IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J.) No. 850 of 2005

Junas Purty @ Juna S/o late Kamil Purty, resident of Village Karla Tola Kukruburu, P.S.- Bandgaon, District- Singhbhum West

… … Appellant

Versus

The State of Jharkhand **… … Opp. Party**

CORAM: HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY

For the Appellant : Mr. Dilip Kr. Chakraverty, Advocate
For the Opp. Parties : Mr. Jitendra Pandey, A.P.P.

C.A.V. on 02.04.2026 ***Pronounced on 06.07.2026***

1. This appeal has been filed against the Judgment of conviction dated 16.05.2005 and the order of sentence dated 19.05.2005 passed by the learned Sessions Judge, West Singhbhum at Chaibasa in Sessions Trial No.209 of 2003 whereby the appellant has been held guilty and convicted for the offence under Section 304 Part II of the Indian Penal Code ***(hereinafter referred to as IPC)*** and sentenced to undergo imprisonment for 07 (seven) years and also to pay fine of Rs.5,000/- for the offence under Section 304 Part II of IPC and in default to pay the fine amount, to undergo imprisonment for a further period of six months.

2. The prosecution is based on the fardbeyan of Bharosi Purty recorded by S.I. Nirmal Kumar Jha, Officer-in-charge, Bandgaon P.S. on 19.08.2003 at about 06:00 AM at Meramgutu Checknaka, Bandgaon alleging that on 16.08.2003 at about 06:00 PM, when her son namely, Alfred Purty @ Bata was going on the path situated near the khalihan (barn) of Maisu Bodra, the appellant, who had old enmity with the Informant due to land dispute and waiting there from before, abused and assaulted her son by boxing on his abdomen and chest, due to which her son became unconscious. Subsequently, the villagers brought her son to her house and on sprinkling water on his face, he regained consciousness. Thereafter, her son told the Informant and her daughter namely, Arsaleyani that the appellant has assaulted him on

his abdomen and chest by boxing and he was feeling acute pain and he felt that he would not survive. Thereafter, the Informant called the village doctor namely, Sukhram Bodra to her house who administered an injection to her son, but her son could not survive and died on 17.08.2003 at about 04:00 AM. Thereafter, the Punches of his village convened panchayati in the village on 17.08.2003 and 18.08.2003 and persuaded both the parties to settle the matter in the village itself and not to involve the police and kept the Informant party within the village itself. However, the Informant did not agree and came to Meramgutu Checknaka, Bandgaon alongwith the dead body of her son and got her fardbeyan recorded by the police. On the basis of the fardbeyan, the case was registered as Bandgaon P.S. Case No.21 of 2003 dated 19.08.2003 against the appellant.

3. After completion of investigation, the Investigating Officer submitted Charge-sheet No.28/2003 dated 31.08.2003 under Section 304 of IPC against the appellant and accordingly, cognizance of the offence under Section 304 of IPC was taken in the case on 15.09.2003 and on 12.11.2003, the case was committed to the court of Sessions for trial and disposal. On 13.01.2004, the charge under Section 304 of IPC was framed against the appellant which was read over and explained to him in Hindi to which he pleaded not guilty and claimed to be tried.

4. The learned trial court framed the following point for determination:

> *"Whether the accused had assaulted and caused fatal injuries to the deceased and if so whether he caused the injuries with knowledge that it is likely to cause death of the deceased, but without any intention to cause death or had knowingly assaulted the deceased intending to cause such bodily injury as was likely to cause death of the deceased?"*

5. The trial court convicted the appellant for offence under section 304 Part II of IPC. On appraisal of the evidences available on record,

the learned trial court recorded its findings at Paragraph-9, 10 and 11, which are as under:

*"**9.** On a reappraisal of the evidences in the light of the points raised by the learned counsel for the defence, I find that the evidences of P.W. 1 Arsliyani Soy, P.W. 4 Sushil Barjo and P.W. 5 Bharosi Purty are hearsay on the point of occurrence. However, the evidence of P.W. 1 Arsliyani Soy and that of P.W. 5 Bharosi Purty indicates that the deceased had made a dying declaration before these two witnesses and had stated before them that the accused Junas Purty had assaulted him and had caused the injuries on his abdomen. P.W. 2 Sushna Barjo is the sister of the accused Junas Purty and she has been declared hostile by the prosecution. P.W. 3 and P.W. 8 are the witnesses on the point of occurrence who claim to be the eye witnesses.*

