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CRA-829-2020

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&amp;

HON'BLE SHRI JUSTICE RATNESH CHANDRA SINGH BISEN

ON THE 6<sup>th</sup> OF JANUARY, 2026CRIMINAL APPEAL No. 829 of 2020*SHANKAR BAIGA**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

*Shri Ramprakash Yadav - Advocate for the appellant.**Shri Manas Mani Verma - Government Advocate for the respondent/State.*  
.....

J U D G M E N T

*Per. Justice Ratnesh Chandra Singh Bisen*

Learned counsel for the appellant instead of pressing I.A. No.28088/2025, which is third application under Section 430(1) of the Bhartiya Nagrik Suraksha Sanhita, 2023, for suspension of sentence and grant of bail to the appellant-Shankar Baiga, prays that this appeal be heard finally.

2. Accordingly, I.A.No.28088/2025, is dismissed as not pressed and with the consent of learned counsel for the parties, this appeal is heard finally.

3. This Criminal Appeal under Section 374 (2) of the Code of Criminal Procedure, is filed by the appellant being aggrieved of the judgment dated 11.12.2019, passed by the learned Session Judge, Umariya (M.P.), in S.T. No.26/2019, whereby the learned trial Court has convicted the appellant



for offence under Section 302 of Indian Penal Code (hereinafter referred to as 'IPC' for short) and sentenced him to life imprisonment with fine of Rs.1,000/- with default stipulation of 06 months Rigorous Imprisonment.

4. Upon being charged under Section 302 of IPC, the appellant abjured his guilt and sought to contest further proceedings in the case.

5. Learned counsel for the appellant submits that the prosecution story in short is that on 14.01.2019 appellant/husband had beaten his wife-Sukhwanti Bai by Bamboo stick (danda) and on 16.01.2019 she expired at home only. It is also alleged that the mother of the appellant Ramni Bai (PW-11), who is living next door tried to stop appellant-Shankar Baiga from beating the deceased-wife, but she was threatened to go. Next day Sukhwanti Bai was seen injured by other person and was not walking properly and lying in courtyard of house. Police Station Pali had registered dehati merg intimation Ex.P/15 and on the basis of said merg intimation Police Station Pali after enquiry registered crime No.28/2019 under Section 302 of IPC. Investigation was completed and articles were seized. Dead body was subjected to the postmortem and seized articles were sent to FSL, Sagar for examination. Charge-sheet was presented in the Court of Judicial Magistrate, Birsinghpur, Pali. Matter was committed to Sessions Court and thereafter charge was framed under Section 302, trial was conducted and he has been punished as above.

6. Learned counsel for the appellant submits that appellant and deceased belong to Baiga tribe. The tribals take drinks and fight with each other. At the time of incident, the appellant was drunk and was not in his



sense to understand the consequences and nature of act. The deceased Sukhwanti Bai was also drunk and as a result fell down, got injured. No dangerous or sharp edged weapon was used by the appellant. Bamboo stick/danda is used for beating his wife, intention was not to cause death of his wife. A small dispute between husband and wife got exaggerated. It is submitted by learned counsel for the appellant that case under Section 302 is not made out, at the most offence under Section 304 Part-I of IPC can be made out.

7. Shri Manas Mani Verma, learned Government Advocate for the respondent/State in turn submits that after analyzing the oral and documentary evidence, which has been produced by the prosecution, the trial Court has properly convicted the appellant under Section 302 of IPC and there is no mistake in the finding arrived at by the trial Court and there are sufficient evidences against the accused person to confirm the conviction of the appellant and as such, it does not call for any interference.

8. We have heard learned counsel for the parties and also perused the record.

9. Dr. Volga Kaithwar (PW-1) had conducted post-mortem. It is stated in his statement that during postmortem, he found seven injuries on the body of the deceased Sukhwanti Bai Baiga. It is also stated that the deceased died due to head injury and injury was grievous in nature and due to excessive bleeding she died. There is no fact in his cross-examination on the basis of which accused got any benefit and there was no suggestion given that when he conducted postmortem, he found any smell of liquor from the body or



mouth of the deceased. Therefore, the defense taken by the appellant that Sukhwanti Bai had drunk on the date of incident and due to heavy drink, she fell down and got head injury, is not acceptable.

