



2024:CGHC:43746-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 342 of 2022**

Ashwani @ Golu Dhuri S/o Late Shri Ramcharan Dhuri Aged About 25 Years R/o Chulghat Road, Takhatpur, Police Station Takhatpur, District Bilaspur, Chhattisgarh.

... Appellant**versus**

State Of Chhattisgarh Through S.H.O. Police Station Takhatpur, District Bilaspur, Chhattisgarh.

... Respondent

For Appellant : Mr. Nishi Kant Sinha, Advocate

For Respondent : Mr.Sanghrash Pandey, Government Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Amitendra Kishore Prasad, Judge

Judgment on Board**Per Ramesh Sinha, Chief Justice****11/11/2024**

1. This criminal appeal under Section 374(2) of the CrPC is directed against the impugned judgment of conviction and order of sentence dated 17.11.2021 passed by the Fifth Additional Sessions Judge, Bilaspur in Sessions Case No.29/2019, by which the appellant herein has been convicted for offence under Sections 307, 450, 302 and 302 of the IPC and sentenced to

undergo RI for 10 years and fine of Rs.1000/-, in default of payment of fine to further undergo RI for 100 days, RI for 7 years and fine of Rs.1000/-, in default of payment of fine to further undergo RI for 100 days, imprisonment for life and fine of Rs.2000/-, in default of payment of fine, to further undergo RI for 200 days and imprisonment for life and fine of Rs.2000/-, in default of payment of fine, to further undergo RI for 200 days. All the sentences were directly to run concurrently.

2. Case of the prosecution, in brief, is that on 08.10.2018 at around 11 P.M. in village Khapri, Police Station Takhatpur, District Bilaspur the accused under the jurisdiction of deceased Siyaram Dhuri and Shakun Bai Dhuri entered the house with an intention to kill Siyaram Dhuri and Shakun Bai Dhuri and caused criminal house trespass. The accused killed Siyaram Dhuri and Shakun Bai Dhuri by hitting with a spade and gandasas as well as injured Uma Dhuri by hitting an iron pot and a spade inflicting such serious injuries for causing death. Complainant Shiv Kumar's sister was married with accused Ashwani @ Golu Dhuri. After the marriage, the accused started harassing the complainant's sister. Uma Dhuri leaves the house of the accused and started living with her parent along with her son in village Khapri. The appellant was angry with the parents of the complainant on this issue. During social divorce meeting, the appellant quarreled and assaulted Uma Dhuri and threatened to convince her to come to him or else he would kill her. As Uma Dhuri did not go to the accused, the

accused out of enmity, was waiting to kill her and on the date of incident i.e. 08.10.2018 at about 1 P.M. he reached village Khapri, entered the house of Siyaram Dhuri and assaulted the complainant's parents Shakun Bai and Siyaram Dhuri with sharp weapons "gandasa and spade" and killed them. The appellant assaulted the complainant's sister Uma Dhuri with sharp weapon "gandasa and spade" and inflicted serious injuries on her, due to which Uma Dhuri became unconscious. The complainant was informed about the incident by his material uncle Sunder over phone and when he reached village Khapri, the complainant's parents had already died and Uma Dhuri had been taken to the hospital.

3. On the registration of separate-separate merg intimation by complainant Shiv Kumar Dhuri regarding death of his parents, on 09.10.2018 Sub-Inspector Rakesh Sahu recorded merg intimation No.73/2018 & 74/2018 and registered the First Information Report under Sections 302, 307 and 450 of the IPC against the appellant in Crime No.395/2018.
4. During investigation, the investigating officer Sharad Kumar Chandra (PW-13) went to the site of the incident and map and panchayatnama were prepared in presence of the witnesses by giving notice to the witnesses regarding panchnama proceeding under Section 175 CrPC. Injured Uma Dhuri was sent for MLC to Community Health Center, Takhatpur where Dr.Divya Agrawal (PW-3) examined her vide Ex.P-4 and found following injuries:-

- (i) Lacerated wound measuring 10 x 3 cm over left side jaw.
- (ii) lacerated wound measuring 5 x 2 cm over left side cheek.
- (iii) Lacerated wound measuring 7 x 4 cm over left hand.
- (iv) Lacerated wound measuring 3 x 1 cm over right side chest.
- (v) Lacerated wound measuring 5 x 3 cm over right hand.
- (vi) Lacerated wound measuring 3 x 3 cm over right forearm.
- (vii) Lacerated wound measuring 5 x 3 cm over right hand.
- (viii) Lacerated wound measuring 3 x 3 cm over occipital area of handover.
- (ix) Lacerated wound 3 x 3 cm over left arm.

The doctor referred her to CIMS, Bilaspur. Statement of injured Uma Dhuri was recorded under Section 164 CrPC before the Judicial Magistrate First Class, Bilaspur vide Ex.P-1. Memorandum statement of the appellant was recorded vide Ex.P-5 and on the basis of his memorandum statement, slippers, one full sleeve shirt of colour cotton white and blue and a torn lower with elastic at the waist stains with blood were seized at the instance of the appellant vide Ex.P-6. Cycle was seized from the

appellant vide Ex.P-7. The appellant was arrested on 10.10.18 vide arrest memo Ex.P-8. Statement of Meera Dhuri was recorded vide Ex.P-9. Dead body of deceased Siyaram Dhuri was sent for postmortem to Community Health Center, Takhatpur where Dr.Ashish Kacchyap (PW-7) conducted postmortem over the body of deceased Siyaram Dhuri vide Ex.P-10 and found following injuries:-

(1) Incised wound measuring 6 cm x 5 cm x 2 cm deep left side of neck, regular margin, reddish in colour. Hard and sharp object duration within 12 to 16 hrs. AM in nature.

(2) Incised wound measuring 5 cm x 2 cm x 0.5 cm left parietal region of scalp, margin regular, reddish in colour. Hard and sharp object. Duration within 12 to 16 hrs. AM in nature.

(3) Incised wound measuring 3 cm x 1 cm x 0.5 cm right occipital region of scalp, margin regular, reddish in colour, hard and sharp object duration within 12 to 16 hrs. AM in nature.

The doctor has opined that cause of death of Siyaram Dhuri is haemorrhagic shock due to homicidal fatal injury over neck and head. AM in nature. Manner of death is homicidal. Dead body of deceased Smt.Shakun Dhuri was also sent for postmortem to Community Health Center, Takhatpur where Dr.Ashish Kacchyap

(PW-7) conducted postmortem over the body of Smt.Shakun Dhuri vide Ex.P-11 and found following injuries:-

(1) Incised wound over right side of face measuring 9 cm x 2.5 cm x 2 cm deep extended from the right upper lip to mandibular region, skin, muscle, bone cut caused by hard and sharp object. Reddish in colour regular margin. AM in nature duration within 12 to 16 hrs.

(2) Incised wound measuring 10 cm x 7 cm x 2.5 cm deep present on right side of neck extended from just below the mandibular region to lateral back of the right side of neck. Reddish in colour, dry and clot blood present, cut skin, muscles, nose and artery and vein caused by hard and sharp object. AM in nature within 12 to 16 hrs.

(3) Incised wound measuring 4 cm x 1.5 cm x 1 cm right mandibular region of face, margin regular, reddish in colour caused by hard and sharp object. AM in nature duration within 12-16 hrs.

(4) Incised wound measuring 2 cm x 0.5 cm x 0.3 cm extended from right bridge of the nose to the dorsum of nose margin regular, reddish in colour, hard and sharp object, duration within 12 to 16 hrs. AM in nature.

(5) Incised wound measuring 8 cm x 2 cm x 1.5 cm deep left mandibular region of face, margin regular, reddish in

colour caused by hard and sharp object duration within 12 to 16 hrs. AM in nature.

(6) Superficial incised wound measuring 3 cm x 1 cm x 0.2 cm left side cheek, margin regular, reddish in colour caused by hard and sharp object. Duration within 12 to 16 hrs. AM in nature.

(7) Through and through incised wound measuring 1.5 cm x 0.5 cm x 0.3 cm left mid of pinna, cut skin and cartilage, margin regular, reddish in colour caused by hard & sharp object duration within 12 hrs – 16 hrs. AM in nature.

(8) Superficial incised wound measuring 5 cm x 5 cm x 0.1 cm over left side of forehead, margin regular, reddish in colour caused by hard and sharp object. AM in nature.

(9) Incised wound measuring 5 cm x 2.5 cm x 0.5 cm deep left temporal region of scalp, margin regular, reddish in colour. Hard and sharp object. Duration within 12 to 16 hrs. AM in nature.

(10) Incised wound measuring 5 cm x 1 cm x 0.5 cm deep over mid occipital region. Margin regular, reddish in colour. Hard and sharp object. Duration within 12 to 16 hrs. AM in nature.

(11) Incised wound measuring 5 cm x 1.5 cm x 1 cm deep over left mid arm region. Margin regular, reddish in colour.

Hard and sharp object. Duration within 12 hrs to 16 hrs.

AM in nature.

The doctor has opined that cause of death of Sakun Dhuri is haemorrhagic shock due to homicidal fatal injury over face, neck and head region. AM in nature. Mode of death is homicidal. Merg intimation was recorded vide Ex.P-13. Spade stains with blood, gandasa stains with blood and sari stains with blood were seized from the spot vide Ex.P-17. Spot map was prepared by the investigating officer vide Ex.P-18. FIR was registered vide Ex.P-19. Seized articles i.e. Spade (Article A), Gandasa (Article B), Sari (Article D), Slipper (Article D), Fullshirt (Article E) and lower (Article F) were sent for examination to FSL vide Ex.P-26 and as per FSL report (Ex.P-28), blood was found on Articles A, B, C, D, E and F. The spots in Article D are disintegrated, hence, the test result for human origin is found negative. The test result on Articles B, E and F are inconclusive, hence, the blood group result could not be ascertained.

5. After completion of investigation, charge-sheet was filed before the Judicial Magistrate First Class, Takhatpur, who in turn, committed the case to the Court of Session, Bilaspur, from where the Fifth Additional Sessions Judge, Bilaspur received the case on transfer for trial. The accused/appellant abjured the guilt and entered into defence.

6. In order to bring home the offence, the prosecution examined as many as 13 witnesses and exhibited 30 documents Exs.P-1 to P-30. Statement of the accused/appellant was recorded under Section 313 of the CrPC in which he denied guilt and taken the plea of alibi and examined two witnesses in his defence i.e. Ramcharan Dhuri (DW-1) and Devendra Kumar Dhuri (DW-2).
7. The trial Court upon appreciation of oral and documentary evidence available on record, by its judgment dated 17.11.2021, convicted the appellant for offence under Sections 307, 450, 302 and 302 of the IPC and sentenced as mentioned in opening paragraph of this judgment, against which, this criminal appeal has been preferred by the appellant herein.
8. Mr. Nishikant Sinha, learned counsel for the appellant submits that the appellant has not committed any offence and he has been falsely implicated for the reason that Uma Dhuri was leaving separately since 3 years from her husband / accused and having 3½ years old child, she was living with her parents and having affair with one Pappu Kumri. The statement of Uma Dhuri deserves to be disbelieved as she is interested witnesses who gains from the outcome of the case. He further submits that enmity of Uma Dhuri with her parents was for property as she did not want to share property with her brothers from second wife of her father. Ravishankar Dhuri (PW-11) has stated about this enmity and threatening given by her to the deceased persons one

day prior to incident. He also submits that the prosecution says that memorandum of the accused was recorded at Chakarbhata Railway Station whereas the witnesses of the memorandum and seizure Neera Dhuri (PW-6) and Sakina Dhuri (PW-8) state contradictory that it was recorded at Police Station Takhatpur where the accused was in custody. Even seizure of clothes from the accused also was made from open place whereas the seizure witnesses Neera Dhuri (PW-6) and Sakina Dhuri (PW-8) have denied such seizure from the spot and have stated that they were made to sign the documents at police station. He contended that all the injuries caused to the deceased persons are incised wounds caused by sharp edged weapons seized from the spot, whereas Uma Dhuri sustained only lacerated wounds all over the body from hard and blunt object and she survived which cast a serious doubt on her story as she was alone in the house. If the motive of the appellant was to take away his child from the deceased persons then he could have taken the child from their possession after committing the crime, but there is no iota of evidence that where what happened to child after the incident, therefore the motive of the offence has also not been proved. He contended that the blood stains in Article alleged to be seized from the appellant / accused also not incriminating as it has not proved to be the blood of the deceased persons. Furthermore, the investigating officer has not produced the report of finger print expert and report of sniffer dogs as they were against the guilt of

the accused. Therefore, the guilt of the appellant has not been proved and he is entitled to be acquitted.

9. On the other hand, Mr. Sanghrash Pandey, learned Government Advocate appearing for the respondent/State supports the impugned judgment and submits that the prosecution has proved its case beyond reasonable doubt and the trial Court has rightly convicted and sentenced the appellant as aforementioned, which warrants no interference by this Court.
10. We have heard learned counsel appearing for the parties, considered their rival submissions made herein-above and also went through the records with utmost circumspection.
11. The first question for consideration would be, whether death of deceased Siyaram Dhuri and Shakun Bai Dhuri was homicidal in nature, which the trial Court has recorded to be homicidal in nature based upon testimony of Dr.Ashish Kacchyap (PW-7), who has conducted postmortem and submitted report vide Exs.P-10 and 11, in which he has clearly opined that cause of death is haemorrhagic shock due to homicidal fatal injury over neck and head and manner of death is homicidal. In view of medical evidence available on record, finding recorded by the trial Court that death of the deceased was homicidal in nature is a binding based on evidence available on record. We hereby affirm the said finding.

12. The next question is that the appellant has been convicted on the sole testimony of injured eyewitness Smt.Uma Dhuri (PW-1) (wife of the appellant and daughter of the deceased).
13. Smt.Uma Dhuri (PW-1) has stated in para 1 of her examination-in-chief that she recognize accused Ashwani alias Golu present in court. In 2014, she married Ashwani, a resident of Chulghat Road, Takhatpur. Initially, their relationship was good, but it deteriorated and she returned to her parental home in Khapri village. After a year, a social meeting was held, but she did not return to her in-laws' house. Her father Siyaram Dhuri and mother Shakun Bai, lived with her in Khapri. She has a son of 3 years from the side of accused Ashwani @ Golu. She and her husband accused Ashwani @ Golu have already been divorced at the social level. Her father was working as a watchman in the PWD Rest House, Khapri. In para 2 she has stated that in the night of 08.10.2018 her father Siyaram came back from his duty and knocked on the door. When her mother Shakun Bai opened the door, she saw that accused Ashwani @ Golu had also followed her father and he also entered the house from the door and after closing the latch of the door, he assaulted her father on the head with gandasa. When her mother Shakun Bai tried to intervene, accused Ashwani @ Golu assaulted her also on the head and neck with gandasa. After that, when she also went to intervene, he assaulted her on the head with gandasa, due to which she fell down, her mother also fell down. Accused Ashwani @ Golu dragged her mother Shakun

Bai to the place where she was lying and assaulted her on the neck with spade. In para 3 she has stated that accused Ashwani @ Golu fled from there thinking her dead. Her father Siyaram and mother Shakun Bai died on account of assault made by accused Awhwani @ Golu. Her mobile phone was lying there, from which she dialed 112 and informed the police. After 5-10 minutes the police arrived. The police took her to Takhatpur Hospital for treatment. After that, on referral by the doctor, she was admitted to CIMS Hospital, Bilaspur. After being admitted in CIMS Hospital for three days, the doctor referred her to Care and Cure Hospital where she was admitted. In para 4, she has stated that steel rod was put in her hand by the doctor. The witness, while showing her entire head, neck, face, both hands, wrist, paw, arm, lower part of the left leg before the Court, told that the above injury was caused due to the accused assaulting her with gandasa. The police interrogated her and recorded her statement. The police brought her to the court of Judicial Magistrate First Class, Bilaspur Smt.Chhaya Singh for statement under Section 164 CrPC, where her statement was recorded, which is Ex.P-1 on which her thumb impression is there. In para 10 of her cross-examination, Uma Dhuri (PW-1) has denied that she did not see accused Awhwani @ Golu assaulting her father. She has also denied that on the date of incident, when the accused was assaulting her father, she did not shout and call the neighbours. The witness herself says that she shouted, but no one came. In para 13 she has admitted

that she has not filed any case against the accused for maintenance before the Family Court. The witness herself says that she has complained about the assault. After social separation, the accused used to beat her and her mother whenever he came to see his child Himanshu at night. The accused had come to their house three-four times before the incident and used to beat them and then leave. She has denied that she did not complain anywhere in this regard. The witness herself says that she did complain, but no action was taken anywhere. She complained at Takhatpur Police Station. He has denied that the accused never came to their house nor did she complain against him anywhere. In her 164 CrPC statement recorded before the Judicial Magistrate First Class, Bilaspur (Ex.P-1), she has stated that Ashwani @ Golu Dhuri is her husband. When she got married, he used to fight and beat her a lot. He was a drug addict. Being fed up with his habits, she started living in her maternal home in village Khapri, Police Station Takhatpur. He used to come and fight with her parents repeatedly saying that you have kept the girl and are not sending her back even though they have already been socially divorced. She has a three years old son who lives with her. On 08.10.2018 everyone had gone to sleep at night and her father worked as a watchman in the rest house, so he did not return till late night. He came and knocked on the door of the house, then her mother opened the door. At that time Ashwani came from behind and killed her

parents with a sharp weapon used for cutting paira. Her mother was still alive even after he killed her, so he again split her throat with a weapon, which resulted in her death. In the midst of this incident, she woke up and went to intervene, then he attacked her with the same weapon. The witness showed the Court the injuries on her body, both hands, face, chest, back and legs caused by sharp weapons. The hair on her head was also cut due to the injury, which was told by the witness. Her parents died there itself. When she got injured, her family members admitted her to CIMS Hospital. This incident was reported by her brother Shivkumar Dhuri.

14. The proposition which has been laid down by the Supreme Court in the matter of ***Md. Jabbar Ali and Others Vs. State of Assam*** {2022 SCC OnLine SC 1440} stated that it is the well-settled principle that just because the witnesses are related/interested/partisan witnesses, their testimonies cannot be disregarded, however, it is also true that when the witnesses are related/interested, their testimonies have to be scrutinized with greater care and circumspection. The Court in para 55 & 56 has held as under:-

55. It is noted that great weight has been attached to the testimonies of the witnesses in the instant case. Having regard to the aforesaid fact that this Court has examined the credibility of the witnesses to rule out any tainted evidence given in the court of Law. It was contended by learned counsel for the appellant that

the prosecution failed to examine any independent witnesses in the present case and that the witnesses were related to each other. This Court in a number of cases has had the opportunity to consider the said aspect of related/interested/partisan witnesses and the credibility of such witnesses. This Court is conscious of the well-settled principle that just because the witnesses are related/interested/partisan witnesses, their testimonies cannot be disregarded, however, it is also true that when the witnesses are related/interested, their testimonies have to be scrutinized with greater care and circumspection. In the case of Gangadhar Behera v. State of Orissa (2002) 8 SCC 381, this Court held that the testimony of such related witnesses should be analysed with caution for its credibility.

