



2026:CGHC:17538-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1333 of 2015**Reserved on 09/04/2026****Pronounced on 17/04/2026**

1 - Birsingh S/o Jhingur Baiga Aged About 30 Years R/o Turaiyabakra, Police Station - Chilphi, Civil And Revenue District Kabirdham Chhattisgarh.

... Appellant**versus**

1 - State Of Chhattisgarh Through Station House Officer, Police Station - Chilphi, District - Kabirdham Chhattisgarh.

... Respondent

For Appellant : Shri Chandrikaditya Pandey, Advocate.

For State/Respondent : Ms. Kishna Gopal Yadav, Dy. Govt. Advocate.

**DB: Hon'ble Shri Justice Sanjay S. Agrawal &
Hon'ble Shri Justice Narendra Kumar Vyas**

C A V Judgment

Per Sanjay S. Agrawal, J

1. This appeal has been preferred by the appellant/accused under Section 374 of the Code of Criminal Procedure, 1973 questioning the legality and propriety of the judgment dated 15.10.2015 passed by the



learned Sessions Judge, Kabirdham (Kawardha), Chhattisgarh in Sessions Trial No.24/15, whereby the appellant has been convicted and sentenced as under:-

<u>Conviction</u>	<u>Sentence</u>
U/s 302 of Indian Penal Code	Life Imprisonment.
U/s 201 of Indian Penal Code	R.I. for 7 years.
Both the sentences are directed to run concurrently.	

2. Briefly stated the case of the prosecution is that, the appellant – Birsingh, who is the brother of the deceased – Rajesingh Baiga, lodged the merged intimation (Ex.P.-11) on 07.07.2014 before the Police Station Chilphi, District Kabirdham stating, *inter alia*, that his deceased brother is mentally disturbed for about one and a half to two months, owing to which, he used to act like insane and was being treated by *Baiga* in the village and during the said period, he assaulted his wife on 03.07.2014 with the aid of pestle and caused her grievous injuries owing to his insanity and she was, therefore, admitted into the hospital for the treatment. In order to avoid any kind of unwanted situation, his hands and legs were tied with shackle (*sankal*). It is stated further by him in his said report that on 07.07.2014, he went to the field along with his children in the morning for cultivation and upon returning home around 12 noon, his brother was found to be hanged. After conducting inquest, his body was sent for autopsy, which was conducted by Dr. Sulbha Ahluwalia (PW-10), who vide her Post Mortem Report (Ex.P.-12) opined the cause of death to be homicidal in nature occurred due to sudden cardiac and respiratory arrest and after receiving the Post Mortem Report, an FIR (Ex.P.-14) was registered on 24.07.2014 against an unknown person for the offence punishable under Section



302 of IPC and during the course of investigation, it was revealed that the deceased had tried to assault his brother, appellant – Birsingh and son Sukhiram, therefore, they, while suppressing the mouth with the aid of blanket, committed the murder of him and in order to save themselves, have given the shape of it suicide by hanging his dead body and, the alleged blanket, used for commission of the alleged crime, was seized on 06.04.2015 vide seizure memo (Ex.P.-3) based upon their disclosure statements (Ex.P.-1, Ex.P.-2) in presence of two witnesses, namely, Ram Singh (PW-1) and Kamal (PW-7) and, after completion of investigation, a charge sheet was submitted before the Court of Judicial Magistrate, First Class, Kabirdham against the appellant and, the matter was, thereafter, committed to the concerned trial Court, where based upon the materials available on record, he was charge sheeted for the offence punishable under Sections 302 and 201 of IPC, which was denied by him and claimed to be tried.

3. The trial Court, after considering the disclosure statement of the appellant and the seizure of the alleged blanket vide Ex.P.-3, coupled with the extra judicial confession made by him, has convicted him for the offence punishable under Sections 302 and 201 of IPC and sentenced, as mentioned herein-above and, being aggrieved, the instant appeal has been preferred.
4. Learned counsel appearing for the appellant submits that the finding of the trial Court holding the appellant guilty for the commission of the alleged crime based upon the seizure of “blanket” vide Ex.P.-3 and that by observing his extra judicial confession, is apparently contrary to the materials available on record, as the alleged seizure made much after the occurrence of the alleged incident was neither found to be



supported by its attesting witnesses nor has he made any extra judicial confession as observed by the trial Court. The impugned judgment is, therefore, liable to be set aside.

5. On the other hand, learned counsel appearing for the State/respondent has supported the impugned judgment of conviction and sentence as awarded by the trial Court.
6. We have heard learned counsel for the parties and perused the entire record carefully.
7. According to the prosecution, the deceased was murdered by his brother, the appellant herein, and son, a juvenile, while pressing his mouth with the aid of blanket when he tried to assault them and, in order to attribute the appellant, the alleged blanket was seized vide Ex.P.-3 in presence of two witnesses, namely, Ram Singh (PW-1) and Kamal (PW-7), but, none of these witnesses have, however, supported the same and, that apart, the alleged "blanket" was recovered on 06.04.2015, i.e., after passing of a considerable period of more than seven months from the date of occurrence of the alleged incident, therefore, no reliance could be placed upon it in order to attribute the appellant for the commission of the alleged crime.
8. Now, insofar as the statements of other prosecution witnesses are concerned, it appears that none of them have supported the prosecution version as well, as Smt. Aghnibai (PW-4), who is the wife of the deceased, has stated in her evidence that her husband used to behave like a mad man and since she was injured grievously on account of the assault made by him on her head with the aid of pestle, therefore, owing to the insanity of him, he committed suicide by



hanging himself, though stated further that later on she heard that he was murdered. The statements of others' are formal in nature.

9. It is to be noted here further that though the trial Court, while convicting the appellant, has noted the extra judicial confession of the appellant, but, from perusal of the close scrutiny of the entire prosecution witnesses, we, however, do not find any confession as such that was made by him. In view thereof, the finding of the trial Court convicting the appellant, thus, found to be based upon virtually no evidence, which, therefore, cannot be held to be sustained.
10. Consequently, the appeal is allowed and the impugned judgment of conviction and order of sentence dated 15.10.2015 passed by the learned Sessions Judge, Kabirdham (Kawardha), Chhattisgarh in Sessions Trial No.24/15 is hereby set aside. As the appellant is on bail, his bail bond and surety stand discharged.
11. A copy of this order be sent to the concerned trial Court for necessary compliance.

Sd/-
(Sanjay S. Agrawal)
JUDGE

Sd/-
(Narendra Kumar Vyas)
JUDGE