



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.111 of 2002

From judgment/order dated 27.11.2002 passed in S.T. Case No.12/176 of 1999 by learned 2nd Additional Sessions Judge, Puri.

Bharat Pradhan (dead) & Appellants
Others

-Versus-

State of Odisha Respondent

Advocate(s) appeared in this case :-

For Appellants : M/s. Trilochan Panigrahi, B. Swain
& S.C. Bag, Advocates

For Respondent : Mr. Partha Sarathi Nayak,
[Addl. Government Advocate]

CORAM:

THE HON'BLE MR. JUSTICE MANASH RANJAN PATHAK
AND
THE HON'BLE MR. JUSTICE SASHIKANTA MISHRA

Date of Hearing: 24.02.2026

Date of Judgment: 26.02.2026

SASHIKANTA MISHRA, J.

This appeal has been preferred against judgment dated 27.11.2002 passed by the learned 2nd Additional Sessions Judge, Puri in S.T. Case No.12/176 of 1999 whereby the



appellants were convicted under Section 302/34 of IPC and sentenced to undergo imprisonment for life.

2. In CRLA No.111 of 2002 out of the three convict appellants first two appellants, (i) Bharat Pradhan & (ii) Balabhadra Pradhan were granted bail by this Court vide order dated 04.08.2005.

3. The appellant No.3 (Ashok Kumar Pradhan) independently filed another appeal CRLA No.128 of 2002 wherein, he was granted bail by this Court vide order dated 30.12.2002. This Court found that Ashok Kumar Pradhan is also the appellant No.3 in CRLA No.111 of 2002 that was already admitted.

4. As such, by order dated 19.08.2025 disposed of said CRLA No.128 of 2002 preferred by Ashok Kumar Pradhan. (i) Balabhadra Pradhan is on bail since 04.08.2025 & (ii) Ashok Kumar Pradhan is on bail since 30.12.2002.

5. Accused Bharat Pradhan having died on 11.01.2011, the appeal is confined only to Appellant No.2 (Balabhadra Pradhan) & Appellant No.3 (Ashok Kumar Pradhan).

6. Prosecution case, briefly stated, is as follows:-

On 04.02.1999 at about 2.00 P.M. when the deceased Jayakrushna Pradhan was having lunch at his home, the accused persons, who are his brothers and nephew called him



from outside the house. When the deceased went out, his nephew, accused Balia Pradhan assaulted him by means of a split wood. Accused Bharat Pradhan, who is his elder brother, assaulted him by means of an iron plate on his head. His younger brother, accused Ashok Pradhan also assaulted him by means of a split wood. As a result, the deceased fell down unconscious. The accused persons assaulted the deceased with the intention of killing him as they wanted him ousted from the house. They fled away after committing the offence. The wife of the deceased, namely, Pramila Pradhan shifted her husband to Kerandia Hospital from where he was referred to the District Hospital at Puri. She lodged a written report on the same day at Brahmagiri Police Station leading to registration of P.S. Case No.11 of 1999 under Sections 341/307/34 of IPC. The deceased was shifted to S.C.B. Medical College & Hospital, Cuttack, where he succumbed to his injuries. Upon receipt of such information, P.S. Case No.91 of 1999 was registered at Mangalabag Police Station followed by investigation with the case having turned to Section 302 IPC. Upon completion of investigation, charge sheet was submitted against the accused persons under Sections 341/302/34 of IPC.

7. The accused persons took the plea of denial. In addition, accused Bharat Pradhan took the plea of alibi by claiming that



he was absent as he was outside the village in cultivation related work.

8. To prove its case, prosecution examined eleven witnesses and exhibited nine documents. Besides, prosecution proved five material objects.

9. Defence did not adduce any evidence, either oral or documentary.

10. After analyzing the evidence on record, the trial Court found the prosecution case to have been fully established. Accordingly, the accused persons were convicted for murder and sentenced as already stated hereinbefore.

11. Heard Mr. T. Panigrhi, learned counsel for the accused appellants and Mr. P.S. Nayak, learned Additional Government Advocate for the State.

12. Mr. Panigrahi assails the impugned judgment on the following grounds:

- (i) The evidence relating to place of occurrence as projected by the prosecution is entirely doubtful.
- (ii) The iron plate supposedly used during assault was never recovered.
- (iii) The version of P.W.4 is full of exaggeration.



(iv) Even accepting the prosecution evidence, the case would fall under Exception-IV to Section 300 of IPC and not murder.

13. Per contra, Mr. Nayak would submit that the evidence of the eye-witness, P.W.4 is clear, consistent and credible being without any material contradiction. Her version regarding the assault finds full support from medical evidence as the Doctor found two head injuries both of which were capable of causing death and had in fact, caused his death. Even if the iron plate was not recovered, the split wood was recovered from the spot which fully corroborates the version of P.W.4.

14. We have given our anxious consideration to the rival contentions as noted above.

15. In order to be subjectively satisfied as regards correctness of the finding of the trial court, we analyzed the evidence on record independently. We find that except P.W.4 (informant), there are no eye witnesses to the occurrence. Reading of the evidence of P.W.4 shows that she has described in vivid detail about the occurrence. She categorically implicated the accused Balabhadra of having brought a split wood and of dealing a blow to the backside of her husband's head causing bleeding injury. She also deposed that accused Bharat being armed with an iron rod, dealt a blow on the left



side head of her husband causing bleeding injury. She also stated that accused Ashok being armed with a lathi assaulted on the left hand of her husband. The Autopsy Surgeon being examined as P.W.9 stated that he had found the following injuries:

- “(i) Left temporal area of the skull swollen in an area of 7 cm x 6 cm.*
- “(ii) Split laceration of size 11 cm x 0.5 cm x skull deep placed vertically on rt. Frontal parietal region 10 cm above the eye brow and 11 cm above the right ear.*
- “(iii) Contusion of size 5 cm x 2 cm and 2 cm x 2 cm on the ulnar border of left fore arm 6 cm above the writ joint.”*

16. Needless to mention, the injuries found on the body of the deceased are fully consistent with the version of P.W.4 regarding the manner and mode of assault. Further, P.W.9 categorically stated that the injury to the skull and brain is fatal in ordinary course of life and that cause of death of the deceased is due to craneo- cerebral injury. He further stated that death is possible due to assault by split wood causing such injuries. We, therefore, are prima facie of the view that death of the deceased was caused because of assault by the accused persons as described above.

17. Coming to the defence objections, Mr. Panigrahi argued that according to P.W.4, the spot of occurrence was in the



middle of the court-yard whereas according to the I.O. (P.W.11), the occurrence took place on the passage leading to the house from the road. We have perused the spot map prepared by the I.O. available in the case record (Ect.12). There is no court-yard as such but an open space where there was a tube well. It is otherwise borne out from the evidence of P.W.4 that after finishing his meal, the deceased came out and washed his hands at the tube well. There is in fact a passage leading to the house of accused Ashok, but we are not inclined to hold that there is any ambiguity in description of the exact spot of occurrence. Reading of the impugned judgment reveals that such a plea was also raised before the trial Court and after referring to the spot map, the trial Court held that there is no material discrepancy to discard the prosecution case on that score.

18. The second objection raised by the defence is non-recovery of iron rod/plate allegedly used in the occurrence. We find that as many as four I.Os. (P.W.7, P.W.8, P.W.10 & P.W.11) were examined in the case. Not a single question was put by the defence with regard to non-seizure of the iron rod/plate. Even assuming that an iron rod/plate was used, but was not recovered, it would go down as a lapse in



investigation having no effect whatsoever on the otherwise credible evidence of P.W.4.

19. The third ground urged by defence is that P.W.4 has exaggerated facts about the occurrence. It is pointed out that the I.O. admitted that P.W.4 had not stated before him that the deceased sustained a blow on his left hand because of assault by lathi. Since all other statements have been found to be reliable and credible, even if this particular statement is found to be contradiction, the same would not demolish her entire testimony.

20. The last ground urged is that even assuming the prosecution case to be true, it would not be a case of murder but culpable homicide not amounting to murder. We have heard learned counsel for the parties at length on this point.

21. Admittedly, the deceased died because of head injuries caused by the assault. The question is, would it be a case of murder. To answer this, we would refer once again to the evidence of P.W.4 who described the occurrence in detail. To state at the cost of repetition, the accused persons came and called the deceased from outside the house while he was having lunch. It is not the case of the prosecution that they had come being armed with any weapon. According to P.W.4, there was a quarrel between the accused persons and the



deceased prior to the assault for about five minutes. Then accused Balabhadra went to a nearby tiffin shop and brought a split wood and dealt a blow on the head of the deceased. Accused Bharat is also said to have assaulted the deceased by means of an iron rod/plate while accused Ashok assaulted him on his left hand. All the statements taken cumulatively suggest that the accused persons came to the spot and had a quarrel/altercation with the deceased in course of which they got enraged and assaulted the deceased. Significantly, the split wood used in the occurrence was also left behind at the spot. This therefore, cannot be treated as a pre-meditated act, but most probably an act committed on the heat of the moment being preceded by a quarrel. We are of the considered view that the case would fall within Exception-IV to Section 300 of IPC which reads as follows:

“IV. Culpable homicide is not murder, if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.”

Therefore, the offence would be one punishable under Section 304 of IPC.

21. Having held so, it is to be determined as to which part of the provision of Section 304 of IPC is attracted. Section 304 of IPC is reproduced hereunder:-



“304. Punishment for culpable homicide not amounting to murder — Whoever commits culpable homicide not amounting to murder shall be punished with [imprisonment for life], or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death.

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.”

22. Though not premeditated yet the fact that blows were struck by the accused persons on the head of the deceased which led to his death, it must be held that the accused persons not only had the knowledge, but also the intention to cause death or cause such bodily injury as would result in death of the deceased. This is therefore a case which would be covered under Part-I of Section 304 of IPC.

23. As to the punishment to be imposed, taking all the aspects into consideration including the fact that the occurrence took place about 27 years ago, we think it would best serve the ends of justice if the accused appellant nos.2 & 3, namely, Ashok Kumar Pradhan and Balabhadra Pradhan are sentenced to undergo R.I. for seven years with usual set-off. Further, they shall pay fine of Rs. Ten Thousand each, which shall be paid to the informant.



24. The appeal is allowed in part with the conviction and sentence dated 27.11.2002 passed by learned 2nd Additional Sessions Judge, Puri in S.T. Case No.12/176 of 1999 being modified as stated above.

25. The bail bonds of appellant Nos.2 & 3, namely, Ashok Kumar Pradhan & Balabhadra Pradhan respectively stands cancelled and they be taken to custody forthwith to serve the remaining part of their modified sentence.

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Sashikanta Mishra,
Judge

Manash Ranjan Pathak, J. *I agree*

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Manash Ranjan Pathak,
Judge

*Orissa High Court, Cuttack,
The 26th February, 2026/ Amit*