

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.513 of 2008

Sumaran Singh, son of Shri Suklal Agariya, aged about 38 years, resident of Village Basinkhar, Chowki Rajgamar, Balco Nagar, District Korba, Chhattisgarh

---- Appellant

versus

State of Chhattisgarh through Police Station Incharge, Balco, District Korba, Chhattisgarh

--- Respondent

For Appellant	:	None
For Respondent	:	Shri Ajay Kumrani, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

25.2.2020

1. The instant appeal has been preferred against the judgment dated 7.3.2008 passed by 2nd Additional Sessions Judge, Korba in Sessions Trial No.34 of 2007, whereby the Appellant has been convicted and sentenced as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 304 Part I of the Indian Penal Code	Rigorous Imprisonment for 7 years and fine of Rs.2,000/- with default stipulation

2. Prosecution case, in brief, is that Shanirobai (deceased) was wife of the Appellant. On 12.5.2007 at about 10 p.m., the deceased along with Sajan Kumari (PW3) and other daughters of the Appellant was present at home. At that time, the Appellant

reached home in drunken state. The deceased had also consumed liquor. Having seen the deceased in drunken condition, a quarrel took place between the Appellant and the deceased. Thereafter, the Appellant started beating the deceased with a piece of wood. The deceased sustained injuries on her body and later on in the late night she died due to the injuries. It is the further case of the prosecution that the Appellant made an extra judicial confession before Baisakhuram (PW2) and Mangal Singh (PW4). Morgue intimation (Ex.P1) and First Information Report (Ex.P2) were lodged by Pooran Singh (PW1), brother of the Appellant. Post mortem examination was conducted on the dead body of the deceased by Dr. A.K. Tiwari (PW7). His report is Ex.P22. During the course of investigation, the weapon of assault, i.e., the piece of wood was seized. Statements of witnesses were recorded under Section 161 of the Code of Criminal Procedure. On completion of the investigation, a charge-sheet was filed. A charge under Section 302 of the Indian Penal Code was framed against the Appellant.

3. In support of its case, the prosecution examined as many as 9 witnesses. In examination under Section 313 of the Code of Criminal Procedure, the Appellant denied the guilt and pleaded innocence. No witness has been examined in defence.
4. On completion of the trial, vide the impugned judgment, the Trial Court acquitted the Appellant of the charge under Section 302 of the Indian Penal Code, but convicted him under Section 304 Part I of the Indian Penal Code and sentenced as mentioned in the first paragraph of this judgment. Hence, this appeal.

5. Vide communication dated 5.2.2020, it has been reported by the Superintendent, Central Jail, Bilaspur that the Appellant has already been released from jail on 22.4.2011 on completion of his sentence.
6. No one appears on behalf of the Appellant. However, I proceed to decide the appeal on merits.
7. Heard Learned Counsel appearing for the State and perused the record with due care.
8. A child witness Sajan Kumari (PW3), daughter of the Appellant, who is the sole eyewitness, has not supported the case of the prosecution and turned hostile. She has only stated that on the date of incident her mother (the deceased) was in drunken condition and had fallen down due to dashing with the frame of a door of the house.
9. Pooran Singh (PW1), brother of the Appellant has only stated that on the date of incident in the night at about 2–3 a.m., the Appellant came to him and told that the deceased had fallen unconscious. He went to see the deceased. He saw that she had died. In paragraph 5 of his examination, this witness has admitted that the Appellant had told him that when he had returned home, he saw that the deceased was in drunken condition and, therefore, a quarrel had taken place between him and the deceased and he had also slapped her twice.
10. Baisakhuram (PW2) has supported the case of the prosecution

and has deposed that the Appellant had come to him in the night at about 2–3 a.m. and told him that the deceased had fallen unconscious. He went to his house and saw that the deceased was dead.

11. Mangal Singh (PW4) has also deposed that on the date of incident, the Appellant had come to him and told that both he and his wife (the deceased) had consumed liquor and a quarrel had taken place between them on that date.
12. From the statements of the above witnesses, it is clear that on the date of incident, in the night, the Appellant and the deceased had consumed liquor and in the late night a quarrel had taken place between them and during that quarrel the Appellant had also committed marpeet with the deceased. From the evidence available on record, it is also clear that after the incident, the Appellant had also gone to Baisakhuram (PW2) and Mangal Singh (PW4) in the late night and told them about the incident and as stated by Mangal Singh (PW4), the Appellant had also made an extra judicial confession before him. From the post mortem examination report (Ex.P22), it is also established that total 13 injuries were found on the dead body of the deceased. In these circumstances, the statement of the sole eyewitness Sajan Kumari (PW3) that her mother (the deceased) had fallen down due to dashing with the frame of a door of the house is not reliable. From the evidence on record, it is well established that it was the Appellant who killed the deceased. Therefore, the Trial Court has rightly convicted the Appellant.

13. For the foregoing reasons, I do not find any merit in the appeal. It is, therefore, dismissed.
14. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge