

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 51 of 2012**

[Arising out of judgment/order dated 30.01.2010 in Sessions Trial No.28/2008 of the learned Additional Sessions Judge Gariyaband, Dist. Raipur]

- Purohit @ Punit Ram Yadav, S/o Shri Sajjanram, aged about 25 years, R/o Kundelpara Latapara, Police Station – Devbhog, Distt. - Raipur (CG)

---- Appellant

Versus

- State Of C.G. Through – Police Station Devbhog, Distt. - Raipur (C.G.)

---- Respondent

For Appellant	:	Shri Jitendra Gupta with Shri Ravi Bhagat, Advocate
For Respondent/State	:	Shri Rahul Tamaskar, P.L.

**Hon'ble Shri Pritinker Diwaker &
Hon'ble Shri Sanjay Agrawal, JJ**

Judgment on Board

30.01.2018

Per Sanjay Agrawal, J.

1. This criminal appeal has been preferred by the appellant under Section 374 (2) of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Cr.P.C. in short) against the judgment dated 30.01.2010 passed by the Additional Sessions Judge, Gariyaband, Dist. Raipur in Sessions Trial No. 28/2008 whereby the appellant has been convicted and sentenced as under:-

<u>CONVICTION</u>	<u>SENTENCE</u>
394 of Indian Penal Code (for short, the IPC)	Life imprisonment with fine of Rs.100/-.
302 of IPC	Life imprisonment with fine of Rs.100/-

In default to pay total fine amount of Rs.200/-, he has to undergo further simple imprisonment for 20 days.

2. Briefly stated, case of the prosecution is that on 20.06.2008 at 4.00 pm, one Ku Nakali uttered shouts that the accused/appellant Purohit @ Punit Ram Yadav is assaulting her sister Chanchala Bai with knife. Upon hearing her shouts, the complainant Dhubleshwar rushed to the spot and saw the accused running away from the spot. He chased the appellant but he ran away towards Chingarbhata forest. It is alleged further by the prosecution that the deceased Chanchala Bai fell down on the spot as a result of alleged incident and that upon being asked she told that the accused/appellant Purohit assaulted her on her forehead, left ear, cheeks and on her abdomen when she refused to give him her jewellery. Immediately thereafter, Chanchala Bai was taken to the hospital at Devbhog for her treatment.
3. Based upon the aforesaid incident, F.I.R. (Ex.P.1) was lodged by the complainant Dhubleshwar (P.W.1) on 20.06.2008 at 20:15 hours (08.15 pm) against the appellant Purohit under Section 307 of IPC. Chanchala Bai was sent for treatment to the Community Health Center, Devbhog on 20.06.2008 where she was medically examined and thereafter she was referred to Medical College Hospital, Raipur for her better treatment. Disclosure statement (Ex.P.6) of the appellant was recorded, which led to recovery of knife with blood stains from him on 21.06.2008, vide seizure memo Ex.P.8.
4. During course of treatment at Medical College Hospital, Raipur,

Chanchala Bai expired on 27.06.2008 at 2.30 pm. Merg intimation (Ex.P.6) was, therefore, recorded on 27.06.2008 at 17:35 hours. Inquest was conducted on the body of the deceased vide Ex.P.12 on 28.06.2008. After inquest, the dead body of the deceased Chanchala Bai was sent for autopsy to Medical College, Raipur, where Dr. Ulhas Gonnade conducted post-mortem examination and submitted its report (Ex.P.11). Investigating Officer has seized the ornaments from one Shankar on 21.06.2008 vide seizure memo (Ex.P.7). In a test identification (Ex.P.15), the alleged jewellery was identified by deceased's husband Madhu as it belonged to his wife.

5. After investigating the matter as above, the offence punishable under Section 302 & 394 of IPC has been registered against the appellant by the concerned Station House Officer, who submitted its final report before the Judicial Magistrate First Class, Devbhog and the matter was thereafter committed to the Additional Sessions Judge, Gariyaband.
6. After considering the prima facie materials available on record, charge under Section 302 & 394 of IPC has been framed against the appellant on 06.09.2008. The appellant pleaded not guilty in connection with the aforesaid crime, as framed, and claimed to be tried.
7. In order to prove the guilt of the appellant, the prosecution examined as many as 19 witnesses while none was examined by the appellant in his defence.
8. After considering the evidence led by the prosecution, the trial

Court, vide its impugned judgment, has convicted the appellant and sentenced him as aforesaid. Hence, this appeal.

