

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NOS.5654-5656/2024

KRISHNA YADAV

APPELLANT(S)

VERSUS

J.B.S. CHANDEL & ANOTHER ETC.

RESPONDENT(S)

O R D E R

The appellant herein is the mother of the deceased-Rajkumar @ Chhota Gudda.

2. Being aggrieved by the judgment and order dated 14.01.2022 passed by the High Court of Madhya Pradesh at Jabalpur in M.Cr.C.No.14484/2012, M.Cr.C. No.4368/2013 and M.Cr.C. No.34749/2019, the appellant is before this Court.

3. Since March 07, 1998, the deceased-convict had been serving a sentence of life imprisonment awarded to him under Sections 302 read with Section 34 of the Indian Penal Code, 1860 (hereinafter, 'IPC') and Sections 25 read with 27 of the Arms Act, 1949. While his criminal appeal was pending before the High Court, the deceased was released on parole from October 28, 2005, to November 21, 2005; however, he failed to surrender and absconded.

4. At the outset, according to the respondents, on 26.11.2006, they received information about the deceased's presence near his sister's village and a police party was dispatched which laid a trap for the deceased. It is their case that the deceased, along with his three to four accomplices, chose to not surrender and started firing at the police party. In the ensuing firing, around 20 rounds were fired from the side of the deceased and 20-25 rounds were fired by the police party culminating in the deceased suffering bullet injuries on vital parts of the body. Subsequently, FIR No. 738/2006 dated 29.11.2006 was lodged at the P.S. Kotwali, Sahadol, Madhya Pradesh registered against the deceased and his accomplices regarding the incident.

5. In response, the appellant contended that the story of the respondents is implausible as it is unbelievable that in all this firing only the deceased was injured on vital parts of the body whereas no one from the respondents' side suffered even a scratch. It was contended that the respondents-police officers had masked the murder of her son as an "encounter" in order to shield their wrongdoings. It was submitted that the deceased was intercepted and shot by the respondents when he and his friend-Bhupendra Sharma were on their way to the village of the deceased's sister.

6. We have heard learned counsel for the appellant and learned senior counsel for respondent-police officer(s) and learned counsel for the respondent-State of Madhya Pradesh at length. We have perused the impugned judgment in detail.

7. During the course of submissions, learned counsel for the appellant drew our attention to the judgment of this Court in Om Prakash vs. State of Jharkhand, (2012) 12 SCC 72 ("Om Prakash"), wherein although the respondent/police officer(s) therein had succeeded before this Court and the complainant's complaint had been quashed, this Court arrived at certain conclusions on the basis of the discussion of the factual aspects of the said case. In this regard, learned counsel for the appellant(s) drew our attention to paragraphs 32, 34, 41 and 42 of the said judgment. Learned counsel for the appellant submitted that although the reliefs were granted to the police officers who had appealed to this Court while considering their case, had nevertheless categorically observed that the death in the said case was not a case where the police could have been held guilty of a cold blood fake encounter. In order to arrive at the said conclusion, there was a detailed discussion of the facts of the said case. Thereafter, this Court had stated that in a case where, on facts, it may appear to the Court that a person was killed by the police in a "stage-managed encounter", the position may be completely different.

8. Learned counsel for the appellant contended that the in the instant case, except in paragraphs 26 and 29, there is absolutely no discussion of the factual matrix and as to how the death of the deceased occurred. Learned counsel for the appellant contended that merely because there were certain undisputed facts as against the deceased inasmuch as he was involved in many cases and had criminal antecedents; that he had absconded and had not surrendered in time while out on parole, those undisputed facts could not have led to the conclusion that the actual killing of the deceased was within the scope of the discharge of his duties under section 197 of the Code of Criminal Procedure (for short, "CrPC"). It was submitted that if the High Court had come to such a conclusion there ought to have been a detailed discussion of the factual matrix of the case and hence, the impugned order may be set aside and the application filed by the respondent/police officer(s) may be dismissed.

9. *Per contra*, learned senior counsel for the respondents drew our attention to what has been stated in paragraphs 42, 43 of Om Prakash as well as paragraphs 43 and 44 of the judgment of this Court in G. C. Manjunath vs Seetharam, (2025) 5 SCC 390 to contend that even in a case where it is given the colour of "police excess" if in the course of performing official duties there is an excess in the acts committed, the protective shield under Section 197 of the CrPC would continue to apply

provided there is a reasonable nexus between the impugned act and discharge of official functions. It was submitted that in the instant case, the High Court has rightly inferred that there was a clear nexus between the death of the deceased and discharge of official duties inasmuch as the entire endeavour of the respondent/police officer(s) was to apprehend the deceased but in the course of discharge of the said duty, owing to the overt acts of the deceased, the police had to protect themselves and in the entire episode, the deceased succumbed to the injuries. It was submitted that the High Court has drawn correct inferences in the instant case and merely because the High Court has not gone into a detailed factual matrix would not render the judgment erroneous. It was, therefore, contended that there is no merit in this appeal.

10. In addition to the aforesaid submissions, the learned senior counsel, Shri Nagamuthu drew our attention to Section 46 of the CrPC and Section 79 and Section 100 of the IPC to contend that these provisions squarely support the actions of the respondent/police officer(s).

11. Thirdly, it was contended that the burden was on the appellant to establish that there was no nexus between the death of the deceased and the performance of the official duties of the respondent/police officer(s) and in the absence of there being any such nexus being established, the High Court was justified in quashing the criminal complaint(s) and all subsequent proceedings. It was therefore contended that there

is no merit in these appeals and the same may be dismissed.

12. We have considered the arguments advanced by learned counsel for the appellant and learned senior counsel for the respondent No.1 and learned counsel for the respondent-State who has also supported the respondent/police officer(s) in his submissions in light of the impugned order.

13. As we have already stated the endeavour of the respondent/police officer(s) is to seek the protection of Section 197 of the CrPC inasmuch as their contention is that the appellant herein had not sought sanction for prosecution under Section 197 of the CrPC before instituting the private complaint under Section 200 of the Act. It is noted that earlier also the respondent/police officer(s) had sought for quashing of the complaint and the subsequent proceedings, however they were unsuccessful in doing so. In fact, on one earlier occasion, the High Court had reserved liberty to the respondent/police officer(s) to assail the institution of the complaint as well as criminal proceedings at the stage of charges. Therefore, the aforesaid Misc. Criminal cases were filed in the High Court. We note from the impugned judgment that the High Court has, no doubt, discussed the relevant facts of the case and thereafterwards, the impugned order has been only burdened by certain case law. In paragraphs 26 to 29 of the impugned judgment, the inferences have been drawn. In paragraphs 26 and 29 of the impugned order, we do not find any discussion of the facts of the case or the relevance of the

judgment referred therein, to the facts of the case.

14. We also opine that the High Court has merely referred to the report of the Magisterial Inquiry as to whether there was a fake encounter or not as well as the report of the Human Right Commission without any further discussion on the same.

15. Assuming, for the sake of respondent's argument that the inferences drawn by the High Court for granting relief to the respondent/police officer(s) are correct, even then, the said inferences ought to have been supported by a discussion of the facts of the case. The sanction for prosecution in the context of "police excess", viz. the consideration of a case with regard to the necessity of sanction for prosecution of a case of "police excess" is a very subtle concept. In certain instances, no sanction for prosecution may be necessary at all. However, there are cases where even in the case of police excess, sanction for prosecution is necessary. That is why, in certain cases, this Court has opined that the question whether sanction for prosecution is necessary at all could be considered from stage to stage and at the relevant stage of a criminal trial.

16. Be that as it may. In the instant case, the High Court had earlier reserved liberty to the respondent/police officer(s) to raise this issue as to, whether, there was necessity for sanction for prosecution in the instant case under Section 197 of the CrPC at the stage of framing of

charges. It is on the basis of the said liberty that the respondent/police officer(s) approached the High Court. However, we find that in the absence of there being any discussion of the factual matrix in the instant case, the inferences made cannot be supported or accepted by us.

