



2026:CGHC:18927-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1978 of 2025

1 - Parasram Gayakwad S/o Kadgu Ram Gayakwad Aged About 62 Years R/o Village Joba, PS Tumgaon PS Mahasamund (C.G.)

2 - Brijsen Gayakwad S/o Parsram Gayakwad Aged About 27 Years R/o Village Joba, Ps Tumgaon PS Mahasamund (C.G.)

... Appellants

versus

State of Chhattisgarh Through SHO, P.S. Tumgaon, District-
Mahasamund Chhattisgarh

... Respondent

For Appellants : Mr. H.S. Ahluwalia, Advocate
For Respondent/State : Mr. Shailendra Sharma, Panel Lawyer

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

Judgment on Board

Per Ramesh Sinha, Chief Justice

24.04.2026

1. Heard Mr. H.S. Ahluwalia, learned counsel for the appellants as well as Mr. Shailendra Sharma, learned Panel Lawyer, appearing for the State/respondent.
2. Today, though the matter is listed for hearing on I.A. No.03 of 2025, which is an application for suspension of sentence and grant to the appellants, however, considering the fact that the

appellants are in jail since 20.09.2020 and with the consent of learned counsel for the parties, the appeal is heard finally.

3. This criminal appeal filed by the accused/appellants under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhina, 2023 (for short, 'BNSS') is directed against the impugned judgment of conviction and order of sentence dated 18.06.2025 passed by the learned 1st Additional Sessions Judge, Mahasamund (C.G.) in Sessions Trial No.62 of 2019, whereby the accused/appellants have convicted and sentenced with a direction to run all the sentences concurrently in the following manner :

CONVICTION	SENTENCE
U/s 459 of IPC	Simple imprisonment for 10 years and fine of Rs.500/- and in default of payment of fine amount, additional RI for 06 months
U/s 302 r/w 34 of IPC (Three times)	Life imprisonment and fine of Rs. 1000/- and in default of payment of fine amount, additional RI for 01 year
U/s 307 r/w 34 of IPC (Four times)	Simple imprisonment for 10 years and fine of Rs.500/- and in default of payment of fine amount, additional RI for 06 months

4. The case of the prosecution, in brief, is that, on 11.09.2020 between 04.00 a.m. and 05.00 a.m., the accused Parasram Gaikwad and Bajrasen Gaikwad, in a land division dispute, threw chilli powder in the eyes of Osram Gaikwad and Jagriti Gaikwad and attacked them with a dagger and slit the throats of Geetanjali

Gaikwad, Tina Gaikwad, Manish Gaikwad, Oman Gaikwad and Anarbai Gaikwad with the intention to kill them, due to which Jagriti Gaikwad, Tina Gaikwad and Manish Gaikwad died on the spot and Oskumar Gaikwad, Geetanjali Gaikwad, Oman Gaikwad and Anarbai Gaikwad were admitted to CHC Tumgaon for treatment.

5. The prosecution's case further goes to show that based on the report of complainant Khilawan Gaikwad, the Tumgaon Police Station registered a crime and took the case into investigation. During the investigation, the scene of the incident was inspected and the panchnama of blood-soaked soil and plain soil, blood-soaked cotton, red chili powder, a broken piece of a door, and the crowbar (sabbal) used to break the door was prepared and seized in front of witnesses. The statements of complainant Khilawan Gaikwad as well as the statement of other witnesses Sawan Bai Gaikwad, Poshanlal Sahu, Narendra Kumar Sahu, Oman Gaikwad and Os Kumar Gaikwad were recorded. The accused Parasram and Bajrasen were arrested. On the basis of the memorandum statement of the accused, the weapon used in the incident, the dagger, and the clothes worn at the time of the incident were seized. After inspection of the incident site in the case, the Patwari map was prepared. After completing the investigation in the case, Crime No. 121/2020 was registered against the accused and the charge sheet was presented before the Court of Chief Judicial Magistrate Mahasamund, District

Mahasamund on 05.12.2020. As per the surrender order dated 05.03.2021 of the Court of Chief Judicial Magistrate Mahasamund, District Mahasamund, the case was surrendered in the Court of Sessions Judge, Mahasamund, thereafter, the Court of 1st Additional Sessions Judge, Mahasamund has received this case for trial on 18.06.2021.

6. When charges were framed under sections 459, 302/34 (three times), 307/34 (four times) of IPC against the accused Parasram Gaikwad and Bajrasen Gaikwad and were read out and explained to them, then they rejected the charges and claimed trial.
7. In order to bring home the offence, the prosecution had examined as many as 23 witnesses and exhibited 62 documents Exs.P-1 to P-62. On being recording the statements of the accused under Section 313 CrPC, they declared themselves as innocent and stated that they have been falsely implicated. The accused expressed their intention to offer defence evidence, but no defence evidence was presented.
8. The trial Court upon appreciation of oral and documentary evidence available on record, by its judgment dated 18.06.2025, convicted and sentenced the appellants as aforementioned, against which, this criminal appeal has been preferred.
9. Mr. H.S. Ahluwalia, learned counsel for the appellants would submit that the learned Trial Court has erred in convicting the

appellants, Parasram Gaikwad and Bajrasen Gaikwad under Sections 459, 302/34 (three counts), and 307/34 (four counts) of the IPC. While the incident occurred amid an ongoing civil dispute over land division, the prosecution has failed to establish that the appellants acted with premeditated intent to kill the victims. The land dispute, which involved long-standing enmity between the parties, created a charged atmosphere, leading to a confrontation. However, there is no direct evidence proving that the appellants intended to commit murder. He further submitted that the prosecution's case rests on circumstantial evidence, including the seizure of blood-soaked soil, chilli powder, and a crowbar, but these items do not conclusively link the appellants to the killings. He also submitted that the use of chilli powder and a dagger during the altercation may have been a spur-of-the-moment action, influenced by the heat of the argument, rather than a premeditated attempt to kill. Therefore, the charges under Section 302 (murder) should be reconsidered, and the case should fall under Section 304 (culpable homicide not amounting to murder), as there was no clear intent to commit murder.

10. Mr. Ahluwalia contended that the long-standing enmity and pending civil dispute between the parties must be taken into account while evaluating the motive and nature of the attack. The prosecution has failed to establish a direct and clear motive for the appellants to commit murder. The civil dispute and ongoing tensions were likely the triggers for the altercation, but this does

not automatically imply a murderous intent. The absence of a definitive motive and the lack of premeditation suggest that the act was more impulsive and driven by frustration and anger from the unresolved dispute. Furthermore, while witnesses like the complainant, Khilawan Gaikwad, and others provided testimony, their statements were inconsistent and often contradicted by physical evidence, weakening the prosecution's case. The prosecution has also failed to address the fact that the appellants consistently denied the charges and asserted their innocence, which was not adequately rebutted during the trial. He further contended that the conviction under Section 307/34 (attempted murder) for four counts is overstated. The injuries sustained by the surviving victims do not indicate an intent to kill, but rather to cause harm. The medical reports do not substantiate that the appellants aimed to kill the survivors, as the injuries, though serious, were not life-threatening in all cases. The charge of attempted murder is therefore unjustified. Given the lack of clear evidence of the appellants' intent to kill, and the context of the civil dispute that fueled the altercation, the conviction under Section 302 and Section 307 should be reconsidered. Therefore, it is humbly prayed that this Hon'ble Court may examine the case in light of these facts and reduce the charges to reflect the true nature of the offence, potentially considering a charge of culpable homicide under Section 304 IPC.

11. On the other hand, Mr. Shailendra Sharma, learned Panel Lawyer, appearing for the respondent/State would support the impugned judgment and submitted that conviction of the appellants under Sections 459, 302/34 (three counts), and 307/34 (four counts) of the IPC is well-founded and supported by overwhelming evidence. The prosecution has proven, through consistent testimonies and forensic evidence, that the appellants acted with clear intent to kill. The brutal nature of the attack using deadly weapons like a dagger and chilli powder, and the throat slitting of the victims shows premeditation and malice. He further submitted that though the defence may argue that the incident stemmed from a civil dispute, but the severity of the attack with three victims dying on the spot and others suffering life-threatening injuries, proves that the appellants acted with intent to cause death. The appellants had ample opportunity to retreat but chose to continue the assault, further demonstrating their intent to kill. The evidence presented, including the recovery of the weapon used and the medical reports, conclusively links the appellants to the crime.
12. Mr. Sharma contended that the defence's claim of false implication due to the land dispute is not substantiated by any credible evidence. The appellants failed to counter the prosecution's case effectively and have not presented any evidence to disprove their involvement in the crime. The injuries inflicted on the surviving victims, though not fatal, were serious enough to justify the conviction under Section 307 for attempted

murder. The prosecution has established the appellants' guilt beyond a reasonable doubt, and the conviction under Sections 459, 302 and 307 is fully justified, as such, it is prayed to uphold the conviction and sentence of the appellants, rejecting their claims of false implication and granting no relief in the appeal.

13. We have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
14. **The first question for consideration would be, whether the trial Court was justified in holding that death of all the three deceased were homicidal in nature ?**
15. The dead body of deceased Jagriti Gaikwad was examined by Dr.Priyanka Agarwal (PW 16). According to the evidence of Dr.Priyanka Agarwal (PW 16), the deceased Jagriti Gaikwad had an incised wound measuring approximately 12 (length) x 4 (width) x 4 (depth) cm in the right side of her neck. The skin, muscles, carotid artery and vein were cut, and dried blood stains were present. On the left side of her neck, below the left ear, there was an incised wound measuring approximately 1.5 (length) x 0.5 (width) x 1 (depth) cm. On the left side of her neck, below the left ear, there was an incised wound measuring approximately 1.5 (length) x 1 (width) x 1 (deep) cm. On the chin, there was an incised wound measuring approximately 6 (length) x 1 (width) x 1 (deep) cm. There was a lacerated wound on the right cheek, near

the right eye, measuring approximately 1 (length) x 0.5 (breadth) x 0.5 (depth) cm.

16. According to the evidence of Dr. Priyanka Agarwal (PW 16), the deceased Jagriti Gaikwad had a contusion wound measuring approximately 2 (length) x 2 (width) cm on her right cheek below the right eye. There was an incised wound measuring approximately 2 (length) x 1 (width) x 0.5 (deep) cm on the front of her left shoulder. There was an incised wound measuring approximately 2 (length) x 0.5 (width) x 0.5 (deep) cm on the front of her right shoulder. There was an incised wound measuring approximately 4 (length) x 1 (width) x 1 (deep) cm on the back of her right shoulder. There was an incised wound measuring approximately 6 (length) x 1 (width) x 0.5 (deep) cm on the left side of the chest below the breast. There was an incised wound measuring approximately 5 (length) x 1 (width) x 1 (deep) cm on the left side of the chest. There was an incised wound measuring approximately 2 (length) x 0.5 (width) x 0.5 (deep) cm below the previous wound on the left side of the chest. There was an incised wound measuring approximately 2 (length) x 1 (width) x 1 (deep) cm on the middle part of the back. There was an incised wound measuring approximately 4 (length) x 2 (width) x 2 (deep) cm on the middle third of the right arm. There was an incised wound measuring approximately 1 (length) x 0.5 (width) x 0.5 (deep) cm on the middle part of the middle finger of the right palm.

17. According to the evidence of Dr. Priyanka Agarwal (PW-16), the injuries sustained by the deceased Jagriti Gaikwad could have been caused by a hard, blunt and sharp object and the injuries were of serious nature and due to severe injury to the right neck (carotid RT) and other injuries, she died of cardiorespiratory failure due to excessive bleeding. She opined that the nature of death of the deceased Jagriti Gaikwad was homicidal, the time period of death was 8 to 24 hours from her post-mortem report. The post-mortem report given by her is Ex.P 32.
18. Dr. Daityanashan Patel (PW 17) has testified that he conducted the postmortem examination of deceased Manish Gaikwad. According to the evidence of Dr. Daityanashan Patel (PW 17), deceased Manish Gaikwad had an elliptical wound measuring approximately 6 cm (length) x 2 cm (wide) x 2 cm (deep) on the left side of his face, midway from the nose. The maxilla bone on the left side of his face was fractured. An incised wound measuring approximately 3 cm (length) x 2 cm (wide) x 2 cm (deep) on the left side of his neck, lacerating the carotid artery, vein, and muscles, was elliptical in shape. An incised wound measuring approximately 3 cm (length) x 2 cm (wide) x 2 cm (deep) on the front of his left shoulder, elliptical in shape, was fractured. The edge of the right shoulder's crevicular bone was fractured. There was an incised wound measuring approximately 3 (length) x 0.5 (breadth) x 0.5 (depth) cm on the back of the neck.

19. According to the evidence of Dr. Daityanashan Patel (PW-17), deceased Manish Gaikwad had an incised wound measuring approximately 1 (length) × 0.5 (width) × 0.5 (deep) cm on the back of his left shoulder. An incised wound measuring approximately 2 (length) × 1 (width) × 0.5 (deep) cm was found in the epigastric region of his abdomen. An incised wound measuring approximately 2 (length) × 1 (width) × 1 (deep) cm was found in the lower right back. An incised wound measuring approximately 2 (length) × 1 (width) × 1 (deep) cm was found on the side of his left hand. Linear scratch marks extending from the epigastric region to the left side of the chest, measuring approximately 20 cm in length.
20. According to the testimony of Dr. Daityanashan Patel (PW-17), all of Manish's injuries could have been caused by hard and sharp objects. According to his opinion, the deceased's injuries were likely caused by hard and sharp objects, and the injuries were serious. The death was due to cardiorespiratory failure caused by a severe injury to the left neck (carotid artery) and excessive bleeding from other injuries and the nature of death of deceased Manish Gaikwad was homicidal, the time period of death being 8 to 24 hours from the postmortem report. The PM report is Ex.P- 34.
21. The body of the deceased, Tina Gaikwad, was also examined by Dr. Daityanashan Patel (PW-17). According to the evidence of Dr. Daityanashan Patel (PW-17), the deceased Tina Gaikwad had

an incised wound measuring approximately 7 cm (length) x 4 cm (width) x 3 cm (deep) on the left side of his neck, with the carotid artery, vein, and muscle being severed, which was elliptical in shape. An incised wound measuring approximately 3 cm (length) x 2 cm (width) x 3 cm (deep) on the left side of his face, near the left eye, was found. An incised wound measuring approximately 6 cm (length) x 3 cm (width) x 0.5 cm (deep) on the lower part of his chin. An incised wound measuring approximately 1 cm (length) x 0.5 cm (width) x 0.5 cm (deep) was found on the upper part of his index finger. There was a scratch mark wound measuring approximately 1 (length) x 0.5 (breadth) x 0.5 (depth) cm on the middle finger of the right hand.

22. As per the evidence of Dr. Daityanashan Patel (PW 17), the injuries sustained by the deceased Tina Gaikwad could have been caused by a hard and sharp object and the injuries were of serious nature and due to serious injury in the left neck (carotid artery) and other injuries, due to excessive bleeding, death occurred due to heart attack (cardiorespiratory failure). The nature of death appeared to be homicidal, the time period of death was 8 to 24 hours from his examination report. The PM report is Ex.P35.
23. The learned trial Court relying upon the statements Dr. Priyanka Agarwal (PW16) and Dr. Daityanashan Patel (PW-17), and post-mortem reports Ex.P-32, Ex.P-34, Ex.P-35 came to the conclusion that death of deceased Jagriti Gaikwad, Manish Gaikwad and Tina Gaikwad were homicidal in nature. 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 seriously disputed by the learned counsel for the appellants. We hereby affirm the said finding.

24. Now, the question that arises is as to whether the accused persons acted with common intention and common object with premeditated mind to kill the deceased resulting in murder as defined under Section 300 IPC and are liable for punishment under Section 302/34 to IPC, or the assault was without any motive or intention to cause death of the deceased persons? And whether they are also guilty for attempt to murder and liable to be punished under sec 307/34 IPC.
25. The accused persons and the deceased all are family members. The complainant and the deceased were having their houses close to each other.
26. In ***Virsa Singh Vs State of Punjab A.I.R 1958 SC 465*** Hon'ble Supreme Court laid down four elements to establish that an offence is a murder under Section 300 "thirdly" as under:-

"12. To put it shortly, the prosecution must prove the following facts before it can bring a case under s. 300, 3rdly"; First, it must establish, quite objectively, that a bodily injury is present; Secondly, the nature of the injury must be proved; These are purely objective investigations. Thirdly, it must be proved that there was an intention to inflict that particular bodily injury,

that is to say, that it was not accidental or unintentional, or that some other kind of injury was intended. Once these three elements are proved to be present, the enquiry proceeds further and, Fourthly, it must be proved that the injury of the type just described made up of the three elements set out above is sufficient to cause death in the ordinary course of nature. This part of the enquiry is purely objective and inferential and has nothing to do with the intention of the offender."

(Emphasis supplied by us)

*21. In **Anda and others vs. State of Rajasthan A.I.R. 1966 SC 148**, (Four judges bench) (Paras 10, 11 and 20, 1965 SCC Online SC 46) Hon'ble Supreme Court explained Section 300 "thirdly" and laid down the law that the third clause views the matter from a general stand point. It speaks of an intention to cause bodily injury which is sufficient in the ordinary course of nature to cause death. The emphasis here is on the sufficiency of the injury in the ordinary course of nature to cause death. The sufficiency is the high probability of death in the ordinary way of nature and when this exists and death ensues and the causing of such injury is intended the offence is murder. Sometimes the nature of the weapon used, sometimes the part of the body on which the injury is caused, and sometimes both are relevant. The determinant factor is the intentional injury which must be sufficient to cause death in the ordinary course of nature. If the intended injury cannot be said to be sufficient in the ordinary course of nature to cause death, that is to say, the probability of death is not so high, the offence does not fall within 'murder' but*

within culpable homicide not amounting to murder or something less. The sufficiency of an intentional injury to cause death in the ordinary way of nature is the gist of the clause irrespective of an intention to cause death. Here again, the exceptions may bring down the offence to culpable homicide not amounting to murder.”

27. As per the medical examination reports (Ex.P-37 to Ex.P-125) prepared by Dr. Varsha Mungutwar (PW-18), the injured Oman Gaikwad is stated to have sustained fatal injuries in the incident. Similarly, as per the examination report Ex.P-28 prepared by Dr. K.R. Ratre (PW-14), who examined the injured Oskumar, he is also reported to have sustained fatal injuries. Further, as per the examination report Ex.P-29 prepared by Dr. Manpreet Gurudatta (PW-15), Oman Gaikwad is again stated to have sustained fatal injuries. According to Ex.P-30, Geetanjali Gaikwad also suffered fatal injuries in the incident. Additionally, as per the examination report Ex.P-31 prepared by Dr. Manpreet Gurudatta (PW-15), Anarbai Gaikwad sustained serious injuries which were dangerous to her life, i.e., fatal in nature.
28. Thus, from the medical reports Ex.P-37 to Ex.P-125, Ex.P-28, Ex.P-29, Ex.P-30, and Ex.P-31, it is clearly established that Oman Gaikwad, Oskumar Gaikwad, Geetanjali Gaikwad, and Anarbai Gaikwad sustained fatal injuries.
29. It is now to be considered whether the murders of Jagriti Gaikwad, Tina Gaikwad, and Manish Gaikwad were caused by the accused

Parasram Gaikwad and Bajrasen Gaikwad, and whether the accused caused such serious injuries to Oman Gaikwad, Oskumar Gaikwad, Geetanjali Gaikwad, and Anarbai Gaikwad that their lives were endangered, i.e., whether fatal injuries were inflicted. It must also be examined whether the deceased persons were killed by assault with the seized dagger and whether the injured persons sustained serious or fatal injuries due to the said weapon.

30. According to the statement of Investigating Officer Sharad Tamrakar (PW-23), on 11.09.2020, after reaching the crime scene, a sketch of the scene was prepared, which is marked as Ex.P-05. The site plan was prepared by the Investigating Officer and the Patwari (village accountant), marked as Ex.P-05 and Ex.P-06. The crime scene, including the houses of the deceased and the injured persons, Oskumar Gaikwad, Oman Gaikwad, Geetanjali Gaikwad, and Anarabai, is located inside their houses. The house of the informant, Khilawan Gaikwad (PW-01), is nearby. The body of Jagriti Bai was found in the courtyard, while Manish Gayakwad's body was found in the garden. Tina Gayakwad's body was found inside a room of the house.
31. The seizure actions conducted by the Investigating Officer have been supported by independent seizure witnesses Narendra Kumar Sahu (PW-04) and Poshanlal Sahu (PW-08) as indicated in Exs.P-12 and P-13. The seizure of weapons (dagger/sabdal) and chili powder near the house has been verified as evidence in

the case. Based on the memorandum statements of the accused, the weapons (dagger/sabdal) were seized as per their indications, which was done in accordance with the seizure memos Exs. P-12 and P-13. The memorandum statements, Exs.P-14 and 15, have been supported by independent witnesses Tiklal Yadav (PW-05) and Tukaram Dhruv (PW-06). Based on the memorandum statements, the accused Parasram Gaikwad led to the seizure of a dagger, which had bloodstains, from his residence, and this was documented in the seizure memo marked as Ex.P-16.

32. Similarly, based on the memorandum statement of the accused Bajrsen Gaikwad, a dagger with bloodstains was seized from his residence, which was presented after being extracted from cow dung (called "Chhe Na"). This seizure was documented in the seizure memo marked as Ex.P-17. Both of these seized daggers, as per the seizure memos Exs.P-16 and P-17, were sent for forensic examination, and the forensic report confirmed the presence of human blood on the daggers. This strongly supports the prosecution's claim that the murders of Jagriti, Tina, and Manish Gayakwad, as well as the serious injuries caused to Om Gayakwad, Os Kumar Gayakwad, Geetanjali Gayakwad, and Anarabai, were committed using these daggers.
33. Dr. Priyanka Agrawal (PW-16) seized the clothes worn by the deceased, Jagriti Gaikwad, and conducted an examination. The items included a saree (red, white, blue, pink, and multi-colored print) with bloodstains, a black blouse with bloodstains, and a blue

petticoat with bloodstains. The examination report/query report she provided is marked as Ex.P-32.

34. Dr. Dityanashan Patel (PW-17) supported the seizure and examination of the sharp weapon (dagger) seized in Crime No. 121/2020 from the Tumgaon Police Station on 06.10.2020. The application for examination (Ex.P-36) was received. The request was supported by Constable Sanjay Kumar Nishad (No. 761) of the Tumgaon Police Station, who brought two sealed packets containing the dagger. Based on the application, Dr. Patel conducted the examination on 12.10.2020 and found a metal dagger with a wooden handle. The length of the sharp side was 23 cm, the blunt side was 21 cm, the width was 10 cm, and the handle length was 20 cm with a diameter of 10 cm. The dagger showed bloodstains and rust on both sides of the metal portion. The sharp side was 22 cm, the blunt side 25 cm, the width was 8 cm, and the handle length was 17.5 cm with a diameter of 10.5 cm, and there were bloodstains on it.
35. According to Dr. Dityanashan Patel's statement, the injuries sustained by the deceased Manish Gaikwad and deceased Tina Gaikwad were consistent with the type of dagger used. He conducted their post-mortem on 11.09.2020, and the query report is marked as Ex.P-36.
36. Os Kumar (PW-2) testified that he knew the accused Parasram Gaikwad and Bajrsen Gaikwad. Jagriti was his wife, Tina was his

daughter, and Manish was his son. The incident occurred on 11.09.2020. On the morning of the incident, when his wife woke up, he also got up and saw that the accused Parasram and Bajrsen arrived at their house. Parasram attacked his wife with a sharp weapon, and when he tried to intervene, he was also attacked with the same weapon. His wife came to his side, and the accused threw chili powder in their eyes, which caused them to flee. The accused then attacked his wife several times with the sharp weapon, causing her to collapse in the courtyard. His children, son, and daughter were asleep in another room, and the door was locked from the inside. The accused started breaking the door with a sabbal (iron bar). He ran to his brother Khilawan's house and informed him about the incident. He then took his brother's motorcycle and went to Tumgaon Police Station to report the incident and subsequently went to the Community Health Center in Tumgaon.

37. Os Kumar further testified that after receiving initial treatment at the Community Health Center in Tumgaon, he was referred to the District Hospital in Mahasamund, where he was admitted. At around 4:00-5:00 PM that day, he learned that his wife Jagriti, daughter Tina, and son Manish had been killed in the incident. His mother, Anar Bai, his deaf daughter Geetanjali, and his son Om Kumar had suffered serious injuries and were referred to Raipur for intensive treatment. He further stated that the incident occurred due to a land dispute between their family and the

accused's family. He supported the police statement regarding the matter.

38. Om Kumar Gaikwad (PW-21) testified that he knew the accused Parasram Gaikwad and Bajrsen Gaikwad. He was injured during the incident in 2022, as he received a wound on his neck from Parasram, who attacked him with a sword. Om Kumar witnessed the incident where Jagriti, Tina, Manish, and Geetanjali were being attacked. Jagriti was his mother, Tina and Geetanjali were his sisters, and Manish was his brother. The accused attacked his mother, sister Tina, and brother Manish, causing their deaths. His sister Geetanjali suffered injuries to her hand and wrist. Bajrsen Gayakwad attacked the victims with a weapon resembling a chicken-cutting tool. Om Kumar was treated for his injuries for about one to two years. The attack occurred due to a land dispute, which led to the death of his mother, sister, and brother, and serious injuries to him and his sister Geetanjali. Parasram was his grandfather's brother, and Bajrsen was Parasram's son. After being referred from Tumgaon Hospital, Om Kumar received treatment at the District Hospital in Mahasamund and later at the DKS Hospital in Raipur.
39. Geetanjali Gaikwad (PW-22) testified that she knew the accused Parasram Gaikwad and Bajrsen Gaikwad. Jagriti was her mother, Tina was her sister, Manish Gaikwad and Om Kumar Gaikwad were her brothers. Both the accused attacked her with a weapon and injured her neck. The accused had killed her mother, sister,

and brother with a sword-like weapon. She indicated that the weapon used was about one hand's length. The incident occurred early in the morning while they were sleeping. She was injured on her hand, wrist, and neck, and her brother Om was injured in his head and neck. Manish was killed by having his neck cut off, as was her mother, and her younger sister was also killed by having her neck cut off.

40. In this case, the incident was not committed by the accused Parasram Gaikwad and Bajrasen Gaikwad, with no witness presented by the prosecution being contradicted in cross-examination, nor has any defense been presented to prove their innocence.
41. In statements recorded under Section 313 of the CrPC, the accused Parasram Gaikwad and Bajrasen Gaikwad stated that the applicant/reporter, Oskumar, falsely implicated them in order to usurp their property. No defense evidence has been presented to substantiate this claim. The facts and circumstances of the case do not suggest that Oskumar personally murdered his three family members—his wife, son, and daughter—to usurp property, nor that he inflicted harm on himself or other victims. Rather, the evidence confirms that the incident occurred due to a land dispute. The deceased—Jagruti Gaikwad, Tina Gaikwad, and Manish Gaikwad—and the four injured victims, Oskumar Gaikwad, Oman Gaikwad and Geetanjali Gaikwad have not had their statements contradicted by the defense, and no evidence

has been presented to prove that the injury to Anarbai was caused by anyone other than the accused Parasram Gaikwad and Bajrasen Gaikwad, or by Oskumar himself.

42. The evidence presented by the prosecution is reliable and corroborated by each other, supported by the investigation proceedings, the statements of the injured, the applicant, and independent witnesses. The prosecution has succeeded in proving the case against the accused. The incident occurred in Oskumar's house, where his wife and two children were murdered, and two other children and his mother, Anarbai, were severely injured. Oskumar fled his house and went to his brother's house.
43. The evidence presented by the prosecution further proves that the accused Parasram Gaikwad and Bajrasen Gaikwad committed the crime by entering Oskumar's house unauthorized and breaking in, armed with the seized dagger (Ex.P-16, P-17) and possessing the seized chili powder (Ex.P-12, P-13). The prosecution has also proved the seizure of the crowbar used to break the door to the room at the scene, as well as the wood from the broken door. This attracts an offence under Section 459 of the IPC as well.
44. The scene of the incident shows that the accused entered Oskumar's house along with seized dagger with the intent to kill him. They entered the house armed with chili powder and began

attacking him indiscriminately. When Jagriti Gaikwad came in front of them, the accused threw chili powder into her eyes. Oskumar, in an attempt to escape, ran toward his brother Khilawan Gaikwad's house (PW-01). Meanwhile, Jagriti was murdered by both the accused, who stabbed her with a dagger, and Manish Gaikwad and Tina Gaikwad, who were sleeping in the room, were also murdered when the accused broke down the door and attacked them with a dagger. The visual map (Ex.P-05) has not been contradicted in the cross-examination by the defense.

45. In this way, by causing housebreaking and entering Oskumar's house without authorization, armed with an iron dagger and chili powder, the accused murdered Jagriti Gaikwad, Tina Gaikwad, and Manish Gaikwad. Oskumar Gaikwad, Oman Gaikwad, Geetanjali Gaikwad, and Anarbai were attacked with the intent to murder, and grievous bodily harm was inflicted upon them.
46. Based on the overwhelming and consistent evidence presented by the prosecution, which includes medical reports, testimonies, and physical evidence, it is clear that the accused, Parasram Gaikwad and Bajrasen Gaikwad, are guilty of committing the heinous murders of Jagriti Gaikwad, Tina Gaikwad, and Manish Gaikwad, and of inflicting serious injuries on Oskumar Gaikwad, Oman Gaikwad, Geetanjali Gaikwad, and Anarbai. The prosecution has successfully proven the charge of housebreaking, armed assault, and murder, supported by reliable witness testimonies and forensic evidence, including the seizure of

bloodstained weapons linked directly to the crime. The defense's arguments, including claims of a false implication due to a land dispute, have not been substantiated by any credible evidence or witnesses. Therefore, the appeal is devoid of merit and must be dismissed. The conviction and sentence of the accused are upheld.

47. For the foregoing reasons, the criminal appeal being devoid of merit is liable to be and is hereby **dismissed**.
48. It is stated at the Bar that the appellants are in jail, they shall serve out the sentence as ordered by learned trial Court.
49. Let a copy of this judgment and the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.
50. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellants are undergoing their jail term, to serve the same on the appellants informing them that they are 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 the High Court Legal Services Committee or the Supreme Court Legal Services Committee.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Head-Note

A "related" witness, who is also an injured witness, who may be naturally present at the scene of the crime, his testimony should not be dismissed simply because of his relationship to the victim and the Court must assess the reliability, consistency, and coherence of his statement rather than labeling him as untrustworthy.