



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No. 179 of 2014
CNR No.ODHC010092952014

CRLA No. 169 of 2014
CNR No. ODHC010075042014

CRLA No. 262 of 2014
CNR No. ODHC010027142014

&

GCRLA No. 6 of 2019
CNR No. ODHC010074282019

(From the judgment and order dated 14.03.2014 passed by learned Addl. District and Sessions Judge-I, Mayurbhanj, Baripada in ST Case No.13/98 of 2009-08)

AFR

CRLA No. 179 of 2014

1. Mrutyunjay Patra
2. Kata @ Hare Krushna Behera Appellants

-Versus-

State of Orissa Respondent

Advocates appeared though hybrid mode

For Appellants : M/s. Pravash Ch. Jena, S.J. Das
& A.K. Das, Advocates

For Respondent : Ms. Suvalaxmi Devi,
Addl. Standing Counsel

M/s. S.K. Tripathy & A.K. Mishra
Advocates for informant.

CRLA No. 169 of 2014

1. Rakesh Patra
2. Goutam Patra Appellants

- Versus -

State of Orisha Respondent



Advocates appeared though hybrid mode

For Appellants : M/s. Pravash Ch. Jena, S.J. Das
& A.K. Das, Advocates

For Respondent : Ms. Suvalaxmi Devi,
Addl. Standing Counsel

CRLA No. 262 of 2014

Smita Patra Appellant

- Versus -

State of Orisha and others Respondents

Advocates appeared though hybrid mode

For Appellant : M/s. Susanta Kumar Tripathy &
A.K. Mishra, Advocates

For Respondents : Ms. Suvalaxmi Devi,
Addl. Standing Counsel

M/s. Pravash Ch. Jena, S.J. Das
& A.K. Das, Advocates
[for respondent No.2]

M/s. R.C. Swain, T. Swain,
P.K. Deo, Advocates
[for respondent No.3]

M/s. S. Swain & S. Das, Advocates
[for respondent Nos. 4 & 5]

GCRLA No. 6 of 2019

State of Orissa Appellant

- Versus -

Smt. Kamini Patra and others Respondents



Advocates appeared though hybrid mode

For Appellant : Ms. Suvalaxmi Devi,
Addl. Standing Counsel

For Respondents : M/s. Pravash Ch. Jena, S.J. Das
& A.K. Das, Advocates
[for respondent No.1]

M/s. R.C. Swain, T. Swain,
P.K. Deo, Advocates
[for respondent Nos 2 to 4]

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THE HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK

THE HONOURABLE MR. JUSTICE SASHIKANTA MISHRA

Date of Hearing :20.08.2026 :: Date of Judgment: 25.08.2026

SASHIKANTA MISHRA, J.

Eight persons, including the present appellants, faced trial in S.T. No.13/98 of 2009-08 in the Court of learned Addl. District and Sessions Judge-I, Mayurbhanj, Baripada for committing the murder of one Ajay Patra and his son, Chandan Patra. By judgment passed on 14.03.2014, accused Mrutyunjay Patra, Rakesh Patra, Gautam Patra and Kata @ Harekrushna Behera were convicted under Section 302 read with Section 34 IPC and sentenced to undergo



imprisonment for life. Challenging such order of conviction and sentence, accused Rakesh Patra and Gautam Patra have preferred Criminal Appeal No. 169 of 2014. Accused Mrutyunjay Patra and Kata @ Harekrushna Behera have preferred Criminal Appeal No. 179 of 2014. By means of the aforementioned judgment, the other accused persons namely, Kamini Patra, Ratikanta Behera, Paramananda Parida and Chhua @ Trilochan Behera were acquitted of the charges. The informant of the case, namely Smita Patra filed Criminal Appeal No. 262 of 2014 questioning the order of said acquittal. The State has also independently challenged the order of acquittal in GCRLA No. 6 of 2019. Since these appeals have arisen out of the same occurrence and are directed against the same judgment passed by the trial Court, they were heard together and are being disposed of by this common judgment. Be it noted that appellant, Kamini Patra having died, the appeal against her acquittal stands abated.

2. Prosecution case, briefly stated, is as follows:

On 23.07.2007 at about 6 p.m., the informant, Smita Patra along with her father (deceased Ajaya Patra), brother (deceased Chandan Patra) and elder sister (Sinny Patra) had



gone to village Godighati to engage labourers for transplanting paddy in their agricultural land. While returning at about 8 p.m., they noticed about 20 to 25 persons being assembled in the house of accused Mrutyunjay, who is the paternal uncle of Smita. On the next day, i.e., 24.07.2007 at about 7 a.m., Smita, her father, her brother and her elder sister went towards their agricultural land with 25 labourers, with her father at the front, followed by her brother. The labourers followed her brother, and she and her elder sister followed them at the rear. When her father arrived near their land, accused Mrutyunjay and Kamini and their sons, Gautam and Rakesh along with their daughter, Elina and aunt, Kanchanbala and other relations and villagers including the other accused persons, emerged from a nearby thatched hut, where they had concealed themselves. All of them were armed with Katuris, Bhujalis, Lathis and other weapons. Suddenly, accused Mrutyunjay rushed towards her father and dealt a blow on his neck, due to which he fell to the ground. The other accused persons thereafter assaulted him repeatedly on his head and hands. Seeing this, her brother, Chandan rushed to rescue their



father but at that time, accused Gautam, Rakesh, Ratikanta and others surrounded him. Gautam and Rakesh tied both legs of Chandan with a *gamuchha* (towel) while the others caught hold of his hands. Then Mrutyunjay came and struck a blow on the neck of Chandan with a Katuri, followed by Gautam, who also assaulted Chandan on the head with a Katuri. Smita and her sister witnessed the entire incident and ran towards their father and brother but were chased by the accused persons. Out of fear, they fled towards village Purnachandrapur. The labourers accompanying them also ran away out of fear. When the accused persons abandoned the chase and returned towards the village, both sisters returned to the field. A neighboring cultivator namely, Adhar Parida along with other persons brought water and attempted to give the same to the victims. But by then, both of them were dead. Smita thereafter lodged a report before the Rasogovindpur Police Station, leading to registration of P.S. Case No.50 of 2007 under Sections 147/148/342/302/149 IPC. The registration of the FIR was followed by investigation. Necessary steps were taken by the IO, including holding of inquest, seizure of articles, conduct of post-mortem



examination and examination of witnesses. The complicity of the accused persons having come to light, charge-sheet was submitted against them under Sections 147/148/342/302/120-B/149 IPC.

3. The accused persons took the plea of denial and false implication due to previous enmity;

4. To prove its case, prosecution examined sixteen witnesses and proved twenty-seven documents. Besides, nineteen material objects were proved. Defence, on the other hand, examined two witnesses and proved three documents.

5. The trial Court, after analyzing the evidence in detail found that the prosecution had successfully established the charge under Section 302/34 IPC against the accused persons, namely, Mrutyunjay Patra, Rakesh Patra, Gautam Patra and Kata @ Harekrushna Behera, though the other charges were not established. They were thus, convicted and sentenced as aforesaid. The trial Court further held that the prosecution had failed to bring home the charges against the other accused persons. They were accordingly acquitted.

6. Heard Mr. Pravas Chandra Jena, learned counsel for the appellants in CRLA No.169 & 179 of 2014 and Ms.



Suvalaxmi Devi for the State-appellant in GCRLA No. 6 of 2019. In the said appeal, Mr. Ramesh Swain appeared for the acquitted appellants. None appeared for the informant-appellant in CRLA No. 262 of 2014.

7. Mr. Jena assails the impugned judgment by raising the following grounds:

- (i) This is a case where the first FIR lodged at Amarda Outpost was suppressed.
- (ii) The eyewitnesses gave materially different versions regarding the persons who assaulted the deceased, the weapons used and the manner of assault.
- (iii) The prosecution is doubtful because of non-examination of material witnesses.
- (iv) The evidence of the daughters, PW-13 and PW-15 did not receive corroboration from independent sources.
- (v) There is doubt as regards the recovery of weapons of offence.



- (vi) The seized weapons of offence could not be connected with the appellants by any scientific evidence.
- (vii) The prosecution case is exaggerated having regard to the fact that out of 28 persons named in the case, only 8 were charge sheeted.
- (viii) The trial Court brushed aside the possibility of false implication in view of clear evidence regarding existence of civil dispute between the parties.
- (ix) Alternatively, having regard to the evidence regarding sudden provocation on the part of the deceased, the case would not be murder but culpable homicide not amounting to murder.

8. Per contra, Ms. Suvalaxmi argues that the prosecution case is well proved by the clear and consistent evidence of the eyewitnesses, PWs-5, 11, 13 & 15. Further, the contradictions in the evidence pointed out by the defence are not material so as to affect the substratum of the prosecution case. As regards the defence objection regarding discrepancy in the evidence relating to seizure of the weapons



of offence, Ms. Suvalaxmi submits that there is clear evidence that two Katuris were recovered from the spot and one from the house of accused Mrutyunjay. As regards the alternative defence argument, Ms. Suvalaxmi would submit that in view of the clear evidence that the accused persons had concealed themselves in the thatched hut being armed with weapons, it clearly shows their intention of causing death to the deceased. That apart, the evidence that the accused tied the legs of Chandan and also held his hands while the other accused persons assaulted him by means of a Katuri clearly shows that they took advantage of the deceased and also acted in a cruel manner by repeatedly assaulting him.

9. Insofar as the appeals against acquittal are concerned, it is argued by Ms. Suvalaxmi that both PW-13 and 15 deposed about the presence of the acquitted accused persons and also their acts of assault. She further argues that they being proved to be a part of the same group that caused the death of the deceased persons must be held to have had the common intention of committing the crime as the other accused persons.



10. Per contra, Mr. Swain submits that the evidence of PW-13 and PW-15 cannot be relied upon in view of the evidence of the IO that they had substantially improved upon their earlier version before the IO. Mr. Swain further argues that the accused persons had no nexus with the property dispute and therefore, had no motive to commit the crime. There is also no evidence whatsoever of these accused persons conspiring with the principal accused persons to commit the crime. The evidence that the accused persons had concealed themselves in the thatched hut cannot be accepted for the reason that it is borne out from the evidence that the hut was open on all sides and therefore, the question of concealment does not arise.

11. We have given our anxious consideration to the contention raised by the parties, as noted above. We have also perused the evidence on record and the impugned judgment. We deem it proper to independently analyze the evidence ourselves vis-à-vis the contentions raised to be subjectively satisfied as regards the correctness or otherwise of the findings of the trial Court.



12. To this end, we have especially gone through the evidence of eyewitnesses i.e., PWs-5, 11, 13 and 15. PW-15, being one of the daughters of the deceased, Ajay, has described the occurrence in vivid detail, which fully corroborates the FIR story. We have not found any justified reason to disbelieve her. True, the defence has pointed out some improvements, contradictions and even embellishments in her testimony but then we are unable to persuade ourselves to discard her testimony entirely on such grounds. We say so because her version is otherwise corroborated by the evidence of her sister, PW-13, in material particulars. Thus, we find that both the sisters clearly deposed that when they arrived at the spot along with their father, brother and labourers for transplanting paddy, the accused persons asked them to stop saying, 'Seithi Rahijao'. Then they saw the accused persons coming out of a hut (palla) near the place of occurrence. Accused Mrutyunjay and his two sons, Gautam and Rakesh were each holding a Katuri in their hands and the other accused persons were holding Lathis. Accused Kata assaulted Chandan with a Lathi but Chandan caught hold of the same. When Ajay asked the reason for assaulting his son,



accused Mrutyunjay assaulted him on his neck with the Katuri. Then accused Gautam and Rakesh assaulted Ajaya with Katuris, due to which he fell down on the ground. When Chandan rushed towards his father to save him, Rakesh and Gautam tied his both legs with a gamuchha (napkin). Accused Mrutyunjay then assaulted Chandan on his neck with the Katuri, followed by Rakesh and Gautam, also with Katuri. This part of the evidence has not been shaken at all in cross-examination. To further satisfy ourselves, we perused their statements recorded by the IO under Section 161 of Cr.P.C. during investigation and found no contradiction in so far as the implication of the above named accused persons is concerned.

13. It has been forcefully argued on behalf of the appellant that the evidence of PWs-13 and 15 should be viewed with suspicion as they being the daughter/sister of the deceased, are interested witnesses and given the enmity between the two families owing to a civil dispute, the possibility of PW-13 and 15 falsely implicating the accused persons cannot entirely be ruled out. We are not impressed with the above argument, firstly, because the evidence of



PWs- 13 and 15 finds ample corroboration from PWs- 5 and 11, who were also eye-witnesses and independent persons. PWs-5 and 11 have also described the occurrence in vivid detail, which is more or less consistent with the FIR story as subsequently supported by the informant (PW-15) herself. Secondly, it is well settled that enmity is a double-edged weapon providing both the motive for the occurrence as well as ground for false implication. But when a crime as heinous as murder of close family members, such as father and brother has occurred, it is highly unlikely that the daughter/sister would falsely implicate the accused, thereby allowing the real offender to go scot-free. This is too well settled a proposition of law for us to cite any case law.

14. We shall now turn our attention to the medical evidence. Mr. Jena has argued at length that the eyewitnesses have stated about repeated assaults by several persons with weapons, whereas the post-mortem report shows only limited injuries. We have perused the post-mortem report of deceased Ajay, marked Ext-11, which was proved by the autopsy surgeon, PW-9. She deposed to have found the following injuries on the deceased.



“The P.M. exmn. was conducted in full day light. On external examination deep cut throat injury was present in front of the neck. Cutting all the structure of the neck through and through in front of Cervical vertebra

(2) A deep cut injury present over right fore-arm anterior aspect of size 6cm X 2cm X 1cm

(3) a cut injury over the fore head of size 5cm X 1cm X 0.5 cm The size of cut throat injury was of size 12cm X 3cm X 2 cm.

On internal examination I found all the organs were pale and all vital organs in the neck were completely severed through and through.

Opinion as to cause of death: due to injury to vital structure of the neck, leading to Haemorrhage and Shock.

Time since death: within beyond 24 hours at the time of P.M.examination. Ext-11 is the Post mortem examination report prepared by me and Ext-11/1 is my signature thereon.”

If we compare the site and nature of injuries described by PW-9 with the depositions of the eyewitnesses, we find both to be mutually consistent. Similar is the case with deceased Chandan. The post-mortem report of the deceased Chandan was proved as Ext-17 by the autopsy surgeon, PW-14. She deposed regarding the injuries as follows:

“The deceased was of average body built, Rigor mortis present, mud stain all over the body. Leg, face, eyes closed, pupils dilated, blood oozing from the nostril and mouth, seminal discharge present. The following injuries are present in the body.

i) Black eye left.



ii) One lacerated injury over scalp of size 15cm X 3cmX scalp depth extending from behind left ear towards the occipital region with a portion being avulsed from the wound side.

iii) One lacerated injury on neck below the chin of size 10c. X 2.5 cm margins are bruised and irregular extending beneath lacerating the muscle vessels, respiratory apparatus upper oesophagus Right carotid vessels, hyoid bone, thirod cartilage

iv) One lacerated injury over left angle of mouth of size 1cm X 0.05cm with bleeding

v) So Swelling of the neck region extending to starnel region, both lateral region of the neck, bruise browinsh in appearance.

On desection: About one liter of blood found in Situ. Muscles subetutaneous tissue, vessels, like carotid, laryngeal apparatus, Tracheaal ring i.e. 2, 3 and 4 are fractured, hyoid bones both cornu are fractured and lacerated, hyoid Thirod cartilage is lacerated and fractured, upper 1/3rd of xxx oesophagus is lacerated with profused collection of blood in Situ.

vi) On furter desection the brain matter is conjuste the heart is empty, lungs intact and pale, liver intact and pale pale, Kidney and spleen are in tact, Stomach is intact and empty, bladder is intact and empty, organs of generation is intact and normal.

All the injuries found on the body are antemortem in nature. Time since death- within 36 hours of my examination. The death is due to haemorrhage and Shock due to injuries to vital organs. Ext-17 is the post mortem report prepared by me and Ext-17/1 is my signature thereon. The injury No.1 samxba is possible if a person is struck with a lathi and the other injuries are possible if a person is struck with a sharp cutting weapon.”

15. The above evidence, when compared with the evidence of eyewitnesses, does not raise any question as regards consistency. We therefore, find that the ocular



evidence is supported by the medical evidence. As such, it can be held without any iota of doubt that both the deceased died because of the injuries inflicted on vital parts of their bodies, such as neck and head etc.

16. It has been argued that the first FIR was suppressed. In this regard, our attention is drawn to the evidence of the IO, PW-16, who stated that she was C.I. Betnoti and present at Rasogovindpur P.S. in the absence of OIC of the said P.S. The informant arrived and presented a written report (Ext.-19), she registered the case and took up investigation in the absence of OIC. In cross-examination, she stated that before lodging FIR no oral intimation was given to her. However, Ext-19 mentions the date of occurrence as 25.07.2007. The informant, PW-15, on the other hand, stated that she scribed the FIR at police Station and at that time she was alone. Her sister, PW-13, on the other hand, was suggested by defence with reference to her statement under Section 161 of Cr.P.C. that she had stated that she had gone to the PS after the occurrence and lodged the FIR. This, according to Mr. Jena proves that the FIR lodged by PW-13 was subsequently suppressed and Ext-19 was prepared. It is true that there is



some discrepancy between the versions of PW-13 and PW-15 as to who went to the police station and lodged the report. However, the statement of PW-13 under Section 161 Cr.PC, by itself, does not establish that the report made by her is the one which is the FIR which was subsequently suppressed. No such report has been brought on record, nor is there any evidence as to its contents, the time of its receipt or the police officer to whom it was submitted. On the contrary, PW-16 has specifically stated that no oral information was given to her before Ext.-19 and the FIR presented before her was scribed by the informant. Upon receipt of Ext.-19, she recorded its gist and commenced investigation. The discrepancy in the date of occurrence mentioned in Ext.-19, which PW-16 has explained as a mistake, is undoubtedly an irregularity but by itself does not establish suppression or fabrication of the FIR.

Even assuming, for the sake of argument that PW-13 had also submitted a report to the police and the same has not been brought on record, the consequence of such omission would depend upon whether the earlier version materially differs from the case subsequently presented before the Court. On a comparison of the statements of PW-



13 and PW-15 recorded under Section 161 Cr.P.C. and their depositions before the Court, we find that the substance of their versions regarding the occurrence and the participation of the accused persons has remained consistent. No material contradiction affecting the core of the prosecution case has been shown on account of the alleged non-production of such report. Their ocular account is also corroborated by the evidence of PW-5 and PW-11 as well as the medical evidence. Therefore, even assuming that there was some irregularity in the manner in which the earliest report came to be recorded, the same has not resulted any reasonable doubt regarding the prosecution case. Such circumstance, therefore, cannot enure to the benefit of the accused so as to discard the prosecution case on this score alone.

17. It has been argued that since the evidence shows that both PWs- 13 and 15 were highly educated and pursuing their studies, it is difficult to believe that they would have accompanied their father, brother and labourers to the paddy field for transplantation work. We do not find much force in this argument for the reason that there is no inflexible rule that an educated person would not visit an agricultural field,



more so, when the same belongs to her own family. It is further argued that, according to PWs- 13 and 15, they had come from Jaleswar from the previous day but the IO stated that, from the investigation, she found both of them to be residing at Balasore. We find nothing to raise a doubt in this regard, as the IO stated that the house of the deceased Ajay situates in village Godighati and at the time of occurrence the deceased persons were residing at Balasore. Accepting such statement of the IO, it would only imply that ordinarily deceased Ajay and his family members used to reside at Balasore though their agricultural lands situate in village Godighati, where they also had a house. It is therefore, quite plausible and believable that they had gone to the said village for transplantation work.

18. It has been further argued that the evidence relating to seizure of the weapon of offence is not believable for the reason that the IO stated about seizure of only one Katuri from the house of accused Mrutyunjay being led by him consequent upon his confession under Section 27 of the Indian Evidence Act. We however, find that there is clear evidence of seizure of two Katuris from the spot as evident



from Ext-4 proved by PW-2 and one Katuri from the house of accused Mrutyunjay vide Ext-10, proved by PW-7. Thus, three Katuris were recovered. There are thus no discrepancies in the evidence relating to seizure of weapon of offence.

19. It was argued that several material witnesses were not examined by prosecution, presumably deliberately. In this regard, it is submitted that the mother of accused Mrutyunjay, who also happens to be the mother of deceased Ajay was not examined nor were the nearby cultivators and other labourers. No villager of Godighati was also examined. We do not see any serious issue in this omission, if at all it can be treated as such, for the reason that law does not enjoin upon the prosecution to examine a particular number of witnesses. Time and again, it has been reiterated that it is the quality and not quantity of evidence that matters. Reference in this regard may be had to the judgment of Supreme Court in the case of **Prithipal Singh v. State of Punjab**¹, wherein the Supreme Court observed as follows:

“49. This Court has consistently held that as a general rule the court can and may act on the testimony of a single witness provided he is wholly reliable. There is no legal impediment in convicting a person on the sole testimony of a single witness. That is the logic of Section 134 of the

¹ (2012) 1 SCC 10



Evidence Act. But if there are doubts about the testimony, the court will insist on corroboration. In fact, it is not the number or the quantity, but the quality that is material. The time-honoured principle is that evidence has to be weighed and not counted. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy or otherwise. The legal system has laid emphasis on value, weight and quality of evidence, rather than on quantity, multiplicity or plurality of witnesses. It is, therefore, open to a competent court to fully and completely rely on a solitary witness and record conviction. Conversely, it may acquit the accused in spite of testimony of several witnesses if it is not satisfied about the quality of evidence.

[Emphasis added]

In the instant case, prosecution relied upon its star witnesses, who are eye-witnesses whose versions were amply corroborated by medical and other evidence. Therefore, merely because the mother of the deceased or his wife or other villagers were are not examined cannot, by itself, nullify the prosecution case.

20. It was argued that in the FIR as many as 28 persons were named but charge-sheet was submitted only against 8 persons. This, according to defence, shows the inherent exaggeration on the part of the prosecution which renders the case doubtful. From the charge-sheet, we find that the IO after conducting investigation at different stages ultimately found evidence linking the accused persons to the occurrence. Obviously, she did not find any evidence worth



the name against the others. This, by itself, cannot and does not lead to the conclusion that the prosecution story was exaggerated rather the IO must be held to have done her job properly by submitting charge-sheet only in respect of those persons against whom acceptable evidence was available.

21. From the foregoing narration, it becomes clear that the death of the deceased persons was homicidal in nature having been caused by injuries inflicted on vital of their bodies. This takes us to the question as to who were the authors of the crime.

22. We have already discussed the evidence of eyewitnesses in some detail and have found nothing inconsistent or unworthy of belief therein. It was argued that the eyewitnesses gave different versions as regards the persons who assaulted the deceased, the weapons used and the manner of assault. We have already seen that the consistent version of the eyewitnesses is that the accused persons inflicted Katuri blows on the neck and head of both the deceased causing their deaths. Even if it is accepted that their version regarding injuries on other parts of the body does not find support from medical evidence, the same, by



itself cannot nullify their positive evidence regarding the persons who assaulted, the weapons used by them and the site of injuries. Even otherwise, when an occurrence like this takes place with the participation of several persons and within the space of a short period of time, it is not implausible to hold that a witness deposing about it subsequently in the Court may not be able to recount the incident with mathematical precision. It is well settled that minor variations in the statement of witnesses need not be treated as fatal to the prosecution case if their evidence is otherwise credible and trustworthy. Reference in this regard may be had to the judgment of Supreme Court in the case of ***Mohar v. State of U.P.***², wherein the Supreme Court observed as follows:

“Convincing evidence would be required to discredit an injured witness. Similarly, every discrepancy in the statement of a witness cannot be treated as fatal. A discrepancy which does not affect the prosecution case materially cannot create any infirmity.”

23. It was argued that the seized weapon of offence did not contain any bloodstain or fingerprint of the accused persons so as to connect them to the alleged crime. We have

² (2002) 7 SCC 606



perused the scientific evidence (chemical examination reports marked Exts-1, 2 and 3). It is true that there is no mention of any blood or its grouping in the report. There is also nothing in the evidence to show that the fingerprints were lifted from the weapons of offence. Accepting the evidence as it is, it can only indicate a lapse in investigation which, obviously cannot nullify the positive ocular evidence of the crime. In this regard, reference may be had to the judgment of the Supreme Court in the case of ***State of Karnataka v. J. Jayalalitha***³, wherein it was observed that in all human affairs, absolute certainty is a myth and the law does not require the prosecution to prove the impossible. What is required is the establishment of such a degree of probability that a prudent person may, on that basis, believe in the existence of the fact in issue. Legal proof is thus not necessarily perfect proof, but is no more than a prudent person's estimate as to the probability of the case. Tested on the above principle, the absence of bloodstains or fingerprints on the seized weapons, though indicative of a lapse in investigation, cannot by itself create a reasonable doubt about the prosecution case when

³ (2017) 6 SCC 263



the ocular evidence is otherwise cogent, consistent and trustworthy and finds corroboration from the medical evidence.

24. Thus, considering the evidence adduced by prosecution in light of the arguments put forth by defence, we are left with no doubt that the evidence insofar as the same relates to accused persons Mrutyunjay, Kata @ Harekrushna, Gautam and Rakesh, is more or less fully proved and clearly shows that they had acted in concert and caused the deaths of the deceased by assaulting them with deadly weapons like, Katuris. The question is, whether such act would amount to 'murder' within the meaning of Section 300 IPC. In this regard, we have also taken note of arguments of the defence that the act was committed in course of a sudden quarrel upon grave provocation given by the deceased. It is submitted that the land in question was being cultivated by accused Mrutyunjay which was also the subject matter of a civil suit between him and his deceased brother, Ajay. So, when the deceased came to the spot with his family members and labourers with the intention of transplanting paddy and did not stop despite being restrained by accused Mrutyunjay, he



must be treated as having offered sufficient provocation. This argument, in our considered view goes against the defence. We say so because there is nothing in the evidence to show as to why the accused persons had congregated there with so many persons and that too being armed with deadly weapons like Katuris and Lathis. Even if it is accepted that the small thatched hut being open on all sides cannot be treated as a place of concealment, still the presence of accused persons along with so many others is inexplicable. There is also no evidence of any quarrel or verbal exchange having taken place between the parties at the spot. All that is forthcoming from the evidence is that accused Mrutyunjay restrained the deceased by saying 'Seithi Rahijao'. When the deceased did not heed to such restraint and stepped onto the field, accused Mrutyunjay rushed towards him and inflicted a blow on his neck with the Katuri which he was holding followed by a blow to his head. Further, the other accused persons also assaulted him and thereafter they caught hold of deceased Chandan by holding his hands and tying his legs with a napkin. Deceased Chandan was thereafter assaulted in such a condition. We fail to see any provocation being given by the



deceased. The distinction between culpable homicide and murder lies in the presence of the special *mens rea* under Section 300 IPC. As held by the Supreme Court in the case of ***Rajwant Singh v. State of Kerala***⁴, the four mental elements specified in Section 300 IPC distinguish murder from culpable homicide and unless the act involves at least one of such mental elements, it cannot amount to murder. Further, as held in ***Virsa Singh v. State of Punjab***⁵, where the prosecution seeks to bring the case within Section 300 'Thirdly', it must establish the presence of a bodily injury, the nature of such injury, that the injury was sufficient in the ordinary course of nature to cause death and that the particular injury was intentionally inflicted. In the present case, these requirements stand fully established. The medical evidence establishes the presence and nature of the injuries on the vital parts of the bodies of both the deceased, particularly their necks and heads, and further establishes that such injuries were sufficient in the ordinary course of nature to cause death. The ocular evidence, which we have found to be cogent and trustworthy, clearly establishes that

⁴ AIR 1966 SC 1874

⁵ AIR 1958 SC 465



the injuries were intentionally inflicted by the accused persons with Katuris. The nature, situs and manner of infliction of the injuries, coupled with the fact that the accused persons had armed themselves with deadly weapons, had congregated at the spot and thereafter repeatedly assaulted the deceased, clearly establish the intention under Section 300 IPC. The occurrence taken as a whole shows both planning as well as preparation coupled with an intention to kill the deceased or to inflict such injury as is likely to cause death. None of the exceptions provided in Section 300, in our considered view, would be applicable in the facts of the case. We have, therefore, no hesitation in holding that the act of the accused persons clearly amounted to murder within the meaning of Section 300 of IPC. As a corollary, we concur with the finding of the trial Court in such respect.

25. Coming to the appeals filed against the acquittal of the other accused persons, we take note of the settled position of law that an order of acquittal recorded by the trial Court is not be interfered with as a matter of course but only on justified reasons such as blatant disregard of the evidence



on record. Much was argued by the State Counsel as regards the role played by the acquitted accused persons referring to the evidence of PWs-13 and 15. Both of them deposed that accused Ratikanta, Paramananda and Trilochan fully participated in the occurrence by assaulting the deceased Ajay with Lathis and facilitating the assault on deceased Chandan by restraining him. However, as pointed out by Mr. Swain, the testimony of PWs- 13 and 15 in this regard are found to be improvements, over their earlier version, inasmuch as they had not stated so before the IO during investigation. This creates a reasonable doubt as regards their participation in the occurrence, entitling them to the benefit of doubt. The trial Court has also arrived at the same conclusion and extended the benefit of doubt to them. For the reasons indicated, we see no justification to take a contrary view.

26. Thus, from a conspectus of analysis of evidence and the contentions raised, we are convinced that the accused persons, namely, Mrutyunjay, Gautam, Rakesh and Kata @ Harekrushna, are guilty of committing the murder of deceased, Ajay and his son, Chandan, in the manner put



forth by the prosecution. We therefore, find no reason to interfere with the order of conviction passed against them by the trial Court. We also find no reason to interfere with the order of acquittal passed by the trial Court in respect of accused persons Ratikanta, Trilochan and Paramananda.

27. In the result, all the appeals being devoid of merit are dismissed. Accused, Mrutyunjay being in custody shall serve the remaining part of his sentence. The other convicted appellants, who are on bail, shall be taken to custody forthwith to serve the remaining part of their sentence with their bail bonds being cancelled.

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(Sashikanta Mishra, J)

Manash Ranjan Pathak, J. I agree.

.....
(Manash Ranjan Pathak, J)

Orissa High Court, Cuttack
The 25th August, 2026/A.K. Rana, P.A.

Signature Not Verified

Digitally Signed
Signed by: AJAYA KUMAR RANA
Designation: P.A.
Reason: Authentication
Location: HIGH COURT OF ORISSA, CUTTACK
Date: 27-Aug-2026 10:25:00