17. On that short ground alone, we set aside the impugned order. We therefore restore the matters on the file of the High Court with a request to the High Court to reconsider the applications filed by the respondent/police officer(s) in light of what we have observed during the course of this order and in light of the judgments of this Court and in accordance with law.

18. At this stage we note that vide order dated 27.10.2021 in CRR No.1808/2020, the High Court of Madhya Pradesh had granted stay of further proceedings in ST No.184/2012 pending on the file of the Court of Special Judge, Shahdol, we think that the benefit of the said interim order must be extended to the respondent/police officer(s) till the High Court decides their applications raising the issue regarding the requirement of sanction under Section 197 of the CrPC in the facts of the present case. In view of the aforesaid observations and directions, we request the High Court to decide the aforesaid cases as expeditiously as possible in light of the observations made above and in accordance with law.

19. These appeals are allowed and disposed of in the aforesaid terms.

20. All contentions on both sides are left open to be advanced before the High Court in the aforesaid cases.

Pending application(s), if any, shall stand disposed of.

....., J.
(B.V. NAGARATHNA)

....., J.
(R. MAHADEVAN)

NEW DELHI;
SEPTEMBER 18, 2025

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSCRIMINAL APPEAL NO(S). 5654-5656/2024

KRISHNA YADAV

Appellant(s)

VERSUS

J.B.S. CHANDEL & ANOTHER ETC.

Respondent(s)

(IA No. 59971/2024 - EXEMPTION FROM FILING O.T.
IA No. 94681/2023 - EXEMPTION FROM FILING O.T.)

Date : 18-09-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE R. MAHADEVAN

For Appellant(s) Mr. Vikas Upadhyay, AOR
Ms. Ankita Kashyap, Adv.
Mr. Anant Dixit, Adv.
Mr. Ranveer Singh, Adv.
Mr. Shiva Narang, Adv.
Mr. Alok Shankar, Adv.

For Respondent(s) Mr. Meenakshi Arora, Sr. Adv.
Mr. Nikhil Jain, AOR
Mr. Saurabh Singh, Adv.
Ms. Shambhavi Shrivastav, Adv.
Mr. Praful Chandel, Adv.
Ms. Nonkey Kalra, Adv.
Ms. Archana, Adv.
Mr. Vedant Tiwari, Adv.

Mr. Amit Sharma, A.A.G.
Ms. Mrinal Gopal Elker, AOR
Mr. Abhimanyu Singh -g.a., Adv.
Mr. Raghvendra Shukla, Adv.
Mr. Chinmoy Chaitanya, Adv.

Mr. Satyam Thareja, AOR
Mr. Anant Sagar Tiwari, Adv.
Mr. Gaurav Verma, Adv.
Ms. Vasundhara Nagrath, Adv.
Mr. Shaurya Katoch, Adv.

Mr. S Nagamuthu, Sr. Adv.
Mr. Ashwani Kumar Dubey, AOR

Mr. Deepak Singh Chauhan, Adv.
Ms. Garima Sharma, Adv.
Ms. Shreem Bajpai, Adv.
Ms. Swati Dwivedi, Adv.

Mr. Ardhendumauli Kumar Prasad, Sr. Adv.
Mr. Nitesh Ranjan, AOR
Mr. Amritesh Raj, Adv.
Mr. Neelaksh, Adv.
Ms. Avantika Chaudhary, Adv.
Mr. Shivank, Adv.
Ms. Shreya Sinha, Adv.

Mr. Brijesh Kumar Tamber, AOR

Mr. Akshat Shrivastava, AOR
Mrs. Pooja Shrivastava, Adv.
Mr. Palash Pareek, Adv.
Mr. Lohit Panchal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Appeals are allowed and disposed of in terms of the signed order.
2. Pending application(s), if any, shall stand disposed of.

(RADHA SHARMA)
ASTT. REGISTRAR-cum-PS

(DIVYA BABBAR)
COURT MASTER (NSH)
(signed order is placed on the file)