

**Maukam Singh & Others**

v.

**State of Madhya Pradesh**

(Criminal Appeal No. 1741 of 2025)

02 April 2025

**[Sudhanshu Dhulia and K. Vinod Chandran,\* JJ.]**

**Issue for Consideration**

Whether the order passed by the High Court upholding the conviction and sentence imposed on the accused u/s.302/34 and ss.323 and 324 rw s.34 IPC justified.

**Headnotes<sup>†</sup>**

**Penal Code, 1860 – ss.302, 323, 324, 34 – Murder – Ocular evidence – Animosity between the accused and the victims regarding the ownership of the place of worship – Accused persons-appellants armed with deadly weapons came to the house of the victim-grandfather, questioned them resulting in a scuffle which lead to the death of the victim and injuries to grandchildren – Appellants convicted u/ss.302/34, 323 and 324 rw s.34 for homicide and for injuries sustained by grandchildren and sentenced accordingly – High Court upheld the same – Interference with:**

**Held:** Not called for – Merely because witnesses are related, they cannot be termed to be interested – Ocular witnesses were all grandchildren of the deceased which would not result in eschewing their testimony – All the ocular witnesses were injured which makes their testimony credible and believable – Also nothing suspicious to doubt the veracity of the ocular witnesses – Furthermore, the facts regarding the fight and the overt acts does not make it an offence covered u/s.304 Part II nor fall under any of the Exceptions to s.300 resulting in a finding of culpable homicide not amounting to murder – Medical evidence that the injury could be caused either manually by a hard and blunt object or by an accidental fall, does not detract from the finding u/s.302, especially considering the ocular testimony – Intention is clear from the deadly nature of

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the weapons carried by the accused, who were the aggressors, who trespassed into the house of the victims and wielded such weapons in a manner causing grievous injuries to the victims, one of whom died – Evidence. [Paras 5, 6, 13, 14]

**List of Acts**

Penal Code, 1860.

**List of Keywords**

Ocular evidence; Interested witness; Motive of enmity is double edged weapon; Relationship between witnesses and deceased; Reverse hit by axe; Medical evidence; Deadly nature of weapons; Injured witnesses; Ocular testimony; Intention; Aggressors; Grievous injuries.

**Case Arising From**

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 1741 of 2025

From the Judgment and Order dated 17.01.2018 of the High Court of Madhya Pradesh at Gwalior in CRLA No. 155 of 2000

**Appearances for Parties**

*Advs. for the Appellants:*

Vikrant Singh Bais, Ms. Neema, Yogesh Tiwari.

*Advs. for the Respondent:*

D. S. Parmar, A.A.G., Abhimanyu Singh Ga, Yashraj Singh Bundela, Surjeet Singh, Chanakya Baruah, Ms. Saloni, Rohan Singla.

**Judgment / Order of the Supreme Court****Judgment**

**K. Vinod Chandran, J.**

Leave granted.

2. Annoyed by the worship of a deity installed in a disputed land, carried out by one of the injured; the accused, on the instigation of the person who was in possession of the land, reached the house

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of the deceased with weapons and questioned them resulting in a scuffle ending with the death of the grandfather and injuries to the three grandchildren; as per the story of the prosecution. Nine accused were arrayed in the FIR but only six, against whom charge was laid by the Trial Court of which one died during the proceedings. Three, the appellants herein were charged with offences under Sections 302, 323 & 324 read with Section 34 of the Indian Penal Code<sup>1</sup>. Two were charged under Sections 324, 341 & 506 read with Section 34; who were acquitted by the Trial Court. The three appellants herein were convicted under Section 302 read with Section 34 of the IPC, for the homicide and sentenced to life imprisonment and fine of Rs.1,000/- each. They were also convicted under Sections 323 & 324 read with Section 34 of IPC, for the injuries sustained by the grandchildren of the deceased, imposing a sentence of 6 months and 1 year respectively. The High Court confirmed the findings of the Trial Court leading to the conviction and affirmed the sentence imposed.

3. On appeal before this Court, learned counsel appearing for the appellants Sh. Vikrant Singh Bais argued that there was no premeditation and no intention to cause death; not even the remotest knowledge of an injury being caused which was likely to cause death. In fact, the deposition of ocular witnesses indicate that the accused carried cutting weapons. However, the injury on the deceased, even according to the Doctor who examined him at the first instance indicates that there were no incised injuries. It was also stated that the injury which resulted in death, could have been caused by an accidental fall. In the totality of the circumstances it is clear that if at all the accused are found guilty of the alleged crime, they can only be convicted under Part II of Section 304.
4. Sh. Yashraj Singh Bundela, learned counsel appearing for the respondent-State pointed out that the injured witnesses (eye-witnesses), have spoken in tandem and it was the accused who trespassed into the house of the victims; including the deceased, and attacked them. There was absolutely no provocation on the part of the victims and it was with premeditation and intention to cause death that the accused came to the house of the deceased, armed with deadly weapons. The fact that the deceased died after 25 days

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<sup>1</sup> For brevity 'IPC'

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in a hospital, would not result in a different finding than that of murder, since the single blow caused to the head of the deceased led to the death. There is absolutely no reason to interfere with the conviction for the offences, which charges are found to have been proved nor is there any reason to alter the sentence imposed.

5. We have gone through the entire records and depositions of the witnesses. At the outset, we have to notice that the ocular witnesses were all grandchildren of the deceased; which by itself would not result in eschewing their testimony. It is trite that, merely because witnesses are related, they cannot be termed to be interested, especially in a case where there is ocular testimony. The prosecution unequivocally proved that the altercation leading to the scuffle occurred in the house of the deceased, wherein the accused had come with deadly weapons, clearly with the intention to harm the inmates of the house, one of whom had visited the disputed property to offer prayers. That the dispute existed with reference to the land stands proved by the testimony of PW-4, a neighbour, who had gone to the house of the deceased, hearing the commotion. He testified in cross examination that there was animosity between the accused and the victims regarding the ownership of the place of worship.
6. The said statement regarding animosity, brought out in cross-examination, is noticed by us, fully realising that, motive of enmity is a doubled edged weapon. Animosity alleged can even lead to an accusation of false allegation on the part of the complainant to deliberately implicate the accused. This makes it imminent that we examine the testimony of witnesses with a hawk's eye to understand whether it is truthful or the witnesses are to be disbelieved. The relationship of the ocular witnesses with the deceased is of no consequence, as the possibility of outsiders being available inside the house of the injured is very remote. It also has to be kept in mind that all the ocular witnesses were injured which makes their testimony credible and believable
7. PW 1-3 are the grandchildren who, in consonance with the FIR registered, spoke of the accused having come to their house with a *farsa* and *luhangi* (an axe and a cutting weapon). The allegation was that the accused inflicted blows on the deceased, which injury, he sustained in the mouth and head. PW-1 also claimed that the first appellant inflicted a blow with the reverse side of the axe on

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his brother PW3 which hit him on the head and legs. PW1 was also hit on the head and hands. PW11, the Doctor who examined the deceased and the injured deposed that there were five injuries on the body of PW1: (i) incised wound on the right side of the head, (ii) & (iii) abrasion and incised wound on the right side of the nose, (iv) swelling on the right forearm and (v) contusion on left knee. This is in consonance with PW1's testimony. Contradiction brought out in cross examination is only that there was no statement made that Panna Lal and Dashrath Singh, the acquitted accused, had beaten PW1 and his grandfather which was not stated in the Section 161 statement.

8. PW2 stated that the first accused inflicted a blow with axe on his grandfather, the deceased and the third accused inflicted a blow with the cutting weapon. As for his own injuries, he claimed that one of the accused inflicted a blow with the cutting weapon on his shoulder and another hit his leg with a lathi. The medical evidence of PW11 with respect to PW2 indicates abrasion of the right shoulder and left thumb and abrasion on the left leg; in consonance with his deposition. PW2 also stated that the deceased was beaten by all the accused and the first accused inflicted a blow with the axe and the third accused hit him with the cutting weapon. The contradiction brought out clearly indicates that he had not stated the blow inflicted to the deceased by the first accused, in his Section 161 statement.
9. PW3 another grandson of the deceased specifically spoke of the first accused having inflicted a blow with the reverse side of the axe on the head of the deceased and the third accused also having inflicted a blow with the cutting weapon. As far as his own injuries, he claimed the first accused hit him on the head with an axe and the third accused hit him on the head, with a cutting weapon and two other accused having inflicted blows with the cutting weapon on his leg and on his back. PW11, the Doctor spoke of PW3 having sustained three injuries, (i) an incised wound above the right ear, (ii) abrasion on front side of right knee and (iii) abrasion on right index finger; which corroborates PW3's testimony.
10. We have to keep in mind that that there was a scuffle which ensued after the accused came to the house of the deceased, with deadly weapons. That they carried deadly weapons have been spoken of

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by all the three ocular witnesses, further corroborated by PW-4, a neighbour, who spoke of the accused being armed with an axe and a cutting weapon. The quarrel that ensued and the scuffle was also spoken of by PW4. The injury sustained by Than Singh; the deceased, as spoken of by the eye-witnesses was further corroborated by PW-4 who had accompanied the injured victims to the hospital. In cross-examination he specifically stated that he heard the sound of weeping of women from the neighbouring house and witnessed the scuffle, on reaching there. We find that nothing suspicious, to doubt the veracity of the ocular witnesses, has come out in their depositions either in the chief-examination or cross.

11. The eye-witnesses; PW's 1 to 3, who suffered injuries in the incident spoke of the blow to the head of the deceased. The learned counsel for the accused specifically pointed out that there was no cut injury on the deceased. In the teeth of the testimony of the accused having carried only cutting weapons; the injury sustained by the deceased in all probability was caused by a fall. This absolves the accused especially considering the testimony of the Doctor that the fatal injury could have been caused by a fall.

12. The deceased according to PW11, Doctor, suffered two injuries; both, on the head, one fatal and the other simple. The two injuries are as follows :

*(i) swelling extended from left side of his head near to left ear extending up to middle of the scalp and this swelling was also extended up to parietal region of the head and blood was oozing from left ear and both nostrils of the nose of Than Singh and for determining the nature of this injury he advised for x-ray examination of Than Singh,*

*ii) lacerated wound on the front and at middle part of head.*

In cross examination, the Doctor deposed that the fatal injury can be inflicted by a hard and blunt object. It was also deposed that the fatal injury could be caused by an accidental fall; which in the context of the specific corroborated testimony of a reverse hit by the axe is of no consequence. When a scuffle ensues, it cannot be said that the witnesses; especially if they were actively involved in the

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scuffle and were also injured, would speak of the minute details of who inflicted the blow, with what weapon and precisely how it was inflicted. Suffice it to notice that the ocular witnesses, also injured in the same transaction, spoke of a blow on the head of the deceased; their grandfather. The mere fact that PW2 and 3 did not speak of a reverse hit by an axe in the Section 161 statement cannot lead to their testimony of the overt act being disbelieved. The embellishment even if ignored, the overt act stands proved.

13. That, the accused came to the house of the deceased with the intention of questioning them regarding the visit made to the deity installed in the disputed property, has been unequivocally proved by the oral testimony of witnesses. That, the accused came to the house armed with deadly weapons also stands established which clearly points to the premeditation and the intention to cause injuries which were likely to cause death. The facts regarding the fight and the overt acts, as disclosed from the evidence does not commend us to find an offence covered under Part II of Section 304 nor falls under any of the Exceptions to Section 300; resulting in a finding of culpable homicide not amounting to murder. The medical evidence, that the injury could be caused either manually by a hard and blunt object or by an accidental fall, does not detract from the finding under Section 302, especially considering the ocular testimony; (i) of the accused having come with deadly weapons to the house of the victims, (ii) the altercation and fight that ensued and (iii) the overt acts of the accused, inflicting injuries on various parts of the body of the deceased and victims, (iv) totally corroborated by the medical evidence regarding injuries on the deceased and each of the injured witnesses; PWs 1 to 3. The fatal injury caused on the deceased was by a blow to the head; a vital part of the body, with the reverse side of an axe. The intention thus is clear, from the deadly nature of the weapons carried by the accused, who were the aggressors, who trespassed into the house of the victims and wielded such weapons in a manner causing grievous injuries to the victims; one of whom died. The severity of the injury, caused by a blow to the head, definitely resulted in the death; though after a few days, as deposed by the Doctor.
14. We find no reason to interfere with the conviction and sentence imposed on the accused. The appeal stands dismissed. The appellants, if on bail, shall appear and surrender before the Sessions

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Court, within two weeks of this order; failing which the Sessions Court shall take appropriate steps to apprehend them so as to undergo the sentence awarded.

15. Pending application(s), if any, shall stand disposed of.

*Result of the case:* Appeal dismissed.

<sup>†</sup>*Headnotes prepared by:* Nidhi Jain