight” occurring in Exception 4 to Section 300 IPC is not defined in the Penal Code, 1860. It takes two to make a fight. Heat of passion requires that there must be no time for the passions to cool down and in this case, the parties had worked themselves into a fury on account of the verbal altercation in the beginning. A fight is a combat between two or more persons whether with or without weapons. It is not possible to enunciate any general rule as to what shall be



deemed to be a sudden quarrel. It is a question of fact and whether a quarrel is sudden or not must necessarily depend upon the proved facts of each case. For the application of Exception 4, it is not sufficient to show that there was a sudden quarrel and there was no premeditation. It must further be shown that the offender has not taken undue advantage or acted in cruel or unusual manner. The expression “undue advantage” as used in the provisions means “unfair advantage”.

28. In the matter of **Arjun** (supra), Hon’ble Supreme Court has held that if there is intent and knowledge, the same would be case of Section 304 Part-I of the 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 of the IPC.

29. Further, the Supreme Court in the matter of **Rambir Vs. State (NCT of Delhi)**, (2019) 6 SCC 122, has laid down four ingredients to bring a case within the purview of Exception 4 to Section 300 of IPC, which reads as under:

“16. A plain reading of Exception 4 to Section 300 IPC shows that the following four ingredients are required:

- (i) There must be a sudden fight;
- (ii) There was no premeditation;
- (iii) the act was committed in a heat of passion; and
- (iv) The offender had not taken any undue advantage or acted in a cruel or unusual manner.”



30. Reverting to the facts of present case, it is quite vivid that on the date of incident, there was an altercation between the appellant and injured-Uma Yadav and the appellant became infuriated with the altercation as there was dispute between them with respect to money transaction, and when he saw the deceased-Gauribai in front of her house, he gave knife blow on her abdomen. He made only one blow and not acted in a cruel or unusual manner. There was no premeditation on the part of the appellant to cause death of the deceased, and only because of the dispute of money transaction with injured Uma yadav, altercation took place. As the appellant was not acted in a cruel or unusual manner, he did not have any intention to cause death of Gauribai, but causing such injury, he must have had the knowledge that such an injury inflicted by him would likely to cause death of the deceased and as such, his case would fall within the purview of exception 4 of section 300 IPC, as act of the appellant herein completely satisfies the four ingredients of Exception 4 to Section 300 IPC, they are, (i) there must be a sudden fight; (ii) there was no premeditation; (iii) the act was committed in a heat of passion and (iv) the appellant had not taken any undue advantage or acted in a cruel or unusual manner.

31. So far as the offence committed by the appellant under section 307 of the IPC with respect to causing injury to the injured-Uma Yadav is concerned, though the incised wound was found on the body of injured, PW1, however, the doctor has nowhere stated that the injuries were grievous in nature. The injuries have been found on the forearm and



upper arm of the body and one incised wound was also found on pinna of the left ear. There is no stab wound found on the body of the injured. It is only incised wound has been found and she was referred to the surgical specialist for treatment of her pinna of the left ear.

32. In absence of any report with respect to nature of injuries, particularly the injuries found on the left and right arm of the injured-Uma Yadav and also considering that the one incised wound was found on the pinna of the left ear, the offence of the appellant for causing such injury to the injured Uma Yadav does not fall under Section 307 of the IPC but it certainly falls under Section 324 of the IPC and conviction of the appellant is liable to be converted from the offence of Section 307 IPC to Section 324 IPC for voluntarily causing hurt by dangerous weapon.

33. So far as the offence of Section 3(2)(v) of the Atrocities Act is concerned, though the prosecution has produced the social status certificate of the deceased that she belongs to SC community, however, the said certificate has not been proved by the prosecution by examining the person who issued the certificate. Merely producing the certificate is not sufficient to bring the offence of the accused under the Atrocities Act. There may be some documentary evidence but the said document and social status certificate have to be proved by their issuing authority. However, in the present case the issuing authority of the social status certificate of the deceased-Gauribai has not been proved. Though PW2 Anjali Yadav has stated in her evidence that deceased belongs to SC



community and the appellant was having knowledge that the deceased belongs to SC community but her self-served statement is not sufficient to convict the appellant for the offence under the Atrocities Act.

34. Considering the overall evidence produced by the prosecution in the case, this court is of the considered opinion that there is no sufficient evidence available on record to convict the appellant for the offence under the Atrocities Act and thereby, his conviction under Section 3(2)(v) of the Atrocities Act is liable to be set aside.

35. As a fall out of the aforesaid consideration and the law laid down by Hon'ble Supreme Court, evidence available on record, this court is of the considered opinion that the appellant is liable to be convicted for the offence under Sections 304 Part 1 and 324 of the IPC instead of Sections 302 and 307 of the IPC and thereby the conviction and sentence of the appellant for the offence under sections 302 and 307 of the IPC are set aside, instead thereof, he has been convicted for the offence under Section 304 Part-I and 324 of the IPC and sentenced RI for 10 years with fine of Rs.2,000/-, and RI for 3 years with fine of Rs.2,000/- respectively. In default of payment of fine, he shall further undergo RI for 2 months. The conviction and sentence of the appellant under Section 3(2)(v) of the Atrocities Act is hereby set aside.

36. Appellant is reported to be in jail since 05.09.2020. He shall serve the entire sentence as modified/awarded by this court. He is entitled for set of his sentence for the undergone period.



37. The criminal appeal is **partly allowed** to the extent indicated herein-above.

38. Let a copy of this judgment and the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.

39. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail, where the appellant is undergoing the jail sentence 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 assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice