



CGHC010071452022



2026:CGHC:34454-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 389 of 2022**

Ramsay Anchala S/o Late Shri Jhitiram Anchala Aged About 25 Years
R/o Village Manhakal Nadipara, Thana Siksod, District North Baster
Kanker Chhattisgarh.

... Appellant(s)**versus**

State of Chhattisgarh Through The District Magistrate Kanker District
North Baster Kanker Chhattisgarh.

...Respondent(s)

(Cause-title taken from Case Information System)

For Appellant	:	Mr. Sunil Sahu, Advocate.
For Respondent/State	:	Mr. Saumya Rai, Deputy Government Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Ravindra Kumar Agrawal, Judge****Judgment on Board****Per Ramesh Sinha, Chief Justice****06.08.2026**

1. Heard Mr. Sunil Sahu, learned counsel for the appellant. Also heard Mr. Saumya Rai, learned Deputy Government Advocate, appearing for the State/respondent.

2. Learned counsel for the appellant submits that he has filed I.A. No. 2 of 2026, which is the second application for suspension of sentence and grant of bail. He further submits that he does not wish to press the said application, as the present matter is listed today for final hearing.

3. This criminal appeal, preferred under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, "the CrPC"), is directed against the impugned judgment dated 29.01.2022 passed by the learned Additional Sessions Judge, Bhanupratappur, Distt. North Baster Kanker (C.G.) (for short, "the trial Court"), in Sessions Trial No. 29 of 2019, whereby the appellant has been convicted and sentenced as follows:

Conviction under Section	Sentence
Section 302 of the Indian Penal Code (<i>for short, 'IPC'</i>)	Rigorous imprisonment (<i>for short, 'R.I.'</i>) for life and fine of Rs. 2000/-, in default of payment of fine, 01 year R.I. more.
Section 201 of the IPC	R.I. for 01 years and fine of Rs.500/-, in default of payment of fine, 01 month R.I. more.
Both the sentence run concurrently	

4. The prosecution case, in brief, is that the complainant, Samsay Anchala (PW-1), appeared at Police Station Siksod and lodged a report stating that he is a resident of Village Manhakal, Patelpara, and is engaged in agriculture. His younger brother, Ramsay Anchala, was residing separately with his children at Nadi Para. On 26.09.2019, at

about 5:00 p.m., his younger brother Ramsay came to his house and informed him that he had quarrelled with his wife, Bisaybai, over her failure to prepare food and had assaulted her with a stick on her head, forehead and leg, resulting in her death. Thereafter, the complainant informed Sukram, Ranjan Singh Vatti and Chamar Singh Anchala about the incident. At about 7:00 p.m., they went together to the house of Ramsay and found the dead body of Bisaybai lying in a corner room of the house. The deceased had sustained serious injuries on her forehead, the back of her head and right leg, and blood was coming from her head and mouth. According to the complainant, Bisaybai had died as a result of the assault inflicted upon her by Ramsay with a stick during the quarrel over her failure to prepare food. The complainant further stated that he informed Sukram, the Patel of the village, Bansingh Netam and Kotwar Kanhaiyalal Tandiya about the incident and thereafter came to the police station with them to lodge the report.

5. On the basis of the aforesaid report lodged by the complainant Samsay Anchala, an FIR, marked as Ex.P/2, was registered against the appellant Ramsay Anchala under Section 302 of the IPC. Thereafter, inquest proceedings and investigation were undertaken.

6. During the course of investigation, an inquest intimation report, marked as Ex.P/1, was prepared on the basis of the information furnished by the complainant. Notices under Section 175 of the CrPC, marked as Ex.P/3 and Ex.P/18, were issued to the witnesses for conducting the inquest proceedings in respect of deceased Bisaybai.

After the post-mortem examination, the Panchayatnama of the dead body, marked as Ex. P/4, was prepared in the presence of the witnesses. At the instance of the appellant, a seizure memo, marked as Ex.P/6, was prepared in respect of one peeled teak-wood plank allegedly used in the commission of the offence and one orange-coloured checked gamchha worn by the appellant at the time of the incident. Under seizure memo Ex.P/7, blood-stained soil and plain soil from the place of occurrence, along with the terricot saree and petticoat worn by the deceased, were seized in the presence of the witnesses. The memorandum statement of the appellant, marked as Ex.P/8, was recorded in the presence of the witnesses. An application for postmortem examination, marked as Ex.P/19, was submitted to the Community Health Centre, Durgukondal, and the postmortem report, marked as Ex. P/5, was thereafter obtained.

7. The appellant was arrested vide Ex.P/9 and information regarding his arrest was given to his relatives. The police prepared a spot map of the place of occurrence, marked as Ex.P/17. The Patwari also prepared a site map, marked as Ex.P/13, and a Panchanama, marked as Ex.P/14, in the presence of the witnesses. The clothes of the deceased, which had been sealed by the doctor and handed over to the police, were seized vide Ex.P/20. For chemical examination of the seized articles, the police forwarded the same through the Superintendent of Police, Kanker, to the Regional Forensic Science Laboratory, Jagdalpur, vide requisition Ex.P/24. The acknowledgment receipt is Ex.P/25 and the FSL report is Ex.P/26.

8. Upon completion of investigation, a charge-sheet was filed against the appellant before the Court of Judicial Magistrate First Class, Bhanupratappur. After committal proceedings, the case was committed to the Court of Session and, upon transfer, was received by the learned trial Court for trial in accordance with law.

9. The learned trial Court framed charges against the appellant under Sections 302 and 201 of the IPC. The charges were read over and explained to him, to which he pleaded not guilty and claimed to be tried.

10. In his statement under Section 313 of the CrPC, the appellant denied all the incriminating circumstances appearing against him in the evidence. He pleaded innocence and false implication. He further stated that he had gone to Charagaon Mines, situated about ten kilometres away, to earn his livelihood and, upon returning home in the evening, found the dead body of his wife lying under the *mancha* in the courtyard, while his 11-month-old daughter was sitting beside the dead body and crying.

11. In order to establish the charges, the prosecution examined 14 witnesses and exhibited 29 documents. The appellant did not adduce any evidence in defence.

12. Upon appreciation of the oral and documentary evidence on record, the learned trial Court, by the impugned judgment dated 29.01.2022, convicted the appellant for the offences punishable under Sections 302 and 201 of the IPC and sentenced him accordingly.

Aggrieved thereby, the appellant has preferred the present appeal.

13. Learned counsel for the appellant submits that the findings recorded by the learned trial Court are contrary to the evidence on record and are, therefore, unsustainable in law. It is contended that, even if the prosecution case is accepted in its entirety, the material on record demonstrates that the incident arose out of a sudden quarrel between the appellant and the deceased over a trivial issue. According to learned counsel, there was neither any premeditation nor previous enmity so as to indicate any pre-conceived intention to commit murder. It is urged that the incident occurred in the heat of passion upon a sudden quarrel and that the appellant neither took undue advantage nor acted in a cruel or unusual manner. Therefore, according to learned counsel, the case falls within Exception 4 to Section 300 of the IPC.

14. Learned counsel for the appellant further submits that, having regard to the attending circumstances, the offence, if any, would amount to culpable homicide not amounting to murder, punishable under Section 304 Part I or, in the alternative, Section 304 Part II of the IPC, and not under Section 302 of the IPC. It is, therefore, prayed that the conviction and sentence awarded by the learned trial Court be suitably modified.

15. *Per contra*, learned State counsel has supported the impugned judgment and submits that the prosecution has established the guilt of the appellant beyond reasonable doubt by leading cogent, reliable and trustworthy oral and documentary evidence. It is submitted that the

evidence on record, duly corroborated by the medical and scientific evidence, establishes the involvement of the appellant in the commission of the offence. Learned State counsel further submits that the nature and seat of the injuries inflicted upon the deceased demonstrate the intention and knowledge attributable to the appellant. It is, therefore, contended that the case does not fall within any of the Exceptions to Section 300 of the IPC, much less Exception 4 thereof, and that the learned trial Court has rightly convicted the appellant under Section 302 of the IPC. No interference with the impugned judgment is, therefore, warranted.

16. We have heard learned counsel for the parties at considerable length and have carefully scrutinized the entire evidence available on record.

17. The first question that falls for our consideration is whether the death of the deceased was homicidal in nature.

18. In order to establish the homicidal nature of death, the prosecution examined Dr. M. Kishore (PW-6), who conducted the postmortem examination of deceased Bisaybai. He deposed that the dead body was brought before him on 28.06.2019 at about 2:25 p.m. and that the postmortem examination commenced at 2:40 p.m. The body was in a moderately decomposed condition. On examination, fracture of the right fronto-parieto-temporal bone, fracture of the upper end of the right tibia, swelling over the right elbow and right knee, and an abrasion over the left leg were found. Injuries were also present over the genital and anal

regions. On internal examination, the right side of the heart contained blood, whereas the left side was empty. Fluid was present in the stomach, partially digested food in the small intestine and faecal matter in the large intestine. The urinary tract and bladder were found ruptured. The clothes of the deceased bearing blood-like stains were handed over to the police constable.

19. In his opinion, the death of the deceased was caused by excessive haemorrhage resulting from the head injury. The time since death was approximately 42 to 50 hours prior to the postmortem examination and the nature of death was opined to be homicidal. The postmortem report is Ex.P/5.

20. In cross-examination, the witness clarified that the injuries found on the deceased were ante-mortem, though the same had not been specifically mentioned in Ex.P/5 due to a writing error. He denied the suggestion that the swelling on the right elbow could have been caused by a fall. His testimony has otherwise remained substantially unshaken.

21. Thus, notwithstanding the omission in Ex.P/5, the medical evidence clearly establishes that the injuries sustained by the deceased were ante-mortem and that her death was homicidal, having been caused by excessive haemorrhage resulting from the head injury.

22. Having held that the prosecution has succeeded in establishing that the death of the deceased was homicidal in nature, the next question that arises for consideration is whether, in the facts and circumstances of the present case, the offence committed by the

appellant amounts to murder punishable under Section 302 of the IPC, or whether the case is covered by Exception 4 to Section 300 of the IPC, thereby attracting Section 304 Part I or Part II of the IPC, as contended on behalf of the appellant.

23. The Hon'ble Supreme Court in the matter of **Sukhbir Singh v. State of Haryana**¹ has 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.”

¹ (2002) 3 SCC 327

24. The Hon'ble Supreme Court in the matter of ***Gurmukh Singh v. State of Haryana***² has 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 state 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 from 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;

2 (2009) 15 SCC 635

(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."

25. Likewise, in the matter of **State v. Sanjeev Nanda**³, their Lordships of the Hon'ble Supreme Court have 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.

26. Further, the Hon'ble Supreme Court in the matter of **Arjun v. State of Chhattisgarh**⁴ has elaborately dealt with the issue and observed in paragraphs 20 and 21, which reads as under :-

³ (2012) 8 SCC 450

⁴ (2017) 3 SCC 247

“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 its 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 : (SCC p. 596, para 9)

“9. '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”.

27. In the matter of **Arjun** (supra), the 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.

28. Further, the Hon’ble Supreme Court in the matter of **Rambir v. State (NCT of Delhi)**⁵ has laid down four ingredients which should be tested 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;

⁵ (2019) 6 SCC 122

(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.”

29. Samsay Anchala (PW-1), the brother of the appellant, deposed that at about 4:00 p.m. on the date of occurrence, the appellant came to his house and told him that he had killed his wife Bisaybai. Thereafter, the witness went to the house of the appellant and found the deceased lying inside the room with an injury on the back of her head. Although certain suggestions contrary to his examination-in-chief were put to him in cross-examination and were admitted, upon clarification by the Court, the witness reiterated that the appellant had specifically told him that he had killed his wife. His testimony, therefore, when read as a whole, remains substantially consistent and inspires confidence.

30. Sukram Dhurwa (PW-9), the village Patel, also stated that the appellant had quarrelled with his wife and thereafter disclosed that he had killed her. He further deposed that when they went to the appellant's house, blood was found there and the deceased was lying dead with an injury on her forehead. Though certain suggestions were admitted by the witness in cross-examination, upon clarification by the Court, he reiterated that the appellant had disclosed to him that he had assaulted his wife. His testimony lends corroboration to the evidence of

PW-1.

31. Chamar Singh Anchala (PW-10) deposed that the appellant had told him that he had quarrelled with his wife and had killed her. He further stated that the quarrel had arisen over the deceased not preparing *pej* and that, during the quarrel, the appellant assaulted her with a teak-wood plank. The witness was declared hostile when he did not fully support the prosecution; however, upon being confronted with his previous statement, he admitted material portions thereof. His evidence, therefore, cannot be rejected in toto and, to the extent it is found trustworthy, lends assurance to the prosecution case.

32. The prosecution also examined Banshiram Netam (PW-2), Kanhaiyalal Tandiya (PW-3), Karjiram Hupendi (PW-5), Ranjan Vatti (PW-11), Sonaybai (PW-12) and Mithuram (PW-13) as witnesses to the alleged extra-judicial confession. These witnesses, however, did not support the prosecution on the material aspect of the alleged confession and were declared hostile. Their evidence, therefore, does not furnish substantive corroboration to the prosecution case on that count.

33. The prosecution has further relied upon the recovery of the teak-wood plank and the blood-stained gamchha pursuant to the memorandum statement of the appellant. B.S. Thakur (PW-7), the Investigating Officer, deposed that on 30.06.2019, in the presence of Banshiram Netam and Sukram Dhurwa, the memorandum statement of the appellant (Ex.P/8) was recorded and, pursuant thereto, a peeled teak-wood plank bearing blood stains and an orange-coloured checked

gamchha, allegedly worn by the appellant at the time of the occurrence, were recovered from the *mancha* situated in front of his house, vide seizure memo Ex.P/6.

34. Though Banshiram Netam did not support the recovery proceedings, Sukram Dhurwa substantially corroborated the same. Upon his attention being drawn to Ex. P/6, he admitted that the teak-wood plank and the blood-stained gamchha had been produced by the appellant from the *mancha* in front of his house and were seized in his presence. His answers in cross-examination were not entirely consistent; however, when his evidence is considered as a whole, the same does not materially discredit the recovery proved by the Investigating Officer.

35. The evidence of the Investigating Officer regarding the memorandum and seizure has remained substantially unshaken. The seized articles were duly forwarded for forensic examination to the Regional Forensic Science Laboratory, Jagdalpur. As per the FSL report (Ex.P/26), human blood was detected on the teak-wood plank, as well as on the saree, petticoat and blouse of the deceased and the soil collected from the place of occurrence. Although the blood group could not be determined, the detection of human blood on the recovered plank is a circumstance which lends corroboration to the prosecution case.

36. On an overall assessment of the evidence, therefore, the prosecution has established that the death of Bisaybai was homicidal;

that the appellant made disclosures regarding the killing of his wife to material witnesses; and that the blood-stained teak-wood plank was recovered pursuant to his memorandum. These circumstances, supported by the medical and forensic evidence, constitute incriminating circumstances against the appellant.

37. The aforesaid circumstances were specifically put to the appellant in his statement under Section 313 of the CrPC. The appellant, however, failed to furnish any satisfactory explanation with regard to the incriminating circumstances, particularly the recovery of the blood-stained plank pursuant to his memorandum. His plea that he had gone to Charagaon Mines and, upon returning home, found the dead body of his wife, does not satisfactorily explain the circumstances established by the prosecution.

38. Thus, having considered the evidence in its entirety, this Court is satisfied that the prosecution has proved beyond reasonable doubt that the appellant was responsible for the homicidal death of his wife Bisaybai. The medical evidence, the testimony regarding the appellant's disclosures, the recovery of the blood-stained teak-wood plank pursuant to his memorandum and the FSL report, when considered cumulatively, establish his involvement in the occurrence.

39. Having reached the aforesaid conclusion, the next question is as to the nature of the offence made out against the appellant. On this aspect, the evidence assumes significance that the occurrence was preceded by a quarrel between the appellant and the deceased arising

out of a trivial domestic issue relating to preparation or provision of *pej*. There is no evidence on record of any previous enmity between the appellant and the deceased, nor is there any material suggesting that the appellant had gone to the place of occurrence with a premeditated design to cause her death.

40. The circumstances, therefore, indicate that the occurrence took place suddenly in the course of a domestic quarrel and in the heat of passion. At the same time, the appellant did not merely cause a superficial injury; he assaulted the deceased with a teak-wood plank, resulting in a fracture of the right fronto-parieto-temporal bone and other injuries, ultimately causing excessive haemorrhage leading to her death. The nature and severity of the injuries cannot be overlooked while determining the requisite intention attributable to the appellant.

41. In our considered view, the present case satisfies the requirements of Exception 4 to Section 300 of the IPC. There was no premeditation; the occurrence arose out of a sudden quarrel; and the assault was committed in the heat of passion arising therefrom. However, the manner of assault and the nature of the injuries establish that the appellant intended to cause such bodily injury as was likely to cause death. The case, therefore, falls within the ambit of Section 304 Part I of the IPC, and not Section 302 of the IPC.

42. Consequently, the conviction of the appellant under Section 302 of the IPC cannot be sustained in its present form and deserves to be altered to one under Section 304 Part I of the IPC. So far as the

conviction under Section 201 of the IPC is concerned, the evidence on record establishes that the appellant was involved in the concealment/removal of the incriminating evidence in the manner alleged by the prosecution. No ground has been made out warranting interference with his conviction under Section 201 of the IPC.

43. As regards the sentence, having regard to the overall facts and circumstances of the case, particularly the fact that the occurrence took place in the course of a sudden domestic quarrel and there was no premeditation, we are of the view that a sentence of 10 years' rigorous imprisonment under Section 304 Part I of the IPC would meet the ends of justice. The fine imposed by the learned trial Court for the said offence, along with the default stipulation, shall remain unaltered. The conviction and sentence imposed under Section 201 of the IPC, including the fine, are also affirmed.

44. Accordingly, the appeal is **partly allowed**. The impugned judgment of conviction and order of sentence dated 29.01.2022 is modified to the extent that the conviction of the appellant under Section 302 of the IPC is altered to one under Section 304 Part I of the IPC, for which he is sentenced to undergo rigorous imprisonment for a period of 10 years. The fine imposed by the learned trial Court for the said offence, together with the default stipulation, shall remain unaltered. The conviction and sentence of the appellant under Section 201 of the IPC, including the fine imposed thereunder, are affirmed. The impugned judgment is modified to the aforesaid extent and all other directions

contained therein shall remain unaltered.

45. The Registry is directed to transmit a copy of this judgment to the Superintendent of the concerned Jail for compliance and to inform the appellant that he is at liberty to prefer 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.

46. Let a certified copy of this judgment along with the original record be sent to the trial Court concerned forthwith for information and necessary compliance.

**Sd/-
(Ravindra Kumar Agrawal)
Judge**

**Sd/-
(Ramesh Sinha)
Chief Justice**