

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 147 of 2014**

(Arising out of judgment/order dated 11.12.2013 in S.T. No.81/2013 passed by learned Sessions Judge, District North Bastar, Kanker (CG))

- Sohanram Uikey S/o . Rukdev Uikey Aged About 40 Years R/o. Vill. Bhaisakanhar, P.S. Charama, North Bastar Kanker, Revenue and Civil District Kanker (CG)

---- Petitioner

Versus

- State Of Chhattisgarh Through: Police Station Charama, District Kanker (CG)

---- Respondent

For Appellant	Mrs. Ranjana Jaiswal, Advocate
For Respondent /State	Mr. P.K. Bhaduri, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Sharad Kumar Gupta

Judgement On Board by**Prashant Kumar Mishra, J.****11/11/2017**

1. Heard.
2. The appellant has called in question his conviction under Section 302 of IPC and sentence of life imprisonment & fine of Rs.500/-, in default of payment of fine to further undergo SI for one month, for committing murder of deceased Kamla Bai at about 10.00 p.m. on 27.4.2013.

3. As per the prosecution case, a merg intimation was lodged by Johanram, brother of the appellant, at about 10:00 am on 28.4.2013 informing that in the late evening of 27.4.2013, he was sleeping in his house and at that time, he heard screams raised by deceased Kamla, on which, he woke up and went toward his brother's house to witness that his younger brother Sohanram was carrying a *Tangi* in his hand and was coming to the informant's house. The informant went to the village and informed the elders i.e. Sarpanch Jairam, Up Sarpanch Fattesingh, Dukharam and Faguram, who came over the place and they too witnessed deceased Kamla lying dead. She had suffered deep cut injuries over her neck caused by sharp edged weapon.
4. The appellant confessed in the presence of the villagers that he has committed murder of the deceased. The FIR -Ex.P/2 was registered at 10.05 am on 28.4.2013, reiterating in substance the contents of the merg intimation about commission of murder by the appellant and the extra judicial confession made by him. In the course of investigation, the memorandum statement of the appellant was recorded on 30.4.2013 vide Ex.P/9, pursuant to which, the blood stained axe was recovered vide Ex.P/10. The axe was sent for FSL examination, on which, the Forensic Science Laboratory submitted its report vide Ex.P/25 that the axe contains blood stains. The postmortem was conducted by PW-8 Dr. Seema Singh, who submitted her report vide Ex.P/15 opining that the death is on account of cardio respiratory arrest due to excessive haemorrhage and nature of

death is homicidal. The Autopsy Surgeon found neck deep lacerated wound of about 15 x 7 cm extending from middle of mandible from right side to left mastoid process. The internal organs lying beneath the injury like oesophagus, respiratory tract, neck bone and thyroid gland were cut. There were two other injuries, one just below right ear causing fracture of ear bone and the other an incised wound over right elbow.

5. After recovering the axe and recording the statements of the witnesses, the charge sheet was filed and after trial, the appellant has been convicted.
6. It is argued that the statements of PW-3 Ramula Bai, PW-4 Fatte Singh and PW-5 Jairam Uikey, who were presented as witnesses to the extra judicial confession, does not inspire confidence and there being no other evidence against the appellant, the impugned judgment deserves to be set-aside.
7. Per contra, leaned counsel for the State, would read out the depositions and the other evidence to support the impugned judgment. It is argued that all the three witnesses have duly supported the prosecution case.
8. Having gone through the evidence, we are satisfied that the trial Court has rightly convicted the appellant.
9. The evidence of extra judicial confession is in the depositions of PW-3 Ramula Bai, PW-4 Fatte Singh and PW-5 Jairam Uikey. While PW-3 Ramula Bai did not support the prosecution at the beginning, but during the cross-examination, she has clearly

stated that the appellant had made extra judicial confession when she had gone to his house immediately after the incident.

10. PW-4 Fatte Singh has supported the prosecution during examination-in-chief but was declared hostile at the stage when he did not support the memorandum statement of the appellant. As a matter of fact, his statement regarding extra judicial confession has not been challenged in the cross-examination, inasmuch as, he was not asked any question that the appellant has not made any extra judicial confession in his presence. Merely because this witness says that the appellant was unconscious throughout the night, it would not mean that he did not make any extra judicial confession. The third witness to the extra judicial confession is PW-5 Jairam Uikey, who has also fully supported the prosecution case. This witness has also denied the suggestion that the appellant was unconscious when he reached his house.

11. If the statements of these three witnesses are stitched together, it unequivocally supports the prosecution case leading to the conclusion that it was the appellant, who was alone with his wife in the house, has committed the murder. The appellant has also admitted during his accused statement, while answering question No.5, that at the time of the incident, he and his wife were together in the house.

12. In addition to the evidence of extra judicial confession, seizure of the axe has also been proved by PW-4 Fatte Singh. The blood stained axe recovered from the appellant has given a positive

report of presence of blood in the FSL report -Ex.P/25.

13. For all the above stated reasons, there is abundance of evidence against the appellant, though in the form of circumstantial evidence, that it was he and he alone who has committed the murder.

14. We have considered the circumstantial evidence in the light of principles laid down in the matter of **Sharad Birdhichand Sarda, AIR 1984 SC 1622** and are satisfied that the evidence available completes the chain so as to implicate the appellant alone in the subject crime.

15. The appeal has no substance, it fails and deserves to be and is hereby dismissed.

Sd/-

Sd/-

Judge

Judge

(Prashant Kumar Mishra)

(Sharad Kumar Gupta)