

## Rajesh Kumar Anant @ Bhurwa Vs State Of Chhattisgarh

**Court:** Chhattisgarh High Court

**Date of Decision:** Nov. 6, 2023

**Acts Referred:** Indian Penal Code, 1860 "Section 34, 302, 307, 380  
Code Of Criminal Procedure, 1973 "Section 161, 313  
Evidence Act, 1872 "Section 6, 27, 32

**Hon'ble Judges:** Sanjay K. Agrawal, J; Sanjay S. Agrawal, J

**Bench:** Division Bench

**Advocate:** C. Jayant K. Rao, Ravi Maheshwari, Sudeep Verma

**Final Decision:** Allowed

### Judgement

Conviction,Sentence

A-1 (Rajesh Kumar Anant @ Bhurwa),

1. Under Section 302/34 of IPC., "Imprisonment for Life with fine of ₹, of ₹,  
Rs.3000/-₹, and ₹, in default of payment  
of fine amount, additional R.I. for 6  
months.

2. Under Section 307/34 of IPC, "R.I. for 10 years with fine of ₹, ₹, ₹, ₹,  
Rs.2000/-₹, ₹, ₹, ₹, and ₹, ₹, ₹, ₹, in  
default of payment of fine amount,  
additional R.I. for 4 months.

A-2 (Laljee),

1. Under Section 302/34 of IPC., "Imprisonment for Life with fine of ₹, of ₹,  
Rs.3000/-₹, and ₹, in default of payment  
of fine amount, additional R.I. for 6  
months.

2. Under Section 307/34 of IPC., "R.I. for 10 years with fine of ₹, ₹, ₹, ₹,  
Rs.2000/-₹, ₹, ₹, ₹, and ₹, ₹, ₹, ₹, in  
default of payment of fine amount,

additional R.I. for 4 months.

All the sentences have been directed to run concurrently.,

Sunny Kumar (PW-2) have been exhibited as D-1, D-2, D-2 & D-4. Statements of A-1 & A-2 were also recorded under Section 313 of CrPC, in",

which they denied the circumstances appearing against them in the evidence brought at on behalf of prosecution, pleaded innocence and false",

implication.,

8. At this juncture, it would be apposite to mention here that the two appellants herein i.e., A-1 & A-2, were previously subjected to trial wherein by",

judgment and order dated 29.5.2004 in Sessions Trial No.127/2003 they were acquitted by the trial Court from the offences punishable under Sections,

302, 307, 380 read with Section 34 of IPC. However, in Criminal Revision No.327/2004, this Court by its order dated 13.2.2015, while allowing the",

said revision had remanded the matter back to the trial Court with a direction to the trial Court to allow the parties to adduce additional evidence and to,

decide the case afresh after reconsidering the evidence, in accordance with law. Pursuant to the said direction of this Court, further statements of",

Sunny Kumar (PW-2) and Darasbai (PW-6) were recorded on 7.1.2016 and on 6.2.2016 respectively.,

9. Subsequently, the trial Court, by its judgment and order dated 20.5.2016, while acquitting A-1 & A-2 from the offence punishable under Section 380",

read with 34 of IPC, convicted them for the offences punishable under Sections 302 & 307 read with Section 34 of IPC and sentenced them as",

mentioned in para-1 of this judgment. Feeling aggrieved and dissatisfied by the said judgment of conviction and order of sentence, the present two",

appeals have been preferred separately by A-1 and A-2.,

10. Mr. C. Jayant K. Rao and Mr. Ravi Maheshwari, learned counsels appearing for A-1 & A-2 respectively would jointly submit that both A-1 & A-",

2 have been falsely implicated in the instant case, as the incident had taken place after midnight i.e. at 2:30 a.m. and there was no possibility of",

presence of any eye-witness. They would further submit that earlier by judgment dated 29.5.2004 passed in Sessions Trial No.127/2003, the trial Court",

had acquitted both A-1 & A-2 from the said offences, however, subsequently, the said judgment was challenged in Criminal Revision No.327/2004",

before this Court and by order dated 13.2.2015, the revision was allowed and the matter was remanded back to the trial Court with a direction to",

decide the matter afresh in accordance with law. Thereafter, the trial Court re-examined the main witnesses Sunny Kumar (PW-2) and Darasbai",

(PW-6) and on the basis of which, these witnesses are said to have succeeded in filling up the lacuna resulting in conviction of A-1 & A-2, which is",

nothing but an improvement made by these witnesses so as to implicate them. As such, the impugned judgment and order is bad in law and deserves",

to be set aside acquitting A-1 & A-2 by giving them benefit of doubt.,

11. Per contra, Mr. Sudeep Verma, learned Deputy Government Advocate appearing on behalf of the State, would support the impugned judgment",

and submit that the prosecution has been able to prove the offence beyond reasonable doubt. He would further submit that though there may be,

discrepancies in the statements of eye-witnesses Sunny Kumar (PW-2) and Darasbai (PW-6) but they have been consistent throughout in deposing,

against A-1 & A-2 and, apart from that, the FSL report is also positive. As such, the instant appeal deserves to be dismissed.",

12. We have heard learned counsels for parties, considered their rival submissions made herein-above and have also gone through the records with",

utmost circumspection.,

13. It would be relevant at this juncture to mention that deceased Sakharam has four brothers including Asharam (DW-1). A-1 Rajesh Kumar Anant,

@ Bhurwa is the son of Asharam (DW-1) and A-2 Laljee is the nephew of deceased Sakharam.,

14. The first question as to whether the death of Sakharam was homicidal in nature, has been answered in affirmative by the trial Court relying upon",

the post-mortem report (Exhibit P-14) proved by Dr. H.D. Dahire (PW-11) which, in our considered opinion, is a finding of fact based on the evidence",

available on record and which is neither perverse nor contrary to record. Even otherwise, the nature of death to be homicidal has not been seriously",

questioned on behalf of the appellants. We, therefore, affirm the said finding of the trial Court holding that the death of Sakharam was homicidal in",

nature.,

15. The next question as to whether the two appellants herein are authours of crime, the case of the prosecution is based on the testimonies of two",

eye-witnesses i.e. Sunny Kumar (PW-2), grandson of deceased Sakharam, and the injured Darasbai (PW-6), wife of deceased Sakharam and",

grandmother of Sunny Kumar (PW-2). Apart from that, though pursuant to Exhibits P-7 & P-8 i.e. memorandum statements of A-1 & A-2,",

bloodstained tangia and farshi have been siezed vide Exhibits P-9 & P-10, however, on both these articles/weapons, the blood group could not be",

ascertained on account of disintegration of blood.,

16. Now, we will consider the testimonies of Sunny Kumar (PW-2) and Darasbai (PW-6) as they have been cited as eye-witnesses to the incident.",

However, before considering the testimonies of these two eye-witnesses, it would be appropriate to notice the principle of famous maxim "Falsus in",

uno falsus in omnibus" which has been explained by the Supreme Court in a recent decision rendered in the matter of Arvind Kumar alias,

Nemichand v. State of Rajasthan 2022 Cri. L.J. 374, as under:-",

"48. The principle of falsus in uno falsus in omnibus that when a witness deposes falsehood, the evidence in its entirety has to be eschewed may",

not have strict application to the criminal jurisprudence in our country. The principle governing sifting the chaff from the grain has to be applied.,

However, when the evidence is inseparable and such an attempt would either be impossible or would make the evidence unacceptable, the natural",

consequence would be one of avoidance. The said principle has not assumed the status of law but continues only as a rule of caution. One has to see,

the nature of discrepancy in a given case. When the discrepancies are very material shaking the very credibility of the witness leading to a conclusion,

in the mind of the court that it is neither possible to separate it nor to rely upon, it is for the said court to either accept or reject."

17. PW-2 Sunny Kumar has been cited as eye-witness to the incident on behalf of the prosecution. He is the son of Ajay Kumar and grandson of,

deceased Sakharam and injured Darasbai (PW-6). Since Sunny Kumar has lost his mother and his father Ajay Kumar has remarried, he was residing",

with his grandparents at village Dhawaipur. According to Sunny Kumar, aged about 15 years, on the date of incident in the late night at about 2:00",

p.m., he was studying and on hearing some movements outside the house, he went into the room of her grandmother Darasbai and slept along with",

her. His grandfather Sakharam was sleeping in the cot in the courtyard of his house. After some time, when Sunny Kumar heard the noise of mar-pit",

he and his grandmother Darasbai awoke and he requested his grandmother Darasbai not to open the door but she did not accede to his request and,

opened the door. As soon as Darasbai opened the door, he saw A-1 armed with tangia and A-2 armed with farshi. Thereafter, his grandmother",

