



CGHC010086182022



2026:CGHC:34455-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 459 of 2022**

Sitaram Sidar S/o Bhawar Singh Sidar Aged About 49 Years R/o Village Garhumriya, Police Chowki Jutmil, District Raigarh, Chhattisgarh, District : Raigarh, Chhattisgarh

... Appellant(s)**versus**

State of Chhattisgarh Through District Magistrate Raigarh, District Raigarh, Chhattisgarh, District : Raigarh, Chhattisgarh

...Respondent(s)

(Cause-title taken from Case Information System)

For Appellant	:	Mr. S.D. Singh, Advocate.
For Respondent/State	:	Mr. Ashish Shukla, Additional Advocate General.

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Ravindra Kumar Agrawal, Judge****Judgment on Board****Per Ramesh Sinha, Chief Justice****06.08.2026**

1. Heard Mr. S.D. Singh, learned counsel for the appellant, and Mr. Ashish Shukla, learned Additional Advocate General, appearing for the State/respondent.

2. This criminal appeal, preferred under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, "the CrPC"), is directed against the impugned judgment dated 09.12.2021 passed by the learned 2nd Upper Sessions Judge, Raigarh (C.G.) (for short, "the trial Court"), in Sessions Trial No. 53 of 2019, whereby the appellant has been convicted and sentenced as follows:

Conviction under Section	Sentence
Section 302 of the Indian Penal Code (<i>for short</i> , 'IPC')	Rigorous imprisonment (<i>for short</i> , 'R.I.') for life and fine of Rs. 500/-, in default of payment of fine, 02 months R.I. more.
Section 201 of the IPC	R.I. for 03 years and fine of Rs.100/-, in default of payment of fine, 01 month R.I. more.

3. The prosecution case, in brief, is that the complainant, Pramod Kumar Sao (PW-1), appeared at Jut Mill Police Outpost on 20.07.2019 and lodged an oral report, which was initially registered as Crime No.0/2019. He stated that he is a resident of Village Gadh Umaria and is employed at Jindal Steel Plant, Patrapali, Raigarh. On the date of the incident, after returning home from work at about 2:30 p.m., he had his meal and was resting. At that time, his nephew, Prince Sao (PW-3), and his son, Hansraj (PW-11), were playing outside the house, while his mother, Tirith Kunwar Sao (since deceased), was sweeping the courtyard. At about 3:40 p.m., the appellant, Sitaram Sidar, allegedly arrived carrying a sharp-edged iron tangi (axe) and accused the

deceased of regularly sweeping garbage towards his house. The deceased denied the allegation, stating that the garbage was being swept towards her own side. Enraged by the response, the appellant allegedly assaulted the deceased with the tangi and dealt a blow on the right side of her neck, causing a deep incised injury, as a result of which she collapsed on the spot in a pool of blood.

4. On witnessing the occurrence, Prince Sao (PW-3) and Hansraj (PW-11) immediately informed the complainant. Thereafter, the complainant, along with his wife Nutan Sao (PW-2) and other villagers, shifted the injured to KGH Hospital, Raigarh, in a Bolero vehicle belonging to Santosh Bhardwaj. Upon examination, the attending doctor declared her dead. The complainant, therefore, reported that the appellant had assaulted his mother with a tangi, resulting in her death.

5. The aforesaid report was initially registered as a Zero FIR and was thereafter transmitted to Police Station Kotwali, District Raigarh, where FIR No. 558/2019 came to be registered against the appellant for the offence punishable under Section 302 of the IPC. Investigation thereafter commenced in accordance with law.

6. Upon completion of the investigation, the Investigating Officer found sufficient material to prosecute the appellant for the offences punishable under Sections 302 and 201 of the IPC. A charge-sheet was accordingly filed before the competent Magistrate, who, after taking cognizance, committed the case to the Court of Sessions for trial.

7. The learned trial Court framed charges against the appellant

under Sections 302 and 201 of the IPC. The charges were read over and explained to him, to which he pleaded not guilty and claimed to be tried.

8. The appellant was examined under Section 313 of the CrPC, wherein he denied all the incriminating circumstances appearing against him in the prosecution evidence and pleaded false implication.

9. In order to establish the charges, the prosecution examined 22 witnesses and exhibited 38 documents. In defence, the appellant relied upon Exhibits D/1, D/2 and D/3.

10. Upon appreciation of the oral and documentary evidence on record, the learned trial Court, by the impugned judgment dated 09.12.2021, convicted the appellant for the offences punishable under Sections 302 and 201 of the IPC and sentenced him accordingly. Aggrieved thereby, the appellant has preferred the present appeal.

11. Learned counsel appearing for the appellant submits that the findings recorded by the learned trial Court are contrary to the evidence available on record and are, therefore, unsustainable in law. It is contended that even if the prosecution case is accepted in its entirety, the material on record unmistakably demonstrates that the occurrence arose out of a sudden quarrel between the appellant and the deceased on a trivial issue relating to the sweeping of garbage. According to learned counsel, there was neither any premeditation nor any previous enmity which would indicate a pre-conceived intention to commit murder. It is urged that the incident occurred in the heat of passion upon

a sudden exchange of words, and the appellant neither took undue advantage nor acted in a cruel or unusual manner so as to exclude the application of Exception 4 to Section 300 of the IPC.

12. Learned counsel for the appellant further submits that, having regard to the attending circumstances, the offence, if any, would amount only to culpable homicide not amounting to murder, punishable under Section 304 Part I or, in the alternative, Section 304 Part II of the IPC, and not murder punishable under Section 302 of the IPC. It is, therefore, prayed that the conviction and sentence awarded by the learned trial Court be suitably modified.

13. *Per contra*, learned State counsel has supported the impugned judgment and submits that the prosecution has succeeded in establishing the guilt of the appellant beyond all reasonable doubt by leading cogent, reliable and trustworthy oral as well as documentary evidence. It is submitted that the ocular testimony of the eyewitnesses is wholly consistent with the medical evidence and stands duly corroborated by the recovery of the weapon of offence and the scientific evidence brought on record. He further submits that the appellant intentionally inflicted a forceful blow with a sharp-edged tangi on the neck of the deceased, which is a vital part of the human body. The nature of the weapon employed, the seat of the injury, the force with which the assault was made, and the severity of the injuries leave no manner of doubt that the appellant intended to cause such bodily injury as was sufficient in the ordinary course of nature to cause death. It is,

therefore, contended that the case does not fall within any of the Exceptions to Section 300 of the IPC, much less Exception 4, and that the learned trial Court has rightly convicted the appellant under Section 302 of the IPC. No interference with the impugned judgment is, therefore, warranted.

14. We have heard learned counsel for the parties at considerable length and have carefully scrutinized the entire evidence available on record.

15. The first question that falls for our consideration is whether the death of the deceased was homicidal in nature.

16. In order to establish that the death of the deceased was homicidal in nature, the prosecution examined Dr. Devraj Behra (PW-15), who conducted the postmortem examination. He deposed that on 20.07.2019, the dead body of the deceased, Tirth Kunwar, was brought before him by Constable Dhaneshwar Prasad Oraon (No. 636) of Jut Mill Police Outpost for postmortem examination. Upon conducting the autopsy, he prepared the postmortem report (Ex.P/7).

17. PW-15 found multiple ante-mortem incised injuries on the neck, chest and back of the deceased, all caused by a hard, heavy and sharp-edged weapon. The injuries had severed the skin, muscles, blood vessels and nerves at places and were accompanied by profuse bleeding. The clothes worn by the deceased were found stained with blood, and her blood sample was preserved and handed over to the police for chemical examination.

18. According to PW-15, the deceased died due to haemorrhagic shock resulting from excessive bleeding caused by the injuries inflicted by a hard, heavy and sharp-edged weapon. He categorically opined that the death was homicidal in nature and that the injuries were sufficient, in the ordinary course of nature, to cause death. PW-15 further deposed that a sealed tangi (axe) was subsequently produced before him for examination, in respect whereof he prepared the Query Report (Ex.P/19). He opined that the injuries noticed on the body of the deceased could have been caused by the said weapon and that such injuries were sufficient to cause death in the ordinary course of nature.

19. The testimony of PW-15 has remained substantially unshaken in cross-examination. Nothing material has been elicited to discredit his medical opinion or to cast any doubt on the findings recorded in the postmortem report (Ex.P/7) and the Query Report (Ex.P/19). In the absence of any material contradiction or infirmity, this Court finds no reason to discard the medical evidence adduced by the prosecution.

20. Thus, the medical evidence on record unequivocally establishes that the deceased sustained multiple ante-mortem incised injuries caused by a hard, heavy and sharp-edged weapon, resulting in haemorrhagic shock due to excessive bleeding. The medical evidence fully corroborates the ocular version of the prosecution witnesses and leaves no manner of doubt that the death of the deceased was homicidal in nature.

21. Having held that the prosecution has succeeded in proving that

the death of the deceased was homicidal in nature, the next question that arises for consideration is whether, in the facts and circumstances of the present case, the offence committed by the appellant would amount to murder punishable under Section 302 of the IPC or whether the case is covered by Exception 4 to Section 300 of the IPC, thereby attracting Section 304 Part I or Part II of the IPC, as contended on behalf of the appellant.

22. The Hon'ble Supreme Court in the matter of **Sukhbir Singh v. State of Haryana**¹ has observed as under:-

“21. Keeping in view the facts and circumstances of the case, we are of the opinion that in the absence of the existence of common object Sukhbir Singh is proved to have committed the offence of culpable homicide without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and did not act in a cruel or unusual manner and his case is covered by Exception 4 of Section 300 IPC which is punishable under Section 304 (Part I) IPC. The finding of the courts below holding the aforesaid appellant guilty of offence of murder punishable under Section 302 IPC is set aside and he is held guilty for the commission of offence of culpable homicide not amounting to murder punishable under Section 304 (Part I) IPC and sentenced to undergo

¹ (2002) 3 SCC 327

rigorous imprisonment for 10 years and to pay a fine of Rs.5000. In default of payment of fine, he shall undergo further rigorous imprisonment for one year.”

23. The Hon’ble Supreme Court in the matter of **Gurmukh Singh v. State of Haryana**² has laid down certain factors which are to be taken into consideration before awarding appropriate sentence to the accused with reference to Section 302 or Section 304 Part II of the IPC, which state as under :-

“23. These are some factors which are required to be taken into consideration before awarding appropriate sentence to the accused. These factors are only illustrative in character and not exhaustive. Each case has to be seen from its special perspective. The relevant factors are as under :

(a) Motive or previous enmity;

(b) Whether the incident had taken place on the spur of the moment;

(c) The intention/knowledge of the accused while inflicting the blow or injury;

(d) Whether the death ensued instantaneously or the victim died after several days;

(e) The gravity, dimension and nature of injury;

² (2009) 15 SCC 635

(f) The age and general health condition of the accused;

(g) Whether the injury was caused without premeditation in a sudden fight;

(h) The nature and size of weapon used for inflicting the injury and the force with which the blow was inflicted;

(i) The criminal background and adverse history of the accused;

(j) Whether the injury inflicted was not sufficient in the ordinary course of nature to cause death but the death was because of shock;

(k) Number of other criminal cases pending against the accused;

(l) Incident occurred within the family members or close relations;

(m) The conduct and behaviour of the accused after the incident.

Whether the accused had taken the injured/the deceased to the hospital immediately to ensure that he/she gets proper medical treatment ?

These are some of the factors which can be taken into consideration while granting an appropriate sentence to the accused.

24. The list of circumstances enumerated above is only illustrative and not exhaustive. In our considered view, proper and appropriate sentence to the accused is the bounded obligation and duty of the court. The endeavour of the court must be to ensure that the accused receives appropriate sentence, in other words, sentence should be according to the gravity of the offence. These are some of the relevant factors which are required to be kept in view while convicting and sentencing the accused.”

24. Likewise, in the matter of **State v. Sanjeev Nanda**³, their Lordships of the Hon’ble Supreme Court have held that once knowledge that it is likely to cause death is established but without any intention to cause death, then jail sentence may be for a term which may extend to 10 years or with fine or with both. It has further been held that to make out an offence punishable under Section 304 Part II of the IPC, the prosecution has to prove the death of the person in question and such death was caused by the act of the accused and that he knew that such act of his is likely to cause death.

25. Further, the Hon’ble Supreme Court in the matter of **Arjun v.**

3 (2012) 8 SCC 450

State of Chhattisgarh⁴ has elaborately dealt with the issue and observed in paragraphs 20 and 21, which reads as under :-

“20. To invoke this Exception 4, the requirements that are to be fulfilled have been laid down by this Court in Surinder Kumar v. UT, Chandigarh [(1989) 2 SCC 217 : 1989 SCC (Cri) 348], it has been explained as under : (SCC p. 220, para 7)

“7. To invoke this exception four requirements must be satisfied, namely, (i) it was a sudden fight; (ii) there was no premeditation; (iii) the act was done in a heat of passion; and (iv) the assailant had not taken any undue advantage or acted in a cruel manner. The cause of the quarrel is not relevant nor its relevance who offered the provocation or started the assault. The number of wounds caused during the occurrence is not a decisive factor but what is important is that the occurrence must have been sudden and unpremeditated and the offender must have acted in a fit of anger. Of course, the offender must not have taken any undue advantage or acted in a cruel manner. Where, on a sudden quarrel, a person in the heat of the moment picks up a weapon which is handy and causes injuries, one of which

4 (2017) 3 SCC 247

proves fatal, he would be entitled to the benefit of this exception provided he has not acted cruelly.”

