



2025:CGHC:25748-DB

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 1950 of 2024**

Sant Kumar S/o Rajkishor Aged About 35 Years R/o Village Sikahara, Post Jalalpur, Police Station- Madhsena, District - Firozabad, U.P.

... Appellant**versus**

State Of Chhattisgarh Through Station House Officer, Police Station- Basaguda, District- Bijapur, C.G.

... Respondent

For Appellant	:	Ms. Fouzia Mirza, Senior Advocate assisted by Mr. Navin Shukla, Advocate.
For Respondent	:	Mr. Shashank Thakur, Deputy Advocate General

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Bibhu Datta Guru, Judge****Judgment on Board****Per Ramesh Sinha, Chief Justice****19/06/2025**

1. The appellant has preferred this appeal under Section 415(2) of the Bhartiya Nagrik Suraksha Sanhita, 2023 (for short, the BNSS) questioning the impugned judgment dated 27.08.2024 passed by the learned Additional Sessions Judge, Special Court (Naxal) Dantewada,

District South Bastar Dantewada, in Sessions Trial No. 104/2018
whereby the appellant has been convicted and sentenced as under:

Conviction Under Section	Sentence	Fine	In default of payment of fine
302 of the Indian Penal Code (four times)	Life imprisonment (four times)	Rs. 500/- (four times)	4 years Rigorous imprisonment (for short, R.I) more.
307 of IPC	10 years R.I.	Rs. 500/-	2 years R.I. more
25(1B)(a) of the Arms Act	2 years R.I.	Rs. 500/-	4 months R.I. more
27(1) of the Arms Act	3 years R.I.	Rs. 500/-	6 months R.I. more.
The sentences have been directed to run concurrently.			

2. The appellant/accused Sant Kumar was charged for the offences under Sections 302 (four times), 307 of the IPC, and Sections 25 (1B)(a) and 27 (1) of the Arms Act alleging that on 09.12.2017 at about 16:30 hours, at the place CRPF Battalion Camp premises, with an intention to cause murder of Sub Inspector Vicky Sharma (Force No. 041603393), Sub Inspector Megh Singh (Force No. 850826452), Assistant Sub Inspector Rajveer Singh (Force No. 880925653), Constable/GD Shankar Rao Ghanta (Force No. 015142312), the appellant fired at them with fire arms thereby killing them and also injuring Gajanand (Force No. 903046724) with fire arms, due to which he sustained bullet injury. The said act was done by him with such intention or knowledge and in such circumstances that, if the said act had caused the death of Gajanand (Force No. 93046724) he would have been guilty of murder. It was also alleged against the appellant that he had illegally kept a fire arm, a rifle in his possession and used it to cause the death and injury to above personnel.

3. The prosecution case, in brief is that, there was a rivalry between Constable Sant Kumar i.e. the appellant and Sub Inspector Vicky Sharma, posted in CRPF 168th Battalion G Company Basaguda, District Bijapur regarding allotment of duty. The appellant was angry about duty being allotted and Assistant Sub Inspector Rajveer Singh, Sub Inspector Chaudhary Megh Singh, Constable Shakar Rao Ghanta supported him. On the date of the incident, the appellant kept his service rifle in his barrack and went to the subordinate Officers' rest room and took his service rifle AK-47 and fired indiscriminately at Sub Inspector Vicky Sharma, Assistant Sub Inspector Rajveer Singh, Sub Inspector Chaudhary Megh Singh, and injured Assistant Sub Inspector Gajanand working inside the camp garden, in which Assistant Sub Inspector Gajanand saved his life by running away in an injured state and the other three died. After the incident, Constable Shankar Rao Ghanta, who was hiding for safety behind the entertainment room, was shot and killed by the appellant. As such, the appellant had killed four CRPF personnel and injured one.
4. In relation to this incident, written information Exhibit-P. 01 was given by the informant -Rajeshwar Dubey (PW-1) in Basaguda Police Station and the FIR (Exhibit-P/2) was registered. Merg intimation being Exhibit P/3, P/4, P/5 and P/6 were recorded. A map of the incident site (Exhibit-P/7) was prepared and the Patwari also prepared a map of the incident site being Exhibit P/13. The hand wash taken from the cotton of the right hand and left hand of the appellant was sealed and property seizure memo (Exhibit P/19) was prepared and the blood soaked soil and plain soil of the deceased were seized from the incident site in presence of witnesses and seizure memo (Exhibit P/22) was prepared. After firing from AK-47 from the place of incident, empty shell was seized and

