

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 225 of 2013**

Pyarelal S/o Bhudhram, by caste – Bhatra, occupation – driver,
resident of village Aghanpur, Police Station – Bhodhghat,
District Bastar (CG)

---- Appellant

Versus

State of Chhattisgarh through Police Station Bodhghat
(Jagdalpur) District Bastar (CG)

---- Respondent

For Appellant	:	Shri Ravi Maheshwari, Advocate
For Respondent-State	:	Shri Ashish Shukla, Govt. Advocate

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice P. Sam Koshy

JUDGEMENT ON BOARD**Per P. Sam Koshy, Judge****25/11/2017**

The present appellant stands convicted for the offence under Section 302 of IPC and sentenced to undergo rigorous imprisonment for life (till death) with fine of Rs.2,000/- vide judgment dated 30.01.2013 passed by the Sessions Judge, Bastar place Jagdalpur (CG) in Sessions Trial No. 30/2012.

2. As per the prosecution case, on 06.02.2012, the appellant after consuming liquor was having a fight with his mother Smt. Gomti Bai. Later, the appellant is said to have picked up a stone and assaulted his mother. The matter was reported to the Police Station Bhodhghat by a neighbour Shyam Sunder Baghel (PW-3). The police party immediately reached to the spot and took the injured Gomati Bai to Maharani hospital Jagdalpur. At Police Station Bodhghat, vide Crime No.60/12 an FIR was registered initially

for the offence under Section 307 of IPC which is exhibited as P-10. Subsequently, the said Gomati Bai succumbed to the injuries on 07.02.2012 and the offence was converted to one under Section 302 IPC. After proper investigation, charge sheet was filed before the Magistrate and the matter was later put to trial before the Sessions Judge, Bastar at Jagdalpur in Sessions Trial No.30/12.

3. During the course of trial, the prosecution examined as many as 12 witnesses and there was no witnesses examined on behalf of the defence.

4. The trial Court taking into consideration the evidences which have come on record vide impugned judgment dated 30.01.2013 found the appellant guilty for the offence under Section 302 of IPC and accordingly, convicted and sentenced him under the said section as mentioned in paragraph-1 of this judgment leading to the filing of the present appeal.

5. Counsel for the appellant submits that the appellant has been falsely implicated in the case and that he was not present at the house when the incident occurred. It is contended that there was no substantive material collected during the course of investigation with which it could be said that the case of the prosecution stood conclusively proved. It is also contended that all the witnesses who have deposed against the appellant before the Court below are interested witnesses and therefore, the said evidence should have been ignored by the trial Court while considering the case on its merits. Thus, prayed for the impugned judgment of conviction to be set aside by acquitting the appellant of the charges levelled against him.

6. Per contra, State counsel opposing the appeal submits that it is a case where the charge levelled against the appellant has been proved beyond all reasonable doubts and that there are sufficient materials and witnesses produced and examined before the trial Court with which it stood

conclusively proved that the deceased died because of the assault made by the present appellant. Thus, prayed for dismissal of the appeal.

7. Having considered the contentions put forth on either side and on perusal of the record what reflects is that an FIR was lodged on 06.02.2012 by PW-3 Shyam Sunder Baghel and it was a named FIR registered at Police Station Bodhghat, Jagdalpur vide Crime No.60/12 initially for the offence under Section 307 of IPC. Subsequently, after death of the deceased, while submitting the final report, the offence was converted to one under Section 302 of IPC. The statement of PW-1 Kashinath reflects that he was an eye-witness to the incident where he clearly in his evidence states that at around 6 O'clock in the evening when he was standing outside of his house, he saw the accused assaulting his mother Gomati Bai with hands, fists and also kick blows. One Purni Bai and some others were trying to pacify the appellant in stopping the assault. This witness (PW-1) further states that the appellant while assaulting his mother, dragged her inside the house and locked the door from inside. PW-1 immediately rushed to the house of Shyamlal PW-3, another neighbour and informed him about the incident. When they reached the spot, saw the deceased lying unconscious on the floor. The matter was immediately reported to the Police by Shyamlal. The evidence of PW-1 stands corroborated from the evidence of PW-3 Shyam Sunder Baghel who has deposed that he was informed by PW-1 and he along with PW-1 had gone to the house of accused and saw the deceased lying unconscious. The statement of PW-1 & PW-3 further stands corroborated from the evidence of PW-2 Purni Bai, a immediate neighbour to the house of the appellant. She too is an eye-witness to the incident. PW-2 had tried to pacify the appellant not to assault the deceased. From cross-examination of these three witnesses, there is not much which could be extracted by the defence to

disbelieve these witnesses. Dr. K. M. Gupta (PW-6) who had conducted the postmortem clearly states the cause of death to be due to Coma on account of hemorrhage and shock as a result of visceral injury (injury to left lung). He further referring to the postmortem report Ex.P-6 has stated that the deceased had multiple injuries all over her body and most of them were lacerated wounds.

8. In view of the aforesaid evidences which have come on record particularly that of the eye-witnesses whose evidence stands uncontroverted and unrebutted and that there is no reason to disbelieve these witnesses also, this Court is of the opinion that there is no error on the part of the Court below in reaching to the conclusion of holding the appellant guilty for the offence under Section 302 of IPC.

9. In the given facts and circumstances of the case, we do not find any scope of interference with the impugned judgment of conviction and affirming the same and maintaining the sentence, the appeal of the appellant is hereby dismissed.

Sd-
(Pritinker Diwaker)
JUDGE

Sd/-
(P. Sam Koshy)
JUDGE