

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**CRLA NO.636 OF 2016**

*(From the judgment dated 29<sup>th</sup> July, 2016 passed by learned Sessions Judge, Baripada, in S.T. Case No.197/2012).*

**Laxman Mohanta**

...

**Appellant**

-versus-

**State of Odisha**

...

**Respondent**

**Advocates appeared in the case through hybrid mode:**

**For Appellant**

: Mr.Arijit Mishra, Advocate

-versus-

**For Respondent** : Mr.S.K.Nayak,  
Addl. Govt. Advocate

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**CORAM:**

**JUSTICE D.DASH  
JUSTICE SASHIKANTA MISHRA**

**JUDGMENT  
23.12.2022.**

**Sashikanta Mishra,J.** The Appellant questions the correctness of the judgment dated 29<sup>th</sup> July, 2016 passed by learned Sessions Judge, Mayurbhanj, Baripada, in S.T. Case No.197/2012 in convicting him under Sections 452/302/324 of I.P.C. and sentencing him to imprisonment for life and to pay a fine of Rs.20,000/-, in default to undergo R.I. for a period of one year for the offence under Section 302 of I.P.C.; R.I. for three years and to pay fine of Rs.5,000/-, in default to undergo R.I. for three months for the offence under Section 452 of I.P.C. and R.I. for two years for the offence under Section 324 of I.P.C. All the sentences as above have been directed to run concurrently.

**2.** The prosecution case, briefly stated, is that one Bidyadhar Mohanta lodged F.I.R. before Karanjia Police Station on 30<sup>th</sup> June, 2012 stating that his sister (Ahalya Mohanta) had married the accused (Laxman Mohanta) in 2003, but in the month of April, 2012 he brought another woman 'X' with him and left the Village with her. He returned with the said woman

after 10 to 20 days and informed his wife that she would also stay with them to which his wife protested but the accused subjected her to physical and mental cruelty. On 25<sup>th</sup> June, 2012, being assaulted by the accused, his wife went to her parental home with her minor daughter Sasmita after reporting the matter at Thakurmunda Police Station. During such stay, on 28<sup>th</sup> June, 2012 at about 1.00 P.M. the accused went there and compelled her to accompany him to his house and when she refused, he assaulted her and tried to take her forcibly with him but could not do so because of intervention of villagers. Before leaving the place however, the accused threatened to kill the informant, his wife Ahalya, his minor daughter Sasmita and mother-in-law. Again the matter was reported by Ahalya Mohanta at Thakurmunda P.S. but she was advised to approach Karanjia P.S. which she could not because of the approach of evening. On the same night while the minor daughter of the accused Sasmita, unmarried sister of the informant Sandhyarani Mohanta and the mother of the informant

were sleeping in their newly constructed house in the same village, at about 2 A.M. the accused entered into the house by breaking open the door being armed with Bhujali and arrows. He thereafter assaulted the informant's mother by means of Bhujali causing severe bleeding injuries on her body mistaking her for his wife. When the informant's sister Sandhyarani and niece Sasmita raised shout, the accused also assaulted them by means of an arrow. Hearing the shouts, the villagers arrived at the spot, but the accused managed to escape leaving behind the Bhujali and arrows. Being informed, the informant went to the spot along with his father and other sister Ahalya Mohanta (wife of the accused) and came to know about the occurrence and shifted his mother to Karanjia Hospital, but his mother died before they could reach the Hospital. On such report, Karanjia P.S. Case No.85/2012 was registered followed by investigation.

Upon completion of investigation charge sheet was submitted under Sections 498-A/452/307/323/506/ 302 of I.P.C. and the accused was put to trial.

The accused took the plea of denial and false implication.

**3.** The prosecution, to prove its case examined 13 witnesses and exhibited 17 documents. Defence, on the other hand, examined four witnesses, but did not exhibit any document.

**4.** After examining the evidence on record particularly, that of P.W.6 (Sandhyarani Mohanta) and P.W.12, the minor daughter of the accused, the Trial Court found that their evidence was fully reliable and trustworthy and proved beyond reasonable doubt that the accused had committed the murder of the deceased by assaulting her by means of Bhujali. The Court below also held basing on the same evidence that the offence under Section 452 of I.P.C. was also proved and so also the offence under Section 324 of I.P.C. Thus, while

acquitting the accused of the offences under Sections 498-A/506/307 of I.P.C., the Trial Court convicted him for the offence under Sections 452/302/324 of I.P.C. and sentenced him as aforesaid.

**5.** Heard Mr. Arijit Mishra, learned counsel for the Appellant and Mr. S.K.Nayak, learned Addl. Government Advocate for the State.

**6.** Assailing the impugned order of conviction, Mr. Arijit Mishra has argued that the evidence relied upon by the Trial Court is not fool proof and lacks credibility. The very basis of the prosecution case is faulty because there is nothing on record to show that the accused had any animosity with the deceased so as to kill her. It is further argued that since the occurrence is said to have taken place during night it creates doubt in the mind as regards the version of P.Ws.6 and 12 of his identity. It is also argued that the Trial Court rejected the defence version without any justified or plausible reason. On such contentions, Mr.

Mishra would argue that the impugned judgment warrants interference.

**7.** Per contra, Mr. S.K.Nayak, learned Addl. Government Advocate, has supported the findings of learned Trial Court and submits that the evidence of P.Ws.6 and 12 is tell tale and clearly proves the act of the accused in killing the deceased. Moreover, they being injured witnesses themselves with their injuries being duly proved, there is no reason to disbelieve their version. That apart, there are other corroborative evidence which fully support the prosecution case and therefore, according to Mr. Nayak, the impugned order of conviction warrants no interference.

**8.** Defence has not disputed the nature of death of the deceased as being homicidal in nature. In any case, the autopsy surgeon being examined as P.W.11 found four injuries including a stab injury over left side of chest and opined that the cause of death is due to haemorrhage and shock caused by injuries to vital organs i.e. lung. P.W.11 also deposed that the injuries

found on the body of the deceased are possible to have been caused by the sword (bhujali) and arrows produced by the I.O. for his examination. Further, he categorically deposed that the injuries caused by the said weapons are sufficient to cause death of a person in normal course.

9. Coming to the ocular evidence, it is seen that except for P.Ws.6 and 12 there are no eye witness. As regards P.W.6, she is the unmarried sister of the informant. She deposed as follows:

*“The occurrence took place about one year and five months back at about 2 A.M. in the night in our new house at village Kenjhara. I was sleeping in the house along with my mother and niece namely Sasmita. On hearing hullah of my mother I woke up and saw that the accused was dragging my mother on the verandah after killing her. As I protested, the accused pierced an arrow on my cheek and shoulder. When Sasmita came and told her father as to why he assaulted me, the accused assaulted Sasmita by means of an arrow. As one Rabi Patra came, the accused fled away.*

*My mother sustained bleeding injuries below her chest, shoulder and back. The accused came to kill my sister Ahalya, but without finding her, he killed*

*my mother. About 10 years back my sister Ahalya had married to the accused and was staying in her husband house. As the accused kept another woman, my sister came back to her father's house along with her daughter.*

*About 2 days prior to this occurrence the accused had come to our father's house and threatened Ahalya to kill her. Subsequently, he came to our house and killed our mother as he did not find Ahalya in the house. The accused came with a sword and arrows. My mother was assaulted by the sword. After the occurrence I informed the matter over phone to my brother. My brother and others came and while my mother was being shifted to the hospital, she died."*

**10.** Nothing was elicited from her during cross examination to doubt the veracity of her testimony. Mr. Arijit Mishra has argued that P.W.6 admitted that the accused had not assaulted her mother in her presence and that she woke up after one hour. The above, according to Mr. Mishra proves that she had not seen the actual occurrence. The above argument is not acceptable for the reason that the stray statement that she woke up after one hour need not necessarily be

given such importance as to nullify her entire positive testimony.

Coming to the evidence of P.W.12, who is the minor daughter of the accused and was sleeping with her aunt (P.W.6) at the relevant time. She also clearly stated that her father (accused) killed her maternal grandfather (deceased) by means of a Bhujali. She also stated that the accused assaulted her and her aunt by means of an arrow and sword. She also stated that the accused assaulted the deceased and dragged her to the verandah. She was cross-examined at length. Despite being a child witness she withstood the rigors of cross-examination by sticking to her testimony firmly though she admitted that she had not seen the accused assaulting her grant-mother, but categorically stated that she had seen him while he was dragging her body.

From a conjoint reading of the evidence of P.Ws.6 and 12 as referred to above, it transpires that the accused had entered into the house at night while

the deceased was sleeping along with P.Ws.6 and 12 and he assaulted the deceased by means of a Bhujali. It also transpires that there was dispute between the accused and his wife Ahalya Mohanta as he had kept another woman for which Ahalya came back to her father's house along with her daughter. Two days prior to the occurrence the accused had come to the informant's house and threatened to kill Ahalya Mohanta. It is stated by P.W.6 that the accused killed her mother as he did not find Ahalya in the house. While it is a fact that neither P.W.6 nor P.W.12 have actually seen the accused assaulting the deceased yet, fact remains that they have clearly stated to have seen him dragging the deceased to the verandah after the assault. The time gap between the assault and of the accused being very small it does not admit the possibility of anyone also, other than the accused having fatally assaulted the deceased. Further, both P.Ws.6 and 12 stated to have been assaulted by the accused by means of arrows sustaining injuries. The injuries on their person were duly proved by the

examining doctor P.W.9, who also stated that the said injuries are possible to be caused by the arrows produced by the I.O.

**11.** Apart from the direct evidence of P.W.6 and 12 as narrated a hereinbefore, the evidence of the informant P.W.12 also lends support to the prosecution story that the accused had dispute with his wife Ahalya Mohanta because of his relation with another lady 'X'. P.W.2 is the wife of the accused, who fully corroborated the F.I.R. story regarding her dispute with her husband (accused) because of his relationship with another lady. P.W.7 is the brother of the informant who deposed that upon hearing about the incident he came to the spot and saw the deceased lying dead in the verandah and that a sword-cum-bhujali along with some arrows stained with blood was also lying there. He also saw the injuries on P.Ws.6 and 12. He was a witness to the inquest over the dead body. P.W.8 is a co-villager who turned hostile but nevertheless stated about the dispute between the

accused and his wife Ahalya Mohanta because of his relationship with another woman 'X'.

**12.** Thus, it can be easily culled out from the evidence that;

(i) The accused had inimical relation with his wife because of his involvement with another woman 'X'.

(ii) Two days prior to the occurrence the accused had gone to his father-in-law's house and threatened to kill his wife Ahalya Mohanta, his minor daughter Sasmita and his mother-in-law, the deceased.

(iii) On the night of the occurrence the accused was seen by P.Ws.6 and 12 as being present inside their house when he was dragging the body of the deceased on the verandah who was by then dead.

(iv) The accused had assaulted the P.Ws.6 and 12 causing injuries on their person.

(v) The accused had left behind a Bhujali and some arrows at the spot; and

(vi) The injuries found on the body of the death of the deceased had taken place on account of the injuries inflicted upon the deceased and those were also possible to have been caused by the seized weapon.

**13.** Coming to the defence version, it is seen that four witnesses were examined by the accused to prove that he was working as Supervisor of Bipra Brick Factory and that at the relevant time he was present at the factory and had not gone to his village. Surprisingly, the accused himself never said so during his examination under Section 313 of Cr.P.C. Moreover, in cross-examination of P.W.6, it was suggested that the accused was at Bhubaneswar on that day. The Trial Court took note of such contradictory stand to reject the defence plea. While concurring with such reasoning we also find the defence plea not plausible in view of the positive evidence of P.Ws.6 and 12 proving the presence of the accused at the spot during occurrence.

**14.** From a conspectus of the analysis made of the evidence on record thus, we find that the offences under Section 452/302/324 of I.P.C. are clearly made out. Reading of the impugned judgment shows that the Trial Court has rightly appreciated the evidence on record to hold the accused guilty of the said offences. We therefore, find no reason, much less any cogent ground to interfere.

**15.** In the result, the appeal fails and is therefore, dismissed.

**D. Dash, J.**

**I agree**

.....  
**(Sashikanta Mishra)**  
**Judge**

.....  
**(D. Dash)**  
**Judge**

**Ashok Kumar Behera**