seizure memo (Exhibit P/23) was prepared and property seizure memo (Exhibit P/25) was prepared by confiscating blood soaked clothes of the deceased and seizure memo was prepared as per Exhibit P/27 also. Post mortem of the deceased was conducted as per Exhibit P/34, P/36, P/37 and P/38. Property seizure memo (Exhibit-P/26) was prepared when Constable Rama Netam presented the clothes worn by the appellant at the time of incident in Bijapur Police Station. Police statements of the informant and witnesses were recorded. Various articles were seized by the police and sent to the FSL for examination.

5. After investigation, prima facie evidence of murder of the deceased by the appellant was found and charge sheet was presented against him in the court of Chief Judicial Magistrate Bijapur from where, the case was committed to the learned trial Court, which was registered as Sessions Trial No. 104/2018.
6. Charges were framed against the appellant for the offences punishable under Sections 302 (four times), 307 of the IPC and Section 25(1B)(a) and 27(1) of the Arms Act which were read out to the appellant. The appellant denied the charges and prayed for trial.
7. In order to prove its case, the prosecution had examined Rajeshwar Dubey (PW-1), Sher Singh (PW-2), Suvesh Kumar Tiwari (PW-3), Dilip Kumar Singh (PW-4), Kartar Singh (PW-5), Shrikant Choubey (PW-6), Gajanand Sharma (PW-7), Biju Kumar G (PW-8), Ajay Kumar Nandi (PW-9), Smt. Neelamma Dasar (PW-10), Ramesh Thakur (PW-11), Mahendra Kumar Yadav (PW-12), Lakhma Durgam (PW-13), Kadati Nagesh (PW-14), Modiam Maraiya (PW-15), K. Gurusekhar (PW-16), Nagesh Kadti (PW-17), Modiyam Maraiya (PW-18), Bhanu Pratap Chidiyam (PW-19), Sharad Kumar Singh (PW-20), Dr. P. Vijay (PW-21)

and Dr. Pawan Milkhe (PW-22) was recorded. The prosecution also exhibited as many as 38 exhibits in support of its case.

8. In defence, he examined Madkam Joga (DW-1), Madkam Payke (DW-2), Midiyam Sula @ Ravi (DW-3), Kadati Narayan (DW-4), Kadati Dharma (DW-5), Suresh Kadati (DW-6), Deepa Durgam (DW-7), Dr. Sudhanshu Shekhar (DW-8) and Surendra Baghela (DW-9) and exhibited the police statement of Shrikant Choubey (PW-6), Ramesh Thakur (PW-11) and Mahendra Kumar Yadav (PW-12), exhibited as Exhibits D/1, D/2 and D/3.
9. The statement of the accused under section 313 CrPC were recorded wherein he stated that he was innocent and have been falsely implicated in this case. He stated that in February 2017, during the search operation in village Narsapur Polampalli, on the instructions of his senior officers, two persons who were hiding inside a house after seeing them were caught and brought out by him and another personnel. They were being brought back tied up by the party. At around 05:00 in the morning, one of them, Madkam Boda, was shot after being tied to a tree after making him wear a Naxal uniform. The other person, Midiyam Sula, son of Madka, was brought to Basaguda Police Station, from where he was released after 03-04 days. When he protested regarding the above incident, he was told that the officers were investigating the above case and when the personnel of the force died in the camp on the date of incident, he was roped falsely in this case.
10. The learned trial Judge, after considering the evidence on record, convicted the appellant/accused as detailed in the opening paragraph of this judgment. Hence, the present appeal by the appellant/convict.

