

# APPEAL OF PRISONER

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No. 1242/44 Name जगद राम  
 Father's name लखन साहिब कुडेली  
 Residence जिला सरगुआ (ग.ड.) Age 32 वर्ष  
 Sentenced to आजीवन कारावास on 23/9/1994 ST NO 182/93  
 Under Section 302 ग.ड.वि. by प्रतिपद अवर सत्र न्यायाधीश सरगुआ

It is explained to the prisoner that if he states he wishes to be represented by a legal practitioner the appellate Court will not proceed with the case for seven days unless the legal practitioner appears earlier. If the legal practitioner does not appear within seven days he may not heard at all. if the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

- 1 Date of Application for copy of Judgement 23/9/94
- 2 Date on which copy received 10/10/94
- 3 Date on which Appeal sent 1/10/94
- 4 Whether the prisoner wishes to be represented or not yes

No. 1242/44 Name जगद राम साहिब लखन  
 Confined in डे-डीय Jail सिमरगुआ (ग.ड.)  
 No. 872 Dated 1994 20/10/94

Forwarded to the आरिक्त पंजीनड मधेपु उच्च न्यायालय जवळु (ग.ड.)  
 together with a copy of judgement or order passed in the case for favour of transmission to the proper Appellate court.

Sudhakar  
 सुधीर जेड, रामपुर, (व.प्र.)

Date of receipt in \_\_\_\_\_ Office \_\_\_\_\_  
 Date of receipt of record to accompany the \_\_\_\_\_  
 Memo of Appeal to the Appellate court \_\_\_\_\_

No. \_\_\_\_\_ Dated 1994 10/2  
 Forwarded to the \_\_\_\_\_

Date of receipt in Appellate court \_\_\_\_\_

आदेश पत्र

37

सामग्री क्रमांक Cr. A. No. 1625/94 सन् 2006

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p><b><u>DIVISION BENCH</u></b>  <b><u>HON'BLE SHRI L.C.BHADOO, J</u></b>  <b><u>&amp; HON'BLE SHRI DHIRENDRA MISHRA, J</u></b></p> <p><b>Criminal Appeal No. 1625 of 1994</b></p> <p><b>Appellant : Jagat Ram</b></p> <p><b>Vs.</b></p> <p><b>Respondent : The State of Madhya Pradesh</b></p> <p>Smt. Savita Tiwari, learned counsel for the appellant.  Shri U.N.S. Deo, learned G.A. for the State/respondent.</p> <p><b><u>ORAL JUDGMENT</u></b>  <b>(Delivered on 31<sup>st</sup> January 2006)</b></p> <p><b><u>L.C.Bhadoo, J</u></b></p> <p>By this appeal under Section 374(2) of the Code of Criminal Procedure accused/appellant Jagat Ram has questioned the legality of judgment of conviction and order of sentence dated 23.09.1994 passed by the Second Additional Sessions Judge, Ambikapur in S.T.No. 182/93 whereby the learned Additional Sessions Judge after holding the accused/appellant guilty for commission of murder of his father namely Lakhan convicted him under Section 302 of the Indian Penal Code and sentenced him to undergo imprisonment for life.</p>	

[पीछे देखिये]

आदेश पत्रक

मामला क्रमांक

C.A. - No. 1625/94  
सन् 2000

विरुद्ध

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>2. Case of the prosecution, in brief, is that P.W.1 Bhagatram lodged the First Information Report (P-1) in the Police Station-Lakhanpur on 28.02.1993 at 6.50 p.m. to the effect that on 27.02.1993 when he went for grazing the cow, his family members had gone to attend the marriage ceremony and only his father was at the residence, he heard the cries of his father and rushed towards the house and at that time he saw that accused Jagat Ram was running away with lathi. When he entered the house he saw that his father was lying on the ground near the door. Blood was oozing out of the left side of head of his father and there was an injury on the back also. On enquiry his father Lakhan informed that Jagat Ram had assaulted him with lathi. He took his father in the house and called the Panchayat. Before Panchayat his father stated that Jagat Ram had assaulted him with lathi. Some treatment was given to his father but he died on the next day morning at about 8.00 a.m. Receiving this report Station House Officer registered the offence under Section 302 of the IPC, left for the scene of occurrence, took into possession the blood stained Dhoti of Lakhan under P-2 and prepared the site plan (P-11). He also prepared Panchanama (P-5) of the body after giving notice (P-6) to the Panchas. The body was sent for postmortem examination to Primary Health Centre, Udaypur where Dr. A.K.Pandey (P.W.8) conducted the postmortem on the body of Lakhan and prepared the post mortem report (P-18). After completion of the investigation charge sheet was filed in the Court of Judicial Magistrate First Class, Ambikapur who in turn committed the case to the Sessions</p>	

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आदेश पत्रक

मायला क्रमांक

C.A. No. 1625/97

सं. 200

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आदेश का दिनांक आदेश क्रमिक सहित	आदेश हस्ताक्षर सहित  -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>Judge, Ambikapur from where learned Second Additional Sessions Judge received the case on transfer for trial.</p> <p>3. The prosecution in order to establish the charge against the accused examined 13 witnesses. Statement of the accused was also recorded under Section 313 of the Cr.P.C. in which he denied the prosecution evidence appearing against him and stated that he is innocent and has been falsely implicated in the crime in question.</p> <p>4. Learned Additional Sessions Judge after hearing the arguments of the Additional Public Prosecutor and counsel for the accused/appellant convicted and sentenced the accused as mentioned in paragraph-1 of this judgment.</p> <p>5. We have heard Smt. Savita Tiwari, learned counsel for the accused/appellant and Shri U.N.S.Deo, learned G.A. on behalf of the State.</p> <p>6. Homicidal death of Lakhan is not in dispute.</p> <p>7. As far as involvement of the accused/appellant in assaulting Lakhan is concerned, the oral dying declaration was made by Lakhan before P.W.1 Bhagatram, P.W.10 Jagdish, P.W.11 Phulmet and P.W.12 Karan Sai and all of them have stated that on enquiry Lakhan disclosed that accused Jagat Ram- son of the deceased assaulted him with lathi. In the cross-examination of these witnesses the defence has not been able to elicit anything to make their statements untrustworthy or unreliable. The evidence of the</p>	

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आदेश पत्रक

मामला क्रमांक

C.A. No. 1628/94

विरुद्ध

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 4 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>above witnesses stands corroborated by the fact that the accused was seen running away from the place of occurrence with lathi in his hand by none else than his brother P.W.1 Bhagatram. Dying declaration further stands corroborated by the medical evidence given by P.W.8 Dr. A.K.Pandey who conducted postmortem on the body of Lakhan and stated that there was a lacerated wound on the left parietal bone of Lakhan and occipital bone was found to be fractured. Even the weapon of offence was recovered at the instance of the accused, therefore, in view of the above evidence, we are of the considered opinion that the involvement of the accused in assaulting his father Lakhan stands established and to that extent we are of the considered opinion that there is no infirmity or illegality in the judgment passed by the trial Court.</p> <p>8. Now coming to the question regarding nature of offence committed by the accused, learned counsel for the accused/appellant argued that the prosecution has not been able to bring forth any evidence to the effect that accused was having any intention to cause death of his father.</p> <p>9. In order to appreciate the argument advanced by learned counsel for the accused/appellant we have perused the evidence of all the witnesses. Almost every witness has stated that on enquiry Lakhan informed these witnesses that his son Jagat attacked him with the lathi on his head and as per the post mortem report and the doctor's evidence one injury was found on the parietal region and on account of that the parietal and occipital bones were fractured.</p>	

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आदेश पत्रिका

सामान्य क्रमांक

Cr. A. No. 1625/94

सं. 213

विरुद्ध

आदेश का विनाश आदेश क्रमिक सहित	आदेश हस्ताक्षर सहित -5-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<p>Nothing has come on record to show that the accused was pre-planned or having any animosity against his father to cause his death and from the evidence of the prosecution it has not been established that the accused attacked his father with an intention to cause his death. But from the fact, <sup>that</sup> <del>that</del> the knowledge of the accused can be inferred from the manner in which he assaulted his father with the club on his head, therefore, prosecution has not been able to establish <sup>a punishable</sup> <del>that</del> the offence under section 302 of the IPC is made out against the accused. However, from the evidence it can safely be inferred that the accused was having knowledge that he may cause death by assaulting with the club on the head of his father, therefore, the offence against the accused under section 304-II of the IPC is made out.</p> <p>10. In the result the appeal partly succeeds. Conviction under section 302 of the IPC and sentence awarded under that section are set aside and instead thereof the accused is convicted under section 304-II of the IPC and sentenced to undergo RI for ten years. Since the accused is in custody from 2.5.1993 and thereby he has already completed the sentence imposed on him, it is directed that the accused be set at liberty forthwith if not required in any other case.</p>	<p>Sd/- Dhirendra Mishra Judge</p>

Sd/-  
L.C.BHADOO  
Judge

[पीछे देखिये]