

2025 LiveLaw (SC) 1224

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
PRASHANT KUMAR MISHRA; J., VIPUL M. PANCHOLI; J.
18 December, 2025

CRIMINAL APPEAL NO. 3647 OF 2025
PUNIMATI & ANR. *versus* THE STATE OF CHHATTISGARH & ORS.

CRIMINAL APPEAL NO. 3648 OF 2025
DAYALU & ORS. *versus* STATE OF CHHATTISGARH

Criminal Law – Conviction under Sections 302, 148, and 149 of the Indian Penal Code, 1860 – Appreciation of Evidence – Interested/Related Witness – Credibility of Eyewitness – Contradictions between Oral and Medical Evidence – Benefit of Doubt- The Supreme Court set aside the conviction and life imprisonment of the appellants, holding that the prosecution failed to prove the case beyond reasonable doubt- Held that the testimony of the sole eyewitness (PW-4, the mother of the deceased) was riddled with material contradictions regarding the manner of the incident- While the witness initially claimed to have seen the assault, her cross-examination revealed she arrived after the deceased was already injured and could not specify which weapon hit the victim- the medical evidence did not align with the prosecution’s story; the post-mortem revealed three incised wounds, yet it was difficult to believe these were caused by a single triangular stone produced by the police- The non-examination of a key informant (the granddaughter) and the fact that independent witnesses turned hostile further weakened the prosecution’s case- Supreme Court laid down Key Principles- i. Interested Witnesses: While the deposition of a related or interested witness cannot be discarded solely on that ground, it must be scrutinized with extreme caution; ii. Medical vs. Ocular Evidence: Where the ocular testimony is inconsistent and conflicts significantly with the medical findings regarding the nature of injuries and weapons used, the reliability of the prosecution’s case is compromised- Appeals allowed. [Relied on 13-19]

For Appellant(s): Mr. Dushyant Parashar, AOR Mr. Manu Parashar, Adv. Mr. Dinesh Pandey, Adv.

For Respondent(s): Mr. Avdhesh Kumar Singh, Advocate General Mrs. Prerna Dhall, Adv. Mr. Ambuj Swaroop, Adv. Mr. Kapil Katore, Adv. Ms. Rajnandani Kumari, Adv. Mr. Dhananjay Kumar Singh, Adv. Mr. Prashant Singh, AOR Mr. Chandan Kumar Jha, Adv. Ms. Minakshi Pandey, Adv.

J U D G M E N T

VIPUL M. PANCHOLI, J.

1. Both these appeals arise out of the common judgment and order dated 17.02.2021 rendered by the Chhattisgarh High Court in Criminal Appeal No. 904 of 2012 and Criminal Appeal No. 931 of 2012. The present Criminal Appeal No. 3647 of 2025 has been filed by original accused no. 2 and accused no. 3, whereas the Criminal Appeal No. 3648 of 2025 has been filed by original accused no. 6, accused no. 7 and accused no. 5.

2. In both these appeals, the appellants-accused persons have challenged the judgment and order rendered by the High Court by which the appeals preferred by the appellants came to be dismissed. The High Court has thereby affirmed the order of conviction and sentence dated 01.09.2012 passed by IInd Additional Sessions Judge, Baloda Bazar, District Raipur, Chhattisgarh.

3. Factual Matrix of the present case is as under:

- i. It is a case of the prosecution that on 14.07.2010, the informant, i.e. Parasbai, was cooking the food inside her house. Her son, Goreylal, had gone to take bath in the pond. At about 09:00 A.M., granddaughter of the informant, Indu Bai, came and informed the informant that persons belonging to caste-Teli were assaulting her father. On hearing the same, the informant came out of her house and went near the pond. At that time, she saw that in front one Maya Ram Sahu's house, the accused persons, namely, Sonaibai, Punimati, Punibai, Shyambai, Dayalu, Gajadhar and Dayanidhi Sahu, were assaulting her son with *lathi*/stick and even stones were pelted at him. It is also stated that they tied the hands of her son at the back side. Thereafter, she went back to her house and came out of it after some time, and she found that her son had died.
- ii. Thereafter, the F.I.R. was lodged before the concerned Police Station for commission of the offence punishable under Section 302 read with Section 34 of Indian Penal Code, 1980, (hereinafter to be referred as "*the IPC*") against the accused persons.
- iii. After the investigation, the Investigating Officer filed the chargesheet against the accused persons.
- iv. Charges were framed under Section 302 read with Section 148 and 149 of the IPC against the accused persons. Additional charge was framed against accused no. 5 for committing offence under Section 506 B of the IPC for giving threat to Parasbai, PW-4.
- v. During the course of the trial, the prosecution examined ten witnesses and produced documentary evidence. Thereafter, statement of the accused under Section 313 of the Code of Criminal Procedure, 1973, came to be recorded.
- vi. After conclusion of the trial, the Trial Court convicted the accused persons for committing the offences punishable under Section 302 read with Section 149, and 148 of the IPC.
- vii. Accordingly, under Section 302 read with 149 of the IPC, accused persons were sentenced to life imprisonment and a fine of Rs. 1,000/-, and in default, further imprisonment for 6 months was awarded. And under Section 148 of the IPC, accused persons were sentenced to rigorous imprisonment for 2 years and a fine of Rs. 200/- was also imposed, and in default, further imprisonment of 6 months was awarded.
- viii. Being aggrieved with the judgment and order rendered by the Trial Court, the accused persons preferred separate criminal appeals, being Criminal Appeal Nos. 904 of 2012 and 931 of 2012, before the High Court.
- ix. The High Court *vide* impugned judgment and order dated 17.02.2021 dismissed both the appeals preferred by the accused persons.
- x. Thus, the appellants-accused persons have filed the present appeals.

4. Learned Counsel for the appellants mainly contended that:

- i. PW-4, i.e. the informant, is an interested/related witness. She is mother of the deceased and therefore her deposition is required to be scrutinized closely. It is contended that the Courts below, simply relying upon the deposition given by the so-called eyewitness (PW-4), have convicted the accused persons. In fact, PW-4 is a chance witness and there are material contradictions in the deposition given by PW-4.
- ii. The Granddaughter of PW-4, i.e. Indu Bai, who had given information to the informant regarding the assault being made by the accused persons on the deceased, has not been examined by the prosecution.

iii. Independent witnesses, i.e. PW-1 and PW-9, have turned hostile and they have not supported the case of the prosecution. However, the said witnesses have specifically stated that the accused persons were not seen assaulting the deceased.

iv. PW-2 and PW-3, who are also independent witnesses and signatory of the seizure memo have also turned hostile.

v. The medical evidence also does not support the version given by the so-called eyewitness, i.e. PW-4.

vi. Learned Counsel, therefore, urged that the prosecution has miserably failed to prove the case against the appellants-accused persons beyond reasonable doubt, despite which the Courts below have recorded the order of conviction. Hence, the impugned orders are liable to be set aside.

5. The learned Advocate General (“AG”) for the respondent-State has opposed the present appeals and submits as under:

i. In the present case, PW-4, mother of the deceased, is an eyewitness to the occurrence of offence in question. She has narrated in detail about the manner in which the incident took place. It is further submitted that PW-7, Dr. Chain Singh Painkara, has conducted post-mortem on the dead body of the deceased and has supported the version of eyewitness. Thus, the medical evidence corroborates the version of the eyewitness.

ii. It is further contended that from the deposition given by PW-8, the Investigating Officer (hereinafter to be referred as “*the I.O.*”), it transpires that all the accused persons had produced all the weapons before the I.O., i.e. a stone and sticks (*lathis*). It is also contended that PW-7, the doctor, has specifically deposed that the injury sustained by the deceased can possibly be caused by the aforesaid weapons.

iii. Learned AG also contends that there was no reason for the informant, i.e. PW-4, to falsely implicate the accused persons. At this stage, it is further submitted that merely because PW-4 is an interested/related witness, her deposition cannot be discarded. Learned AG, therefore, urged that the Trial Court has rightly convicted the accused persons for committing the offence punishable under Section 302 of the IPC read with Section 149 and 148 of the IPC.

iv. Similarly, the High Court has also rightly dismissed the appeals preferred by the accused persons, thereby confirming the judgment and order of conviction recorded by the Trial Court. He, therefore, urged that no interference is required with the impugned orders.

Discussion:

6. We have heard learned Counsels for the respective parties and have perused the evidence laid by the prosecution and the other material placed on record.

7. It transpires from the material placed on record that PW-4, informant, lodged the F.I.R. on 14.07.2010 at 12:40 hours, for the incident which took place on 09:00 A.M. It is her specific case that her son, Goreylal, had gone to the pond to take a bath. Her granddaughter, Indu Bai, was playing in the lane in the front of the house and at about 09:00 A.M, the granddaughter came and told that the people belonging to caste-Teli were assaulting her father. On hearing about said occurrence, PW-4 came out of the house and when she reached the place of occurrence, she saw the accused persons were assaulting her son with *lathis* and stone, while his hands were tied at the back side.

8. Now, at this stage, if we examine the deposition of PW-4 given before the Trial Court, it is revealed that she has stated in her examination-in-chief that Indu Bai is Goreylal's daughter. Indu Bai came and told her that accused persons - Sonai Bai, Puni Bai, Punimati, Shyam Bai, Gajadhar, Dayalu and Dayanidhi, present in the Court, have killed Goreylal. On being informed by Indu Bai, she went near to the pond and the accused persons were present there. The accused persons had also tried to assault her.

9. Thus, there are major contradictions in the deposition given by PW-4. It is pertinent to note that the granddaughter of the informant has not been examined by the prosecution. It is also pertinent to note that in cross-examination, PW-4 has admitted that when she reached at the place, the accused persons were standing there and Goreylal was injured. She has also stated that she cannot tell which accused's *lathi* (stick) and which accused's stone had hit Goreylal. From paragraph 17 of her cross-examination, it is further revealed that she stated that PW-1, Ram Gulal, had not seen the incident and he had come later and had covered Goreylal with a cloth. Thus, from the evidence laid by the prosecution, it can be said that PW-1 did not see as to who had tied the hands of the deceased and why the deceased was in a naked state.

10. It is pertinent to note that the independent witnesses have not supported the case of the prosecution and that they have turned hostile. However, from the deposition of PW-1, it is revealed that police had seized one stone from the place of incident. PW-2 (*Sarpanch*) and PW-3 have also turned hostile. As per PW-2, the police had prepared the inquest of dead body of the deceased in his presence. However, the said witness has specifically stated that none of the accused persons had given any memorandum statement to the police in his presence. He has also stated that police have not seized anything from the accused persons in his presence. Thus, PW-2 did not support the case of the prosecution. Similarly, PW-3 has also not supported the case of the prosecution and has turned hostile.

11. PW-8, the I.O., has deposed before the Court that he had recorded memorandum of statement of the accused persons wherein the accused persons produced *lathis*/sticks, details are given in paragraph 3 of his deposition. It is pertinent to note that as per his deposition, Sonai Bai had stated about *lathi* and stone. From the deposition of the I.O., it transpires that total seven sticks were produced before the said witness and one stone was seized from the place of occurrence.

12. Keeping in view the aforesaid deposition, the deposition given by PW-7, Dr. Chain Singh Painkara, is carefully examined. It is revealed that the doctor found multiple injuries on the dead body of the deceased, out of which three injuries were incise wounds. Though, the said witness has stated that the injury sustained by the deceased could possibly be caused by the stone which was shown to him by the Constable as well as the sticks shown to him. It is pertinent to observe that the said witness admitted, during cross-examination, that he has not mentioned in post-mortem report that the lacerated and incised wounds were caused by which weapon. He has further admitted that he has not mentioned in the report as to which wounds were caused by which weapon.

13. It is a well-settled law that merely because the witness is an interested or related witness, his/her deposition cannot be discarded. Further, deposition of such witnesses is required to be scrutinized closely. As such, we have closely scrutinized the deposition given by PW-4, who is the mother of the deceased. As observed hereinabove, there are material contradictions in her deposition regarding the manner in which the incident took place and with regard to which the information about the incident was given by her granddaughter.

14. Further, the prosecution has failed to examine Indu Bai who had given the information to the informant/PW-4. Further, from the cross-examination of PW-4, it is revealed that when she reached the place of occurrence, the deceased was already injured, and the accused persons were standing there. It is also revealed that she was not in a position to state as to which accused's stick and which accused's stone had hit the deceased.

15. Thus, simply relying upon the deposition given by PW-4, conviction cannot be recorded. Further, PW-2 and PW-3, the independent witnesses did not support the case of the prosecution, and therefore the recovery/production of the weapons from/by the accused persons through their memorandum of statement also cannot be believed.

16. Furthermore, PW-7, the doctor, who had conducted the postmortem of the dead body of the deceased specifically stated that three incise wounds were found on the dead body of the deceased. However, from the evidence laid by the prosecution, it is revealed that one stone was seized, which was shown to the said doctor by the police constable for taking his opinion whether the injury from the said stone is possible or not. It is difficult to believe that three incise wounds have been caused by one stone. It is not the case of the informant/PW-4 that the accused persons have used the same stone which hit the deceased repeatedly. It is also pertinent to note that PW-7, the doctor, has specifically stated that one stone was shown to him which was triangular in shape. In his cross-examination, it was deposed that he has not mentioned in the query report as to which injury to the deceased has been caused by the said stone.

Conclusion:

17. In view of the aforesaid discussion, we are of the view that the prosecution has failed to prove the case against the appellants-accused persons beyond reasonable doubt, despite which the Trial Court has recorded the judgment and order of conviction and order of sentence, which has been confirmed by the High Court *vide* the impugned judgment.

18. The present appeals are accordingly allowed and the impugned judgment and order passed by the High Court, affirming the order of conviction and sentence passed by the Trial Court, is hereby set aside.

19. All the appellants were recently released on bail by this Court *vide* order dated 30.07.2025. Accordingly, their bail bonds stand discharged.

20. Pending applications, if any, shall stand disposed of.