- 11.** Ms. Fouzia Mirza, learned Senior Advocate assisted by Mr. Navin Shukla, learned counsel for the appellant submits that the learned trial Court has failed to appreciate that the weapons FLS AKM Rifle and AK-47 rifle are two different weapons and there is no evidence to show that AK-47 rifle with which the firing had taken place was allotted to the appellant. Further, the learned trial Court has failed to see that as per the evidence of Shrikant Choubey (PW-6), who stated that he was in possession of Insas Rifle and the appellant, who is also a constable was allotted Insas rifle which is corroborated by the evidence of defence witness Deepa Durgam (DW-7), who deposed that at the time when the firing took place, the appellant was near hear and was carrying Insas rifle. The main reason for falsely implicating the appellant in this case is that he had raised voice against fake encounter by the CRPF personnel. There is further no ballistic report in order to show that the bullets belonged to the rifle which was being used by the appellant which was allotted by the Department. All the witnesses are interested witness and would not go against the Department.
- 12.** Ms. Mirza would lastly submit that the appellant is a member of Central Reserve Police Force and was performing his duties in a heavily naxal infested area. The working environment in the said place and the level of stress that a member of the armed force has to undergo, is immense. The appellant was frustrated by the fact that he was not getting leave. All these circumstances together made the appellant lose control over himself. It is lastly submitted that even if the case of the prosecution is accepted as it is, then also the appellant is said to have caused injuries to the deceased under heat of passion and in anger. Therefore, the case of the appellant fall within the purview of Exception 4 to Section 300 of IPC and the act of the appellant is culpable homicide not amounting to

murder and, therefore, it is a fit case where the conviction of the appellant for offence under Section 302 of the IPC can be converted/alterd to an offence under Section 304 (Part-I or Part-II) of the IPC. Hence, the present appeal deserves to be allowed in full or in part.

13. On the other hand, Mr. Shashank Thakur, learned Deputy Advocate General appearing for the State/respondent submits that the prosecution has fully established that it was the appellant alone who had committed the crime in question. Minor variations in the deposition of the witnesses cannot shake the credibility of the statement of the witnesses. The appellant fired indiscriminately upon his own fellow members without any rhyme or reason in a pre-planned manner. There are eye witnesses and an injured eye witness to the incident and as such, the judgment of conviction and sentence awarded by the learned trial Court being just and proper, needs no interference.
14. We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
15. It is an admitted position that the appellant, the four deceased persons and one injured person, all belong to the Central Reserve Police Force deployed in the naxal affected area of the State. The death of the four CRPF personnel was homicidal in nature, is not disputed by either of the parties. The postmortem report of deceased Shankar Rao Ganta (Exhibit P/34), Vicky Sharma (Exhibit-P/36), Megh Singh (Exhibit P/37) and Rajveer Singh (Exhibit P/38) all goes to state that they died because of hemorrhagic shock due to gunshot injuries. Dr. P. Vijay (PW-21), Medical Officer of District Hospital, Bijapur had conducted the postmortem of deceased Shankarrao Ganta and Dr. Pawan Milkhe (PW-22) had conducted the postmortem of deceased Viky Sharma, Megh Singh

Kunjam, Rajveer Singh. They both have deposed that the death of the deceased persons was homicidal in nature and caused because of the gun shot. The injuries caused on the body of the deceased were bullet injuries.

16. The learned trial Court, relying upon the statement of Dr. P. Vijay (PW-21) and Dr. Pawan Milkhe (PW-22) who had conducted postmortem has clearly come to the conclusion that death of deceased persons was homicidal in nature. The issue with regard to nature of the death of the deceased has been dealt by the learned trial Court from paragraphs 10 to 22 in quite detail. The said finding recorded by the trial Court is a finding of fact based on evidence available on record, which is neither perverse nor contrary to record. Even otherwise, it has not been disputed by the learned counsel for the appellant. We hereby affirm the said finding.
17. The question for consideration for this Court would be, whether the appellant is the author of the crime?
18. It is well settled that conviction can be based on the testimony of a sole eyewitness, even without corroboration, if the court finds the witness to be wholly reliable and trustworthy. However, the court must carefully scrutinize the testimony to ensure it is free from any suspicion or contradiction, and that the witness is credible and consistent with the circumstances of the case. There is no legal requirement that a conviction must be supported by multiple witnesses or corroborating evidence. A single, reliable eyewitness can be sufficient for a conviction. The court assesses the credibility of the witness, not just the quantity of witnesses.