Regarding the place of occurrence, the informant, both in her fardbeyan as well as in her deposition has described the place of occurrence as being the open place near the barn of Maisu Bodra of her village. The Investigating Officer (P.W. 7) has also described the place of occurrence as a path by the side of the barn of Maisu Bodra. P.W. 3 Gonda Purty has stated that his house is located at a distance of about 25 30 yards from the place of occurrence and that the house of Soma Purty, Martin Purty and Rela Bodra are the nearest houses from his own house. He maintains that the occurrence took place towards South of his house and the barn is located at a distance of 25-30 steps from the place of occurrence. The Investigating Officer (P.W. 7) describes that on the east of the place of occurrence is the house of Pandey Buku Bodra and beyond that is the river. On the west lies the house of Tasu Purty while on the north is Kukrubaru Tola and on the south lies Karla Tola and the house of Soma Oreya. P.W. 8 Champu Oreya says that while she was present at her barn, she saw deceased Alfred Purty coming by the side of the barn. Her house, according to the evidence of the Investigating Officer, lies on the south of the place of occurrence. Thus, on reading the evidences of these witnesses together, the place of occurrence appears to be the path situated nearby the barn of Maisu Bodra on one side and of Champu Oreya at the little distance on the other side. There does not appear any controversy or doubt regarding the place of occurrence which has been specified by the Investigating Officer as well as by the witnesses. As regards the presence of P.W. 3 and P.W. 8 at the time of occurrence, both these witnesses claim that they were present in front of their respective houses which according to the LO. are situated on two different opposite sides of the place of occurrence

and each at a distance of about 25-30 yards from the place of occurrence. It is not unlikely therefore that these witnesses may not have seen each other or were not conscious about the presence of each other at the time of occurrence since their attention was on the occurrence of assault.

10. *As regards the evidence pertaining to the injuries found on the deceased, the evidence of P.W.1 Arsliyani Soy and that of P.W.5 Bharosi Purty is that on the evening on 16-8-2003, a co-villager Shyam Oreya had brought the injured to the house of these witnesses. The injured was at that time unconscious, but after sprinkling water, he regained partial consciousness and had told them that he was feeling acute pain in his abdomen and feels that he would not survive. He had also stated that the injury was caused to him by fists blows by Junas Purty. Post mortem examination read with the evidence of the doctor confirms that though there was no visible external injury, but there was internal fracture of left 8th to 12th ribs. The lung parenchyma was lacerated on the left side while the spleen was found crushed and the cause of death was the rupture of the spleen and the injury to the lungs. P.W. 3 and P.W. 8 have stated that they had seen Junas Purty assaulting the deceased Alfred Purty with fists and blows on the victim's chest and abdomen and on being so assaulted, the victim fell down on the ground and soon, lost his consciousness. Thus, I find that the evidence of the witnesses regarding injury on the person of the deceased is corroborated by the medical evidence and the cause of the death was the internal injuries to the lung and spleen of the deceased. According to the doctor, the injuries could have been caused by hard blunt substance and even by fist blows.*

Regarding time of death, the evidence of the witnesses is that death had occurred in the early hours of 17-8-2003. Post mortem examination was conducted two days later on 19-8-2003. On external examination, the doctor had found rigor mortis was present in all the limbs, the body was swollen, maggots were present all over body and the body was emitting foul smell. On the basis of the observations, the doctor had opined that death could have been caused within 6 to 32 hours. The time approximately opined by the doctor tallies with the time of death of the deceased as appearing from the evidences of the witnesses namely P.W. 1 and P.W. 5.

As regards the delay in lodging the F.LR, there is no doubt a delay of three days in lodging the F.LR. The explanation given for the delay by the informant is that after the deceased had died in the early morning of 17-8-2003, she informed the village Munda whereafter a Panchayat meeting was convened at the village. The

informant further affirms that she was discouraged by the village heads from involving the police and was persuaded to settle the matter in the village itself and it was only when the matter could not be settled in the village, the informant had decided to inform the police and she went to the police station on the second day. It needs to be mentioned that the informant and the other witnesses belong to the Schedule Tribe community and are rustic illiterate people and according to their own discipline in their community, disputes are initially referred to the village Panchayat for settlement. The explanation given by the informant in my opinion appears to be reasonable. It needs also to be noted that the police station is situated at a distance of 20 K.M. from the place of occurrence and the conveyance facilities are few.

As regards the evidence of the witnesses that it was on the next day after the occurrence that the informant and the village Munda had gone to the Police Station and had informed the Police about the occurrence, there appears the evidence of P.W. 1 that a Panchayati was convened in the village on the next day of the occurrence. Same is the assertion of the informant also. Apparently, no information was lodged on 17-8-2003 and also on 18-8-2003 because of the Panchayat meeting and it was in the early hours of the morning of 19-8-2003 that the information was lodged at the Police Station. Thus, even though it is in the evidence of the informant (P.W. 5) and that of the evidence of P.W. 3 that they had gone on the next day after the occurrence to the police station and lodged the information to the police, the same appears to be incorrect. Besides, both these witnesses admit that they have gone only once to the police station and the fardbeyan of the informant was recorded only once. If this was so then the fardbeyan of the informant which recorded in the early hours of the morning on 19-8-2003 appeared to be the only fardbeyan and the first information report given by the informant. The discrepancy regarding dates in my opinion attach no importance on this issue.

11. *The next point to be determined as to whether the ante-mortem fatal injuries found on the person of the deceased was authored by the present accused or not. On this issue, there is evidence of the two eye-witnesses namely, P.W.3 and P.W.8. Neither of these two witnesses is related to the deceased or to the accused. Their presence at the time of occurrence though not confirmed by each other specifically, but is not rendered doubtful. This is because the houses of the two witnesses are within the nearest vicinity of the place of occurrence. While the house of P.W. 3 is at a distance of about 25-30 yards, the house of P.W. 8 is at a distance of about 30 feet on the opposite side. The oral evidences of these witnesses are*

corroborated by the medical evidences relating to the injuries inflicted and the cause of the death of the deceased. Both these witnesses were subjected to lengthy cross-examination, but I do not find any such material elicited in their respective evidences to draw any inconsistency or any reason for disbelieving them. I find that both these witnesses are truthful and their evidences inspire confidence and can be relied upon. Next in this regard is the evidence of the informant (P.W. 5) and that of P.W. 1. Whereas the informant is the mother of the deceased, P.W. 1 is the sister. Both have claimed that the injured was brought to the house when both these witnesses were present and the injured was in a semi-conscious condition, he had regained partial consciousness and had stated before these witnesses that Junas Purty (accused) had assaulted him on the chest and abdomen with fists and blows. No doubt these two witnesses may be listed in the category of interested witnesses, but merely because of this, their evidence cannot be thrown out of board. Learned Counsel for the accused has argued that the doctor has not stated as to whether the deceased could have been in a fit state of mind to make any dying declaration after having sustained the fatal injuries. From the cross examination of the doctor, I find that the defence itself has elicited from the witness that from the nature of injury, the injured could possibly be able to speak even after having sustained the injury. The injured had sustained the injury in the evening hours of 6.30 P.M. and had remained alive for about ten hours till death overtook him at about 4.00 A.M. on the following morning. It is not improbable therefore that the injured was in a condition to speak to his parents about the source of injury and identity of his assailant. From the evidences I find that there is ample support to the prosecution's case that it is the present accused who had assaulted the deceased and had inflicted the injuries to the deceased. The impact of the assault was such as to cause fracture of the ribs and laceration of the lungs and also damage to the spleen. It is apparent therefore that the accused had assaulted the deceased and had inflicted injuries to the deceased which had proved fatal.

As to whether the accused had assaulted the deceased with intention to cause the victim's death or of causing such bodily injury as is likely to cause death, there appears no specific evidence. The prosecution has suggested a previous land dispute as being the motive, through the mouth of P.W. 3, but has not come out with any more detail regarding the nature of dispute or since when such dispute existed. The evidence of the witnesses namely, P.W. 3 and P.W. 8 is concerning the assault being made by the accused with his fists on the abdomen and chest of the victim. No weapon

was used. Yet, the pounding on the chest and abdomen of the victim by fist blows, had the effect of fracturing the ribs and damaging the spleen of the victim. The impact does suggest the force with which the blows were dealt on the victim. The inference from these circumstances is that the assault was made without intending to cause death or to cause any bodily injury as is likely to cause death, but the injury caused, was sufficient in the ordinary course of nature to cause death. The act of the accused conforms therefore with the offence of culpable homicide not amounting to murder and punishable under Part II of Section 304 I.P.C.

The prosecution has led conclusive evidence beyond all reasonable doubt to confirm that the accused is guilty of committing culpable homicide not amounting to murder and has committed the offence under Section 304 Part II I.P.C. Accordingly I find and hold the accused guilty for the offence under Section 304 Part II I.P.C. and convict him accordingly. He shall be produced for hearing on the point of sentence on 19-5-2005."

6. <u>Arguments of the appellant.</u>

The following submissions have been made by the learned counsel for the appellant: -

a. Unexplained Delay in FIR: The 3-day delay in lodging the FIR suggests a period used for deliberation and concoction.
b. There is conflict between ocular evidence and the medical evidence; the eyewitnesses claim multiple violent fist blows, yet the post-mortem report (Ext. 2) shows no external injuries.
c. The alleged oral dying declaration is uncorroborated, recorded after a delay, and made by a person who was "semi-conscious."
d. The prosecution failed to establish a clear link between the alleged assault and the cause of death (ruptured spleen) given the fact that there were no external marks.
e. PW-1: Arsalayani Soy (Cousin of Deceased) has stated that she was at home when the victim was brought back in semi-conscious condition and she claims that the deceased told her that the appellant hit him with fists in the stomach. In cross examination she stated that the village doctor came and gave medicine but the doctor has not been examined.
f. PW-2: Sushna Barjo (Eye-witness) claims that she was at her barn and saw the Appellant hit the deceased 3 times with fists. However, her conduct is relevant as she admitted that she did not shout for help or try to intervene and she also stated that the I.O. never visited the Place of Occurrence in her presence and never took her statement at the site.

g. PW-3: Gonda Purty (Eye-witness) claims that he saw the assault from 10-15 yards away and admitted in cross-examination that he did not tell anyone in the village about the incident that night. His conduct is unnatural.
h. PW-4: Sushil Barjo reached the spot after hearing that Alfred was being brought home. It is submitted that this witness is hostile as he admitted that he did not know how the deceased died and denied having given any statement to the police.
i. PW-5: Bharosi Purty (Mother of Deceased/Informant) claims that the deceased told her about the assault by the Appellant and that there was a prior land dispute as the motive. She admitted that her Fardbeyan was taken 2 days after the death and that first a "Panchayat" was held.
j. PW-6: The doctor conducted post-mortem and found a ruptured spleen and 2 lbs of blood in the abdominal cavity. Admittedly, No external injury was observed on the body. He also admitted that such a rupture could occur if a person with an enlarged spleen falls on a hard object.
k. PW-8: Chambu Oreya (Eye-witness) claims to have seen the assault but admitted that the I.O. did not record his statement at the village.
l. The learned counsel for the appellant has submitted that there are material contradictions in the evidence of the informant (P.W-5) and has submitted as under: -

I. The testimony of PW-5, Bharosi Purty, reveals significant improvements and contradictions that fundamentally undermine the prosecution's narrative. In her initial fardbeyan, the informant stated that the deceased was brought home by "villagers", which she improved in her deposition by naming a specific individual, Shyam Oreya, as the person who carried her son home.

II. In fardbeyan she claims the deceased was brought home "unconscious" and only spoke after water was sprinkled on his face but in cross-examination, she states that he was "not completely unconscious" and was capable of speaking even when the doctor arrived. This is a material improvement designed to bolster the credibility of the alleged oral dying declaration.

III. In her deposition, she claimed to have informed the village Munda (PW-4) on the very evening of the occurrence, yet PW-4 himself contradicted this, stating he was only informed the following morning. Additionally, her claim of visiting the police station

on August 18th directly contradicts the official record of the fardbeyan taken on August 19th. These layered inconsistencies and deliberate improvements suggest a tutored narrative rather than a truthful account, rendering the prosecution's case highly suspicious and unreliable.

m. It has been submitted that the eyewitnesses (PW-2, PW-3, PW-8) consistently state that the Appellant dealt "3-4 heavy fist blows" to the chest and abdomen. However, the Medical Officer (PW-6) found no bruises, no abrasions, and no swelling on the skin. It is medically improbable that multiple blows sufficient to rupture an internal organ would leave absolutely no mark on the skin. This suggests that the eyewitnesses are "staged" and did not actually witness the event.

n. The I.O. (PW-7) failed to seize any items from the PO and failed to examine independent villagers. The "Village Doctor" who first treated the deceased was suppressed. The non-examination of independent witnesses despite the incident occurring in a common area (village road/barn) creates a gap that must result in the benefit of the doubt going to the Appellant.

o. The oral dying declaration was made to highly interested witnesses (Mother and Cousin). Given the deceased was "semi-conscious" and in extreme shock from internal bleeding, his capacity to give a detailed and coherent statement naming a specific person due to a specific land dispute is highly doubtful.

p. The conviction of the Appellant rests on the testimony of related witnesses which is diametrically opposed to the medical evidence. The Learned Trial Court ignored the fundamental principle that when the medical evidence completely rules out the ocular version, the entire prosecution story becomes suspicious.

q. Reliance has been placed on Rupinder Singh Sandhu v. State of Punjab, (2018) 16 SCC 475 and it has been submitted that it has been held that if the medical evidence shows that death could have resulted from a pre-existing condition or an accidental fall (e.g., cardiac arrest in the cited case, or a fall on a stump in the present case), the accused cannot be held liable for "causing death" unless the link is certain. (Para 66, Para 70 & Para 78). It has been submitted that the Hon'ble Supreme Court held that where eyewitnesses describe a violent physical assault but the medical report shows no corresponding external injuries, the ocular testimony is "most unlikely" and "untrustworthy." (Para 63 & Para 75)

r. It is submitted that following the ratio in Rupinder Singh Sandhu (supra), where the Court reduced the conviction because the link between the assault and death was not conclusively proved by medical science, the Appellant herein deserves a total acquittal as the very occurrence of the assault is rendered mythical by the absence of external marks.

s. In the present matter, PW-6 (Doctor) admitted the deceased had an enlarged spleen and that the rupture could be caused by a simple fall. Combined with the 3-day delay in the FIR and the Hostile testimony of PW-4, the prosecution has failed to prove beyond reasonable doubt that the Appellant's alleged "fist blows" were the actual and sole cause of death.

Arguments of the State.

7. The learned counsel for the State has opposed the prayer of the appellant and has submitted that the impugned judgement is reasoned judgement supported by evidence of the eye witnesses and the same does not call for any interference. The appeal be dismissed.

Findings of this Court.

8. In course of trial, the prosecution examined altogether 08 witnesses to prove the charge against the appellant, who are as under:

Oral Evidence on behalf of prosecution	
PW-1	Arsaleyani Soy, cousin sister of the deceased
PW-2	Sushna Barjo
PW-3	Gonda Purty
PW-4	Sushil Barjo
PW-5	Bharosi Purty, Informant, Mother of deceased
PW-6	Dr. Swapan Kumar Singh
PW-7	S.I. Rameshwar Singh (Investigating Officer)
PW-8	Champu Oreya

9. The prosecution exhibited the following documents to prove the charge against the appellant:

Documentary Evidence	
Exhibit-1	Signature of Arsaleyani Soy on Fardbeyan
Exhibit-2	Post Mortem Report
Exhibit-3	Fardbeyan of Informant
Exhibit-4	Formal F.I.R.
Exhibit-5	Death Inquest Report

10. PW-1 is the cousin sister of the deceased. In her ***examination-in-chief***, she deposed that the occurrence took place on 16.08.2003. In the evening, when she was at her house, some persons of the village brought Alfred Purty in injured and unconscious condition to the house. On sprinkling water on his face, he regained consciousness and he said that the appellant has assaulted him on his abdomen by fists and he is feeling acute pain. The village doctor was called and the doctor administered medicine to him, but he died in the night. A panchayati was convened in the village on the next day in the morning and the appellant admitted in presence of the panches that he had assaulted the deceased. Thereafter, she went to the police station alongwith the Informant and the fardbeyan of the Informant was recorded by the police in which the Informant put her thumb impression and she had also made her signature on it. Thereafter, the Investigating officer came to the village and prepared inquest report of the dead body of the deceased and recorded her statement. She exhibited her signature on the fard-beyan as Exhibit-1. She identified the appellant in court. During ***cross-examination***, she admitted that her marriage was solemnized in the year 1983 and after the marriage, she lives at her matrimonial house at Village- Naranga which is situated at a distance of about 10 Km from her parental house. She further admitted that she had seen the place from where the deceased was picked up by the villages and the place was the barn (Khalihan) of Maisu Bodra. The villagers had brought the deceased at about 06:30 PM and after one hour, the deceased had regained consciousness. When the doctor came, the deceased was in partial consciousness and the deceased had told that the appellant had assaulted him and at that time, she and her mother, father and some villagers were present there. She denied the suggestions that the deceased had sustained injury due to fall under the broken tree and the appellant had not assaulted him. She further admitted that she had not gone in the panchayati, but her mother had attended the meeting.

11. PW-2 is the elder sister of the appellant. She has been declared hostile by the prosecution. During ***cross-examination*** by the prosecution, she admitted that the appellant is her younger brother and resides in her village.

12. PW-3 in his ***examination-in-chief*** deposed that the occurrence took place on the 16th date of August last year at about 06:30 PM. and at that time, when he had come out of his house on the road, he saw that the appellant was assaulting Alfred Purty by fists on the side of the barn (khalihan) of Maisu Bodra. When Alfred Purty fell on the ground, the appellant fled away. Sam Oriya picked up Alfred Purty and took him to his house and he went to his house. On the next day in the morning, he came to know that Alfred Purty has died. There was land dispute between the deceased and appellant. He further deposed that the Investigating Officer had recorded his statement. He identified the appellant in court. During ***cross-examination***, he admitted that he alongwith several persons had gone to the police station on the next day of the occurrence and on the same day, the police had enquired him about the occurrence. He further admitted that the occurrence of assault had taken place on the path at a distance of 25-30 steps from south of his house and he had gone to the place of occurrence on the next day. The house of the deceased is situated at a distance of 25-30 steps from the place of occurrence. He further admitted that a quarrel had taken place between the appellant and the deceased over land dispute and he had seen the same at a distance of 25-30 steps. He also admitted that the deceased was his nephew in village relation and the appellant is also his nephew in village relation.

13. PW-4 is the Munda of the Village- Kukrubaru. In his ***examination-in-chief***, he deposed that the occurrence had taken place on 16.08.2003 in the evening and he was in his house. on the next day the Informant came to his house and informed him that the appellant had assaulted the deceased and as a result thereof, he has died. She had also told him that the occurrence of assault had taken place near the barn (khalihan) of Maisu Bodra. He further deposed that he had

gone to the police station in the morning and the police had recorded his statement. He identified the appellant in court. During ***cross-examination***, he admitted that he is the Munda of the village for the last 4-5 years. He also admitted that he had not seen the occurrence. The Informant had come to his house in the morning and after getting information, he had gone to the police station alone and his statement was recorded by the police.

14. PW-5 is the Informant of the case. In her ***examination-in-chief***, she deposed that the deceased was her son. She further deposed that the occurrence had taken place on the next day of 15th August, 2003 in the evening and at that time, she and her husband were in their house. Sam Oriya brought her son to her house in semi-unconscious condition. Her son told her that the appellant had assaulted him on his abdomen and chest by fists near the barn of Maisu and he complained pain in his abdomen. She had called the village doctor who had given injection to him, but her son died in the morning. Thereafter, she informed the Village Munda and other persons about the occurrence and a panchayati was convened in the village in which the appellant was called. The appellant accepted that he had assaulted her son. As per the decision of the Panchayat, the occurrence was reported to the police. She and Arsaleyani Soy had gone to the police station and the Investigating Officer had recorded her fard-beyan, which was read over to her and finding the same to be correct, she had put her thumb impression and Arsaleyani had also made her signature. She identified the appellant in court. During ***cross-examination***, she admitted that the Investigating Officer was speaking in Hindi, which was translated to her in Munda language by a constable present there. She had gone to the police station on 18.08.2003 and she had informed the Village Munda about the occurrence in the evening of the occurrence. she further admitted that when Alfred Purty was brought home, he was not completely unconscious and he had spoken to her. When the doctor had come to her house at about 08:00 PM, her son was in conscious condition. When the doctor gave injection and went away,

thereafter also, he was in conscious condition. He died in the early morning. Thereafter, she went to the house of the Munda and informed him about the occurrence. Panchayati was convened on Sunday in which John Purty, Samual Purty, Gond Purty, Birsa Barjo and others were present and the decision was given by John Purty. The proceeding of the Panchayat was not recorded in writing. The appellant was called for and he had come and had accepted his guilt before the panchayat. She was present in the Panchayat and from there, the appellant was taken to the police station.

15. PW-6 is the doctor who had conducted post-mortem over the dead body of the deceased. In his *examination-in-chief*, he deposed that on 19.08.2003, he was posted as Medical Officer, Sadar Hospital, Chaibasa and he had conducted post-mortem over the dead body of the deceased. on examination of the dead body, he had found the following injuries:

External Examination: Rigor mortis present in all limbs. Body was swollen. Maggots present all over the body and the body was emitting foul smell. Blebs were present over the trunk. No external injury observed on the body.

On dissection, he had found the following:

> Head and neck: - N.A.D. Thorax: - Pleural cavity was full of blood. There was fracture of left 8 to 12th ribs. Lung parenchyma was lacerated on left side.
>
> Abdomen: Peritoneal cavity was full of blood. Spleen was crushed. There was hematoma of mesentery of left descending colon. Urinary bladder was Full. Stomach was Empty.
>
> Time since death till post-mortem examination was 06 to 32 hours.
>
> Cause of death: ***Haemorrhage and shock due to rupture of spleen and injury in the lungs. The injury was caused by hard and blunt substance which could possibly be caused by fists blows.***
>
> He has exhibited the Post-Mortem Report as Exhibit-2.

During ***cross-examination***, he admitted that from the nature of injury, the injured could possibly be able to speak even after having sustained the injury. He further admitted that such injury may be possible, if the victim falls flat on his stock on a trunk of wood.

16. PW-7 is the Investigating Officer of the case. In his ***examination-in-chief***, he deposed that on 19.08.2003, he was posted as sub-Inspector at Badgaon Police Station and on that day at about 06:00 AM, the Informant had come to the police station and her fardbeyan was recorded by the Officer-in-charge, Sri Nirmal Kumar Jha at Meramgutu Checknaka. He Exhibited the fard-beyan as Exhibit-3. He further exhibited the formal F.I.R. as Exhibit-4. He further deposed that the Informant had brought the dead body of the deceased alongwith her. He had taken custody of the dead body and had prepared inquest report in presence of Sushil Barjo and Joseph Purty. He exhibited the inquest report as Exhibit-5. He also deposed that thereafter, he had inspected the place of occurrence which is situated at Village- Karla, Tola Kukrubaru, on the path to the *Khalihan* of Maisu Bodra on the bank of the river. He further deposed that he had recorded the statements of Arsaleyani Soy, Sushil Barjo, Gonda Purty, Sushma Barjo and Champu Oriya and the re-statement of the Informant was also recorded by him. After completion of investigation, he submitted Charge-sheet No.28/2003 dated 31.08.2003 under Section 304 of IPC. He identified the appellant in court. During ***cross-examination***, he admitted that he was present at the time when the Officer-in-charge, Sri Nirmal Kumar Jha was recording the fardbeyan of the Informant. The Informant had given her statement in Hindi language. He denied that the Informant does not know Hindi. He denied the suggestion that his investigation was faulty.

17. PW-8 in her ***examination-in-chief*** deposed that she knew Alfred Purty and the occurrence of his death had taken place about 1½ years ago on 15/16th August. At the time of the occurrence, she was standing at her barn. It was evening time, but the Sun had not set. She

saw Alfred Purty coming on the path adjacent to the barn. When Alfred Purty reached near her barn, the appellant present there from before started assaulting him by fists on his chest and near the chest and Alfred Purty fell down there itself and became unconscious. After sometime, his family members came there and took him away. When she went to her house, the appellant was present there. She identified the appellant in court. During ***cross-examination***, she admitted that there is no other barn or house near her barn and she was alone there and she had seen the occurrence, but the elder sister of the appellant namely, Sushna was there and Sushna had also seen the occurrence. The appellant had hit by fists on the right side below the chest of Alfred Purty. She further admitted that the Investigating officer had come in the village, but he had not recorded her statement. She also admitted that the family members of Alfred Purty had taken away him. She denied the suggestion that the appellant had not assaulted Alfred Purty and he died due to sickness and he had himself fallen down due to sickness.

18. On 31.01.2005, statements of the appellant were recorded under Section 313 of Cr.P.C. wherein he simply denied the incriminating evidences put to him and claimed to be innocent. The appellant did not adduce any oral or documentary evidence in his defence.

19. The informant of the case has been examined as P.W. 5 who happens to be the mother of the deceased and has fully supported the prosecution case. She has clearly stated that on 15.08.2003 in the evening, when she and her husband were at home, one Sam Oriya brought her son in semi-unconscious condition and her sons disclosed that it was the appellant who assaulted him on his abdomen and chest by fist near the barn of Maisu and he also complained severe pain in his abdomen. She had also called the village doctor, who injected her son, but her son died in the morning. Thereafter, panchayati was convened in which the appellant had accepted that he had assaulted her son and then, as per the decision of the panchayat, the First Information Report was lodged. During her cross-examination, P.W. 5

has clearly stated again that when her son was brought home, he was not completely un-conscious and he had spoken to her. The fact that the son of the informant was brought home and complained about the fact that the appellant had assaulted him and there was pain in his abdomen and ultimately, he died in the following morning, remained intact. The mere fact that during her deposition the informant had taken the name of only one person namely, Shyam Oreya as the person who carried home her son and the fact that the name of Shyam Oreya was not specifically disclosed in the FIR, has no bearing in the matter. The defence did not put any question to the informant of the case in this regard with respect to her previous statement that she had stated that the villagers had brought her son back home. The evidence of the informant on this aspect of the matter cannot be said to be a result of any material improvement in the prosecution case.

20. The further contradiction which was sought to be pointed out by the learned counsel for the appellant is that, in the Fardbeyan the informant had stated that the deceased was brought in unconscious state and only spoke after water was sprinkled on his face whereas during cross-examination, she said that he was not completely unconscious. The deposition reveals that the informant (P.W-5) stated in her examination-in-chief that her son was brought in her house in semi-unconscious condition ***(आधा बेहोशी की हालत में था)*** and not that her son was completely unconscious. The fact that the son of the informant was brought home and when water was sprinkled over the victim (deceased) he spoke, remained uncontroverted.

21. The further contradiction in the evidence of P.W. 5 which is sought to be pointed out by the learned counsel for the appellant is that the informant claimed that in the evening she informed the village Munda (P.W. 4), but P.W. 4 stated that he was informed in the following morning. This Court is of the considered view that the aforesaid argument is devoid of any merits. The informant (P.W. 5) in her cross examination has stated that she informed the village Munda (P.W. 4) about the incident in the evening and has also stated that in the following

early morning when her son died, she went to the house of the village Munda (P.W. 4) and informed him. The fact that the son of the victim died soon after the incident is not in dispute.

22. In view of the aforesaid facts and circumstances, the argument of the learned counsel for the appellant that there was material contradictions in the testimony of the informant (P.W. 5), is devoid of any merits.

23. So far as other witnesses namely, P.W. 3 and 8 are concerned, they claimed to be eye-witnesses. It is the case of the appellant that although these eye-witnesses consistently said that appellant gave 3 to 4 heavy fist blows to the chest and abdomen of the deceased, but no external injury or swelling on the skin was found and therefore, the evidence of these eye-witnesses are not reliable. This Court is of the considered view that there is consistency in the evidence of P.Ws. 2, 3 and 8 who are eye-witnesses to the occurrence of assault on the son of the informant and/or when the son of the informant was brought back home after the incident of assault by the appellant. The son of the informant clearly stated in presence of the informant (P.W. 5) and other witnesses, that it was the appellant who gave him fist blows on his chest and abdomen and there was acute pain in his abdomen. Further, the post-mortem report reveals that the victim died due to rupture on spleen. This Court finds that the entire chain of events right from giving the fist blow by the appellant to the son of the informant followed by acute pain in his abdomen leading to his death and the post-mortem report revealing that he died of rupture in the spleen, clearly establishes cause and effect relationship between the assault and the death of the victim who expired at home soon after the incident of assault.

24. P.W. 1 is the sister of the deceased and she was also present in the house when the victim was brought in injured and unconscious condition to the house. She has also supported the case that on sprinkling water on his face, the victim regained consciousness and asserted that it was the appellant who had assaulted him on his abdomen by fist and he was feeling acute pain. The fact that the victim died due to rupture of spleen, is not in dispute.

25. So far as the P.W. 8 is concerned, she is the eye-witness to the actual occurrence of assault on the victim and she was standing at her barn. She has stated that the appellant had assaulted the victim by fist on his chest and near the chest and he became unconscious and his family members came and took him away. She also identified the appellant in the court. She has also stated that the elder sister of the appellant, P.W-2, had also seen the occurrence. However, the elder sister of the appellant, P.W-2, of the appellant has turned hostile but she has admitted in her cross-examination that the appellant is her brother. P.W. 8 denied the suggestion that the appellant had not assaulted the victim and the victim died due to sickness and that he had himself fallen down due to sickness. P.W. 3 is also an eyewitness to the actual occurrence of assault on the victim who has fully supported the prosecution case.

26. The aforesaid judgement relied upon by the learned counsel for the appellant reported in ***(2018) 16 SCC 475 (supra)*** paragraph 63,66,70,75 and 78 does not help the appellant in any manner as the cause and effect as explained above has been fully established beyond any reasonable doubts and the contradictions /inconsistencies as pointed out by the learned counsel for the appellant are either misconceived or not material.

27. P.W. 8 and P.W-3 had seen the occurrence of assault upon the son of the informant; P.W. 1 and P.W. 5 were present when the victim was brought home in semi-conscious state and he spoke when water was sprinkled upon him; P.W. 1 and P.W. 5 also stated that the victim disclosed that it was the appellant who had assaulted him on his chest and abdomen; the incident of assault was followed by death of the victim; the doctor , P.W-6, who conducted the post mortem, opined that the victim expired due to rupture of spleen and such rupture could be caused by fists. The entire sequence of events leading to death of the son of the informant is complete. This Court finds that every aspect of the matter has been taken into consideration by the learned court while convicting the appellant. Considering the totality of the facts and circumstances, this Court finds no reason to differ with the findings

recorded by the learned trial court with respect to the conviction and sentence of the appellant under Section 304 Part II of IPC. This court also finds that the sentence imposed upon the appellant is adequate. The impugned judgment is a well-reasoned judgment which does not call for any interference. ***Hence, this criminal appeal is dismissed.***

28. This Court finds that the appellant has remained in jail custody from 20.08.2003 to 28.07.2005 i.e. for a period of 01 year 11 months 08 days during investigation, trial and pendency of this appeal before this Court. The appellant was granted by bail vide order dated 28.07.2005 passed by this Court in this appeal.

29. The bail bonds furnished by the appellant are cancelled.

30. Let the Original Records of the case be transmitted to the court concerned forthwith.

31. Let a copy of this order be communicated to the court concerned through ‘e-mail/FAX’.

(Anubha Rawat Choudhary, J.)

Date of Judgment: 06.07.2026
Pankaj
Date of Uploading: 07.07.2026