



2025:CGHC:37611  
NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**CRA No.3 of 2013**

**1** - Bholaram Joshi S/o Radheshyam Joshi Aged About 31 Years,  
Occupation Agriculture, R/o Village Khapri, PS Kumhari, Distt. Durg,  
Chhattisgarh

**Appellant**

**versus**

**1** - State Of Chhattisgarh Through the Police Station Kumhari, Distt.  
Durg, Chhattisgarh

**Respondent(s)**

**CRA No.55 of 2013**

**1** - Joshimal Joshi S/o Khorbahara Joshi Aged About 63 Years  
Agriculturist

**2** - Mahendra Joshi S/o Joshimal Joshi , aged about 25 years,  
Occupation Agriculturist

**3** - Santoshchand Sailik S/o Itwariram Sailik, aged about 30 years,  
Occupation Agriculturist

**4** - Mahesh @ Pintu S/o Joshimal Joshi, aged about 31 years,  
Occupation Agriculturist

**5** - Smt. Mehattrinbai @ Kodi (deleted as per order dated 15.04.2013)

All R/o Village Khapri, Police Station Kumhari, District Durg (C.G.)

**Appellants**

**Versus**

1 - State Of Chhattisgarh S/o Through PS Kumhari, Distt Durg,  
Chhattisgarh

**Respondent(s)**

**CRA No.15 of 2013**

1 – Smt. Mehtarin Bai @ Kodi, W/o Itwariram, Aged About 76 Years,  
Occupation Agriculturist, R/o Village Khapri, P.S. Kumhari, Dist. Durg,  
Chhattisgarh

**Appellant**

**Versus**

1 - State Of Chhattisgarh S/o Through District Magistrate, Durg, Dist.  
Durg, Chhattisgarh

**Respondent(s)**

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For Appellants	:	Ms. Indira Tripathi, Mr. Praveen Dhurandhar and Mr. Basant Dewangan, Advocates
For Respondent(s)	:	Mr. Ashish Shukla, Addl. AG

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**Hon'ble Smt. Justice Rajani Dubey****Judgment on Board**

**31/07/2025**

1. Since these three appeals arise out of common judgment of conviction and order of sentence, therefore, the same have been clubbed together, heard together and are being disposed of by a common order.
2. The present appeals are directed against the judgment of conviction and order of sentence dated 20.12.2012 passed by the learned Additional Session Judge, Durg (C.G.) in Session

Trial No.128/2011, whereby the appellants have been convicted under Sections 148, 323 read with Section 149 and Section 304 Part-II read with Section 149 of IPC and sentenced to undergo RI for 6 months, RI for 6 months and RI for 3 years, respectively, with default stipulations.

3. The prosecution case, in brief, is that on 07/11/10 the complainant namely Narsingh was sitting in his shop, on that relevant point of time the appellant Mahendra in the influence of alcohol was standing on the road and was abusing hence the complainant asked him not to abuse, being annoyed the appellant/accused Mahendra assaulted him by hand and gave threat of life, on return the complainant also assaulted him, thereafter the appellant/accused Mahendra went to his house and brought a Tangiya and also called other accused/appellants, they accompanied him carrying wooden stick and all with common object started assaulting the complainant and his family members Kalyan Singh, Vikash, Vikram, Barati, Budhiya, Munnibai, Rukhmani Bai, thereafter the matter was reported to the police station concerned and the appellants were arrested and during treatment Budhiya Bai died on 09/11/10. After completion of investigation, the charge sheet was filed against the appellants before the Magistrate concerned.
4. Learned counsel for the appellants jointly submit that the judgment passed by the learned Trial Court is contrary to law and

material available on record. The learned Trial Court did not appreciate the oral and documentary evidence properly and did not consider omissions and contradictions in the statements of the prosecution witnesses. Therefore, the impugned judgment is liable to be set aside.

Alternatively,

Learned counsel for the appellants submit that the incident took place in the year 2010, these appeals are pending since 2013, presently the appellant Joshimal is aged about 78 years, Mahendra Joshi is aged about 40 years, Santoshchand is aged about 45 years and Mahesh is aged about 46 years, whereas the appellant Bholaram and Mehtarin Bai have died and the appellants Joshimal Joshi, Mahendra Joshi, Santoshchand Sailik, Mahesh @ Pintu and Bholaram Joshi have remained in jail for more than 2 and half years, whereas the appellant Mehtarin Bai has remained in jail for about 5 months, therefore, the appellants may be sentenced to the period already undergone by them. Reliance has been placed on the judgment rendered by the Hon'ble Supreme Court in the matter of **Sau Panchashila Dada Meshram vs State of Maharashtra**, reported in **(2009) 17 SCC 81**.

5. Per contra, learned State counsel supports the impugned judgment and submits that the learned Trial Court has minutely appreciated the evidence available on record and has rightly convicted the appellants, as such no interference is called for.

Therefore, the appeals are liable to be dismissed.

6. Heard learned counsel for the parties and perused the material available on record.
7. It is clear from the statement of PW-1 Keshav Das Gayakwad, PW-2 Narsingh Tandon, PW-3 Vikram Gayakwad, PW-4 Barati Ram, PW-5 Rukmani Bai, PW-6 Munni Bai, PW-7 Kalyan Singh, PW-8 Manoj Tandon and PW-13 Vikas Kumar Tandon that on the date of incident, all the accused persons assaulted Budhiya Bai and complainant party by spade (tangiya) and wooden stick and during this quarrel, Budhiya Bai fell down and died. PW-18 Dr. N. P. Jangde conducted postmortem of Budhiya Bai and opined that death was homicidal in nature and she died due to hemorrhage bleeding and shock and gave his report vide Ex-P/42.
8. It is clear from the record of the learned Trial Court that the learned Trial Court framed charges under Section 302 of IPC against the appellants and after appreciation of oral and documentary evidence available on record, the learned Trial Court convicted the appellants under Sections 148, 323 read with Section 149 and Section 304 Part-II read with Section 149 of IPC, thus the learned Trial Court has rightly convicted the appellants under the aforesaid offence.
9. As regards sentence, it is clear that the incident took place in the year 2010, these appeals are pending since 2013, presently the

appellant Joshimal is aged about 78 years, Mahendra Joshi is aged about 40 years, Santoshchand is aged about 45 years and Mahesh is aged about 46 years, whereas the appellant Bholaram and Mehtarin Bai have died and the appellants Joshimal Joshi, Mahendra Joshi, Santoshchand Sailik, Mahesh @ Pintu and Bholaram Joshi have remained in jail for more than 2 and half years, whereas the appellant Mehtarin Bai has remained in jail for about 5 months, therefore, ends of justice would be served if the appellants are sentenced to the period already undergone by them. Accordingly, the appellants are sentenced to the period already undergone by them

10. All the appeals are partly allowed.
11. The appellants are reported to be on bail.
12. Keeping in view the provisions of section 481 of BNSS 2023, the appellants Joshimal Joshi, Mahendra Joshi, Santoshchand Sailik and Mahesh @ Pintu are directed to furnish a personal bond for a sum of Rs.25,000/- each before the Court concerned forthwith, which shall be effective for a period of six months along with an undertaking that in the event of filing of Special Leave Petition against the instant judgment or for grant of leave, the aforesaid appellant on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.
13. The Trial Court's record along with the copy of this judgment be

sent back immediately to the trial Court concerned for compliance and necessary action.

Sd/-

Rajani Dubey  
Judge

Nirala