CGHC010014452017 2026:CGHC:36740-DB

SAIFAN KHAN Digitally signed by SAIFAN KHAN

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Criminal Appeal No. 1349 of 2017

[Arising out of judgment dated 27.07.2017, passed in Sessions Trial No.109/2016 (State of Chhattisgarh v. Maniram) by the Sessions Judge, Raigarh (CG)]

Maniram S/o Purnuram Uraon, Aged About 31 Years R/o Ward No. 3, Gharghoda, Uraonpara, Police Station Gharghoda, District Raigarh, Chhattisgarh., Chhattisgarh

... **Appellant**
(On Bail)

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Gharghoda, District Raigarh, Chhattisgarh., Chhattisgarh

... **Respondent**

[Cause-title taken from Case Information System (CIS)]

For Appellant	:	Ms. Minakshi Gupta, Advocate on behalf of Mr. Ashish Gupta, Advocate
For Respondent	:	Mr. HAPS Bhatia, Panel Lawyer

Division Bench

Hon'ble Mr. Justice Sanjay K. Agrawal, and
Hon'ble Mr. Justice Radhakishan Agrawal

Judgment on Board
(18.08.2026)

Sanjay K. Agrawal, J

(1) Invoking criminal appellate jurisdiction of this Court, the sole appellant herein has preferred this criminal appeal under Section

374(2) of Cr.P.C., calling in question the legality, validity and correctness of the impugned judgment of conviction and order of sentence dated 27.07.2017, passed in Sessions Trial No.109/2016 (State of Chhattisgarh v. Maniram) by the Sessions Judge, Raigarh (CG), whereby he has been convicted for offence under Section 302 of IPC and sentenced to undergo imprisonment for life with fine of Rs.1000/- and, in default of payment of fine, additional rigorous imprisonment for 02 months.

(2) The case of the prosecution, in short, is that on 13.05.2016, at about 12:05 AM, at Uraonpara, which comes within the ambit of Police Station Gharghoda, District Raigarh (CG), the accused-appellant herein assaulted his brother, namely, Dhaniram (hereinafter referred to as the "deceased") by means of knife, due to which, he suffered grievous injuries and died and, thereby, said to have committed the aforesaid offence.

(3) It is further case of the prosecution that when the matter was reported to the police, merg intimation (Ex.P/22) and FIR (Ex.P/10) were registered and wheels of investigation started running, in which, summons under Section 175 of CrPC were sent vide Ex.P/06 and inquest proceedings were conducted vide Ex.P/05. Spot map was also prepared vide Ex.P/01 & Ex.P/08, whereas Panchnama was also prepared vide Ex.P/02. The dead-body of the deceased was sent for postmortem examination, which was conducted by Dr. Vijay Lakda

(PW-07) and, as per PM report (Ex.P/19), cause of death of the deceased is shock and hemorrhage due to excessive bleeding and nature of death is homicidal. The appellant-accused was arrested vide Ex.P/25 and his memorandum statement was recorded vide Ex.P/14. Pursuant to the memorandum statement of the appellant, knife was seized vide Ex.P/15. Thereafter, the seized articles were sent for chemical examination, in which, as per FSL report (Ex.P/27) it has been opined that stains human blood were found on the knife seized from the appellant. After statements of witnesses were recorded and due investigation, the police filed charge-sheet against the appellant in the competent criminal court having jurisdiction and, thereafter, the case was committed to the Court of Sessions for hearing and trial in accordance with law, in which the appellant/accused abjured his guilt and entered into defence by stating that he is innocent and has been falsely implicated.

(4) The prosecution in order to prove its case examined as many as 10 witnesses and exhibited 30 documents, whereas the appellant-accused in support of his defence neither examined any witness nor exhibited any document.

(5) The learned trial Court after appreciating the oral and documentary evidence available on record, proceeded to convict the appellant for offence under Section 302 of IPC and sentenced him as mentioned herein-above, against which this appeal has been

preferred by the appellant-accused questioning the impugned judgment of conviction and order of sentence.

(6) Learned counsel appearing for the appellant submits that the learned trial Court is unjustified in convicting the appellant for the aforesaid offence, as the prosecution has failed to prove the offence beyond reasonable doubt. Learned counsel argued that two eye-witnesses, namely, Purnu Ram Uraon (PW-01) and Nirmala Uraon (PW-02) have turned hostile and not supported the case of the prosecution at all. Even, witnesses of memorandum (Ex.P/14) and seizure (Ex.P/15) have also not supported the case of the prosecution and they both have also turned hostile, as such, seizure of knife pursuant to the memorandum statement of the appellant is also of no help to the prosecution. Merely, because in the FSL report (Ex.P/27) human blood has been found in the said knife, the same has been made basis for the conviction of the appellant. Hence, the present appeal deserves to be allowed and the appellant is liable to be acquitted of the said charges on the basis of benefit of doubt.

(7) *Per-contra*, learned State counsel supported the impugned judgment of conviction and order of sentence and submits that the prosecution has proved the offence beyond reasonable doubt by leading evidence of clinching nature. In view of the statements of prosecution witnesses coupled with other material available on record, the learned trial Court has rightly convicted the appellant for

offence under Section 302 of IPC. Thus, the present appeal deserves to be dismissed.

(8) We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

(9) The first and foremost question is as to whether the death of the deceased was homicidal in nature, which the learned trial Court has recorded in affirmative by taking into consideration the postmortem report (Ex.P/19), wherein it has been opined that cause of death of the deceased is shock and hemorrhage due to excessive bleeding and nature of death is homicidal, which is duly proved by the statement of Dr. Vijay Lakda (PW-07). Accordingly, taking into consideration the postmortem report (Ex.P/19) and the statement of Dr. Vijay Lakda (PW-07), who has conducted the postmortem of the dead-body of the deceased, we are of the considered opinion that the death of the deceased is homicidal in nature, as the same is correct finding of fact based on evidence and same is neither perverse nor contrary to the record. We hereby affirm the said finding.

(10) Now, the next question for consideration would be whether the appellant herein is the author of the crime or not ?

(11) In the case at hand, the conviction of the appellant is based on the testimony of eye-witnesses, namely, Purnu Ram Uraon (PW-01)

and Nirmala Uraon (PW-02), however, both the witnesses have turned hostile and not supported the case of the prosecution at all. Purnu Ram Uraon (PW-01) is father of the appellant, whereas Nirmala Uraon (PW-02) is wife of the appellant. Though, Purnu Ram Uraon (PW-01) was present in the house nearby, but he clearly refuted the suggestion that the appellant and his wife- Nirmala Uraon both were quarreling and when deceased went to settle the dispute, out of anger, the appellant assaulted him by means of knife, due to which, he suffered grievous injuries and died. Though the learned trial Court relied upon the statement of Purnu Ram Uraon (PW-01), but since he has not supported the case of the prosecution, the conviction of the appellant cannot be based on the testimony of such a witness who has not supported the case of the prosecution and turned hostile. Similarly, Nirmala Uraon (PW-02) was also present in the house, but she totally denied the case of the prosecution and turned hostile. As such, learned trial Court is totally unjustified in relying upon the statements of Purnu Ram Uraon (PW-01) and Nirmala Uraon (PW-02) in shape of eye-witness to the incident in order to hold the appellant guilty for the offence in question. We hereby hold accordingly.

(12) So far recovery of knife vide Ex.P/15 pursuant to the memorandum statement of the appellant recorded vide Ex.P/14 is concerned, the same is also not free from doubt for the reason that

witnesses to said memorandum and seizure, namely, Devdas Uraon (PW-05) and Netram Uraon (PW-06) both have also turned hostile and not supported the case of the prosecution at all. Even otherwise, there is no evidence available on record to show that it is the appellant herein who has used the said knife in commission of the offence in question and, therefore, the recovery aforesaid is not a reliable piece of evidence in the present case (**See**: **Mustkeem alias Sirajudeen vs. State of Rajasthan**[1]. As such, recovery aforesaid is also of no help to the prosecution. We hereby hold accordingly.

(13) Now, the forensic evidence in shape of FSL report (Ex.P/27), wherein it has been opined that stains of human blood were found on the knife seized pursuant to the memorandum statement of the appellant. However, the said knife was seized on 15.05.2016 vide Ex.P/15 and thereafter the same were sent for chemical examination to FSL, Raipur, which was received therein on 04.07.2016 i.e. after about 49 days and there is no evidence available on record to show that as to whether the said seized article was kept in safe custody for the said period of not. Therefore, chances of fabrication and manipulation cannot be ruled out. Consequently, on this count, the result of FSL report pales into insignificance and cannot be relied upon to hold the appellant guilt for the offence. We hereby hold accordingly.

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1 (2011) 11 SCC 724

(14) In view of foregoing analysis, we are unable to hold that the prosecution has been able to prove its case beyond all reasonable doubt, in absence of which, the learned trial Court is unjustified in convicting the appellant for offences under Section 302 being the author of the crime in question in light of the findings culled out in the impugned judgment and same are liable to be set aside.

(15) Accordingly, we hereby set aside the conviction so recorded and the sentence so awarded by the trial Court to the appellant vide the impugned judgment dated 27.07.2017. The appellant is acquitted of the charge under Section 302 of the IPC on the basis of benefit of doubt. The appellant is reported to be on bail, therefore, he need not to surrender. However, his bail bond shall remain in force for a further period of six months in view of the provision contained in Section 437-A of the CrPC.

(16) This criminal appeal is **allowed.**

(17) Let a certified copy of this judgment alongwith the original record be transmitted to the trial Court concerned for necessary information and action, if any.

Sd/-
(Sanjay K. Agrawal)
Judge

sd/-
(Radhakishan Agrawal)
Judge

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