10. Ramni Bai (PW-11) has stated in her deposition that appellant Shankar Baiga is her elder son. Appellant Shankar Baiga and his wife- Sukhwanti Bai lived alongwith their children in their home separately and her house is near to appellant's house. When Shankar was beating his wife, she forbid him and then Shankar told her that if she will interfere, he will beat her also and then he slapped her. Dispute took place in night. Sukhwanti Bai died on 16<sup>th</sup> date. Police has registered dehati merg intimation on her intimation. Police prepared spot map Ex.P/16. Prosecution has declared this witness hostile and asked questions from this witness which is asked in cross-examination. She admitted that incident happened on day of 'Makar Sankranti' and appellant had beaten his wife. She also admitted that appellant closed the door of his room and beaten Sukhwanti Bai. Deceased- Sukhwanti Bai made hue and cry and asked for help. She also admitted that the appellant Shankar Baiga beaten Sukhwanti Bai with Bamboo stick (danda). She also admitted that she saw the injury on head, hand, leg, thigh of Sukhwanti Bai and also bleeding from her body. She also admitted that after beating appellant did not carry the deceased- Sukhwanti Bai for treatment. In paragraph 8 of her cross-examination she admitted that Sukhwanti Bai after drinking alcohol used filthy language and also used to quarrel with appellant- Shankar. Thus, there is nothing in her cross-examination to disbelieve her evidence.



11. Sushila Bai (PW-12) stated in her deposition that Shankar Baiga is her elder brother. She came to know second day that Sukhwanti Bai got injured from head to leg and also saw blood on the wall and room. Ramnaresh Baiga (PW-13) is son of deceased Sukhwanti Bai and appellant Shankar. He stated that after receiving the information that his mother had died he came to his house and saw his mother, who was lying dead and Aman told him that his father had beaten his mother, by which she had succumbed to death. He saw injury on the head and leg and also seen blood on wall and floor of the room. His grand-mother also told him that his father had beaten to his mother.

12. Aman Baiga (PW-2) stated that he went to spot and saw that Sukhwanti Bai was lying in *parchhi* (courtyard) and her mother-in-law was weeping. He informed Ramnaresh by phone that his mother died. In cross-examination, he admitted that he has no knowledge how deceased died.

13. Baisakhiya Bai (PW-3) stated in her examination-in-chief that when she returned to house of her sister on the next day, then people told that Shankar committed murder of his wife but in her cross-examination, she has unable to explain that who told her that Shankar had killed his wife. Ramprasad Baiga (PW-4) has stated in his examination-in-chief that when he returned from Shahdol on the date of incident at night, his children told him that Shankar was beating his wife then he went to him and asked Shankar not to beat his wife. Shankar said to him that if he will stop him then he will beat him also. When he visited the house of Shankar, he saw Shankar was sleeping after beating his wife and also saw injury on the head of the



Sukhwanti Bai. She was blood stained.

14. Ashok Kumar Jha (PW-14) stated that he was posted on 16.01.2019 as Incharge Station Officer of the Police Station, Pali and received information by Incharge Out post Ghunghuti. On reaching the spot he found that Sukhwanti Bai was lying on the floor of hut (Zopaddi). He wrote dehati merg intimation on the information of the mother-in-law Ramni Bai and merg No.07/19 under Section 174 of Cr.P.C. was registered and after postmortem of the body he received short postmortem report from doctor regarding death of Sukhwanti Bai.

15. After completion of inquiry merg intimation was registered as Crime No.28/19 under Section 302 of IPC and FIR is Ex.P/20. He prepared *Naksha Panchayatnama* (Inquest Panchnama) of the deceased body Ex.P/3. During investigation he had taken statement of witnesses Ramni Bai Baiga, Ramnaresh Baiga, Sushila Baiga and Chhidda Baiga. He also prepared spot map Ex.P/16 before Ramni Bai and Ramprasad. He seized plain soil and soil with blood. Seizure memo is Ex.P/5. He has also taken memorandum statement of accused Shankar Baiga on 18.01.2019. Memorandum statement is Ex.P/4 and after disclosure of the accused, he seized one Bamboo stick from hut (*Zhoppadi*) in the presence of other witnesses. Seizure memo is Ex.P/6. He also arrested the accused in the presence of the other witnesses and prepared arrest memo Ex. P/22. He also sent seized articles to FSL, Sagar for examination. Letter is Ex.P/28 and deposit receipt is Ex.P/29. Nothing is being found in his cross-examination that the accused got any benefit.



16. Shiv Shankar Singh (PW-6) stated that on 17.01.2019 Head Constable Pushpraj Singh has produced one sealed packet and sample of seal and he seized the aforesaid articles in presence of other witnesses. Seizure memo is Ex. P/7. Pushpraj Singh (PW-9) has stated that after completion of postmortem, he handed over the body of deceased to Ramprasad, who is the family member of deceased and received receipt. Dead body suprudgi is Ex. P/13. He also received one sealed packet containing peticoat of Sukhwanti Bai Baiga and sampled of seal and also given to the Head Constable Shivshankar Singh. Seizure memo is Ex.P/7.

17. Gangaram Singh (PW-8) has stated that he went to Sagar with letter No.Q/A/Umariya/F.S.L/Reader/202019 and deposited to FSL, Sagar. Letter is Ex.P/10 and receipt is Ex.P/12.

18. Nehru Singh (PW-10) has stated that Sub-Inspector Ashok Kumar Jha had given him dehati merg intimation Ex.P/15 and on the basis of the merg intimation No.07/19 was registered, which is Ex.P/8. Jay Singh (PW-7) has stated that constable Nehru Singh bring the merg No.0/19 under Section 174 of Cr.P.C. on 17.01.2019 for registration of the original merg number on the basis of aforesaid merg intimation, he registered merg intimation No.07/19. Merg intimation is Ex.P/8. After that he prepared computer-sheet of merg No.07/19, which is Ex.P/9.

19. Devi Singh (PW-5) has also stated that Head Constable Pushpraj Singh produced a sealed packet in which sample seal of CHC Pali and aforesaid articles seized by Shiv Shankar Singh, Head Constable. Seizure memo is Ex.P/7.



20. After analyzing the evidence of prosecution, it appears that Ramni Bai (PW-11), who is mother of the accused and mother-in-law of the deceased- Sukhwanti Bai clearly stated that accused Shankar Baiga quarreled with Sukhwanti Bai at night on the date of incident and accused had beaten Sukhwanti Bai and when she tried to intervene then accused threatened her too, that if she will intervene then he will kill her also. It is also clear from evidence of Ramni Bai (PW-11) that due to the injuries received during marpeet by the accused person, Sukhwanti Bai had died. Ram Naresh Baiga (PW-13), who is son of the accused and deceased Sukhwanti Bai, also supported the version of the prosecution that when he received information about the death of his mother, he went to the spot and found that his mother was lying on the ground and his grand-mother told him that accused has killed his mother. This fact was also corroborated by the Sushila Bai (PW-12), who is the daughter-in-law of the accused person. Aman Baiga (PW-2) and Ramprasad Baiga (PW-4) have also supported the prosecution version. It is necessary to mention here that Ramni Bai (PW-11), Sushila Bai (PW-12), Ramnaresh Baiga (PW-13), Aman Baiga (PW-2) and Ramprasad Baiga (PW-4) are close relatives of the accused person and there is nothing on record that they have any interest to falsely implicate the accused. It means there is nothing on the record on the basis of which the Court disbelieve the evidence of aforesaid witnesses.

21. As far as the arguments on behalf of the appellant that no dangerous or sharp edged weapon is used by the appellant and the appellant used Bamboo stick for beating his wife, therefore, no intention to cause





death of his wife, thus this case will not fall under Section 302 of IPC but will fall under Section 304 Part-I of IPC is concerned, perusal of the evidence of eye-witnesses and medical evidence, arguments of learned counsel for the appellant is not acceptable because Dr. Volga Kaithwar (PW-1) had found seven injuries on the body of the deceased Sukhwanti Bai during postmortem and also found one injury in tempo occipital region of the head and one injury on face, therefore, it cannot be concluded that accused has no intention to cause death of the deceased Sukhwanti Bai.

22. As far as argument of learned counsel for the appellant that Sukhwanti Bai used to drink liquor and on the date of incident, she has also drunk liquor and due to heavy drink, she fell down on the ground and received aforesaid injuries is concerned, the above argument is also not acceptable because there were seven injuries found on the body of the deceased Sukhwanti Bai and injuries were found on different parts of the body, therefore it is not possible to receive aforesaid seven injuries due to fall on the ground. Apart from this, the doctor's postmortem report does not reveal that there was any smell of alcohol coming from the deceased's body. It would also be appropriate to mention here that no such question has been asked in the cross-examination of the doctor Volga Kaithwar (PW-1), who conducted the postmortem, that there was a smell of alcohol coming from the body of deceased. In such a situation, it cannot be concluded that the deceased was heavily intoxicated due to which she fell on the ground and got injured.

23. In view of foregoing discussions, it is found that the prosecution



has proved the case against the accused beyond reasonable doubt, and, therefore, we are of the opinion that the trial Court has not committed any error while convicting the appellant under Section 302 of IPC.

24. Resultantly, the present appeal fails and is hereby **dismissed**.

(VIVEK AGARWAL)  
JUDGE

(RATNESH CHANDRA SINGH BISEN)  
JUDGE

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