21. Further in Arumugam v. State [(2008) 15 SCC 590 : (2009) 3 SCC (Cri) 1130], in support of the proposition of law that under what circumstances Exception 4 to Section 300 IPC can be invoked if death is caused, it has been explained as under : (SCC p. 596, para 9)

“9. '18. The help of exception 4 can be invoked if death is caused (a) without premeditation; (b) in a sudden fight; (c) without the offender's having taken undue advantage or acted in a cruel or unusual manner; and (d) the fight must have been with the person killed. To bring a case within Exception 4 all the ingredients mentioned in it must be found. It is to be noted that the “fight” occurring in Exception 4 to Section 300 IPC is not defined in the Penal Code, 1860. It takes two to make a fight. Heat of passion requires that there must be no time for the passions to cool down and in this case, the parties had worked themselves into a fury on account of the verbal altercation in the beginning. A fight is a combat between two or

more persons whether with or without weapons. It is not possible to enunciate any general rule as to what shall be deemed to be a sudden quarrel. It is a question of fact and whether a quarrel is sudden or not must necessarily depend upon the proved facts of each case. For the application of Exception 4, it is not sufficient to show that there was a sudden quarrel and there was no premeditation. It must further be shown that the offender has not taken undue advantage or acted in cruel or unusual manner. The expression “undue advantage” as used in the provisions means “unfair advantage”.

26. In the matter of **Arjun** (supra), the Hon’ble Supreme Court has held that if there is intent and knowledge, the same would be case of Section 304 Part-I of the IPC and if it is only a case of knowledge and not the intention to cause murder and bodily injury, then same would be a case of Section 304 Part-II of the IPC.

27. Further, the Hon’ble Supreme Court in the matter of **Rambir v. State (NCT of Delhi)**⁵ has laid down four ingredients which should be tested to bring a case within the purview of Exception 4 to Section 300 of IPC, which reads as under:

“16. A plain reading of Exception 4 to Section 300

⁵ (2019) 6 SCC 122

IPC shows that the following four ingredients are required:

- (i) There must be a sudden fight;*
- (ii) There was no premeditation;*
- (iii) The act was committed in a heat of passion; and*
- (iv) The offender had not taken any undue advantage or acted in a cruel or unusual manner.”*

28. The complainant, Pramod Kumar Sao (PW-1), deposed that the deceased, Tirith Kunwar, was his mother. On the date of the incident, he had returned home from his duty at Jindal Steel Plant at about 2:30 p.m., had his meal and was resting inside the house. His wife, Nutan Sao (PW-2), also stated that she was engaged in household work while PW-1 was resting. Both PW-1 and PW-2 deposed that at about 3:30 p.m., their nephew Prince Sao (PW-3) and son Hansraj (PW-11), who were playing outside the house, rushed inside and informed them that the appellant had assaulted the deceased with a tangi. On coming out, they found the deceased lying in a pool of blood with injuries on her neck, while the appellant was standing nearby holding a blood-stained tangi. On seeing them, the appellant left the spot carrying the weapon. Thereafter, the deceased was immediately shifted to KGH Hospital, Raigarh, where she was declared dead. PW-1 also proved the lodging

of the FIR (Ex.P/1), the inquest proceedings (Ex.P/4), the spot map (Ex.P/8), and the seizure memos relating to blood-stained and plain soil, a blood-stained pillow and the DVR (Exs.P/9, P/10 and P/14). Though PW-1 and PW-2 are not eyewitnesses to the actual assault, their evidence consistently establishes that immediately after the occurrence they saw the appellant at the spot holding a blood-stained tangi, and nothing material has been elicited in their cross-examination to discredit this part of their testimony.

29. The testimony of Thandaram Mehar (PW-4) and Kajal Mehar (PW-5) lends further assurance to the prosecution case. Both witnesses reached the place of occurrence immediately after the incident upon hearing cries from the locality. They found the deceased lying in a pool of blood in front of her house and saw the appellant carrying a tangi while proceeding towards his house. Although they candidly admitted that they had not witnessed the actual assault, their evidence regarding the appellant's presence at the spot immediately after the occurrence has remained unshaken during cross-examination and corroborates the version of PW-1 and PW-2.

30. The prosecution has also examined Rameshwar Mehar (PW-9), a witness to the memorandum and seizure proceedings. He deposed that, pursuant to the memorandum statement of the appellant (Ex.P/11), the appellant led the police to his house and produced the tangi, which was seized under Ex.P/12. Despite detailed cross-examination, no material contradiction or infirmity has been brought on record so as to discredit

his testimony. The recovery of the weapon at the instance of the appellant, therefore, stands duly established.

31. The prosecution case is further supported by the testimonies of the child eyewitnesses, Prince Sao (PW-3) and Hansraj Sao (PW-11). Both witnesses consistently deposed that while they were playing outside the house, the appellant came armed with a tangi and questioned the deceased for allegedly throwing garbage towards his house. When the deceased denied the allegation, the appellant, in a fit of anger, assaulted her with the tangi on her neck and back, causing her to fall on the spot. They immediately informed their family members, who shifted the deceased to the hospital, where she succumbed to the injuries. Nothing substantial has been elicited in their cross-examination to discredit their testimony, and their version finds complete corroboration from the medical evidence as well as the surrounding circumstances.

32. The prosecution has further proved the seizure of the blood-stained clothes of the deceased, the blood-stained pillow, the tangi recovered at the instance of the appellant, and the blood-stained soil from the place of occurrence. The articles were forwarded for forensic examination, and the FSL Report (Ex.P/35) reveals the presence of human blood on the seized tangi as well as on the other incriminating articles. The said report has not been challenged by the defence. The forensic evidence, therefore, lends further corroboration to the prosecution case and strengthens the conclusion that the offence was

committed by the appellant using the seized tangi.

33. Reverting to the facts of the present case, this Court finds that the prosecution has successfully established beyond reasonable doubt that it was the appellant who inflicted the fatal injuries upon the deceased. The ocular testimony of the child eyewitnesses, duly corroborated by the medical and forensic evidence, leaves no manner of doubt regarding the complicity of the appellant. However, the material on record does not indicate that the occurrence was the result of any premeditated design or prior planning. On the contrary, the evidence establishes that the incident arose all of a sudden on account of a trivial quarrel relating to the sweeping of garbage, during which the appellant, in the heat of passion, assaulted the deceased with a tangi.

34. The evidence on record further reveals that immediately prior to the occurrence, an altercation had taken place between the appellant and the deceased regarding the disposal of garbage. The prosecution has not brought on record any material to indicate that the appellant had any prior enmity with the deceased or that he had come to the spot with a pre-conceived intention of committing her murder. The occurrence appears to have taken place in the course of a sudden quarrel, without sufficient time for reflection. At the same time, it cannot be overlooked that the appellant used a sharp-edged tangi and dealt a forceful blow on the neck of the deceased, which is a vital part of the human body.

35. In the considered opinion of this Court, the facts and circumstances of the case satisfy the ingredients of Exception 4 to

Section 300 of the IPC. The incident was the outcome of a sudden quarrel; there was no premeditation; the assault was made in the heat of passion; and the prosecution has not established that the appellant acted pursuant to any prior design. Nevertheless, having regard to the nature of the weapon used, the seat of the injury and the manner in which the blow was inflicted, it is evident that the appellant intended to cause such bodily injury as was likely to cause death. Consequently, the offence would fall within the ambit of Section 304 Part I of the IPC and not Section 302 of the IPC.

36. Accordingly, while the conviction of the appellant under Section 302 of the IPC is liable to be altered to one under Section 304 Part I of the IPC, his conviction under Section 201 of the IPC does not call for any interference and is accordingly affirmed.

37. Accordingly, the conviction of the appellant under Section 302 of the IPC is altered to one under Section 304 Part I of the IPC. The appellant is sentenced to undergo R.I. for period of ten 10 years. The fine imposed by the learned trial Court for the said offence, along with the default stipulation, shall remain unaltered. However, the conviction and sentence awarded to the appellant under Section 201 of the IPC, including the fine imposed thereunder, are affirmed.

38. In view of the foregoing discussion, the appeal succeeds in part and is, accordingly, **partly allowed**. The impugned judgment of conviction and order of sentence dated 09.12.2021 stand modified only to the extent that the conviction of the appellant under Section 302 of

the IPC is altered to one under Section 304 Part I of the IPC, with the sentence indicated hereinabove. In all other respects, including the conviction and sentence under Section 201 of the IPC, the impugned judgment is affirmed.

39. The Registry is directed to transmit a copy of this judgment to the Superintendent of the concerned Jail for compliance and to inform the appellant that he is at liberty to prefer an appeal before the Hon'ble Supreme Court with the assistance of the High Court Legal Services Committee or the Supreme Court Legal Services Committee.

40. Let a certified copy of this judgment along with the original record be sent to the trial Court concerned forthwith for information and necessary compliance.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice