IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (DB) No.903 of 2003

[Against the judgment of order of conviction dated 10.06.2003 and sentence dated 16.06.2003, passed by learned IVth Additional Sessions Judge-Palamu, Daltonganj in Sessions Trial No.191 of 2000]

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1. Bhardul Mahto Son of Bahadur Mahto.
2. Chhatu Mahto Son of Bahadur Mahto.
3. Bahadur Mahto Son of Late Pachu Mahto

All are residents of village- Goradih, Police Station- Lesliganj, District—Palamau. .... …. Appellants

Versus

The State of Jharkhand .... Respondent

With

Criminal Appeal (DB) No.1017 of 2003

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1. Chakarbarty Mahto son of Late Pachhu Mahto.
2. Kameshwari Mahto son of Ramji Mahto.
3. Ramji Mahto son of Late Pachu Mahto.

All are residents of village- Goradih, Police Station- Lesliganj, District—Palamau. .... …. Appellants

Versus

The State of Jharkhand .... Respondent

For the Appellant : Mr. A.K. Chaturvedi, Advocate.
For the Respt-State : Mr. Bhola Nath Ojha, S.P.P.
Mr. Manoj Kumar Mishra A.P.P.
For the Informant : Mr. Sanjeev Kumar Sahay, Advocate.

PRESENT

CORAM: HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V. On:-17th November, 2025 **Pronounced on:-23 /12/2025**

Per:- Pradeep Kumar Srivastava, J.

1. Above captioned appeals are arising out of common judgment, hence taken together for hearing.

2. We have already heard Mr. A.K. Chaturvedi, learned counsel for the appellants as well as Mr. Bhola Nath Ojha, Special Public Prosecutor assisted by Mr. Sanjeev Kr. Sahay appearing for the informant.

3. Instant criminal appeals are directed against the judgment of conviction dated 10.06.2003 and sentence dated 16.06.2003 passed by learned IVth Additional Sessions Judge-Palamu, Daltonganj in Sessions Trial No.191 of 2000, whereby the whereunder, the appellants have been held guilty for the offences under Sections 364, 302/34, 201 of the I.P.C. and sentenced to undergo imprisonment for life for the offence under Section 302/34 of the I.P.C.; R.I. for 07 years under Section 201 of the I.P.C. and no separate sentence has awarded for the offence under Section 364 of the I.P.C. All the sentences were directed to run concurrently.

Factual Matrix

4. Factual matrix giving rise to these appeals as per fardbeyan of the informant namely Chandradeep Mahto recorded on 21.12.1999 at 06:15 PM by S.I. Ramjee Prasad of Lesliganj, Police Station at Goradih Tolli is that there was land dispute between father of the informant and the accused persons namely Bhardul Mahto, Chhatu Mahto, Bahadur Mahto, Chakarbarty Mahto, Kameshwari Mahto, Gopal Mahto and Ramji Mahto etc. It is alleged that about 10 days prior to occurrence Gopal Mahto had threatened the informant party to vacate the disputed land otherwise be ready for dire consequences. It is further alleged that on 18.12.1999 at 06:00 PM

when the informant along with his father and other family members were sitting in his house meanwhile above named accused persons approached there and in pretext of a meeting convened near the forest well to settle the land dispute between the parties, took away the father of the informant with them, but till late night informant's father did not return home then, suspicion crept into the mind of the informant, hence he went to the forest area, but no meeting was going on there. Thereafter, informant went to the house of the above accused persons, but they were also not found hence, in the next day morning, informant again went to the house of accused persons and asked for his father, but they expressed no knowledge as to what happened to his father and also threatened not to lodge any case at police station. Therefore, informant started searching his father in the village as well as his close relatives, but did not found any trace of his father. The informant has suspected that his father has been abducted with intention to commit murder.

5. On the basis of above fardbeyan, Lesliganj, P.S. Case No. 79 of 1999 was registered for the offences under Sections 364 of the I.P.C. against the above named accused persons which was later on added with Sections 302, 201, 120(B) of the I.P.C. vide order dated 12.01.2000 and after conclusion of investigation charge-sheet was submitted for the offence under Section 364, 302, 201 read with Section 34 I.P.C.

6. The case was committed to the court of sessions where S.T. Case No. 191 of 2000 was registered. Appellants pleaded not guilty and

claimed to be tried by denying charges leveled against them.

7. After conclusion of trial, the appellants have been held guilty and sentenced as stated above which has been assailed in these appeals.

8. Learned counsel for the appellants has strenuously argued that in order to substantiate the charges leveled against the appellants altogether 10 witnesses have been examined by the prosecution. Admittedly there is no eye-witness of occurrence. The claim of the informant (P.W.1) that his father was called upon in the garb of Panchayati to be convened at the instance of the appellants near the forest area and appellants accompanied with his father on 18.12.1999 in the night is palpably false and concocted story. When the informant was all along aware of this fact that his father had gone with the appellants and did not return in the night. Then instead of lodging case he made search of his father hither and tither. Thereafter, lodged the F.I.R. after three days without any cogent explanation for such delay. The learned trial court has specifically observed that there is no eye-witness of the occurrence rather the prosecution case hinges upon circumstantial evidence. The only circumstance relied upon by the prosecution mentioned in the impugned judgment is old land dispute between the deceased and the accused persons and accused persons had called upon the deceased in pretext of Panchayati. Thereafter, he never returned and his dead body was found into a well tied with stones. It is further submitted that except the informant not a single witness examined in this case have supported the factum of Panchayati on the alleged

date and time or even no witness has seen the appellants with the deceased while going towards forest area for convening Panchayati. The informant has only expressed his suspicion against the appellants which never culminated into legal proof. On the basis of scanty circumstances, the appellants have been held guilty for commission of severe offence punishable with minimum sentence of life imprisonment. Learned trial court has failed to keep in mind the fundamental principles of criminal jurisprudence that offences punishable with extreme sentence must carry strong and trustworthy evidence. It has also come in the evidence of prosecution witnesses that a title suit was also filed by the deceased himself against the appellants in respect of land dispute which was dismissed for default, but never got restored, then how it can be said that any dispute was surviving and there was any threatening at the instance of present appellants and why they would insist upon a compromise through panchayat, if the suit itself was dismissed. It is also admitted that the dead body of the deceased was recovered after 10 days of missing from a well in rotten condition. The cause of death is also not specifically opined. No substantial, incriminating circumstances has got explained by the learned trial court while recording the statements under Section 313 of the Cr.P.C. of the appellants and the circumstances relied upon were never proved conclusively. Therefore, impugned judgment of conviction and sentence of the appellants is based upon beyond the weight of evidence available on record and non-consideration of testimony of

defence witnesses, which is liable to be set aside, allowing this appeal.

9. On the other hand, learned Special Public Prosecutor assisted with Mr. Sanjeev Kumar Sahay has opposed the contentions raised on behalf of appellants and submitted that the learned trial court has committed no error of law in convicting and sentencing the appellants for the offence of the murder of the deceased. There is no valid reason to interfere with the impugned judgment which is devoid of merits and fit to be set aside. Therefore, this appeal is fit to be dismissed.

10. We have given thoughtful consideration to the rival contentions raised on behalf of the respective parties and perused the impugned judgment and order along with trial court record.

11. The only point for determination in this appeal is that "as to whether the impugned judgment and order of conviction and sentence of the appellants suffers from any error of law calling for any interference by way of this appeal"?

12. Before imparting our verdict on the above point, we have to apprise with the evidences adduced in this case.

13. It appears that altogether 10 witnesses were examined by the prosecution to substantiate the charges leveled against the accused persons. Apart from oral testimony of witnesses following documentary evidences were also adduced:-

Exhibit-1:- Post-mortem report.

Exhibit-2:-Fardbeyan of informant

Exhibit-3:-Signature of informant Chandradeep Mahto on fardbeyan.

Exhibit-4:- Formal F.I.R.

P.W.1 Chandradeep Mahto is the informant-cum-son of the deceased. According to this witness on 18.12.1999 at about 06:00 PM with a view to settle the land dispute, all the accused persons namely Bhardul Mahto, Chhatu Mahto, Bahadur Mahto, Chakarbarty Mahto Kameshwari Mahto Gopal Mahto and Ramji Mahto came to his house and told to his father that a meeting was going on to settle the dispute and accompanied his father towards forest area. It is further stated that his father did not return in the night then he went where meeting was convened, but no one was found there, then he returned back to his home. The accused persons were also not present at their house. Therefore, in the next morning, he went to the house of the accused persons and asked them about his father, but they expressed no knowledge and also threatened of dire consequence, if he would lodge any case before police. He has also reiterated that about 10 days prior to the occurrence Gopal Mahto threatened his father to vacate the disputed land otherwise all the family members will be killed, but due to fear police recourse was not taken. He again started searching his father in the village, near and dear relatives, but no clue was found. Thereafter, police came to his house and his fardbeyan was recorded and dead body of his father was recovered from the well situated in Shanbag on 27.10.1999 which was tied with stones and thrown into the well.

In his cross-examination, this witness admits that his father had gone along with accused persons without any threat and compulsion rather he was believing upon the accused persons. He also admits that in the next day morning he disclosed the incident to the villagers, but they made no response and repercussion nor advised him to go to police station. In the next day morning, he informed to village Chaukidar Bhagirathi about the previous night incident, he also advised to lodge a case before police, but he did not went to police station rather started searching his father in his relatives village. His statement was recorded by police at his house. He admits that prior to one year of the incident a Panchayati was held in between the parties on the same land dispute, but the accused persons did not give share in the property. He also admits that on the date of occurrence, any date was not fixed for Panchayati. He has further admitted in clear terms at Para 44 of his evidence that he was assuming that **his father might have gone to his Sasural or Fufa's house, hence he started searching him.** He has denied the suggestion of defence that his father went to in-laws house with his father-in-law and he disappeared from there and it is not true that the accused were implicated in this case due to land dispute after his father's body was found in a well. He also denied that it is not true that it is not true that the accused persons did not take his father with them.

P.W.2 Jitendra Kumar Mehta is the grandson of the deceased. According to his evidence on 18.12.1999 at about 06:00 P.M. all the

accused persons came to his house and told his grandfather that a Panchayti has been held near the well of Forest Department to settle the land dispute and his grandfather accompanied them. When his grandfather did not return, then he along with his father went near the well of forest area, but no one was present there. In the next day morning, he also went to the house of accused persons, but they have expressed no knowledge about his grandfather and after institution of F.I.R. the dead body was found from the well tied with big stones which was recovered by the police.

In his cross-examination, this witness admits that his deceased grandfather had executed sale deed of excess land in favour of the accused persons due to that reason, the family members of this witness were disagreed from his grandfather.

P.W.3 Prabhuvan Mahto: is hearsay witness and came to know about the incident from the informant that the deceased was called upon by the accused persons to attend the Panchayati at forest area. There is no material in his evidence.

P.W.4 Umesh Chandra Mehta is also claimed to see the dead body of the deceased which was pulled from the well by the police and has stated nothing else.

P.W.5 Shishupal Mahto is the son of the deceased was also not present at the house rather came to know that his father was accompanied with accused persons to attend the panchayati in

respect of settling the last dispute and after 10 days his dead body was found from the well. There is nothing else in his evidence.

P.W.6 Dr. Birendra Prasad has conducted autopsy on the dead body of the deceased Ram Bilash Mahto and found following ante mortem injuries:-

(i). Lacerated wound 3.1/2" x 1.1/2" x 1/2" on the vault of skull and swelling around it.

(ii). Lacerated wound 1.1/2" x 1.1/2" x 1/4" on occipital region of skull.

(iii). Bruise 3.1/2" x 2.1/2" on frontal region of skull.

(iv). The body was swollen but no froth around mouth or nose was found.

On Dissection:-

(i). Stomach containing no water only approx. two ounce semi-digested pasty food material found.

(ii). Lung was found not voluminous and on cu-section showing no water.

(iii). On opening skull bone meninges and brain material stained blood.

(iv). Rigor mortis absent in all fore limbs.

Cause of Death is head injuries (shock and hemorrhage) caused by hard and blunt substances drowning may be post-mortem. Time of death more than 48 hours. He has proved post-mortem report as Exhibit-1.

P.W.7 Shivjatan Mahto is also a hearsay witness who was not present at his house on the date of the occurrence rather he came to know about the occurrence from one Jitendra Mahto who disclosed that the deceased was brought to the well situated near the forest area by the accused persons for the settlement of dispute, a Panchayti was convened, but he did not return and has been murdered.

P.W.8 Tapeshwari Devi is the wife of informant. She has corroborated the story as narrated by her husband that on 18.12.1999 at about 06:30 PM all the accused persons came to her house and accompanied Ram Bilas Mahto for settlement of land dispute, but he did not return in the night, then during search at the house of accused persons they started threatening and dead body was found in the well. She has stated nothing else.

P.W.9 Deyawanti Devi has simply stated that Ram Bilash Mahto was called upon for Panchayati from his house and went along with accused persons, but did not return in the night. Accused persons were also called for, but no satisfactory reply was given. After 10 days, dead body was found from the well. She has also admitted land dispute with accused persons who have got execution of sale deed in their favour.

P.W.10 S.I. Ramjee Mehta is the investigating officer of this case. According to him on 18.12.1999 he has received information that one Ram Bilas Mahto has been abducted by his family members. He along with other police personnel visited Goradih Toli where

Fardbeyan of one Chandradeep Mahto was recorded which is marked as Ext-2. The place of occurrence of this case was house of the informant situated in Goradih Toli made upon of mud and roofed with mud tile, from where deceased Ram Bilash Mahto was abducted by the accused persons. He has further proved the formal F.I.R. marked as Exhibit-4. He has further deposed that on 29.12.1999 he again visited to village Goradih Toli and got information that a dead body is lying in Sanghwan in well and the dead body was brought out from the well which was identified by the family members of informant to be of Ram Bilash Mahto. After investigation, he found sufficient evidence for the offence under Sections 364, 302 and 201 read with Section 34 of the I.P.C. and has submitted charge-sheet against all the accused persons.

In his cross-examination, this witness admits that before proceeding from police station he had made station diary entry, but entry number could not be collected. He got information about kidnapping on 20.12.1999.

14. On the other hand defence has also examined two witnesses:-

D.W.1 is Chandresh Mahto According to his evidence, on 11.12.1999 his maternal uncle Bilash Mahto came to his house and on next day at about 12:00 went to village Selari, thereafter his dead body was found.

D.W.2 Udan Mahto according to his evidence, Chandradip, Shishupal has come to his home while searching for his father who

was missing from village Selari since 19.12.1999. Thereafter, his dead body was found.

15. In the statement under Section 313 of the Cr.P.C. from all the appellants only formal questions have been asked and answered by them which is as under:-

प्रश्न :- राम विलास महतो, आपके कौन थे १

उत्तर – वे मेरे भाई थे।

प्रश्न:- आपके विरुदध गवाहों का कहना है कि दि. 18. 12.99 को 6 बजे संध्या में ग्राम गौराडीह थाना लेसलीगंज जिला पलामु के अन्तर्गत अन्य अभियुक्तो के साथ मिलकर आप राम विलास महतो को जान मारने को नियत से उठाकर ले गये थे। क्या यह सत्य है१

उत्तर:- जी नहीं।

प्रश्न :- आपके विरुदध यह भी गवाहों का कथन है कि उसी समय उसी दिन अन्य अभियुक्तो के साथ एक राय होकर जान बुझकर राम विलात महतो की हत्या कर दी एवं हत्या के साक्ष्य को छिपाने के लिए लाश को कुए मे फेक दिया जो लाश बाद में बरामद किया गया। क्या यह सत्य है१

उत्तर:- जी नहीं।

प्रश्न :- सफाई में क्या कहना है?

उत्तर :- मै निर्दोष हू।

16. It appears that the learned trial court has based its conclusion on oral testimony of witnesses that the deceased was taken away by the accused persons on 18.12.1999 at about 06:00 PM from his house in the pretext of Panchayati thereafter his dead body was found in the well after 10 days of occurrence which leads to

irresistible conclusion that appellants have killed the deceased due to land dispute.

17. We have given thoughtful consideration to the overall aspects of the case. It appears that the prosecution has propounded the theory of last seen stating that the deceased was called upon by the accused persons and went towards forest side near the well for attending Panchayati to settle the land dispute. There is no other circumstance that deceased was forcibly taken away by the accused persons from his home as admitted by the informant himself. Not a single independent witness have stated that deceased was seen with the accused persons while going towards forest on 18.12.1999 about 06:00 PM. What was the land dispute has also not been proved. It is simply stated that the deceased had executed sale deed in favour of some of the accused persons due to which other family members including the informant were annoyed. The title suit was also filed by the informant party and not by the accused persons that was dismissed for default. Therefore, no inference can be drawn about any enmity on the part of the accused persons, who happens to be the defendants in the suit which was already dismissed. It is also apparent that dead body was recovered from the well which was found tied with boulder and thrown into well, but the post-mortem report of the deceased shows ante-mortem injuries on his head which was the cause of death. It is not a case of drowning. The post-mortem report also discloses the time elapsed death to the post-mortem

more than 48 hours. The dead body was not found contaminated or damage of organs rather it was only swollen. This clearly indicates that if the dead body has been thrown into a well under water and lying there for 10 days except skeleton nothing would remain. There is also no iota of evidence that the deceased was assaulted by accused persons by any weapons nor the dead body has been recovered at the instance of appellants. The Investigating officer has got information of the incident through rumor on 20th December, 1999 of one Ram Bilas has been kidnapped by someone for causing his murder and recorded fardbeyan of the informant on 21.12.1999. P.W.1 states that about 10 days prior to occurrence, deceased was threatened to be killed along with entire family members, inspite of this threatening, he allowed his father to go with the accused persons imposing trust upon them appears to be quite strange and untrustworthy. Not only this, informant also admits that his father went with accused persons without any threat or compulsion. The claim of the informant that he asked the accused persons in next day morning, but they expressed there no knowledge, even though he was searching his father is also not normal course of behavior.

18. In our considered view, the learned trial court has ignored and left from consideration above vital aspects of the case and material circumstances to be considered to arrive at a final conclusion about guilt of the appellants for such a severe offence. Mere land dispute cannot be a ground for commission of murder unless

other circumstances are proved as link evidence. The enmity cuts from both ends on the one hand it furnishes motive for commission of offence and on the other it can be used as a weapon of vengeance and false implications. In our considered view, the learned trial court has not thoroughly scrutinized the evidence of witnesses nor any material incriminating circumstances have been got explained by the appellants in their statement recorded under Section 313 of the Cr.P.C. which have been made basis of their conviction. Therefore, the impugned judgment and order suffers from serious error of law and based upon conjecture, surmises and suspicion. It is trite that suspicion howsoever is strong it may be, cannot take place on legal proof.

19. In view of discussion and reasons, the conviction and sentence of the appellants passed by the learned trial court is hereby set aside and these appeals are **allowed**.

20. Appellants are on bail, as such hence they are discharged from their respective bail bonds and sureties are also discharged.

21. Pending I.As, if any stand disposed of.

22. Let a copy of this judgment along with trial court record be sent to the concerned court forthwith for information and needful.

(RongonMukhopadhyay, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, at Ranchi
Date:23 /12/2025
Amar/- N.A.F.R.
Uploaded on:- 23.12.2025