

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRA No.625 of 2013**

1. Laxman Sahu, S/o Khorbahara Sahu, Aged About 34 Years, R/o Village Nimora, P.S. Dharshiva, Civil and Revenue Distt. Raipur, Chhattisgarh
2. Tilak Ram Sahu, S/o Shri Girdhar Lal Sahu, Aged About 34 Years, Occupation Labour, R/o Village Urla, P.S. Urla, Civil and Revenue, Distt. Raipur, Chhattisgarh

---- Petitioner

**Versus**

- State Of Chhattisgarh, Through Police Station Dharshiva, Distt. Raipur, Chhattisgarh

---- Respondent

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| For Appellants | Shri A. K. Gupta, Advocate |
| For Respondent | Shri S. K. Mishra, PL      |

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**Hon'ble Justice Mr. Prashant Kumar Mishra****Hon'ble Justice Mr. Gautam Chourdiya****Order On Board by Prashant Kumar Mishra J.****02/08/2019**

1. The appellants would assail the legality and validity of the judgment convicting them for offence under Section 302 of IPC for committing murder of deceased Shyam Lal at about 8:30 pm on 23.04.2011.
2. The FIR (Ex-P-38) was lodged by PW-5 Sahdev Ram Sahu, brother of deceased, at 11:30 pm, within 2 hours of the incident. He informed the Police that at about 8:30 pm, he was sitting with other villagers at the outer platform near shop of Keshav Kumar. At that time, Shayam Lal's

mother Pataiya Bai (PW-4) came rushing from the house of Shyam Lal and informed that Shyam Lal and Triveni Bai have been assaulted and she has seen Laxman Sahu and Tilak Ram Sahu fleeing from the spot and further that Laxman was carrying a weapon in his hands. The informant immediately rushed to the house of Shyam Lal along with villagers Dilip Sahu, Kejauram Sahu and Neelkanth Sahu. He witnessed that Shyam Lal and his wife Triveni Bai were lying on the floor having sustained serious injuries with heavy bleeding, while Shyam Lal was dead and Triveni Bai was conscious. She informed that the appellants have assaulted them and run away.

3. The deceased and the injured were immediately taken to the hospital where their MLC was conducted by PW-20 Dr. A. K. Baghel vide Ex-P-35 & P-36, respectively. Shyam Lal had sustained 8 incised wounds, out of which 6 were on the forehead, one on parietal region and 8<sup>th</sup> over the occipital region. Shyam Lal had also sustained 4 more incised wounds over neck. PW-20 also examined Triveni Bai (PW-6) and found incised wound over the back of the head (occipital region) and two over forehead. Both injured were found semiconscious. Shyam Lal died during treatment at about 12:15 pm i.e. within 4 hours of the incident. The postmortem was conducted by PW-12 Dr. Rajkumar Patel, who submitted his report (Ex-P-13) opining that the cause of death is due to hemorrhage and shock, as a result of injuries to the body; homicidal in nature, death within 24 hours prior to postmortem examination. After making recoveries of the weapon from each of the accused, preparing the spot map, sending the weapon to the Forensic Science Laboratory etc., the charge sheet was filed.

4. In course of trial, the prosecution examined as many as 20 witnesses to bring home the charges. On the basis of evidence on record, the Trial Court has convicted both the appellants for committing murder of Shyam Lal.
5. Learned counsel for the appellants would submit that the incident having taken place at 8:30 pm, the statement of Triveni Bai that she had seen the appellants committing murder is unbelievable. He would submit that the statement of Triveni Bai is full of material contradictions and omissions, therefore, the same cannot form basis of conviction.
6. Learned State counsel would support the impugned judgment on submission that the statement of eye witness finds corroboration from the statement of PW-4 Pataiya Bai and PW-5 Sahdev Ram Sahu as also from the medical evidence, therefore, the judgment of conviction appears to be fully justified.
7. The prosecution has examined the following witnesses to prove the guilt of the accused:-
  - I. PW-1 - Kejauram Sahu – He is the brother of the deceased. He was informed about the incident immediately at 9:45 pm by PW-4 Pataiya Bai.
  - II. PW-2 - Krishna Kumar Yadav - He is a villager and was present and had also gone to the place of offence immediately after the incident.
  - III. PW-3 - Neelkanth – He is uncle of the deceased. He also rushed to the place of occurrence immediately after the incident.
  - IV. PW-4 - Pataiya Bai – She is mother of the deceased Shyam Lal. At the time of incident, she was going towards Shyam Lal's house. She had seen both the appellants coming out of the house of Shyam Lal and Laxman was carrying weapon in his hand. She rushed to the house of Shyam Lal and saw Shyam Lal and Triveni Bai lying on the floor having sustained grievous injuries over the person. Triveni Bai has immediately informed this witness that both the appellants have

entered their house and assaulted them. Triveni Bai also informed that her son had assaulted Laxman's son, therefore, both the appellants have injured them to take revenge.

- V. PW-5 - Sahdev Ram Sahu – He is brother of the deceased and is the informant. He has reiterated the contents of FIR.
- VI. PW-6 - Triveni Bai – She is the injured eye witness. She is the wife of deceased Shyam Lal. She has narrated the entire incident and has stated that at the time of incident, both the appellants entered their house, bolted door from inside and Laxman took out farsa, whereas Tilak was carrying axe and both of them assaulted Shyam Lal by these two weapons. When she intervened, she too was assaulted by both the appellants.
- VII. PW-7 - Ajuram Sahu – He is witness to seizure memo (Ex-P-9).
- VIII. PW-8 - Bisahin Bai – She is witness to seizure memo (Ex-P-9 & P-10).
- IX. PW-9 - Narendra Dewangan - He is witness to seizure memo (Ex-P-7).
- X. PW-10 - Deepak Kumar – He is the Patwari, who had prepared spot map (Ex-P-11).
- XI. PW-11 - Kapil Chandrawanshi – He is the Policeman, who had seized motorcycle.
- XII. PW-12 - Dr. Rajkumar Patel – He is the doctor, who had conducted postmortem.
- XIII. PW-13 - Dhanesh Sahu - He is witness to seizure memo (Ex-P-9).
- XIV. PW-14 - R. K. Mishra – He is Sub-inspector, who has registered the merg.
- XV. PW-15 - Gulab Singh – He is a formal witness.
- XVI. PW-16 - Sukhitram - He is witness to seizure memo (Ex-P-7).
- XVII. PW-17 - T. R. Kunwar – He is an IO.
- XVIII. PW-18 - Radheshyam Khaparde – He is the Policeman, who has recorded and proved *Rojnamchasana* and *merg* etc.
- XIX. PW-19 - Jairam Mandavi – He had moved the application for MLC of the injured persons including the accused.
- XX. PW-20 - Dr. A. K. Baghel – He is the doctor, who has examined the deceased and injured eye witness Triveni Bai. He has proved the MLC report (Ex-P-35 & P-36).

8. The broad overview of the evidence adduced by the prosecution, as stated above, would prove in no uncertain terms that due to previous enmity on account of deceased Shyam Lal's son having assaulted son of appellant No.1 Laxman Sahu, both the appellants went to take revenge and forcibly entered the house of the deceased at about 8:30 pm, bolted the door from inside so that Shyam Lal does not escape and thereafter they mercilessly assaulted and inflicted multiple incised wounds by sharp edged weapon like farsa and axe on the person of the deceased Shyam Lal. The deceased had sustained the following injuries, as mentioned in the MLC report (Ex-P-35):-

- I. Incised wound – V shaped 3 cm x 1 cm and 2.5 cm x 1 cm over forehead in middle.
- II. Incised wound – 3 cm x 0.5 cm over forehead towards left side near first injury.
- III. Incised wound – 3 cm x 0.5 cm over forehead towards left side near second injury.
- IV. Incised wound – 3 cm x 0.5 cm over forehead towards left side near third injury.
- V. Incised wound – 4 cm x 0.5 cm over forehead towards left side near fourth injury.
- VI. Incised wound – 3 cm x 0.5 cm over forehead on extreme left.
- VII. Incised wound – 5 cm x 0.5 cm over right side parietal region, which was towards occipital region.
- VIII. Incised wound – 4 cm x 0.5 cm obliquely right over occipital region.

Injuries Nos.1 to 8 had blood clots caused by the hard and sharp object.

Apart from the above 8 injuries, 4 other injuries were also found over the person of the deceased:-

- I. Incised wound – 15 cm x 2 cm over back of the neck.
  - II. Incised wound – 12 cm x 1 cm over the back of the neck below 1 cm to the first injury.
  - III. Incised wound – 20 cm x 2.5 cm over the back of the neck below 1 cm to the second injury.
  - IV. Incised wound – 20 cm x 3 cm over the back of the neck below 1 cm to the third injury.
9. Similarly, the injured Triveni Bai had sustained following injuries, as mentioned in her MLC report (Ex-P-36):-
- I. Incised wound – 20 cm x 2 cm over right side of neck (upper portion) extending upto occipital region.
  - II. Incised wound – 5 cm x 0.5 cm over forehead on right side.<sup>1</sup>
  - III. Incised wound – 3 cm x 0.5 cm over forehead on left side.
10. When the accused persons were running away from the place of occurrence, PW-4 Pataiya Bai witnessed them and at that time, Laxman was carrying the weapon in his hands. This witness immediately informed about the incident to PW-5 Sahdev Ram Sahu and PW-1 Kejauram Sahu, brother of the deceased Shyam Lal. These two witnesses immediately rushed to the place of occurrence and saw Shyam Lal and Triveni Bai lying on the floor having sustained grievous injuries and bleeding. Thus, the eye witness account rendered by Triveni Bai is fully supported and corroborated from the statement of PW-4 Pataiya Bai, PW-1 Kejauram Sahu and PW-5 Sahdev Ram Sahu. The present is an open and shut case where the prosecution has proved its case beyond reasonable doubt.
11. There is absolutely no infirmity in the prosecution case creating any doubt or suspicion so that benefit of doubt can be extended to the

accused persons. The injured eye witness was taken for medical examination immediately and she had immediately informed the name of the assailants in her statement made to Pataiya Bai, who reached the place of occurrence within no time. Thus, there is absolutely no element of doubt in version of the incident rendered by the eye witness.

12. There is no ground for interference with the impugned judgment and conviction. The appeal fails and is hereby dismissed.

Sd/-  
Prashant Kumar Mishra  
Judge

Sd/-  
Gautam Chourdiya  
Judge

Nirala