56. In Raju alias Balachandran v. State of Tamil Nadu (2012) 12 SCC 701, this Court observed:

“29. The sum and substance is that the evidence of a related or interested witness should be meticulously and carefully examined. In a case where the related and interested witness may have some enmity with the assailant, the bar would need to be raised and the evidence of the witness would have to be examined by applying a standard of discerning scrutiny. However, this is only a rule of prudence and not one of law, as held in Dalip Singh [(1953) 2 SCC 36: AIR 1953 SC 364] and pithily reiterated in Sarwan Singh [(1976) 4 SCC 369] in the following words: (Sarwan Singh case [(1976) 4 SCC 369, p. 376, para 10)

“10. ... The evidence of an interested witness does not suffer from any infirmity as such, but the courts require as a rule of prudence, not as a rule of law, that the evidence of such witnesses should be scrutinised with a little care. Once that approach is made and the court is satisfied that the evidence of interested witnesses have a ring of truth such evidence could be relied upon even without corroboration.”

15. Similar view has been reiterated by the Supreme Court in the matter of ***Manikandan Vs. State By Inspector of Police {AIR 2024 Supreme Court 1801}*** and ***Bhupatbhai Bachubhai Chavda and Another Vs. State of Gujarat {AIR 2024 Supreme Court 1805}*** .
16. The Supreme Court in the matter of ***Balu Sudam Khalde and another Vs. State of Maharashtra {AIR 2023 Supreme Court 1736: AIROnline 2023 SC 229}*** has discussed the value to be given to the injured witnesses. Wherein at para 26 the Court has laid down the following principles:-

26. When the evidence of an injured eye-witness is to be appreciated, the under-noted legal principles enunciated by the Courts are required to be kept in mind:

(a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

(b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

(d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

(e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

(f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.

17. Dr.Ashish Kacchyap (PW-7) has been examined as PW-7. The doctor has found as many three incised wounds over the body of deceased Siyaram vide Ex.P-10 and cause of death of Siyaram Dhuri is haemorrhagic shock due to homicidal fatal injury over neck and head and nature of death is homicidal. The doctor has also found many as many as eleven incised wounds over the body of deceased Sakun Dhuri vide Ex.P-11 and cause of death of Sakun Dhuri is haemorrhagic shock due to homicidal fatal injury over face, neck and head region and manner of death is homicidal.
18. Investigating officer Sharad Kumar Chandra (PW-13) has stated in para 10 of his examination-in-chief that on 10.10.2018 memorandum statement of accused Ashwani @ Golu Dhuri was

recorded in front of witnesses Neera Dhuri and Sakina Dhuri, in which the accused stated that he had hidden the clothes and slippers worn at the time of the incident i.e., full sleeve shirt, blue colour lower, greyish yellow colour black plastic slippers near the bushes in the drain behind the urinal at Chakarbhatta Railway Station. His Memorandum statement is Ex.P-5. On the basis of said memorandum statement, on the same date, a pair of plastic slippers of size 10, red and black on which Paragon is written, in worn out condition, a full sleeve shirt of colour cotton white and blue, striped on the shoulder, on which 7 buttons are attached, one button at the back, the second number button is broken, on which pre-heated casual shirt Excel number 42 is written, on which blood like stains are present at various places, a torn lower with elastic at the waist and feet, on which yellow stripe is made, the colour of lower is grey, on which blood stains are present at various places, were seized in front of witnesses and taken into possession by the police. The seizure memo is Ex.P-6.

19. Shiv Kumar Dhuri (PW-10) has stated in para 3 of his evidence that accused Ashwani @ Golu murdered his mother and father. Due to a dispute with his wife, the accused killed his mother-in-law and father-in-law with sickle, spade and gandasa. When they went to the spot, his parents were lying dead soaked in blood. In para 5 he has stated that he had informed the police about the deceased and the incident which are merg intimation Exs.P-14 and P-15.

20. Ravishankar Dhuri (PW-11) (stepbrother of injured Uma Dhuri (PW-1) has stated in para 2 of his examination-in-chief that deceased Siyaram Dhuri and Smt.Sakun Bai Dhuri were his parents. The incident happens 8-9 months ago. His elder brother Shiv Kumar's uncle-in-law called them at around 6 A.M. in the morning and told us that father Siyaram and mother Sakun Bai have been murdered. Then he went to village Khapri from his residence Sarkanda. When he went to the spot, his mother Sakun Bai was lying dead at the door of the house and his father Siyaram Dhruv was lying dead inside the room. In para 3 of his examination-in-chief, he has stated that his sister Uma Dhuri was admitted to CIMS Hospital, Bilaspur by her aunt Meena. Before this, his sister Uma Bai had a fight with his parents. In para 4 of his cross-examination, this witness has stated that Uma Dhuri has been living separately from accused Ashwani for about two-three years. He has admitted that Uma Dhuri did not want to live with accused Ashwani. He has admitted that there has been no divorce between Uma Dhuri and accused Ahwani in the court, the witness voluntarily said that there has been a social divorce. He has admitted that accused Ashwani Dhuri wants to keep Uma Dhuri and the child with him. In para 5 of his cross-examination he has stated that his father late Siyaram Dhuri was a government servant. He has admitted that Uma has applied alone for compassionate appointment in place of his father late Siyaram Dhuri after his death. He has also admitted that Uma did not take

any consent from four of them before applying for the above job. In para 6 of his cross-examination, this witness has admitted that Uma has submitted an application to the concerned Court to get the above house and land transferred in the name. He has admitted that Uma Dhuri does not want to divide any part of the above house and land among them, the witness voluntarily said that Uma has also got a fake death certificate made. He has also admitted that two days before the incident, his father Siyaram Dhuri called him and said to come to Khapri and divide the property among themselves, then he went to Khapri, there Uma told his parents that this entire property is mine, if you divide it then it will be wrong.

21. There may be some dispute between Ravi Shankar Dhuri (PW-11) and injured Uma Dhuri (PW-1) with regard to some property or compassionate appointment in place of their father and Ravi Shankar Dhuri (PW-11) has stated that before this incident, his sister Uma Bai had a fight with his parents, but this witness has not stated anywhere that his sister Uma Dhuri has committed murder of his parents, whereas Uma Dhuri (PW-1) is injured eyewitness who has seen accused Ashwani @ Golu assaulting her parents.
22. On the basis of testimony of injured eyewitness Uma Dhuri (PW-1) and further on the basis of memorandum statement (Ex.P-5), slippers, one full sleeve shirt of colour cotton white and blue and a torn lower with elastic at the waist stains with blood were seized at

the instance of the appellant vide Ex.P-6 and it has been subjected to FSL, in which blood was found. Moreover, spade, gandasa and sari seized from the spot in which human blood was found vide Ex.P-28 and the trial Court has rightly convicted the appellant on the basis of the aforesaid incriminating evidence based on testimony of injured eyewitness Uma Dhuri (PW-1), as such, the trial Court is absolutely justified in convicting the appellant for offence under Sections 307, 450, 302 and 302 of the IPC . We do not find any merit in this appeal.

23. In the result, this Court comes to the conclusion that the prosecution has succeeded in proving its case beyond all reasonable doubts against the appellant. The conviction and sentence as awarded by the trial court to the appellant is hereby upheld. The present criminal appeal lacks merit and is accordingly **dismissed**.
24. It is stated at the Bar that the appellant is in jail. He shall serve out the sentence as ordered by the trial Court.
25. The Registry is directed to transmit the certified copy of this judgment along with the record to the trial Court concerned for necessary information and compliance.

Sd/-
(Amitendra Kishore Prasad)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice