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CRA-11041-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&

HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH

ON THE 2nd OF SEPTEMBER, 2026CRIMINAL APPEAL No. 11041 of 2025*LOTAN LODHI ALIAS NANNA**Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Madan Singh - Advocate for the appellant.

Shri Manas Mani Verma - Government Advocate for the State.

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JUDGMENT

Per. Justice Vivek Agarwal

Learned counsel for the appellant is heard on I.A.No.26946/2025, which is first application for suspension of sentence and grant of bail to the appellant Lotan Lodhi @ Nanna.

2 Learned counsel for the appellant prays for withdrawal of the aforesaid application.

3 Prayer is not opposed by the other side.

4 Accordingly, I.A.No.26946/2025 is dismissed as withdrawn.

5 With consent of learned counsel for the parties, this appeal is finally heard.

6 This appeal is filed being aggrieved of judgment dated 31.10.2025 passed by learned Special Judge, SC/ST (Prevention of Atrocities) Act, District



Damoh in SCATR No.64/2024 convicting the appellant Lotan Lodhi @ Nanna for the offence under Section 302 of the Indian Penal Code, 1860 (for short "I.P.C") and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short "Prevention of Atrocities Act") and sentencing him to undergo imprisonment for life, imprisonment for life with fine of Rs.1,000/-, Rs.1,000/- and in default of payment of fine to undergo simple imprisonment for six months and simple imprisonment for six months respectively with a further direction to run both the jail sentences concurrently.

7 Learned counsel for the appellant submits that the appellant is innocent and has been falsely implicated in this case. There is no direct eye-witness account. It is a case of circumstantial evidence. All the three circumstances, which have been taken against the appellant, are not connected with each other. Hence, prayer is made to set aside the finding of conviction recorded by learned Trial Court and acquit the appellant from the charges levelled against him as mentioned in Paragraph No.6 of this judgment.

8 Learned Government Advocate for the State supports the impugned judgment and prays for dismissal of the appeal filed by the appellant.

9 The testimony of Chhotelal Ahirwar (PW-7), who is related to Munna Ahirwar (since deceased) claimed that Munna Ahirwar was his uncle, provides a very cryptic account. According to him, on 22.03.2024, his uncle, Munna Ahirwar, was sitting along with Lotan Lodhi @ Nanna on the *Chabutara* of his house. Thereafter, Munna Ahirwar gave him Rs.100/- and asked him to bring liquor. Chhotelal Ahirwar then went to the shop of Halle,



however, since liquor was not available, he returned and handed the money back to his uncle Munna Ahirwar. Thereafter, the witness went inside the house to have his meals. According to him, Munna Ahirwar and Lotan Lodhi @ Nanna both proceeded towards the house of Halle. The witness then went to sleep and, on the following day, found that his uncle Munna Ahirwar was lying dead at the door of Lakhan Singh. Chhotelal Ahirwar (PW-7), in his cross-examination, admits that there was no intimate relationship between Munna Ahirwar and Lotan Lodhi @ Nanna.

10 The testimony of Chhotelal Ahirwar (PW-7) is contrary to the memorandum of Lotan Lodhi @ Nanna. It is mentioned in the memorandum of Lotan Lodhi @ Nanna that Chhotelal Ahirwar (PW-7) had brought two quarters of liquor from the shop of Halle whereas contrary to the aforesaid memorandum, Chhotelal Ahirwar (PW-7) states that the shop of Halle was closed. The statement of Chhotelal Ahirwar was recorded on 04.05.2024, whereas the incident occurred on 22/23.03.2024. Thus, there is a considerable delay in recording the statement of Chhotelal Ahirwar under Section 161 of the Code of Criminal Procedure, 1973 and no explanation has been furnished by the prosecution for such delay.

11 The second circumstance relied upon against the appellant is recovery of three currency notes of Rs.100/- each from his house and the recovery of a mobile handset bearing IMEI Nos. _____ and valued at Rs.5,000/-. There is no mention of the SIM number or of the absence of a SIM card in the mobile handset in the Consumer Application Form (Exhibit P/24). Further, the IMEI number was



not mentioned therein, rather, only the SIM number was mentioned, and even that SIM was seized from the possession of the son of Munna Ahirwar.

12 Exhibit P/24 is neither readable nor legible, which exposes the weakness of the prosecution case as the prosecution has relied upon an unreadable and illegible document. Sudhir Kumar (PW-13) has also not furnished any details regarding Exhibit P/24 although the document purports to have been proved by Sudhir Kumar (PW-13).

13 As far as the call details are concerned, it is true that calls were made from the mobile phone of Munna Ahirwar to Lotan Lodhi @ Nanna and vice versa. However, there is no material on record to establish that the SIM in question was being used in the mobile phone recovered vide Exhibit P/10. Accordingly, in the absence of production of the purchase bill of the said mobile phone in the name of Munna Ahirwar or any of his family members, or any material establishing that the said SIM was being used in the recovered mobile handset, the recovery of the mobile phone, by itself, is of no consequence.

14 It is also evident that in Paragraph No.42 of the impugned judgment, learned Trial Court has erroneously recorded that human blood was found on the articles seized from Lotan Lodhi @ Nanna. The aforesaid finding is perverse and contrary to the FSL report (Exhibit P/26), which clearly indicates that Articles E, F & G, i.e. the clothings of Lotan Lodhi @ Nanna, did not reveal the presence of human blood. Human blood was found on the clothings of Munna Ahirwar. Thus, recording of such a fact by learned Trial Court is contrary to the material available on record.



15 When all these facts are examined in the light of the judgment of the Apex Court in **Sharad Birdhichand Sarda versus State of Maharashtra, (1984) 4 SCC 116**, particularly Paragraph No.153 thereof, wherein the Apex Court has enumerated the circumstances that are required to be established before a case based on circumstantial evidence can be said to have been duly proved then it is evident that the prosecution has failed to establish a complete chain of circumstances.

16 Upon careful consideration of the testimony of Chhotelal Ahirwar (PW-7) and Sudhir Kumar (PW-13), we are of the opinion that the chain of circumstances is incomplete. There is no evidence on record to establish that the mobile phone recovered pursuant to the memorandum of Lotan Lodhi @ Nanna vide Exhibit P/10 was the same mobile phone that belonged to Munna Ahirwar. There is also no identification of the aforesaid mobile phone by any of the relatives of Munna Ahirwar. Further, there is no scientific evidence to establish that the SIM through which Munna Ahirwar was communicating with Lotan Lodhi @ Nanna was the same SIM that was being used in the mobile handset allegedly recovered from Lotan Lodhi @ Nanna.

17 Thus, in absence of any cogent evidence connecting the recovered mobile handset with Munna Ahirwar and the SIM used for communication with the said handset, the alleged recovery does not establish the necessary link in the chain of circumstances. Consequently, when the chain of circumstances is incomplete, the conviction recorded by learned Trial Court, without proper appreciation of the material facts and evidence available on record, cannot be sustained in the eyes of law.



18 Raghu Keshari (PW-9) has also not mentioned anything about the IMEI number whereas law in this regard is crystal clear as laid down by the Apex Court in **Mohd.Arif Alias Ashfaq versus State (NCT of Delhi) (2011) 13 SCC 621** wherein it is held that "the mobile service is operated through a main server computer called mobile switching centre, which handles and records each and every movement of an active mobile phone like day and time of the call, duration of the call, calling and the called number, location of the subscriber during active call and the unique IMEI number of the instrument used by the subscriber during an active call" but in the present case, none of the aforesaid details have been proved by the prosecution.

19 We are constrained to reiterate that learned Trial Court has failed to record the correct facts and has erroneously mentioned that the clothings of Lotan Lodhi @ Nanna, namely, Pajama, Kameez and Jacket, marked as Articles E, F & G respectively contained blood. Learned Trial Court has also erroneously recorded that as per the FSL report (Exhibit P/26), Articles E, F & G were found to contain human blood. The aforesaid observation is clearly contrary to the contents of the FSL report (Exhibit P/26).

20 We are constrained to observe that learned Trial Court has failed to discharge its duties with due care and diligence. Prima facie, we are of the considered opinion that the manner in which the evidence and the material on record have been appreciated, raises serious concerns regarding the suitability of learned Trial Court, presided over by ,
Special Judge, (SC/ST (Prevention of Atrocities) Act), District Damoh, to deal with sensitive matters of this nature.



21 Accordingly, the matter be placed before Hon'ble the Acting Chief Justice for taking appropriate call in this regard.

2 2 As far as the merits of the present case are concerned, the conviction having been founded on cryptic and non-existent grounds cannot be sustained in the eyes of law. Accordingly, the impugned judgment dated 31.10.2025 passed by learned Special Judge, SC/ST (Prevention of Atrocities) Act, District Damoh, in SCATR No. 64/2024, is hereby set aside.

2 3 The appellant Lotan Lodhi @ Nanna, is acquitted of the charges under Section 302 of the Indian Penal Code, 1860 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The appellant Lotan Lodhi @ Nanna is in jail. He be set at liberty forthwith if his custody is not required in connection with any other case.

24 Accordingly, this appeal is allowed.

25 Let record of learned Trial Court be sent back forthwith.

(VIVEK AGARWAL)
JUDGE

(AVANINDRA KUMAR SINGH)
JUDGE

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