



2026:CGHC:2137-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 336 of 2022**

Surendra Banjare S/o Late Tarachand Banjare, Aged About 28 Years
R/o Village Rani Bagicha, Pandariya, P.S. Gandai, District Rajnandgaon
Chhattisgarh

... Appellant**versus**

State of Chhattisgarh, through the District Magistrate, District
Rajnandgaon Chhattisgarh

... Respondent

(Cause-title taken from Case Information System)

For Appellant	:	Mr. M.P.S. Bhatia, Advocate
For Respondent/State	:	Mr. S.S. Baghel, Govt. Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Judgment on Board**Per Ramesh Sinha, Chief Justice****14.01.2026**

1. This criminal appeal preferred under Section 374(2) of the Cr.P.C. is directed against the impugned judgment of conviction and order of sentence dated 14.01.2022 passed by the learned Additional Sessions Judge, Khairagarh, District – Rajnandgaon in Sessions Case No. 11 of 2019, by which the appellant has been convicted

for offence punishable under Section 302 of the Indian Penal Code (IPC) and sentenced to undergo rigorous imprisonment for life and fine of Rs.1,000/-, in default of payment of fine, additional rigorous imprisonment for 06 months.

2. The case of the prosecution, in brief, is that on 18.02.2019 at 06.00 pm, the accused, after consuming alcohol, quarreled with his wife Lalita Bai and set her on fire by pouring kerosene oil on her. On receiving information in this regard from Community Health Centre, Gandai to Police Station, Gandai over telephone, the Inspector in-charge of Police Station Gandai, Alexander Kiro, immediately went to Community Health Centre, Gandai and got the injured examined and considering the condition of the injured during treatment and the possibility of death, her dying declaration Ex.P-1 was taken. After taking the dying declaration, a memo was issued by Police Station in-charge Gandai which is Ex.P-9. On finding the commission of a crime against the accused / appellant on the basis of the said statement of the injured, Police Station Gandai registered a First Information Report against the accused/ appellant bearing Crime No. 52/2019 under Section 307 of the IPC and taken into investigation. Soil, plain soil, hair from the victim's head were recovered from the scene of incident and on the production of the accused, a plastic kerosene oil container filled with about 50 ml, a matchbox and on the production of Hirabai, the victim's half burnt saree and petticoat were seized in front of witnesses as per seizure memo Ex.P-5. A site map of the

scene Ex.P-3 and panchnama Ex.P-4 were prepared. The seized items were sent to FSL Raipur for chemical examination. The statements of the witnesses were recorded in the case. After the entire proceedings, a charge sheet was filed against the accused/appellant under Section 307 of the IPC before the Court of Judicial Magistrate First Class, Ghuikhadan, District-Rajnandgaon (Chhattisgarh) and thereafter, as the case was exclusively triable by the Sessions Court, it was ultimately handed over to the Court of Additional Sessions Judge, Khairagarh, District – Rajnandgaon for trial.

3. During the trial of said case, the injured, Smt. Lalita Banjare, died. Gandai Police Station submitted a supplementary challan in Crime No. 51/2019. Following the deceased's death, inquest was prepared vide Ex.P11 after giving notices to the witnesses vide Ex.P-10. The deceased's medical record, which was seized, is Ex.P12. During the supplementary investigation, the Tehsildar conducted inquest proceedings, Ex.P13. The body was sent to CHC Chhuikhadan for examination. The autopsy application is Ex.P14 and the postmortem report is Ex.P15, both of which are signed on Part A and B. During the investigation, Tehsildar Kumari Mamta Tawri (PW4) conducted the Panchnama proceedings before the deceased's postmortem. Following the supplementary investigation, Gandai Police Station submitted a supplementary challan before the Court of Additional Sessions Judge, Khairagarh, District – Rajnandgaon.

4. When the charges were framed against the accused under sections 307 and 302 of the IPC and read to him, he denied the crime and sought a defense. The accused was tried under section 313 of the CrPC. He pleaded not guilty and has not examined the witness in his defence, stating that he is falsely implicated.
5. The prosecution has examined a total of 5 witnesses in support of its case under Section 307 of the IPC and 06 witnesses in the form of authentication under Section 302 of the IPC. The prosecution has examined the deceased Smt. Lalita Banjare (PW1), Hirabai Mahilarge (PW2), Sajeevan Mandle (PW3), Indal Mahilange (PW4), Divya Mahilange (PW5) under Section 307 of the IPC. After the death of deceased Smt. Lalita Banjare the accused was charged under Section 302 of the IPC as death was caused as a result of the said incident. Charges have been framed, in relation to which the prosecution has got statements of prosecution witnesses Devbati Mandel (PW1), Ubaran Mandle (PW2), Miludas Tandon (PW3), Tehsildar Kumari Mamta Tawari (PW4), Dr. Abhinav Panchari (PW5), Assistant Sub-Inspector Tohanlal Sahu (PW6) recorded in support of its case.
6. The trial Court upon appreciation of oral and documentary evidence on record and considering that it is the appellant who has committed the murder of his wife deceased Smt. Lalita Banjare, convicted and sentenced him under Section 302 of the IPC, against which the instant appeal under Section 374(2) of the Cr.P.C. has been preferred by the appellant.

7. Mr. MPS Bhatia, learned counsel for the appellant submits that the impugned judgment and findings of the learned trial Court are contrary to law and the facts of the case and therefore deserve to be set aside. The prosecution has failed to prove the essential ingredients of Section 302 of the IPC beyond reasonable doubt, as no trustworthy or independent witness was examined, and the evidence relied upon is neither conclusive nor credible. He further submits that the incident took place on 18.02.2019 and the deceased died on 27.07.2019 i.e. after more than 5 months and 9 days due to septicemia, as such, the trial Court erred in continuing the proceedings under Section 302 IPC after the death of the injured eye witness, Lalita Banjare (PW-1), without adequately considering that the case initially pertained to Section 307 IPC. He further submitted that given the presence of reasonable doubts, the appellant is entitled to the benefit of such doubts and should be acquitted, or at the very least, be convicted under Section 307 IPC.
8. On the other hand, Mr. S.S. Baghel, learned Government Advocate, appearing for the respondent/State, submitted that the appeal is without merit and the impugned judgment of the trial Court deserves to be upheld. It is contended that the prosecution has proved beyond reasonable doubt that the accused/appellant intentionally caused the death of his wife, Smt. Lalita Banjare, by setting her on fire after consuming alcohol, which directly led to her fatal injuries. He further submitted that the delay between the

incident (18.02.2019) and the death of the deceased (27.07.2019) does not break the chain of causation, as the medical evidence clearly establishes that her death was the direct consequence of the injuries sustained in the assault. It is also submitted that the trial Court correctly considered the evidence, including the dying declaration (Ex.P-1), seizure of material evidence (Ex.P-5), and the statements of witnesses recorded during the investigation, which together form a reliable and sufficient basis for conviction under Section 302 IPC. The argument regarding the lack of independent witnesses is misplaced, as the law recognizes the value of dying declarations and corroborative evidence, which have been duly considered by the trial Court. He also submits that the appellant's conviction and sentence under Section 302 IPC are legally sound and must be maintained.

9. We have heard the learned counsel for the parties and considered their rival submissions made hereinabove and also went through the original records of the trial Court with utmost circumspection.
10. The question for consideration would be, whether the trial Court has rightly held that the appellant is author of the crime.
11. From perusal of the record, it transpires that initially an FIR was registered against the accused/appellant under Section 307 of IPC for attempting to murder his wife Smt. Lalita Banjare by pouring kerosene on her and burning her with the intention of killing her and a challan was presented under Section 307 of the

IPC. During the trial of the said case by trial Court, the evidence of the injured Smt. Lalita Banjare (PW-1) was taken on 24.07.2019, along with her, the statements of 5 other witnesses were also taken by the prosecution. Meanwhile, the prosecution has submitted an application under Section 216 CrPC dated 04.10.2019, drawing attention to the death of the injured Smt. Lalita Banjare on 27.07.2019, and sought trial against the accused under Section 302 of the Indian Penal Code. Before this, Gandai police station had submitted a supplementary challan in which the postmortem application of the deceased, postmortem report, panchnama, notice and statements of witnesses were presented. Thereafter, considering the circumstances of the case, the said application was accepted. The prosecution evidence has been initiated by framing charges against the accused under Section 302 of the Indian Penal Code and calling for the evidence list again from the prosecution.

12. In such a situation, it becomes necessary to closely examine the statements of the prosecution witnesses regarding the crime against accused / appellant under Section 307 of the IPC before Section 302 of the IPC. In this regard, Lalita Banjare (PW1), the injured/deceased woman, stated in her Court statement that she knew accused Surendra Banjare because he was her husband. She had married accused Surendra Banjare in a love marriage. She further stated that on 18.02.2019, while she was at home, her husband returned home drunk at 4-5 p.m. She said, "He was not

feeling well, he got an injection this morning and then came back drunk. He create a drama every day after drinking. She won't stay with him. She is going to her parents' house." Saying this, she put her clothes in her bag.

13. The injured/deceased Lalita Banjare (PW1) has further stated in her court statement that then her husband snatched the bag from her hand and took it out in the courtyard and said that he would set it on fire and threw the clothes on the ground. Then the accused fought with her and brought a can of kerosene oil from the room and poured kerosene on her body and went inside and brought a matchstick from inside and lit the matchstick and threw it on her body due to which her body caught fire. Then her body started burning, then her husband poured water on her, then her brother-in-law immediately took her to Gandai Hospital. The injured/deceased Lalita Banjare (PW1) further stated in her Court statement that the accused used to assault her under the influence of alcohol. The villagers witnessed the incident. Her husband, the accused, used to borrow money and drink alcohol. She also stated that while she was hospitalized, the Naib Tehsildar Gandai came to the hospital and recorded her dying declaration, in which she stated that her husband, under the influence of alcohol, had attempted to kill her by pouring kerosene on her and burning her. Her signature is on Part A of Ex.P.1, the dying declaration.
14. As the injured did not support the prosecution on some points,

with the permission of the Court, when leading questions were asked, she told that she had given her police statement Ex.P2 to the police. Thus, the injured has told in her court statement that on the incident date 18.02.2019, the accused came in the evening under the influence of alcohol and beat her, brought matchsticks and kerosene from home, poured it on her and burnt her with the matchstick, due to which she got seriously burnt.

15. The injured (deceased) has accepted in paragraph 8 of her cross-examination that her husband, the accused, comes home drunk everyday, on the said date of incident there was a dispute between the two, due to which she was taking her bag to her maternal home, which the accused stopped her, she has denied then the accused said that she used to go to her maternal home again and again, saying this he snatched the bag and took it inside the house, she has voluntarily said that he threw it there itself after snatching it. In paragraph 9, she has voluntarily stated that the accused snatched her bag, took kerosene from the kerosene can kept inside the house, poured it on her and set it on fire with a matchstick, she has denied that due to a dispute between the two she poured kerosene on herself and set herself on fire, she has also denied that her husband came to save her and admitted her to the hospital.
16. In cross-examination, the injured (PW1) denied the defense's suggestion that she herself had poured kerosene and set herself on fire, and that the dying declaration (Ex.1) was not given by her;

her parents were present when the Tehsildar took the dying declaration. Thus, this witness completely rejected all the defense's suggestions and by giving a statement against the accused, it has been said that the accused himself, under the influence of alcohol, poured kerosene and set the body on fire, which supports the prosecution's story.

17. However, other prosecution witness Hirabai Mahilange (PW-2) who is the grandmother of the accused, did not support the prosecution's story and only proved that during the investigation the Patwari came to prepare the site map and the site map (Ex.P.3) was prepared in her presence and the Panchnama Ex.P.4 of the site was prepared and she said that there is thumb impression on the seizure memo Ex.P.5. Similarly, other prosecution witnesses Indal Mahilange (PW-4), Divya Mahilange (PW-5) also did not support the prosecution, Indal (PW-3) only certified the site map Ex.P.9.
18. Besides this, another important witness of the case Sajeevan Mandle (PW-3) has stated in his court statement that the accused is his son-in-law, the inured Lalita Bai is his daughter, who died on 27.07.2019. He further stated that the accused and his daughter had a love marriage, the accused had eloped with her, at the time of the incident he had gone to work in a furniture shop in Narmada, then his son-in-law Surendra called and said that "He is burning her daughter by setting her on fire, if he want to save her then save her". Then he said to his son-in-law with folded hands

on the phone itself, do not kill his daughter by setting her on fire. Then he was preparing to leave, at that very moment Surendra Banjare (accused) called and said, "Papa, he had burnt Lalita by setting her on fire, if he want to save her then save her". Then he and his nephew Bedaram went to his daughter Lalita's house in Pandariya, there they met Lalita's grand father-in-law Indal and grand mother-in-law Hira Bai, then on asking where is his daughter Lalita, he was told that she has been taken to Gandai Hospital, then he came to Gandai Government Hospital, where his daughter was found in a burnt condition.

19. This witness further stated in paragraph 3 of his court statement that the doctors advised him to take his daughter Lalita to Rajnandgaon District Hospital. Accordingly, he took Lalita to the hospital and asked her what had happened. Lalita stated that her husband, Surendra, had come home after drinking alcohol. She further said that, despite him being unwell, he had returned after drinking, and she would not live with him and intended to go to her parents' house. She packed her clothes into a bag, which her husband snatched from her, took it to the courtyard, and began throwing the clothes on the ground, threatening to set her on fire. When she refused, the accused slapped her, brought a kerosene can from the room, poured kerosene over her body, and set her on fire. Her daughter also stated that when she to drink alcohol, her husband burned her with the intention of killing her.
20. The witness further stated that he had his daughter treated at

Rajnandgaon Hospital for 10 days, and after bringing her home, continued her treatment at home for five months. During the same period, he also admitted her to Om Hospital in Raipur for 10 days for further treatment. The defence did not substantially refute his examination-in-chief; therefore, his statement is credible. This witness corroborated the statement given by his daughter, Smt. Lalita Bai (PW-1), as per the prosecution story, and clearly stated that the accused, under the influence of alcohol and with the intention of killing her, poured kerosene on her and set her on fire, resulting in her death after 04 days of recording her statement.

21. The proposition which has been laid down by the Supreme Court in the matter of ***Md. Jabbar Ali and Others Vs. State of Assam*** {2022 SCC OnLine SC 1440} stated that it is the well-settled principle that just because the witnesses are related/interested/partisan witnesses, their testimonies cannot be disregarded, however, it is also true that when the witnesses are related/interested, their testimonies have to be scrutinized with greater care and circumspection. The Court in para 55 & 56 has held as under:-

55. It is noted that great weight has been attached to the testimonies of the witnesses in the instant case. Having regard to the aforesaid fact that this Court has examined the credibility of the witnesses to rule out any tainted evidence given in the court of Law. It was contended by learned counsel for the appellant that the prosecution failed to examine any independent

witnesses in the present case and that the witnesses were related to each other. This Court in a number of cases has had the opportunity to consider the said aspect of related/interested/partisan witnesses and the credibility of such witnesses. This Court is conscious of the well-settled principle that just because the witnesses are related/interested/partisan witnesses, their testimonies cannot be disregarded, however, it is also true that when the witnesses are related/interested, their testimonies have to be scrutinized with greater care and circumspection. In the case of Gangadhar Behera v. State of Orissa (2002) 8 SCC 381, this Court held that the testimony of such related witnesses should be analysed with caution for its credibility.

56. In Raju alias Balachandran v. State of Tamil Nadu (2012) 12 SCC 701, this Court observed:

“29. The sum and substance is that the evidence of a related or interested witness should be meticulously and carefully examined. In a case where the related and interested witness may have some enmity with the assailant, the bar would need to be raised and the evidence of the witness would have to be examined by applying a standard of discerning scrutiny. However, this is only a rule of prudence and not one of law, as held in Dalip Singh [(1953) 2 SCC 36: AIR 1953 SC 364] and pithily reiterated in Sarwan Singh [(1976) 4 SCC 369] in the following words: (Sarwan Singh case [(1976) 4 SCC 369, p. 376, para 10)

“10. ... The evidence of an interested witness does not suffer from any infirmity as such, but the courts require as a rule of prudence, not as a rule of law, that the evidence of such witnesses should be scrutinised with a little care. Once that approach is made and the court is satisfied that the evidence of interested witnesses have a ring of truth such evidence could be relied upon even without corroboration.”

22. Similar view has been reiterated by the Supreme Court in the matter of ***Manikandan Vs. State By Inspector of Police {AIR 2024 Supreme Court 1801}*** and ***Bhupatbhai Bachubhai Chavda and Another Vs. State of Gujarat {AIR 2024 Supreme Court 1805}*** .
23. The Supreme Court in the matter of ***Balu Sudam Khalde and another Vs. State of Maharashtra {AIR 2023 Supreme Court 1736: AIROnline 2023 SC 229}*** has discussed the value to be given to the injured witnesses. Wherein at para 26 the Court has laid down the following principles:-

26. When the evidence of an injured eye-witness is to be appreciated, the under-noted legal principles enunciated by the Courts are required to be kept in mind:

(a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

(b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

(d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

(e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

(f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.

24. Apart from this, now it is necessary to consider the offence under Section 302 of the IPC against the accused in the case. In this regard, the witnesses examined by the prosecution, Devbati Mandle (PW1), Ubaran Mandle (PW2) have stated in their Court statement that they know the accused, the accused is their son-in-law, the deceased Lalita was their sister, about 6-7 years ago Lalita was married to the accused Surendra Banjare, she lived with her husband in village Pandariya, about 3 years ago the accused Surendra Banjare called on Sajeevan Mandle's mobile and told that he had burnt the deceased Lalita Banjare by pouring

kerosene oil on her, after that her father-in-law/father Sajeevan Mandle went to the Government Hospital Gandai Hospital, seeing the serious condition of the deceased she was referred to Rajnandgaon District Hospital, when she was not treated there, she was taken to Raipur Hospital, after recovery the deceased returned to her maternal home in village Basawar. When the deceased came to her parents' house, she told that her husband, the accused, poured kerosene on her and burnt her. She used to stop him from drinking alcohol, due to which the accused beat her and burnt her. After some time, Lalita died.

25. In addition, another prosecution witness, Tehsildar Kumari Mamta Tawari (PW-4), stated in her Court statement that she was posted as Naib Tehsildar in Khairagarh from 2018 to January 2021. On 27.07.2019, the Tehsildar received a report from Chhuikhadan police station for the Panchnama proceedings of the deceased newly married woman, Smt. Lalita Banjare. In the absence of the Tehsildar, she prepared the report, Ex.P.15. On the same date, she issued a notice under Section 175 of the CrPC to the witnesses regarding their presence in the Panchnama, which is Ex.P.10, of which her signatures are on parts b to c. The entire proceedings of the Panchnama were conducted, which is Ex.P.11, of which her signatures are on parts c to c. The defence has not substantially refuted the examination-in-chief of the said witness.
26. Dr. Abhinav Panchari (PW5), who had conducted postmortem over the dead body of deceased Lalita Banjare and given a report

vide Ex.P-14, has specifically stated that after conducting the autopsy, he opined that Lalita died as a result of septic shock, infection, and burn injuries. The autopsy was conducted within 24 hours of her death. Thus, in his statement, this witness stated that the deceased's death was due to extensive burns, which has not been substantially refuted.

27. Upon an overall reappraisal of the entire oral and documentary evidence on record, this Court finds no infirmity, illegality, or perversity in the findings recorded by the learned trial Court. The prosecution has been able to establish, beyond reasonable doubt, that the accused/appellant is the author of the crime. The testimony of the injured/deceased Lalita Banjare (PW-1), recorded during her lifetime, is clear, cogent, consistent, and inspires confidence. Her statement before the Court as well as her dying declaration (Ex.P-1) unequivocally attribute the act of pouring kerosene and setting her on fire to the accused, under the influence of alcohol, with the intention to kill her. The defence has failed to elicit any material contradiction or infirmity in her testimony so as to discredit the same.
28. The evidence of Sajeevan Mandle (PW-3), father of the deceased, duly corroborates the version of PW-1. His testimony explains the entire sequence of events, the motive, the manner of commission of the offence, and the subsequent treatment of the deceased. Merely because he is a related witness, his testimony cannot be discarded, particularly when it stands corroborated by medical and

documentary evidence, and has withstood cross-examination. The law on appreciation of evidence of related and injured witnesses is well settled by the Supreme Court in *Md. Jabbar Ali* (supra), *Manikandan* (supra), *Bhupatbhai Bachubhai Chavda* (supra) and *Balu Sudam Khalde* (supra), wherein it has been consistently held that such evidence carries greater evidentiary value and cannot be discarded unless serious infirmities are found.

29. The contention of the appellant that the delay between the date of incident and the date of death snaps the chain of causation is wholly untenable. The medical evidence of Dr. Abhinav Panchari (PW-5) clearly establishes that the deceased died due to septic shock and infection resulting from burn injuries. Septicemia is a known complication of burn injuries, and the passage of time does not, by itself, absolve the accused when the death is a direct consequence of the injuries inflicted. The principle that an assailant cannot escape liability merely because the victim survived for some time before succumbing to injuries is well recognised in criminal jurisprudence.
30. The argument regarding the absence of independent witnesses also does not advance the case of the appellant. In offences occurring within the four walls of a matrimonial home, the presence of independent witnesses is often improbable. Conviction can be safely based on the testimony of the injured witness, dying declaration, and corroborative medical and circumstantial evidence. The trial Court has rightly relied upon

such evidence after due scrutiny.

31. The submission that at best the offence would fall under Section 307 IPC is also devoid of merit. The act of pouring kerosene and setting the victim on fire clearly demonstrates intention and knowledge sufficient to attract Section 300 IPC. The subsequent death of the victim as a direct consequence of those acts squarely brings the offence within the ambit of Section 302 IPC. The trial Court has correctly applied the law in altering the charge after the death of the injured and in convicting the appellant for the offence of murder.
32. In view of the aforesaid discussion, this Court is of the considered opinion that the prosecution has successfully proved its case against the accused/appellant beyond reasonable doubt. The findings recorded by the learned trial Court are based on proper appreciation of evidence and settled principles of law and do not warrant any interference by this Court.
33. Consequently, the appeal being devoid of merit is hereby **dismissed**. The conviction and sentence imposed upon the appellant under Section 302 of the IPC by the learned trial Court are hereby **affirmed**. The appellant shall continue to undergo the sentence as awarded by the trial Court.
34. Let a copy of this judgment and the original record be transmitted to the trial court concerned forthwith for necessary information and compliance.

35. Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice