



2025:CGHC:49750-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1293 of 2022

Bhemeshvar @ Ravi S/o Shri Ashok Kumar Binjhhekar Aged About 30 Years
R/o Barhi, Police Station Balod, District Balod (C.G.)

... Appellant(s)

versus

State Of Chhattisgarh Through Police Station Balod, District Balod (C.G.)

... Respondent(s)

For Appellant : Mr. Bharat Sharma, Advocate.

For Respondent(s) : Mr. Prafull N Bharat, Advocate General assisted by
Mr. Soumya Rai, Panel Lawyer

Hon'ble Mr. Ramesh Sinha, Chief Justice

Hon'ble Mr. Bibhu Datta Guru, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

07/10/2025

1. This criminal appeal is directed against the judgment of conviction and order of sentence dated 09.06.2022 passed by the the learned 1st Additional Sessions Judge, Balod, District Balod, in Sessions Trial No. 36/2019, whereby the appellant has been convicted for the offence punishable under Section 302 of the Indian Penal Code (for short, the IPC) and sentenced to undergo rigorous imprisonment for life with fine of Rs. 1,000/- and in default of payment of fine, to undergo further rigorous imprisonment for 1 month.

2. The application for suspension of sentence and grant of bail of the appellant was rejected by this Court way back on 20.07.2023, and today the matter is listed for further orders, however, with the consent of learned counsel appearing for the parties, the matter is being heard finally.
3. The appellant/convict was charged for the offence under Section 302 of the IPC alleging that on 24.04.2019 at about 11-12.00 in the night, at village Barahi under the jurisdiction of Police Station Balod, District-Balod, he intentionally poured kerosene on his wife Laxmibai (*hereinafter referred to as 'the deceased'*) and set her on fire, due to which she died on 05.05.2019 due to burn injuries. Thus, the accused caused the death of deceased and murdered her.
4. The case of the prosecution, in brief, is that on receiving information from DKS Superspeciality Hospital, Raipur about the death of deceased Laxmibai due to burning, constable Puranlal Chandravanshi, No. 865 of Golbazar Police Station registered an unnumbered merg intimation. The police prepared the inquest of the dead body of deceased after giving notice to the witnesses, got the post-mortem done of the dead body and on receiving the merg intimation alongwith the dying declaration given by deceased, the Police of Police Station, Balod, registered a case against the appellant/accused after registering numbered merg intimation, an FIR bearing Crime No. 36/19 under Section 302 of the Indian Penal Code. During the investigation, the statements of witnesses namely Milap Chaure, Santosh Hathile, Vinod Hathile, Chandrashekhar, Kaushalya Chaure, Lomesh Vishwakarma, Domar Sinha, Tiharuram Baghel, Smt. Rambha, Ashok Binjhekar were recorded as stated by them. After inspecting the spot, a map was prepared, and a spot panchnama was also prepared and the memorandum of the appellant was recorded in

presence of the witnesses and on his instance, a plastic container of kerosene and a matchbox were seized from the accused in presence of the witnesses and after conducting the remaining investigation, the charge sheet was presented before the learned Chief Judicial Magistrate, Balod, who committed the case to the Court of Sessions which was registered as Sessions Trial No. 36/2019.

5. Charges were framed against the appellant for the offence under Section 302 of the IPC. The appellant abjured the guilt and prayed for trial. In support of his contentions, he exhibited the police statement given by Milap Choure (PW-2) and Santosh Hathile (PW-6) as Exhibits D/1 and D/2, respectively.
6. To prove the offence alleged against the appellant, the prosecution examined the witnesses namely; Domar Singh Sinha (PW-1), Milap Singh Choure (PW-2), Rakesh Kumar Dewangan (PW-3), Lomas Vishwkarma (PW-4), Dr. Abhishek Banjare (PW-5), Santosh Hathile (PW-6), Dr. Shivnarayan Manjhi (PW-7), Gajendra Kumar Mandavi (PW-8), Smt. Narmada Kothari (PW-9) and Ramkinkar Yadav (PW-10) and exhibited as many as 22 exhibits.
7. On examination of the appellant/accused under Section 313 Cr.P.C, he stated that he was innocent and that he had been falsely implicated. In his defence, he stated that on the date of the incident, his wife was drinking alcohol and there was no electricity in the house for which they had lit a candle by which fire caught the *saree* of the deceased and as such, the incident occurred.
8. The learned trial Judge, after considering the evidence on record, convicted and sentenced the appellant/accused as detailed in the

opening paragraph of this judgment. Hence, the present appeal by the appellant/convict.

- 9.** Mr. Bharat Sharma, learned counsel for the appellant submits that there is no dispute with regard to the fact that the deceased died of the burn injuries sustained by her. However, there is no material available on record so as to connect the appellant with the offence in question. The appellant has been falsely implicated in this case. The appellant has fully explained as to how the incident took place and it was the appellant himself who had taken the deceased to the hospital immediately after the incident. There is no eye witness to the incident. Merely on the basis of suspicion, the appellant has been roped in this case. With respect to the dying declaration, it is submitted by learned counsel that there is no certificate of the Doctor available in this case which may suggest that the deceased was in a fit mental state to give her dying declaration as such, on what basis the dying declaration has been recorded, is a question to be considered.
- 10.** On the other hand, Mr. Prafull N Bharat, learned Advocate General, assisted by Mr. Soumya Rai, learned Panel Lawyer appearing for the State/respondent submits that the learned trial Court has rightly arrived at a finding with regard to the guilt of the appellant and the learned trial Court was fully justified in convicting and sentencing the appellant for the offences in question. The judgment is based on evidence available on record and as such, the same does not warrant any interference and the appeal deserves to be dismissed.
- 11.** We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

- 12.** It is not in dispute that the deceased died of burn injuries. Initially, the deceased was examined on 25.04.2019 at District Hospital, Balod. The MLC report (Exhibit P/13) states that the deceased had sustained 80% burn of total body surface area. She succumbed to the injuries at DKS Hospital, Raipur on 05.05.2019. The postmortem report (Exhibit P/15) states that the injuries were superficial infected burns with greenish yellowish discoloration with foul smelling and sloughing due to infection present on the following parts of the body:

On front- Head, neck face all over, chest all over, abdomen upper 2/3rd part, left upper limb all over, right upper limb antero medial aspect, both thigh lower 2/3rd part all over (except abdomen lower 1/3rd part, genitalia and upper 1/3rd part of thigh and foot healthy).

On back – Nape of neck to heels burnt. Burns were ante-mortem in nature. Burns were dry and were sufficient to cause death in ordinary course of nature.

Dr. Shivnarayan Manjhi (PW-7), who had conducted the postmortem, opined that the cause of death was cardio respiratory failure as a result of burns and their complications.

- 13.** Domar Singh Sinha (PW-1), Lomesh Vishwakarma (PW-4) who are the resident of same village, have turned hostile and not supported the prosecution story.
- 14.** Milap Singh Chourey (PW-2) is the father of the deceased. He stated that on 24.04.2019, the appellant came to their house and informed him that the deceased had burnt severely. When the deceased was in conscious state, she had informed him that the appellant poured kerosene on her and set her ablaze. Santosh Hathile (PW-6) is the cousin of the

deceased. He also stated that when he went to the hospital to see the deceased, she had informed that the appellant had set her on fire.

- 15.** Gajendra Kumar Mandavi (PW-8) is the Patwari who had prepared the spot map (Exhibit P/8). Dr. Abhishek Banjare (PW-5) is the Doctor who had initially treated the deceased at District Hospital, Balod who had further referred the deceased for better treatment to Dhamtari.
- 16.** Rakesh Kumar Dewangan (PW-3) is the Nayab Tahsildar, who had recorded the dying declaration (Exhibit P/12) of the deceased. In cross examination, he stated that the Doctor had given a written certificate with respect to the condition of the deceased for recording dying declaration, however, he could not recollect as to whether the said consent letter was handed over to the Constable or not.
- 17.** The appellant has solely been convicted on the basis of dying declaration (Exhibit P/12) and there is no other piece of evidence, no legal evidence much less oral or circumstantial evidence to convict the appellant except the aforesaid dying declaration. Therefore, it would be appropriate to consider the dying declaration recorded by the Naib Tahsildar Rakesh Kumar Dewangan (PW-3).
- 18.** Though in the dying declaration (Exhibit P/12), the deceased has stated that on 23.04.2019 at about 12 in the night, she had a quarrel with the appellant and after that, when she was sleeping, the appellant came and poured kerosene on her and set her ablaze. She has further stated that she was brought to the hospital for treatment by the appellant himself. The said dying declaration has been signed by the Nayab Tahsildar, Raipur, however, there is no certificate of the treating Doctor to certify that the deceased was in a fit mental state to give her dying declaration.

- 19.** On 12.09.2025, when this matter was taken up for hearing, on the said date, it transpired that the dying declaration (Exhibit P/3) was recorded by Rakesh Kumar Dewangan (PW-3), Naib Tahsildar, Raipur. However, the said dying declaration is not supported by any fitness certificate issued by the treating Doctor. In such circumstances, the Superintendent of DKS Superspeciality Hospital, Raipur was directed to file his personal affidavit stating whether the deceased was admitted by her husband *i.e.* the appellant on 25.04.2019 at 7:00 a.m. in the Burn and Plastic Surgery Department under the In-charge of Dr. D.Shah (MCH). The District Magistrate, Raipur was also directed to file his personal affidavit in the matter and to inform the Court calling upon Rakesh Kumar Dewangan (PW-3) Naib Tahsildar, Raipur, as to whether any Doctor had given any fitness certificate about the deceased that she was in a fit mental state to give dying declaration, and the matter was directed to be listed on 18.09.2025.
- 20.** On 18.09.2025, this Court took note of the affidavits filed by the District Collector, Raipur, wherein it was stated that he made a query to the concerned officer (*i.e.*, Mr. Rakesh Kumar Dewangan), who is now posted as Additional Tehsildar, Raipur. He informed that on the date of the incident (*i.e.*, 25.04.2019), he was present at DKS Super Specialty Hospital, where the Doctors on duty prepared a report stating that the victim was conscious, able to speak, and capable of understanding. Thereafter, the dying declaration of the victim was recorded. Similarly, the Superintendent, DKS Hospital, Raipur, in his affidavit stated that when the deceased was admitted to the hospital on 25.04.2019, she was conscious, able to speak and capable of understanding. Since she was in a condition to understand the language and respond to questions,

permission was thereafter granted to the Naib Tahsildar to record her dying declaration.

- 21.** From the above affidavits, this Court arrived at a finding that no separate fitness certificate was issued by the treating Doctors, however, the attending Doctors had prepared a contemporaneous report certifying that the deceased was conscious and in a fit condition to give her statement. The affidavits were completely silent as to the identity of the medical practitioner who prior to recording the statement, is said to have certified that the deceased was in a fit mental state to give her dying declaration and neither any formal fitness certificate was placed on record nor contemporaneous signed medical certificate identifying the certifying Doctor was produced which is not only a technical omission but a serious lacuna in the investigation, which may lead to miscarriage of justice. It was further observed that the said affidavits were cursory and did not satisfactorily answers the specific and material question which this Court had directed to be clarified as to who was the Doctor who had certified the deceased to be in a fit mental state to make a statement.
- 22.** Accordingly, the Chief Secretary, Government of Chhattisgarh was directed to file his personal affidavit alongwith the report of a detailed departmental enquiry specifically addressing the identity, qualifications and duty roster entry of the Doctor who certified, if at all, that the deceased was in a fit mental condition to make the dying declaration dated 25.04.2019, the original contemporaneous medical certificate or fitness note, or a reasoned explanation for its absence if no such signed certificate existed; the burn-unit admission register, casualty and nursing notes, treatment records for 24-25th April, 2019, transfer or referral documents, and any CCTV footage or other contemporaneous entries showing as to who attended the deceased at the relevant time, and the

outcome of the departmental enquiry as to whether there has been dereliction of duty by the Hospital Staff, the Medical Officer on duty, the Tahsildar (PW-3) or the Investigating Officer, in failing to preserve and place before this Court the requisite records.

- 23.** Pursuant to the above direction, an affidavit has been filed by the Chief Secretary on 07.10.2025 stating that in compliance of the aforesaid order, the Commissioner, Medical Education, Chhattisgarh, on his direction, has constituted a Five-Member Enquiry Committee vide order dated 04.10.2025 comprising of Senior Officers and subject experts from Pt. J.N.M. Medical College, Raipur. The Committee included the Deputy Director (Medical Education) and Heads of the Department of Orthopedics, Radiodiagnosis and Forensic Medicine as well as an Assistant Professor in Forensic Medicine. The Committee was mandated to examine all records including the Burn-Unit admission register, indoor case tickets, nursing notes, casualty and referral documents, duty rosters of the Doctors and staff on 25.04.2019 as well as the statement of the attending Resident Doctor, Dr. Ruby Singh who had managed the patient i.e. the deceased in Burn Ward on the day of admission. The Committee has submitted its report which concluded as under:

“As per the available records of the patient’s treatment, from the date of admission, till the date of death, it suggests that due medical care was taken, and patient was conscious and oriented at the time of dying declaration. It appears prima facie that the duty doctor and medical staff have performed their duties of providing medical care as per procedure and on the basis of record of dying declaration by Executive Magistrate, it appears that he has performed his duty.

- 24.** Further, after detailed examination of all the available materials including the treatment notes and contemporaneous entries, the Committee found that:
- “a. The patient, Smt. Laxmi Binjhekar, was admitted at DKS Hospital on 25.04.2019 with 85% burn injuries and remained under continuous treatment until her death on 05.05.2019.
 - b. The patient’s vital parameters recorded during the relevant period (morning and evening of 25.04.2019 were stable and indicated that she was conscious and oriented.
 - c. The attending Resident Doctor, Dr. Ruby Singh (MBBS, PG Resident, General Surgery) was posted on duty on that day and has affirmed that the patient was in a fit mental condition to depose the dying declaration.”
- 25.** Dr. Ruby Singh appeared before the Committee on 06.10.2025 and stated on oath that when the deceased was brought to the hospital, her condition was serious but she was conscious and remained alive for 10 days. She stated that she used to write her opinion with respect to the fitness of the patient on the memo that is usually sent by the Police/Magistrate for recording of dying declaration and the said memo was returned back to the authority recording the dying declaration. She has specifically stated that no copy of the memo sent by the police is given to the Hospital by the police. She has further specifically stated that there is no document available with regard to the intimation of the police wherein she had written her opinion.
- 26.** A dying declaration is the statement of a person who expects to die, giving the cause and circumstances of their death, and can be made orally, in writing, or through gestures. The procedure involves recording

the statement's exact words as soon as possible after the injury by a competent person, ideally a Magistrate or Doctor, ensuring the declarant is mentally sound and understands the questions. Another important aspect is that the statement must be made voluntarily and without any coercion or influence.

27. This Court, in a similar facts and circumstances, in **Arjun Singh Rajput v. State of Chhattisgarh**¹ after taking note of Section 32(1) of the Evidence Act, the decision of the Supreme Court in **Sharad Birdhichand Sarda v. State of Maharashtra**² **Devinder alias Kala Ram and others v. State of Haryana**³, **Purshottam Chopra and another v. State (Government of NCT of Delhi)**⁴, **Kans Raj v. State of Punjab**⁵ gave benefit of doubt to the appellant therein and acquitted him of the charges.
28. The dying declaration (Exhibit P/12) was recorded on 25.04.2019 in presence of Rakesh Kumar Dewangan (PW-3) who is Naib Tahsildar. Deceased suffered burn injuries in the night of 23.04.2019 and she was firstly taken to District Hospital, Balod, then to District Hospital Dhamtari, Dr. B.R.A. Hospital, Raipur and then to DKS Superspeciality Hospital, Raipur. The dying declaration was recorded at DKS Hospital, Raipur. After treatment for about 10 days, she expired on 05.05.2019.
29. A careful perusal of the dying declaration would show that the deceased stated that her husband poured kerosene on her and set her ablaze

1 Cr.A. No. 114/2021, decided on 03.02.2025

2 (1984) 4 SCC 116

3 (2012) 10 SCC 763

4 (2020) 11 SCC 489

5 AIR 2000 SC 2324

when she was sleeping after a quarrel. The question for consideration would be, whether the dying declaration given by her was true and voluntary and conviction can be based upon it without corroboration?

30. The Supreme Court in the matter of **Jayamma and another v. State of Karnataka**⁶ has considered the case of **Chacko v. State of Kerala**⁷ and held as under: -

*“14.2. In **Chacko v. State of Kerala**, this Court declined to accept the prosecution case based on the dying declaration where the deceased was about 70 years old and had suffered 80 per cent burns. It was held that it would be difficult to accept that the injured could make a detailed dying declaration after a lapse of about 8 to 9 hours of the burning, giving minute details as to the motive and the manner in which he had suffered the injuries. That was of course a case where there was no certification by the doctor regarding the mental and physical condition of the deceased to make dying declaration. Nevertheless, this Court opined that the manner in which the incident was recorded in the dying declaration created grave doubts to the genuineness of the document. The Court went on to opine that even though the doctor therein had recorded “patient conscious, talking” in the wound certificate, that fact by itself would not further the case of the prosecution as to the condition of the patient making the dying declaration, nor would the oral evidence of the doctor or the investigating officer, made before the court for the first time, in any manner improve the prosecution case.”*

31. Recently, the Supreme Court in the matter of **Irfan @ Naka v. The State of Uttar Pradesh**⁸ has considered certain parameters to trust whether a

6 (2021) 6 SCC 213

7 (2003) 1 SCC 112, paras 3 and 4

8 2023 SCC OnLine SC 1060

dying declaration could be acted upon solely for securing conviction or not. It was observed as under:

“62. There is no hard and fast rule for determining when a dying declaration should be accepted; the duty of the Court is to decide this question in the facts and surrounding circumstances of the case and be fully convinced of the truthfulness of the same. Certain factors below reproduced can be considered to determine the same, however, they will only affect the weight of the dying declaration and not its admissibility: -

(i) Whether the person making the statement was in expectation of death?

(ii) Whether the dying declaration was made at the earliest opportunity? “Rule of First Opportunity”

(iii) Whether there is any reasonable suspicion to believe the dying declaration was put in the mouth of the dying person?

(iv) Whether the dying declaration was a product of prompting, tutoring or leading at the instance of police or any interested party?

(v) Whether the statement was not recorded properly?

(vi) Whether, the dying declarant had opportunity to clearly observe the incident?

(vii) Whether, the dying declaration has been consistent throughout?

(viii) Whether, the dying declaration in itself is a manifestation / fiction of the dying person's imagination of what he thinks transpired?

(ix) Whether, the dying declaration was itself voluntary?

(x) *In case of multiple dying declarations, whether, the first one inspires truth and consistent with the other dying declaration?*

(xi) *Whether, as per the injuries, it would have been impossible for the deceased to make a dying declaration?*

63. *It is the duty of the prosecution to establish the charge against the accused beyond the reasonable doubt. The benefit of doubt must always go in favour of the accused. It is true that dying declaration is a substantive piece of evidence to be relied on provided it is proved that the same was voluntary and truthful and the victim was in a fit state of mind. It is just not enough for the court to say that the dying declaration is reliable as the accused is named in the dying declaration as the assailant."*

32. With regard to the absence of separate certificate regarding fit state of mind of victim before making dying declaration, relying on the judgment, the Supreme Court in the matter of ***Paparambaka Rosamma and others v. State of A.P.***⁹ has held as under:

"9. It is true that the medical officer Dr. K.Vishnupriya Devi (PW 10) at the end of the dying declaration had certified "patient is conscious while recording the statement". It has come on record that the injured Smt. Venkata Ramana had sustained extensive burn injuries on her person. Dr. P.Koteswara Rao (PW 9) who performed the post-mortem stated that injured had sustained 90% burn injuries. In this case as stated earlier, the prosecution case solely rested on the dying declaration. It was, therefore, necessary for the prosecution to prove the dying declaration as being genuine, true and free from all doubts and it was recorded when the injured was in a fit state of mind. In our opinion, the certificate appended to the dying declaration at the end

9 (1999) 7 SCC 695

by Dr. Smt. K.Vishnupriya Devi (PW 10) did not comply with the requirement inasmuch as she has failed to certify that the injured was in a fit state of mind at the time of recording the dying declaration. The certificate of the said expert at the end only says that "patient is conscious while recording the statement". In view of these material omissions, it would not be safe to accept the dying declaration (Ex.P-14) as true and genuine and as made when the injured was in a fit state of mind. From the judgments of the courts below, it appears that this aspect was not kept in mind and resultantly they erred in accepting the said dying declaration (Ex.P-14) as a true, genuine and as made when the injured was in a fit state of mind. In medical science two stages namely conscious and a fit state of mind are distinct and are not synonymous. One may be conscious but not necessarily in a fit state of mind. This distinction was overlooked by the courts below."

33. Applying the principle of law laid down by the Supreme Court in ***Paparambaka Rosamma*** (supra) to the facts of the present case, it is quite vivid that the dying declaration suffers from infirmity where the victim has suffered about 80% extensive burns and still there is no certificate of the doctor declaring that the victim was in a fit state of mind to give the dying declaration.
34. In the statement under Section 313 Cr.P.C., the appellant has taken a plea that the deceased was drinking alcohol on the date of incident and there was no electricity in the house as such, they had lit a candle from which saree caught the fire and the deceased sustained the burn injuries.
35. In the present case, the investigating officer (PW-10) Ram Kinkar Yadav, Inspector, has not bothered to collect the certificate given by the Doctor with respect to the mental fitness of the deceased. The dying declaration of a victim is a strong piece of evidence and carries great value, but it is

equally important that the said declaration has been made by the victim in a sound state of mind.

- 36.** In the present case, the dying declaration (Exhibit P/12) was recorded by Rakesh Kumar Dewangan, Nai Tahsildar (PW-3) who did not bother to obtain a certificate from the treating Doctor. In his deposition before the Court, the said witness though stated that only after obtaining the written consent from the Doctor, he proceeded to record the dying declaration but nowhere he has been able to tell even the name of the Doctor who had certified that the deceased was in a fit mental state to give her statement. Absence of such certificate is fatal for the prosecution.
- 37.** The name of the treating Doctor i.e. Dr. Ruby Singh has surfaced only after filing of the affidavit by the Chief Secretary of the State. She has not been examined as witness in this case which could have thrown some light with respect to the mental state of the deceased. The absence of a certificate from the treating Doctor with regard to mental fitness of the deceased is a big lacuna on the part of the investigating agency and the said lacuna would definitely be beneficial for the accused/appellant as in absence of any such certificate, it would not be safe to convict the appellant.
- 38.** Another important aspect of the matter is that none of the Doctors of DKS Superspeciality Hospital, who had treated the deceased were examined by the prosecution, except the Dr. Abhishek Banjare (PW-5), who had initially treated the deceased at Balod.
- 39.** As such, there appears to be a grave suspicion as to whether the deceased herself attempted suicide and falsely roped the appellant as admittedly, on the date of incident, the deceased and the appellant had a quarrel and in a fit of anger, she could have attempted the suicide or it

might be a case of accidental fire as has been stated by the appellant in his statement under Section 313 Cr.P.C. and the deceased was also stated to be in an inebriated condition.

40. From the aforementioned facts and circumstances of the case, we are of the opinion that there is no corroborative evidence to the dying declaration and there is no other evidence led by the prosecution to connect the appellant with the offence in question. Therefore, it would be unsafe to convict the appellant merely on the basis of dying declaration.
41. In view of the aforesaid analysis, and with a heavy heart, we are constrained to observe that the learned trial Court has committed grave legal error in convicting and sentencing the appellant as the prosecution has failed to prove its case beyond reasonable doubt. As such, the conviction recorded by the trial Court on the basis of dying declaration (Exhibit P/12) cannot be sustained. The conviction and sentence imposed upon the appellant for the offence punishable under Section 302 is liable to be and is accordingly set aside.
42. For the foregoing reasons, criminal appeal filed by the appellant- **Bhemeshvar @ Ravi** is **allowed** and his conviction and sentence under Section 302 of the IPC, are hereby set aside. The accused / appellant is acquitted of the charge levelled against him. He is in jail since 25.05.2019. He shall be set at liberty forthwith if no longer required in any other criminal case.
43. Keeping in view the provisions of Section 437-A of the Cr.P.C. (now Section 481 of the Bhartiya Nagarik Suraksha Sanhita, 2023), the accused-appellant is directed to forthwith furnish a personal bond in terms of Form No. 45 prescribed in the Code of Criminal Procedure of sum of Rs.25,000/- with two reliable sureties in the like amount before

the Court concerned which shall be effective for a period of six months along with an undertaking that in the event of filing of Special Leave Petition against the instant judgment or for grant of leave, the aforesaid appellant on receipt of notice thereof shall appear before the Hon'ble Supreme Court.

- 44.** Before parting with the case, this Court finds it appropriate to direct the Chief Secretary, Government of Chhattisgarh and the Director General of Police, Chhattisgarh, to ensure that necessary and comprehensive instructions are issued forthwith to all concerned authorities and investigating agencies so that in such matters, no procedural lapses occur which may result in unwarranted acquittal of the accused persons for want of credible evidence. The Magistrates/Executive Magistrates, Medical Officers, and Investigating Officers across the State shall be specifically instructed that while recording a dying declaration, a clear, written, and contemporaneous certificate must invariably be obtained from the attending Medical Officer certifying the mental fitness of the declarant at the relevant time. Such certification shall be treated as a mandatory procedural safeguard to eliminate any doubt regarding the genuineness and voluntariness of the dying declaration. Compliance with these directions shall be strictly monitored by the supervisory authorities to ensure that the integrity of the criminal justice process is preserved and that the trial courts are aided by reliable and admissible evidence in recording findings of conviction or acquittal.
- 45.** The trial Court record along with a copy of this judgment be sent back forthwith to the trial Court concerned for compliance and necessary action.

- 46.** A copy of this judgment be sent to the Chief Secretary, Government of Chhattisgarh, as well as Director General of Police, Chhattisgarh, for information and necessary action, forthwith.

Sd/-
(Bibhu Datta Guru)
JUDGE

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE

Head Note

Absence of a certificate of the treating Doctor with regard to mental fitness of the victim for recording the dying declaration, is a big lacuna on the part of the investigating agency and the said lacuna would definitely be beneficial for the accused as in absence of any such certificate, it would not be safe for the Courts to sustain conviction.