CGHC010086272023 2026:CGHC:46623-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 676 of 2023

Order Reserved On : 08/10/2026
Order Passed On : 04/11/2026

State Of Chhattisgarh Through Its Station House Officer, Police Station Narharpur, District Uttar Bastar Kanker, Chhattisgarh

... Appellant

versus

Kripa Ram Koram S/o Late Ramdev Koram Aged About 56 Years R/o Village Nayapara Bagdongri, Police Station Narharpur, District Uttar Bastar Kanker, Chhattisgarh

... Respondent(s)

For Appellant : Mr. Saumya Rai, Deputy GA.

Hon'ble Shri Narendra Kumar Vyas &
Hon'ble Shri Sudhir Kumar, JJ

C A V Order

Per Sudhir Kumar, J.

1. The State/appellant has preferred this petition for grant of Leave to Appeal challenging the judgment of acquittal dated 19.9.2022 passed by the Sessions Judge, Kanker, District North Bastar,

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Kanker in ST No.22/2021 whereby the learned Sessions Judge has acquitted the respondent/accused of the charge under Section 302 of the IPC.

2. Case of the prosecution is that complainant, Hamit Kumar Nag, son of deceased Paras Ram Nag, along with the village Sarpanch, Umendra Chand Mandavi, and other villagers came to Police Station Narharpur on 29.05.2021 at about 7:30 am and lodged a *Merg Intimation* (Ex.-P/1) stating that on the previous evening his father, deceased Paras Ram Nag, was returning from Devinnavagaon Road at around 6:30 pm. The complainant had also gone to his field to discuss the harvesting of his paddy crop with the person operating the harvester. While returning, he saw that his father was lying dead approximately 100 metres before reaching their house. There were signs of blood around the dead body, and the deceased had sustained a serious injury on his head. On the basis of aforesaid information, the police has registered Merg Intimation vide Ex. P-1. Subsequently, on the basis of said information, First Information Report (Ex.-P/2) was registered against an unknown person and Crime No. 64/2021 was registered under Section 302 of the Indian Penal Code (IPC), following which the investigation commenced.

3. During the course of investigation, notices under Section 175 of the CrPC were issued to the witnesses vide Ex.-P/20. Thereafter, in the presence of the witnesses, inquest report was prepared vide Ex.-P/7. The dead body of the deceased was sent to the

Community Health Centre (CHC), Narharpur, for post-mortem examination. The post-mortem report and the query report were obtained vide Ex.-P/18 and Ex.-P/19, respectively.

4. During the investigation, memorandum statement of the accused was recorded in the presence of witnesses vide Ex.-P-8. On the basis of the said memorandum statement, one iron axe (*tangiya*) and one bamboo stick were recovered at the instance of the accused in the presence of witnesses, and a seizure memo was prepared vide Ex. P-9.

5. The accused was arrested in the presence of witnesses, and an arrest memo was prepared vide Ex. P-22. A sealed packet containing the yellow floral shirt worn by the deceased Paras Ram, a pink checked towel (*gamchha*), and a bed sheet bearing bloodstains, in the presence of witnesses were seized vide Ex.-P/17. On 31.05.2021, the seized bamboo stick and iron axe were sent to the Community Health Centre, Narharpur, for examination and opinion, and the corresponding query report was obtained.

6. The seized articles were sent to the Regional Forensic Science Laboratory, Jagdalpur, for examination vide Ex. P-26, and the examination report was subsequently received from the Regional Forensic Science Laboratory, Jagdalpur, vide Ex. P-29.

7. During the course of investigation, statements of the complainant and other relevant witnesses were recorded under Section 161 of the CrPC. Upon completion of the investigation, charge-sheet was

filed against the accused for offence under Section 302 of the IPC before the competent Court. Thereafter, the case was committed to the Court of Session for trial.

8. The accused was charged with the offence punishable under Section 302 of the IPC. The charge was read over and explained to him. The accused denied the charge and claimed to be tried.

9. When the statement of the accused was recorded under Section 313 of the CrPC, he pleaded that he was innocent and had been falsely implicated in the case. The accused did not examine any witness in his defence.

10. After hearing learned counsel for the parties and considering the material available on record, the trial Court has acquitted the respondent/accused as mentioned above.

11. Learned counsel appearing on behalf of the appellant/State submitted that the Tangia has been seized pursuant to the memorandum statement of the accused and the said seizure has been duly proved by the Investigating Officer. It was further contended that the trial Court has failed to properly appreciate and analyze the evidence on record. On the basis of aforesaid submissions, learned counsel prayed that the Appeal may be allowed.

12. The submission advanced by learned counsel for the appellant/ State has been considered and the record of the case has been perused.

