

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 584 of 2008

- Chamru Badi S/o Premsay, aged about 50 years, Caste Gond (Badi), Occupation Cultivation, R/o Village Nakna, P.S.-Sitapur, Distt.-Surguja (C.G.)

---- Appellant

Versus

- State Of Chhattisgarh through Police Station, Sitapur, District Surguja (C.G.)

---- Respondent

And

CRA No. 522 of 2008

1. Kaushilya Bai, W/o Chamru Badi, aged about 45 years, R/o Village Nakna, P.S. Sitapur, Distt.-Surguja, C.G.
2. Rajkumari, D/o Chamru Badi, aged about 20 years, R/o Village Nakna, P.S. Sitapur, Distt.-Surguja, C.G.

---- Appellants

Versus

- State Of Chhattisgarh, Through Police Station Sitapur District Surguja, Chhattisgarh.

---- Respondent

For Appellants	:	None.
For Respondent/State	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

05/01/2021

1. Since, both the appeals arise out of same judgment, therefore, they are being decided by this common judgment.
2. By the impugned judgment dated 15/04/2018 passed in Session Trial No. 194/2007, passed by the learned Session Judge Surguja(Ambikapur), (C.G.), the Appellants have been convicted for the offence punishable under Sections 304(part II) of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 5 years.
3. In this case, name of the deceased is Naresh, he was the brother of Appellant Kaushalya. Appellant Chamru badi is the husband of Appellant Kaushalya and Appellant Rajkumari is the daughter of Chamru Badi and Kaushalya. According to the prosecution story, the deceased was residing near the house of Appellants. There was a previous dispute between the deceased and the Appellants. On 15.04.2007 at about 6:30 PM when the deceased was going towards Basti, at that time, on way, the Appellants committed *Marpeet* with him due to that the deceased was died. The incident was witnessed by wife of the deceased namely Sarita and one Ashabai. On 16.04.2007, the matter was reported by Sarita (PW-1). After completion of investigation, charge-sheet has been filed. Trial Court has framed the charges under Section 304 (part II) of the IPC. To prove the guilt of the Appellants, the prosecution has examined as many as 9 witnesses. No defense witness has been examined. Statement of the Appellants under Section 313 of the Cr.P.C. was recorded, wherein they have pleaded their innocence and false implication in the matter.

4. After trial, the trial Court has convicted and sentenced the Appellants as mentioned in paragraph one of this judgment. Hence, this appeal.
5. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Ambikapur Surguja (C.G.) would mention that the Appellants have undergone the entire jail sentence imposed upon them by the Trial Court and already released on 03.07.2010.
6. Since no one appears for the Appellants today, I decide this appeal on merits.
7. I have heard Learned Counsel appearing for the State and perused the record to assess the correctness of the impugned judgment of conviction.
8. Postmortem of the deceased was conducted by Dr. M. Nikunj (PW-6). According to the postmortem report (Ex. P.12) and opinion given by Dr. M. Nikunj, total three injuries were found on both the legs of the deceased. According to the opinion given by Dr. M. Nikunj, the deceased was died due to excess blood loss and the nature of death was homicidal. Sarita (PW-1) and Ashabai (PW-2) in their Court statement, supported the entire case of the prosecution. They categorically stated that when they reached the spot at that time the deceased was badly injured and the Appellants were also standing on the spot. Appellant Kaushalya was standing with *Katar* (whinger). Both the witnesses remained firm during their cross-examination though there are some contradiction and omissions occurred in the statements of the said witnesses but they are not material evidence. There is nothing on the statements of the said witnesses on the basis

of which their statements can be disbelieved.

9. Looking to the entire statements of Sarita (PW-1), Ashabai (PW-2), Postmortem report (Ex. P.12) and opinion given by Dr. M. Nikunj (PW-6), in my considered view, the learned trial Court has rightly convicted the Appellants.
10. Consequently, the appeals have no merit and the same are liable to be and are hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge