



2025:CGHC:40034-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRA No. 871 of 2022**

Vinod Pandey S/o Dinesh Pandey Aged About 37 Years R/o Sakin Durjaband Para, Ward No. 15, Pandariya, Thana-Pandariya, District : Kawardha (Kabirdham), Chhattisgarh

... Appellant**versus**

State of Chhattisgarh Thourgh - Police Station Pandariya, District : Kawardha (Kabirdham), Chhattisgarh

... Respondent

 For Appellant : Mr. Abhishek Banjare, Advocate
 For Respondent-State : Mr. Shaleen Singh Baghel, Dy.G.A.

Hon'ble Shri Ramesh Sinha, Chief Justice**Hon'ble Shri Bibhu Datta Guru, Judge****Judgment on Board****Per Bibhu Datta Guru, Judge****11.08.2025**

This criminal appeal filed by the appellant-accused under Section 374(2) of Cr.P.C. is directed against the impugned judgment of conviction and order of sentence dated 30/03/2022, passed by the learned Additional Sessions Judge, Kabirdham (C.G.) in Sessions Case No. 19/2019, whereby the appellant-accused has been convicted and sentenced as under:-

Conviction	Sentence
Under Section 302 of the IPC	Life imprisonment & fine of Rs.10,000/-, in default, additional R.I. for 6 months.
Under Section 201 of the IPC	R.I. for 2 years & fine of Rs.1000/-, in default, additional R.I. for 2 months.

1. (A) Facts of the case, in brief, is that on on 07.02.2019, the complainant Sushil Chand Sharma (PW-3) lodged a report at Pandaria police station that the body of an unknown woman was lying in a half-burnt state in two pieces near his house in village Rehmankampa, on the basis of which, merg and FIR were registered vide Ex.P-4 and Ex.P-53 respectively. Crime details was prepared vide Ex.P-6. Spot maps were prepared vide Ex.P-6 and Ex.P-31. During investigation, the dead body of Jamotri Bai (deceased) was identified. The appellant was arrested vide Ex.P-55 and statement of appellant was recorded vide Ex.P-14. It is alleged that on 04/02/2019, the appellant murdered the deceased in his rented house at Pandariya, and after cutting the body into several pieces, he tried to burn both the torsos by throwing them beside the complainant's house and also tried to burn the head, both hands and both legs of the deceased by burying them in a heap of coal.

(B) On the basis of memorandum Ex.P-14, the appellant, who is married, was in love affair with the deceased since 2017. On 04/02/2019, the deceased came to meet with the appellant, to

which, the appellant refused to meet her and told her that his wife is in ill condition and admitted in hospital. When the appellant reached his house alone, the deceased came there too, forced him to meet and started threatening him that she will lodge report against him, due to which, a quarrel took place between them. After that, the appellant murdered the deceased by throttling her in his house. On the next day i.e. 05/02/2019, he chopped the body of deceased in various parts and thrown near under construction house of complainant PW-3.

2. The prosecution in order to prove its case examined as many as 41 witnesses and exhibited 80 documents. Statement of the appellant under Section 313 of CrPC was recorded. The accused person abjured the guilt; pleaded innocence; and false implication.
3. The learned trial Court after appreciating the oral and documentary evidence available on record proceeded to convict the appellant herein for the aforementioned offence and sentenced him as mentioned herein-above against which this appeal has been preferred by the appellant-accused herein questioning the impugned judgment of conviction and order of sentence.
4. Learned counsel for the appellant would submit that the entire case of prosecution is based upon the statement of the interested

witnesses and the prosecution has not proved the case against the appellant beyond all the reasonable doubts. He further submits that there is no proof of the last seen theory and only the basis of presumption, a false story has been created against the appellant. He further submits that there is no eye witness in the present case and hence, the conviction and sentence of the appellant is based on surmises and conjectures. He would further submit that the memorandum and seizure witnesses have turned hostile and have not supported the case of prosecution. but without appreciating the said fact, the impugned judgment has been passed by the trial Court. Hence, the present appeal deserves to be allowed and the impugned judgment deserves to be set aside. Learned counsel for the appellant relied upon the judgment of the Supreme Court in the matter of **Raja Khan Vs. State of Chhattisgarh** (CRA No.70/2025).

5. *Per-contra*, learned State counsel supported the impugned judgment of conviction and order of sentence and submits that the prosecution has proved the offence beyond reasonable doubt by leading evidence of clinching nature. The learned trial Court has rightly convicted the appellant for the aforesaid offence, thus, the present appeal deserves to be dismissed.
6. We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the

records with utmost circumspection.

7. The first and foremost question is as to whether the death of the deceased was homicidal in nature, which the learned trial Court has recorded in affirmative by taking into consideration the oral and documentary evidence available on record, considering the post-mortem report vide Ex.P-79, it is proved that the dead body and other severed body parts belongs to a female human being whose age is between 30 to 40 years and all the human organs belong to same person and it is also clear that the death of the deceased was not due to consumption of any poison and death was not accidental. Dr.Snigdha Jain PW-32, stated in his report that the nature of death of the deceased to be homicidal.

8. In the postmortem report, following opinion given by the Doctor:-

1. Two parts of a rotten body of an unidentified woman were found. The body was swollen, rotten and smelly. After joining the two body parts, they were found to be parts of the same body.

2. The upper part of the neck of the deceased, lower part of both hands and toes, lower part of both legs were missing, the stomach of the deceased was cut in the middle near L-05, L-06 of spine and up to label C-06, C-07 of neck, worms of about 1 cm were present in

the body of the deceased, the organs of abdominal cavities (intestines and other parts inside) were visible from outside.

In internal examination: *Both lungs and heart had signs of putrefaction, stomach was empty, small intestine and large intestine were divided into many pieces, liver had signs of putrefaction and foul smell, both kidneys were cut into many pieces. There was swelling in the genitals and the lower part of the uterus was visible from outside. The deceased's iliac crest was fused. Hence her age must have been more than 20 years.*

In the query report: *The injuries sustained by the deceased were caused by hard and sharp edge weapon. The organs of the body of the victim were cut after her death.*

Other fact: *During the post-mortem of the deceased, vaginal smear slide was preserved and according to FSL report, human sperms were found in it. Hence the possibility of intercourse before death cannot be ruled out.*

9. It is clear from the medical evidence that the torso of the

deceased was cut into two pieces with some sharp and hard object after her death. The upper part of the neck of the deceased was separated from the head, lower parts of both hands and toes and lower parts of both legs were separated from the torso, which conclusively proves that the death of the deceased did not occur under normal circumstances and after causing her death, her body parts were cut and burnt with a sharp weapon with the intention of concealing the crime and the identity of the deceased. Therefore, the above evidence clearly proves that the death of the deceased woman was homicidal in nature. We are of the considered opinion that the learned trial Court is absolutely justified in holding that the death of the deceased is homicidal in nature, as the same is correct finding of fact based on evidence and same is neither perverse nor contrary to the record. Accordingly, we hereby affirmed the said finding.

10. As far as the question of the dead body of deceased being Jamotri Bai is concerned, Dr. Apolina Ekka (PW-41), Senior Scientific Officer and Assistant Chemical Examiner, Chhattisgarh State Forensic Science Laboratory, Raipur stated that it has been confirmed that the deceased's clavicle bone (A-1), radius bone and molar teeth (B-1), hair (C-1), and hair bundle (D-1) belong to the biological mother (F-1), namely Indri Bai. Thus, from the DNA report presented by Dr. Apolina Ekka, it is clearly proven that the dismembered body of the deceased woman belongs to Indri Bai's

biological daughter and there is no basis to disbelieve the DNA report (Ex.P-76).

11. Now the next question would be whether the accused-appellant herein is the author of the crime in question ?
12. PW-3 Sushil Chandra Sharma (complainant) stated in his evidence that on 07.02.2019 a dead body was found lying near his house in village Rehmankampa, which was informed to him by Judhavan of the same village at about 04:30 pm by phone, then he along with Kotwar Hariram saw the half-burnt body, whose head, both hands and both legs were missing and the torso was lying in two pieces, then he went to the police station Pandaria and registered the inquest Exhibit P-4 and after that the police came to the place of incident and took the body in their possession. He further stated that the dead body lying next to his house was of an unknown woman, which was tried to burnt and the body was cut by sharp edged weapon.
13. PW-7 Anil Chandravanshi, who is the son of the deceased stated in his evidence that he knows the appellant who was a conductor in Tiwari bus. He stated that the appellant used to come near his house. About 7-8 months ago, the appellant had came to his house at 7-8 p.m. in the night and at that time, his mother/deceased sent him to call his brother Sunil and when he came back home after about half an hour, the appellant had left.

After few days, the appellant again came to his house to meet his mother. He further stated that his mother/deceased had gone to the Pandariya for body check-up, but she did not return home. Thereafter, his elder brother and maternal Uncle lodged a missing report. After few days, he came to know that the appellant had killed her mother.

14. PW-16 Pratima Chandravanshi stated in her evidence that she knew the deceased and she used to travel to Pandaria by Tiwari bus. On 04.02.2019, she had gone to Pandaria with Jamotri Bai/deceased by Tiwari bus and on reaching Pandaria she got down near her school and Jamotri Bai went till the bus stop. After that, she went to her village Bhagatpur from the school, but Jamotri Bai did not return to the village. She further stated that accused Vinod Pandey was the conductor of Tiwari bus and they used to travel to Pandaria by the same bus and that day, Jamotri Bai had told about going to Chandravanshi Clinic Pandaria.

15. PW-4 Ranu, stated in her evidence that the deceased is her elder mother-in-law. She also knows the appellant, who works as Conductor. She further stated that the appellant used to come to deceased and ask for flower, whereupon, the deceased gives flower to the appellant. She further stated that the always used to travel in Tiwari bus and the appellant always said hello, bye-bye

to the deceased.

16. PW-29 Nandrani Chandravanshi has stated that the deceased was her *dedh saas* and their houses are adjacent to each other. She further stated that the appellant, who works as a conductor, used to stop bus near the deceased house, to which the deceased often used to give flowers and say hello and bye-bye. On the date of incident, the deceased had gone alone to Pandaria for her treatment, but she did not return from there. She further stated that the deceased had an illicit relationship with the appellant, which was known to other members of the family, but no one had quarreled or disputed with the appellant or reported the illicit relationship to the police.

17. From bare perusal, it is proved from the evidence adduced in the case that at the instance of the appellant, four pieces of bangle were seized from the rented house of the appellant i.e. the place of incident and one lady's slipper was seized from Bandha pond. The identification proceedings were carried out by Naib Tehsildar Vinod Banjare (PW-20), who has mentioned in his statement that as per letter No.-828/2019 dated 19.04.2019 of the Sub-Divisional Magistrate, one old black slipper of a lady and four pieces of bangles were brought to him for identification proceedings along with on slipper and bangle. The seized articles i.e. slippers were identified by Sunil Kumar Chandravanshi PW-2,

son of deceased as the slippers of the deceased. Sunil Kumar Chandravanshi PW-2 had identified the bracelet and said that it belonged to the deceased.

18. Sunil Chandravanshi PW-2, another son of deceased, has also clearly stated in his evidence that identification proceedings of slippers and bracelet pieces were conducted by the Tehsildar in Tehsil office Pandaria in which he had identified the slippers as belonging to his mother and similarly in the identification proceedings of the bracelet, he had identified it as belonging to his mother and also stated that the slippers which he had identified had Safari written on it and the bangle which he had identified as belonging to his mother was of green, white and red colour which he often saw his mother wearing. Thus, it is proved that the slippers recovered at the behest of the appellant and the bangle pieces recovered from the rented house i.e. the place of incident, belong to the deceased Jamotri Bai and there is no reason to disbelieve the said proceedings and the statements of the PW-2.

19. The principle as to when an accused can be convicted on the basis of circumstantial evidence has been propounded by the Supreme Court in the celebrated case of **Sharad Birdhichand Sarda vs. State of Maharashtra, (1984) 4 SCC 116**, wherein it has underlined the conditions, which must be fulfilled for

convicting an accused on the basis of circumstantial evidence and held in para-153 as under:

“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established :

- (1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned ‘must or should’ and not ‘may be’ established. There is not only a grammatical but a legal distinction between ‘may be proved’ and ‘must be or should be proved’ as was held by this Court in Shivaji Sahebrao Bobade Vs. State of Maharashtra, (1973) 2 SCC 793 : (AIR 1973 SC 2622) where the following observations were made:

‘certainly, it is a primary principle that the accused must be and not merely may be guilty before a Court can convict and the mental distance between ‘may be’ and must be’ is long and divides vague conjectures from sure conclusions.’

- (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that

the accused is guilty.

- (3) the circumstances should be of a conclusive nature and tendency.
- (4) they should exclude every possible hypothesis except the one to be proved, and
- (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."

20. From the testimony of Dr. Apolina Ekka, the Biology Examination Report and the DNA Report (Ex. P-76), it stands established that although no blood was detected on the appellant's full shirt ("O"), motorcycle dicky ("R"), or saw ("E1"), blood was present on the deceased's petticoat ("I"), cemented ash with plastic mesh recovered from the appellant's rented premises ("K"), wall scrapings ("L"), tiles ("N"), jeans pants ("P"), and vest ("Q"). DNA profiling revealed that the samples from the deceased's clavicle bone (Ex. A-1), radius bone and molar teeth B-1(a,b), hair recovered from the appellants room (Ex. C-1), hair bundle submitted by the deceased's son (Ex. D-1), and the tiles from the appellant's rented premises ("N") matched completely, confirming that they belonged from the same individual, namely

the deceased Jamotri Bai. Thus, from the aforesaid DNA report, it is clearly established that the blood found on the tiles ("N") recovered from the appellant's rented premises and the hair (C-1) belong to the deceased Jamotri Bai.

21. It is also manifest from the discussion of aforesaid evidence that the appellant and deceased are married persons and they were in love relationship since long time. The appellant is a Conductor in a bus and the deceased was used to travel in his bus and from there, both of them started liking each other. It is also evident from the statement of PW-29 Nandrani Chandravanshi that the deceased had an illicit relationship with the appellant, which was known to other members of the family, but no one had quarreled with the appellant or reported the illicit relationship to the police. On the date of incident, the deceased had gone to Pandaria and went to the house of the appellant. When the appellant objected to meet, an altercation took place between them, due to which, the appellant pushed the deceased on the bed and murdered her by throttling. Thereafter, the appellant cut the body in several pieces and tried to burnt it for disappearance of the evidence.

22. The prosecution well established that the samples from the deceased's clavicle bone (Ex. A-1), radius bone and molar teeth B-1(a,b), hair(Ex. C-1) recovered from the appellant's rented

house, i.e. the place of incident, hair bundle submitted by the deceased's son (Ex. D-1), and the tiles from the appellant's house ("N") matched completely, confirming that they belonged from the same individual, namely the deceased Jamotri Bai. Thus, the blood found on the tiles ("N") recovered from the appellant's house and the hair (C-1) belong to the deceased Jamotri Bai.

23. The Supreme Court in the matter of **State of Andhra Pradesh v Kanda Gopaludu AIR 2005 SC 3616** considered this aspect to hold that when the incriminating material against the seizure of shirt stained with blood and FSL report shows that it is a human blood, then it would be an incriminating circumstances and further as has been held in **Ganga Bai v State of Rajasthan (2016) 15 SCC 645**, the appellant should have explained how the clothes and articles seized from them contained human blood and in Section 313 CrPC, the question is with respect to FSL, no explanation was offered and it was only denial.

24. The Supreme Court in the matter of **Mehboob Ali and Another v State of Rajasthan (2016) 14 SCC 640** had an occasion to deal such mental state of fact wherein the Court observed that for application of Section 27 of the Evidence Act, the admissible portion of confessional statement has to be found as to a fact which were the immediate cause of the recovery, only that would be part of legal evidence and not the rest. Section 27

of the Evidence Act refers to the 'Fact'. The word 'Fact' has been defined in Section 3 of the Evidence Act which is reproduced hereunder:-

“Fact”—“Fact” means and includes—

- (1) any thing, state of things, or relation of things, capable of being perceived by the senses;
- (2) any mental condition of which any person is conscious.

Illustrations

- (a) That there are certain objects arranged in a certain order in a certain place, is a fact.
- (b) That a man heard or saw something, is a fact.
- (c) That a man said certain words, is a fact.
- (d) That a man holds a certain opinion, has a certain intention, acts in good faith, or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particular sensation, is a fact.
- (e) That a man has a certain reputation, is a fact.”

25. From the aforesaid settled position of law, facts and circumstances, it is crystal clear that the prosecution has successfully established the chain of circumstantial evidence beyond reasonable doubt, leading to the conclusion that the crime

was committed solely by the appellant. It is therefore proved that the accused, with intent, murdered Jamotri Bai, dismembered her body, and burnt it to cause the disappearance of evidence. Thus, we hereby accept the finding recorded by the trial Court that it is the appellant-accused who murdered the deceased/Jamotri Bai by throttling and for disappearance of evidence, the appellant cut the body of deceased in several parts and tried to burnt it, which is heinous and extreme brutality in manner. The act is not only an offense against the individual victim but also against the moral and legal fabric of the community.

26. As such, the finding recorded by the trial Court is based on evidence available on record and accordingly, we hereby affirm the finding recorded by the learned trial Court that the appellant-accused is the author of the crime in question.

27. In view of foregoing discussion, we are of the considered opinion that the learned trial Court has rightly convicted the appellant for offence under Section 302 and 201 of IPC, which does not require any interference of this Court.

28. Accordingly, the Criminal Appeal is **dismissed**. The appellant is stated to be in jail. He shall serve out the remaining period of jail sentence as awarded to him by the learned trial Court. Registry is directed to send a copy of this judgment to the concerned

Superintendent of Jail where the appellant is undergoing the 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.

29. Let a certified copy of this judgment along with the original record be transmitted forthwith to the trial Court for information and necessary action.

SD/-

(Bibhu Datta Guru)
Judge

SD/-

(Ramesh Sinha)
Chief Justice

Gowri/

Amardeep

Headnote

Only that portion of a confessional statement which leads to the immediate recovery or discovery of a fact is admissible in evidence under Section 27 of the Evidence Act.

साक्ष्य अधिनियम की धारा 27 के अंतर्गत संस्वीकृति कथन का केवल वह भाग साक्ष्य के रूप में स्वीकार्य है जिससे किसी तथ्य की तुरंत प्राप्ति या खोज हो सकती है ।