9. Being aggrieved, the appellant has preferred this appeal. Shri Jitendera Gupta, learned counsel for the appellant submits that the judgment under appeal as passed by the trial Court is apparently contrary to law as the same has been passed without considering the evidence in its proper perspective. He submits further that there are number of contradictions and discrepancies in the statements of prosecution witnesses and are not reliable. As a consequent of it, the learned trial Court ought to have acquitted the appellant in relation to the offence punishable under Sections 394 & 302 of IPC.
10. On the other hand, Shri Rahul Tamaskar, learned counsel for the State supported the impugned judgment by submitting that it has been passed upon due and proper consideration of the evidence of prosecution witnesses, and therefore, does not require to be interfered.
11. We have heard learned counsel for the parties and perused the entire record carefully.
12. Ku. Nakali Bai (P.W.2) is the sister of the deceased Chanchala Bai and was the eye witness to the alleged crime in question. She has stated that on the date of incident, her deceased sister had gone to the field for collecting 'Mahuwa' flowers whereas she had gone to the field along with one Menaka for attending call of nature. She has stated that she heard the screams raised by her sister, who was yelling for help and that upon hearing so, she immediately

rushed there and saw the accused Purohit assaulting his sister Chanchala Bai with a knife. She was frightened to see the said incident and call the complainant Dhubleshwar and informed him that the accused is running away after assaulting her sister Chanchala Bai with a knife. She has stated further in her examination-in-chief that her sister has received injuries on her head, left hand, near the neck, abdomen and also on her backside and blood was oozing due to the injuries sustained by her. She has stated further that the accused has taken away the gold rings from the nose and ear of her sister. She has further stated that they took Chanchala Bai to the house where she informed the villagers that the accused looted those ornaments by assaulting her with a knife. This witness remained firm in her cross-examination.

13. Dhubleshwar Yadav (P.W.1), said to have lodged the F.I.R. (Ex.P.1), has duly supported the aforesaid statement of Ku. Nakali Bai (P.W.2) In his examination-in-chief, he has stated that he has rushed the place of incident immediately after hearing the screams from Ku. Nakali Bai and has seen the accused/appellant running away from the spot. He has stated that said Ku. Nakali Bai has informed him that the accused Purohit assaulted her sister Chanchala Bai with a knife and was running away from the spot. He has stated further that after giving water to the deceased Chanchala Bai, they took her to the house where she narrated about the incident to the villagers by saying that her ornaments have been snatched by the accused/appellant after assaulting her with a knife. He has further stated that they took the deceased to the Hospital at Devbhog for her preliminary treatment and from

where she was referred to Medical College Hospital, Raipur, for better treatment, but, during the course of treatment, she has expired. This witness has thus duly supported the aforesaid testimony of eye witness Ku. Nakali Bai and was also firm in his cross-examination.

14. Menaka Bai (P.W.3), said to have been with Ku. Nakali (P.W.2) at the relevant time, has not seen the accused running away from the place of occurrence, but has seen the alleged injuries sustained by Chanchala Bai on her forehead, left hand, abdomen and also on neck where blood was oozing.
15. Kutiya (P.W.4) is one of the villagers, to whom deceased Chanchala Bai had narrated about the occurrence of the incident. He has stated in his examination that the deceased had informed that the accused Purohit assaulted her with a knife and looted her jewellery by snatching the same from nose, neck and ear. He has stated further that the deceased has sustained injuries on her head, neck, hand, backside of her body and also on her abdomen. This witness was also firm in his cross-examination and has thus corroborated the testimony of eye witness Ku. Nakali Bai.
16. Uttara Kumar (P.W.5) is a formal witness. Faguram Bhoi (P.W.6) is an Investigating Officer, who has registered the F.I.R. (Ex.P.1) at the instance of the complainant Dubhleshwar (P.W.1) and during his investigation, he seized the used weapon "knife" vide Ex.P.8 from the appellant Purohit and stolen jewellery from one Shankar vide Ex.P.7.
17. Dr. Ulhas Gonnade (P.W.7), who conducted the post-mortem

examination upon the dead body of deceased, noticed the following injuries:-

1. Rigor mortis was present over entire body.
 2. Stitched wound of 17 cm long above the middle line of umbilicus.
 3. Stitched wound of 2.5 cm long over exterior left umbilicus.
 4. Stitched wound of 2.5 cm long over front portion of abdomen.
 5. Incised wound of 1 cm x .5 cm x 1 cm over left side of 10 cm above abdomen.
 6. Scratch wound of 3 cm x 5 cm x 4 cm x 2 cm over left hand back in middle.
 7. Incised wound of 1 cm x .5 cm x deep bone over left elbow.
 8. Stitched wound of 2.5 cm over the middle line of head.
 9. Scratch wound over external side of face.
 10. Stitched wound of 4 cm over right side of abdomen.
 11. Deep incised wound of 1 x .5 cm x deep portion of right shoulder.
18. Upon post-mortem examination of dead body, Dr. Ulhas Gonnade (P.W.7) opined that the death was due to cardio-respiratory failure as a result of injuries over abdomen.
19. Subelal Yadav (P.W.8) is the brother of the deceased Chanchala Bai and had gone to the village Devbhog and that after returning he came to know from his brother Pitamber that the accused Purohit after assaulting his sister has looted her jewellery. He was informed by his deceased sister Chanchala Bai that the appellant/accused snatched her ornaments after assaulting with a knife. He has stated further that at the time of identification proceedings, the alleged seized ornaments were identified by his deceased sister's husband Madhu on 28.08.2008 vide Ex.P.15.
20. Anand Yadav (P.W.9) and Dagreshwar (P.W.10) are the witnesses

to the disclosure statement of the appellant and based upon which, the alleged used weapon “knife” was recovered from him vide Ex.P.8.

21. Shankar (P.W.11) is the witness from whom the alleged ornaments have been seized in presence of Anand Yadav (P.W.9) and Dagreshwar (P.W.10) vide Ex.P.7. He has stated that the ornaments were mortgaged by the accused to his wife for a sum of Rs.1500/-.
22. Dr. A. Jawalkar (P.W.11A) has examined Chanchala Bai on 20.06.2008 and found several injuries on her body vide its M.L.C. report Ex.P.4A and has referred her to Medical College Hospital, Raipur for her further treatment. This witness has also examined the seized articles like knife, soil, Sari and Saaya (blouse) of the deceased and has advised for sending them to F.S.L. for ascertaining the blood found on those articles.
23. Madhuraam Yadav (P.W.12) is the husband of deceased Chanchala Bai and has identified the seized ornaments at the time of its identification vide Ex.P.15. Punit Ram Yadu (P.W.13) is the Patwari, who has prepared the spot map (Nazri Naksha) at village Latapara. Vasudev Sharma (P.W.14), Roopdhar (P.W.16), Dilip Kumar (P.W.17) and Lakhan Lal (Ex.P.18) are the formal witnesses.
24. A.K.Bhoi (P.W.15) is the Tahsildar of village Devbhog, who has conducted the identification proceedings where the deceased's husband Madhu has identified the seized ornaments.
25. A close scrutiny of the evidence of the aforesaid witnesses coupled with the medical evidence of Dr. Ulhas Gonnade (P.W.7) would

lead to an irresistible conclusion that the appellant Purohit @ Punit Ram Yadav has not only snatched the alleged jewellery from the deceased Chanchala Bai on 20.06.2008 but assaulted badly with a knife on several parts of her body causing the sad demise of Chanchala Bai. In consequence, we do not find any infirmity in the findings so recorded by the trial Court while convicting the appellant under Sections 394 and 302 of IPC and awarding the jail sentence as such.

26. Consequently, the appeal is devoid of merit and is hereby dismissed being devoid of merit.

Sd/-
(Pritinker Diwaker)
JUDGE

Sd/-
(Sanjay Agrawal)
JUDGE