

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 447 of 2010**

Chhabi Ram Chouhan Son of Shri Ranjeet Ram Chouhan, aged about 26 years, R/o village Deogaon, Manjhipara, P.S. Tamnar, Distt. Raigarh (CG)

---- Appellant**Versus**

State Of Chhattisgarh through Station House Officer, Police Station Tamnar, Distt. Raigarh (CG)

---- Respondent

For appellant	:	Mr. C.R. Sahu, Advocate.
For Respondent/State	:	Mr. Vaibhav Goverdhan, Panel Lawyer.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Chandra Bhushan Bajpai

Judgment on board by Justice Pritinker Diwaker**19/01/2016**

1. This appeal arises out of the impugned judgment of conviction and order of sentence dated 11-5-2010 passed by the 3rd Additional Sessions Judge (FTC), Raigarh in S.T. No. 58/2009 convicting the appellant under Section 302 of IPC and sentencing him to undergo imprisonment for life and to pay a fine of Rs. 1,000/- with default stipulation.
2. Brief facts of the case are that on 27-3-2009 at about 6.00 am, accused/appellant killed his step-mother Gauribai by causing four axe injuries near her neck and face. The incident was witnessed by uncle of the appellant namely P.W. 2 Nanhiram, who in turn informed the incident to father of the appellant P.W. 1 Ranjit Chauhan who was near the house of the appellant at that time. Merg intimation Ex. P-2 was recorded at the instance of P.W. 1 Ranjit Chauhan on 27-3-2009. Immediately thereafter named FIR Ex. P-1 was lodged by P.W. 1 Ranjit Chauhan based on which offence under Section 302 of IPC was registered against the appellant. Inquest Ex. P-11 on the body of the deceased was prepared. The body was sent for post mortem which was conducted by P.W. 8 Dr. Dhan Singh Paikra. The autopsy surgeon vide Ex. P-6 noticed following 4 injuries on the body of the deceased :
 - i. Homicidal wound on right side of neck measuring 7 cm x 3 cm x 2 ½ cm.
 - ii. Wound No. 2 left mandible bone is cut measuring 10 cm x 4 cm x 5 cm.

- iii. Wound No. 3 below the chin measuring 4 cm x 1 ½ x 3 cm with blood clot present.
- iv. Wound no. 4 below the chin 3 ½ cm x 2 cm x 2 ½ cm with blood clot present. On all the wounds, large blood loss.

The autopsy surgeon opined that mode of death is due to shock (excessive blood loss) caused by cardio respiratory arrest, nature of death is homicidal.

- 3. After investigation, charge sheet was filed against the accused/appellant for the offence punishable under Section 302, IPC and then charges were also framed accordingly.
- 4. In order to establish the guilt of the accused person the prosecution has examined 9 witnesses. Statement of the accused/appellant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges levelled against him, pleaded innocence and false implication in the case.
- 5. The trial court after hearing counsel for the respective parties and considering the material available on record, by the impugned judgment, convicted and sentenced the appellant as mentioned in para 1 of this judgment.
- 6. Counsel for the appellant submits that :
 - i. statement of P.W. 2 Nanhiram, the eye-witness to the incident is not reliable.
 - ii. considering the post mortem report of the deceased, even if the statement of eye-witness is accepted, the appellant is liable to be convicted under Section 304-I or II of the IPC. There was no motive for the appellant to commit murder of the deceased and it appears that the incident had taken place all of a sudden.
- 7. On the other hand, supporting the impugned judgment, learned State counsel submits that there is no reason for this court to disbelieve the statement of P.W. 2 Nanhiram who is eye-witness to the incident and has fully supported the prosecution case. He submits that considering the nature of injury sustained by the deceased on her vital part, conviction of the appellant under Section 302 of IPC is in accordance with law.
- 8. We have heard learned counsel for the parties and perused the record.
- 9. P.W. 1 Ranjit Chauhan on whose instance merg intimation Ex. P-2 and FIR Ex. P-1 were registered has duly supported the prosecution case. Though he has tried to become eye-witness to the incident as well but from his statement and the statement of P.W. 2 Nanhiram, it is apparent that at the time of incident, he was not present in the house and had gone outside of

the house. P.W. 2 Nanhiram is an eye-witness to the incident. While supporting the prosecution case he has stated that the accused/appellant is his nephew whereas deceased Gauribai is his sister-in-law. He has stated that on the date of incident when he was cleaning his teeth outside his house he heard the cries of the deceased Gauribai and when he reached to the house he saw the accused/appellant assaulting the deceased with an axe as a result of which Gauribai sustained several injuries on her face and neck. He has also stated that immediately he came out of the house and informed the incident to villagers and the information was also sent to P.W. 1 Ranjit Chauhan, father of the appellant. In cross-examination he remained very firm and nothing could be elicited from him. P.W. 3 Kartikram son of Ghasiram is witness of seizure Ex. P-3 and P-4, though has admitted his signatures but has turned hostile. P.W. 4 Ishwar is a hearsay witness. He came to know about the incident after it had taken place. He has stated that Ranjit informed him that the accused/appellant had killed his wife. P.W. 5 Sadhram also reached to the place of occurrence after the incident. P.W. 6 J.B. Singh recorded merged intimation Ex. P-2 and FIR Ex. P-1. P.W. 7 is patwari and has prepared spot map Ex. P-5. P.W. 8 Dr. Dhan Singh Paikra has conducted post mortem on the body of the deceased and found 4 injuries. He has opined that mode of death is due to shock (excessive blood loss) caused by cardio respiratory arrest, nature of death is homicidal. He also gave quarry report Ex. P-7 stating therein that from the weapon seized from the appellant and shown to him, the injuries found on the body of the deceased could have been caused. P.W. 9 S.D. Bohidar, is the investigating officer and has supported the prosecution case.

10. Close scrutiny of the evidence makes it clear that it is the accused appellant who killed his step mother on 27-3-2009 by causing 4 injuries on vital part of the body. As per P.W. 2 Nanhiram, uncle of the appellant and an eye-witness to the incident, on the date of incident when he was cleaning his teeth outside his house he heard the cries of deceased Gauribai and when he reached to the house he saw the accused/appellant assaulting the deceased with an axe as a result of which Gauribai sustained several injuries on her face and neck. Evidence of P.W. 2 Nanhiram is corroborated by evidence of P.W. 8 Dr. Dhan Singh Paikra, the autopsy surgeon who noticed 4 injuries on vital parts of body of the deceased i.e. neck and face and as per his opinion, the mode of death was due to excessive blood loss caused by cardio respiratory arrest. This considering the evidence of P.W. 2 Nanhiram coupled with post mortem report Ex. P-6, it can be safely held that

it is the accused/appellant who has killed the deceased who is his step mother.

11. As regards contention of learned counsel for the appellant that the appellant is liable to be convicted under Section 304 Part I or Part II of IPC, looking to the number of injuries caused by the appellant on neck and face of the deceased, this court is of the considered opinion that the trial court has rightly convicted the appellant under Section 302 of IPC and there is no scope of interference in this regard.

12. In the result, the appeal being devoid of substance deserves to be and is hereby dismissed.

13. The appellant is reported to be in jail. He be kept inside the jail till completion of sentence.

Sd/-
(Pritinker Diwaker)
Judge

Sd/-
(Chandra Bhushan Bajpai)
Judge