

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.486 of 2018

In
CRIMINAL APPEAL (SJ) No.466 of 2018

Arising Out of PS. Case No.-4 Year-1999 Thana- KUDHNI District- Muzaffarpur

1. Bhui Manjhi, S/O Khelawan Manjhi,
2. Laxmi Manjhi, S/O Dwarika Manjhi,
3. Jagdev Manjhi, S/O Satya Narayan Manjhi,
4. Jorai Manjhi, S/O Jokhan Manjhi,
5. Shankar Manjhi, S/O Late Khakhnu Manjhi @ Fakanu Manjhi,
6. Raktu Manjhi, S/O Tilak Manjhi,
7. Tuntun Manjhi, S/O Dasrath Manjhi,
8. Chulhai Manjhi, S/O Badri Manjhi,
All are residents of Village-Mahanpur, P.S. Kudhni, District-Muzaffarpur.

... .. Appellants

Versus

The State of Bihar

... .. Respondent

with
CRIMINAL APPEAL (DB) No. 584 of 2018
In
CRIMINAL APPEAL (SJ) No.442 of 2018

Arising Out of PS. Case No.-4 Year-1999 Thana- KUDHNI District- Muzaffarpur

Meghan Manjhi, S/O Khelawan Manjhi, Resident of Village-Mohanpur, P.S.-
Kudhni, District-Muzaffarpur.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

(In CRIMINAL APPEAL (DB) No. 486 of 2018)

For the Appellant/s : Mr. Manoj Kumar No.1, Amicus Curiae

For the Respondent/s : Mr. Zeyaul Hoda, Addl. P.P.

(In CRIMINAL APPEAL (DB) No. 584 of 2018)

For the Appellant/s : Mr. Manoj Kumar No.1, Amicus Curiae

For the Respondent/s : Mr. Zeyaul Hoda, Addl. P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and

HONOURABLE MR. JUSTICE ASHOK KUMAR PANDEY
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 17-06-2025

Heard Mr. Manoj Kumar No.1, learned Amicus Curiae for



the appellants and Mr. Zeyaul Hoda, learned Additional Public Prosecutor for the State.

2. These two appeals are arising out of the judgment of conviction dated 27.11.2017 (hereinafter referred to as the 'impugned judgment') and the order of sentence dated 30.11.2017 (hereinafter referred to as the 'impugned order') passed by learned Additional District & Sessions Judge-VI, Muzaffarpur (hereinafter referred to as the 'learned trial court') in S.Tr. No. 532 of 2000 in connection with Kudhni (Turki) P.S. Case No. 04 of 1999 registered under Sections 147, 148, 149 and 302 of the Indian Penal Code (in short 'IPC').

3. By the impugned judgment and order, the learned trial Court has been pleased to convict the appellants for the offences punishable under Sections 302 read with Section 149 IPC and sentenced them to undergo rigorous imprisonment for life. The trial Court has also imposed a fine of Rs. 10,000/- upon each of the appellants.

Prosecution Case

4. The prosecution case is based on the *fardbeyan* of one Bhola Manjhi, who is the brother of the deceased and has been examined as P.W. 6 in the present case. In his *fardbeyan* recorded by S.I. Ajay Kumar, I/c of Turki O.P. on 08.01.1999 at 7 A.M. at Turki O.P., the informant (P.W. 6) has stated as under:-



On 07.01.1999 at about 6.30 hours, brother of the informant, namely, Maheshwar Manjhi @ Bhonu Manjhi was called by the villagers, namely, Meghan Manjhi, Laxman Manjhi, Bhuil Manjhi, Laxmi Manjhi, Badri Manjhi on the pretext of some purpose. Maheshwar Manjhi went with them. The informant also followed them. They took him in the '*potato* field' of Jugal Manjhi, where Jagdev Manjhi, Gorai Manjhi, Shankar Manjhi, Raktu Manjhi, Khublal Manjhi, Tuntun Manjhi, Deeplal Manjhi, Chulhai Manjhi being equipped with arms were standing. Meghan Manjhi took '*Bhala*' from Khublal Manjhi and made a blow upon Maheshwar Manjhi @ Bhonu Manjhi, which hit him upon his neck. Thereafter, other co-accused persons made assault with various arms upon him leading to serious injuries upon his body. As a result of which, Maheshwar Manjhi died on the spot. The informant raised alarm. The villagers, namely, Langar Manjhi, Dhodha Manjhi, Bechan Manjhi, Akal Manjhi and others rushed there, having seen them, the accused persons ran away. The informant with the help of the villagers brought the dead body of Maheshwar Manjhi at the O.P. of the police station on 08.01.1999. The cause of occurrence is said to be the theft of grain of Langar Manjhi.

5. Upon investigation, police submitted a chargesheet against altogether thirteen accused persons. The chargesheet was



filed for the offences under Sections 147, 148, 149 and 302 IPC. The learned Sub-divisional Judicial Magistrate, Muzaffarpur (West) took cognizance of the offences and transferred the records to the Court of Judicial Magistrate 1st Class, Muzaffarpur for the purpose of commitment. On 31.08.2000, the records were committed to the Court of Sessions where the trial was registered. During trial, two accused persons, namely, Laxman Manjhi and Khublal Manjhi absconded therefore, their records were separated on 21.07.2007 and 10.09.2007 respectively from the original records. Another accused Deeplal Manjhi and Badri Manjhi died during trial therefore, the proceedings against them were closed. In this manner, only nine accused faced the trial.

6. In the trial Court, the charges were explained to the accused persons in Hindi which they denied and claimed to be tried. They claimed that they are innocent and have been falsely implicated because of some earlier grudge against them.

7. In course of trial, the prosecution examined as many as eleven witnesses and exhibited certain documentary evidences whereafter the statement of the accused were recorded under Section 313 of the Cr.P.C. in which they pleaded innocence. The defence examined one witness, who is the Assistant Director of the District Security Cell of Muzzafarpur. List of witnesses examined on behalf of the prosecution and the defence as also



the documents exhibited on behalf of the prosecution and defence are being provided hereunder in a tabular form:-

List of Prosecution Witnesses

P.W. 1	Akal Manjhi
P.W. 2	Dodha Manjhi (Maternal brother of the deceased)
P.W. 3	Bechan Manjhi (Uncle of the deceased)
P.W. 4	Krishna Manjhi
P.W. 5	Banarsi Manjhi (Wife of the deceased)
P.W. 6	Bhola Manjhi (Informant)
P.W. 7	Dr. Mumtaz Ahmad
P.W. 8	Dharmendra Manjhi
P.W. 9	Narendra Kumar
P.W. 10	Ram Briksh Chaudhary
P.W. 11	Jitendra Jha

List of Exhibits

Exhibit '1'	Signature of Krishna Manjhi on the post mortem report
Exhibit '2'	Post mortem report
Exhibit '1/1'	Signature of Dharmendra Manjhi on the post mortem report
Exhibit '3'	Signature of Madan Paswan on the F.I.R.
Exhibit '4'	Signature of Madan Paswan on the fardbeyan
Exhibit '5'	Signature of Madan Pawan on fowarding report of Ajay Kumar

8. The defence examined only one witness and exhibited two documentary evidences which are as under:-

Exhibit 'A'	Signature of Sri Surendre Singh Meena (District Officer) on the order vide Memo No. 821 dated 30.10.1999
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Exhibit 'B'	Own handwriting of Sri Surendra Singh Meena (District Officer) on the record No. 24/1999-2000.
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Findings of the Learned Trial Court

9. Learned trial Court after examining the evidences of P.Ws. 1, 2, 3, 5 and 6 observed that these witnesses have stated that on the date of occurrence i.e. 07.01.1999 informant's brother Maheshwar Manjhi @ Bhonu was killed by the accused persons. Learned trial Court though found some contradictions in the evidence of the prosecution but those contradictions were not such that to disbelieve the prosecution case. Learned trial Court found that P.W. 7 (doctor) deposed that deceased died due to assault on the neck. Accordingly, the learned trial Court found the accused persons guilty under Section 149 IPC.

