
CASE NOTE ON JUDICIAL CONDEMNATION OF WITCH-HUNTING (BALKU ORAM V. STATE OF ODISHA, 2026 SCC ONLINE SC 1568)

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Decided on : August 13, 2026

Coram : Hon'ble Mr. Justice Prakash Kumar Mishra

Hon'ble Mr. Justice Nilay Vipichandra Anjaria

Equivalent Citation: 2026 INSC 852

Background

The present matter was an appeal against the judgement and order of High Court of Orissa, whereby the High Court affirmed the conviction and sentence imposed by Trial Court, convicting the appellant, Balku Oram, of the offence punishable under Section 302¹ read with Section 34² of the Indian Penal Code, 1860, and sentencing him to rigorous imprisonment.

On 17 February 1998, the youngest daughter of Manobodha Naik of Village Gundibali Luhakera died. Her family members attributed her death to witchcraft allegedly practised by the deceased, Puni Naik. The accused and co-accused thereafter went to the house of the deceased, dragged her out of her house and took her to the house of Manobodha Naik, where they assaulted her severely by means of a *lathi* (staff). The deceased died in the early hours of 18 February 1998.

The entire incident was witnessed by P.W.3, the daughter of the deceased. On 18 February 1998 at about 11:00 A.M., P.W.3 accompanied by her maternal uncle, went to the police station and gave a written complaint. A FIR dated 18 February 1998 was registered against the

¹ Indian Penal Code, 1860 § 302.

² Indian Penal Code, 1860 § 34.

appellant and co-accused under Section 302 read with Section 34 of the IPC.

The prosecution examined 9 witnesses, however, the defence examined none. The trial court solely relied on the eyewitness testimony of PW 3 and convicted the appellant and co-accused under Section 302 read with Section 34 IPC, sentencing them to life imprisonment. The High Court of Orissa, by judgment dated 29 September 2022, dismissed the appeal and affirmed the conviction and sentence by the Trial Court.

Issues

- I. Whether the Supreme Court shall interfere with the concurrent findings of the fact recorded by the Trial Court and the High Court.
- II. Whether the reliance on the testimony of a sole eyewitness, i.e., P.W.3 who was the daughter of the deceased, alleged by the appellants to be an ‘interested witness’ and absence of independent corroboration could render the testimony of P.W.3 insufficient.
- III. Whether the case could be brought within Section 304 Part I or Part II of the IPC.
- IV. Whether the filing of FIR on the next day of incident would amount to delay casting doubt on the case of prosecution.

Submissions on behalf of the Appellant

The Appellant argued that, P.W.3, being the daughter of the deceased, is an ‘interested witness’ and that her testimony, being uncorroborated by any independent witness, ought not to be relied upon to sustain a conviction under Section 302 read with Section 34 IPC.

Another contention raised was that the case of Appellant would fall under the realm Section 304 Part I or Part II of the IPC³ since the act was committed under grave and sudden provocation, therefore, lacking intention to cause death.

It was also argued that there has been a delay in filing of the FIR against the appellant since the incident occurred on 17.02.1998; however, the FIR was lodged on 18.02.1998, the next

³ Indian Penal Code, 1860, § 304.

day. The delay, thereby, cast doubt on the case of prosecution.

It was additionally submitted that the testimony of P.W.3 suffered from material inconsistencies rendering it unsafe to act upon. In particular, attention was drawn to the discrepancy between the time of death recorded in the FIR (5:00 p.m.) and the time deposed to by P.W.3 in her cross-examination (variously stated as around 12:00 p.m. or 1:00 a.m. at night). It was further pointed out that while P.W.3 deposed in cross-examination that "Balku was holding axe and Udaya was holding Badi," the post-mortem report did not record any injury attributable to an axe, thereby contradicting the ocular account and casting doubt on the reliability of her testimony as a whole.

Submissions on behalf of the Respondent (State)

The Respondent argued that the mere fact that P.W.3 is related to the deceased does not, by itself, render her an 'interested witness'. The testimony of P.W.3 has been duly corroborated with the medical evidence, it further negates any chance of falsely implicating the appellant. It was submitted that the conviction can be sustained on the basis of a sole reliable witness testimony as quality of the witness matters more than the quantity of the witness.⁴

On the question of delay in lodging the FIR, it was submitted that both the Trial Court and the High Court had correctly held that the delay stood sufficiently explained on facts, having regard to the age of P.W.3 and the trauma of having witnessed her mother's brutal killing. It was contended that a delay of a few hours, duly explained, cannot be permitted to displace an otherwise credible and consistent case set up by the prosecution.

On the plea that the case fell within Exception 1 to Section 300 IPC, it was submitted that the appellant had made no attempt whatsoever, either before the Trial Court or the High Court, to establish the ingredients of grave and sudden provocation, and that this defence, being raised for the first time in a belated manner, was liable to be rejected outright. It was further contended that the nature and location of the injuries inflicted upon vital parts of the deceased's body themselves belied any suggestion of a sudden, unpremeditated act falling short of the intention

⁴ Vadlevu Thevar v. State of Madras, (1957) 1 SCC 700., Adalat Yadav v. State of Bihar, (2026) SCC Online SC 660.

required for murder under Section 302 IPC.

Judgement

The Supreme Court (Prashant Kumar Mishra and N.V. Anjaria, JJ.) dismissed the appeal and affirmed the conviction and life sentence of the appellant, upholding the concurrent findings of the Trial Court and the High Court.

The very first contention by the appellant was regarding the interference of the Supreme Court with the findings of the Trial Court and the High Court. The Court reiterated that its power under Article 136⁵ to interfere with concurrent findings of fact in criminal appeals is exercised only in exceptional circumstances where findings are perverse, contrary to natural justice, or unsupportable from the evidence and found no such exceptional circumstance here.⁶ Thus, the Court proceeded with the evidence on record and findings of the Courts below to ascertain whether the present case discloses any exceptional circumstance justifying interference.

The Court, then, examined the reliance on testimony by the sole witness, P.W. 3., and explained that direct ocular evidence, in criminal jurisprudence, if found to be natural, cogent and trustworthy, constitutes the best form of evidence and ordinarily prevails over all forms of evidence. P.W.3 (daughter of the deceased), being the only eyewitness, is said to have witnessed the entire incident when her deceased mother was being killed by the appellant and the co-accused. P.W.3's account was held to be natural, consistent, and unshaken throughout chief-examination and cross examination, on the aspect that it was indeed the appellant and the co-accused who inflicted such brutality on the deceased, which ultimately led to her death. The Court reaffirmed the settled principle that conviction may rest on a single witness's testimony if it inspires confidence and that quality outweighs quantity⁷. A few contradictions in the form of omissions here or there is not sufficient to discard the entire evidence of the eyewitnesses.⁸ The Court reiterated that, *“the time-honoured principle is that evidence has to be weighed and not counted. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy or otherwise. The legal system has laid emphasis on value, weight and quality of evidence, rather than on quantity, multiplicity or plurality of witnesses. It is,*

⁵ INDIAN CONST. art 136.

⁶ Shahaja alias Shahajan Ismail Mohd. Shaikh v. State of Maharashtra, (2023) 12 SCC 558.

⁷ *Id.*

⁸ *Supra* note 2.

*therefore, open to a competent court to fully and completely rely on a solitary witness and record conviction*⁹". The version of P.W.3 on the manner of assault and the weapons used has remained consistent, credible enough to safely sustain conviction of the appellant.

As contended by the Appellant that the witness, being the daughter of the deceased, falls within the bracket of 'interested witness', the Court responded that the direct testimony of P.W.3 has been duly corroborated with medical evidence which further establishes the guilt of the appellant beyond reasonable doubt and doesn't fall within the bracket of interested/related witness. This Court had previously held that, "*a close relative who is a very natural witness cannot be regarded as an interested witness. A witness can be regarded as an interested witness only when it can be shown that such witness has direct motive, personal animosity or any other reason to falsely implicate the accused person*¹⁰".

The Court, also, ascertained the post-mortem examination of the deceased on 18.02.1998 and examined the nature of injuries, to decide whether the case falls under the realm of grave and sudden provocation, as contended by the Appellant. This Court in the case of *Pulicherla Nagaraju alias Nagaraja Reddy v. State of A.P*¹¹ held that the distinction between Section 302 and Section 304 of the IPC depends on the intention of the accused person, which has to be gathered from the overall circumstances including the nature of the weapon used, part of the body targeted, whether the act was in the course of sudden quarrel or sudden fight or free for all fight, whether the incident occurs by chance or whether there was any premeditation, etc.

Therefore, the Court explained that the nature of the injuries inflicted on the body of the deceased including grievous injuries on head, neck, chest and other vital parts of the body, manifests a clear intention on the part of the appellant to cause the death of the deceased. There is nothing to prove on record that the case attracts any of the exceptions to Section 300 of the IPC. The plea of conversion of the conviction to one under section 304 Part I or Part II of the IPC, is, therefore, liable to be rejected.

Another contention before the Court was that there was a delay in filing of FIR, thereby, casting a doubt on the case of prosecution. The Court relied on the judgement of *Om Pal v. State of*

⁹ Prithpal Singh v. State of Punjab, (2012) 1 SCC 10.

¹⁰ Shio Shankar Dubey v. State of Bihar, (2019) 6 SCC 501.

¹¹ (2006) 11 SCC 444.

U.P.¹² which held that if the in filing of FIR is explained to the Court and the Court is satisfied with the same, then the delay couldn't be regarded as fatal to the case of prosecution. It further explained that the incident was said to have occurred at 7:00 p.m. on 17.02.1998 and the matter was reported in the Police Station at about 11:00 a.m. on 18.02.1998. It is a matter of record that at the time of the incident, P.W.3 was of 15-16 years of age. It is but natural that after witnessing the brutal assault and murder of her deceased mother, P.W.3 would have been under shock and despair. It was only when the maternal uncle of P.W.3 came to their house, she somehow mustered the courage to go to the Police Station to get the FIR lodged. Thus, it would not have been expected from the daughter to run to the concerned Police Station in the night itself. Keeping in view these circumstances, the delay in lodging the FIR has been well-explained.

Conclusively, the Appeal was held dismissed and the Court upheld the judgement of the High Court and the Trial Court, convicting the Appellant for the murder of the deceased under Section 302 read with Section 34 of the IPC.

Analysis

The present matter is undeniably a precise application of the criminal law doctrine- accurately explained the reliability and veracity of sole witness testimony, the distinction between Section 302 and Section 304 of the IPC, delay in lodging of FIR and confined the limits of an 'interested witness'. However, its remarkability lies in the way the Court explained the underlying issue of the society, 'witch-hunting'. In general, witch-hunting is a practice of killing women, who are branded as witches (daayan) and accused for misfortunes of that rural area. The Court responded to the subject with a strong condemnatory language. In a separate concluding section, the Court condemned witch-hunting as a "malady" reflecting deep-rooted social prejudice against women, holding that superstition and irrational fear cannot be permitted to supersede constitutional morality and the rule of law. It emphasised that such practices are incompatible with the constitutional vision of equality, fraternity, and scientific temperament, and expressed hope that the case would serve as a reminder that justice must prevail over superstition.

The bigger issue lies in the legislative ignorance of the matter. Here, the country requires

¹² 2025 SCC Online SC 2292.

legislative condemnation as well to oppose, as stated by the judiciary, the 'malady' of the society. The State-level legislations exist addressing the issue of witch-hunting, the first one being the Prevention of Witch (Daain) Practices Act, 1999 in Bihar. Other state legislations include Jharkhand, Chattisgarh, Assam and even the Odisha Prevention of Witch-hunting Act, 2013. However, the Act of 2013 finds no mention, and could not apply retrospectively to a 1998 offence. Witch-hunting remains a violent, gendered reality of parts of rural India and seeks a strong addressal.

Conclusion

The case therefore stands as a useful illustration of a broader problem: constitutional morality, however forcefully articulated from the bench, cannot by itself substitute for a coherent central legislative framework criminalising witch-hunting, protecting victims, and addressing its underlying socio-economic drivers. Until Parliament acts reviving something akin to the lapsed 2016 Private Member's Bill, or enacting a uniform central law cases like Balku Oram will continue to be decided, and disposed of, entirely on the ordinary criminal law, with the "malady" the Court laments left for the next bench to lament again.