



CGHC010294572016

NAFR

INDRAJEET
SAHU

Digitally signed
by INDRAJEET
SAHU
Date: 2026.10.16
16:04:22 +0530

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1120 of 2016

1 - Amit Gandhi @ Banty Gandhi S/o Late Maniklal Gandhi Aged About 31 Years R/o Sadar Line, Dongargaon, P.S. Dongargaon, District - Rajnandgaon Chhattisgarh.

... Appellant

versus

1 - State of Chhattisgarh Through Police Station Dongargaon, District - Rajnandgaon Chhattisgarh.

... Respondent(s)

For Appellant	:	Shri Faiz Kazi, Advocate.
For State	:	Shri Rohan Shukla, Panel Lawyer.

Hon'ble Shri Justice Ravindra Kumar Agrawal, J

Judgment on Board

15.10.2026

- The present appeal has been filed against the impugned judgment of conviction and order of sentence dated 19.08.2016 passed by the Additional Sessions Judge (Atrocities), Rajnandgaon, in Sessions Case No.43 of 2013 whereby the appellant has been convicted for the offence under Section 4 of The Chhattisgarh Protection of Debtors Act, 1937 (in short, the Act, 1937) and sentenced to undergo Simple Imprisonment of 3 months with fine of Rs.500/-, in default of payment of fine amount, additional SI for 15 days.

2. Brief facts of the case are that, on 08.01.2012 the deceased Ranjit Nishad committed suicide by poisoning. Merg intimation Ex.P/14 was lodged at Police Station Basantpur, District Rajnandgaon and inquest Ex.P/10 was prepared in presence of witnesses. Dead body of the deceased was sent for its postmortem to District Hospital Rajnandgaon where PW-6, Dr. Anil Mahakalkar conducted postmortem of the dead body and gave his report Ex.P/5. In the postmortem report, the doctor has opined that no definite opinion can be given regarding mode of death and advised for Viscera examination from FSL. Suicidal note Article-A/2,A/3,A/4 and A/5 have been seized by the police from the pocket of pant of deceased vide Ex.P/12. While merg inquiry and recording statement of witnesses, it reveals that the deceased was being harassed and tortured by the accused persons for recovery of loan amount which was advanced to him by the father of present appellant. Despite having repaid the sufficient amount, the deceased was being harassed and threatened by which the deceased committed suicide on 08.01.2012. FIR Ex.P/5 was lodged against the accused persons including the present appellant for the offence under Section 306/34 IPC and Section 4 of the Act, 1937. The suicidal note seized from the pocket of pant of the deceased was sent for its handwriting examination to State Examiner of Questioned Document, FSL Raipur, from where report Ex.P/38 was received, according to which, the handwriting of the suicidal note was matched with the natural handwriting of the deceased.
3. Statement of witnesses were recorded and after completion of usual investigation charge sheet was filed against the five accused persons

including the present appellant before the Chief Judicial Magistrate, Rajnandgaon, for the offence under Section 306/34 IPC and Section 4 of the Act, 1937. The case was committed to trial court for its trial where the trial court has framed charge against the accused persons for the offence under Section 306 IPC, in alternative, 306/34 IPC and Section 4 of the Act, 1937. The accused persons denied the charge and claimed trial.

4. After framing of charge, the accused Amit Gandhi and Jhaggar @ Ramnaresh challenged their charge before this court in Criminal Revision Nos.136 of 2014 and 199 of 2014 which were allowed vide order dated 11.09.2014 and they were discharged from the offence under Section 306/34 IPC. Thereafter, in Criminal Revision No.492 of 2015 the accused persons namely Saiyad Afzal Ali and Rakesh were discharged from the offence under Section 306 IPC vide order dated 13.05.2016.
5. In order to prove the offence against the appellant, the prosecution has examined as many as 14 witnesses. Statement of the accused persons under Section 313 CrPC were also recorded in which they denied the circumstances appears against them, pleaded innocence and submitted that they have been falsely implicated in the offence. The present appellant has been examined himself as defence witness No.1.
6. After appreciation of oral as well as documentary evidence led by the prosecution, the Trial Court has acquitted the accused Ajay Vaishnav from the offence under Section 306 IPC, but has convicted five accused persons for the offence under Section 4 of the Act, 1937 and sentenced them for SI for three months with fine of Rs.500/- to each of

the accused persons. The other accused persons have already undergone the jail sentence, however, the present appellant have challenged his conviction and sentence in the present appeal.

7. Learned counsel for the appellant would submit that though there is lack of sufficient evidence against the appellant for his conviction under Section 4 of the Act, 1937, however considering the fact that the said offence does not provide any minimum sentence; the offence is of the year, 2012 and he has already faced long litigation for more than 13 years, the sentence provided for the said offence is RI for three months or fine, or with both, therefore he is not challenging his conviction for the offence under Section 4 of the Act, 1937, but challenging the sentence part only. He would further submit that the appellant is presently aged about 41 years and having various family responsibilities and there is no criminal antecedent against him and therefore, considering the nature of offence and minimum sentence provided for the offence, his sentence may be set aside and he may be sentenced for fine amount only.
8. On the other hand, the counsel for the State opposes the prayer made by the counsel for the appellant and would submit that the prosecution has proved its case beyond reasonable doubt. The trial court has already taken a lenient view while awarding the sentence provided under the Act, 1937 for the offence committed by the appellant and therefore looking to the gravity of the offence and the manner in which the accused persons molested the deceased, the appellant is not entitled for any further leniency and appeal is liable to be dismissed.

9. I have heard the counsel for the parties and perused the record of trial court.
10. Although the appellant is not challenging his conviction, however in the interest of justice this court examines the evidence produced by the prosecution against the appellant.
11. The suicidal death of the deceased Ranjit Nishad is not in dispute. Even from the evidence of doctor PW-7, who conducted postmortem of the dead body of the deceased, have opined that the deceased died due to suspected poisoning and as per the FSL report, Ex.P/33, organophosphorus pesticide Chlorpyrifos was found in the viscera of the deceased. Even the appellant has not specifically challenged the nature and mode of death of the deceased, therefore, suicidal death of the deceased is found to be undisputed.
12. So far as involvement of the appellant in the offence in question is concerned, PW-3/Jambai, wife of the deceased have stated in her evidence that her husband borrowed Rs.80,000/-from the father of appellant and despite refund of the borrowed amount along with interest, the father of appellant did not return their document. Even after death of the father of the appellant, the appellant pressurized them for more money in lieu of their borrowed amount which was already returned. The appellant sent their muscleman and other friends who forcibly took her husband with them and threatened them with dire consequence. In her evidence, she disclosed the manner in which the accused persons molested the deceased for recovery of said borrowed amount. The importance piece of evidence is the suicidal note Ex.P/2 seized by the police from the pocket of pant of the deceased. From

perusal of suicidal note Ex.P/2 which is Article-A/4, the name of present appellant clearly reveals that he too was engaged in molesting the deceased for recovery of amount. It is mentioned in the suicidal note, Article-A/4 that- “मैं रंजीत निषाद साहूकार के तंगी के कारण अपने आप को नहीं बचा पाया । दिनेश गांधी के भाई ने मुझे जान से मार दूंगा कहकर बंटी गांधी ने धमकी दी थी इसलिए मैं घर से 15 दिन बाहर था जबकि मैं ईमानदारी से उसका मूदल 8000/- दे दिया था उससे ज्यादा उसके तगादादार खा गया था।.....”

13. From the evidence of PW-3, the wife of deceased, the involvement of the present appellant in the offence in question had duly been proved and even in her lengthy cross examination the defence was unable to extract any incriminating material so that her evidence could be disbelieved with respect to molestation of the deceased for recovery of amount by the appellant. The said suicidal note was found to be in handwriting of the deceased as per the report of State Examiner of Questioned Document, Raipur, Ex.P/38. Thus, necessary ingredients for commission of offence under Section 4 of the Act, 1937 is found proved.
14. The trial court also after having considered the entire facts and circumstances of the case and material available on record, held the accused persons guilty for commission of alleged offence under Section 4 of the Act, 1937, in which this court is in concurrence that the accused persons have rightly been convicted for the alleged offence, and thereby the conviction of the appellant is hereby maintained.
15. So far as sentence awarded to the appellant is concerned, the submissions made by the counsel for the appellant is appealing to this

court that the offence is of the year, 2012, the appellant is presently aged about 41 years and saddled with innumerable family responsibilities, he already suffered 13 years of criminal trial and that the offence of Section 4 of the Act, 1937 does not provide any minimum sentence and it provides sentence of simple imprisonment which may extend to three months or fine of Rs.500/-, or with both.

16. The Hon'ble Supreme Court in ***Mohammad Giasuddin Vs. State of Andhra Pradesh, 1977 (3) SCC 287*** has laid down the law with respect to awarding sentence to the accused persons. In paragraph 9 it was held as under:

"9. Western jurisdiction and 'sociologists, from their own angle have struck a like note. Sir Samuel Romilly, critical of the brutal penalties in the then Britain, said in 1817 : "The laws of England are written in blood". Alfieri has suggested : 'society prepares the crime, the criminal commits it. George Micodotis, Director of Criminological Research Centre, Athens, Greece, maintains that 'Crime is the result of the lack of the right kind of education.' It is thus plain that crime is a pathological aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturisation. Therefore, the focus of interest in penology is the individual, and goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defense. We, therefore consider a therapeutic, rather than an in 'terrorem' outlook, should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. In the words of George Bernard Shaw : 'If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries'. We may permit ourselves the liberty to quote from Judge Sir Geoffrey Streatfield : 'If you are going to have anything to do with the criminal courts, you should see for yourself the conditions under which prisoners serve their sentences.' In the same strain a British Buddhist-Christian Judge, speaking to a BBC reporter underscored the role of compassion : "Circuit Judge Christmas Humphreys told the BBC reporter recently that a judge looks 'at the man in the dock in a different way : not just a criminal to be punished, but a fellow human being, another form of life who is also a form of the same one life as oneself.' In the context of karuna and punishment for karma the same Judge said : 'The two things are not incompatible. You do punish him for what he did, but you bring in a quality of what is sometimes called

mercy, rather than an emotional hate against the man for doing something harmful. You feel with him; that is what compassion means."

17. Further, in the matter of *Raj Bala Vs. State of Haryana & Others, 2016 (1)*

SCC 463 in paragraph 1 & 2 the Hon'ble Supreme Court has held as under :

"1. In *Gopal Singh v. State of Uttarakhand*[1], while focusing on the gravity of the crime and the concept of proportionality as regards the punishment, the Court had observed:-

"18. Just punishment is the collective cry of the society. While the collective cry has to be kept uppermost in the mind, simultaneously the principle of proportionality between the crime and punishment cannot be totally brushed aside. The principle of just punishment is the bedrock of sentencing in respect of a criminal offence. A punishment should not be disproportionately excessive.

The concept of proportionality allows a significant discretion to the Judge but the same has to be guided by certain principles. In certain cases, the nature of culpability, the antecedents of the accused, the factum of age, the potentiality of the convict to become a criminal in future, capability of his reformation and to lead an acceptable life in the prevalent milieu, the effect - propensity to become a social threat or nuisance, and sometimes lapse of time in the commission of the crime and his conduct in the interregnum bearing in mind the nature of the offence, the relationship between the parties and attractability of the doctrine of bringing the convict to the value-based social mainstream may be the guiding factors. Needless to emphasise, these are certain illustrative aspects put forth in a condensed manner. We may hasten to add that there can neither be a straitjacket formula nor a solvable theory in mathematical exactitude. It would be dependent on the facts of the case and rationalised judicial discretion. Neither the personal perception of a Judge nor self-adhered moralistic vision nor hypothetical apprehensions should be allowed to have any play. For every offence, a drastic measure cannot be thought of. Similarly, an offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a court. The real requisite is to weigh the circumstances in which the crime has been committed and other concomitant factors which we have indicated hereinbefore and also have been stated in a number of pronouncements by this Court. On such touchstone, the sentences are to be imposed. The discretion should not be in the realm of fancy. It should be embedded in the conceptual essence of just punishment."

[Emphasis supplied]

2. Seven years prior to that, in *Shailesh Jasvantbhai v. State of Gujarat* [2], it has been held that:-

"7. The law regulates social interests, arbitrates conflicting claims and demands. Security of persons and property of the people is an essential function of the State. It could be achieved through instrumentality of criminal law. Undoubtedly, there is a cross-cultural conflict where living law must find answer to the new challenges and the courts are required to mould the sentencing system to meet the challenges. The contagion of lawlessness would undermine social order and lay it in ruins. Protection of

society and stamping out criminal proclivity must be the object of law which must be achieved by imposing appropriate sentence. Therefore, law as a cornerstone of the edifice of "order" should meet the challenges confronting the society.

Friedman in his Law in Changing Society stated that:

"State of criminal law continues to be-as it should be-a decisive reflection of social consciousness of society." Therefore, in operating the sentencing system, law should adopt the corrective machinery or deterrence based on factual matrix. By deft modulation, sentencing process be stern where it should be, and tempered with mercy where it warrants to be. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration.

8. Therefore, undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law, and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed, etc. This position was illuminatingly stated by this Court in *Sevaka Perumal v. State of T.N.*[3]"

[Emphasis supplied]

And again:- "The court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual victim but also against the society to which the criminal and the victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should "respond to the society's cry for justice against the criminal"."

18. Thus, considering the submissions made by the counsel for the parties, the nature of allegation and evidence available on record, the fact that appellant is presently aged about 41 years and he must be saddled with innumerable family responsibilities; the offence of Section 4 of the Act, 1937 does not provide any minimum sentence and also considering the ratio of law laid down by the Supreme Court in **Raj Bala** (Supra) and **Mohammad Giasuddin** (Supra), this court is of the opinion that ends of justice would meet if the appellant is sentenced only with fine sentence instead of jail sentence.

19. Accordingly, while maintaining the conviction of the appellant for the offence under Section 4 of the Act, 1937, the jail sentence awarded to him is set aside and instead thereof, he is sentenced to fine of Rs.500/- along with compensation of Rs.10,000/- payable to the wife of deceased i.e. PW-3, Jambai, as provided under Section 395(3) of The BNSS, 2023. The appellant is on bail. His bail bond shall continue for a further period of six months as provided under Section 481 of The BNSS, 2023. The said amount of compensation of Rs.10,000/- shall be deposited before the concerned trial court within a period of three months from today, failing which, the trial court shall initiate appropriate proceeding for recovery of said amount of compensation in accordance with law.
20. With the aforesaid alteration/modification, the appeal is **partly allowed**.
21. Let a copy of this judgment and the original records be transmitted to the trial Court concerned forthwith for necessary information and compliance.

Sd/-
(Ravindra Kumar Agrawal)
Judge

inder