



2024:CGHC:30695-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 266 of 2024

Somadu Vetti S/o Paklu Vetti @ Barre Aged About 32 Years R/o Village-Gumadpal, Nayapara Outpost- Pakhnar, Police Station- Darbha, Tehsil and District Bastar, Chhattisgarh.

... Appellant

versus

State Of Chhattisgarh Through Station House Officer, Police Of Police Station- Darbha, District Bastar (C.G.)

... Respondent

For Appellant : Mr.Ashutosh Shukla, Advocate

For Respondent : Mr.Shashank Thakur, Deputy Advocate
General

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

Per Ramesh Sinha, C.J.

13/08/2024

1. Appellant-Somadu Vetti has preferred this criminal appeal under Section 374(2) of the CrPC questioning the impugned judgment of conviction and order of sentence dated 23.12.2023 passed by the First Additional Sessions Judge, Bastar, District Jagdalpur in Sessions Trial No.25/2020, by which he has been convicted for

offence under Sections 302/34 and 201/34 of the IPC and sentenced to undergo imprisonment for life and fine of Rs.2000/-, in default of payment of fine to further undergo RI for three months and RI for five years and fine of Rs.1000/-, in default of payment of fine to further undergo RI for one month.

2. In the present case, there are two accused namely, Somadu Vetti and Tularam Vetti. Since accused Tularam Vetti has been absconded, trial of present appellant Somadu Vetti has been separated and the trial Court has convicted him showing accused Tularam Vetti as absconder.
3. Case of the prosecution, in nutshell, is that on 25.06.2020 at about 12 noon, the quarrel took place between the accused and deceased Sukko Vetti on account of land dispute, at that time both the accused slapped Sukko Vetti (since deceased) 2-3 times. Later, around 10:00 P.M. both the accused came to Sukko Vetti and again started fighting and quarreling over the morning's dispute. During this, both accused assaulted Sukko Vetti with fists and kicks, Tularam pressed Sukko's neck and made him fall to the ground, while Somadu Vetti held Sukko's both legs and pressed them to the ground, which led to Sukko's death. After Sukko's death, both accused put his body in a white plastic bag and his clothes in a bundle, took a spade and a nilgiri stick and went to Mamadpal Pujari Para canal and took the body and his clothes by digging a pit with spade, put it in a bag and buried it. On 17.07.2020 as per the information given by the informant Jhitkuram and the villagers, a report was lodged in the Outpost Pakhnar regarding the missing person Sukko Vetti, which was

recorded in Rojnamcha Sanha No.08 of the Outpost Pakhnar at 15.05 P.M. as 0/2020. After that investigating officer Prasad Sinha (PW-5) recorded the statements of Jhitkuram Kashyap, Sukhram Vetti and Maddaram Vetti. From his statement, he came to know that on 25.06.2020 there was a fight with Sukko, his younger brother Somadu and nephew Tula in the name of selling land. On this basis, further investigation was done by him. During the investigation, on 18.07.2020, he recorded the confession panchnama of accused Somdu Vetti and Tularam Vetti in front of two witnesses as per their instructions vide Ex.P-7. On 18.07.2020 a complaint was issued to Sub-Divisional Magistrate, Tokapal regarding exhumation of dead body and panchnama proceedings in case of missing person No.03/2020 of Outpost Pakhnar, Police Station Darbha vide Ex.P-16. On the same date, he issued a complaint to Senior Scientist, FSL Office, District Bastar, regarding his presence in the body of exhumation and panchnama proceedings vide Ex.P-17. On 18.07.2020 at 12.30 P.M. after reaching the burial site at village Madampal Pujari Para, Prasad Sinha (PW-5) identified the burial site and prepared it in front of two witnesses vide Ex.P-8. On the same date at 13.40 hrs in front of two witnesses at village Madampal Pujari Para Naharpar, panchnama of recovery of dead body was prepared vide Ex.P-9. During the proceedings, photography of the incident site and the burial site was taken by the FSL team, the said photograph is Article 01 and 02. On the same date at 13.50 P.M. the body identification panchnama was prepared in front of four witnesses vide Ex.P-1. On the same date at 14.05 P.M. Dehati

Merg Intimation was registered in Merg No.0/2020 vide Ex.P-18. On the same date at 14.20 P.M. dehati nalishi in Crime No.0/2020 was registered under Sections 302 and 201/34 of the IPC vide Ex.P-19. On 18.07.2020 at 15.30 P.M. the investigating officer recorded the memorandum statement of accused Somdu Vetti in front of two witnesses vide Ex.P-10 and on the basis of memorandum statement of the accused, spade was recovered at the instance of accused Somdu Vetti vide Ex.P-11. On the same date, accused Somdu Vetti was arrested vide arrest memo Ex.P-13. Accused Tularam Vetti was arrested vide Ex.P-14. FIR was registered vide Ex.P-33. Inquest was prepared over the body of the deceased vide Ex.P-4. Spot map was prepared by the investigating officer vide Ex.P-23. Patwari also prepared spot map vide Ex.P-28. Dead body of the deceased was sent for postmortem to Community Health Center, Darbha, where Dr.Mahendra Prasad (PW-14) conducted postmortem vide Ex.P-30 and found following injuries:-

“Examined one foul smelling, decomposed male body covered in blue plastic, body having one white grey checks full shirt, blue half pant, head straight body is universal flexion position, rigor mortis absent, mud present all over scattered in body, skin of whole body is greyish black & white, pale, showing slippage with skin of hands & feet comes off in glove and stocking faction, both eyes liquified, decomposed, mouth open, tongue black, dry, shrunken teeth at places, nails loose, hairs loose, easily pulled out, all

tissues of body becomes softy loose, cartilages and ligaments softened, with liquifaction of tissues present, both hands chirked, all clothes over body were greesy due to decomposition of body. Hairs over head present. Internal muscles were greesy due to decomposition.

Internal injuries:- There is internal compression. Fracture of hyoid bone, with fracture of ala of the thyroid cartilage obliquely across right lamina and fracture of cricoid cartilage present.”

The doctor has opined that the cause of death was sudden cardiac arrest due to throttling and death was homicidal in nature.

4. After due investigation, the appellant was charge-sheeted for the aforesaid offences in which he abjured the guilt and entered into defence stating inter-alia that he has not committed any offence and he has falsely been implicated in crime in question.
5. In order to bring home the offence, the prosecution examined as many as 23 witnesses and exhibited 36 documents Exs.P-1 to P-36. The defence did not examine any witness nor did it lead any documentary evidence.
6. The trial Court upon appreciation of oral and documentary evidence available on record, by its judgment dated 23.12.2023, convicted and sentenced the appellant as aforementioned, against which, this criminal appeal has been preferred.
7. Mr.Ashutosh Shukla, learned counsel for the appellant submits that the learned trial Court has failed to appreciate the evidence

and documents available on record and none of the prosecution witnesses have stated that the appellant on that day was abusing the deceased and the case is based on circumstantial evidence. The learned trial Court further failed to appreciate that there are major contradictions and omissions in the statements of the prosecution witnesses as well as no motive behind the murder has been proved by the prosecution. He further submits that the learned trial Court failed to appreciate that the appellant has been convicted on the basis of circumstantial evidence and the prosecution failed to prove the motive of the appellant. Moreover, there is no *mens rea* on the part of the appellant. So the warrant of conviction of the appellant is bad in law. The statement of the accused recorded under Section 313 of the CrPC had been recorded in a very perfunctory manner and for this reason the appellant is entitled to acquittal. The question framed under Section 313 of the CrPC are perfunctory statement and the same shall not be acceptable. Moreover the question has not properly explained or specific asked to the appellant. Hence, it shall cause great prejudice to the appellant, if the same perfunctory statement is relied upon. He lastly submits that the learned trial Court failed to appreciate that the independent witnesses did not support the memorandum and seizure witnesses had not supported the case of the prosecution. As such, the criminal appeal deserves to be allowed and the impugned judgment deserves to be set aside.

8. On the other hand, Mr. Shashank Thakur, learned Deputy Advocate General appearing for the respondent/State submits that the conviction of the appellant / accused is based on direct as

well as circumstantial evidence. The prosecution during investigation recorded the statements of the prosecution witnesses in which they have categorically deposed in their statements regarding conduct and commission of offence by the accused / appellant, which is concurrent evidence against the accused / appellant and thus, the learned trial Court has rightly convicted and sentenced the accused / appellant. Therefore, the instant appeal deserves to be dismissed. In memorandum statement of accused-Somadu Vetti, he admitted his crime and on the basis of his memorandum statement, the police has seized spade. He further submits that the learned trial Court has come to the conclusion regarding involvement of the accused / appellant in the crime in question under the concluding paras of the judgment in which the the learned trial Court has observed all incriminating circumstances against the accused / appellant, which connect him with the instant crime and chain of circumstances are fully linked and completed with each other. Thus, the prosecution has proved its case beyond reasonable doubt and the judgment of the trial Court is just and proper and does not call for any interference by this Court and as such, criminal appeal deserves to be dismissed.

9. We have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
10. The first question for consideration would be, whether the trial Court was justified in holding that death of deceased Sukko Vetti was homicidal in nature ?

11. The trial Court relying upon the statements of Dr.Mahendra Prasad (PW-2), who has conducted postmortem on the body of deceased Sukko Vetti vide Ex.P-30, has clearly come to the conclusion that death of deceased Sukko Vetti was homicidal in nature. The said finding recorded by the trial Court is a finding of fact based on evidence available on record, which is neither perverse nor contrary to record. Even otherwise, it has not been seriously disputed by the learned counsel for the appellants. We hereby affirm the said finding.

12. It is the case of no direct evidence, rather conviction is based on circumstantial evidence.

13. We may also make a reference to a decision of the Supreme Court in **C. Chenga Reddy and Ors. v. State of A.P., (1996) 10 SCC 193**, wherein it has been observed thus:

“In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete and there should be no gap left in the chain of evidence. Further the proved circumstances must be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence....”.

14. In **Padala Veera Reddy v. State of A.P. and Ors., AIR 1990 SC 79**, it was laid down by the Supreme Court that when a case rests upon circumstantial evidence, such evidence must satisfy the following tests:

“(1) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;

(2) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused;

(3) the circumstances, taken cumulatively should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and

(4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence.”

15. In **State of U.P. v. Ashok Kumar Srivastava, (1992 CrI.LJ 1104)**,

it was pointed out by the Supreme Court that great care must be taken in evaluating circumstantial evidence and if the evidence relied on is reasonably capable of two inferences, the one in favour of the accused must be accepted. It was also pointed out that the circumstances relied upon must be found to have been fully established and the cumulative effect of all the facts so established must be consistent only with the hypothesis of guilt.

16. Sir Alfred Wills in his admirable book “Wills’ Circumstantial Evidence” (Chapter VI) lays down the following rules specially to be observed in the case of circumstantial evidence: (1) the facts alleged as the basis of any legal inference must be clearly proved and beyond reasonable doubt connected with the factum probandum; (2) the burden of proof is always on the party who

asserts the existence of any fact, which infers legal accountability; (3) in all cases, whether of direct or circumstantial evidence the best evidence must be adduced which the nature of the case admits; (4) in order to justify the inference of guilt, the inculpatory facts must be incompatible with the innocence of the accused and incapable of explanation, upon any other reasonable hypothesis than that of his guilt, (5) if there be any reasonable doubt of the guilt of the accused, he is entitled as of right to be acquitted”.

17. Five golden principles which constitute *Panchseel* of proof of case based on circumstantial evidence have been laid down by the Supreme Court in the matter of **Sharad Birdhichand Sarda v. State of Maharashtra, (1984) 4 SCC 116** which state as under :-

“(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned “must” or “should” and not “may be” established;

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;

(3) the circumstances should be of a conclusive nature and tendency;

(4) they should exclude every possible hypothesis except the one to be proved; and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”

18. The Supreme Court in the matter of **Sailendra Rajdev Pasvan and Others vs. State of Gujarat Etc., AIR 2020 SC 180** observed that in a case of circumstantial evidence, law postulates two-fold requirements. Firstly, that every link in the chain of circumstances necessary to establish the guilt of the accused must be established by the prosecution beyond reasonable doubt and secondly, all the circumstances must be consistent pointing out only towards the guilt of the accused. We need not burden this judgment by referring to other judgments as the above principles have been consistently followed and approved by this Court time and again.

19. The Supreme Court in the matter of **Suresh and Another v State of Haryana, (2018) 18 SCC 654** has observed that cases of circumstantial evidence, the courts are called upon to make inferences from the available evidence, which may lead to the accused's guilt. The court at paras 41 and 42 has observed thus :

“41. The aforesaid tests are aptly referred as Panchsheel of proof in Circumstantial Cases (refer to Prakash v. State of Rajasthan). The expectation is that the prosecution case should reflect careful portrayal of the factual circumstances and inferences thereof and their compatibility with a singular hypothesis wherein all the intermediate facts and the case itself are proved beyond reasonable doubt.

42. Circumstantial evidence are those facts, which the court may infer further. There is a stark contrast between direct evidence and circumstantial evidence. In cases of circumstantial evidence, the courts are called upon to make inferences from the available evidence, which may lead to the accused's

guilt. In majority of cases, the inference of guilt is usually drawn by establishing the case from its initiation to the point of commission wherein each factual link is ultimately based on evidence of a fact or an inference thereof. Therefore, the courts have to identify the facts in the first place so as to fit the case within the parameters of “chain link theory” and then see whether the case is made out beyond reasonable doubt. In India we have for a long time followed the “chain link theory” since Hanumant case, which of course needs to be followed herein also.”

20. In the present case, the prosecution has proved the following circumstantial evidence against appellant-Somadu Vetti:-

(i) The accused Somdu Vetti and Tularam Vetti have confessed vide confessional panchnama (Ex.P-7) that they assaulted Sukko with fists and kicks, and Tularam pressed Sukko's neck and pushed him to the ground, while Somadu Vetti held Sukko's both legs and pressed them to the ground, which led to Sukko's death. After Sukko's death, both accused put his body in a white plastic bag and his clothes in a bundle, took a spade and a Nilgiri stick, and went to the Mamadpal Pujari Para canal, where they dug a pit with spade and buried the body and clothes.

(ii) Dr.Mahendra Prasad (PW-14) who conducted postmortem has opined that cause of death was sudden cardiac arrest due to throttling and death was homicidal in nature.

(iii) On the basis of memorandum statement of accused Somadu Vetti (Ex.P-10), at his instance spade was seized on his production vide Ex.P-11.

(iv) Investigating Officer Prasad Sinha (PW-5) in para-10 of his Court statement has denied that the seizure proceedings have been registered in the absence of witnesses. He has also denied that the body exhumation panchnama has been prepared in the absence of witness and also denied that the charge-sheet was filed by him against the accused on the basis of suspicion.

21. The next question for consideration would be, whether the trial Court has rightly held that the appellant is author of the crime by relying upon the following circumstances:-

(i) Homicidal death was proved by the prosecution as per postmortem report (Ex.P-30) of Dr.Mahendra Prasad (PW-14) who conducted autopsy.

(ii) As per the case of the prosecution, the fact of death of deceased Sukko Vetti was within the knowledge of the appellant, however, there was no any explanation given by the appellant in his statement under Section 313 of the CrPC. Thus, burden of proof was on the appellant to explain such circumstance, which he failed to explain.

22. It can thus clearly be seen that it is necessary for the prosecution that the circumstances from which the conclusion of the guilt is to be drawn should be fully established. The Court holds that it is a primary principle that the accused 'must be' and not merely 'may be'

proved guilty before a court can convict the accused. It has been held that there is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved'. It has been held that the facts so established should be consistent only with the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty. It has further been held that the circumstances should be such that they exclude every possible hypothesis except the one to be proved. It has been held that there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probabilities the act must have been done by the accused.

23. It is settled law that the suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proved guilty beyond a reasonable doubt.
24. In the light of these guiding principles, we will have to examine the present case.
25. On a perusal of the judgment of the Trial Judge, it would reveal that the main circumstance on which the Trial Judge found the appellant guilty of the crime is the recovery of various articles at his instance. The Trial Judge has further found that on the basis of memorandum statement of accused Somadu Vetti, spade has been seized vide Ex.P-11 in his presence.

26. The motive attributed to the appellant by the prosecution is that 25.06.2020 at about 12 noon, the quarrel took place between the accused and the deceased on account of land dispute, at that time, both the accused slapped Sukko Vetti (since deceased) 2-3 times. Later, around 10:00 P.M. both the accused came to Sukko Vetti and again started fighting and quarreling over the morning's dispute. During this, both accused assaulted Sukko Vetti with fists and kicks, Tularam pressed Sukko's neck and made him fall to the ground, while Somadu Vetti held Sukko's both legs and pressed them to the ground, which led to Sukko's death. After Sukko's death, both accused put his body in a white plastic bag and his clothes in a bundle, took a spade and a nilgiri stick and went to Mamadpal Pujari Para canal and took the body and his clothes by digging a pit with spade, put it in a bag and buried it.

27. At this stage, it would be appropriate to notice Section 27 of the Indian Evidence Act, 1872, which states as under: -

“27. How much of information received from accused may be proved.—Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.”

28. Section 27 of the Indian Evidence Act is applicable only if the confessional statement relates distinctly to the fact thereby discovered.

29. The Supreme Court in the matter of **Asar Mohammad and others v. State of U.P., AIR 2018 SC 5264** with reference to the word “fact” employed in Section 27 of the Evidence Act has held

that the facts need not be self-probatory and the word “fact” as contemplated in Section 27 of the Evidence Act is not limited to “actual physical material object”. It has been further held that the discovery of fact arises by reason of the fact that the information given by the accused exhibited the knowledge or the mental awareness of the informant as to its existence at a particular place and it includes a discovery of an object, the place from which it is produced and the knowledge of the accused as to its existence. Their Lordships relying upon the decision of the Privy Council in the matter of **Pulukuri Kotayya v. King Emperor, AIR 1947 PC 67** observed as under: -

“13. It is a settled legal position that the facts need not be self-probatory and the word “fact” as contemplated in Section 27 of the Evidence Act is not limited to “actual physical material object”. The discovery of fact arises by reason of the fact that the information given by the accused exhibited the knowledge or the mental awareness of the informant as to its existence at a particular place. It includes a discovery of an object, the place from which it is produced and the knowledge of the accused as to its existence. It will be useful to advert to the exposition in the case of *Vasanta Sampat Dupare v. State of Maharashtra*¹, in particular, paragraphs 23 to 29 thereof. The same read thus:

“23. While accepting or rejecting the factors of discovery, certain principles are to be kept in mind. The Privy Council in *Pulukuri Kotayya v. King Emperor* (supra) has held thus: (IA p. 77)

“... it is fallacious to treat the ‘fact discovered’ within the section as equivalent to the object produced; the fact discovered embraces the place from which the object is produced and the knowledge of the accused as to this, and the information given must relate distinctly to this fact. Information as to past user, or the past history, of the object produced is not related to its

1 (2015) 1 SCC 253

discovery in the setting in which it is discovered. Information supplied by a person in custody that 'I will produce a knife concealed in the roof of my house' does not lead to the discovery of a knife; knives were discovered many years ago. It leads to the discovery of the fact that a knife is concealed in the house of the informant to his knowledge, and if the knife is proved to have been used in the commission of the offence, the fact discovered is very relevant. But if to the statement the words be added 'with which I stabbed A', these words are inadmissible since they do not relate to the discovery of the knife in the house of the informant.

xxx	xxx	xxx
xxx	xxx	xxx
xxx	xxx	xxx”

30. The Supreme Court in the matter of **Perumal Raja alias Perumal v. State, Rep. By Inspector of Police, 2024 SCC OnLine SC 12** has defined the 'custody'. It held that the expression "custody" under Section 27 of the Evidence Act does not mean formal custody. It includes any kind of restriction, restraint or even surveillance by the police. Even if the accused was not formally arrested at the time of giving information, the accused ought to be deemed, for all practical purposes, in the custody of the police.
31. The Supreme Court in the matter of **Boby v State of Kerala, 2023 SCC OnLine SC 50** held that the basic idea embedded in Section 27 of the Evidence Act is the doctrine of confirmation by subsequent events. The doctrine is founded on the principle that if any fact is discovered as a search made on the strength of any information obtained from a prisoner, such a discovery is a guarantee that the information supplied by the prisoner is true.

The information might be confessional or non-inculpatory in nature but if it results in discovery of a fact, it becomes a reliable information. Section 27 puts a bar to use the confessional statement, but the fact that discovery and information which proved to reliable would be a circumstantial evidence.

32. The prosecution has examined the investigating officer Prasad Sinha as PW-5. He has stated in para 2 in his evidence that on 17.07.2020 as per the information given by the informant Jhitkuram and the villagers, a report was lodged in the outpost Pakhnar regarding the missing person Sukko Vetti, which was recorded in Rojnamcha Sanha No.08 of the Outpost Pakhnar at 15.05 P.M. as 0/2020. After that investigating officer Prasad Sinha (PW-5) recorded the statements of Jhitkuram Kashyap, Sukhram Vetti and Maddaram Vetti. From his statement, he came to know that on 25.06.2020 there was a fight with Sukko, his younger brother Somadu and nephew Tula in the name of selling land. On this basis, further investigation was done by him. During the investigation, on 18.07.2020, he recorded the confession panchnama of accused Somdu Vetti and Tularam Vetti in front of two witnesses as per their instructions, which is Ex.P-7. On 18.07.2020 a complaint was issued to Sub-Divisional Magistrate, Tokapal regarding exhumation of dead body and panchnama proceedings in case of missing person No.03/2020 of Outpost Pakhnar, Police Station Darbha vide Ex.P-16. On the same date, he issued a complaint to Senior Scientist, FSL Office, District Bastar, regarding his presence in the body of exhumation and panchnama proceedings vide Ex.P-17. On 18.07.2020 at 12.30

P.M. after reaching the burial site at village Madampal Pujari para, Prasad Sinha (PW-5) identified the burial site and prepared it in front of two witnesses, which is Ex.P-8. On the same date at 13.40 hrs in front of two witnesses at village Madampal Pujari Para Naharpar, panchnama of recovery of dead body was prepared vide Ex.P-9. During the proceedings, photography of the incident site and the burial site was taken by the FSL team, the said photograph is Article 01 and 02. On the same date at 13.50 P.M. the body identification panchnama was prepared in front of four witnesses vide Ex.P-1. On the same date at 14.05 P.M. Dehati Merg Intimation was registered in Merg No.0/2020 vide Ex.P-18. On the same date at 14.20 P.M. dehati nalishi in Crime No.0/2020 was registered under Sections 302 and 201/34 of the IPC vide Ex.P-19. On 18.07.2020 at 15.30 P.M. the investigating officer recorded the memorandum statement of accused Somadu Vetti in front of two witnesses vide Ex.P-10. On the same date, at 16.20, on the basis of memorandum statement of the accused, spade was seized at the instance of accused Somdu Vetti vide Ex.P-11. On the same date, accused Somdu Vetti was arrested vide arrest memo Ex.P-13. Accused Tularam Vetti was arrested vide Ex.P-14. FIR was registered vide Ex.P-33. In para 10 of his cross-examination, he has admitted that on 17.07.2020, a missing report of Sukko Vetti of village Gumadpal was received. He has further admitted that the statements of the villagers regarding the disappearance of Sukko Vetti was recorded. He has admitted that he caught accused Somadu Vetti and Tularam Vetti on the basis of suspicion. He has also admitted that on 18.07.2020, all the

proceedings of burial site panchnama, body recovery panchnama, body exhumation, body identification panchnama, dehati nalishi, seizure and arrest all were done by the same date. He has denied that all the above mentioned actions were not taken by him at the spot of the incident. He has also denied that he prepared the statements of the witnesses in his own mind. In para 11 of his cross-examination, he has denied that seizure proceedings have been registered in the absence of witnesses. He has also denied that the body exhumation panchnama has been prepared in the absence of witnesses. He has also denied that chargesheet was presented by him against the accused on the basis of suspicion.

33. In the case in hand, it has been proved that there was a dispute between accused Somadu Vetti and the deceased and that is the reason for causing death of the deceased. Apart from this, in this case, it is proved that accused Somadu Vetti had confessed to the crime of killing deceased Sukko Vetti in the village meeting and burying him outside the village and along with this, accused Somadu Vetti had buried the dead body of deceased Sukko Vetti in the place indicated by him. The recovery of spade is also certified and similarly, on the basis of the memorandum statement given by accused Somadu Vetti, the recovery of spade used in the crime is also proved.

34. After considering all the above prove facts and circumstances, the only conclusion that emerges is that accused Somadu Vetti has committed murder of deceased Sukko Vetti and also indulged in the crime of hiding his dead body.

35. Applying the aforesaid well settled principles of law and taking into the facts in totality and considering the facts and circumstances of the case, in our considered view the prosecution was able to establish the guilt of the accused beyond reasonable doubt. The impugned judgment of conviction and order of sentence is just and proper warranting no interference of this Court.
36. In the result, the appeal being devoid of merit is liable to be and is hereby **dismissed**.
37. It is stated at the Bar that the the appellant is in jail, he shall serve out the sentence as ordered by the learned trial Court.
38. The trial court record along with a copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action.

Sd/-

(Bibhu Datta Guru)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice