



2026:CGHC:12087-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1482 of 2024

Kusumlal Sao S/o. Chakradhar Sao, Aged About 38 Years R/o. Village -
Devgaon, P.S.- Sariya, District - Raigarh (C.G.)

... Appellant

versus

State of Chhattisgarh Through SHO PS Baramkela, District -
Sarangarh-Bilaigarh (C.G.)

... Respondent

(Cause-title taken from Case Information System)

For Appellant	: Mr. Mateen Siddiqui, Advocate
For State/Respondent	: Mr. Shaleen Singh Baghel, Government Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

13.03.2026

1. Heard Mr. Mateen Siddiqui, learned counsel for the appellant.
Also heard Mr. Shaleen Singh Baghel, learned Government
Advocate, appearing for the State/respondent.

2. Today, though the criminal appeal has been listed for hearing on I.A. No.01, application for suspension of sentence and grant of bail to the appellant, however, with the consent of learned counsel for the parties, the appeal is heard finally.
3. Accordingly, I.A. No.01, application for suspension of sentence and grant of bail to the appellant, stands disposed of.
4. This criminal appeal is filed by the appellants/accused under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') is directed against the impugned judgment of conviction and order of sentence dated 30.03.2024 passed by the learned Additional Sessions Judge, Sarangarh, District Sarangarh-Bilaigarh (C.G.) in Sessions Trial No.8 of 2019, whereby the appellant/accused have been convicted for the offence punishable under Sections 302 and 201 of the Indian Penal Code, 1860 (for short, 'IPC') and sentenced to undergo imprisonment for life and fine of Rs.2,000/-, in default of payment of fine amount, additional rigorous imprisonment for one year and rigorous imprisonment for three years and fine of Rs.1,000/-, in default of payment of fine amount, additional rigorous imprisonment for four months, respectively, and it is directed that both the sentences were run concurrently.
5. In a nutshell, the case of the prosecution is that Crime No. 18/2019 was registered at Police Station Barmkela, District Raigarh, in connection with the homicidal death of deceased

Saurabh Panda. During the course of investigation, on 06.01.2019 at about 10:05 a.m., certain incriminating articles were recovered and seized from the house of accused Kusumlal Sao situated at village Devgaon. Upon production by the accused from the roof of his house, an iron die and a screwdriver were seized by the police. Further, from the room of the house which was treated as the place of occurrence, blood-stained soil weighing about 300 grams and plain soil weighing about 300 grams were seized. A terrycot shirt belonging to accused Kusumlal Sao having blood stains and splashes was also seized. During investigation, the spot map of the place of occurrence was prepared.

6. According to the prosecution, Sunil Kumar Sahu (PW-5) had informed Shakrajit Patel (PW-6) about the incident through a WhatsApp message sent from his mobile number 6260962047. In order to obtain the electronic record of the said communication, the Investigating Officer sent a request to the Range Cyber Cell, Bilaspur for retrieval of the backup of the message along with a certificate under Section 65-B of the Indian Evidence Act.
7. With regard to the shirt seized from accused Kusumlal Sao, a letter was sent to the Medical Officer of the Primary Health Centre seeking opinion regarding the stains present on the shirt. The Medical Officer opined that the nature of the blood stains could be conclusively determined only after examination by the Forensic Science Laboratory (FSL). Similarly, the seized screwdriver and

iron die were also sent to the Medical Officer, Primary Health Centre, Barmkela for opinion, who opined that the injuries sustained by the deceased could be caused by such weapons and recommended that the said articles be examined by the FSL to ascertain the presence of blood.

- 8.** After the post-mortem examination of the deceased Saurabh Panda, his clothes were seized from Constable No. 113 Ghanshyam Dhruv (PW-20). During investigation, upon information provided by villagers and the village Kotwar, the spot map and inquest proceedings were prepared by the Patwari and the corresponding report was obtained. The Investigating Officer also sent a requisition to the Superintendent of Police, Raigarh seeking call detail records (CDR) of the mobile number of the deceased.
- 9.** During further investigation, the mobile phone (Redmi) seized from Shakrajit Patel (PW-6) bearing mobile number 8982562696 was examined and the entire data was extracted and stored in a pen drive. Relevant screenshots of the messages pertaining to the incident were retrieved from the mobile phone and printed. These electronic records were produced along with the certificate under Section 65-B of the Indian Evidence Act.
- 10.** The seized articles including the soil samples from the place of occurrence, the iron screwdriver, iron rod, the shirt of the accused and the clothes of the deceased (full shirt, sweater/jacket, inner

and baniyan) were sent to the State Forensic Science Laboratory for examination and the report was obtained. The call detail records relating to the mobile numbers involved were also collected during the course of investigation.

