

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No(s). 1117/2013

LOKNATH @ LOKU & ORS.

Appellant(s)

VERSUS

THE STATE OF CHHATTISGARH

Respondent(s)

O R D E R

1. Heard the learned counsel appearing for the appellants and the learned counsel appearing for the respondent.

2. All these appellants have been charged for the offence punishable under Sections 302, 148, 149 read with Section 324 of the IPC. Both the trial court and the appellate court, namely, the High Court were pleased to hold that the appellants have committed the offence punishable under the major offence i.e., Section 302 IPC. Accordingly, the charges were held proved. Consequently, they were sentenced to life.

3. The case of the prosecution is that the first appellant's mother and daughter-in-law were involved in witchcraft. However, the wife of the deceased could not cure. The matter was taken to the Panchayat in which the first appellant was fined for a sum of Rs.2,500/-. The first appellant along with the other accused attacked the deceased and injured witnesses, who are two in number and committed the offence.

4. The trial court and the High Court while placing

substantial reliance upon the four eye-witnesses out of which two are injured eye-witnesses, hold that the appellants are guilty of committing the offence.

5. Learned counsel for the appellants would submit that absolutely there is no investigation done with respect to the presence of the witnesses and the deceased in the house of the first appellant. The occurrence took place in front of the house of the first appellant. It is the second submission that tooth and gum of his mother, who was also injured, as stated by him in his statement under Section 313 Cr.P.C., were not taken note of. No investigation has been done. It is a case of exceeding the private defence or in any case, the one punishable under Section 304 Part I IPC, as the case may be. In support of his submission, learned counsel draws our attention that even as per the case of prosecution, the appellants attacked the deceased and the victim with wooden log. The statement that the appellants asked the deceased to come to their house by sending one boy by name Vijay, has been brought forth only for the first time in the evidence and in any case that the said boy has not been examined. This fact would clearly establish that the case of the prosecution is false as the investigation is not fair.

6. Learned counsel appearing for the State would submit that the witnesses have spoken about the occurrence. Of the four eye-witnesses, two of them are

injured witnesses. The fact that the first appellant has sent the boy by name Vijay for the first time in the evidence would not affect the case of the prosecution. Similarly, the lack of investigation qua the tooth and gum found near to the place of occurrence, though, they are exhibited after sending the same to the doctor would not vitiate the case of the prosecution.

7. An Investigating Officer is expected to investigate a crime. The Final Report filed by him is his opinion upon a thorough investigation. Therefore, he is neither a person who goes along with the victim nor with the accused. His duty is to find out the truth and in the process help the Court to come to the correct decision. Admittedly, the case at hand, the tooth and gum were found near the place of occurrence and that is the reason why they have been recovered. Absolutely no investigation has been done in this regard. In the statement made under Section 313 Cr.P.C., the first appellant has clearly deposed that both his mother and daughter-in-law were seriously injured. He further stated that the tooth and gum belongs to his mother. He also suffered injuries though there is a dispute with respect to the extent.

8. From the above, the version as projected by the prosecution becomes extremely doubtful. We are inclined to come to the conclusion, more so, for the reason that the occurrence admittedly took at the place of the first appellant. In other words, even according to the

prosecution, the witnesses and the deceased were asked to come to that place, here again, absolutely no investigation was done as to how they reached the place of the appellant's premises. If a boy by name Vijay was sent, there is no reason as to why he has not been examined. It is not clear as to why even the statement under Section 161 Cr.P.C. has not been recorded. There is a deep silence on the part of the witnesses on the aforesaid factual assertion. It is only for the first time, such a statement has been made possibly to cross-over the lacuna in the prosecution case. When once it is not in dispute that the occurrence took place at the place of the first appellant, the first thing for the prosecution to investigate as to how the deceased and the other prosecution witnesses came to that place, especially when there was a motive. Everybody got strained in pursuance of the fine imposed by the Panchayat against the appellant. Let us assume that motive as correct, all the more reason, the prosecution will have to prove beyond reasonable doubt their presence at the place of the appellant. Therefore, it can neither be a case of exceeding private defence or one come under Section 304 Part I IPC.

9. The occurrence happened more than two decades before. Considering the above, we are inclined to bring the charge under Section 304 Part I IPC as against Section 302 IPC. Accordingly, we are of the view that

ends of justice would be served if the period of sentence awarded to the appellants is reduced to the period of sentence already undergone by them.

10. The appeal is partly allowed. The period of sentence awarded to the appellants shall be reduced to the period of sentence already undergone by the appellants. The appellants are already on bail, hence, their bail bonds shall stand discharged.

.....J.
(M.M. SUNDRESH)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

New Delhi
30.07.2025

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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Date : 30-07-2025 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Appellant(s) : Mr. Kaustubh Shukla, AOR

For Respondent(s) :

Mrs. Prerna Dhall, Adv.
Mr. Shivam Ganeshia, Adv.
Mr. Ambuj Swaroop, Adv.
Mr. Kapil Katare, Adv.
Ms. Rajnandani Kumari, Adv.
Mr. Prashant Singh, AOR

UPON hearing the counsel the Court made the following
O R D E R

1.

2.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(POONAM VAID)
ASSISTANT REGISTRAR