



2025:CGHC:10555

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 123 of 2023**

Shailendra Lakda S/o Saidas Lakda Aged About 42 Years Caste Yraw,
R/o At Village Bamhanpara Jaamtoli, P. S. Tapkara, District Jashpur
Chhattisgarh

... Appellant**versus**

State of Chhattisgarh Through Reserve Police Tapkara, Police Station
Tapkara, District Jashpur Chhattisgarh.

... Respondent

For Appellant(s) : Ms. Lata Nayak, Advocate.

For Respondent(s) : Ms. Shubha Shrivastava, Panel Lawyer.

Hon'ble Mr. Ramesh Sinha, Chief Justice**Order on Board****04/03/2025**

1. Though, today the present appeal has been listed for hearing on I.A. No.1 of 2022, which is an application for suspension of sentence and grant of bail, but with the consent of learned counsel for the parties and considering the period of detention of the appellant, the appeal is heard finally.
2. Accordingly, I.A. No.01 of 2022 stands disposed of.
3. This appeal is directed against the judgment of conviction and order of sentence dated 08.09.2022 passed by the First



Additional Sessions Judge, Kunkuri, Jashpur, District – Jashpur (C.G.) in Sessions Case No.07/2021 (Crime No.114/2020, P/S. Tapkara, District- Jashpur) whereby the trial Court after holding the appellant guilty for the offence punishable under Section 304 Part-II of the Indian Penal Code sentenced him to undergo rigorous imprisonment for 07 years and to pay a fine of Rs.1,000/-, in default of payment of fine to further undergo simple imprisonment for 01 year.

4. The judgment of conviction and order of sentence is challenged on the ground that the prosecution has not proved the charge against the appellant and has failed to prove the fact that the accused has assaulted the deceased and caused dangerous injury resulting into death of the deceased.
5. Brief facts of the case are that on November 8, 2020, informant Mrs. Sangeeta Lakra lodged an oral report at Tapkara Police Station, stating that she married the accused, Shailendra Lakra, approximately 15 years ago according to social customs. Her parental home is in Ranchi, Modma. For about ten years, her husband, Shailendra Lakra, had been telling her to leave the house and, upon her refusal, would quarrel and physically assault her. This led her to take her children and go to her parental home. After staying there for some time, hoping her husband would reform, she would return to her marital home. Approximately 15-16 days prior, her husband quarreled with her again, prompting



her to take her children and go to her parental home. On Wednesday, November 4, 2020, around 7:00 PM, she returned to her marital home with her children and found her husband, Shailendra Lakra, and father-in-law, Saidas, arguing about her departure to her parental home. Her husband was saying that if she returned this time, he would beat her. Her father-in-law was trying to reason with him, stating that whenever she returns from her parental home, he starts quarreling. Her husband then started abusing her father-in-law, using offensive language, and threatened to beat him. When her father-in-law challenged him to do so, her husband grabbed a nearby bamboo stick and started beating him. When she and her mother-in-law, Serofina Lakra, tried to intervene, her husband threatened to beat them as well, causing them to back off. He continued to beat her father-in-law with the bamboo stick, causing head injuries and leading him to collapse. Her husband threatened to harm anyone who reported the incident to the police, which deterred her from reporting out of fear. The next day, her husband took her father-in-law to Tapkara Hospital, falsely claiming that the injuries were due to a fall, but the treatment provided no relief. Her father-in-law remained bedridden and had difficulty speaking. Consequently, she brought her father-in-law to Tapkara Hospital for treatment and reported the incident against her husband, Shailendra Lakra, at the police station.



6. Based on her report, Tapkara Police Station registered First Information Report (Ex.P-01) against the accused, Shailendra Lakra, under Crime No. 114/2020 for offences under Sections 294, 506, and 323 of the Indian Penal Code (IPC) and initiated an investigation. A site map of the incident location was prepared (Ex.P-02). On November 9, 2020, based on information provided by complainant Vinay Tigga, a Dehati Marg Intimation No. 0/2020 under Section 174 of the Code of Criminal Procedure (CrPC) was registered at the incident location in Bamhanmara, and Dehati Marg Intimation (Ex.P-15) was recorded. The zero-numbered Marg Intimation was subsequently registered as Numbered Marg Intimation 38/2020 (Ex.P-16). Notices were issued to the panchayat members for the inquest (Ex.P-06), and an inquest report was prepared in their presence (Ex.P-07). On the same date, a requisition was sent to PHC Tapkara for conducting a post-mortem examination and providing results (Ex.P-17), and the post-mortem was conducted, with the report received subsequently (Ex.P-19).
7. On November 10, 2020, notices under Section 160 CrPC were issued to witnesses Isthak and Jyoti Lakra (Ex.P-08), and in their presence, the memorandum statement of the accused was recorded (Ex.P-09). Based on the accused's memorandum statement, the blood-stained full-sleeve T-shirt worn during the incident and the bamboo stick used were seized as per the seizure memo (Ex.P-10). The accused was arrested as per the



arrest memo (Ex.P-11), and information regarding the arrest was communicated to the accused's wife, Sangeeta Lakra (Ex.P-04).

8. On November 15, 2020, a requisition was sent to the Tehsildar, Farsabahal, to prepare a site map through the concerned Halka Patwari (Ex.P-13), and the site map was received along with the report from the Halka Patwari (Ex.P-14) (Ex.P-03). On the same date, a query regarding the seized bamboo stick was sent, and the subsequent report was received (Ex.P-20). On November 16, 2020, Constable Subhash Lakra presented the gray-colored shirt of the deceased, Saidas, from the hospital to the police station, which was seized as per the seizure memo (Ex.P-21). The seized exhibits were sent for chemical analysis to the Joint Director, Regional Forensic Science Laboratory, Surguja (Chhattisgarh), through the Superintendent of Police, Jashpur, and acknowledgment of receipt of the exhibits was obtained.
9. During the investigation of the incident, the statements of Sangeeta Lakra (PW-1), Muskan Lakra (PW-2), Smt. Serofina Lakra (PW-3), Manoj Tirki (PW-4), Smt. Saroj Kujur (PW-5), Jyoti Lakra (PW-6), Ishak Lakra (PW-7), Rohini Barua (PW-8), Dr. S.P. Painkra (PW-10), B.N. Sharma (PW-11) were recorded as per their statements. After completing the entire investigation of the crime, the charge-sheet was presented against the accused in the court of Judicial Magistrate First Class Jashpur, who in turn committed the case to the Court of Sessions, Jashpur, from where



the First Additional Sessions Judge, Jashpur received the case on transfer for trial.

- 10.** In order to prove the guilt of the accused/appellant, the prosecution has examined as many as 11 witnesses and exhibited the documents (Exs.P-1 to P-21). The statement of the appellant under Section 313 of CrPC was also recorded in which he denied the material appearing against him and stated that he is innocent and he has been falsely implicated in the case. After appreciation of evidence available on record, the learned trial Court has convicted the accused/appellant and sentenced him as mentioned in para 1 of the judgment. Hence, this appeal.
- 11.** Learned counsel for appellant would submit that he is not pressing this appeal as far as it relates to conviction part of impugned judgment and is confining his argument to the quantum of sentence only. She submits that incident had taken place on 04.11.2020, there was no pre-meditation and on the spur of moment incident had taken place, it was first offence of appellant and thereafter he had not indulged himself in any other criminal activity. She would further submit that the learned trial Court has sentenced the appellant for ten years rigorous imprisonment and as the appellant has already suffered jail sentence of 4 years 03 months 24 days and has already deposited the fine amount of Rs.1,000/- imposed by the trial Court, therefore, the sentence already undergone by him may be suffice to meet the ends of



justice. Hence, it is prayed that the sentence awarded to the appellant may be reduced to the period already undergone by him.

12. On the other hand, learned counsel appearing for the respondent/ State, submits that the trial Court has rightly convicted and sentenced the applicant, in which no interference is called for.
13. In order to appreciate the contentions of the parties, I have examined the evidence adduced on behalf of the prosecution. The injury found over the body of the deceased and cause of death is not substantially disputed by the appellant, otherwise established by the evidence of Dr. S.P. Paikra (PW-10).
14. Dr. S.P. Paikra (PW-10) conducted post-mortem over the body of deceased and found following injuries:-

(1) One lacerated and stitched wound of 2 ½" x ½" x ½" on the frontal region of left side of head.

Opinion – The injury was caused by hard and blunt object. He advised for X-ray and CT-scan to know the nature of injury.

External examination - Body of a dead man in normal and supine position was present. Stiffness was present in hands and legs. Face was pallor. Both eyes were closed. Pupils were dilated and fixed. There was no discharge of any kind from the nose. Mouth was half open. Jeep was inside. Both hands were half bent, fingers were half bent. Chest, stomach and genital organs were normal. Right leg was half bent, left leg was spread. Following injuries were present on the body- One horizontal portion in which stitches were done, Frontal region of head was present on left side whose size was two and half inch long injury.

Internal examination - On opening the said injury, blood was found collected under the skin. Skin, muscles, veins were torn. Hairline fracture of scalp bone was present in frontal bone. Blood clot was found under the bone. Meningeal membrane was normal. Blood clot was found under the meningeal membrane, the size of



which was one inch long and half inch wide. Brain matter of frontal region was congested. Membrane, ribs and soft lungs, larynx and trachea were normal. The lungs and left lung were congested. There was mild blood present in the right chamber of the heart. The left chamber was empty. The large vessels were normal.

Condition of abdominal wall, intestinal membrane, mouth and pharynx were normal. Large intestine was empty. Small intestine was also empty. Large intestine was empty and gas was present. Liver, spleen, kidney were congested.

Opinion - According to him, the deceased died due to head injury. The nature of death is homicidal in nature.