19. In the present case, there are number of eye witness being the members of the armed force, namely CRPF and were present at the Camp itself where the incident occurred. Further, in the present case, Gajanand Sharma (PW-7) is the injured eye witness and his deposition would be of much relevance. The sworn testimonies provided by injured witnesses generally carry significant evidentiary weight. Such testimonies cannot be dismissed as unreliable unless there are pellucid and substantial discrepancies or contradictions that undermine their credibility. If there is any exaggeration in the deposition that is immaterial to the case, such exaggeration should be disregarded; however, it does not warrant the rejection of the entire evidence.

20. In ***Balu Sudam Khalde and Anr. v. State of Maharashtra*** {2023 SCC OnLine SC 355}, the Apex Court observed as under:

“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.”

- 21.** Gajanand Sharma (PW-7) is the Assistant Sub Inspector in the CRPF, 168 Battalion, Bijapur. He deposed that on the date of incident i.e. on 09.12.2017 at about 4:30, he alongwith S.I. Megh Singh, S.I. Vikki Sharma, A.S.I, Rajvir Singh and he himself were inside the camp area and were doing their respective works. Suddenly, firing started and he immediately lied on the ground when he saw that the appellant was firing upon them only. He opened fire on Megh Singh, Vikki Sharma, Rajvir Singh and killed them. When the magazine of the rifle got empty and the appellant was about to change the magazine for reloading the rifle and firing stopped, this witness immediately ran towards the Field Hospital. Thereafter, the appellant again started firing upon which he received three bullet injuries, one on the little finger of the right hand, one near elbow of right hand and one near the ankle of the right leg. He was taken to the Field Hospital by other persons from wher he was taken to Bijapur Hospital in an Ambulance and from there, he was airlifted and taken to Raipur for further treatment. In the same ambulance, Megh Singh, Vikki sharma, Rajvir Singh's dead body was also taken. Constable Shankar Rao Ghanta had also received bullet injuries who later on died and his body was also taken to Bijapur Hospital in an Ambulance. In cross examination, this witness has specifically denied that there was any naxal attack on the camp on the said date.
- 22.** Rajeshwar Dubey (PW-1) is the Assistant Commandant of CRPF, 168 Batallion, Sarkeguda. On the date of incident, he was at Papa Post when he heard the sound of firing at about 4:25 p.m to 4:30 p.m. He alerted other personnel. He took his AK-47 rifle and alongwith one personnel, went towards Main Camp on a bike. When he reached the place of incident, he saw the appellant near the temple situated inside the camp. When he asked the appellant from where the firing was coming, he was

standing silently. When he reached near to him, the appellant told him that he had opened the fire and had made four-five persons fall. Thereafter, this witness immediately caught the rifle of the appellant and on holding, the barrel of the rifle was found to be hot. When he strictly asked the appellant as to what had happened, the appellant informed that he had cleaned the filth of the Company and some more are required to be cleaned. He tried to snatch the rifle from him but the appellant pushed him back because of which he fell down and sustained injuries on his knees and toe of right leg. Thereafter, two other personnel came and helped this witness in snatching the rifle from him. The appellant was having a pouch in his chest in which there were four magazines which were also snatched from him. Constable K. Gurushekhar checked the AKM rifle snatched from the appellant and detached the magazine from the rifle and emptied the round lying in the barrel chamber. When this appellant again asked the appellant as to what he has done, he told that he had cleaned the filth and one was lying near the cycle stand and three of them were lying near the gardening area and when the area was inspected, they found Constable Shankar Rao Ghanta lying in a pool of blood and was dead. In the gardening area, three of the personnel were lying dead. All the four personnel were taken to Field Hospital on a stretcher. When he reached the hospital, he found that the injured ASI Gajanand Sharma was taking treatment who had received bullet injury in his hand. When he was asked, he informed that the appellant had killed all the four persons and injured him. This witness had given the written complaint (Exhibit p/1) upon which the police had registered the FIR (Exhibit P/2).

- 23.** Constable Shersingh (PW-2) stated that when he reached the place of incident, he saw the appellant standing holding a rifle and when the

appellant was asked by Rajeshwar Dubey (PW-1), the appellant stated that he had cleaned the filth from the camp. The appellant further stated that they should leave him and he would end his life himself. On the direction of PW-1, he alongwith other personnel snatched the AKM rifle and that the appellant was also carrying another AK-47 rifle. When this witness was trying to snatch the rifle, he got his palm burnt because of the hot barrel. Similar deposition has been made by Constable Sivesh Kumar Tiwari (PW-3).

- 24.** Dilip Kumar singh (PW-4), is the Head Constable and was posted in the Mess of the Camp. On the date of incident, he was getting the food prepared for the force when all of a sudden, he heard the firing sound. All the personnel became alert thinking that naxalites would have ambushed them. When he ran towards the garden area, he saw that the appellant was firing upon the officers working in the garden area. He was scared and ran towards barrack. At that time, he saw Gajanand Sharma (PW-7) was injured and could barely walk upon which he alongwith one Constable namely Shinde took them inside the field hospital. 10 – 15 minutes later, Assistant Commandant, Rajeshwar Dubey (PW-1) arrived and after catching hold the appellant, the police took the appellant to the Police Station. This witness has clearly deposed that because of the firing opened by the appellant, Vikki Sharma, Rajveer, Megh Singh died and one constable also died. However, he has deposed that he himself did not see the appellant killing the deceased. Kartar Singh (PW-5) is also one of the Head Constable who stated that he was in the Tower Post when he saw that the appellant had opened fire and had shot Shankar Rao Ghanta, dead. Thereafter, he came towards the temple and shot fire towards sky. The appellant was carrying AKM and AK-47 rifle which was snatched by Rajeshwar Dubey (PW-1) and other personnel.

Similar deposition has been made by Shrikant Choubey (PW-6) and Viju Kumar G (PW-8).

- 25.** Ajay Kumar Nandi (PW-9) is the Assistant Sub Inspector, G.D. CRPF, who had blown whistle three times on the date of incident when he heard the firing sound. In the evening at about 4 p.m. he had asked four personnel to assemble near the barrack and he was distributing the work to them. At that time, S.I. Viki Sharma came to see the maintenance work alongwith A.S.I. Rajveer Singh, S.I. Megh Singh Choudhary and A.S.I. Gajanand Sharma. AT that time at about 4:15 to 4:20 p.m. the appellant Constable Santram came to him and stated that his duty should be changed and on asking the reason, he stated that he was not feeling well. On this, this witness asked him to to take medicine from the Field Hospital and his duty would be changed. After 8-10 minutes, he heard the firing sound upon which he came out of the barrack and took his AK47 rifle and ammunition. As soon as he came out of the barrack, he saw that ASI Gajanand Sharma (PW-7) was injured and was shouting. The injured was take to the Field Hospital and thereafter, this witness immediately informed the Assistant Commandant Rajeshwar Dubey (PW-1) on the internal phone. Thereafter again firing started. He saw that the appellant was carrying AKM rifle in his hand and AK47 rifle on his back. When the appellant was asked by Rajeshwar Dubey (PW-1) as to what had happened, the appellant informed him that he had laid three-four personnels. Thereafter, the arms were snatched and the appellant was handed over to the police.
- 26.** PW-10, Smt. Nilamma Dasar, is a resident of relief camp situated at Basaguda. She has turned hostile and not supported the prosecution case as she deposed that she was not having any knowledge regarding the incident.

27. The witnesses Head Constable Ramesh Thakur (PW-11), Assistant Commandant Mahendra Kumar Yadav (PW-12), K. Gurushekhara (PW-16) have also deposed in similar fashion and pointed towards the guilt of the appellant.
28. Bhanu Pratap Chidiyam (PW-19) is the Patwari who had prepared the spot map (Exhibit P/13) and Sharad Kumar Singh is the Inspector of Police, and Investigating Officer, who had conducted the investigation.
29. We have also gone through the deposition of the defence witnesses namely Madkam Joga (DW-1), Madkam Payke (DW-2), Midiyam Sula@ Ravi (DW-3), Kadi Narayan (DW-4), Kadi Dharma (DW-5), Suresh Kadi (DW-6) and Deepa Durgam (DW-7) but they have no relevance with the offence in question and as such, are of no assistance for the appellant.
30. The witnesses namely Rajeshwar Dubey (PW-1), Sher Singh (PW-2) and Suvesh Kumar Tiwari (PW-3) and were also medically examined and the injuries sustained by them and as stated before the learned trial Court corroborates with the MLC reports (Exhibit P/14, P/15 and P/16).
31. In the examination under Section 313 Cr.P.C., the appellant has tried to make out a case that as he had raised voice against illegal killing of an innocent villager, he has been roped in a false case. However, there is no explanation given by the appellant as to how the four persons came to be dead from bullet injuries and one personnel sustained injuries when there was no naxal attack on the camp. Had there been any naxal attack, it would have definitely been reported to the police which is not the case in hand. On the contrary, from the evidence of the witnesses, it appears that since the appellant was angry upon the deceased persons as they had complained that the appellant used to leave the post/camp and went

out of the camp daily for unwanted reasons. He was being scolded by his senior officers and advised not to go out of the camp. The deceased Vikki Sharma was given the responsibility of nominating four persons for attending the Dog Handler Course as ordered by the Headquarters in which the deceased suggested the name of the appellant and as such, he was not granted leave because of which the appellant had a grudge against the deceased.

- 32.** The working conditions of armed forces personnel can be extremely dangerous and deadly involving exposure to variety of hazards both in combat and peace time situations. These hazards can lead to both immediate and long-term health problems, injuries, and even fatalities. However, the level of discipline is much higher for the armed force personnel than an ordinary civilian. They are adequately trained to face all sorts of pressures. Long working hours without leave and difficult environment does not give right to any person to vent his anger by causing death of his own colleagues. The appellant, being a member of armed force was responsible for the security and safety of the people of the area from the naxalites but instead of performing his duty, the appellant took a drastic measure by opening fire indiscriminately with two assault rifles upon the fellow members, which, by no stretch of imagination can fall under Section 304 Part I or II of the IPC. The appellant was well aware of the consequences and ordinarily, a member of armed force is issued only one rifle but the appellant was carrying two rifles at a time and had used both the rifles which goes to suggest that he had premeditation for causing the crime in question.
- 33.** From the analysis of the deposition made by the prosecution witnesses, we are of the considered opinion that the prosecution has been successful in proving its case beyond reasonable doubt and the learned

trial Court has not committed any legal or factual error in arriving at the finding with regard to the guilt of the appellant/convict.

34. Accordingly, the appeal being devoid of merit is liable to be and is hereby **dismissed**.
35. The appellant/convict is stated to be in jail. He shall serve out the sentence awarded by the trial Court by means of the impugned judgment of conviction and order of sentence dated 27.08.2024.
36. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentences to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.
37. Let a certified copy of this order alongwith the original record be transmitted to trial Court concerned forthwith for necessary information and action, if any.

Sd/-
(Bibhu Datta Guru)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE

HEAD NOTE

Testimony of an injured eye witnesses carries significant evidentiary value. Such testimony cannot be dismissed as unreliable unless there are substantial discrepancies or contradictions that undermine their credibility.