

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1282 of 1998**

Rajesh Chouhan, s/o Lakhan Chouhan, aged about 25 years, occupation – Agriculture, r/o Sarangarh, police station Sarangarh, district Raigarh.

---- Appellant**Versus**

State of M.P. (Now State of Chhattisgarh) through Incharge Police Station Sarangarh, district Raigarh.

---- Respondent

For Appellant	:	Shri Ranbir Singh Marhas, Advocate.
For Respondent/ State	:	Ms. Smita Ghai, Panel Lawyer.

**HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &
HON'BLE SHRI P.SAM KOSHY, J.**

Judgment On Board**Per NAVIN SINHA, C.J.****15/4/2015**

1. The Appellant stands convicted under Section 302 IPC to life imprisonment by the Sessions Judge, Raigarh in Sessions Trial No. 173 of 1996 on 25.4.1998.
2. In absence of any representation on behalf of the Appellant on 3.2.2006, Shri Ranbir Singh Marhas, Advocate, was nominated by the High Court Legal Aid Committee for assisting the Court in the matter.
3. As the Appellant had also taken a plea of insanity, on 5.4.2006 this Court directed Medical Examination of the Appellant. The report from

B.R. Ambedkar Memorial Hospital, Raipur signed by Assistant Professor, (Psychiatry) states that there is no past history of any Psychiatric illness or any abnormal behaviour. Serial Mental State Examination of the Appellant did not reveal any active psychopathology opining that he did not have any genetic predisposition for any psychiatric illness also.

4. Shri Ranbir Singh Marhas, Advocate submitted that presumably the Appellant having undergone the sentence, has lost interest in the matter. However, Shri Marhas as also the State Counsel have rendered us full assistance in the matter to examine in appellate jurisdiction legality of the conviction of the Appellant.

5. The First Information Report, Exhibit P1 was lodged on 7.7.1996 by PW1 Mayabai, sister-in-law of the deceased Setalal naming the Appellant as the assailant stating that she was an eyewitness to the assault and the Appellant also attempted to assault the mother of the deceased, PW2 Ramila Bai. The postmortem of the deceased marked Exhibit P5 was conducted by PW5 Dr. S.K. Tiwari who found the following injuries on the person of the deceased:-

- (i) Lacerated wound of 14 cm x 2 cm x deep to intracranial space at right temperoparietal occipital region;
- (ii) Lacerated wound of 4 cm x 1 cm at left parietal prominence;
- (iii) Lacerated wound of 5 cm x 1 cm at right parietal region deep to 1cm space;
- (iv) Lacerated wound of 2 cm x ½ cm deep to bone at left

eyebrow;

(v) Abrasion 4 cm x 3 cm at left frontal prominence post fracture multiple fragment of right parietal and temporal bone; and

(vi) Fracture on right side occipital bone continuous to above fracture and fracture on left parietal bone continuous to above fracture.

6. The Police recovered 'Sabbal' used for assault from the house of the Appellant on his confession as also his pant and shirt. The forensic report marked Exhibit P13 confirms presence of blood on all the three items as also on the sample of earth seized from the place of occurrence, marked Exhibit P7.

7. Learned Counsel for the Appellant sought to persuade us from the minor discrepancies in the evidence of PW1, Mayabai that she was in fact not an eyewitness to the occurrence. No other convincing argument has been addressed before us for the innocence of the accused, more particularly, in view of the nature of defence of insanity taken, belied by the medical report. Apart from PW1 Mayabai, PW2 Ramila Bai is the mother of the deceased who is also an eyewitness apart from PW3 Karia @ Sarkhrit and PW4 Sushila Bai, a neighbour of the deceased. All of them are consistent in their evidence that the deceased was sitting at the lamp post about 10 steps away from his house when the Appellant came and assaulted him. PW2 Ramila Bai, mother of the deceased sought to intervene when she was also attempted to be assaulted but stopped it with her hand. Nothing has

emerged in the cross-examination of the four eyewitnesses so as to doubt their presence and genuineness of their evidence. In view of the clear, cogent and convincing eyewitness account rendered by PW1, PW2, PW3 and PW4, we find it difficult to arrive at any conclusion for innocence of the accused as the assailant. We are further of the opinion that nothing has been put in cross-examination to suggest why PW2 Ramila Bai, mother of the deceased would be making a false statement accusing the Appellant to save the real assailants of her own son. On the contrary, we are of the considered opinion that she would be the most truthful witness stating the correct manner of occurrence to ensure that the perpetrator of the crime on her son does not go free.

8. We therefore find no reason to interfere with the order under appeal.

9. The appeal is dismissed.

(Navin Sinha)
CHIEF JUSTICE

(P. Sam Koshy)
JUDGE