As per opinion of the doctor, death is due to head injury and the death was homicidal in nature.

15. Now, the next question for consideration would be whether the accused/appellant herein is the perpetrator of the crime in question, which the learned trial Court has recorded in affirmative by relying upon the testimony of Dr. S.P. Paikra (PW-10), who conducted postmortem had opined that the cause of death is head injury caused by the hard and blunt object and nature of death was homicidal. The Doctor ultimately opined through his report the nature of death to be homicidal. Thus, on the basis of testimony of Dr. S.P. Paikra (PW-10), it is clear that it is the appellant herein who on the fateful date and time has caused grievous injuries to the deceased, due to which he died. As such, the learned trial Court has rightly held that it is the appellant/accused who has caused injuries over the body of the deceased and caused his death.
16. Smt. Sangeeta Lakda (PW-1) has stated in her deposition that the accused is her husband. She also knew the deceased Saidas



Lakra as he was her father-in-law. She further deposed that on 04.11.2020, at about 7:00 pm, her father-in-law was beaten with a bamboo stick by her husband, due to which he died after three days i.e. on 08.11.2020. She stated that her husband assaulted her father-in-law on his head with the help of stick. She further stated that the accused himself took Saidas to the hospital for treatment. He was taken to a private hospital at night and in the morning, he was taken to the Government hospital, Tapkara. Later Saidas was brought back home and then her mother-in-law, Serofina Lakra, was taking her father-in-law to Raipur for treatment and he died on the way.

17. Likewise, Mery Muskan Lakda (PW-2) has deposed in her deposition that accused was her father and deceased was her grandfather. The incident is of the month of November, when we had returned from our grandmother's house to our home and were sitting tired, her father started quarreling with us. When someone informed her grandfather about the said quarrel, he came running and intervened, then her father started quarreling with her grandfather and assaulted him with the help of stick over his head, due to which, he fell down and blood was oozing out from his head.
18. Smt. Serofina Laka (PW-3) who is mother of accused and wife of deceased has deposed in her evidence that the incident is of November 2020, it was the time of paddy harvesting. On the date of the incident, she was working in the kitchen when her husband



came home drunk and fell in the door. Due to the fall, her husband suffered injury over his head injury and blood was oozing out from the said injury. The accused Shailendra, picked him up and took him to a private doctor in Tapkara for treatment, but he could not be treated there due to absence of a helper. Thereafter, on the next day, the injured took him to the Government hospital in Tapkara, where he was admitted. After keeping him for three-four days, he was referred to Raipur, but on the way, he died on the way near Punjipathra.

- 19.** It is to be remembered here that homicidal nature of death need not always be proved through direct evidence. It has to be inferred from the circumstances and the nature of injuries noticed on the dead body. The instant case is about the death of his father committed by the son. When the assailant is the son, it is difficult indeed to get direct evidence on the nature of injuries. It is thus concluded that the deceased died homicidal nature of death. Considering the nature of injuries, which the deceased was found, I am of the considered opinion that death of the deceased was homicidal in nature. It is held accordingly.
- 20.** Considering the statement of Dr. S.P. Paikra (PW-10) and his postmortem report (Ex.P-19), taking into consideration that the burden of proving a plea specially set up by the appellant which may absolve him from criminal liability, certainly lies upon him and he has not offered any plausible explanation, further taking into consideration that the appellant was required to explain as to how



the deceased suffered such injuries,, which he has admittedly not explained in his statement under Section 313 of the CrPC and the material collected by the prosecution, I am of the considered opinion that the above chain of circumstances is complete and leads only to one conclusion that it was the accused/appellant who caused death of the deceased. The view taken by learned trial Court that the appellant is the author of the crime is a pure finding of fact based on evidence available on record. As such, his conviction under Section 304 Part-II of the IPC is hereby affirmed.

- 21.** So far as the sentence imposed upon the appellant is concerned, considering the fact that at present, appellant is aged about 42 years and incident took place in a heat of passion and on sudden provocation without any predetermination, nature of injuries and further considering the fact that the appellant is confining this appeal in relation to the sentence awarded by the trial Court only, as such, looking to the period of detention of the appellant in jail i.e. 4 years and 4 months of jail sentence, this Court finds it appropriate to reduce the sentence from RI for 7 years to RI for 5 years under Section 304 Part-II of the IPC, as the appellant has already suffered the agony of criminal trial for so many years, that meets the ends of justice.
- 22.** Consequently, the criminal appeal is partly allowed. Conviction of the appellant under Section 304 Part-II of the IPC is hereby



maintained, however, his sentence is reduced from RI for 7 years to RI for 5 years.

23. It is stated at the Bar that the appellant is in jail. He shall serve out the sentence as modified by this Court.
24. 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.
25. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his 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 the High Court Legal Services Committee or the Supreme Court Legal Services Committee.

Sd/-

(Ramesh Sinha)
CHIEF JUSTICE