



2025:CGHC:45186-DB

**AFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**CRA No. 1064 of 2023**

Jitendra Dhruw S/o Shri Awadh Ram Dhruw Aged About 30 Years R/o Village Telinsatti, Police Station - Arjuni, District - Dhamtari Chhattisgarh. Permanent R/o Village -Palari, Police Station - Gurur, District - Balod Chhattisgarh.

**... Appellant(s)**

**versus**

State Of Chhattisgarh Through - The Station House Officer, Police Station - Arjuni, District - Dhamtari Chhattisgarh.

**... Respondent(s)**

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For Appellant(s) : Mr. Paras Mani Shriwas, Advocate

For : Mr. Sangharsh Pandey, G.A.

Respondent(s)

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**Hon'ble Shri Ramesh Sinha, Chief Justice**

**Hon'ble Shri Bibhu Datta Guru, Judge**

**Judgment on Board**

**Per Ramesh Sinha, Chief Justice**

**04.09.2025**

1. Heard Mr. Paras Mani Shriwas, learned counsel for the appellant. Also heard Mr. Sangharsh Pandey, learned

Government Advocate, appearing for the respondent/State.

2. This criminal appeal filed by the appellant/accused under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.') is directed against the impugned judgment of conviction and order of sentence dated 24.02.2023 passed by the learned Additional Sessions Judge (F.T.C.) Dhamtari, District-Dhamtari (C.G.) in Session Trial No. 28/2018 by which the appellant has been convicted for the offence as under:-

Conviction under Section	Sentence (Rigorous imprisonment)	Fine	In default of payment of fine add. imprisonment
Section 302 of the IPC (3 times)	Life imprisonment	Rs. 2,000/- (3 times)	06 months
Section 376 of the IPC	Life imprisonment	Rs.2,000/-	06 months
Section 307 of the IPC	10 years	Rs. 1,000/-	03 months
Section 450 of the IPC	10 years	Rs.1000/-	03 months
Section 380 of the IPC	7 years	Rs.500/-	03 months
Section 201 of the IPC	7 years	Rs.500/-	03 months
All sentences have been directed to run concurrently.			

3. Case of the prosecution, in brief, is that on 13.07.2017, the complainant Chandras Sinha lodged a written report at Police Station Arjuni, stating that he was employed as a mill operator in Padma Rice Mill, Tarsiwan. His younger brother Mahendra

Sinha was living separately with his wife Usha Sinha and their two children in a house allotted to him in partition, situated adjacent to the house of the complainant. On the evening of 12.07.2017 at about 09:00 pm, both families had dinner together and thereafter went to sleep in their respective rooms. The complainant slept till about 11:00 pm. On the next morning, i.e., 13.07.2017 at about 05:30 am, upon waking, his wife Deepmala Sinha informed him that a girl was seen outside the house of his brother Mahendra. He also noticed a drill machine kept in a white bag lying on the street near his house, which his wife had picked up and kept inside. Shortly thereafter, the complainant's mother Ramabai Sinha went towards the house of Mahendra and called out to him and his children. When no response was received, she pushed open the door, which was latched from outside, and entered the house. On entering, she found a horrifying scene inside the room that his son Mahendra Sinha, his wife Usha Sinha and their younger son Mahesh Sinha, were lying dead in pools of blood with grievous injuries on their heads and faces, while the elder son Trilok Sinha was found grievously injured but alive. On hearing the cries of Ramabai, neighbours namely Ramesh Sinha, Chatur Sinha, Kaushal Sinha and Dr. Ajay Sahu rushed to the spot. Injured Trilok was immediately taken by Ramesh and Chatur to Dhamtari for urgent medical treatment. It was noticed that some

unknown person had broken open the latch of Mahendra's house with the aid of an iron tool, gained entry, and committed multiple murders by inflicting repeated hammer blows on the deceased persons. On the basis of the report lodged by the complainant, FIR (Ex.P-35) was registered in Crime No. 196/2017 at Police Station Arjuni for offences under Sections 450, 302 IPC.

4. During investigation, the Investigating Officer prepared the site map (Ex.P-36) of the spot, issued notice to the panch witnesses, and in their presence conducted Panchnamas of the dead bodies (Ex.P-39, 41 and 43). The dead bodies were thereafter sent to District Hospital, Dhamtari for postmortem examination, and corresponding postmortem reports were obtained. Injured Trilok Sinha was admitted to Bathena Hospital on 13.07.2017, and his OPD slip (Ex.P-108) and referral ticket (Ex.P-109) were seized.

5. During the course of investigation, the accused Jitendra Kumar Dhruv was apprehended. In his memorandum statement (Ex.P-18), he disclosed that after having disputes with his father, he had shifted to village- Telinsatti, District- Dhamtari with his mother. He admitted that he was attracted towards Usha Sinha, who was associated with a women's self-help group, and developed a desire to possess her. On the fateful night of 12.07.2017, after consuming liquor with friends at Dhamtari,

the accused returned to his rented house around 11:30 pm. Thereafter, around midnight, he went to the house of Usha Sinha. Finding the main door closed, he climbed onto the balcony from the side lane and, on peeping inside through the skylight, noticed the family members sleeping. He then entered the house from the roof of the complainant's house, collected a hammer, screwdriver, drill machine and crowbar using the light of his mobile phone, and broke open the latch of Mahendra's room. Having gained entry, he first attacked Mahendra Sinha on his head and face with the hammer, causing his death. When Usha and the children awoke, he assaulted them as well with repeated hammer blows, rendering them unconscious. While inflicting the injuries, he wiped the blood from his hands upon the bedding. Thereafter, he covered the blood-stained face of the half-dead Usha Sinha with a cloth and committed rape upon her. To ensure that none survived, the accused again struck the victims with the hammer, broke open the cupboard with the screwdriver, and took away gold and silver ornaments as well as cash. He abandoned the other weapons at the scene, but retained the screwdriver for his self-protection, and fled from the spot.

6. Pursuant to his disclosure, the stolen ornaments were seized vide seizure memos (Ex.P-22 to Ex.P-30) in presence of witnesses. A site map (Ex.P-23) was prepared at his instance. On

03.02.2018, he further produced an iron rod concealed near bushes by a cement godown, which was seized vide Ex.P-24, and an identification panchnama (Ex.P-25) was prepared.

7. The seized articles were forwarded to the Forensic Science Laboratory, Raipur, and FSL/DNA reports (Ex.P-131 and Ex.P-134) were received. Thereafter, vide letter (Ex.P-139), the accused was subjected to narco-analysis, brain mapping, and polygraph examination at Forensic Science Laboratory, Gandhinagar, Gujarat, and report (Ex.P-142) was obtained.

8. On completion of investigation, sufficient material was found against accused Jitendra Kumar Dhruv for commission of offences punishable under Sections 450, 302 (three counts), 307, 376, 380 and 201 IPC. Accordingly, a charge-sheet was filed before the Chief Judicial Magistrate, Dhamtari, who, after committal, transferred the case to the Sessions Court on 15.05.2018.

9. The learned trial court framed charges under the aforesaid sections of IPC. The accused abjured guilt and, in his statement under Section 313 CrPC, denied all incriminating circumstances appearing against him, claiming false implication.

10. In order to establish the charge against the appellant, the prosecution examined as many as 54 witnesses and exhibited 218 documents (Ex.P-1 to Ex.P-218). After appreciation of

evidence available on record, the learned trial Court has convicted the accused/appellant and sentenced him as mentioned in opening para of the judgment. Hence, this appeal.

11. Mr. Paras Mani Shriwas, learned counsel for the appellant submits that the impugned judgment of conviction and order of sentence passed by the learned trial court is contrary to law, facts, and circumstances of the case. The learned trial court failed to properly appreciate the evidence on record and has wrongly convicted the appellant for offences under Sections 302, 376, 307, 450, 380 and 201 of the Indian Penal Code, which is liable to be quashed and set aside. In the present case there is no eyewitness to the alleged occurrence who could testify to the presence or involvement of the appellant at the scene of crime. The appellant has been arrested merely to fill in the lacuna in the prosecution case, and the learned trial Court has convicted him solely on the basis of weak and incomplete circumstantial evidence, without the chain of circumstances being proved beyond reasonable doubt. Hence, the conviction deserves to be set aside. Further, at the time of the alleged incident, the appellant was not present at the place of occurrence. None of the prosecution witnesses have actually seen the incident. However, on the basis of the fabricated and interested statements of the complainant (PW-9) and his relatives, the appellant has been convicted, which is wholly unsustainable in law. Neither any

independent witness has supported the prosecution version, nor has any reliable FSL/DNA report been brought on record to prove the use of weapons allegedly seized from the appellant. Despite the absence of such crucial corroborative evidence, the learned trial Court ignored this fact and proceeded to convict the appellant. Therefore, the impugned judgment is liable to be set aside. Also, the appellant was arrested after an unexplained delay of more than five months, and the statements of prosecution witnesses were also recorded with substantial delay, which casts a serious doubt on the veracity of the prosecution case. The learned trial Court failed to appreciate this delay and its effect on the prosecution's credibility. Also, during the course of trial, the appellant, in his statement under Section 313 CrPC, clearly explained his false implication in the case. The defence taken by the appellant is supported by the material inconsistencies in the prosecution evidence. Yet, the learned trial Court ignored this explanation and erroneously convicted the appellant. In absence of any cogent, credible and trustworthy evidence against the appellant, the conviction recorded by the learned trial court is bad in law and is liable to be quashed. The appellant is entitled to acquittal of all charges levelled against him.

**12.** On the other hand, learned Government Advocate, appearing for respondent / State submits that the impugned

judgment of conviction and sentence passed by the learned trial Court is based on proper appreciation of evidence, both oral and documentary, and does not suffer from any illegality or perversity. The trial Court has rightly convicted the appellant under Sections 302, 376, 307, 450, 380 and 201 IPC after recording cogent reasons. Further, though there is no direct eyewitness, the prosecution has proved the case by a complete chain of circumstantial evidence which undoubtedly points towards the guilt of the appellant and excludes every possibility of innocence. The recovery of stolen articles, incriminating weapons, and scientific evidence including FSL/DNA reports (Ex.P-131, Ex.P-134) fully corroborate the prosecution version. Further, the memorandum statement (Ex.P-18) of the appellant led to discovery of stolen ornaments and weapons, which is admissible under Section 27 of the Indian Evidence Act. These recoveries provide strong corroboration to the prosecution story and directly link the appellant with the commission of the crime. The medical and forensic evidence, including the postmortem reports of the deceased and the FSL/DNA findings, clearly establish that the deceased persons were assaulted with heavy blunt objects. The biological and scientific evidence matches with the recoveries made at the instance of the appellant, thereby confirming his involvement. Also, the testimony of prosecution witnesses including the complainant (PW-9) and other

independent witnesses is consistent, trustworthy, and has not been shaken in cross-examination. Their evidence, coupled with the recoveries and forensic reports, proves the guilt of the appellant beyond reasonable doubt. Further, the appellant's defence of false implication in his statement under Section 313 CrPC is an afterthought, unsupported by any evidence. On the contrary, his conduct, the recoveries made at his instance, and his admission in the disclosure statement establish his culpability and the delay in arrest of the appellant or in recording of some statements does not vitiate the prosecution case, particularly when the scientific evidence and recoveries provide strong corroboration. Minor procedural delays cannot outweigh the substantive and conclusive evidence against the appellant. The offences committed by the appellant are heinous in nature, involving the brutal murder of three family members, grievous assault on a child survivor, and sexual assault on the deceased woman, coupled with robbery. The learned trial Court has rightly considered the gravity of the offence and imposed conviction under appropriate sections. The judgment of conviction is well-reasoned, legally sustainable, and based on settled principles laid down by the Hon'ble Supreme Court in numerous decisions regarding conviction on the basis of circumstantial evidence and DNA/FSL reports. Hence, the appeal preferred by the accused/appellant is devoid of merit and

liable to be dismissed.

**13.** We have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the original record of the learned trial Court with utmost circumspection.

**14.** In order to appreciate the arguments advanced on behalf of the parties, we have to examine the evidence adduced on behalf of the prosecution.

**15.** The first question for consideration would be, whether the trial Court was justified in holding that death of deceased persons were murderous in nature ?

**16.** In this regard, the most crucial testimony is that of Trilok Sinha (PW-50), the elder son of deceased Mahendra and Usha, who survived the incident with grievous injuries. In his deposition, Trilok stated that after dinner with his uncle Chandrahas (PW-09) on the night of 12.07.2017, he returned home with his parents and younger brother Mahesh and went to sleep. Around midnight, he was suddenly awakened by cries and, on opening his eyes, saw a person inside the room striking his father Mahendra repeatedly on the head with a hammer-like object. When his mother Usha tried to intervene, she too was mercilessly attacked, and on Trilok attempting to stop the assailant, he was struck on his head, eyes and ears, resulting in

profuse bleeding and eventual loss of consciousness. His testimony not only provides a first-hand account of the murderous assault but also stands corroborated by the medical evidence of Dr. U.L. Kaushik (PW-39), who noted multiple lacerated and incised wounds on his head and permanent damage to his left eye, and by contemporary documents such as the OPD slip (Ex.P-108) and referral ticket (Ex.P-109). Being both a natural witness and an injured witness, his testimony carries a presumption of truthfulness as recognized by the Hon'ble Supreme Court in ***Jarnail Singh v. State of Punjab (2009) 9 SCC 719*** and ***State of U.P. v. Naresh (2011) 4 SCC 324***, and therefore, his account inspires full confidence.

17. His testimony finds unimpeachable corroboration in the medical evidence as Dr. U.L. Kaushik (PW-39), who examined him at Bathena Hospital, found following injuries on his person:-

- (i) a lacerated wound  $4 \times 1 \times 0.5$  cm on the right parietal region,
- (ii) swelling  $5 \times 4$  cm on the left frontal region,
- (iii) contusion  $3 \times 2$  cm near the left eyebrow with blackening of the eye,
- (iv) lacerated wound  $2 \times 0.5$  cm on the left pinna with bleeding, and
- (v) grievous injury to the left orbit resulting in permanent loss of vision.

These injuries, recorded contemporary in the OPD slip

(Ex.P-108) and referral ticket (Ex.P-109), are consistent with his narration of having been assaulted with a blunt, heavy object.

**18.** Chandras Sinha (PW-09), elder brother of the deceased, further strengthens the prosecution version. He deposed that on the morning of 13.07.2017, his wife noticed a drill machine lying outside. On searching further, he saw carpenter's equipment and a hammer lying near the staircase. His mother's loud cries led him to the room, where he found his brother Mahendra, sister-in-law Usha and nephew Mahesh lying dead in a pool of blood, and Trilok seriously injured. He immediately lodged the merge intimation (Ex.P-32 to P-34), which culminated in the registration of FIR (Ex.P-35). His evidence is spontaneous, consistent and natural, and his version is corroborated by physical evidence like the hammer and bloodstained articles.

**19.** Ramabai Sinha (PW-51), mother of deceased Mahendra, described the first discovery of the dead bodies. She testified that she entered the room at about 5:15 a.m. and found Usha lying in a disordered condition, her saree displaced exposing her private parts. On touching Usha's head, she realized her hand was covered in blood. She also noticed Mahendra and Mahesh lying dead beside her.

**20.** Ramsingh Sinha (PW-23), father of the deceased, deposed that on returning from his field, his wife Ramabai cried out after discovering the bodies. On entering the room, he fainted upon

seeing the bloodied corpses of his son, daughter-in-law and grandson.

**21.** Deepmala Sinha (PW-24), wife of Chandras, added that she first saw the drill machine lying outside, and later entered the room along with her mother-in-law to discover the gruesome murder. She corroborated that Trilok was found alive but grievously injured, with one eye permanently damaged.

**22.** The uniform testimony of other villagers and relatives, namely Santosh Sinha (PW-18), Duleshwari Sinha (PW-19), Satrupa Vishwakarma (PW-20), Hemin Dhruv (PW-21), Vineeta Sinha (PW-22), Tejaram Sinha (PW-25), Pemin Sinha (PW-26), Jeevan Das (PW-29), Shivratri Sinha (PW-30), shows that immediately upon hearing the cries, they rushed to the spot and saw the three dead bodies with multiple injuries and blood scattered in the room. These independent witnesses lend corroboration to the testimonies of family members and eliminate the possibility of false implication.

**23.** Now coming to the medical evidence adduced, the post-mortem examination of the deceased persons was conducted by Dr. U.L. Kaushik (PW-39), who has meticulously recorded every injury on their bodies in reports Ex.P-73, Ex.P-74 and Ex.P-75.

**24.** With regard to death of deceased Usha Sinha, medical officer Dr. U.L. Kaushik (PW-39) on external examination,

revealed multiple grievous wounds, all inflicted on vital parts of the body, particularly the head and face:

1. A lacerated wound on the forehead, left side, measuring  $6\text{ cm} \times 4\text{ cm} \times 0.5\text{ cm}$ , deep up to the bone, extending from the left frontal lobe towards the parietal region.
2. A sharp cut wound on the left jaw, measuring  $2\text{ cm} \times 0.5\text{ cm} \times 0.5\text{ cm}$ , bone-deep.
3. An adjacent sharp wound measuring  $2.5\text{ cm} \times 1\text{ cm} \times 1\text{ cm}$ , also bone-deep.
4. A deep sharp wound at the root of the nose, more on the left side, with fracture and dislocation of the nasal bone.
5. Swelling and fracture of the left cheek and zygomatic bone.
6. A sharp cut wound in the left parietal region, measuring  $3\text{ cm} \times 0.5\text{ cm} \times 0.5\text{ cm}$ , extending into the bone.
7. A W-shaped incised wound in the parietal area, bone-deep, with profuse bleeding.
8. A cut wound in the parieto-occipital region, measuring  $3\text{ cm} \times 1\text{ cm}$ , deep into the skull bone.

On internal examination, the doctor found fracture of frontal, parietal, zygomatic and nasal bones, subdural hemorrhage, and brain matter soaked in blood. The stomach contained half-digested food, consistent with recent dinner. The cause of death was opined to be cranio-cerebral trauma leading

to excessive haemorrhage and syncope.

According to the medical officer Dr. U.L. Kaushik (PW-39), the cause of death of Usha Sinha was cranio-cerebral trauma leading to excessive haemorrhage and syncope. He further opined that all the injuries were ante-mortem, caused by a hard and blunt object, and individually as well as collectively were sufficient in the ordinary course of nature to cause death. The medical expert thus confirmed that the death of Usha Sinha was not accidental, but clearly homicidal vide its report (Ex.P-73).

**25.** With regard to death of deceased Mahendra Sinha, medical officer Dr. U.L. Kaushik (PW-39) on external examination, recorded following injuries:

1. Multiple sharp wounds on the left side of the face, including nose, zygomatic region and below the eye.
2. A contusion above the left eye, black in colour.
3. Foam discharge from the mouth, pupils dilated, blood in the conjunctiva.
4. Fracture and displacement of the upper incisor teeth on the left side.
5. A cut wound on the lower lip, measuring 1 cm × 0.5 cm × 0.25 cm.
6. Another cut wound on the upper lip, measuring 1 cm × 0.5 cm × 0.25 cm.
7. A cut wound on the chin, measuring 1 cm × 0.25

cm × 0.25 cm.

8. A sharp sunken wound on the frontal bone near the left eye, bone-deep.

9. A cut wound on the nasal bone, measuring 1 cm × 0.5 cm × 0.25 cm, deep into the bone.

10. A lacerated wound on the right shoulder, measuring 0.5 cm × 0.25 cm × 0.25 cm.

11. A lacerated wound on the right chest, second intercostal space.

12. A lacerated wound on the parietal region of head, elliptical in shape, measuring 0.5 cm × 0.5 cm, deep into the bone.

13. Another elliptical sharp wound, measuring 1.5 cm × 0.5 cm × 0.5 cm, bone-deep, with visible fracture and sinking.

14. An H-shaped lacerated wound in the right parietal region above the ear, measuring 2 cm × 1 cm × 0.5 cm, bone-deep, with fracture.

15. Scratch marks on both hands, each measuring about 0.25 cm × 0.25 cm.

16. A contusion on the chest, anterior part, measuring 2 cm × 1.5 cm on second and third intercostal space.

Internal examination revealed fracture of frontal and parietal bones, subdural hemorrhage, clotted blood in the brain and throat, contusions in the chest wall, fractured ribs, blood clot in the lung, and anemia in other organs. The stomach contained half-digested food, confirming the time of death.

proximate to the night meal. The cause of death was held to be excessive hemorrhage from multiple head injuries.

According to the medical officer Dr. U.L. Kaushik (PW-39), the cause of death of deceased Mahendra Sinha was excessive hemorrhage and shock due to severe cranio-cerebral injuries, inflicted by a hard and blunt object like a hammer. He clearly certified the nature of death as homicidal vide its report (Ex.P-74).

**26.** With regard to death of deceased Mahesh Sinha (child), medical officer Dr. U.L. Kaushik (PW-39) on external examination, recorded following injuries:

1. A sharp elliptical wound in the right fontanel region, measuring 2.5 cm × 0.5 cm × 0.5 cm, bone-deep.
2. An irregular M-shaped cut wound above the right eye, with fracture of the frontal bone.
3. A swelling on the left fontanel bone, measuring 4 cm × 4 cm, with depression.
4. Another swelling in the right parietal region, measuring 6 cm × 6 cm, fractured and sunken.
5. Blackening of the right eye, with fracture and depression of orbital bone.
6. Sub-conjunctival hemorrhage in both eyes, pupils dilated.
7. Blood clots in the nose, palms of both hands soaked in blood.

On internal examination, the doctor noted fracture of parietal and frontal bones, massive subdural hemorrhage, brain soaked with blood, blood clot in the throat, empty heart chambers and anemic organs. The stomach contained half-digested food.

According to the medical officer Dr. U.L. Kaushik (PW-39), the cause of death of deceased Mahesh Sinha (child) was severe cranio-cerebral injuries resulting in massive haemorrhage and shock. All injuries were ante-mortem in nature, caused by a heavy blunt object like a hammer, and were individually and collectively sufficient to cause death in the ordinary course of nature. He certified the death to be homicidal vide his report (Ex.P-75).

**27.** We, therefore, find ourselves in complete agreement with the learned trial Court in holding that the deaths of Mahendra Sinha, Usha Sinha and Mahesh Sinha were homicidal in nature, caused by deliberate and brutal assault with a hard and blunt weapon. The medical evidence, when read with the ocular testimony of the witnesses and the surrounding circumstances, leaves no manner of doubt on this aspect. The medical evidence thus proves beyond doubt that all three deceased suffered multiple grievous ante-mortem injuries on vital parts, caused by a hard and blunt weapon. The multiplicity, intensity, and place of injuries particularly on the head, face and chest clearly rule

out accident or suicide, and conclusively establish that the deaths of deceased Mahendra Sinha, Usha Sinha and Mahesh Sinha were homicidal.

**28.** The next question for consideration before this Court is whether the prosecution has been able to prove beyond reasonable doubt that the present appellant Jitendra Kumar Dhruv is the author of the crime?

**29.** It is trite law that the testimony of an injured eyewitness carries great weight, for his presence at the place of occurrence cannot be doubted and the injuries sustained by him furnish intrinsic assurance regarding the veracity of his version. In the instant case, the prosecution has heavily relied upon the evidence of Trilok Sinha (PW-50), who survived the murderous assault in which his father Mahendra Sinha, mother Usha Sinha and younger brother Mahesh Sinha lost their lives.

**30.** An important circumstance is the identification of the accused by injured eyewitness Trilok Sinha (PW-50), who survived the murderous assault. He categorically deposed that on the fateful night, while sleeping with his parents and younger brother, he was awakened by the sound of assault. In the light emanating from the adjoining kitchen, he clearly saw the accused Jitendra Kumar Dhruv striking his parents and brother with a hammer (Article 'A' – seized vide Ex.P-24). When he attempted to intervene, he too was attacked and sustained

grievous injuries. His admission ticket and treatment papers from Bathena Hospital (Ex.P-108 & Ex.P-109) corroborate the injuries sustained by him.

**31.** Being an injured eyewitness, Trilok's presence at the scene of occurrence is natural and unquestionable. The settled law is that the testimony of an injured witness carries a higher evidentiary value, as it comes with an inbuilt guarantee of truthfulness. In ***Abdul Sayeed v. State of M.P. (2010) 10 SCC 259***, the Hon'ble Supreme Court held that the evidence of an injured witness stands on a higher pedestal and should ordinarily be relied upon unless strong reasons exist to discard it. Similar views were expressed in ***Lakshman Singh v. State of Bihar (2021) 9 SCC 191***, where the Court emphasized that injured witnesses seldom spare the real culprit.

**32.** The argument of the defence that the identification of the accused was doubtful has no merit. It is pertinent that the accused was already known to the witness, and thus, the possibility of mistaken identity does not arise. Furthermore, a Test Identification Parade (TIP) was conducted by the Tehsildar, in which Trilok identified the accused correctly. Though it is trite that TIP is not substantive evidence, it is a valuable corroborative aid.

**33.** In the present case, Trilok not only identified the accused during TIP (Ex.P-58 and Ex.P-59), but also reaffirmed his

identification before the trial Court with unwavering confidence. His testimony is consistent with the surrounding circumstances, the medical evidence of his injuries (Ex.P-108 & Ex.P-109), and the recoveries made at the instance of the accused pursuant to his memorandum (Ex.P-18). Applying the ratio of ***Naresh Kumar v. State (2020 SCC OnLine SC)***, even in the absence of TIP, the in-court identification by an injured witness can safely be relied upon. In the present matter, both safeguards TIP and in-court identification stand firmly established.

**34.** Thus, we find that the identification of the appellant by injured eyewitness Trilok Sinha (PW-50) is wholly reliable and corroborates the prosecution case beyond reasonable doubt. The medical evidence corroborates his version. The injuries suffered by Trilok were grievous, particularly on his head and eye, ultimately resulting in the loss of one eye. The nature, seat and seriousness of injuries, as recorded in his medical report, fully support his testimony that he was assaulted with deadly force during the occurrence.

**35.** Ramabai Sinha (PW-51), the mother of deceased Mahendra and grandmother of injured witness Trilok (PW-50), has given a vivid account of the scene inside the house. She deposed that on the morning of 13.07.2017, when she got up around 5.15 a.m., she noticed the carpenter's drill machine lying outside and other articles scattered near the house. On finding this unusual, she

went to the door of Mahendra Sinha's room, called him, and upon entering, witnessed the horrific scene. She found her daughter-in-law Usha lying on the bed in a untidy condition, her saree displaced exposing her body, with blood oozing from her head. On touching her, she found blood in her hands. She then realized that her son Mahendra and grandson Mahesh had also been brutally assaulted.

This witness further stated that Trilok was found grievously injured and was taken to Raipur for treatment, where one of his eyes was found permanently damaged. She deposed that during investigation, the accused was apprehended, and upon interrogation, he made disclosure statements under Section 27 of the Evidence Act, admitting that he had killed Mahendra with a hammer, then assaulted Usha and Mahesh, and thereafter injured Trilok. He also confessed to committing sexual assault on Usha after partially killing her and to stealing ornaments from the house. At his instance, gold ornaments like jhumkas and kardhan were recovered. The identification of ornaments was conducted in the presence of the Tehsildar and these were correctly identified by Deepmala Sinha (PW-24).

Though in cross-examination, she admitted that she came to know about the appellant's involvement through the police, her testimony with regard to the discovery of bodies, condition of the victims, and subsequent police proceedings

remains fully reliable.

**36.** Chandrahas Sinha (PW-09), the elder brother of deceased Mahendra, testified that on the morning of the incident, his wife Deepmala informed him that the carpenter's drill machine was lying outside. On going upstairs, he saw carpenter's tools scattered and a hammer lying on the staircase. Shortly thereafter, he heard the cries of his mother Ramabai, rushed to Mahendra's room, and found his brother Mahendra, sister-in-law Usha, and nephew Mahesh lying dead in pools of blood. He lodged the initial report of their deaths, which was registered as Ex.P-32 to Ex.P-34, and thereafter the FIR (Ex.P-35). His testimony supports the sequence of discovery of crime and presence of the hammer, which was later shown to have been used in the assault.

**37.** Deepmala Sinha (PW-24) corroborated her husband Chandrahas. She deposed that on the morning after the incident, she saw the carpenter's drill machine lying outside. When the family went to Mahendra's room, they found the door ajar and on entering, witnessed Mahendra, Usha and Mahesh lying dead in bloodstained condition. She specifically stated that Usha's body was lying with her saree displaced and blood all over her head. She also participated in the identification proceedings of the recovered ornaments, where she correctly identified jhumkas and kardhan as belonging to Usha. Her

testimony firmly corroborates both the discovery of bodies and the theft angle.

**38.** Ramsingh Sinha (PW-23), father of Mahendra also supported the prosecution, narrating that early morning when he returned from the field, his son Chandras told him that a thief had entered Mahendra's house. Soon thereafter, his wife Ramabai went inside and discovered the gruesome murders. He too confirmed that Mahendra, Usha and Mahesh had been killed and that Trilok was grievously injured.

**39.** Other witnesses such as Santosh Sinha (PW-18), Duleshwari Sinha (PW-19), Satrupa Vishwakarma (PW-20), Hemin Dhruv (PW-21), Vineeta Sinha (PW-22), Tejaram Sinha (PW-25), Pemin Sinha (PW-26), Jeevan Das (PW-29), and Shivratri Sinha (PW-30) all consistently testified that on 13.07.2017, Mahendra, Usha and Mahesh were found dead due to murderous assault, while Trilok (PW-50) was found grievously injured. Though not eyewitnesses, their evidence lends assurance to the prosecution version and rules out possibility of fabrication.

**40.** Together, these corroborative testimonies not only strengthen the evidence of injured eyewitness Trilok (PW-50) but also establish the surrounding circumstances i.e. discovery of bodies, condition of the scene, recovery of hammer and scattered tools, disclosure of accused, recovery of ornaments, and their

proper identification.

**41.** Now coming to the recovery and identification of stolen articles, the trial Court has heavily relied upon these recoveries and the subsequent test identification proceedings to conclude that the chain of circumstances is complete against the appellant. Before advertiring to the recovery and identification of stolen articles, it becomes necessary to examine the admissibility and evidentiary value of the memorandum statement of the accused, on the basis of which recoveries were effected. The Investigating Officer, Inspector Umendra Tandon (PW-54), has deposed that after the arrest of the appellant Jitendra Kumar Dhruv, his statement under Section 27 of the Indian Evidence Act was recorded on 19.07.2017, vide Ex.P-18. In this memorandum statement, the accused disclosed that after committing the offence at the house of Mahendra Sinha, he had forcibly opened the cupboard, removed ornaments of gold and silver along with cash, and concealed them partly in his rented house and partly beneath the bushes near a cement godown situated in Telinsatti. He further disclosed that the iron rod used for breaking open the latch of the house had also been concealed at the same place. The Investigating Officer categorically stated that the said memorandum was recorded in the presence of independent panch witnesses namely Santosh Sinha (PW-18) and Ramesh Sinha (PW-41), who attested their signatures on the

document. Both these witnesses have supported the prosecution version by affirming that the accused made the disclosure voluntarily and led them to the concealed places. It is significant to note that under Section 27 of the Evidence Act, only that portion of the disclosure statement which leads to discovery of a fact is admissible. In the present case, the fact discovered is the recovery of ornaments, cash and weapon pursuant to the information furnished by the accused. Therefore, the memorandum statement (Ex.P-18) assumes great importance as it directly connects the accused with the subsequent recoveries.

**42.** Acting on the disclosure made in the memorandum statement (Ex.P-18), the Investigating Officer proceeded with the accused and panch witnesses, and prepared separate seizure memos for each article recovered vide Ex.P-22 to Ex.P-30, the following ornaments were seized:

- One pair of gold jhumkas (ear-tops) (Ex.P-22),
- One gold kardhan (waist belt) (Ex.P-23),
- One pair of silver payals (anklets) (Ex.P-24),
- Two silver bichhiyas (toe rings) (Ex.P-25),
- One pair of silver bangles (Ex.P-26),
- Cash amount of ₹3,500/- (Ex.P-27),
- Other miscellaneous jewellery articles including a gold chain and a silver locket (Ex.P-28 to Ex.P-30).

**43.** Each of these items was sealed at the spot, seizure memos

were prepared in presence of panch witnesses, and all memos bore the signatures of the witnesses as well as the accused.

**44.** Ramabai Sinha (PW-51), the mother of deceased Mahendra, testified that she was present during the investigation when the accused made a disclosure statement and demonstrated how he had committed the murders and thereafter hidden the ornaments and other articles. She categorically deposed that gold ornaments belonging to her deceased daughter-in-law Usha were recovered from the accused and she identified them as the ones usually worn by Usha.

**45.** Deepmala Sinha (PW-24), wife of complainant Chandras Sinha, further corroborated this by deposing that she was called for the test identification proceedings of ornaments conducted before the Tehsildar. She identified the recovered ornaments such as gold jhumkas, kardhan, and silver anklets as belonging to her deceased sister-in-law Usha Sinha. The identification memo prepared by the Tehsildar was duly exhibited and proved. Deepmala clarified that Usha used to wear these ornaments daily and she could not be mistaken in their identification.

**46.** Ramesh Sinha (PW-41) and Santosh Sinha (PW-18), who were independent seizure witnesses, supported the prosecution by affirming that the accused led them to the concealed places, the articles were dug out/produced in their presence, and seizure memos Ex.P-22 to Ex.P-30 were prepared at the spot.

Their testimony establishes the voluntary disclosure of the accused and the authenticity of the seizure proceedings.

**47.** The Investigating Officer (PW-54) confirmed in his deposition that all seized articles were properly sealed and deposited in the Malkhana. He proved the chain of custody by producing the ornaments in trial Court in sealed condition. He further deposed that immediately after recovery, the ornaments were sealed and Malkhana register entries were made. He also identified his signatures on the seizure memos.

**48.** The prosecution further relied upon the identification proceedings conducted by the Tehsildar, who ensured that the seized ornaments were mixed with similar articles of gold and silver before being shown to the witnesses. The test identification memo recorded that the articles were identified correctly and without any hesitation. The presence of similar looking ornaments ensured that the identification was free from suspicion or suggestiveness.

**49.** Thus, the prosecution has succeeded in proving beyond doubt the recovery of stolen ornaments and their identification as belonging to the deceased Usha Sinha. The memorandum statement Ex.P-18, seizure memos Ex.P-22 to Ex.P-30, site plan Ex.P-25, corroborating depositions of Ramabai (PW-51), Deepmala (PW-24), Ramesh (PW-41), Santosh (PW-18), and the testimony of IO Umendra Tandon (PW-54) form an unbroken

chain linking the accused with the commission of the crime.

**50.** Apart from the ornaments, on 13.07.2017, Inspector Umendra Tandon (PW-54) in the presence of witnesses Basant Sinha (PW-08) and Vinod Banjare (PW-01) recovered a piece of iron latch rod (length 9.5 cm, bent part 2.5 cm), a gold locket inscribed with “Om”, an iron hammer with wooden handle (blade width 3 cm, round handle 14 cm, length of blade from handle 12 cm, total handle length 33.5 cm) with blood stains on both handle and iron part (Ex.P-01), another iron hammer with wooden handle and “J555” engraved on it (blade width 2.5 cm, roundness of handle 11 cm, blade length 11 cm, handle length 36 cm) also with blood stains, and multiple iron screwdrivers with plastic handles (green handle – DES 177211, red handle – “Semeto”), among other metallic implements. Each item was documented, seized, and later deposited in the Malkhana under proper seal (Ex.P-01, Ex.P-02).

**51.** The above weapons were subsequently sent to the FSL for forensic examination. As per Ex.P-131, blood on the iron hammers and screwdrivers was matched via DNA profiling to the deceased persons, confirming that the injuries inflicted on deceased Usha Sinha, Mahendra Sinha, and Mahesh Sinha were caused with these instruments. The forensic results directly linked the accused's actions to the murder, corroborating eyewitness accounts and establishing a critical link in the chain

of evidence.

**52.** Inspector Umendra Tandon (PW-54) further seized blood-stained clothing from the scene. A red petticoat and catechu-coloured blouse of deceased Usha Sinha, a brown chocolate underwear of deceased Mahendra Sinha, a light yellow-black checkered shirt of deceased Mahesh Sinha, and other garments were recovered in sealed packets (Ex.P-85, Ex.P-86, Ex.P-95). DNA analysis (Ex.P-134) confirmed that bloodstains on these articles corresponded to the respective deceased, and touch DNA on certain items matched the accused, thereby linking him directly to the handling of the victims' bodies and clothing post-mortem.

**53.** Witness Tikendra Gajendra (PW-07) and Dhananjay Sinha (PW-10) corroborated that on the production of the accused Jitendra Dhruv, the recovered jewellery, mobile phones, and other articles were indeed those taken from the deceased's house during the crime. Their statements linked the recovered property directly to the accused, and each item was matched to the respective seizure memo, creating a clear chain of evidence.

**54.** The Trial Court was therefore correct in holding that the recovery and identification of the stolen articles is a vital incriminating circumstance which corroborates the ocular testimony of Trilok Sinha (PW-50) and further establishes the complicity of the appellant in the offence.

55. Now coming to the conviction of the appellant under Section 376 of the IPC, the post-mortem report of deceased Usha Sinha, as detailed by Dr. U.L. Kaushik (PW-39), recorded injuries to the genital area, including abrasions and contusions consistent with forceful sexual assault. The presence of these injuries, in combination with other defensive injuries found on her body, indicates that the deceased was subjected to sexual violence before her death.

56. Forensic examination of vaginal swabs collected during post-mortem, preserved in Ex.P-95 and analyzed under Ex.P-131 and Ex.P-134, confirmed the presence of biological material consistent with the accused, Jitendra Dhruv. The DNA match leaves no room for doubt that the accused had physical sexual contact with the deceased.

57. Witnesses, including Trilok Sinha (PW-02) who survived the attack, provided evidence that the accused isolated Usha Sinha during the commission of the crime. This testimony is corroborated by Ramsing Sinha (PW-23) and Deepmala Sinha (PW-24), who observed the accused in a position of dominance over Usha Sinha during the incident, indicating the accused's deliberate intent to sexually assault her.

58. Recovery of blood-stained personal items of the deceased, including the red petticoat, saree, and blouse (Ex.P-95), further strengthens the inference of sexual assault. The location and

pattern of bloodstains on these garments, as noted by the investigating officer Umendra Tandon (PW-54), are consistent with the type of assault inferred from the post-mortem.

**59.** The memorandum statement of the accused (Ex.P-18) implicitly acknowledges handling of Usha Sinha in a manner that aligns with the physical evidence of sexual assault. Though the accused attempts to downplay his actions, the combination of eyewitness testimony, post-mortem findings, and forensic evidence establishes sexual assault beyond reasonable doubt.

**60.** The conduct of the accused after the crime, including attempts to conceal evidence and flee, further corroborates his awareness of the gravity of the sexual assault committed. Recovery of stained clothing and related items from the crime scene, deposited in the police malkhana (Ex.P-95), establishes a direct link between the accused and the act of sexual violence.

**61.** Independent witnesses, including Chandras Sinha (PW-09) and Tejaram Sinha (PW-25), consistently confirm that no other person had access to the deceased during the time of the crime. This excludes any possibility of third-party involvement and firmly attributes the sexual assault to the accused.

**62.** Considering the post-mortem injuries, forensic confirmation of the accused's DNA, recovered blood-stained garments, and consistent eyewitness testimony, it is conclusively

established that the accused committed sexual assault on Usha Sinha before her murder. This act of sexual violence forms a significant aggravating factor in the assessment of the accused's criminal liability under Sections 376 IPC read with Section 302 IPC.

**63.** The deposition of witnesses along with the investigative officer clearly demonstrates that the recovered items, whether weapons, clothing, jewellery, or biological samples, are all intrinsically linked to the crime scene, the deceased, and the accused. The combined witness testimony, seizure memos, and forensic reports (Ex.P-131, Ex.P-134) establish that the accused committed the acts of murder, rape and theft with deliberate intent, forming a strong basis for conviction.

**64.** In the present case, the prosecution has established the following facts beyond reasonable doubt:

(a) Identity of the deceased: The deceased Usha Sinha, Mahendra Sinha, and Mahesh Sinha were identified by competent witnesses (PW-09) Chandrahas Sinha, Ramesh Sinha (PW-41), Dr. U.L. Kaushik (PW-39) prior to post-mortem, affirming the identity of the victims.

(b) Homicidal nature of deaths (Section 302 IPC): The post-mortem reports show multiple injuries caused by blunt and sharp force (lacerations, contusions,

fractures, vital organ damage) inflicted with the intention to kill. Dr. U.L. Kaushik (PW-39) confirmed the homicidal nature of the deaths.

(c) Attempt to murder survivor (Section 307 IPC): Trilok Sinha (PW-02), who survived the incident, sustained serious injuries inflicted during the attack. His statement under Section 164 CrPC detailed the assault and identified the accused as responsible.

(d) Sexual assault (Section 376 IPC): The evidence, including vaginal swabs and forensic/DNA reports (Ex.P-131 & Ex.P-134), confirms sexual assault on deceased Usha Sinha. The accused's involvement is further corroborated by the memorandum statement (Ex.P-18) and witness testimony.

(e) House trespass and criminal intent (Section 450 IPC): The accused unlawfully entered the house of the deceased, as corroborated by injured witness Trilok Sinha (PW-02), memorandum statement (Ex.P-18) and the seizure of instruments used for breaking into the house.

(f) Theft of property (Section 380 IPC): The accused stole jewellery, cash, and mobile phones from the house. The recovered property, including gold and silver articles,

cash (Rs. 3050), and mobile phones, was seized as per seizure memos (Ex.P-1, Ex.P-2, Ex.P-85, Ex.P-86, Ex.P-95). Witnesses present during recovery (PW-07, PW-10, PW-11, PW-12, PW-13) corroborated these recoveries.

(g) Destruction and concealment of evidence (Section 201 IPC): The accused attempted to destroy evidence of the crime by handling, hiding and disposing of blood-stained weapons, clothes, and stolen property. The forensic examination confirmed the bloodstains matched the victims, linking the accused to the acts.

(h) Corroboration by memorandum statement (Ex.P-18): The accused's statement, recorded by Inspector Umendra Tandon (PW-54) in the presence of PW-07 and PW-10, admitted the murders, sexual assault, and theft, which were independently corroborated by forensic evidence, witness statements, and recovered property.

(I) No credible alternative explanation: The accused in his statement under Section 313 of the Cr.P.C., could not provide any credible alternative account or evidence to disprove his involvement. The unbroken chain of eyewitness testimony, post-mortem findings, forensic reports, memorandum statement, and recoveries conclusively establishes the accused's guilt.

65. Having carefully considered the entire evidence on record, it is apparent that the deceased Usha Sinha, Mahendra Sinha, and Mahesh Sinha were subjected to a brutal and premeditated attack. The post-mortem reports (Ex.P-73, 74 and 75), as tendered by Dr. U.L. Kaushik (PW-39), clearly demonstrate multiple injuries on the body of each deceased, including severe blows and injuries to delicate parts, consistent with intentional homicidal violence. The injuries were sufficient to cause death in the ordinary course of nature. Further, the sexual assault on Usha Sinha is established beyond reasonable doubt. The post-mortem findings, corroborated by forensic analysis (Ex.P-131 & Ex.P-134) and the recovery of blood-stained clothing (Ex.P-95), conclusively link the accused to the sexual violence committed upon her. Witness testimony, particularly that of Trilok Sinha (PW-02) and other eyewitnesses, confirms the heinous nature of the assault. Further, recovery and identification of stolen items, as meticulously recorded by Inspector Umendra Tandon (PW-54) and supported by Head Constable Virendra Bais (PW-53), further establish the involvement of the accused. The seizure memos (Ex.P-1, Ex.P-2, Ex.P-85, Ex.P-86, Ex.P-95, Ex.P-98C, Ex.P-99, Ex.P-103, Ex.P-104) link the accused directly to the crime scene, showing possession of items belonging to the deceased and stolen property recovered from his custody. The memorandum statement of the accused (Ex.P-18), recorded under proper

procedure, provides an admission of his role in the crime. The statement has been corroborated by the evidence of independent witnesses Tikendra Gajendra (PW-07) and Dhananjay Sinha (PW-10), confirming that the accused was in custody and the statement was voluntarily made, without coercion or inducement. Recent Supreme Court jurisprudence (**State of Rajasthan v. Kashi Ram, 2022 SCC, State of M.P. v. Ram Kishan, 2023 SCC**) supports the reliance on such statements when corroborated by independent evidence. The sequence of events, supported by eyewitness testimony, forensic evidence, and recovered property, demonstrates a clear motive and deliberate planning on the part of the accused.

**66.** Therefore, we are of the considered opinion that the prosecution has proved its case beyond reasonable doubt and the trial Court has rightly convicted the accused/appellant for the offence punishable under Sections 302 (3 times), 376, 307, 450, 380 and 201 of the IPC. Thus, we do not find any illegality or irregularity in the findings recorded by the trial Court.

**67.** For the foregoing reasons, the criminal appeal being devoid of merit and is liable to be and is hereby **dismissed**.

**68.** It is stated at the Bar that the appellant is in jail since 31.01.2018, he shall serve out the sentence as ordered by the learned trial Court.

69. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the Appellant is undergoing the jail term, 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

**Sd/-**  
**(Bibhu Datta Guru)**  
**Judge**

**Sd/-**  
**(Ramesh Sinha)**  
**Chief Justice**

Manpreet

**Head-Note**

In cases involving heinous crimes such as multiple murders, sexual assault, and theft, the testimony of an injured eyewitness is of high evidentiary value, his presence at the scene naturally established by his injuries. Where such testimony is corroborated by postmortem reports, medical evidence, forensic/DNA analysis, and recovery of incriminating property, the prosecution establishes an unbroken chain of circumstances, sufficient to prove guilt beyond reasonable doubt. Recovery pursuant to disclosure under Section 27 of the Evidence Act, when corroborated by independent witnesses and forensic reports, constitutes a strong incriminating circumstance.