

The sole accused Santosh Reddy has been charged U/s.302 and 201 of the I.P.C., 1860.

2. The projected case of the prosecution against the accused during trial is that, on dated 18.09.2011 night within 10 to 10.30 P.M., when Saraswati Dora and her two sons i.e. Chandramani Dora and Anil Kumar Dora were taking their dinner in their house at Laxminagar Basti, Saliasahi, at that time accused Santosh Reddy came to their house and called Chandramani Dora to witness Palla at Nayagarh Sahi of that Salia Sahi, to which Saraswati Dora did not agree to send Chandramani Dora with accused. Because, Chandramani Dora had disclosed earlier before her (Saraswati) that, accused Santosh is searching for a chance to assault him. But, accused Santosh compelled her (Saraswati) to allow her son Chandramani to go with him by assuring her (Saraswati) to return back from there very soon. Then, as per the consent of Saraswati, her son Chandramani Dora went with the accused Santosh from their house in order to witness Palla. But, Chandramani Dora did not return back till midnight. For which, she (Saraswati) along with her second son Anil Kumar Dora went towards Palla mandap for searching Chandramani Dora. But they did not find either Chandramani Dora or the accused Santosh Reddy near the Palla mandap. So, they (Saraswati & Anil) returned back from Palla mandap.

On the way of their return from Palla mandap, they (Saraswati and Anil) found that accused Santosh Reddy alone is coming from a row of Salia Sahi.

After seeing accused Santosh there, they (Saraswati & Anil) asked him (accused Santosh) with regard to the whereabouts of Chandramani Dora. But, accused Santosh remained silent for a moment and subsequent thereto disclosed that, he cannot say with regard to the whereabouts of Chandramani Dora and went away from there. Then, they searched Chandramani here and there in that night, but could not able to trace him out. For which, they were compelled to return back to their house in that night.

On its next morning, they (Saraswati & Anil) also searched Chandramani Dora here and there, but at about 1 to 1.30 P.M. one Sandhya Rani Dora of that Salia Sahi informed that, the dead body of Chandramani has been laid inside a half constructed house at Saliasahi.

After hearing about the same, they (Saraswati and Anil) rushed to the said spot i.e.to that half constructed house and found that, the dead body of Chandramani Dora has been laid there with injuries on his head and other parts of his body.

Thereafter on that day i.e. on 19.9.2011, she (Saraswati Dora) lodged F.I.R. vide Ext.6 against the accused before I.I.C. Nayapalli P.S. after scribing the same through her second son Anil Kumar Dora.

As, the F.I.R. vide Ext.6 revealed a cognizable case against the accused, basing upon such F.I.R. vide Ext.6, the IIC, A.Kanungo of Nayapalli P.S. registered Nayapalli P.S. case No.261

dated 19.9.2011 U/s.302 of the I.P.C. against the accused Santosh Reddy and directed S.I. P.J. Mundu of that P.S. to take up the investigation of the case.

On being directed by the IIC (A.Kanungo), the S.I. P.J. Mundu proceeded with the investigation of the case.

During investigation, he (I.O.P.J.Mundu) deputed constable E.Dumdum by issuing command certificate vide Ext.7 to guard the dead body at the spot and so also issued requisition to the District Scientific Officer for collection of physical clues at the spot and examined the informant Saraswati Dora and her son i.e. scribe Anil Kumar Dora and left for the spot.

He (I.O.) visited the spot, prepared the spot map vide Ext.8, held inquest over the dead body of the deceased Chandramani Dora in presence of the witnesses, prepared the inquest report vide Ext.9, dispatched the dead body of the deceased Chandramani Dora through dead body challan vide Ext.4 with the constable E.Dumdum for P.M. examination, seized the physical clues collected by the District Scientific Officer including the spot visit report of the District Scientific Officer vide Ext.10 through seizure list vide Ext.2, then after completion of Post Mortem examination over the dead body of the deceased Chandramani Dora, he (I.O.) seized the wearing apparels of the deceased Chandramani Dora vide M.O.IV and V alongwith the command certificate of the constable through seizure list vide Ext.1 on production by the constable E.Dumdum, then he (I.O.) arrested the accused on dated 20.9.2011 at about 3.10 P.M. and recorded his disclosure statement

vide Ext.11. Thereafter, he (I.O.) seized the weapon of offence i.e. iron chheni vide M.O.I through seizure list vide Ext.12 basing upon the leading to discovery made by the accused and then seized the wearing apparels of the accused vide M.Os. II & III on his production through seizure list vide Ext.13 and forwarded the accused to the Court.

On dated 23.9.2011 he (I.O.) sent the collected visceras of the deceased (those were collected by the doctor at the time of Post mortem examination) to the SFSL, Rasulgarh, Bhubaneswar through constable E.Dumdum for Chemical Exmination and report and then he (I.O.) received the P.M. report of the deceased vide Ext.3 and made a query from the doctor through query requisition vide Ext.5 by sending the weapon of offence i.e. M.O. I and the Post mortem Examination report vide Ext.3 seeking opinion from her as to whether the death of the deceased Chandramani Dora can be possible due to the injuries inflicted by the seized weapon and thereafter he (I.O.) received the query report of the doctor vide Ext.5/1. Then as per the order of the Court i.e. learned SDJM, Bhubaneswar, he (I.O.) dispatched the seized articles vide M.O.I to IV alongwith the other physical clues collected by the District Scientific Officer, Bhubaneswar to the SFSL, Rasulgarh, Bhubaneswar through copy of the forwarding report vide Ext.15 for Chemical Examination and report. Then after completing investigation, he (I.O.) submitted charge sheet on dated 17.1.2012 U/s.302/201 of the I.P.C. against the accused.

Accordingly after commitment of the case against the accused, he (accused Santoh Reddy) is facing this sessions trial having been changed with the offences U/s.302 & 201 of the I.P.C.

3. The plea of the defence is one of complete denial and false implication of the accused. The specific plea/ case of the defence as it borne out from the statement of the accused U/s 313Cr.P.C. that, he (accused, Santosh Reddy) is in no way connected with the death of Chandramani Dora, but he has been implicated in this case falsely by the police. He(accused) cannot say who has killed Chandramani Dora and how his death has been caused.

4. In order to substantiate the aforesaid charges against the accused, prosecution has examined altogether eleven numbers of witnesses, but the defence has examined none on its behalf.

5. Out of the eleven numbers of witnesses of the prosecution, P.Ws. 7 & 6 being the mother and brother of the deceased Chandramani Dora, they are the informant and scribe of the F.I.R respectively. P.Ws. 2 & 9 are the two independent witnesses. Out of the said two, P.W.2 is a witness (who had intimated first to the P.Ws. 6 & 7 about the lying of the dead body of the deceased Chandramani Dora in a half constructed house at Salia Sahi). P.W. 11 is a witness to the disclosure statement and seizure of weapon of offence vide M.O. I. P.Ws. 3 & 4 are the witnesses to the seizure. The rest four witnesses i.e. P.Ws. 1, 5, 8 & 10 are the official witnesses, out of them P.Ws. 1 & 10 are the constable &

A.S.I and they are the witness to the seizure of the wearing apparels of the deceased. P.W.5 is the doctor who had conducted P.M. examination over the dead body of the deceased. P.W. 8 is the sole Investigating officer of the case, who has submitted charge sheet against the accused after completing investigation.

6. Basing upon the aforesaid story of the prosecution with alleged criminal charges U/s.302/201 of the I.P.C. against the accused and the plea of the defence, the following points are required to be determined for just decision of the case and the said points are

- i. Whether the nature of death suffered by deceased Chandramani Dora is homicidal one ?
- ii. Whether the accused is the author of the injuries found on the body of the deceased Chandramani Dora as per P.M. report vide Ext.3 ?
- iii. Whether the accused has committed the murder of Chandramani Dora on dated 18.09.2011 night at Salia Sahi ?
- iv. Whether the accused had thrown the dead body of the deceased Chandramani Dora inside a half constructed house at Saliasahi on dated 18.09.2011 night after knowing that, he has committed an offence in order to cause disappearance of evidence with his intention to screen himself from legal punishment ?

