

**2022 LiveLaw (SC) 217**

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
DINESH MAHESHWARI, VIKRAM NATH, JJ.  
CRIMINAL APPEAL NO. 1349 OF 2013; February 25, 2022  
SURESH YADAV @ GUDDU Vs. THE STATE OF CHHATTISGARH**

**Criminal Trial - Eye Witness - The evidence of eye-witness cannot be discarded only for the reason that he allegedly did not raise any alarm or did not try to intervene when the deceased was being ferociously assaulted and stabbed.**

**Indian Penal Code, 1860 - Section 302 - Appeal against concurrent conviction under Section 302 - Excessive number of injuries do not ipso facto lead to an inference about involvement of more than one person; rather the nature of injuries and similarity of their size/dimension would only lead to the inference that she was mercilessly and repeatedly stabbed by the same weapon and by the same person - The evidence of the eye-witness to the incident, remains unimpeachable and has been believed by the two Courts - Do not find the present one to be a case of manifest illegality so as to call for interference.**

*For Appellant(s) Jail Petition, AOR*

*For Respondent(s) Mr. Sumeer Sodhi, AOR Mr. Ranjit Sharma, Adv.*

**J U D G M E N T**

**DINESH MAHESHWARI, J:**

Though the matter is posted for directions but, having regard to the circumstances of the case and the issues involved, we have heard learned amicus curiae and learned counsel for the State finally at this stage itself.

Shorn of unnecessary details, the relevant background aspects of the matter are that the appellant herein had been convicted of offences under Section 302 IPC and Sections 25 and 27 of the Arms Act, after having been tried in Sessions Case No. 05 of 2004 by the Court of Ninth Additional Sessions Judge (F.T.C.), Durg.

The accusations against the appellant had been that he was having a love affair with the deceased but, got enraged when he saw the deceased talking to another boy; and caused multiple injuries to the deceased by a pointed knife, leading to her death. As per the post-mortem report (Ex. P-21A), as many as 12 injuries were found over the body of the deceased, including penetrating wounds on lungs and liver. The prosecution also examined PW-1 as an eyewitness, who asserted having seen the appellant repeatedly causing injuries on the person of the deceased. The prosecution further asserted that the weapon of offence, the knife of about 21 cm long blade, was recovered on the disclosure made by the appellant.

Taking an overall view of the evidence, the Trial Court held that the prosecution had been able to substantiate the charges; and, after convicting the appellant as noticed above, awarded varying punishments, including that of life imprisonment for the offence under Section 302 IPC. In appeal, the High Court again examined the relevant evidence and found no reason to interfere with the findings of the Trial Court and thus, affirmed the conviction of the appellant as also the punishments awarded to him.

The learned amicus curiae has submitted that there had been no evidence of matching of the blood allegedly found on the knife with that of the deceased; that PW-1 cannot be said to be a reliable witness, particularly when the incident allegedly happened in front of his house, but he neither raised any alarm nor tried to save the deceased; and that excessive number of injuries on the person of the deceased would suggest involvement of more than one person. *Per contra*, learned counsel for the respondent-State has duly supported the findings of the Trial Court and the High Court.

Having examined the matter in its totality, we find no reason to consider any interference in this appeal.

As regards the scope and width of such an appeal by special leave against concurrent findings, this Court, in the case of [Pappu v. State of Uttar Pradesh](#): Criminal Appeal Nos. 1097-1098 of 2018 decided on 09.02.2022, after a survey of various decisions on the topic, has summed up as follows:

“20.....In such an appeal by special leave, where the Trial Court and the High Court have concurrently returned the findings of fact after appreciation of evidence, each and every finding of fact cannot be contested nor such an appeal could be dealt with as if another forum for reappraisal of evidence. Of course, if the assessment by the Trial Court and the High Court could be said to be vitiated by any error of law or procedure or misreading of evidence or in disregard to the norms of judicial process leading to serious prejudice or injustice, this Court may, and in appropriate cases would, interfere in order to prevent grave or serious miscarriage of justice but, such a course is adopted only in rare and exceptional cases of manifest illegality. Tersely put, it is not a matter of regular appeal. This Court would not interfere with the concurrent findings of fact based on pure appreciation of evidence nor it is the scope of these appeals that this Court would enter into reappraisal of evidence so as to take a view different than that taken by the Trial Court and approved by the High Court.”

The submissions made before us are essentially for reappraisal of evidence or for taking a different view of the evidence than that has been taken by the Trial Court and the High Court. Nothing of any misreading of the evidence or any error of law or procedure has been pointed out.

Even otherwise, we do not find the present one to be a case of manifest illegality so as to call for interference. The evidence of PW-1, being the eye-witness to the incident, remains unimpeachable and has been believed by the two Courts. His

evidence cannot be discarded only for the reason that he allegedly did not raise any alarm or did not try to intervene when the deceased was being ferociously assaulted and stabbed. Excessive number of injuries do not ipso facto lead to an inference about involvement of more than one person; rather the nature of injuries and similarity of their size/dimension would only lead to the inference that she was mercilessly and repeatedly stabbed by the same weapon and by the same person.

For what has been discussed hereinabove, this appeal is required to be dismissed.

As per the Office Report and the Custody Certificate placed before us, it appears that on 07.09.2019, the appellant, after having served the sentence of imprisonment for a period of 15 years 9 months and 27 days, was released under Section 432 CrPC by the Government of Chhattisgarh. Having regard to the circumstances, we make it clear that dismissal of this appeal shall not be of any adverse effect on such exercise of power of remission by the Government of Chhattisgarh.

Subject to the observations foregoing, this appeal stands dismissed.

We place on record our appreciation for the able assistance extended by the learned amicus curiae as also by the learned counsel for the State in disposal of this matter.

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