

Intention to 'teach a lesson': HC commutes murder sentence of cops in custodial death

SHO Among Police Personnel Given 10 Years RI Under Culpable Homicide Not Amounting To Murder | Appeal Filed By Widow Challenging Acquittal Under SC/ST Atrocities Act Dismissed

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Raipur: In a custodial death case, the Chhattisgarh High Court has altered a murder case against four police personnel to a case of culpable homicide not amounting to murder with an observation that the intention of the police was to "teach a lesson" to the deceased and not necessarily to cause his death.

With this observation, the high court has sentenced these four police personnel, including a station house officer (SHO), to 10 years of rigorous imprisonment in connection with the custodial death of one Satish Norge in Janjgir-Champa.

The court altered the conviction from murder (Section 302 of the IPC) to culpable homicide not amounting to murder (Section 304 Part II of the IPC). A Division Bench comprising Justice Deepak Kumar Tiwari and Justice Sanjay K Agrawal observed, "In light of the legal principles, to constitute culpable homicide, the act must be done with the intention to cause death, to cause bodily injury likely to

result in death, or with the knowledge that it is likely to cause death. In this case, the accused —SHO, constables, and sainik— were aware that assaulting the deceased could result in death. Their intent was to punish him for creating a nuisance at the electric sub-section, which led to multiple injuries."

Norge was taken into police custody on Sept 17, 2016, near the electric sub-station in Nariyara. Medical examination at 1.55 pm by Dr Rashmi Dahire at Community Health Centre, Pamgarh, confirmed he was intoxicated but had no injuries. He was arrested at the Mulmula police station at 2.35 pm.

Around 3.15 pm, Norge's health deteriorated. He began vomiting and was taken back to Pamgarh hospital at 5 pm, where Dr Dahire declared him dead on arrival. The post-mortem report, conducted on Sept 18, 2016, by Dr K K Dahire and two other doctors, revealed 26 injuries on Norge's body. The cause of death was attributed to multiple contusion injuries, leading to liver rupture and cardio-respiratory arrest.

26 INJURIES FOUND ON VICTIM'S BODY

Sept 17, 2016 | Satish Norge was taken into police custody near electric sub-station in Nariyara. **At 1:55PM |** The doctor conducting the medical examination at the Pamgarh hospital said that Satish was intoxicated but had no injuries. He was then arrested at 2:35PM.

Around 3:15PM | Norge's health deteriorated, he began vomiting and was taken back to the Pamgarh hospital and he was declared dead at 5PM.

Sept 18 | The post-mortem report revealed 26 injuries on Norge's body. The cause of death was attributed to multiple contusion injuries, leading to liver rupture and cardio-respiratory arrest.

Intention To Punish For Creating Nuisance, Not To Kill: Court

The trial court had identified 12 incriminating circumstances, concluding that Norge's death was homicidal. Key among these were the absence of injuries when he was taken into custody, the rapid deterioration of his health while in police custody, and the presence of numerous injuries found during the post-mortem. Witness

testimonies supported the prosecution's case.

The high court observed that police officials are uniquely positioned to explain circumstances surrounding a custodial death, and the absence of such explanation weighs heavily against them but it didn't find an intention to kill but only to 'punish the man for creating nuisance'.

'12 Incriminating Circumstances Identified'

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Key among these were the absence of injuries when he was taken into custody, the rapid deterioration of his health while in police custody, and the presence of numerous in-

juries found during the post-mortem. Witness testimonies supported the prosecution's case. The high court observed that police officials are uniquely positioned to explain circumstances surrounding a custodial death, and the absence of such explanation weighs heavily against them. The court referenced Supreme Court rulings in Shyamsunder Trivedi, Munshi Singh Gautam, and K H Shekarappa cases, which highlight the rarity of direct evidence in custodial torture cases and the onus on police to explain deaths in their custody.

The court noted that the accused, being police officers, failed to explain the 26 injuries found on Norge's body, especially since he had no injuries when initially examined. This reinforced the conclusion that Norge died due to police torture.

Partially Upholds Order By Trial Court

While upholding the trial court's findings on the homicidal nature of death and the established incriminating circumstances, the high court determined that the inten-

tion of the police was to "teach a lesson," not necessarily to cause death. Thus, the offence fell under Section 304 Part II of the IPC, which deals with acts done with the knowledge that they are likely to cause death, but without the direct intention of causing death.

'No Evidence To Prove Offence Committed Knowing That Deceased Belonged To SC Community'

The appeal filed by Usha Devi Norge, Satish Norge's widow, challenging the acquittal of Jitendra Singh Rajput under Sections 3(1)(j) and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, was dismissed.

The court found no admissible evidence to prove that the offence was committed with the knowledge that the deceased belonged to a Scheduled Caste community.

HC directed that a certified copy of the judgment and the original record be sent to the concerned trial court and the superintendent of jail where the appellants are currently lodged.