13. The present case is based on circumstantial evidence. In the instant case, the First Information Report was lodged against an unknown person/accused. It has been established from the evidence on record that the death of the deceased was homicidal in nature.

MOTIVE

14. The son of the deceased namely, Hameet Kumar Nag (PW-1), has admitted in his deposition that there was no prior enmity between his father and the accused. The wife of the deceased namely, Smt. Nembai Nag, (PW-2), has admitted in her cross-examination that no dispute had occurred between her husband and the accused prior to the incident. Another son of the deceased namely, Satyawan Nag (PW-3), has admitted in his cross-examination that his father had no previous enmity with the accused nor had any dispute with him. In the present case, the prosecution has failed to establish that any prior enmity existed between the deceased and the accused. In the circumstances, we are of the opinion that motive for commission of the offence has not been established.

Extra Judicial Confession

15. The son of the deceased namely, Hameet Kumar Nag (PW-1) has deposed that the accused had confessed before the villagers to have committed murder of his father. Similarly, wife of the deceased namely, Smt. Nembai Nag, (PW-2) has stated that she

has heard that the accused has made extra judicial confession regarding murder of her husband. However, the other son of the deceased namely, Satyawan Nag (PW-3) did not depose regarding extra judicial confession made by the accused. A perusal of the evidence on record reveals that the statements pertaining to the alleged admission of guilt were made in the context of memorandum of the accused. There is no evidence to establish that the accused has made extra judicial confession before any villager. Furthermore, the prosecution has not examined any villager to substantiate the alleged extra judicial confession. Thus, we are of the opinion that the prosecution has failed to establish that the accused has made extra judicial confession admitting commission of offence.

Memorandum and seizure

16. Investigating Officer namely, Tobias Khakha (PW-11) has deposed that on 29.5.2021, he recorded the memorandum statement of the accused in the presence of witnesses Umendra Chand Mandavi and Jitendra Nag. Pursuant to the said memorandum statements, an iron Tangia (axe) having bloodstains and a bamboo stick were seized in the presence of aforesaid witnesses vide seizure memo (Ex.-P/9).

17. Jitendra Kumar Nag (PW-4), a witness to the memorandum and seizure, has deposed that the memorandum statement of the accused was recorded in his presence. He has further stated that

the accused took the police to the field of Firturam and pointed out a stick lying there, stating that he has assaulted the deceased with the said stick. This witness has further deposed that the police personnel informed him that the Tangia (axe) was lying at the Police Station. The witness further deposed that the police has seized the stick. In view of the aforesaid testimony, this witness has been declared hostile by the prosecution with respect to the alleged seizure of Tangia. On being declared hostile, this witness has denied that the Tangia was seized in his presence. He merely affirmed that the stick has been seized in his presence.

18. According to the prosecution case, the accused first assaulted the deceased with the stick and thereafter struck him with Tangia on his head, thereby caused his death. However, this independent witness {i.e. Jitendra Kumar Nag (PW-4)} has not supported the case of the prosecution so far as alleged seizure of Tangia is concerned. Thus, we are of the considered opinion that the seizure of Tangia (axe) has not been proved by the testimony of this witness.

19. The other independent witness to the memorandum and seizure is Umendra Chand Mandavi (PW-5). He has deposed that the accused had disclosed during recording of memorandum statement that he had thrown the stick away. He has further stated that the police has seized a bamboo stick while the accused was in police custody. The prosecution has declared this witness hostile. On being declared hostile, this witness has

denied that the accused had stated that the Tangia (axe) was in his possession. He has further deposed that the accused had stated that the Tangia has been taken to the police station and that it was kept there. In his cross-examination, this witness has denied that the police had seized Tangia along with bamboo stick. Thus, the testimony of this witness does not establish seizure of the Tangia allegedly used in the commission of offence, and the testimony of the Investigating Officer regarding seizure of the Tangia (axe) has not been corroborated by the independent witness.

20. For the foregoing, we are of the considered opinion that in the present case, the prosecution has failed to establish the motive for commission of offence, the alleged extra judicial confession has not been proved, and the seizure of Tangia (axe) allegedly used in the commission of offence, pursuant to the memorandum statement of the accused, has also not been established by any independent witness. The mere fact that the death of the deceased was homicidal in nature coupled with the statement of the I.O. regarding alleged seizure of Tangia, is insufficient to convict the accused. The trial Court has properly appreciated and analyzed the evidence on record and has been absolutely justified in recording the finding of acquittal.

21. No ground is made out for interference with the impugned judgment of acquittal.

22. In the result, prayer for grant of Leave to Appeal is rejected and the present CRMP is hereby dismissed.

23. The original records of the trial Court be returned along with a copy of the judgment.

Sd/-
(Narendra Kumar Vyas)
Judge

Sd/-
(Sudhir Kumar)
Judge

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