



2025:CGHC:51196

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1267 of 2016

1 - Rajendra Prasad Mishra S/o Bhagwati Prasad Mishra, Aged About 77 Years Retired Head Constable, Police Station Ghumka, R/o Adarsh Nagar, Dongergarh, District Rajnandgaon, Chhattisgarh., Chhattisgarh

2 - Rohini Prasad S/o Late Shri Bhuvneshwar Prasad Agnihotri, Aged About 68 Years Retired Thana Moharrir, Police Station Ghumka, R/o Aditya Nagar, Durg, District Durg, Chhattisgarh., District : Durg, Chhattisgarh

Appellant(s)

versus

1 - State Of Chhattisgarh Through The District Magistrate, Rajnandgaon, District Rajnandgaon, Chhattisgarh., Chhattisgarh

2 - Haridas S/o Jhumuk Das Lodhi, Aged About 61 Years Occupation Agriculturist, R/o Village Dhourabhatha, Police Station Ghumka, District Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

Respondent(s)

(Cause-title taken from Case Information System)

For Appellants : Mr. Vivek Singhal, Advocate

For Respondent(s) : Mr. R.C.S. Deo, PL

Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

14/10/2025

1. In total, there were three accused persons, who are the police personnel, including the present appellants. However, during the trial, one of the accused namely; V.K. Mishra died and the proceedings against him stood abated before the Trial Court.
2. It is reported that during pendency of this appeal, Appellant No. 1 Rajendra Prasad Mishra died. Accordingly, the appeal filed in his respect is dismissed as abated. Now, the present appeal is only being considered for Appellant No. 2- Rohini Prasad.
3. It is also necessary to mention here that during pendency of this appeal, the Complainant/respondent No. 2 also died.
4. Challenge in this appeal is to the judgment of conviction and order of sentence dated 22/09/2016 passed by the learned Additional Sessions Judge (Atrocity), Rajnandgaon, in Sessions Trial No. 130/2004, whereby the appellant has been convicted under Section 304-A IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs. 500/-, with default stipulation.
5. The deceased, Satudas, brother of the complainant Haridas (PW-1), was found hanging by a rope inside the lock-up of Ghumka Police Station, resulting in his death. A magisterial inquiry was ordered by the Government, but no action was taken against the accused persons. Consequently, the complainant filed a complaint before the competent court against the police officials, on the basis of which offences under Sections 302, 331, and 306 IPC were registered against them.

As per the complaint, on 08.05.1986, Haridas, Patel of village Dhaurabhantha, alleged that the accused were police personnel posted at Ghumka Police Station. On 17.11.1985, the accused persons namely; V.K. Mishra (Thana Incharge) (died during trial), Rajendra Prasad Mishra (died during pendency of this appeal) and the appellant herein Rohini Prasad, Thana Moharir and others visited the village Mahroomhkurd on the information of the Sarpanch to investigate a theft. They searched the house of Satudas (since deceased), the complainant's younger brother. Although nothing incriminating was found in the house, a table fan and a box were recovered from the farmyard at the instance of the Sarpanch. The box and its contents were attributed to Satudas, and Rs. 2,500/- were retained by the accused. Thereafter, accused V.K. Mishra attempted to search another house of deceased, but he fled and went into hiding. The accused police personnel retained the seized property and compelled the complainant to sign a duplicate record under threats. Fearing false implication and custodial violence, Satudas applied for anticipatory bail, which was listed for hearing on 22.11.1985. However, on the intervening night of 21.11.1985, accused Rajendra Prasad Mishra, along with other police personnel, forcibly entered the complainant's house around midnight, handcuffed Satudas, and took him to Ghumka Police Station without informing the complainant. On the way and at the police station, Satudas was assaulted by the accused persons, including being slapped, pulled by the hair, and beaten with shoes, while being interrogated about the theft. He was then detained in

the lock-up and allegedly subjected to continuous torture for one to two hours. On the following morning, the accused persons warned him that even if he died, they would manipulate records to conceal the truth. During the hearing of his anticipatory bail on 22.11.1985, the police falsely reported to the court that no case was registered against Satudas and that he was not required for investigation. His bail was consequently rejected. He was neither produced before the Magistrate nor provided food. Between the nights of 22–23.11.1985, the accused allegedly inflicted severe torture on Satudas, including administering electric shocks, in order to extract a confession. On 23.11.1985, owing to a public holiday, Satudas was remanded to police custody, while the complainant was placed under judicial custody. Subsequently, Satudas was discovered hanging in the police lock-up in a standing position, with a dhoti tied around his neck and fastened to the lock-up door.

On the basis of the complaint, the Judicial Magistrate First Class, Rajnandgaon, registered offences under Sections 302, 331, 342, and 306 IPC against the accused persons. They were formally charged with the offences, the charges were read over to them, and they pleaded not guilty. In order to prove its case, the prosecution examined six witnesses. The statements of the accused were recorded under Section 313 CrPC, wherein they denied all allegations. In their defence, they examined three witnesses: Loknath (DW-1), Ishwarlal Yadav (DW-2), and Sukhchain Das (DW-3).

After careful appraisal of the oral and documentary evidence, the trial Court, while acquitting the accused of the charges under Sections 330, 302 and in the alternative 306 IPC, convicted and sentenced as detailed in paragraph one of this judgment. Dissatisfied with the judgment of conviction and order of sentence, the appellant has preferred the present appeal before this Court.

6. Learned counsel for the appellant submits that the appellant has been falsely implicated as there is no clinching and cogent evidence against him. It is argued that the conviction is bad in law as the case is based on a private complaint filed after the magisterial inquiry had already exonerated the appellant. The deceased committed suicide in police custody and the appellant, being government servants acting in discharge of official duty, could not have been tried without valid sanction under Section 197 CrPC. The trial Court failed to appreciate the defence evidence and wrongly convicted the appellant under Section 304-A IPC, despite acquittal from graver charges under Sections 302, 330, and 306 IPC. Hence, the conviction and sentence deserve to be set aside.
7. Conversely, learned State counsel supported the impugned judgment and order of sentence, and submitted that the prosecution has established the guilt of the appellant beyond reasonable doubt through cogent and reliable evidence. It is therefore submitted that the appeal deserves to be dismissed.
8. I have heard learned counsel for the parties and perused the record with utmost circumspection.

9. The appellant has been convicted under Section 304-A IPC by the trial Court, while he has been acquitted of the offences under Sections 302, 330, and 306 IPC.

10. Section 304-A IPC states as under:

“304-A. Causing death by negligence.— Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

11. The question, therefore, that arises for consideration before this Court is:

Whether the prosecution has proved that the death of the deceased was the direct result of any rash or negligent act attributable to the appellant, so as to attract Section 304-A IPC?

12. Dr. Vijay Kumar (PW6) has conducted the postmortem on the body of the Deceased. In his deposition, this witness stated that the dead body of Santu Das, son of Jhumuk Das, aged about 25 years, caste Lodhi, resident of Village Changorabhata, P.S. Ghumka, was brought to the hospital at around 4:00 p.m. on 24.11.1985 by Constable Sukhchain Lal, No. 98, P.S. Ghumka, Rajnandgaon. The body was identified by Jhumuk Das (father of the deceased), aged 34 years; Deendayal Ramdas, son of Sumuk Das, resident of Chaurabhata, Ghumka; and Kamla Prasad, son of Shobharam, aged 52 years, resident of Ghumka.

He observed that the deceased, a young male aged about 25 years, had rigor mortis in all limbs. A ligature mark was found on the upper

part of the neck, measuring about $\frac{3}{4}$ inch in width, extending up to the right occipital region. Saliva was noted at the mouth. No other external injuries or fractures were detected. On internal examination, the brain was healthy, with membranes slightly congested. The ribs, cartilages, larynx, and trachea were congested and reddish. Both lungs showed congestion with hemorrhage. The pericardium was healthy, and the heart chambers were empty. The stomach and intestines contained partially digested food, including rice and pulses. The kidneys showed slight congestion, while the bladder, liver, and spleen were healthy. The genital organs were normal. No external injury, fracture, or dislocation was found. Cervical vertebrae and thyroid cartilage were intact. The ligature mark on the neck was ante-mortem. The congestion and other postmortem findings were consistent with hanging. No other external injuries or fractures were observed.

This witness concluded that the cause of death was asphyxia due to hanging. The approximate time of death was within 24 hours prior to examination. The postmortem report is Exhibit P-13. He further deposed that the clothes of the deceased, including the shirt and dhoti, which contained saliva, were preserved for FSL examination. Viscera samples, including the liver, lungs, heart, kidney, spleen, and stomach, were also preserved and sent for chemical analysis.

13. From the above statement, it comes out that the death of the deceased, was due to asphyxia caused by hanging, with no external injuries, fractures, or other marks of assault on the body. The ligature mark on the

neck was ante-mortem and consistent with hanging, and all internal organs were found normal except for congestion resulting from asphyxia. Thus, it is established that the Deceased died due to hanging.

14. Now, this Court is required to examine the role, if any, of the appellant, as alleged by the prosecution, in the events leading to the death of the deceased, which has been established to be a case of suicide.
15. Haridas (PW1), who is brother of the Deceased, deposed that he knew the accused. At the time of the incident, he was the Patel of the village Dhaurabhantha. On the night of 21.11.1985, he was taken by police personnel, including Rajendra Prasad Mishra, from their house to Ghumka Police Station on allegations of theft. Haridas stated that he was also taken to the police station, where he heard sounds of assault from the lock-up. He did not personally witness the deceased being physically assaulted inside the lock-up. This witness has further stated that the Deceased had applied for anticipatory bail, but it was not granted. He became aware of the deceased's death at the police station only after it occurred. He saw the body at the cremation ground and noticed the ligature mark on the neck, consistent with hanging. Haridas clarified that, prior to filing the complaint, he had not submitted any written report alleging murder by the police, and he did not see anyone killing or hanging his brother. He also mentioned that no other villagers or relatives were present at the police station during the custody of the Deceased, and that some police personnel and Kotwars were on duty at

that time. Haridas affirmed that the deceased did not have any external injuries on the body except the mark on the neck.

16. Gharibdas (PW2), deposed that he knew the accused, including Rajendra Prasad Mishra and the late V.K. Mishra, and was aware of the deceased, Santu Das. On the day of the incident, around 9 a.m., he went to the village area near Hatwara with some villagers and observed that Santu Das was in the police lock-up, with the door locked from outside. When the police opened the lock-up in their presence, he saw the deceased standing with a dhoti tied around his neck and hooked to the lock-up door. At that time, Santu Das was already dead. This witness deposed that after the body was brought down, the ligature mark on the neck was visible, and there were signs consistent with asphyxia. He clarified that the dhoti around the neck and one on the body were parts of the same garment. He did not see any other objects or injuries on the body and confirmed that his signature was taken on the inspection record after observing the deceased.
17. Krishna Kumar (PW3) deposed that he knew the accused, including Rajendra Prasad Mishra and late V.K. Mishra. He came to know of the deceased, Santu Das, after the incident and was aware that he belonged to the village Dhaurabhatha. On being called to Ghumka Police Station, he observed Santu Das hanging in the lock-up, with his dhoti tied around his neck and hooked to the door, with his feet almost touching the ground. He noted that upon slight movement of the door by an official, the deceased's feet fully touched the ground and the ligature mark on the

neck was visible. He further deposed that there was some discharge from the deceased's urinary and anal openings. He was present during the inspection and the preparation of the panchnama (inquest report) and signed the document. He clarified that he had received only verbal notice from the police to appear and that all proceedings at the police station were properly recorded in writing.

18. Ishwar Singh (PW4), a farmer from village under Ghumka Police Station, stated that he knew the accused Rohini Prasad, Rajendra Prasad, and late V.K. Mishra, as well as the deceased, and the complainant, Haridas. On 24.11.1985, he was near the village pond when he was called to the police station by SDM Rahi. Upon arrival, he observed Santudas hanging in the lock-up with his dhoti tied around his neck, the feet barely touching the ground. He noted marks of injury on the deceased's genital area and that a small amount of stool and urine had come out. He was present during the official examination of the body and signed the panchnama. This witness deposed that he did not witness the actual assault or the events leading to the hanging. He heard some voices outside the police station prior to seeing the deceased but could not identify the speakers. He stated that the judicial authorities had not conducted any further inquiry into the cause of death, and he was unaware of who caused it. He also confirmed that at the time of the postmortem related formalities, all witnesses agreed that the body should be medically examined.

19. Ramdas Janghel (PW5) residing at Gram Boraman Bana Buna, District Rajnandgaon, stated that he knew the accused V.K. Mishra, Rajendra Prasad Mishra, Rohini Prasad Mishra, as well as the deceased Santudas Janghel and Haridas. He deposed that on 17/11/1985, V.K. Mishra, Thaneadar Ghumka, and Rajendra Prasad Mishra, Havaladar, came to his house in relation to an inquiry at the Sarpanch's house regarding a theft. During this visit, some items a table, a fan, and a petty chest were seized and recorded in Santudas' name. When no items were found, the record was mistakenly made in Haridas' name, to which he objected. PW5 stated that Santudas had escaped from the police during a search and later returned home around 11:00 p.m., informing his mother that police had threatened him with physical harm. On 21/11/1985, Rajendra Prasad Mishra and four constables visited his house at about 11:00 p.m. to inquire about Santudas. PW5 explained that he and his five brothers lived in different locations; only one brother lived in Balladila, while the rest resided in Gaurabhan. At that time, he was posted as a teacher at Parsakol Secondary School and frequently traveled to Chaurabhada. He confirmed that he was not present with Santudas and Haridas when they were taken from Ghumka police station to Rajnandgaon for presentation before the magistrate, but he learned later that both were taken for a theft case. On 23/11/1985, he visited Ghumka police station multiple times to inquire about their whereabouts. Regarding 24/11/1985, he was informed that Santudas had been taken to the police station and later he was shown Santudas' body at the lockup by the SDM, Rahi Sahib. He observed that

the body was suspended with a part of the dhoti around the neck, feet nearly touching the floor, eyes and mouth closed, with discharge from the nose, and injuries and swelling in the genital area. The SDM measured the length of the dhoti from the hook to the neck, which was six inches, and noted marks indicative of strangulation. PW5 confirmed that he had seen these injuries, and that postmortem was conducted at Rajnandgaon hospital. He clarified that he had not entered the lockup prior to the SDM's arrival, could not see the lockup interior from the verandah, and did not sign the panchnama at that time. He further explained that discrepancies in his previous statements were due to lapse of memory regarding dates and times, but he verified that his Section 202 CrPC statement correctly reflected the events, locations, and movements of the police and the accused during November 1985 as observed by him.

20. Loknath (DW1), Kotwar of Gram Aurdha, P.S. Ghumka, deposed that he was on duty at Ghumka Police Station on the night of the incident when the deceased was brought to the lock-up by Rajendra Prasad Mishra, Havaladar, around 9:00 p.m. He stated that two Kotwars, including himself and Girdhari Kotwar, along with Constable Man Singh, were on duty inside the police station that night. The deceased was provided food brought from a hotel before being locked in the lock-up again. Loknath and Girdhari remained awake conversing until around midnight before sleeping. On the morning following the incident, while performing routine cleaning duties, they observed that deceased was hanging in the

lock-up. Loknath reported this to the Munshi and informed the senior officers, who arrived and opened the lock-up to view the body. He clarified that he had only observed the hanging from a distance and did not approach the deceased.

During cross-examination, he confirmed that all duty entries were recorded in the station register, that the accused were the in-charge officers at the time, and that he had no personal knowledge of how the deceased died. He denied that he was providing false testimony in favor of the accused and stated that he had no knowledge of who had caused the hanging. The witness affirmed that his statement was correctly recorded and accepted after being read over to him.

21. Ishwar Balayadav (DW2) Pusau, residing in Gram Ghumka, deposed that his father ran a hotel in the village. At the time of the incident, he did not personally know the deceased. When he was about 12–13 years old, he delivered food to the police station for the detainee, placing it on a table before returning home. The next morning, he heard commotion in the village that the deceased had been found hanging inside the lock-up. He clarified that he had no knowledge of how the deceased died and did not report the matter to the police or higher authorities. During cross-examination, he denied that he was making false statements in favor of the accused and affirmed that his statement, read over to him, was correct.
22. Sukhchain Das (DW3), a former constable posted at Ghumka Police Station during 1984–85, deposed that at that time V.K. Mishra was the

Station In-Charge and Rajendra Prasad Mishra and Rohini Prasad were serving as Havaladars. He stated that the deceased had been brought to the police station in connection with a theft case, along with his elder brother. When presented before the Magistrate in Rajnandgaon, the Magistrate remanded the deceased to police custody and the elder brother to judicial custody. The deceased was returned to Ghumka Police Station lock-up around 10:00 p.m. that night, where Sukhchain Das and Rajendra Prasad remained on duty. The next morning, he was informed by Constable Man Singh that the deceased was found hanging in the lock-up. Upon visiting the lock-up, he observed the deceased suspended with a ligature mark around the neck. Sukhchain Das stated that he had no personal knowledge if the accused had assaulted the deceased in his absence and denied making any false statements in favor of the accused due to departmental affiliation. He also clarified that he was indeed posted at the Ghumka Police Station on the day of the incident and confirmed that the postmortem report noted no other injuries besides the ligature mark on the neck. The witness affirmed that his statement was read over to him and accepted as correct.

23. It is apparent from the record that the deceased was found hanging inside the police lock-up of Ghumka Police Station. The medical evidence of PW6 Dr. Vijay Kumar establishes that the cause of death was asphyxia due to hanging, with no other external or internal injuries except the ligature mark on the neck. The testimony of all material prosecution witnesses (PW1 to PW5) is also consistent that the body was found in a

standing hanging position, with the dhoti tied to the lock-up door. Thus, the death is clearly one of suicide.

24. The crucial question is whether the appellant can be held criminally liable under Section 304-A IPC for “causing death by rash or negligent act.” To attract this section, it is essential that there must be proof of a rash or negligent act on the part of the accused which is the direct, proximate and efficient cause of death, and not merely an event occurring in the backdrop of his presence.
25. The allegations in the complaint that the deceased was subjected to torture, electric shocks, and assault were not established by medical evidence. The postmortem categorically rules out injuries or fractures other than the ligature mark. PW1 Haridas, brother of the deceased, candidly admitted that he had not seen any person killing or hanging the deceased. Other witnesses (PW2–PW4) only saw the deceased in a hanging position inside the lock-up, but did not depose to any act of negligence or assault by the appellant.
26. The place of incident is lock-up of the concerned Police Station and the defence witnesses are the Kotwar and the Constable of the said Police Station. They are important witnesses and their testimonies should also be given weightage as is to be given to the evidence adduced by the prosecution witnesses.
27. The Supreme Court in the matter of *Mahendra Singh & Others v. State of Madhya Pradesh, (2022)*, 7 SCC 157, held that same treatment is

required to be given to defence witness(es) as is to be given to the prosecution witness(es).

28. Looking to the evidence adduced by the defence witnesses, which indicates that routine procedure was followed. DW1 Loknath, the Kotwar, and DW2 Ishwar Balayadav both deposed that food was delivered to the deceased in the lock-up on the night before the incident. DW3 Sukhchain Das, a constable on duty, confirmed that the deceased was remanded to police custody by order of the Magistrate and kept in the lock-up in the normal course. Nothing in their testimony suggests any rash or negligent act that facilitated the suicide.
29. It is settled law that mere failure to prevent a suicide, without proof of a positive negligent act, does not bring the case within Section 304-A IPC. The deceased was in lawful custody pursuant to judicial remand. The appellant cannot be held vicariously liable merely because the incident occurred in his presence at the police station. In the absence of evidence of neglect of mandatory safeguards, or any specific act that directly caused the suicide, criminal liability cannot be fastened.
30. The trial Court, having disbelieved the allegations of custodial assault and having acquitted the appellant of the graver charges under Sections 302, 330 and 306 IPC, could not then fall back upon Section 304-A IPC without identifying any specific negligent act. Once the chain of causation is broken by the deceased's own voluntary act of hanging, the requirement of proximate negligence under Section 304-A is not satisfied.

31. In these circumstances, the conviction of the appellant under Section 304-A IPC cannot be sustained. The evidence as a whole does not establish beyond reasonable doubt that the appellant committed any rash or negligent act leading to the death of the deceased.
32. In view of the foregoing, the appeal is **allowed**. The impugned judgment is quashed, and the appellant is acquitted of the charges. The appellant remains on bail, and the surety and personal bonds furnished at the time of suspension of sentence shall continue in force for a period of six months in accordance with Section 481 of the BNSS.
33. The records of the trial court, along with a copy of this judgment, shall be transmitted forthwith to the trial court concerned for compliance and further action deemed necessary.

Sd/-

(Bibhu Datta Guru)
Judge

HEAD NOTE

Same treatment is required to be given to defence witness(es) as is to be given to the prosecution witness(es).