

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 333 of 2012**

(Arising out of judgment dated 9.2.2012 in ST No. 48/2012 of the learned 2nd
Additional Sessions Judge, Baloda Bazar)

- Ludguram, aged about 70 years, S/o Itwari, R/o Village Darra, PS Kasdol, District Raipur (CG)

---- Appellant

Versus

- State of Chhattisgarh, through P.S. Bilaigarh, District Raipur (CG)

---- Respondent

For Appellant : Shri B.L. Dembra, Advocate.
For Respondent : Shri UNS Deo, Govt. Advocate

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

Judgment On Board By Prashant Kumar Mishra, J

11/11/2017

1. Challenge in this Appeal is to the judgment of conviction and sentence rendered by the 2nd Additional Sessions Judge, Baloda Bazar convicting the appellant for offence under Section 302 of the IPC and sentencing him to undergo RI for life and to pay a fine of Rs.1,000/-, in default thereof to further undergo RI for 6 months.

2. Having heard learned counsel for the parties and on perusal of the evidence available on record, we have formed an opinion that the Appeal has no substance and it deserves to be dismissed.
3. For an incident which took place at about 8-9 pm on 28.7.2010 FIR was lodged promptly within an hour at 9.30 pm by Baisakhu (PW-3), husband of the deceased, informing that on dispute concerning plastering of the house by mud soil a quarrel took place between the deceased Guruwari Bai and his father accused Ludgaram, pursuant to which the appellant carrying Tangi (axe) inflicted repeated blows on the person of the deceased as a result she fell unconscious and later on died on her way to the hospital.
4. The injury report (Ex.-P/4) has been proved by (PW-7) Dr. R.S. Joshi, who has found 4 incised wounds and 2 lacerated wounds coupled with fracture of skull bone and fracture of lower jaw. The postmortem report (Ex.-P/5) again proved by (PW-7) Dr. Joshi would report cause of death due to injuries over head, face and excessive haemorrhage.
5. (PW-1) Sushila Bai is the sister-in-law (Devrani) of the deceased and is an eyewitness. She has fully supported the prosecution case. At one stage she was declared hostile but during cross-examination she has supported the case of the prosecution. Similarly, (PW-3)

Baisakhu, the first informer and husband of the deceased, has also supported the case of the prosecution. There is some discrepancy in his statement as compared to the contents of FIR (Ex.-P/2) inasmuch as in the FIR he has narrated the incident as if he reached the house when the appellant was assaulting the deceased and he intervened to separate them but no such statement has been made in his deposition where at one stage he says that when he reached the house, his wife was writhing in pain and the appellant made extra judicial confession that he has killed the deceased, but in further examination-in-chief he says that he had seen the appellant causing injuries over the person of the deceased. In para-7 of cross-examination he again denies the suggestion that when he reached the house his wife was lying unconscious.

6. When the evidence of (PW-1) Sushila and (PW-3) Baisakhu are read in symphony, it would clearly appear that in any case, PW-1, the deceased and the present appellant were together in the house and PW-1 had seen the occurrence. (PW-3) Baisakhu reached few minutes later and at that time the appellant had already caused injuries to the deceased but made extra judicial confession to PW-3 that it is he who has killed the deceased.
7. There are other witnesses examined by the prosecution out of

whom one Chaitram (PW-4) is a witness to the extra judicial confession made by the appellant.

8. The injuries found on the person of the deceased can be caused by axe recovered from him vide Ex.-P/13 which is proved by Shivilal (PW-10). Moreover, the injuries and cause of death have also been proved by the medical officer who has also conducted the postmortem.
9. In our considered opinion, it is an open and shut case against the appellant.
10. For the foregoing, we do not find any substance in this Appeal, the same deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Sd/-
Judge
(Sharad Kumar Gupta)