Darasbai requested A-1 & A-2 to take whatever they want but not to do mar-pit. However, according to Sunny Kumar, both A-1 & A-2 abused his",

grandmother Darasbai and started assaulting her. He hid himself under the cot and when he came out he saw his grandmother Darasbai lying down,

on the floor in injured condition and was asking for water and who he administered water. He also saw his grandfather Sakharam writhing in pain.,

Thereafter, when he started shouting, Asharam (DW-1) and other persons came to the spot and thereafter police personnel also came to the place of",

occurrence. His grandmother Darasbai then was escorted to the Community Health Centre, Katghora and by that time his grandfather Sakharam had",

already died in the cot. Thereafter, on the next day Darasbai was transferred from Community Health Centre, Katghora to a hospital at Korba where",

Darasbai stated Sunny Kumar that A-1 & A-2 have assaulted her.,

18. From careful perusal of the statement of Sunny Kumar (PW-2), it transpires that he has only seen A-1 armed with tangia and A-2 armed with",

farshi and they have assaulted Darasbai (PW-6). Further, he has only seen his grandfather Sakharam writhing in pain and he did not see the two",

appellants assaulting his grandfather Sakharam either by tangia or by farshi. In para-8 of his statement, Sunny Kumar (PW-2) has clearly stated that",

he did not see the two appellants assaulting his grandfather Sakharam but he has seen the two appellants talking with his grandmother Darasbai and at,

that time the two appellants were armed with tangia and farshi.,

19. PW-2 Sunny Kumar has stated that he did not see the incident in which the two appellants herein had allegedly assaulted his grandfather,

Sakharam by tangia and farshi. However, he has stated that on an alarm being raised by him, Asharam (DW-1) and other persons had come to the",

spot and to whom he is said to have informed that his grandfather Sakharam was killed by A-1 & A-2 and that he had also informed Kotwar Shohit,

Das (PW-1) and thereafter to the Investigating Officer (PW-14) who had reached the spot that A-1 & A-2 have killed his grandfather Sakharam.,

However, the said fact is not corroborated from the statement of Asharam (DW-1) who reached the spot immediately and thereafter informed the",

matter to Kotwar Shohit Das (PW-1) who had lodged Merg and FIR against the unknown persons.,

20. Shohit Das, Village Kotwar, has been examined as PW-1. In his statement before the Court, he has stated that on the date of incident in the late",

night at about 2:30 a.m., Vishnu Prasad (DW-2) and one Manharan Lal came to his house and informed about the incident. He then immediately",

reached the place of occurrence where Asharam (DW-1), elder brother of deceased Sakharam, and other persons were present and he was informed",

by Asharam (DW-1) that he (DW-1) came to know about the incident from Sunny Kumar (PW-2) that some unknown assailants have killed,

Sakharam and have also injured Darasbai (PW-6). He saw Sakharam lying dead in the cot and Darasbai (PW-2) lying on the floor in injured condition,

inside her room. He immediately reported the matter to the police, as informed by Sunny Kumar (PW-2), against the unknown persons. He has also",

stated that when he reached the house of Sakharam, Asharam (DW-1) and other persons including Sunny Kumar (PW-2) were present there and",

Sunny Kumar (PW-2) has informed him that some unknown thieves had entered into the house and killed Sakharam who died and fatally injured,

Darasbai. He has further stated that the Investigating Officer K.N. Sharma (PW-14) has enquired from Sunny Kumar (PW-2) about the incident and,

Darasbai (PW-6) was not in a condition to say something as she was seriously injured. He has also stated that Sitaram Singh (PW-5), who is the son-

in-law of deceased Sakharam and injured Darasbai (PW-6) and was posted as D.S.P. at Bilaspur at that point of time, had also enquired from the",

persons present there at the place of occurrence and came to the conclusion that some unknown thieves have killed Sakharam and injured Darasbai,

(PW-6). Apart from that, the another Investigating Officer Lallan Singh, who has been examined as PW-19, has clearly stated in para-6 of his",

statement that while recording the statement of Sunny Kumar (PW-2) under Section 161 of CrPC vide Exhibit D-4, Sunny Kumar had not informed",

him that A-1 & A-2 have assaulted his grandfather Sakharam with tangia and farshi, which is also a material contradiction and omission on the part of",

Sunny Kumar (PW-2).,

21. As such, from the statement of Sunny Kumar (PW-2), it is quite vivid that he did not see the assailants who have killed his grandfather Sakharam",

otherwise he could have informed firstly to Asharam (DW-1) and subsequently to Kotwar Shohit Das (PW-1), Investigating Officer K.N. Sharma",

(PW-14) and Sitaram Singh (PW-5), D.S.P. and son-in-law of deceased Sakharam, who all had reached the place of occurrence. Surprisingly, in the",

statement recorded on 2.10.2002 i.e. after two days from the date of incident, Sunny Kumar (PW-2) has improved his statement and named the two",

appellants herein as assailants. However, he improved his statement only to the extent that A-1 & A-2 have assaulted his grandmother Darasbai",

(PW-6) and even in his later statements under Section 161 of CrPC and in his court statement also he has only improved to the extent of A-1 & A-2,

assaulting his grandmother (PW-6) and he did not see A-1 & A-2 assaulting his grandfather Sakharam and has only seen his grandfather Sakharam,

writhing in pain being seriously injured, otherwise Kotwar Shohit Das (PW-1), who has lodged Merg (Exhibit P-2) and FIR (Exhibit P-1) could have",

named A-1 & A-2 as assailants in Merg and FIR lodged by him. Thus, it goes to show that Sunny Kumar (PW-2) did not see the incident in which the",

two appellants herein is said to have assaulted Sakharam on account of which he suffered grievous injuries and died. Moreover, pursuant to the order",

passed by this Court in the aforesaid Criminal Revision, Sunny Kumar (PW-2) was further examined on 7.1.2016 wherein also in para-25 he has made",

improvement that the two appellants herein were holding arms and were assaulting his grandfather Sakharam.,

22. Thus, in view of the discussion made herein above, we are of the considered opinion that Sunny Kumar (PW-2), even in his statement recorded",

under Section 161 of CrPC vide Exhibit D-4 and also in his statement made before the Court, had not stated that he has seen the two appellants herein",

assaulting his grandfather Sakharam by tangia and farshi. In his statement recorded under Section 161 of CrPC on 2.10.2002 vide Exhibit D-4 and in,

his court statement recorded on 8.5.2003 as PW-2, he has only stated that he had not seen the two appellants herein assaulting his grandmother",

Darasbai (PW-6) by tangia and farshi and he had seen the two appellants holding tangia and farshi, which is explicitly missing when he informed about",

the incident to Asharam (DW-1) and he also did not tell anything about the said fact to Kotwar Shohit Das (PW-1), as the name of the two appellants",

herein is missing in Merg Intimation (Exhibit P-2) as well as in FIR (Exhibit P-1) lodged by Kotwar Shohit Das (PW-1). As such, Sunny Kumar (PW-2),

2) cannot be said to be an eye-witness to the extent of witnessing the incident in which the two appellants herein are said to have assaulted the,

deceased Sakharam by tangia and farshi. Taking the statement of Sunny Kumar (PW-2) as it is, it nowhere reflects that he is an eye-witness. We",

therefore, reject the testimony of Sunny Kumar (PW-2) as eye-witness of the incident in which the two appellants herein are said to have assaulted",

Sakharam by tangia and farshi on account of which he suffered grievous injuries and died.,

23. Now, so far as Darasbai (PW-6) is concerned, she is also said to be an injured eye-witness who was present on the spot along with her grandson",

Sunny Kumar (PW-2). According to her statement, on the date and time of incident, her husband Sakharam was sleeping in the courtyard and she",

was sleeping in other room and her grandson Sunny Kumar came to her room and told her about some movements outside the house. Subsequently, ",

after about half an hour, they heard noise of mar-pit coming from the outside of her house and when she opened the door, she saw that A-1 was",

assaulting her husband with tangia and A-2 was assaulting him with farshi. When she requested them not to assault her husband, they also started to",

assault her and then she became unconscious. She was escorted to Community Health Centre, Katghora where at 4:30 a.m. she was examined by",

Dr. S.N. Pandey (PW-10) and at the same time, vide Exhibit P-13, on a requisition received from the Police Station Katghora, he opined that Darasbai",

(PW-6) was not in a position to give any kind of statement much less dying declaration.,

24. However, on the same day i.e., on 30.9.2002, at 12:15 p.m., dying declaration of Darasbai (PW-6) was recorded vide Exhibit P-29 which has been",

proved by R.K. Tamboli, Naib Tahsildar, and has been certified by Dr. Pal and as per his noting while recording the statement of Darasbai (PW-6)",

she was in conscious but confused state of mind. Dr. Pal has not been examined to prove Exhibit P-29. Thus, for the reason that while recording the",

statement (Exhibit P-29) Darasbai (PW-6) was not in a fit physical and mental state of mind to give her dying declaration, the said statement (Exhibit",

P-29) is of no use to the prosecution, more particularly, when Darasbai (PW-6) survives after recording the said dying declaration. Therefore, the said",

statement cannot be used as evidence under Section 32 of the Indian Evidence Act, 1872 though it was recorded as dying declaration, particularly",

when she was in confused state of mind while recording her statement as certified by Dr. Pal in the said dying declaration itself. As such, Exhibit P-29",

is of no use to the prosecution.,

25. Furthermore, though Darasbai (PW-6) had remained in hospital for the period from 30.9.2002 to 21.10.2002 but her statement under Section 161",

of CrPC was recorded on 11.11.2002 vide Exhibit D-2. There is no explanation as to why her statement was recorded with a delay of 20 days when,

she was already discharged from the hospital on 21.10.2002. No explanation is forthcoming for the said delay in recording the said statement.,

Moreover, in her statement before the trial Court though she has stated that when she had opened the door of her house, she had seen A-1 assaulting",

with tangia and A-2 assaulting with farshi but in her statement recorded under Section 161 of CrPC vide Exhibit D-2, she did not inform about the said",

fact to the Investigating Officer Lallan Singh (PW-19) of A-1 assaulting with tangia and A-2 assaulting with farshi. The Investigating Officer, Lallan",

Singh (PW-19) has clearly admitted in para-7 of his cross-examination that Darasbai (PW-6) had not informed him while recording her statement,

(Exhibit D-2) that A-1 & A-2 had assaulted them with tangia and farshi respectively. As such, there are serious contradictions and omissions on the",

statement made by Darasbai (PW-6). Apart from that, the dying declaration of Darasbai (PW-6) recorded vide Exhibit P-29 cannot be said to be true",

and voluntary especially when she was not in a fit physical and mental status of mind while recording her dying declaration.,

26. Darasbai (PW-6), in para-19 of her cross-examination, has clearly admitted that her husband Sakharam was assaulted by thieves. However,",

thereafter, she has stated that when she opened the door, her husband was lying injured in the cot and blood was oozing from his body and on seeing",

all that she got frightened and came inside her room. Further, in para-20, she has stated that she could not see the thieves where they ran away and",

when she came inside the room, they started to assault her on account of which she fell down and became unconscious and thereafter what happened",

she did not know. Thereafter, when she gained consciousness in the hospital at Korba, she found A-1 present there. However, pursuant to the order",

of this Court passed in Criminal Revision No.327/ 2004 filed by Darasbai (PW-6), when she was re-examined on 6.2.2016, she has stated as if she is",

really an eye-witness and she has seen the two appellants herein assaulting her husband, though which was not there in her previous statements.",



27. Similarly, Sitaram Singh (PW-5), who is the son-in-law of deceased Sakham and injured Darasbai (PW-6) and was posted as D.S.P. at the",

relevant point of time, was informed by A-1 about the incident and his statement before the Court was that Darasbai (PW-6) had informed him that",

one Ghasiya has assaulted them. As such, according to Sitaram Singh (PW-5), Darasbai (PW-6) did not inform him about the name of the two",

appellants herein as assailants.,

28. As such, from the statement of Darasbai (PW-6), it is quite vivid that she has only seen the two appellants herein remained present with tangia",

and farshi by which they had assaulted her husband and she had seen her husband lying in injured condition outside in the cot and blood was oozing,

from his body. Thus, she can be said to be a res gestae witness who was present there at the time of incident and the two appellants herein were also",

present there. Her statement being admissible and the relevant fact under Section 6 of the Indian Evidence Act, an accused in question could be",

convicted on the basis of corroboration furnished by the evidence of such witness. (See Badruddin Rukonddim Karpude v. State of Maharashtra AIR,

1981 SC 1223).,

29. Similarly, in the matter of Sukhar v. State of UP (1999) 9 SCC 507, their Lordships of the Supreme Court, while considering Section 6 of the",

Indian Evidence Act, have held that for conviction on the basis of admissible evidence under Section 6 of the Indian Evidence Act, it must be",

corroborated either from oral evidence or from any other circumstances, and observed in paras -10 & 11 as under:",

“10. Applying the ratio of the aforesaid two cases to the evidence of PW 2, we have no hesitation to come to the conclusion that his statement",

indicating that the injured told him that his nephew has fired at him, would become admissible under Section 6 of the Evidence Act. We are, therefore,"

unable to accept the first submission of Ms Goswami, learned counsel appearing for the appellant.",

11. The next question that arises for consideration is whether even if the statement becomes admissible, can the statement be held to be so reliable",

that a conviction under Section 307 can be based thereupon. PW 2 in the cross-examination candidly admitted that Sukhar, the present appellant and",

he are inimical to each other since long before. It was also elicited in the cross-examination of the said witness that by the time he reached the scene,

of occurrence, more than 20 persons had gathered next to Nakkal and yet none of them has been examined by the prosecution to corroborate PW 2",

as to what was told to him by the injured. The witness also stated in the cross-examination that Nakkal was naming the accused as his assailant in,

front of all those people who had gathered but it is not understood as to why the prosecution has chosen not to examine any one of them but to,

examine only PW 2 who was admittedly inimically disposed towards the accused/appellant. In this view of the matter, the evidence of PW 2 cannot",

be held to be of such an unimpeachable character on whose testimony alone the conviction can be based without any corroboration. On the other,

hand, the witness being inimical to the accused and on account of what has been elicited in his cross-examination, his evidence requires corroboration",

before being accepted. Admittedly there is not an iota of corroboration either from any oral evidence or from any other circumstances. In this view of,

the matter, we have no hesitation to come to the conclusion that the conviction of the appellant on the unreliable and shaky evidence of PW 2 without",

any corroboration, cannot be sustained. We accordingly set aside the conviction and sentence of appellant and acquit him of the charges levelled",

against him. The accused who is in jail should be released forthwith. The appeal is allowed accordingly.Ã¢â€šâ€š,

30. Furthermore, pursuant to the memorandum statements (Exhibits P-7 & P-8) of A-1 and A-2, a tangia and a farshi have been recovered from their",

possession respectively vide Seizure Memos, Exhibits P-9 & P-10. Though in the FSL report (Exhibit P-28), the said tangia (Article Ã¢â€šâ€š,Ã¢â€šâ€š) and",

farshi (Article Ã¢â€šâ€š,Ã¢â€šâ€š) both have been found to be stained with blood, but in the Serology report (Exhibit P-31), the bloodstains found on tangia and",

farshi were found to be disintegrated and therefore the origin of bloodstains so also the blood group could not be determined because of disintegration,

of blood.,

31. The Supreme Court in the matter of Balwan Singh v. State of Chhattisgarh and another (2019) 7 SCC 781, held that if the recovery of",

bloodstained articles is proved beyond reasonable doubt by the prosecution, and if the investigation was not found to be tainted, then it may be",

sufficient if the prosecution shows that the blood found on the articles is of human origin though, even though the blood group is not proved because of",

disintegration of blood and held in paras-23 & 24 as under:-,

Ã¢â€šâ€š"23. From the aforementioned discussion, we can summarise that if the recovery of bloodstained articles is proved beyond reasonable doubt by the",

prosecution, and if the investigation was not found to be tainted, then it may be sufficient if the prosecution shows that the blood found on the articles",

is of human origin though, even though the blood group is not proved because of disintegration of blood. The court will have to come to the conclusion",

based on the facts and circumstances of each case, and there cannot be any fixed formula that the prosecution has to prove, or need not prove, that",

the blood groups match.Ã¢â€šâ€š,

24. In the instant case, then, we could have placed some reliance on the recovery, had the prosecution at least proved that the blood was of human",



Mani (supra), we are of the considered opinion that Sunny Kumar (PW-2) and Darasbai (PW-6) are not really eye-witnesses to the incident and their",

testimonies do not inspire confidence. At best, Darasbai (PW-6) can be said to be a res gestae witness but in absence of any corroboration either",

from direct evidence or from circumstantial evidence. Therefore, it would be unsafe to maintain the conviction of A-1 & A-2 and they deserve to be",

acquitted from the said offences on the basis of benefit of doubt.,

35. Accordingly, the impugned judgment of conviction and order dated 20.5.2016 passed by Third Additional Sessions Judge, Bilaspur in Sessions Trial",

No.127/2003 convicting the two appellants herein, i.e., A-1 & A-2, for the offences punishable under Sections 302 & 307 read with Section 34 of IPC",

is hereby set-aside/quashed and they are acquitted from the said offences. Both the appellants are stated to be in jail since 2.10.2002. They be,

released from jail forthwith, if not required in any other offence.",

36. As a consequence, both the criminal appeals are allowed to the extent indicated above.",

37. Let a certified copy of this judgment along with the original record be transmitted to the trial Court concerned and to the Superintendent of Jail,

where the appellants are presently lodged and suffering jail sentence, forthwith for necessary information and action, if any.",