

[2026 LiveLaw \(SC\) 802](#)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
PRASHANT KUMAR MISHRA; J., N.V ANJARIA; J.
CRIMINAL APPEAL NO.2298 OF 2026; AUGUST 13, 2026
BALKU ORAM *versus* STATE OF ODISHA

Indian Penal Code, 1860 (IPC) — Section 302 r/w Section 34 — Murder — Witch-Hunting — Conviction based on Sole Eyewitness Testimony — Upheld - Direct ocular evidence, if found natural, cogent, and trustworthy, constitutes the best form of evidence and ordinarily prevails over all other forms - The testimony of a single reliable eyewitness (PW-3, daughter of the deceased) who witnessed the brutal lathi assault on her mother after being dragged from her house on the accusation of practicing witchcraft, was consistent, unshaken, and duly corroborated by medical evidence. [Paras 17 - 22]

Indian Evidence Act, 1872 — Section 134 — Quality vs. Quantity of Evidence — Sole Eyewitness - The legal system lays emphasis on the value, weight, and quality of evidence rather than on quantity, multiplicity, or plurality of witnesses - The time-honoured principle is that “*evidence has to be weighed and not counted*” - There exists no legal impediment to convicting an accused solely on the testimony of a single witness, provided such testimony is wholly reliable and inspires confidence. [Relied on *Vadivelu Thevar v. State of Madras*, 1957 SCC OnLine SC 13; *Prithipal Singh and Others v. State of Punjab and Another*, (2012) 1 SCC 10; *Sunil Kumar v. State (Govt. of NCT of Delhi)*, (2003) 11 SCC 367; *Namdeo v. State of Maharashtra*, (2007) 14 SCC 150; *Bipin Kumar Mondal v. State of W.B.*, (2010) 12 SCC 91; Paras 20-35]

Criminal Trial — Appreciation of Evidence — Related Witness vs. Interested Witness - A witness can be regarded as an “interested witness” only when it is demonstrated that the witness has a direct motive, personal animosity, or reasons to falsely implicate the accused - A close relative who is a natural witness cannot be equated with an interested witness merely on account of the relationship - Relationship far from being a foundation to discard testimony is often a sure guarantee of truth, as a close relative would be the last to screen the real culprit to falsely implicate an innocent person. [Relied on *Shio Shankar Dubey and Others v. State of Bihar*, (2019) 6 SCC 501; *Kartik Malhar v. State of Bihar*, (1996) 1 SCC 614; *Dalbir Kaur v. State of Punjab*, (1976) 4 SCC 158; Paras 24-35]

Indian Penal Code, 1860 (IPC) — Section 300 (Exceptions), Section 302 vs. Section 304 Part I/Part II — Determination of Intention to Cause Death - The distinction between murder (Section 302) and culpable homicide not amounting to murder (Section 304) depends on the intention of the accused, to be gathered from totality of circumstances including the nature of the weapon, target area, force employed, premeditation, and whether blows were struck on vital body parts - The infliction of extensive ante-mortem injuries and grievous blows on vital parts (head, neck, chest) reflects clear murderous intention - In the absence of evidence attracting any Exception under Section 300, plea for conversion of conviction to Section 304 Part I/Part II rejected. [Relied on *Pulicherla Nagaraju alias Nagaraja Reddy v. State of A.P.*, (2006) 11 SCC 444; Paras 26-32]

Code of Criminal Procedure, 1973 (CrPC) — Section 154 — Delay in Lodging FIR — When Not Fatal - Mere delay in lodging the FIR is not fatal to the prosecution if reasonably and satisfactorily explained in light of the surrounding facts and circumstances - Where a 15–16 year old girl (PW-3) witnessed the gruesome assault

and death of her mother late in the evening and lodged the report the following morning upon the arrival of her maternal uncle due to shock, despair, and lack of immediate support, the delay of a few hours stood sufficiently explained. [Relied on *Ramdas and Others v. State of Maharashtra*, (2007) 2 SCC 170; Paras 29-35]

Constitution of India — Article 136 — Scope of Interference with Concurrent Findings of Fact - Powers under Article 136 are wide and plenary, but the Supreme Court does not reappraise evidence or interfere with concurrent findings of fact recorded by courts below unless the findings are manifestly perverse, unsupportable from record, vitiated by error of law/procedure, or where the decision shocks the conscience of the Court. [Relied on *Shahaja alias Shahajan Ismail Mohd. Shaikh v. State of Maharashtra*, (2023) 12 SCC 558; *Balak Ram v. State of U.P.*, (1975) 3 SCC 219; Paras 15-25]

Social Justice & Constitutional Morality — Witch-Hunting — Practice Derogatory to Dignity of Women - Witch-hunting is a deeply rooted social malady driven by superstition, prejudice, and irrational fear, where vulnerable women are targeted as scapegoats and subjected to extreme brutality and ostracization - Such derogatory practices strike at the root of constitutional morality, human dignity, equality, and scientific temperament envisioned by the Constitution of India; reason must prevail as a bulwark against collective irrationality. [Paras 31-38]

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J U D G M E N T

PRASHANT KUMAR MISHRA, J.