10. Learned trial Court found that the accused persons in furtherance of common intention formed unlawful assembly and committed the occurrence and all the accused persons were present at the place of occurrence when Maheshwar Manjhi @ Bhonu was killed. Accordingly, the trial Court found the accused persons guilty under Section 149 IPC.

Submissions on behalf of the appellant

11. Mr. Manoj Kumar No.1, learned Amicus Curiae has submitted that in this case, it is the informant (P.W. 6) who



alone claims to be an eye witness of the occurrence. In his submission, P.W. 6 is a closely related witness, who is not consistent in his deposition and has contradicted himself on material aspects of the matter. It is submitted that the manner of occurrence as claimed by P.W. 6 does not find corroboration from the evidence of the doctor (P.W. 7).

12. Learned counsel further submits that in this case the place of occurrence has also not been proved by the prosecution. It would be evident from the *fardbeyan* of P.W. 6 that the occurrence had taken place on 07.01.1999 at about 6:30 P.M. It was the month of January and at 6:30 P.M. the sunset had already taken place and darkness had prevailed. According to the informant, he could not inform police about the occurrence because there was no mode of transportation and he along with the co-villagers had lifted the dead body from the place of occurrence and brought to Turki O.P. on 08.01.1999 where his *fardbeyan* was recorded.

13. It is submitted that the inquest report has though not been proved in accordance with law but the signature of Krishna Manjhi and Dharmendra Manjhi, who are P.W. 4 and P.W. 8 respectively have been proved as Ext. 1 and Ext. 1/1 respectively. It would appear that the inquest report was prepared at Turki O.P. on 08.01.1999 at 7:15 A.M. In this regard, the



attention of this Court has been drawn towards the evidence of the wife of the deceased, who has stated that the dead body remained in the field for the whole night and on the date of occurrence, '*Chowkidar*' had gone to the police station. The wife of the deceased who has been examined as P.W. 5 has stated that '*Darogaji*' had come after four days and he had taken away the dead body from the field. P.W. 5 is not an eye witness of the occurrence but on the point of taking away the dead body from the place of occurrence, she has given a completely different version from that of the informant (P.W. 6).

14. It is further pointed out that the son of the deceased, namely, Dharmendra Manjhi has been examined as P.W. 8 who has stated that after murder of his father, police had arrived and prepared the inquest report at the place where the dead body was lying. He has proved his signature as a witness on the inquest report. In his cross-examination, however, P.W. 8 has stated that police came one day after the death of his father. He has further stated that the inquest report was prepared in his house. His statement was not recorded on the said date, he had gone to the police station on the next day and then *Darogaji* had recorded his statement. From his deposition also, it would appear that he is not an eye witness of the occurrence and he claims to have come to know that accused persons had killed his father.



He has not disclosed the name of the person from whom he came to know this.

15. Learned counsel points out that in this case, the Investigating Officer (I.O.) has not been examined. The non-examination of the I.O. has seriously prejudiced the case of the defence as the defence could not take out the contradictions through the I.O. with regard to the statements of the prosecution witnesses recorded by the I.O. in course of the investigation. In absence of the examination of the I.O., the place of occurrence has also not been proved.

16. It is further submitted that all the prosecution witnesses have stated that there was no prior enmity between the deceased and the appellants. No motive behind the occurrence has been given by the prosecution. The defence suggested the prosecution witnesses that because of the old enmity, the accused persons have been falsely implicated.

17. Learned Amicus Curiae further submits that Dr. Mumtaz Ahmad (P.W. 7) had conducted the autopsy on the dead body of the deceased. He had found several injuries on the person of the deceased. The allegation against Meghan Manjhi is that he had thrown up '*Bhala*' which hit on the neck of the deceased and he started bleeding and fell down whereafter the other accused persons had assaulted by '*rod*', '*bhala*' and



'knife/dragor' but the doctor has opined in his cross-examination that any injury by *'bhala'* shall cause penetrating wound, he did not find any penetrating wound on any part of the body of the deceased and he did not find such injury which (mentioned in the P.M. report), is not suggestive of the fact that it could be caused by *'bhala'*.

18. Learned counsel submits that the defence witness, who is a Government Officer, has stated that Record No. 10-15/24-1999-2000 was prepared on the basis of the application received from Banarsi Devi, wife of late Maheswar Manjhi. On the basis of the application and the inquiry report received from the Block, the records were prepared on which his signature and that of the signature of the then District Officer are present. At his instance, this document has been marked as Ext. A. This witness has stated that in this document regarding the cause of death, it is stated that Late Maheswar Manjhi died on 07.01.1999 in an accident. The applicant was given a grant of Rs. 10,000/-. D.W.-1 has proved the note-sheet which is in his handwriting and under his signature dated 28.10.1999. This document has been marked Ext. B. It is submitted that when P.W. 5 was asked about the receiving the benefit from the District Authority under the *'Rastriya Pariwarik Labh Yojana'*, she denied to have received the same which would only prove that she tried to suppress the



real fact with regard to the cause of death, as disclosed by her in her application for grant.

19. On all these grounds, it is submitted that it seems to be a case of death, may be a case of blind murder which was not seen by anyone and later on with an afterthought, the prosecution case has been developed in which the appellants have been falsely implicated. According to him, it would not be safe to convict the appellants on the sole testimony of P.W. 6, who is not consistent in his evidence and there is no corroboration of the evidence by any independent material particulars.

Submissions on behalf of the State

20. Mr. Zeyaul Hoda, learned Additional Public Prosecutor for the State has contested the appeals. It is submitted that even as the informant is a related witness but he is an eye witness of the occurrence and his testimony cannot be discarded only on account of certain minor and irrelevant discrepancies.

21. It is submitted that though the Investigation Officer has not been examined in this case but the prosecution witnesses have stated that the occurrence took place in the '*potato* field' of Jugal Sah. Non examination of the I.O., according to learned Additional P.P. shall not prove fatal to the prosecution case. In his



opinion, the fact that there is no other eye witness to the occurrence would not be important because conviction may be sustained on the basis of sole testimony of the informant.

Consideration

22. We have heard learned Amicus Curiae for the appellants, learned Additional Public Prosecutor for the State as also perused the records.

23. It is evident that in this case the occurrence is said to have taken place on 07.01.1999 at 6:30 P.M. The informant has stated in his '*fardbeyan*' that he could not give information with regard to the occurrence to the police station because there was no mode of communication during the night hours. It is evident from his '*fardbeyan*' itself that the occurrence had taken place in the month of January when the darkness had already prevailed. The informant has been examined as P.W.6. He has stated that he was in his house when the accused persons came to his house and called his brother Maheshwar Manjhi on some pretext. He claims to have followed them. P.W.6 claims that the accused persons took Maheshwar to the '*potato* field' of Jugal Sah where the accused persons were present. According to him, Meghan Manjhi took '*Bhala*' from the hand of Khublal Manjhi and threw on the neck of Maheshwar Manjhi whereafter the other accused persons assaulted Maheshwar Manjhi by '*lathi*',



'rod' 'Bhala' and 'dagger'. Maheshwar died after sometime on the spot. He has stated that on the next day, he went to the police station where his statement was recorded by *'Darogaji'* on which he put his thumb impression. He has stated that two days prior to the occurrence, Langar Manjhi and Maheshwar were abusing without taking name of anyone because the paddy crops of Langar Manjhi had been stolen away. In his cross-examination, P.W.6 has stated that it was a cold weather and the night was dark. He had not been assaulted. *'Potato'* were grown in the field and *'Potato'* plants were there. He had gone with *'Darogaji'* to the place of occurrence on the next day at about 7:00 A.M. where the dead body of his brother was lying. The dead body was brought at the door of the house and *'chowkidar'* was informed. In Paragrpah-4 of his cross-examination, P.W. 6 has stated that *'Darogaji'* was also informed and *'Darogaji'* had come in the night. His statement was taken by *'Darogaji'* at his house and thereafter at the police station. It is evident from this part of the cross-examination of P.W.6 that *'Darogaji'* had come in the night itself on the date of occurrence and the informant had made some statements in the night when *'Darogaji' / I.O.* had visited his house but this statement of P.W.6 which was made at first instance in the night has not been



brought on record by the prosecution. The I.O. has not been examined therefore the defence had no opportunity to put question to the I.O. regarding the place of occurrence, the prevailing condition in the potato field and also about the first statement of the informant in the night.

24. This Court finds that the accused persons are from the same family but they are living separately in mess and business. According to P.W. 6, the deceased had no quarrel with any of the accused persons and the accused persons used to visit the house of the informant.

25. This Court further finds that the evidence of the P.W. '6' that the '*Potato* field' is situated at a distance of two '*laggi*' only from the house of the informant and from both the sides of the field, houses of at least 10 persons are situated. According to him, the persons, whose houses were there had started assembling but this Court finds that none of those persons whose house are said to be situated around the place of occurrence has been examined in this case. P.W. 6 was suggested by the defence that he is not an eye witness of the occurrence and had falsely implicated the appellants because of the old enmity.

26. This Court further finds that on the point of



preparation of the inquest report the wife of the deceased (P.W.5) and his son (P.W.8) are also not consistent. The police had arrived at the place of occurrence and prepared inquest report at the place of occurrence is highly doubtful and in fact the claim of P.W.6 that '*Darogaji*' had gone to the place of occurrence on the next day of the occurrence in the morning at 7:00 A.M. stands contradicted from his own statement wherein he has stated that '*Darogaji*' had come in the night of the occurrence and he made his statement before '*Darogaji*' at his house. The place of occurrence is situated at a distance of two '*laggi*' only which is hardly at a distance of about 15-20 fits from the house of the informant. Therefore, it is highly unbelievable that '*Daroga*' who had visited the house of the informant in the night of the place of occurrence itself could not have gone to the place of occurrence in the night and it remains a big question mark as to why the first version of the informant and the correct date and time of preparation of the inquest report are being suppressed by the prosecution.

27. This Court has noticed that the Doctor (P.W.7) has found the following injuries on the body of the deceased which are as under:-

“No.1 incised wound were found on the following parts of the body.



(A) 1 1/2" below and lateral to left eye, 1 "x0.2"x muscle deep.

(B) On front and left lateral side of neck, 2" below the left lobule of ear, 5"x1 1/2" x cutting muscle vessels, and trachea.

(C) On front of left side of chest 3.2" below, and 1 1/2" medial to left areola, 0.75" x 0.2" x muscle deep.

(D) On front of left side of abdomen 4.7" Lateral and in the line of umbilicus 1.5" x0.2"x muscle deep.

(E) On front of left side of abdomen 4.6" Lateral and 1 1/2" below the umbilicus 0.5"x 0.2" x muscle deep.

(F) On right lateral side of chest in mid axillary line four inch below axilla, 2.7 "x0.3"x muscle deep.

(G) On right lateral side of chest 8" below axilla 4.5" x 0.3" x muscle deep.

(H) Two places on right lateral side of thigh 1"x 0.2" x muscle deep, 0.75" x 0.25" x muscle deep.

(I) On middle of front of left leg 2" x 0.75" x muscle deep.

J) On back of left side of chest 8" below left thigh 1" x 0.25"x muscle deep.

(K) On back of left chest 8.3" below post axillary



line 1.5"x0.25"x muscle deep.

(L) On back of left side of hip at three places,
1/2"x1/4"x muscle deep, 1/2"x1/4"x muscle deep,
1/4"x1/4"x muscle deep.

Injury no. 2:-

Abrasions were found on left lateral side of
forearms in the middle 2.5"x1/2" on front of left
wrist, 2.2"x1/4" on back of left shoulder just
below shoulder blade 4.2"x0.2" on back of left
chest 7" below shoulder 2.5"x0.2".

Opinion; the deceased died due to shock and
hemorrhage, mainly as a result of neck injury
cutting trachea, injury no. 1, was caused by sharp
cutting weapon, such as '*bhala*' and Injury no. 2
caused by hard and blunt substance such as '*lathi*'.

Time since death is within twelve to eighteen
hrs."

28. The doctor has opined that the deceased died due to
shock and hemorrhage mainly as a result of neck injury cutting
trachea. According to him, the injury no. 1 was caused by sharp
cutting weapon such as '*bhala*' and injury no. 2 was caused by
hard and blunt substance such as '*lathi*'. In his cross-
examination, the doctor has opined that any injury by '*bhala*'
must cause penetrating wound but he did not find any
penetrating wound on any part of the body of the deceased. It is



thus evident that the opinion of the doctor is not proving the manner of occurrence as suggested by P.W.6.

29. The evidence of the D.W. 1 would be important to take note off. Ext. A & B are the two official documents which would show that the wife of the deceased had claimed grant from the government under '*Rastriya Parivarik Labh Yogna, 1995*'. Her application was forwarded by the '*Panchayat*' and based on the recommendation on the '*panchayat*' level, a sum of Rs. 10,000/- was allowed as a grant. In her application, she had given the cause of death due to accident.

30. In the opinion of this Court, the non-examination of the I.O. of the case would prove fatal to the prosecution. The fact that the '*Daroga*' had visited the house of the informant in the night of the occurrence itself and the informant had given statement to the '*Daroga*' in the night still '*Daroga*' did not visit the place of occurrence in the night and the dead body was brought to the Turki O.P by the informant with the help of the villagers are some of the vital facts which could have been tested only when the I.O. would have been examined and cross-examined. Yugal Manjhi whose potato field is said to be the place of occurrence has not been examined and there is no evidence that potato plants were found trampled. To this Court,



it appears that even the place of occurrence, cannot be said to have been duly proved by the informant as neither any inspection of the place of the occurrence was done by the I.O. nor the immediate circumstance available on the spot could be brought on record by the prosecution.

31. In the considered opinion of this Court, it would not be safe to sustain the conviction of the appellants on the sole testimony of the informant (P.W.6) who though claims to have followed the accused persons with the deceased to the place of occurrence but was not assaulted by the accused persons. His very presence at the place of occurrence becomes doubtful even as the wife of the deceased (P.W.5) does not talk of the visit of the accused persons to her house and taking away of her husband from the house. The appellants have made out a case for their acquittal giving them benefit of doubts.

32. In the given facts and circumstances and the materials available on the record, the impugned judgment and order are set aside. Both the appeals are allowed.

33. The appellants shall be released forthwith if not wanted in any other case, the order shall be communicated through FAX at the cost of the High Court.

34. Trial Court Records and copy of the judgment be sent



down to the trial Court.

35. We acknowledge the assistance rendered by Mr. Manoj Kumar No. 1 in these appeals on the dates of hearing. In token of his assistance, we direct that he shall be paid a sum of Rs. 15,000/- (Fifteen Thousand) each in these appeals by the Patna High Court Legal Services Committee.

(Rajeev Ranjan Prasad, J)

(Ashok Kumar Pandey, J)

Jagdish/lata/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.06.2025
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