7. In order to have a better appreciation and so also for just decision of the case, the above four points fixed for determination

are required to be discussed and analysed serially and chronologically one after another by taking into account the materials and evidence available in the record.

8. So far the first point i.e. whether the nature of death suffered by deceased Chandramani Dora is homicidal one is concerned ;

It is the case of the prosecution that, the death of deceased Chandramani Dora is the outcome of injuries through assault, which is homicidal in nature.

9. The doctor (P.W.5), who had conducted post mortem examination over the dead body of deceased Chandramani Dora on police requisition has deposed in her examination in chief by referring the P.M. report and query report vide Ext.3 & 5/1 that, the deceased Chandramani Dora had sustained multiple external injuries i.e. injuries on his right eye brow, chin, dislocation of teeth, fracture of right maxilla, bruise from the right cheek to middle of the neck, lacerated injury on the occipital area of the scalp and contusion over the anterior aspect of the neck below the chin. He (deceased) had also sustained internal injuries with fracture of Tracheal cartilages, vertebra and laceration of spinal cord. All the aforesaid external and internal injuries are antemortem in nature. The cause of death was due to hemorrhage and shock due to traumatic fracture of C3 & C4 vertebra with complete laceration of spinal cord. The same could have been caused by hard and blunt impacts of moderately heavy size. The nature of injury is homicidal in nature. Time since death is within 36 to 48 hours of her P.M.

examination on dated 20.9.2011. The death of the deceased Chandramani Dora can be possible due to the above injuries inflicted on his body and the said injuries are possible by the weapon like chheni/crowbar.

10. The above evidence of the doctor (P.W.5) made in her examination in chief are going to show that, the death of the deceased Chandramani Dora is neither natural nor accidental or suicidal, but the same is the outcome injuries caused through assault by a heavy and blunt weapon on the vital parts of his body i.e. on his vertebra and spinal cord, which is homicidal.

But during cross-examination to the doctor (P.W.5) by the defence, nothing substantial has been elicited from her mouth to discredit her aforesaid evidence made in her examination in chief and to establish that, the nature of death of Chndramani was otherwise then Homicidal. Accordingly, the evidence made above by the P.W.5(doctor) in her examination in chief regarding the homicidal nature of death of deceased Chandramani Dora has remained unassailed.

11. That apart, during trial, the defence has not seriously disputed/ denied to the homicidal nature of death of the deceased. Because, the accused has stated in his statement U/s.313 Cr.P.C. that, he cannot say who has killed Chandramani Dora and how his death has been caused, but he is in no way connected with his death.

12. The above unassailed testimony of the doctor (P.W.5) regarding the homicidal nature of death of the deceased made in her examination in chief coupled with the plea of no dispute by the defence to the said homicidal nature is going to establish that, the death of the deceased Chandramani Dora on dated 18.09.2011 night at Salia Sahi was for no other reason, but due to the injuries caused through assault by a heavy blunt weapon, which is homicidal in nature.

So it is held that, the nature of death suffered by deceased Chandramani Dora is homicidal one.

13. So far the second point i.e. whether the accused is the author of the injuries found on the body of the deceased Chandramani Dora is concerned ;

In order to implicate/connect the accused Santosh Reddy with the injuries and death of the deceased Chandramani Dora, prosecution has advanced its case i.e. from the time of lodging of the F.I.R.vide Ext.6 till conclusion of trial on the basis of circumstantial evidence. In that regard, the learned Addl. Public Prosecutor has submitted his written argument before this court on behalf of prosecution by stating in page No.4 of his written argument that, there was no direct eye witnesses to the alleged killing of the deceased and the case of the prosecution against the accused is based upon the circumstantial evidence. Prosecution has relied upon eight numbers of circumstances for the same.

The said circumstances are :-

- (i) Last company of the deceased with the accused to witness Palla on dated 18.09.2011 night i.e. before finding his dead body on dated 19.9.2011.
- (ii) Coming of the accused alone from the side of the alleged spot in the night of the alleged incident.
- (iii) Conduct of the accused i.e. his remaining up of silent, when the brother and mother of the deceased Chandramani i.e. P.Ws. 6 & 7 asked him (accused) about the whereabouts of the deceased Chandramani Dora.
- (iv) Previous assault and threat of the accused to the deceased.
- (v) Notice of staining of blood on the dresses of the accused by the mother and brother of the deceased i.e. P.Ws. 6 & 7 in the alleged night of incident i.e. during course of return of the accused from the side of the spot.
- (vi) Seizure of the alleged weapon of offence vide M.O.-I by the I.O. basing upon the disclosure statement of the accused.
- (vii) Finding of the blood of Human origin in the seized wearing apparels of the accused vide M.Os.II, III & weapon vide M.O.I.
- (viii) Matching up of the same "B" group of blood of the deceased (found on the wearing apparel of the deceased vide M.O.V) with the wearing apparels of the accused vide M.Os. II & III as per Chemical Examination report vide Ext.16.

Now, it will be seen, whether, prosecution has become able to establish the above circumstances(those have been relied upon

on its behalf) against the accused through legally admissible evidence.

14. Out of the above eight circumstances relied upon by the prosecution against the accused, prosecution has only relied upon the evidence of mother and brother of the deceased i.e. P.Ws. 7 & 6 to establish the first five circumstances starting from circumstances No.(i) to (v) i.e. last company of the deceased with the accused to witness Palla on dated 18.09.2011 night i.e. before finding his dead body on dated 19.9.2011, coming of the accused alone from the side of the alleged spot in the night of the alleged incident, conduct of the accused i.e. his remaining up of silent, when the brother and mother of the deceased Chandramani i.e. P.Ws. 6 & 7 asked him (accused) about the whereabouts of the deceased Chandramani Dora, previous assault and threat of the accused to the deceased & notice of staining of blood on the dress of the accused by the mother and brother of the deceased i.e. P.Ws. 6 & 7 in the alleged night of incident i.e. during course of return of the accused from the side of the spot. Because other private witnesses examined on behalf of the prosecution i.e. P.Ws. 2, 3, 4, 9, 10 & 11 have not at all supported the case of the prosecution.

When, for the reasons stated above, prosecution has relied upon the evidence of P.Ws. 6 & 7 only to establish the above five circumstances serially against the accused, then at this juncture, it is pertinent to scrutinize the evidence of P.Ws. 6 & 7.

15. It was/is the own definite and specific story of the prosecution that, the alleged assault and killing of the deceased Chandramani has not been witnessed by anybody including his brother and mother i.e. P.Ws. 6 & 7. But, it is curious enough that, in the examination in chief, P.W.6 (brother of the deceased namely Anil Kumar Dora, who is the scribe of the F.I.R. vide Ext.6) has stated that, neither he (P.W.6) himself nor his mother Saraswati Dora (P.W.7) had seen the alleged assault and killing of his brother Chandramani Dora at the spot, for which, they were searching him (Chandramani Dora) here and there and on its next day i.e. on 19.9.2011 at about 2 P.M., they went to the spot, after hearing about the lying of the dead body of his brother Chandramani Dora there from one Sandhyarani Dora (P.W.2). But, the said P.W.6 has contradicted his above versions made in his examination in chief (i.e his non witnessing to the alleged assault and killing of the deceased by him and his mother) in his cross-examination i.e. at para-12 of his deposition. Because, he (P.W.6) has deposed in para-12 of his evidence that, “he has seen the assailant of his brother at the time of killing. His mother (P.W.7) has also seen at the time of killing his brother Chandramani Dora by the accused Santosh Reddy. They had not called others at the time of such killing to his brother by the accused. They did not bring the dead body from the spot, though they (P.W. 6 & 7) saw his killing by the accused”

The mother of the P.W.6 i.e. P.W.7 (informant) has not at all uttered or whispered a single word in her entire evidence regarding

her witnessing to the alleged assault and killing of the deceased with P.W.6 (Anil Kumar Dora).

16. It is very fundamental in law as per the ratio of the decision reported in 2011 (II) O.J.R. page-531 Bholanath Sethy @ Bulu (Vrs) State of Orissa that, “ the evidence of a witness means his/her examination in chief as well as her answers given in his /her cross examination. Court can not over look the matters which have been brought on cross-examination of a witness. It is the duty of the court to consider the entire evidence of a witness i.e. his/her examination in chief and cross-examination of that witness to test his/her veracity.

17. In view of the above principles of law, if the entire evidence of the P.W.6 i.e. his evidence made in his examination in chief and answers given in para No.12 of his cross-examination will be taken in to account, then it can be held that, he (P.W.6) has given two sets of evidence contradicting each other and also contradicting to the evidence of his mother (P.W.7). Because in his examination in chief, he (P.W.6) has stated that, he had not witnessed to the alleged assault and killing of his brother and he came to know about his death on its next day i.e. at 2 P.M., but whereas subsequent to his examination in chief i.e. in his cross-examination at para-12, he (P.W.6) has stated that, he and his mother (P.W.7) had witnessed to the alleged assault and killing of the deceased by the accused in the alleged night of incident. At the same time, the mother of P.W.6 i.e. P.W.7 is not stating about her witnessing to the alleged

assault and killing of the deceased with P.W.6, though in the night of the alleged incident, she (P.W.7) was all along with P.W.6.

18. In the above manner, the witness i.e. P.W.6 has changed his version from time to time. Because, he (P.W.6) has given two inconsistent statements i.e. two sets of story in his evidence during two stages of his evidence i.e. in his examination in chief and cross condemning each other, for which, at this juncture, neither the evidence of P.W.6 nor the evidence of P.W.7 can be relied upon against the accused and in favour of the prosecution. Because, in view of the aforesaid prevaricating statements, they (P.Ws. 6 & 7) shall be termed as unreliable witnesses. The above conclusion for holding P.Ws. 6 & 7 as unreliable witnesses under the circumstances as stated above in this case at hand finds support from the ratio of the following decisions.

2014 (4) Crimes-- Page-189 (Rajasthan) Vishree and another Vrs. State of Rajasthan:

Criminal Trial—When there is two sets of evidence contradicting each other, none of them can be relied upon.

A.I.R. 1974 (S.C.) page-344 Harchand Singh Vrs. State of Haryana (at para-9 & 10):

Criminal Trial- Prosecution leading two sets of evidence—one set condemning other set-Evidence is unreliable.

2011 (I) Crimes –page-586 (P & H) Mojar Singh Vrs. State of Punjab:

Criminal Trial- r/w. Evidence Act, 1872—Sec-3—
Appreciation of Evidence—Where witnesses make two
inconsistent statements in their evidence either at one stage
or at two stages, the testimony of such witnesses become
unreliable and unworthy of credence.

2014(I) O.L.R.—page-927-Chandramani Pradhan Vrs.
State of Orissa (at para-8)-- Criminal Trial-- When a
witness changed his version from time to time, he is not at
all a reliable witness in view of the ratio of the decision
reported in A.I.R. 1957 (S.C.)-614—Vadivelu Vrs. the State
of Madras.

30 (1964) C.L.T.—page-407:- Criminal Trial—
Prevaricating Statement of witness in different stages—It is
difficult to place any reliance on the evidence of the
witnesses, who have given different versions at different
stages of the case.

19. When, in order to prove the above first five circumstances,
prosecution has relied upon on the evidence of P.Ws. 6 & 7 only
and when for the reasons stated above, the evidence of the P.Ws. 6
& 7 is held unreliable, then at this juncture, there is no other
alternative for the court but to hold by placing reliance in the
principles of law enunciated in the ratio of the decision reported in
(2015) 60 O.C.R. –Page-152 State of Orissa (V) Gulu @ Bibhuti
Mishra that, the above first five circumstances relied upon by the

prosecution has been failed to be established against the accused only due to unreliability of the evidence of P.Ws. 6 & 7, as the prosecution had tried to establish and prove the above five circumstances through the oral evidence of P.Ws. 6 & 7 only

20. So far the sixth circumstance relied upon by the prosecution i.e. seizure of the alleged weapon of offence vide M.O.I by the I.O basing upon the disclosure statement of the accused is concerned ;

The I.O. (P.W.8) has deposed in Para-8, 9 and 33 of his examination in chief that, basing upon the disclosure statement of the accused vide Ext.11 in presence of the witnesses, he (I.O.) seized the weapon of offence vide M.O.I through seizure list vide Ext.12 in presence of the witnesses.

Exts.11 and 12 are going to show that, there were two independent witnesses in the said two documents. They are Surya Kanta Das and Sanjaya Kumar Sahoo. Out of the aforesaid two independent witnesses of Exts.11 and 12, prosecution has chosen to examine one i.e. to Suryakanta Das as P.W.11. But, it is curious enough that, the said P.W.11 has not at all supported to the case of the prosecution and he (P.W.11) has turned hostile to the prosecution.

Because P.W.11 has deposed in his evidence that, “nothing was seized by the police in his presence at any point of time. The statement of anybody was not recorded in his presence. He had moved to the police station for lodging an F.I.R relating to the stealing of his mobile phone. Exts.11/3, 12/3 and 13/3 are his signatures. He had given his signatures at the P.S. in two blank

formats and in one blank paper. He was not asked by the police in any matter and nothing was seized by the police in his presence. He had also not accompanied with the police to any place”.

21. On perusal of Ext.11 and 12, it appears that, no dates have been mentioned under the signature of the aforesaid witnesses thereof i.e. P.W.11 and Sanjaya Kumar Sahoo. Their signatures are also not available in the front page of the Ext.11 in which the entire disclosure statement of the accused was alleged to have been recorded.

When, as per the discussions made above, prosecution has failed to prove the first five circumstances against the accused and none of the independent witnesses of the Ext.11 and 12 including P.W.11 (who has been examined on behalf of the prosecution) are supporting to the case of the prosecution and the P.W.11 is explaining in his evidence that, his signatures vide Ext.11/3 and 12/3 were taken from him in blank paper and format during his visit to P.S. for lodging of an F.I.R relating to stealing of his mobile phone and the explanation given by him (P.W.11) regarding the availability of his signatures vide Ext.11/3 and 12/3 on Ext.11 and 12 are not unreasonable for the reasons stated above, then at this juncture, it can not be safely concluded that, the seizure of the alleged weapon of offence vide M.O.I was made by the I.O.(P.W.8) basing upon the disclosure statement of the accused. So, the above sixth circumstance relied upon by the prosecution has been failed to be established against the accused.

22. So far the seventh and eighth circumstances relied upon by the prosecution i.e. finding of the blood of human origin in the seized wearing apparels of the deceased vide M.O.V and weapon vide M.O.I and matching up of the same “B” group of blood of the deceased found on the alleged weapon and wearing apparel of the deceased vide M.O. V with the wearing apparels of the accused vide M.Os. II & III as per C.E. report vide Ext.16 is concerned ;

The law has been settled as per the ratio of the decision reported in A.I.R 2007 (S.C.) 2316 State of M.P.(v) Nisar that, “when an axe was stained with human blood, but group of blood stained therein was not ascertained, then it is therefore not possible to conclude that, axe was used for killing the deceased.

23. Here in this case at hand, though the C.E report vide Ext.16 is going to show that, the alleged weapon i.e. iron chheni vide M.O.I was stained with the human blood, but group of blood stained therein was not ascertained, so, in view of the principles of law enunciated in the ratio of the above decision of the Apex Court, it is not at all possible to conclude firmly that, the alleged chheni (weapon vide M.O.I) was used in killing the deceased.

24. That apart, the C.E report vide Ext.16 is going to show that, the blood stained on the seized wearing shirt of the deceased vide M.O.V and alleged wearing apparels of the accused vide M.O.II and III contains same “B” group of blood, but there is no material to show on behalf of the prosecution about taking up of any step to test the group of blood of the accused. Accordingly, the blood

group of the accused has not been tested. The defence has seriously disputed to the seizure of the pant and shirt of the accused. The defence has denied to the seizure of the wearing apparels of the accused in his plea. Though, prosecution is stating through I.O. (P.W.8) that, the seizure of the wearing apparels of the accused vide M.Os.II and III was made in presence of the witnesses namely Surya Kanta Das and Sanjay Kumar Sahu through seizure list vide Ext.13, but there is no support at all to the alleged seizure by the said witnesses. Because, prosecution has not examined Sanjay Kumar Sahu. But, Surjayakant Das (P.W.11) has deposed against the prosecution by stating that, nothing was seized in his presence. The police had taken his signature in a blank format vide Ext.13/3, when he had moved to the police station for lodging of an F.I.R. relating to the stealing of his mobile phone, So due to non-corroboration of the independent witness to the seizure list vide Ext.13, it cannot at all be safely concluded that, the seized wearing apparels vide M.O. II & III stained with blood belong to the accused.

25. That apart, due to the non-testing of the blood group of the accused by the prosecution and in view of the ratio of the decisions reported in (2010) 47 O.C.R. – Page-83 –Fulgens Kispata Vrs. State of Orissa (2013) 56 O.C.R.– page-22 Gopinath Mohapatra and another Vrs. State of Orissa.

It cannot at all be firmly concluded that, the group of blood i.e. “B” group found on the seized wearing apparels vide M.Os. II & III matching with the blood found on M.O.V was of no other

persons and that was the blood of the deceased Chandramani Dora. Because, the possibility of staining of blood either of the accused or any other person than the deceased therein vide M.O. II & III is not ruled out.

So, at this juncture, it can not at all be held that, prosecution has been able to prove the above seventh and eight circumstances duly against the accused.

26. In the above manner, prosecution has not become able to prove any of the circumstances out of eight against the accused duly through legally admissible evidence.

Due to the failure of the prosecution for the reasons stated above to establish any of the circumstances against the accused to connect him with the injuries found on the body of the deceased Chandramani Dora as per P.M. report vide Ext.3, it is ultimately held that, prosecution has failed to establish the authorship of the accused over any of the injuries found on the body of the deceased Chandramani Dora.

27. So far the third point, whether the accused has committed the murder of Chandramani Dora on dated 18.09.2011 night at Saliasahi is concerned;

As per the discussions made in forgoing point Nos. 1 & 2, it has already been held that, the death of the deceased Chandramani Dora is the outcome of the antemortem injuries caused through

assault and prosecution has not become able to connect the accused with the injuries of the deceased as per P.M. report vide Ext.3, which resulted his death, for which, it cannot at all be safely concluded that, the accused has committed the murder of Chandramani Dora on dated 18.09.2011 night at Saliasahi.

28. So far the fourth point i.e. whether the accused had thrown away the dead body of the deceased Chandramani Dora inside a half constructed house at Salia Sahi for causing disappearance of the evidence and in order to screen himself from legal punishment is concerned ;

This point relates to the offence U/s.201 of the I.P.C. As per the projected case of the prosecution, here in this case, the result of the offence U/s.201 of the I.P.C is purely dependent upon the result of the main offence U/s. 302 of the I.P.C.

Because, it has been alleged on behalf of the prosecution that, the accused had thrown the dead of the deceased Chandramani Dora inside a half constructed house after killing him in order to cause disappearance of evidence. But, as per the discussions made in forgoing point Nos. 2 & 3, the killing of the deceased by the accused has not been established against him. So, for which, the question of throwing up of the dead body of the deceased by the accused after killing him does not arise.

As such, under the factual back grounds of the case as stated above, due to the failure of the prosecution to establish the offence U/s. 302 of the I.P.C. against the accused, the offence U/s.201 of

the I.P.C. has been failed to be established against him (accused) automatically.

29. On analysis of the facts & circumstances of the case as per the discussions and observations made above point wise, an irresistible conclusion is hereby drawn that, prosecution has not become able to establish the charges U/s.302 & 201 of the I.P.C. against the accused beyond all reasonable doubt.

Therefore, I found the accused not guilty with the charges U/s.302 & 201 of the I.P.C. and accordingly, the accused Santosh Reddy (who is present today in the Court on being produced from the jail custody through escort party) is acquitted U/s.235(I) of the Cr.P.C. from the charges/offences U/s. 302 & 201 of the I.P.C. on the ground of benefit of doubt. So, he (accused Santosh Reddy) is directed to be released from the jail custody forthwith, unless his detention is required in any other case.

30. The seized articles be destroyed four months after the appeal period is over, if no appeal is preferred. But, in case of appeal, as per the direction of the Hon'ble Appellate Court.

Pronounced the judgment in open Court to day on this the 21st day of January, 2015 under my seal and signature.

Dictated & corrected by me

Addl. Sessions Judge,
Bhubaneswar.

Addl. Sessions Judge,
Bhubaneswar.

List of witnesses examined for the prosecution:

| | |
|---------|---------------------|
| P.W.1. | Ratia Tigga |
| P.W.2. | Sandhyarani Dora |
| P.W.3. | Debaraj Konhar |
| P.W.4. | P.Niladri Reddy |
| P.W.5. | Dr.Mamata Mohanty |
| P.W.6. | Sri Anil Kumar Dora |
| P.W.7. | Saraswati Dora |
| P.W.8. | Sri Phul Jems Mundu |
| P.W.9. | Panchanan Reddy |
| P.W.10. | Rabindranath Sahu |
| P.W.11. | Suryakanta Das |

List of witnesses examined for the defence:

N i l

List of documents marked on behalf of prosecution:

| | |
|----------|---------------------------------|
| Ext.1. | Seizure list. |
| Ext.1/1. | Signature of P.W.1. |
| Ext.1/2. | Command Certificate |
| Ext.2. | Seizure list. |
| Ext.2/1. | Signature of P.W.3. |
| Ext.2/2. | Signature of P.W.4. |
| Ext.3. | Post Mortem examination report. |
| Ext.3/1. | Signature of P.W.5. |
| Ext.4. | Dead body challan |
| Ext.5. | Query made by the I.O. |
| Ext.5/1. | Opinion of P.W.5. |
| Ext.5/2. | Signature of P.W.5. |
| Ext.6. | F.I.R. |
| Ext.6/1. | Signature of P.W.6. |

| | |
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| Ext.6/2. | Signature of P.W.6. |
| Ext.6/3. | Signature of P.W.7. |
| Ext.6/4. | Signature of the IIC on Ext.6. |
| Ext.6/5. | Formal F.I.R. |
| Ext.6/6. | Signature of the IIC |
| Ext.7. | Command certificate |
| Ext.8. | Spot map |
| Ext.8/1. | Signature of P.W.8. |
| Ext.9. | Inquest report |
| Ext.9/1. | Endorsement with signature of P.W.8. |
| Ext.9/2. | Opinion given by the witness. |
| Ext.4/1. | Prayer for P.M. examination. |
| Ext.4/2. | Signature of P.W.8. |
| Ext.2/3. | Signature of P.W.8. |
| Ext.10. | Spot visit report prepared by Dist. Scientific Officer. |
| Ext.10/1. | Signature of P.W.8. |
| Ext.1/3. | Signature of Constable E.Dumdum |
| Ext.11. | Disclosure Statement of accused. |
| Ext.11/1. | Signature of P.W.8 on Ext.11. |
| Ext.11/2. | Signature of accused Santosh Reddy |
| Ext.12. | Seizure list. |
| Ext.12/1. | Signature of P.W.8. |
| Ext.12/2. | Signature of accused Santosh Reddy |
| Ext.13. | Seizure list. |
| Ext.13/1. | Signature of P.W.8. |
| Ext.13/2. | Signature of accused Santosh Reddy |
| Ext.14. | Command Certificate |
| Ext.14/1. | Signature of P.W.8 |
| Ext.5/3. | Signature of P.W.8. |
| Ext.15. | Copy of forwarding report |

Ext.15/1. Signature of P.W.8.
Ext.1/4. Signature of P.W.1 on Ext.1.
Ext.16. Chemical Examination report.

List of documents marked on behalf of defence:

N i l

List of M.O. on behalf of prosecution:

M.O.I Iron Chheni
M.O.II Full Pant
M.O.III Shirt
M.O.IV. Pant of deceased Chandramani Dora
M.O.V. Shirt of deceased Chandramani Dora

List of M.O. on behalf of defence:

Nil

Addl. Sessions Judge,
Bhubaneswar.