“A just society is that society in which ascending sense of reverence and descending sense of contempt is dissolved into the creation of a compassionate society.”

-Dr. B.R Ambedkar

1. This Appeal is directed against the impugned judgment and order dated 29.09.2022 passed by the High Court of Orissa at Cuttack in Criminal Appeal No.158/2003, whereby the High Court dismissed the Appeal and affirmed the conviction and sentence imposed by the Trial Court convicting the appellant of the offences punishable under Sections 302 read with Section 34 of the Indian Penal Code, 1860¹ and sentenced him to undergo rigorous imprisonment for life.

A. FACTUAL MATRIX

2. The case of the prosecution is that on 17.02.1998 at around 5:00 p.m. youngest daughter of Manobodha Naik of village Gundibali Luhakera, Police Station Sector-15, Rourkela in District Sundergarh died. The family members of Manobodha Naik claimed that she died on account of witchcraft practice by the deceased Puni Naik. It was then that the appellant and co-accused Udai Oram came to the house of Puni Naik, dragged her from her house and took her near the house of Manobodha Naik where they assaulted her severely by means of a lathi. The entire incident was witnessed by Sukra Naik (P.W.3),

¹ “IPC”

the daughter of Puni Naik. As the result of the deadly assault, Puni Naik died during the early hours of 18.02.1998.

3. On 18.02.1998, at 11:00 a.m., P.W.3 accompanied by her maternal uncle, Hrudananda Ganda went to the Police Station and gave the written complaint, based on the complaint, FIR No. 19 dated 18.02.1998 at Police Station Sector15, Rourkela, District Sundargarh came to be registered against the appellant and the co-accused under Section 302 read with Section 34 of the IPC.

4. On behalf of prosecution, as many as nine witnesses were examined; however, none was examined on behalf of the defence. The Trial Court basing its reliance on the eyewitness testimony of P.W.3, convicted the appellant and the co-accused for the offence under Section 302 read with Section 34 of the IPC and sentenced him for life imprisonment.

5. The High Court, in appeal preferred by the appellant, confirmed the order of sentence passed by the Trial Court on the ground that the injuries were inflicted on the vital parts of the body of the deceased and the evidence of P.W.3 further corroborated the medical evidence. Holding that the case was one of direct evidence, the High Court affirmed the decision of the Trial Court.

B. SUBMISSIONS

6. Learned senior counsel appearing for the appellant would submit that the sole eyewitness, i.e., P.W.3, being the relative of the deceased, is an interested witness and her testimony, in absence of corroboration by any independent witness, cannot be relied upon to sustain the conviction.

7. Another contention raised is that the case of the appellant falls under the ambit of Section 304, Part I or Part II of the IPC as the act was committed on the account of grave and sudden provocation. Thus, lacking requisite intention to constitute murder under Section 302 of the IPC

8. It was also submitted that there has been a delay in filing of the FIR against the appellant since the incident occurred on 17.02.1998; however, the FIR was lodged on 18.02.1998, the next day.

9. The appellant also disputes the testimony of P.W.3 primarily on the point where in her cross-examination she stated the time of the death of her mother to be around 12:00 p.m. or 1:00 a.m. during night. However, in the FIR the time of the death of the deceased was recorded as 5:00 p.m. Further, in her cross examination she stated that “Balku was holding axe and Udyia was holding Badi”, whereas in the post-mortem report of the deceased, the doctors have not marked any injury which could be caused by an axe.

10. *Per contra*, the learned counsel for the State submitted that the testimony of P.W.3 cannot be discarded merely on the ground that she is related to the deceased. Also, since the testimony of P.W.3 has been duly corroborated with the medical evidence, it further negates any chance of falsely implicating the appellant.

11. It was submitted that the conviction can be sustained on the basis of a sole reliable witness testimony as quality of the witness matters more than the quantity of the witness. For the same, the respondent-State has relied upon a decision of this Court in **Vadivelu Thevar v. State of Madras**² and **Adalat Yadav Etc. v. State of Bihar**³.

² 1957 SCC OnLine SC 13

³ 2026 SCC OnLine SC 660

12. Further, with respect to the delay in registration of the FIR, it is contended that both the Courts below have rightly held that delay in lodging the FIR has been sufficiently explained and, hence, a mere delay of few hours cannot be a ground to discard otherwise credible case of the prosecution.

13. On the defence of the appellant, if the present case falls under the exception I to Section 300 of the IPC, the respondent-State contends that there has been no attempt by the appellant to prove the said exception. Hence, the same is liable to be rejected at this belated stage.

14. The rival submissions now fall for our consideration.

C. ANALYSIS AND FINDINGS

15. At the outset, we make it clear that as the appellant before us seeks interference with the concurrent findings by two Courts below, this Court generally should be slow in interfering with the concurrent findings. This Court's scope of interference under Article 136 of the Constitution of India was explained in ***Shahaja alias Shahajan Ismail Mohd. Shaikh v. State of Maharashtra***⁴ as follows:

"23. Again, in *Balak Ram v. State of U.P.* [*Balak Ram v. State of U.P.*, (1975) 3 SCC 219 : 1974 SCC (Cri) 837] , this Court also held that the powers of the Supreme Court under Article 136 of the Constitution are wide but in criminal appeals this Court does not interfere with the concurrent findings of fact save in exceptional circumstances. In *Arunachalam v. P.S.R. Sadhanantham* [*Arunachalam v. P.S.R. Sadhanantham*, (1979) 2 SCC 297 : 1979 SCC (Cri) 454] , this Court, while agreeing with the views expressed on the aforesaid mentioned decisions of this Court, has thus stated : (SCC p. 300, para 4)

"4. ... The power is plenary in the sense that there are no words in Article 136 itself qualifying that power. But, the very nature of the power has led the court to set limits to itself within which to exercise such power. **It is now the well-established practice of this Court to permit the invocation of the power under Article 136 only in very exceptional circumstances, as when a question of law of general public importance arises or a decision shocks the conscience of the court. But, within the restrictions imposed by itself, this Court has the undoubted power to interfere even with findings of fact, making no distinction between judgments of acquittal and conviction, if the High Court, in arriving at those findings, has acted "perversely or otherwise improperly".**"

24. In *Nain Singh v. State of U.P.* [*Nain Singh v. State of U.P.*, (1991) 2 SCC 432 : 1991 SCC (Cri) 421] , in which all the aforesaid decisions as referred to hereinabove were considered and after considering the aforesaid decisions on the question of exercise of power under Article 136 of the Constitution and after agreeing with the views expressed in the aforesaid decisions, the Court finally laid down the principle that the evidence adduced by the prosecution in that decision fell short of the test of reliability and acceptability and, therefore, was highly unsafe to act upon it. In *State of U.P. v. Babul Nath* [*State of U.P. v. Babul Nath*, (1994) 6 SCC 29 : 1994 SCC (Cri) 1585] , this Court, while considering the scope of Article 136 as to when this Court is entitled to upset the findings of fact, observed as follows : (SCC p. 33, para 5)

"5. At the very outset we may mention that in an appeal under Article 136 of the Constitution this Court does not normally reappraise the evidence by itself and go into the question of credibility of the witnesses and the assessment of the evidence by the High Court is accepted by the Supreme Court as final unless, of course, the appreciation of evidence and finding is vitiated by any error of law of procedure or found contrary to the principles of natural justice, errors of record and misreading of the evidence, or where the conclusions of the High Court are manifestly perverse and unsupportable from the evidence on record."

⁴ (2023) 12 SCC 558

25. From the aforesaid decisions of this Court on the exercise of power of the Supreme Court under Article 136 of the Constitution, the following principles emerge:

25.1. The powers of this Court under Article 136 of the Constitution are very wide but in criminal appeals this Court does not interfere with the concurrent findings of fact save in exceptional circumstances.

25.2. It is open to this Court to interfere with the findings of fact recorded by the High Court if the High Court has acted perversely or otherwise improperly.

25.3. It is open to this Court to invoke the power under Article 136 only in very exceptional circumstances as and when a question of law of general public importance arises or a decision shocks the conscience of the Court.

25.4. When the evidence adduced by the prosecution falls short of the test of reliability and acceptability and as such it is highly unsafe to act upon it.

25.5. Where the appreciation of evidence and finding is vitiated by any error of law of procedure or found contrary to the principles of natural justice, errors of record and misreading of the evidence, or where the conclusions of the High Court are manifestly perverse and unsupportable from the evidence on record.”

(emphasis supplied)

16. Thus, with the above caveat, we proceed with the evidence on record and findings of the Courts below to ascertain whether the present case discloses any exceptional circumstance justifying interference.

17. The case before us is of direct ocular evidence, wherein P.W.3 (daughter of the deceased), being the only eyewitness, is said to have witnessed the entire incident when her deceased mother was being killed by the appellant and the co-accused. The relevant portion of the deposition of P.W.3 is reproduced below:

“1) I know the accused persons, about 2 to 3 years back, at night, both the accused persons took my mother Kuni Nayak from our house and beat her by ‘BADI’ in the front of the house of both the accused persons. Both the accused persons are brothers and live in one house. I protested but accused Bulku also beat me. My mother died at the spot as she was beaten, struggling in pain. I orally reported to police regarding the incident. Police Officer wrote the report and obtained my LTI thereon. Hrudanande Ganda was the husband of my father's sister. He was present when I orally reported to police, he also signed on the report.”

(emphasis supplied)

In her cross-examination, P.W.3 stated thus:

“5) Balku was holding axe and Udyia was holding BADI.

6) It is not a fact that, I am falsely deposing that the accused persons pulled but my mother from my house and beat her in front of their house and as a result of beating she died.

7) On both the hands, legs, chest and head marks of injuries were noticed. My mother was beaten in one place and died in another place as the accused persons threw her after beating.”

(emphasis supplied)

18. From the above testimony, it can be clearly made out that P.W.3 has remained unshaken in both, her chief examination and cross-examination, on the aspect that it was indeed the appellant and the co-accused who inflicted such brutality on the deceased, which ultimately led to her death.

19. It is a well-established rule in criminal jurisprudence that direct ocular evidence if found to be natural, cogent and trustworthy, constitutes the best form of evidence and ordinarily prevails over all forms of evidence. This Court in ***Shahaja alias Shahajan Ismail Mohd. Shaikh*** (supra) held thus:

“30. To put it simply, in assessing the value of the evidence of the eyewitnesses, **two principal considerations are whether, in the circumstances of the case, it is possible to believe their presence at the scene of occurrence or in such situations as would make it possible for them to witness the facts deposed to by them and secondly, whether there is anything inherently improbable or unreliable in their evidence. In respect of both these considerations, the circumstances either elicited from those witnesses themselves or established by other evidence tending to improbabilise their presence or to discredit the veracity of their statements, will have a bearing upon the value which a court would attach to their evidence.** Although in cases where the plea of the accused is a mere denial, yet the evidence of the prosecution witnesses has to be examined on its own merits, where the accused raise a definite plea or puts forward a positive case which is inconsistent with that of the prosecution, the nature of such plea or case and the probabilities in respect of it will also have to be taken into account while assessing the value of the prosecution evidence.

31. There is nothing palpable or glaring in the evidence of the two eyewitnesses on the basis of which we can take the view that they are not true or reliable eyewitnesses. **Few contradictions in the form of omissions here or there is not sufficient to discard the entire evidence of the eyewitnesses.”**

(emphasis supplied)

20. When there is a direct evidence in the form of a sole eyewitness testimony, there exists no legal impediment on convicting solely on the basis of that since what matters is the quality and not the quantity of the witnesses. The aforesaid principle was authoritatively laid down in the case of ***Vadivelu Thevar*** (supra) wherein it was held:

“16. It is not necessary specifically to notice the other decisions of the different High Courts in India in which the Court insisted on corroboration of the testimony of a single witness, not as a proposition of law, but in view of the circumstances of those cases. On a consideration of the relevant authorities and the provisions of the Evidence Act, the following propositions may be safely stated as firmly established:

16.1. As a general rule, a court can and may act on the testimony of a single witness though uncorroborated. One credible witness outweighs the testimony of a number of other witnesses of indifferent character.

16.2. Unless corroboration is insisted upon by statute, courts should not insist on corroboration except in cases where the nature of the testimony of the single witness itself requires as a rule of prudence, that corroboration should be insisted upon, for example in the case of a child witness, or of a witness whose evidence is that of an accomplice or of an analogous character.

16.3. Whether corroboration of the testimony of a single witness is or is not necessary, must depend upon facts and circumstances of each case and no general rule can be laid down in a matter like this and much depends upon the judicial discretion of the Judge before whom the case comes.

17. In view of these considerations, we have no hesitation in holding that the contention that in a murder case, the court should insist upon plurality of witnesses, is much too broadly stated. Section 134 of the Indian Evidence Act, has categorically laid it down that “no particular number of witnesses shall, in any case, be required for the proof of any fact”. The legislature determined, as long ago as in 1872, presumably after due consideration of the pros and cons, that it shall not be necessary for proof or disproof of a fact, to call any particular number of witnesses. In England, both before and after the passing of the Indian Evidence Act, 1872, there have been a number of statutes as set out in Sarkar's Law of Evidence, 9th Edn., at pp. 1100 and 1101, forbidding

convictions on the testimony of a single witness. The Indian legislature has not insisted on laying down any such exceptions to the general rule recognised in Section 134 quoted above. The section enshrines the wellrecognised maxim that “Evidence has to be weighed and not counted”. Our legislature has given statutory recognition to the fact that administration of justice may be hampered if a particular number of witnesses were to be insisted upon. It is not seldom that a crime has been committed in the presence of only one witness, leaving aside those cases which are not of uncommon occurrence, where determination of guilt depends entirely on circumstantial evidence. If the legislature were to insist upon plurality of witnesses, cases where the testimony of a single witness only could be available in proof of the crime, would go unpunished. It is here that the discretion of the presiding Judge comes into play. The matter thus must depend upon the circumstances of each case and the quality of the evidence of the single witness whose testimony has to be either accepted or rejected. If such a testimony is found by the court to be entirely reliable, there is no legal impediment to the conviction of the accused person on such proof. **Even as the guilt of an accused person may be proved by the testimony of a single witness, the innocence of an accused person may be established on the testimony of a single witness, even though a considerable number of witnesses may be forthcoming to testify to the truth of the case for the prosecution. Hence, in our opinion, it is a sound and well-established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact.**

19. There is another danger in insisting on plurality of witnesses. **Irrespective of the quality of the oral evidence of a single witness, if courts were to insist on plurality of witnesses in proof of any fact, they will be indirectly encouraging subornation of witnesses. Situations may arise and do arise where only a single person is available to give evidence in support of a disputed fact.** The court naturally has to weigh carefully such a testimony and if it is satisfied that the evidence is reliable and free from all taints which tend to render oral testimony open to suspicion, it becomes its duty to act upon such testimony. The law reports contain many precedents where the court had to depend and act upon the testimony of a single witness in support of the prosecution. There are exceptions to this rule, for example, in cases of sexual offences or of the testimony of an approver; both these are cases in which the oral testimony is, by its very nature, suspect, being that of a participator in crime. But, where there are no such exceptional reasons operating, it becomes the duty of the court to convict, if it is satisfied that the testimony of a single witness is entirely reliable. We have therefore, no reasons to refuse to act upon the testimony of the first witness, which is the only reliable evidence in support of the prosecution.”

(emphasis supplied)

21. This Court in the case of *Prithipal Singh and Others v. State of Punjab and Another*⁵ held that the Courts are supposed to evaluate the evidence by its reliability rather than its quantity, thus, the Court may convict on the basis of the testimony of the sole witness or acquit despite several witnesses. In *Prithipal Singh* (supra), this Court observed thus:

“49. This Court has consistently held that as a general rule the court can and may act on the testimony of a single witness provided he is wholly reliable. There is no legal impediment in convicting a person on the sole testimony of a single witness. That is the logic of Section 134 of the Evidence Act. But if there are doubts about the testimony, the court will insist on corroboration. In fact, it is not the number or the quantity, but the quality that is material. The time-honoured principle is that evidence has to be weighed and not counted. **The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy or otherwise. The legal system has laid emphasis on value, weight and quality of evidence, rather than on quantity, multiplicity or plurality of witnesses. It is, therefore, open to a competent court to fully and completely**

⁵ (2012) 1 SCC 10

rely on a solitary witness and record conviction. Conversely, it may acquit the accused in spite of testimony of several witnesses if it is not satisfied about the quality of evidence. [See *Vadivelu Thevar v. State of Madras* [*Vadivelu Thevar v. State of Madras*, AIR 1957 SC 614 : 1957 Cri LJ 1000] , *Sunil Kumar v. State (Govt. of NCT of Delhi)* [*Sunil Kumar v. State (Govt. of NCT of Delhi)*, (2003) 11 SCC 367 : 2004 SCC (Cri) 1055] , *Namdeo v. State of Maharashtra* [*Namdeo v. State of Maharashtra*, (2007) 14 SCC 150 : (2009) 1 SCC (Cri) 773] and *Bipin Kumar Mondal v. State of W.B.* [*Bipin Kumar Mondal v. State of W.B.*, (2010) 12 SCC 91 : (2011) 2 SCC (Cri) 150]]”

(emphasis supplied)

22. Tested on the anvil of the aforesaid principles, the testimony of P.W.3 inspires complete confidence. Being the natural sole witness, her presence at the scene of the occurrence is natural and unquestionable. The version of P.W.3 on the manner of assault and the weapons used has remained consistent, credible enough to safely sustain conviction of the appellant.

23. During the hearings before this Court, it was contended that P.W.3 being the daughter of the deceased, falls within the bracket of a related/interested witness; hence, her sole testimony cannot be relied upon for sustaining the conviction of the appellant.

24. This Court in the case of ***Shio Shankar Dubey and Others v. State of Bihar***⁶, while referring to its earlier decisions, clarified that a witness can be regarded as an interested witness only when it can be shown that such witness has direct motive, personal animosity or any other reason to falsely implicate the accused person. Ultimately, the credibility of every witness has to be determined keeping in view the facts and circumstances of each case. In ***Shio Shankar Dubey*** (supra), this Court observed thus:

“**10.** PW 11, who is a brother of the deceased, has fully corroborated the prosecution case in his evidence. In spite of thorough cross-examination, the witnesses could not be shaken. The submission of the appellant that witnesses PW 11 and PW 13 being related to the deceased are interested witnesses and should not be relied upon does not commend us. The mere fact that the deceased was brother of the informant and PW 13 is the husband of the niece of the deceased does not impeach their evidence in any manner. The mere fact that witness is related does not lead to inference that such witness is an interested witness. **This Court has occasion to consider such submission in a number of cases. In *Kartik Malhar v. State of Bihar* [*Kartik Malhar v. State of Bihar*, (1996) 1 SCC 614 : 1996 SCC (Cri) 188] , this Court held that a close relative who is a very natural witness cannot be regarded as an interested witness. In paras 15 and 16, the following was laid down: (SCC pp. 621-22)**

“**15.** As to the contention raised on behalf of the appellant that the witness was the widow of the deceased and was, therefore, highly interested and her statement be discarded, we may observe that a close relative who is a natural witness cannot be regarded as an interested witness. The term “interested” postulates that the witness must have some direct interest in having the accused somehow or the other convicted for some animus or for some other reason. In *Dalbir Kaur v. State of Punjab* [*Dalbir Kaur v. State of Punjab*, (1976) 4 SCC 158 : 1976 SCC (Cri) 527] , it has been observed as under: (SCC pp. 167-68, para 11) ‘11. ... Moreover, a close relative who is a very natural witness cannot be regarded as an interested witness. The term “interested” postulates that the person concerned must have some direct interest in seeing that the accused person is somehow or the other convicted either because he had some animus with the accused or for some other reason. Such is not the case here.’

16. In *Dalip Singh v. State of Punjab* [*Dalip Singh v. State of Punjab*, (1953) 2 SCC 36 : AIR 1953 SC 364 : 1953 Cri LJ 1465] it has been laid down as under: (AIR p. 366, para 26)

‘26. A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted and that usually means unless the witness has

⁶ (2019) 6 SCC 501

cause, such as enmity against the accused, to wish to implicate him falsely. Ordinarily a close relative would be the last to screen the real culprit and falsely implicate an innocent person. It is true, when feelings run high and there is personal cause for enmity, that there is a tendency to drag in an innocent person against whom a witness has a grudge along with the guilty, but foundation must be laid for such a criticism and the mere fact of relationship far from being a foundation is often a sure guarantee of truth. However, we are not attempting any sweeping generalisation. **Each case must be judged on its own facts. Our observations are only made to combat what is so often put forward in cases before us as a general rule of prudence. There is no such general rule. Each case must be limited to and be governed by its own facts.**"

(emphasis supplied)

25. In the light of the aforesaid precedents, the contention of the appellant in our view is devoid of any merit since it is well settled that a mere relationship with the deceased does not render a witness interested or unreliable. A close relative, who is a natural witness, cannot be equated with an interested witness merely because of such relationship. In the facts of the present case, the direct testimony of P.W.3 has been duly corroborated with medical evidence which further establishes the guilt of the appellant beyond reasonable doubt.

26. The appellant side has also raised the defence that this case falls within the realm of the offence of culpable homicide not amounting to murder punishable under Section 304 Part I or Part II of the IPC. In the present case, P.W.6, who conducted the post-mortem examination of the deceased on 18.02.1998, found the following external injuries:

"One bruise of 2"x1" on the right temporal area scalp. One bruise of 1½" x 1" on the vertex of head of left side. One mark of roll 4"x1" present on the left thigh laterally. One mark of roll 6"x1" size present in the right thigh anteriorly. One lacerated wound of 1"x¼" in skin deep in the middle portion of left neck anteriorly. One lacerated wound of 1"x¼" in skin deep in the anterior aspect of left thigh. One bruise of 3"x1" over the lower part of abdominal. One bruise of 1"x2" over the lower part of chest. One bruise of 1"x1" on the right shoulder. One bruise of ½"x1" in the middle of the eye.

All the above injuries were red in colour and ante-mortem in nature.

Blood clots present on the skull bone beneath the wound No.1 and 2. Brain edematous and congested. Blood clots present over the right temporal parietal area of the brain."

(emphasis supplied)

27. This Court in the case of ***Pulicherla Nagaraju alias Nagaraja Reddy v. State of A.P.***⁷ held that the distinction between Section 302 and Section 304 of the IPC depends on the intention of the accused person, which has to be gathered from the overall circumstances including the nature of the weapon used, part of the body targeted, whether the act was in the course of sudden quarrel or sudden fight or free for all fight, whether the incident occurs by chance or whether there was any premeditation, etc. In ***Pulicherla Nagaraju alias Nagaraja Reddy*** (supra), this Court held as under:

"29. Therefore, the court should proceed to decide the pivotal question of intention, with care and caution, as that will decide whether the case falls under Section 302 or 304 Part I or 304 Part II. Many petty or insignificant matters — plucking of a fruit, straying of cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion may be totally absent in such cases. There may be no intention. There may be no premeditation. In fact, there may not even be criminality. At the other end of the spectrum, there may be cases of murder

⁷ (2006) 11 SCC 444

where the accused attempts to avoid the penalty for murder by attempting to put forth a case that there was no intention to cause death. It is for the courts to ensure that the cases of murder punishable under Section 302, are not converted into offences punishable under Section 304 Part I/II, or cases of culpable homicide not amounting to murder, are treated as murder punishable under Section 302. **The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances: (i) nature of the weapon used; (ii) whether the weapon was carried by the accused or was picked up from the spot; (iii) whether the blow is aimed at a vital part of the body; (iv) the amount of force employed in causing injury; (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight; (vi) whether the incident occurs by chance or whether there was any premeditation; (vii) whether there was any prior enmity or whether the deceased was a stranger; (viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation; (ix) whether it was in the heat of passion; (x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner; (xi) whether the accused dealt a single blow or several blows.** The above list of circumstances is, of course, not exhaustive and there may be several other special circumstances with reference to individual cases which may throw light on the question of intention. Be that as it may.”

(emphasis supplied)

28. In the case before us, looking at the nature of the injuries inflicted on the body of the deceased including grievous injuries on head, neck, chest and other vital parts of the body, manifests a clear intention on the part of the appellant to cause the death of the deceased. There is nothing to prove on record that the case attracts any of the exceptions to Section 300 of the IPC. The plea of conversion of the conviction to one under section 304 Part I or Part II of the IPC, is, therefore, liable to be rejected.

29. Another contention of the appellant is that there has been a delay of a day in lodging the FIR, which further casts a doubt on the case of the prosecution. This Court in the case of **Om Pal and Others v. State of U.P (Now State of Uttarakhand)**⁸ speaking through one of us (Prashant Kumar Mishra, J.) held that where the delay in lodging of the FIR is explained to the satisfaction of the Court, the delay cannot itself be regarded as fatal to the case of the prosecution. Further in the case of **Ramdas and Others v. State of Maharashtra**⁹, it was held as under:

“24. Counsel for the State submitted that the delay in lodging the first information report in such cases is immaterial. The proposition is too broadly stated to merit acceptance. It is no doubt true that mere delay in lodging the first information report is not necessarily fatal to the case of the prosecution. However, the fact that the report was lodged belatedly is a relevant fact of which the court must take notice. This fact has to be considered in the light of other facts and circumstances of the case, and in a given case the court may be satisfied that the delay in lodging the report has been sufficiently explained. In the light of the totality of the evidence, the court of fact has to consider whether the delay in lodging the report adversely affects the case of the prosecution. That is a matter of appreciation of evidence. There may be cases where there is direct evidence to explain the delay. Even in the absence of direct explanation there may be circumstances appearing on record which provide a reasonable explanation for the delay. There are cases where much time is consumed in taking the injured to the hospital for medical aid and, therefore, the witnesses find no time to lodge the report promptly. There may also be cases where on account of fear and threats, witnesses may avoid going to the police station immediately. **The time of occurrence, the distance to the police station, mode of conveyance available, are all factors which have a bearing on the question of delay in lodging of the report. It is also possible to conceive of cases where the victim and the members of his or her family belong**

⁸ 2025 INSC 1262

⁹ (2007) 2 SCC 170

to such a strata of society that they may not even be aware of their right to report the matter to the police and seek legal action, nor was any such advice available to them. In the case of sexual offences there is another consideration which may weigh in the mind of the court i.e. the initial hesitation of the victim to report the matter to the police which may affect her family life and family's reputation. Very often in such cases only after considerable persuasion the prosecutrix may be persuaded to disclose the true facts. There are also cases where the victim may choose to suffer the ignominy rather than to disclose the true facts which may cast a stigma on her for the rest of her life. These are cases where the initial hesitation of the prosecutrix to disclose the true facts may provide a good explanation for the delay in lodging the report. **In the ultimate analysis, what is the effect of delay in lodging the report with the police is a matter of appreciation of evidence, and the court must consider the delay in the background of the facts and circumstances of each case. Different cases have different facts and it is the totality of evidence and the impact that it has on the mind of the court that is important. No straitjacket formula can be evolved in such matters, and each case must rest on its own facts. It is settled law that however similar the circumstances, facts in one case cannot be used as a precedent to determine the conclusion on the facts in another.** (See Pandurang v. State of Hyderabad [(1955) 1 SCR 1083 : AIR 1955 SC 216] .) Thus mere delay in lodging of the report may not by itself be fatal to the case of the prosecution, but the delay has to be considered in the background of the facts and circumstances in each case and is a matter of appreciation of evidence by the court of fact."

(emphasis supplied)

30. The incident before us is said to have occurred at 7:00 p.m. on 17.02.1998 and the matter was reported in the Police Station at about 11:00 a.m. on 18.02.1998. It is a matter of record that at the time of the incident, P.W.3 was of 15-16 years of age. It is but natural that after witnessing the brutal assault and murder of her deceased mother, P.W.3 would have been under shock and despair. It was only when the maternal uncle of P.W.3 came to their house, she somehow mustered the courage to go to the Police Station to get the FIR lodged. Thus, it would not have been expected from the daughter to run to the concerned Police Station in the night itself. Keeping in view these circumstances, the delay in lodging the FIR has been well-explained.

D. WITCH-HUNTING: AN ANATHEMA TO HUMAN DIGNITY

31. While parting with the case, we would just like to say that the facts of the present case has deeply disturbed the conscience of this Court, wherein a defenseless women was branded as a practitioner of witch-craft and what effect it must have had on the daughter of the deceased who had to witness her mother being killed in the most brutal way.

32. It is true that the malady of witch hunting still plagues sections of our society, where prejudice, superstition and irrational fear supersedes the rule of law, constitutional morality. The brutality associated with witch hunting extends far beyond the act of killing; where victims mostly women are subjected to torture, beatings, sexual violence and social ostracization. In such a situation, superstitious beliefs or fears are given precedence leading to vulnerable women becoming victims of collective hostility.

33. Sometimes in the most difficult situations, it often becomes an easy escape to blame a woman for the acts she did not commit, thus reflecting a deeply rooted social prejudice that often seeks scapegoats rather than solutions. In such situations, what can be given an ascendancy is 'reason' for reason is the only virtue that stands as a bulwark against collective irrationality.

34. The Constitution of India envisioned a society founded on the principles of equality, fraternity, scientific temperament, wherein any practice derogatory to women was to be

discarded. Despite this, practices such as witch-hunting continue to persist within few sections of our society. A Constitutional democracy such as ours cannot survive; wherein such derogatory practices continue to elude the principles of rule of law and Constitutional morality.

E. CONCLUSION

35. Keeping in view the above discussion, we are of the opinion that the nature of the direct evidence appearing against the appellant is compelling, which clearly establishes that the appellant with the co-accused brutally murdered the deceased on the allegation of her causing death of the youngest daughter of Manobodha Naik by practicing witchcraft.

36. Both, the Trial Court and the High Court, have correctly held on the culpability of the appellant in the said crime. Thus, the conviction and the sentence against the appellant deserve to be affirmed.

37. The Appeal is, accordingly, dismissed.

38. This Court fervently hopes that the present case serves as a solemn reminder that justice must always prevail over superstition and irrational beliefs.

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