- 11.** The statements of several witnesses including Heeralal Patel (PW-1), Manbodh Sahu (PW-2), Smt. Sachala Panda (PW-3), Fakir Charan Panda (PW-4), Sunil Kumar Sahu (PW-5), Shakrajit Patel (PW-6), Dilip Sahu (PW-7), Ganesh Panda (PW-8), Sapna Sao (PW-9), Kailash Panda (PW-10), Pritam Sao (PW-11), Durgesh Panigrahi (PW-12) and Krishna Kumar Panigrahi (PW-13) were recorded during investigation. The motorcycle of the deceased bearing registration No. CG-13-UC-0268 was handed over to the father of the deceased on interim supurdnama. During the investigation, the accused persons were arrested and information regarding their arrest was given to their relatives.
- 12.** Upon completion of investigation, the final report (charge-sheet) was filed before the competent Court. After committal of the case to the Court of Session, charges were framed against accused Kusumlal Sao for offences punishable under Sections 302 and 201 of the IPC, whereas accused Chakradhar Sahu was charged under Section 506 Part-II of the IPC. It is noteworthy that although accused Chakradhar Sahu was initially arrested and charge-sheeted under Sections 302 and 201 IPC, the learned Presiding Officer, by order dated 16.07.2019, discharged him from the said

offences and framed charge only under Section 506 Part-II of the IPC. The charges were read over and explained to the accused persons, who denied the same and claimed to be tried.

- 13.** In order to substantiate the charges, the prosecution examined 26 witnesses and exhibited 50 documents. Various documents including prepaid customer application forms, Aadhaar card, call detail records and vehicle documents were marked as Articles 1 to 17, whereas the 32 GB pen drive received from the Cyber Cell, Bilaspur containing electronic data was exhibited as Article-18.
- 14.** Among the prosecution witnesses, Heeralal Patel (PW-1) proved the merger intimation (Ex.P-1) and the spot map (Ex.P-7). Sunil Kumar Sahu (PW-5) and Shakrajit Patel (PW-6) were examined with respect to the seizure proceedings (Ex.P-16). Ganesh Panda (PW-8) proved the inquest proceedings and inquest panchnama (Ex.P-3) and the inquest notice (Ex.P-2). Kailash Panda (PW-10) proved the seizure memos (Ex.P-10 and Ex.P-11). Durgesh Panigrahi (PW-12) and Krishna Kumar Panigrahi (PW-13) proved the identification panchnama of the deceased (Ex.P-9), the memorandum statement of accused Kusumlal Sao (Ex.P-17) and the spot map of the house of the accused (Ex.P-14) along with other seizure memos.
- 15.** The Patwari witnesses Triveni Paikara (PW-15) and Lalita Bariha (PW-16) proved the Patwari spot maps (Ex.P-36 and Ex.P-37) and the report submitted to the Tehsildar (Ex.P-38). Head

Constable Rajesh Patel (PW-21) proved the requisition for obtaining call detail records (Ex.P-39) and the certificate under Section 65-B of the Indian Evidence Act (Ex.P-43). The Investigating Officer Inspector R.C. Lahri (PW-22) proved several documents including the FIR (Ex.P-13 and Ex.P-15), seizure memos, arrest memos, spot maps and the FSL report (Ex.P-45) along with the cyber cell extraction reports (Ex.P-49 and Ex.P-50) and the screenshots of the messages (Ex.P-47 and Ex.P-48). The prosecution also examined Dr. Sanjay Patel (PW-25) who proved the post-mortem report (Ex.P-5) and the brief post-mortem report (Ex.P-5A).

- 16.** After completion of the prosecution evidence, the statements of the accused persons were recorded under Section 313 of the Code of Criminal Procedure, wherein they denied the incriminating circumstances appearing against them and pleaded innocence. No evidence was adduced by the accused in defence.
- 17.** During final arguments before the Trial Court, the defence contended that the prosecution had failed to prove its case beyond reasonable doubt and that Sunil Kumar Sahu (PW-5) and Shakrajit Patel (PW-6) did not support the prosecution version regarding the alleged message. It was further argued that important witnesses Sapna Sao (PW-9) and Pritam Sao (PW-11) did not support the prosecution case and the investigation itself was doubtful. On the other hand, the prosecution submitted that

the evidence of witnesses and the material collected during investigation clearly established the guilt of accused Kusumlal Sao for the offences under Sections 302 and 201 IPC and of accused Chakradhar Sahu for the offence under Section 506 Part-II IPC.

- 18.** The trial Court after completion of trial and after appreciating oral and documentary evidences available on record, by the impugned judgment dated 30.03.2024, acquitted Chakradhar Sao for the offence punishable under Section 506 Part-II of the IPC and convicted and sentenced the appellant- Kusumlal Sao in the manner mentioned in the fourth paragraph of this judgment, against which this appeal under Section 374(2) of the Cr.P.C. has been preferred by them calling in question the impugned judgment.
- 19.** Mr. Mateen Siddiqui, learned counsel appearing on behalf of the appellant, vehemently submitted that the impugned judgment of conviction passed by the learned Trial Court is perverse, contrary to law and unsustainable, as the prosecution has utterly failed to establish the ingredients of the offences punishable under Sections 302 and 201 of the IPC. It is contended that the learned Trial Court has erred in convicting the appellant on the basis of conjectures and surmises, without there being any reliable evidence on record to prove the guilt of the appellant beyond reasonable doubt.

- 20.** It is further submitted by Mr. Siddiqui that the prosecution story itself stands demolished from the evidence of its own witnesses. He pointed out that PW-9 and PW-11, who were projected by the prosecution as eye-witnesses, have not supported the prosecution case and have categorically stated that the deceased Saurabh Panda had not visited the house of the appellant on the date of the alleged incident. They have also stated that the appellant and the deceased were on cordial terms and were friends, and there was no dispute between them. Similarly, the mother of the deceased, Sanchala Panda (PW-3), has stated that she received a phone call informing her that her son had met with an accident at Kosabadi, thereby creating serious doubt about the prosecution theory of homicidal death.
- 21.** Mr. Siddiqui further argued that the initial version of the incident itself suggested an accidental occurrence. In this regard, Heeralal Patel (PW-1), who first informed the police about the dead body, has stated that when he visited his farm at about 7:00–8:00 a.m., he found the dead body along with a fallen motorcycle and presumed it to be an accident, which version has also been corroborated by Manbodh Sahu (PW-2). Thus, according to the learned counsel, the prosecution has subsequently fabricated a story of homicide and falsely implicated the appellant.
- 22.** It is also contended by Mr. Siddiqui that the alleged recovery of an iron rod and screwdriver from the possession of the appellant,

said to have been effected under seizure memo Ex. P-18, is wholly doubtful and cannot be relied upon. He submits that the prosecution has failed to establish the recovery in accordance with law, inasmuch as the seizure witnesses Durgesh Panigrahi (PW-12) and Krishna Kumar Panigrahi (PW-13) have not supported the prosecution case and have been declared hostile. Both the witnesses have categorically stated in their deposition before the Court that the alleged seizure of the iron rod and screwdriver was not made in their presence, and that they had merely put their signatures on the seizure memo at the instance and direction of the Investigating Officer, without having witnessed any actual recovery. According to the learned counsel, once the independent witnesses to the seizure have themselves disowned the alleged recovery, the very foundation of the prosecution case with regard to the recovery of the alleged weapon of offence becomes highly doubtful and loses its evidentiary value.

- 23.** Mr. Siddiqui further submits that even otherwise, the prosecution has failed to corroborate the alleged recovery through scientific evidence. The FSL report relating to the seized articles does not disclose the presence of any incriminating material connecting the said iron rod or screwdriver with the alleged crime. There is no finding in the report showing the presence of blood or any other forensic material linking the seized articles either with the deceased or with the alleged incident. In absence of such

scientific corroboration, the alleged recovery remains a mere formality without any evidentiary worth. It is thus argued that the prosecution has failed to establish a credible chain of circumstances to connect the appellant with the alleged offence. The alleged recovery, which the prosecution seeks to rely upon as an incriminating circumstance, stands completely discredited due to the hostile testimony of the seizure witnesses and the absence of supportive forensic evidence. Therefore, the said circumstance cannot be taken into consideration against the appellant and the learned Trial Court has committed a grave error in placing reliance upon such doubtful recovery while recording the conviction.

- 24.** Lastly, Mr. Siddiqui submitted that several material witnesses including PW-5 Sunil Kumar Sahu, PW-6 Sakrajit Patel, PW-9 Sapna Sao and PW-11 Pritam Sao, have not supported the prosecution version regarding the alleged mobile message and other circumstances relied upon by the prosecution. The crime details form and other documents prepared during investigation also create serious doubts about the credibility of the prosecution case. In such circumstances, it is submitted that the learned Trial Court has failed to properly appreciate the contradictions and infirmities in the evidence, and has stretched its imagination to convict the appellant, which is impermissible in law. Hence, the present appeal be allowed and the impugned judgment of conviction deserves to be set aside.

- 25.** Per-contra, Mr. Shaleen Singh Baghel, learned Government Advocate appearing for the State, supported the impugned judgment of conviction and order of sentence and submitted that the learned Trial Court has rightly appreciated the oral as well as documentary evidence available on record and has not committed any illegality in holding the appellant guilty of the offences punishable under Sections 302 and 201 IPC. It is contended that the prosecution has successfully established the circumstances forming a complete chain pointing towards the guilt of the appellant and excluding every hypothesis of innocence.
- 26.** Mr. Baghel further submitted that merely because some of the prosecution witnesses have not fully supported the prosecution case or have been declared hostile, the entire prosecution case cannot be discarded, particularly when their statements are corroborated by other reliable evidence brought on record. According to him, the testimony of hostile witnesses is not to be rejected in toto and the Court is entitled to rely upon such portion of their evidence which supports the prosecution case.
- 27.** It is also argued by Mr. Baghel that the alleged discrepancies or minor contradictions pointed out by the learned counsel for the appellant are natural and do not go to the root of the matter. The prosecution evidence, when read as a whole, clearly establishes the involvement of the appellant in the commission of the crime. Therefore, it is submitted that the learned Trial Court has rightly

appreciated the evidence in its proper perspective and the impugned judgment of conviction and order of sentence do not call for any interference by this Court.

28. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the original records of the trial Court with utmost circumspection.

29. In light of the submissions advanced by learned counsel for the parties and upon perusal of the record of the trial Court, the following points arise for determination in the present appeal:-

(i) Whether the death of the deceased Saurabh Panda occurred in the late night of 07.02.2019, and if so, whether the nature of his death was homicidal?

(ii) Whether on the night of 07.02.2019, at Village Devgaon or Village Sanda, the appellant/accused Kusumlal Sao intentionally caused the death of the deceased Saurabh Panda, and thereby committed the offence of murder punishable under Section 302 of the IPC?

(iii) Whether the appellant/accused Kusumlal Sao, with the intention of screening himself from legal punishment for the alleged offence of murder, caused the disappearance of evidence by throwing the dead body of the deceased Saurabh Panda in the agricultural field of Pardeshi Ogre, and by concealing the iron die and screwdriver allegedly used in

the commission of the offence, thereby committing an offence punishable under Section 201 of the IPC?

Point for Determination

(i) Whether the death of deceased Saurabh Panda occurred on the night of 07.02.2019 and, if so, whether the nature of death was homicidal?

- 30.** From the evidence available on record, the factum of death of deceased Saurabh Panda stands duly established. The father of the deceased Fakir Charan Panda (PW-4) and mother Smt. Sachala Panda (PW-3) have deposed that their son Saurabh Panda had died and that his body was found lying in the field of Kajubadi. Their evidence indicates that the deceased had been assaulted and thereafter his body was thrown in the field.
- 31.** Heeralal Patel (PW-1) has stated that he saw the dead body of the deceased lying in the field of Pardeshi while he had gone to his agricultural land in the morning. His statement is corroborated by Manbodh Sahu (PW-2).
- 32.** The identification proceedings of the dead body were carried out vide Identification Panchanama (Ex.P-9), which has been duly proved by Durgesh Panigrahi (PW-12) and Krishna Kumar Panigrahi (PW-13), who stated that the dead body was identified and the panchanama was prepared accordingly.
- 33.** Kailash Panda (PW-10) has also stated that he saw the dead

body of the deceased lying at the place of occurrence. His testimony has further been corroborated by Rajkishore Panigrahi (PW-18), who stated that the deceased Saurabh Panda belonged to their village. It is pertinent to note that the defence has not seriously disputed the factum of death of the deceased. Hence, the death of Saurabh Panda stands duly proved.

34. Heeralal Patel (PW-1) has stated in paragraph-2 of his examination-in-chief that the deceased had sustained injuries on the back side of his head and it appeared that someone had inflicted the injury resulting in his death. Similar evidence has been given by Manbodh Sahu (PW-2). Kailash Panda (PW-10) has also stated that there was severe injury on the head of the deceased and blood was oozing out, giving an impression that the deceased had been assaulted. Durgesh Panigrahi (PW-12) has admitted the prosecution suggestion that the condition of the body indicated that the deceased had been assaulted elsewhere and thereafter his body had been dragged and thrown in the field, as both his shoes were worn out near the toes. The said evidence has also been supported by Krishna Kumar Panigrahi (PW-13), who stated that the head of the deceased was found broken.

35. The medical evidence further substantiates the prosecution case. Dr. Sanjay Patel (PW-25), who conducted the post-mortem examination, found the following injuries on the body of the deceased:

- Lacerated wound measuring 4 × 2 cm on the left occipital region with fracture of the left parietal bone and exposure of brain material.
- Abrasion measuring 4 × 2 cm on the right cheek.
- Abrasions measuring 3 × 2 cm and 2 × 1 cm on the left cheek.
- Lacerated wound measuring ½ × ½ × 2 cm in front of the left ear.
- Two deep lacerated wounds measuring ½ × ½ × 2 cm and ½ × ½ × 2.5 cm below the left ear.
- Two deep lacerated wounds measuring ½ × ½ × 3 cm on the left side of the neck.
- Incised wound measuring 6 cm on the left palm.

36. On the basis of these injuries, Dr. Sanjay Patel (PW-25) opined that the cause of death was cardio-respiratory arrest due to head injury and that the nature of death was homicidal. He has proved the post-mortem report (Ex.P-5) and Brief post-mortem report (Ex.P-5A). Although suggestions were given on behalf of the defence that such injuries could occur due to falling from a motorcycle, Heeralal Patel (PW-1) and Manbodh Sahu (PW-2) stated that they could not say whether the injuries could have been caused by a fall from a motorcycle. However, Kailash Panda (PW-10) denied such suggestion and reiterated that it appeared that the deceased had been assaulted and killed.

37. Further, Durgesh Panigrahi (PW-12) proved the seizure memo (Ex.P-11) regarding seizure of broken mobile phone, motorcycle,

rope and gamcha from the spot situated behind Kosabadi. Krishna Kumar Panigrahi (PW-13) also stated that both the shoes of the deceased were worn out and the condition of the body suggested that he had been dragged and thrown at the place.

- 38.** The place where the dead body was found was the agricultural field of Pardeshi Ogre in village Sanda. Heeralal Patel (PW-1) has proved the spot map (Ex.P-7 / Ex.P-8) and the same has also been confirmed by the Investigating Officer R.C. Lahri (PW-22).
- 39.** From the perusal of the spot map (Ex.P-8), it appears that the body of the deceased was found in the middle of the field and there was only a footpath ahead. Under normal circumstances, it appears highly improbable that the deceased would ride a motorcycle into the middle of the field and fall down accidentally.
- 40.** Moreover, Ganesh Panda (PW-8) has stated in paragraph-3 of his cross-examination that the motorcycle of the deceased was found standing with the support of the stand.
- 41.** Considering the nature of injuries found on the deceased particularly the fracture of the parietal bone with exposure of brain material and multiple injuries on the face, neck and head, it does not appear probable that such injuries could have been caused merely due to falling from a motorcycle at the said place.
- 42.** Therefore, on the basis of the ocular testimony of the witnesses who saw the body, the circumstances of the place of occurrence,

and the medical evidence of Dr. Sanjay Patel (PW-25) along with the post-mortem report (Ex.P-5 / Ex.P-5A), this Court is of the considered opinion that the death of Saurabh Panda was homicidal in nature.

- 43.** The learned Trial Court has rightly recorded the said finding after proper appreciation of the oral and documentary evidence available on record, and this Court finds no reason to take a different view. Accordingly, the finding recorded by the learned Trial Court on this point is hereby affirmed.
- 44.** Accordingly, Point for Determination No. (i) is answered in the affirmative and held to be proved.

(ii) Whether on the night of 07.02.2019 at Village Devgaon or Village Sanda, the accused Kusumlal Sao intentionally caused the death of the deceased Saurabh Panda and thereby committed the offence of murder.

- 45.** Upon careful examination of the evidence available on record, it emerges that the dead body of the deceased Saurabh Panda was discovered on 09.02.2019 in the agricultural field belonging to Pardeshi Ogre situated in Village Sanda. The proceedings relating to identification of the body, preparation of inquest and seizure of articles from the spot, including the motorcycle, soil, rope and gamchha, were duly carried out and have been proved by the prosecution witnesses. The evidence further establishes that the

body of the deceased was thereafter sent for post-mortem examination to the Community Health Centre, Barmkela. The medical evidence assumes considerable significance. The post-mortem examination conducted by the doctor reveals that the deceased had sustained serious injuries on vital parts of the body, particularly on the head. The report records fracture of the left parietal bone in the occipito-parietal region, with exposure of brain material. Multiple abrasions and incised wounds were also found on the face, cheek, neck and behind the ear. The cause of death was opined to be cardio respiratory arrest resulting from severe head injury. The nature and gravity of the injuries clearly indicate that they were caused by hard and blunt objects and were sufficient in the ordinary course of nature to cause death.

- 46.** The prosecution has further relied upon electronic evidence recovered from mobile phone of witness Shakrajit Patel (PW-6). The cyber forensic report and the WhatsApp message records obtained from the Cyber Cell, Raipur, along with the certificate under Section 65-B of the Evidence Act, reveal that on the night of 07.02.2019 there had been a quarrel between the accused Kusumlal Sao and the deceased Saurabh Panda. The messages exchanged during the relevant period indicate that the accused had assaulted the deceased and thereafter taken him away on a motorcycle. The sequence of these electronic communications lends support to the prosecution version that the deceased was

last seen in the company of the accused on the night of the incident.

- 47.** The prosecution has also placed reliance upon the memorandum statement of the accused recorded during investigation, pursuant to which certain incriminating articles, namely an iron die/rod and a screwdriver, alleged to have been used in the commission of the offence, were recovered. The trial court has found this recovery to be reliable and duly proved.
- 48.** Another circumstance which has been brought on record is the presence of injuries on the person of the accused Kusumlal Sao, The medical examination conducted shortly after the incident revealed abrasions on his fingers and thumb as well as on the frontal region of the head. The doctor opined that these injuries could have been caused by hard and blunt objects. Significantly, the accused has not furnished any plausible explanation for these injuries sustained by him during the relevant period.
- 49.** While considering the aspect of intention, the evidence also discloses that the deceased and the accused were known to each other and shared friendly relations. However, as reflected in the memorandum statement and the surrounding circumstances, a dispute had arisen between them relating to certain personal issues, which culminated in a violent altercation on the night of the incident. During the course of this quarrel, the accused assaulted the deceased with an iron rod and a screwdriver, causing grievous

injuries particularly on the head.

- 50.** In order to determine whether the act of the accused would fall within the definition of “murder” or “culpable homicide not amounting to murder”, reference must be made to Sections 299 and 300 of the Indian Penal Code. Section 299 defines culpable homicide, whereas Section 300 specifies the circumstances in which culpable homicide amounts to murder. In the present case, the nature of the injuries inflicted, the weapon used, the part of the body targeted, and the severity of the assault clearly demonstrate that the accused either intended to cause such bodily injury as was sufficient in the ordinary course of nature to cause death or had knowledge that the act was so imminently dangerous that it would in all probability cause death.
- 51.** The medical evidence showing fracture of the parietal bone with exposure of brain matter unmistakably indicates the extreme force with which the blow was delivered. Moreover, after inflicting such grievous injuries, the deceased was allegedly taken away and his body was thrown in an isolated agricultural field where it remained undiscovered until the following day. These circumstances demonstrate not only the brutality of the assault but also the conduct of the accused subsequent to the incident.
- 52.** In light of the cumulative effect of these circumstances, the quarrel between the accused and the deceased, the last seen evidence supported by electronic records, the recovery of the

weapons pursuant to the memorandum statement, the unexplained injuries on the accused, and the conclusive medical evidence regarding the cause of death, a complete chain of circumstances emerges pointing unerringly towards the guilt of the accused Kusumlal Sao. The said chain is consistent only with the hypothesis that it was the accused who inflicted the fatal injuries upon the deceased.

- 53.** Having regard to the manner in which the injuries were caused and their fatal consequences, the act of the accused clearly falls within the ambit of Section 300, Clause Fourthly of the Indian Penal Code, as the act was so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death. None of the exceptions to Section 300 are attracted in the facts of the present case.
- 54.** Therefore, the finding recorded by the learned Trial Court that the act committed by the accused Kusumlal Sao constitutes murder punishable under Section 302 of the Indian Penal Code appears to be well founded and based on proper appreciation of the evidence on record.
- 55.** Accordingly, Point for Determination No. (ii) is answered in the affirmative.

(iii) Whether the accused Kusumlala Sav, with the intention of screening himself from legal punishment for the offence of murder,

caused disappearance of evidence relating to the said offence and thereby committed the offence punishable under Section 201 of the Indian Penal Code.

- 56.** From the evidence available on record, it stands established that the deceased Saurabh Panda was assaulted on the night of 07.02.2019 and succumbed to the injuries caused to him. The dead body of the deceased was recovered on the morning of 09.02.2019 from the agricultural field belonging to Pardeshi Ogre situated in Village Sanda. The fact that the body was found lying in an isolated field, away from the place where the assault had allegedly taken place, is a circumstance which assumes significance in the context of the present point for determination.
- 57.** The evidence further discloses that the accused had taken the deceased along with him on a motorcycle after the quarrel that occurred between them on the night of the incident. This circumstance is supported by the electronic messages retrieved from the mobile phone records, which indicate that the deceased was last seen in the company of the accused. The subsequent recovery of the dead body from a field situated at a different location strengthens the inference that after the assault the accused transported the deceased to that place.
- 58.** Another incriminating circumstance is the recovery of the articles allegedly used in the commission of the offence, namely the iron rod/die and the screwdriver, pursuant to the memorandum

statement made by the accused during the course of investigation. The seizure of these articles has been duly proved through the prosecution evidence. The very fact that the weapons were recovered later, on the basis of the disclosure statement of accused, suggests that they had been concealed after incident.

- 59.** The conduct of the accused in removing the deceased from the place of assault, transporting him on a motorcycle, and leaving the body in the middle of an agricultural field where it remained undiscovered until the next day clearly indicates an attempt to distance himself from the crime and to prevent the immediate detection of the offence. Such conduct is consistent with the intention to screen himself from legal punishment.
- 60.** Section 201 of the IPC makes punishable the act of causing disappearance of evidence of an offence, or giving false information with the intention of screening the offender from legal punishment. In the present case, the circumstances established by the prosecution show that after committing the offence of murder, the accused disposed of the body in a secluded field and concealed the weapons used in the assault. These acts constitute clear attempts to cause disappearance of evidence relating to the offence.
- 61.** Therefore, the chain of circumstances established on record leads to the conclusion that the accused Kusumlal Sao, having committed the murder of the deceased Saurabh Panda,

attempted to screen himself from legal punishment by removing and abandoning the body in an isolated place and by concealing the weapons used in the commission of the offence.

- 62.** In view of the above discussion, the finding recorded by the learned Trial Court holding the accused Kusumlal Sao guilty of the offence punishable under Section 201 of the IPC appears to be justified and supported by the evidence on record.
- 63.** Accordingly, Point for Determination No. (iii) is answered in the affirmative and is held to be proved.
- 64.** The next question that falls for consideration is whether the learned Trial Court was justified in holding that the appellant/accused Kusumlal Sao is the author of the crime and whether the findings recorded by the Trial Court suffer from any illegality, perversity or misappreciation of evidence warranting interference by this Court in exercise of appellate jurisdiction.
- 65.** Before examining the rival contentions, it is necessary to note that the present case is primarily based on circumstantial evidence. It is well settled that where a case rests on circumstantial evidence, the circumstances relied upon by the prosecution must be fully established and the chain of circumstances so proved must be complete, leaving no reasonable ground for a conclusion consistent with the innocence of the accused. Each circumstance must be proved beyond reasonable doubt and all the

circumstances, taken together, must form a chain which unerringly points towards the guilt of the accused and excludes every hypothesis except that of guilt.

- 66.** In the present case, the prosecution has relied upon several circumstances which, when considered cumulatively, form a complete chain pointing towards the involvement of the appellant in the commission of the offence. The first and foremost circumstance forming the foundation of the prosecution case is the homicidal death of the deceased Saurabh Panda. The medical evidence of Dr. Sanjay Patel (PW-25), who conducted the post-mortem examination, assumes great significance in this regard. The witness has proved the post-mortem report (Ex.P-5) and Brief post-mortem report (Ex.P-5A) and has categorically stated that the deceased had sustained multiple injuries on vital parts of the body. The injuries included a lacerated wound on the occipital region measuring 4 × 2 cm accompanied by fracture of the parietal bone with exposure of brain matter, along with several abrasions and lacerated wounds on the face, cheek, neck and near the ear.
- 67.** On the basis of the aforesaid injuries, the doctor has clearly opined that the cause of death was cardio-respiratory arrest due to severe head injury, and that the nature of death was homicidal. The medical testimony is fully consistent with the injuries noted in the post-mortem report and has remained unshaken during cross-

examination. No material contradiction or circumstance has been brought on record by the defence to discredit the medical evidence.

- 68.** In view of the clear and cogent medical opinion coupled with the nature and location of the injuries found on the body of the deceased, it stands conclusively established that the death of Saurabh Panda was not accidental but homicidal in nature, thereby constituting the first and most significant circumstance in the chain of events relied upon by the prosecution.
- 69.** The second important circumstance relied upon by the prosecution is the evidence relating to the discovery of the dead body and the condition in which it was found. The testimony of Heeralal Patel (PW-1) and Manbodh Sahu (PW-2) shows that the dead body of the deceased was found lying in the agricultural field of Pardeshi Ogre in Village Sanda. The said witnesses have stated that the body bore visible injuries and blood was found near the head of the deceased. Their statements have been corroborated by Kailash Panda (PW-10) as well as by the inquest proceedings and spot maps prepared during investigation. The location where the body was found also assumes significance. From the spot map and the evidence of the witnesses, it is evident that the body was found in the middle of an agricultural field where ordinarily a motorcycle cannot reach without deliberate human intervention. This circumstance strongly suggests that the

body was brought and thrown at that place after the incident.

- 70.** The prosecution has further relied upon the electronic evidence relating to the communication between Sunil Kumar Sahu (PW-5) and Shakrajit Patel (PW-6). The evidence on record shows that certain messages were exchanged through WhatsApp in relation to the incident. The Investigating Officer obtained the electronic record from the Cyber Cell along with the certificate under Section 65-B of the Indian Evidence Act. The messages produced in evidence (Ex.P-47 and Ex.P-48) indicate that there was a quarrel between the appellant Kusumlal Sao and the deceased Saurabh Panda on the night of the incident and that the appellant had taken the deceased along with him on a motorcycle. These electronic communications lend support to the prosecution case regarding the last seen circumstance.
- 71.** Another significant circumstance is the recovery of the weapons allegedly used in the commission of the offence. During investigation, the memorandum statement of the appellant was recorded under Section 27 of the Evidence Act, pursuant to which an iron die/rod and a screwdriver were recovered. The recovery has been proved through the seizure memos and the evidence of the Investigating Officer. Although some of the seizure witnesses turned hostile during trial, it is well settled that the testimony of the Investigating Officer cannot be discarded merely on the ground that independent witnesses have not fully supported the

prosecution case, particularly when there is no material to suggest that the recovery was fabricated. The Trial Court has carefully examined this aspect and has rightly held that the recovery pursuant to the disclosure statement of the appellant is a relevant circumstance.

- 72.** The prosecution has also brought on record the circumstance relating to the injuries found on the person of the appellant. The medical examination of the appellant revealed abrasions on his fingers, thumb and head. The doctor opined that such injuries could have been caused by hard and blunt objects. Significantly, the appellant has not offered any explanation in his statement under Section 313 of the Cr.P.C. regarding these injuries. The unexplained injuries on the person of the accused constitute an additional circumstance which lends support to the prosecution case that the appellant was involved in a physical altercation with the deceased around the time of the incident.
- 73.** It is also noteworthy that the conduct of the appellant subsequent to the incident raises serious suspicion. The evidence indicates that after inflicting injuries upon the deceased, the appellant transported him to another location and abandoned the body in an agricultural field. Such conduct clearly indicates an attempt to conceal the crime and to avoid detection. This conduct is further reinforced by the recovery of the weapons from the place pointed out by the appellant.

- 74.** The defence has attempted to argue that the death might have occurred due to an accidental fall from a motorcycle. However, this theory does not find support either from the medical evidence or from the circumstances proved on record. The nature of injuries found on the body of the deceased, particularly the fracture of the parietal bone with exposure of brain matter and the presence of multiple injuries on the face, neck and head, clearly indicate that the injuries were inflicted by force and cannot be attributed merely to an accidental fall from a motorcycle.
- 75.** It has also been argued on behalf of the appellant that certain prosecution witnesses turned hostile and therefore the prosecution case becomes doubtful. However, it is a settled principle of law that the evidence of hostile witnesses is not to be rejected in its entirety. The Court is entitled to rely upon that part of the testimony which is found to be reliable and corroborated by other evidence on record. In the present case, even if some witnesses did not fully support the prosecution case, the material circumstances proved through other reliable evidence remain intact and form a coherent chain pointing towards the guilt of the appellant.
- 76.** When the entire evidence on record is considered cumulatively, the following circumstances stand firmly established:
- (i) the homicidal death of the deceased Saurabh Panda;

(ii) the quarrel between the appellant Kusumlal Sao and the deceased shortly before the incident;

(iii) the circumstance indicating that the deceased was last seen in the company of the appellant;

(iv) the recovery of the weapons used in the commission of the offence pursuant to memorandum statement of the appellant;

(v) the presence of unexplained injuries on the person of the appellant; and

(vi) the conduct of the appellant in abandoning the body of the deceased in an isolated field.

77. These circumstances, when taken together, form a complete and unbroken chain which unmistakably points towards the guilt of the appellant and excludes every reasonable hypothesis consistent with his innocence. The prosecution has therefore succeeded in establishing that it was the appellant Kusumlal Sao who caused the death of the deceased Saurabh Panda and thereafter attempted to conceal the evidence of the crime.

78. The learned Trial Court has carefully analyzed the oral as well as documentary evidence available on record and has recorded detailed findings while holding the appellant guilty of the offences punishable under Sections 302 and 201 of the Indian Penal Code. This Court, upon independent re-appreciation of the evidence, finds that the conclusions reached by the Trial Court are well

founded and based upon proper appreciation of the material on record. No perversity or illegality has been pointed out which would warrant interference in appeal.

- 79.** Consequently, this Court is of the considered opinion that the prosecution has successfully proved beyond reasonable doubt that the appellant Kusumlal Sao is the author of the crime. The conviction recorded by the learned Trial Court under Sections 302 and 201 of the IPC is therefore justified and does not call for any interference.
- 80.** Accordingly, the criminal appeal preferred by the appellant/accused Kusumlal Sao being devoid of merit is liable to be **dismissed**. The conviction and sentence imposed upon the appellant by the learned Additional Sessions Judge, Sarangarh, District Sarangarh-Bilaigarh in Sessions Trial No.8 of 2019 vide judgment dated 30.03.2024 are hereby affirmed.
- 81.** It is stated at the Bar that the appellant is reported to be in custody since 11.02.2019, he shall serve out the sentence as ordered by the learned trial Court.
- 82.** Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence 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.

- 83.** Let a certified copy of this judgment along with the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Anu

Head Note

Ocular, medical, electronic, and circumstantial evidence including last-seen testimony, recovery of weapons, and unexplained injuries on the accused clearly established the guilt of the appellant beyond reasonable doubt. Minor contradictions in the testimony of witnesses or the hostility of some witnesses would not weaken the prosecution case and would not constitute a ground for acquittal.