

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 868 of 2013**

- Manish Khan Rahi S/o Gorelal Rahi Aged About 23 Years R/o Bajrang Chowk, Talapara, PS Civil Lines, Bilaspur, Civil And Rev. Distt. Bilaspur C.G., Chhattisgarh

---- Appellant

Versus

- State Of Chhattisgarh Through PS Civil Lines, Bilaspur, Distt. Bilaspur C.G., Chhattisgarh

---- Respondent

And**CRA No. 1011 of 2013**

- Chhedi @ Chandraprakash Ratre S/o Late Ramprakash Ratre Aged About 23 Years R/o Peepal Chowk, Talapara, S Civil Line, Civil And Rev. Distt. Bilaspur C.G.

---- Appellant

Versus

- State Of Chhattisgarh Through The SHO, PS Civil Line, Civil And Rev. Distt. Bilaspur C.G.

---- Respondent

For respective Appellants : Shri V.C.Ottalwar and Shri Badruddin Khan, Advocates

For State : Shri Anil Pillai, Dy. A. G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Rajani Dubey****Order On Board****01/10/2018**

These appeals are directed against impugned judgment of conviction and order of sentence dated 17/07/2013 by which the appellants have been held guilty of

commission of offences under Section 148 of IPC and sentenced to undergo R.I. for one year and fine of Rs.100/- (in default of payment of fine, three months additional R.I.), for offences under Section 302/149 of IPC, for life imprisonment and fine of Rs.1000/- (in default of payment of fine, six months additional R.I.

Appellant – Chhedi @ Chandraprakash Ratre has also been held guilty of commission of offence under Section 323 IPC and sentenced to undergo R.I. of one year and fine of Rs.100/- (in default of payment of fine, three months further R.I.)

2. FIR in Ex.P/1 was lodged by Imran @ Baba (PW1) in the police station at about 22:30 hrs on 12/06/2011 in which it was alleged that in an incident of assault, the appellants and other accused assaulted with the help of weapons, one Abdul Taukir and thereafter, when at the spot, Anish Khan (deceased) arrived, he was also repeatedly assaulted. According to the case of the prosecution, upon receipt of FIR and morgue intimation received from the hospital regarding death of Anish Khan, the police sent dead body for post mortem and received report in Ex.P/22. The appellants and other accused persons were arrested. The investigation agency carried out investigation, made seizure, recorded statements and upon completion, filed charge sheet before the jurisdictional Magistrate which was in turn committed to the Court of sessions and received upon transfer by the Trial Court. On the basis of material contained in the charge sheet, learned Trial Court framed charges against the present appellants and other accused persons. The appellants abjured guilt and were put to trial.

3. In order to prove its case, the prosecution examined as many as 17 witnesses. The appellants were also examined under Section 313 CrPC in respect of incriminating circumstances appearing against them in the evidence led by the prosecution. The appellants denied having committed offence. No defence witness was examined.

4. Relying upon the evidence of the prosecution, particularly the evidence of Imran

@ Baba (PW1), Sheikh Istiyaq Ahmed (PW4), Abdul Taukir (PW5) and Karim Khan (PW7) said to be eye witness and that the deceased died homicidal death, proved by post mortem report (Ex.P/22) by Dr. Dharmendra Kumar (PW11), held the appellants guilty of commission of offence and sentenced as described above.

5. Assailing correctness and validity of impugned judgment of conviction and order of sentence, learned counsel for the appellant argued that the entire case of the prosecution is fabricated against present appellants. He argues that in the present case, initially no FIR was lodged in the police station and it was only on the next day that a concocted and fabricated FIR including the name of present appellants was recorded. He would also submit that even the prosecution witnesses have admitted in their examination that FIR was not lodged in the night after the incident but in the next morning. The next submission of learned counsel for the appellants is that the so called eye witnesses of the prosecution are all planted witnesses and they had not seen the incident. The prosecution witnesses in their cross examination admitted that they could not see as to who assaulted Anish Khan (the deceased) and further that there was a crowd and it was dark in the night. The evidence of so called injured witness Abdul Abdul Taukir (PW5) and Karim Khan (PW7) suffers from serious contradictions, omissions and exaggerations. According to learned counsel for the appellants, the incident of assault, as alleged by the prosecution, has not been supported by any independent witnesses. The witnesses have admitted that they are all known to the deceased and were his friends. He would further argue that according to the prosecution witnesses, at the place of incident, later on, the police people had also arrived, upon being called by one Dulare. That means, Dulare was also present at the spot. The police personnel, who is said to be arrived at the spot in the vehicle and taken Anish Khan, the injured away has also not been examined. This, according to him, raises serious doubt and suspicion with regard to the case of the prosecution. In the alternative, learned counsel for the appellant would argue that even if the evidence of

the prosecution witnesses, particularly Imran @ Baba (PW1), Sheikh Istiyaq Ahmed (PW4), Abdul Abdul Taukir (PW5) and Karim Khan (PW7) is accepted, there was no enmity of the appellants nor any background of any quarrel with Anish Khan, the deceased. According to the prosecution witnesses, when fight was going on, in which Abdul Taukir was assaulted, all of a sudden at the spot, Anish Khan arrived and tried to intervene. At this stage, all of a sudden, without premeditation, Anish Khan may also have been assaulted without any intention to cause death. The medical evidence shows that Anish Khan died due to one head injury and other injuries were not of such a nature which would cumulatively result in death. Therefore, it cannot be said that the appellants, in any case, acted in an unusual or cruel manner taking undue advantage and therefore, appellant's case would cover under Exception 4 of Section 300 IPC and at the most, the appellants could be convicted for commission of offence of culpable homicide under Section 304-II of IPC. The appellants having already undergone more than 7 years of R.I., conviction of the appellants under Section 302 IPC may be altered to that under Section 304-II with the sentence already undergone.

6. On the other hand, learned State counsel supported the impugned judgment of conviction as also the order of sentence by submitting that the case of the prosecution has been proved beyond reasonable doubt from the ocular testimony of as many as four eye witness, out of which, two of them were victims also. He would further submit that as the witnesses and many other persons went to the police station not only after the incident, but also on the next day, it cannot be said that there was any fabrication in lodging FIR because Imran @ Baba (PW1) has remained firm on the statement that he had lodged FIR in the police station which is supported from the testimony of Mohd. Safi Khan (PW17) who had recorded FIR in the police station and has proved his signature on the same. Learned counsel for the State further submits that all the eye witnesses have clearly stated regarding the assault made by the appellants on Anish Khan upon his arrival at the place of incident. There is nothing to show that Anish Khan had arrived

at the spot in group, armed with weapons, much less any clinching evidence to prove that he assaulted the appellants. The appellants were armed with weapon and they repeatedly assaulted Anish Khan resulting in as many as five injuries which included two incised wounds on scapular region and one injury on head which was given with great force so much so that it fractured the bone and caused haematoma resulting in death due to shock. The appellants, therefore, not only acted in unusual manner in repeatedly assaulting Anish Khan but also inflicted more than one injury, one on scapular region and other on head. Therefore, in this case, Exception 4 of Section 300 IPC will not apply.

7. Homicidal death of Anish Khan is not substantially disputed in view of the evidence of Dr. Dharmendra Kumar (PW11) who has proved post mortem report prepared by him upon examination of the dead body of the deceased. In his testimony, the doctor has proved following external injuries found on the body of the deceased -

बाह्य परीक्षण —

1. खरोच — 4.5 गुणित 2 से.मी. दाहिने फेस पर (चिक) था ।
2. दाहिने कान से खून का स्राव हो रहा था, साथ में कान के नीचे भाग फटा हुआ था, जो 1.5 से.मी. था ।
3. लीनियर एब्रेजन — दाहिने साइड गर्दन में एवं दाहिने कान के नीचे थी, जिसकी लंबाई 6 से.मी. था ।
4. फटा हुआ घाव — 3 गुणा 2 से.मी. जो दाहिने हाथ पर बीचोबीच में था ।
5. कटा हुआ एक से अधिक—दाहिने सोल्डर पर जो कि 7 से.मी. — 6 से.मी.—2 से.मी.—4 से.मी. गुणा मसल डीप पर था ।

8. Upon examination of internal parts, amongst other things, following injuries were found -

आंतरिक परीक्षण —

1. खोपड़ी, कपाल, शेरू, मस्तिष्क और मेरुदण्ड — फ्रक्चर और टेम्पोपेराईटल बोन (सिर की हड्डी) 6 से.मी. था । सबडूरल हेमेटोमा (खून के थक्के) सिर के सभी भाग में मौजूद थे ।

2. XXXXXXXXXXXX

According to his evidence, all the injuries were anti-mortem in nature and caused by sharp as well as hard object. The opinion of the doctor as deposed by him is as below -

अभिमत –

मेरे अभिमत के अनुसार मृत्यु का कारण सिर पर आयी चोट के कारण कोमा में जाने से हुई थी एवं परीक्षण से 24 घंटे पूर्व मृतक की मृत्यु हुई थी। मेरे द्वारा प्रदत्त पीएम रिपोर्ट प्रदर्श पी –22 है, जिसके अ से अ एवं ब से ब भाग पर मेरे हस्ताक्षर हैं।

The suggestion given to the doctor that the injury on the parietal bone could be caused due to fall, has been denied.

9. FIR has been proved from the testimony of Imran @ Baba (PW1) as well as Mohd. Safi Khan (PW17) both. Imran @ Baba has deposed regarding incident of assault and has further stated that at the time when the assault was taking place, police vehicle arrived and Anish Khan was taken to hospital and further that he lodged report in Ex.P/1 in the police station. He has proved his signature. This fact stated by him regarding lodging of FIR vide Ex.P/1 was not controverted in the cross examination, though, suggestion has been given that the names were mentioned because of previous enmity. Mohd. Safi Khan, Sub-Inspector has deposed that at 22:30 hrs. on 12/06/2011, while he was posted as Sub-Inspector in the police station – Civil Lines, FIR was registered by him. He has proved his signature on the same. In para 17 of his cross examination, suggestion given to him has been admitted that on the report lodged by Imran @ Baba in the police station at about 22:30 hrs. in the night, he came to know about the incident and registered FIR. A suggestion that on the date of incident, no report was lodged on the date of incident and the report was lodged only on the next date upon pressure exerted by the community has been denied. Sheikh Istiaq Ahmed

(PW4) has deposed that the report of the incident was lodged by Imran @ Baba. In para 21 of his cross examination, this witness reiterated the aforesaid statement of the report having been lodged by Baba and further adds that he along with Imran @ Baba had gone to the police station next morning. In para 43, this witness admits that the report was registered on the next date at about 10:30 in the morning on the report of Imran @ Baba.

Abdul Taukir (PW5) has deposed in para 3 of his evidence that after the incident, he along with Imran @ Baba went to the police station and Baba lodged report and the police told him to come next morning. On the next date, about 20 to 30 persons went to the police station and then report was registered in the police station. In para 13, a suggestion has been given to which he admits that report was lodged in the police station in the night and thereafter, they were sent back by the police people. In para 14, this witness admits that the report which was lodged by them in the night was prepared in a plain paper and they were asked to come in the next morning. They had stayed in the police station for 1 to 1½ hrs. at the time of lodging report. According to him, documents on which he had signed, Baba @ Imran has also seen but they had not read the document. In para 16, he further states that when the names of the accused were given in writing, this report was registered. He further states that the report was not initially being lodged but on the pressure of the community, the police lodged report.

Karim Khan (PW7) has deposed in para 4 that he along with father of Anish Khan and residents of the colony had gone to the police station in the night to get report registered and Imran lodged the FIR. He then states that first report was lodged by Imran. Thereafter, he lodged the lodged.

10. From the aforesaid evidence, which have been led by the prosecution, it is proved that after the incident, Imran and other witnesses had gone to the police station on the very night of the incident. Imran @ Baba has remained firm on the statement that he had lodged report in the night itself after the incident whereas other prosecution

witnesses say that the report was given in the police station in the night but it was registered only in the morning. However, the evidence of Mohd. Safi Khan (PW17), the police officer is that at the instance of Imran, he had recorded FIR in the night itself at about 22:30 hrs. The difference in version appears to be an account of the fact that after the death of Anish Khan (PW1), some of the witnesses had initially approached the police station and later on, on the next day, large number of persons arrived in the police station. Once the testimony of Imran @ Baba (PW1) that he lodged report in the police station at 22:30 hrs in the night is not controverted in the testimony, we are of the view that as far as the time of lodging FIR is concerned, the same cannot be doubted because the person who lodged report and one who recorded the report, both have remained firm and other witnesses who had accompanied Imran @ Baba next morning carried an impression regarding lodging of report because the aggrieved party and the crowd, both had approached the police station not only in the night but also the next morning demanding action against the culprits.

11. The conviction of the appellants is based on the eye witness account of Imran @ Baba (PW1), Sheikh Istiyaq Ahmed (PW4), Abdul Abdul Taukir (PW5) and Karim Khan (PW7). It has to be seen whether the evidence of these witnesses proves beyond reasonable doubt that it is the appellants who have assaulted Anish Khan resulting in his death.

12. Imran @ Baba, the first informant and the eye witness of the incident has deposed that at about 2:30 PM, while four persons were engaged in gambling, Abdul Taukir was called by Manish, Chhedi and Satish and was asked to bring cigarette which was refused whereafter he was assaulted. Later on, the dispute was resolved. This witness further deposed that in the night at about 9:45 PM, the appellants – Manish and Chhedi called Abdul Taukir and started assaulting. According to this witness, the incident was happening near his residence. On the call given by Abdul Taukir, he came

out of his house and saw that Taukir was assaulted and he fell down. At that time, Anish Khan came in his scooter and sought to intervene. It is stated that thereafter, appellants – Manish and Chhedi started assaulting him. According to this witness, he took Abdul Taukir away. It is further deposed that at that time, the police vehicle arrived and the assailants ran away. Anish Khan was taken to the hospital. In para 12, he further deposed that Abdul Taukir had come near his residence and cried for help and came to his house and then only he came out with Abdul Taukir, who was standing with 4 – 5 persons. He further states that Abdul Taukir was dragged away and assaulted. According to him, Abdul Taukir was called by one of the appellants i.e. Chhedi. In para 15 of his evidence, he again reiterated that he had seen the incident of assaulting Abdul Taukir. He further explains that Anish Khan and not Abdul Taukir was assaulted by *Lathhi, Farsa, Tabbal, Talwar* etc. In para 19, he has again stated that he has seen Anish Khan being assaulted by axe, club, rod and stick and he further deposed on which part of the body, Anish Khan sustained injury and which weapon was used and who actually assaulted could not be seen because there was dim light at the spot and it cannot be said which person assaulted with which weapon. The other prosecution witness, Sheikh Istiyaq Ahmed (PW4) has deposed that the incident happened at about 10:15 PM while he was coming back to his house, he saw that there was a crowd gathered around “Peepal Chowk” and when he reached, he saw that Abdul Taukir was lying on the road. Imran @ Baba was dragging him towards corner and Anish Khan was also lying there and about 10 – 15 persons were assaulting Anish Khan in which, he named Manish and Chhedi both. He further deposed that with the help of some weapon, they were assaulting. According to him, Chhedi was holding an axe and others were holding rod, stone etc. In para 9 of his cross examination, he reiterated that when he reached the spot, he saw Abdul Taukir lying and dragged by Imran @ Baba and Anish Khan also lying injured and being assaulted. In para 26 of his evidence, he admits that when he reached near Anish Khan along with police people, the assailants had already run away and says that after arrival of the police people, they ran away and

he had seen the assailants running away from the place of incident. The suggestion that he has not seen the assailants running away from the place of incident is denied and stated that they had run away from the spot in his presence. Later on, in his further cross examination, he has admitted that he reached near Anish Khan only when police officials came and before that he had not reached near Anish Khan. In para 46 of his cross examination, this witness states that at the place of incident, there was a big crowd and who assaulted whom, he does not know. A suggestion has finally been given to this witness that he had not seen the incident which he has denied.

13. Abdul Taukir (PW5), who is also stated to be an eye witness of the incident, has deposed that in the afternoon, he was called by Chhedi to fetch Cigarette and upon refusal, he was assaulted due to which, a dispute had arisen between him and Chhedi but later on, it was resolved. He, then, deposed that at about 10 PM in the night when he was standing near "Peepal Chowk", he was called by Chhedi who was intoxicated and then started assaulting him. His friend Imran @ Baba sought to intervene, then Chhedi along with other persons started assaulting with rod, wooden plank etc. He was then dragged to one side by Imran @ Baba and then Anish Khan arrived at the spot whereafter, Anish Khan was assaulted with rod, bricks etc. by Chhedi, Manish and other persons. He has stated that at the place of incident, there was light of two tube lights. He further deposed that Anish Khan was continuously assaulted by them and then Dulare came out with a police vehicle, whereafter, they ran away from the spot. In para 13 of his cross examination, he first states that initially nobody's name was disclosed but the name of Chhedi and Manish Khan along with others was disclosed and remaining names were informed by Imran @ Baba in the police station on the next day. This witness further admits that at about 1 – 2 O'clock in the midnight, an incident of 'marpeet' (fight) had taken place, in which, he and Imran sustained injury. He admits that Anish Khan is his relative. A suggestion that he had not seen the incident has been denied.

14. Karim Khan (PW7) is also stated to be one of the eye witness of the incident. He has deposed in his evidence that at about 10:15 PM in the night, when he reached near 'Peepal' Tree in his Scooter, he saw a crowd, stopped and found that Abdul Taukir was lying unconscious on the road and Imran was dragging him to one side of the road and at that stage, he saw the appellants and other persons armed with axe, sword, knife, wooden plank, club assaulting Anish Khan. He states that Manish was holding a knife and Chhedi was holding in his hand, a spear. He further deposed that the moment he sought to go forward, appellants declared that whoever comes forward, would be killed. He further deposed that at that time, Chhedi threw a stone on Anish Khan whereafter, he ran away from the spot and informed Anish Khan's father and approached the place of incident. By that time, according to him, Anish Khan's body was taken in the police vehicle. In his cross examination, omission with regard to stone having been thrown by Anish Khan has been elicited and also the part relating declaration of the assailants that whoever comes forward would be killed. He has also stated in his cross examination that he had seen the incident of appellant assaulting with the help of axe, sword, knife etc. indulging in repeated assaults. He says that Anish Khan was assaulted by a knife and that he also saw Manish holding a club. A suggestion that he was not present at the spot and he had not seen the incident has been denied.

15. The examination of the evidence of the aforesaid four witnesses, upon close scrutiny, raises some doubt with regard to presence of Sheikh Istiyaq Ahmed (PW4) at the place of incident because according to him, he states having reached the place of incident along with police people and he says that by that time, the assailants were found running away from the spot and therefore, it is doubtful whether Sheikh Istiyaq Ahmed (PW4) had actually seen the incident of assault. Moreover, the evidence of Imran @ Baba (PW1) also show that as number of persons had gathered and repeated assaults were being made, exact detail as to who assaulted on which part of the body of Anish and what kind of weapons were used has not been clearly stated in his evidence,

this definitely would require corroboration which we find from the evidence of Abdul Taukir (PW5) and Karim Khan (PW7) both. Imran @ Baba (PW1), Abdul Taukir (PW5) and Karim Khan (PW7) have remained firm on the statement that at the spot, Appellants – Chhedi and Manish both were present and they were holding weapons and also indulged in assault. Abdul Taukir, one of the witness, said to be assaulted, has stated with regard to the incident. He is the witness with whom, Chhedi had already entered into quarrel in the afternoon and genesis of dispute as revealed from the evidence of Imran @ Baba (PW1) is that at around 10 PM in the night, Abdul Taukir was called by Chhedi and was being assaulted. Whereafter Baba Imran reached the spot. Abdul Taukir fell down and he was being dragged away from the spot. It is this time that Anish Khan arrived at the spot. We do not find from the evidence which has come before us nor suggestion has been given that Anish Khan had arrived at the spot in an offending manner as an aggressor either armed with weapon or with group of persons. Anish Khan was all alone. The appellants were armed with weapon. The witnesses have clearly deposed that Anish Khan was repeatedly assaulted by the appellants with the help of weapons. From the post mortem report proved by Dr. Dharmendra Kumar (PW11), we find that on the body of Anish Khan, multiple injuries including incised wounds were found. He sustained a fatal blow on his head resulting in fracture and haematoma resulting in shock and death. Therefore, the evidence led by the prosecution proved beyond reasonable doubt that Anish Khan was assaulted by the appellants with the help of weapons resulting in his death.

16. The question which now arises for consideration is whether in the present circumstances and the evidence available on record, the case falls within 4th Exception of Section 300 IPC. For this purpose, we consider it apposite to refer to the provisions as below -

“Exception 4 - Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden

quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Explanation – It is immaterial in such cases which party offers the provocation or commits the first assault.”

17. As the provision reads as it is and has been interpreted in number of decisions leading to a settled legal position that culpable homicide is not murder if it is caused without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.

18. Upon scanning the said provision, we find that in order to make out a case within the contours of Exception 4 to Section 300 IPC, the Court will have to satisfy itself that it was committed without premeditation, in a sudden fight in a heat of passion upon sudden quarrel. But that is not enough. In order to bring the appellants within 4th Exception within the said provision, it requires a further satisfaction that the offender has not taken any undue advantage or acted in a cruel or unusual manner. Therefore, even if it is found that culpable homicide is committed without premeditation in a sudden fight in a heat of passion upon sudden quarrel, case may not be covered under Exception 4 of Section 300 IPC, if it is found that the offender had taken undue advantage or acted in a cruel manner.

19. The evidence on record unmistakably proves that as far as the assault on Anish Khan is concerned, it was not backed by any premeditation. It was a case of sudden fight because initially Anish Khan was not present at the spot and he arrived at a later point of time. The words 'sudden fight' are of extreme importance. It is not a case of defence nor reflected from any evidence on record that after Anish Khan arrived at the spot, a sudden fight had taken place between Anish Khan on one hand and appellants

on the other hand. The appellants were assaulting Taukir when Anish arrived at the spot. There was absolutely no fight between Anish Khan and the appellants. The defence has also not come out with any material, much less any suggestion given to the prosecution witnesses or anything elicited in their cross examination that before giving an assault on Anish Khan, there was some altercation and it translated into a heat of passion upon such sudden quarrel between Anish Khan and the appellants. Moreover, it is not even a case where in a matter of sudden fight of appellants on one side and Abdul Taukir on the other side, Anish Khan came in, intervened and in that moment of fight, incidentally assault was given to Anish Khan on account of he having intervened in fight between Abdul Taukir on one side and appellants on the other. The evidence, as it goes and which we have considered herein above, and is seen from the evidence of Abdul Taukir and Imran @ Baba and other witnesses is that Abdul Taukir was initially assaulted by the appellants due to which Abdul Taukir fell down on the road and in order to save him, Imran @ Baba was dragging him towards one side of the road. It is at this juncture that Anish Khan arrived at the spot. There was absolutely no occasion for the appellants to open assault on Anish Khan on account of any sudden quarrel or fight either between the appellants and Abdul Taukir or between the appellants and Anish. There was not even any altercation. After Anish Khan arrived at the spot, by that time, Abdul Taukir was already assaulted. Therefore, opening assault with multiple weapons by the appellants, causing multiple injuries on the body of Anish Khan without there being any offending situation created by Anish Khan at the spot, it is difficult for us to hold that it would be a case covered under Exception 4 of Section 300 IPC. Moreover, Anish Khan was not stated to be holding any weapon or opening any assault or having arrived at the spot with a group of persons armed with weapons. Despite all this, assault was opened on Anish Khan causing him multiple injuries as also fatal head injury. There were two incised wounds found on the body of the deceased. It can, therefore, be safely concluded that the appellants had taken undue advantage and acted in unusual manner.

20. Therefore, in view of the above consideration, we are of the view that after Anish Khan arrived at the spot, with common intention to cause death. Repeated assaults by weapons were inflicted by the appellants resulting in death of Anish Khan.

21. We find that as all the other accused in the case except two- the appellants herein, have been acquitted, therefore, in such a case, conviction of the appellants cannot be sustained under Section 302 read with Section 149 IPC. For the same reason, conviction under Section 148 IPC also cannot be sustained. To that extent, the impugned judgment of conviction is modified.

22. Accordingly, though the appellants are held guilty under Section 302 IPC, they are held guilty of commission of offence under Section 302 IPC sharing common intention and therefore, conviction under Section 302 IPC read with Section 34 IPC is ordered.

Conviction of appellant – Chhedi @ Chandraprakash Ratre under Section 323 IPC is sustained.

23. The appeals are accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge