IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (DB) No. 94 of 2018

(AGAINST THE JUDGMENT OF CONVICTION DATED 29.11.2017 AND ORDER OF SENTENCE DATED 30.11.2017 PASSED BY LEARNED ADDL. SESSIONS JUDGE-V, EAST SINGHBHUM, JAMSHEDPUR IN SESSIONS TRIAL NO. 109 OF 2017).

Nepal Mahto, son of late Nitai Mahto, resident of Beldih, P.S. Kamalpur, District- East Singhbhum, presently residing at Mirjadih Colony Bastee, P.O and P.S. Bodam, District- East Singhbhum.
… Appellant(s)

Versus

The State of Jharkhand … … … … Respondent

……

For the Appellant: M/s Agnivesh and Vikas Kumar, Advocates.
For the State : Mr. Vineet Kr. Vashistha, Spl. P.P

……

P R E S E N T

SRI ANANDA SEN, J.
SRI PRADEEP KUMAR SRIVASTAVA, J.

J U D G M E N T

Dated: 29.09.2026
By Court:

This criminal appeal is directed against the Judgment of conviction dated 29.11.2017 and order of sentence dated 30.11.2017 passed by learned Addl. Sessions Judge-V, East Singhbhum, Jamshedpur in Sessions Trial No. 109 of 2017, whereby the appellant having been found guilty of charges under Section(s) 302 of Indian Penal Code and has been convicted and sentenced to undergo imprisonment for life and fine of Rs. 20,000/- for the alleged offence.

2. Learned counsel for the appellant submits that only P.W- 9 and 10 are the eye witnesses, who are who are the daughter and son of the deceased, of the occurrence, but there are great contradictions in their statements. He further submits that they are the interested witnesses in this case. He further submits that P.Ws 3 and 4 are the seizure list witnesses but they have not supported the recovery. He also submits

that the Investigating Officer has not sent the blood of the deceased in FSL, thus it is not clear that the blood found on the chopper is of the deceased. He further adds that in the entire evidence of the prosecution, there is nothing against the appellant for the offence as alleged. He also submits that the prosecution has not been able to prove its case beyond the shadow of reasonable doubt. On these grounds, he prays for acquittal of the appellant.

3. Learned counsel appearing on behalf of the State opposing the prayer of the appellant, submits that the prosecution has been able to prove its case beyond shadow of reasonable doubt against the appellant under Sections 302 IPC by leading oral evidence as all the witnesses have supported the prosecution case. He further submits that there is nothing to disbelieve the evidence of prosecution witnesses i.e. P.Ws.-9 and 10, as they are the eye witnesses of the occurrence. On the aforesaid grounds, he submits that the impugned judgment of conviction as well as order of sentence passed by the learned court is justified and should not be interfered with.

4. The case of the prosecution in brief is that the daughter of the informant (P.W.8) was sleeping in house with other family members. At 1:00 a.m., the husband of his daughter Nepal Mahto entered into the house of his daughter from back door with Chopper with intention to kill her, he started assaulting Shakuntala Mahto. On hearing *hulla*, his son and daughter awoke and they tried to stop him. Her daughter died due to grievous injuries and after that, the appellant fled away. After receiving the information of occurrence, informant came to the house of his daughter. The cause of this occurrence is that after twenty years of marriage, the appellant again solemnized his marriage with another woman of village Ambrbera.

On the basis of aforesaid *fardbeyan*, Kamalpur P.S. Case No. 23 of 2026 under Section 302 IPC was registered against the accused on 4.12.2016. After investigation, the police submitted charge-sheet against the appellant under Section 302 IPC. Thereafter the cognizance of the offence was taken against the appellant and the case was committed to the Court of Sessions. Since the appellants pleaded not

guilty, charges were framed under Sections 302 of the Indian Penal Code and he was put on trial.

5. The prosecution in order to prove its case has examined ten witnesses, who are as follows:-

P.W.1-	Birendra Nath Mahto,
P.W.2-	Jaladhar Mahto,
P.W.3-	Sahdeo Mahto,
P.W.4-	Samir Kr. Mahto,
P.W.5-	Shankar Mahto,
P.W.6-	Ravi Mahto,
P.W.7-	Kripa Sindhu Mahto,
P.W.8-	Budheshwar Mahto (the informant),
P.W.9	Namita Mahto,
P.W.10-	Maheshwar Mahto,
P.W.11-	Dr. Akhilesh Kr. Choudhary and
P.W.12-	S.I. Awadhesh Kumar (I.O.)

6. Some documents were also exhibited in this case, which are as follows:-

Ext.1&1/1-	Signature of witnesses of seizure list
Ext.2-	*Fardbeyan*
Ext.3-	Postmortem Report
Ext.4	FIR
Ext.5-	Seizure List
Ext.6-	Memo of arrest.
Ext.7& 7/1-	Report of SFSL, Ranchi.
Material Ext.1-	Chapper.
Material Ext.2-	Blue Jeans Pant.

7. After closure of prosecution evidence, the statement of the appellant was taken under Section 313 Cr.P.C.

8. The Trial Court, after considering the oral and documentary evidence and hearing both the parties, convicted the appellant for committing the offence under Section 302 of the Indian Penal Code and sentenced him as stated above.

9. From the evidence, led by the prosecution, we find that the prosecution witnesses i.e. P.Ws. 1, 2, 6, 7 and 8 are not the eye witnesses of the occurrence. P.W. 8 is the informant, who was informed about the occurrence by P.Ws. 9 and 10 (the daughter and son of the deceased), thereafter he went to place of occurrence at about 3:00 - 3:30 a.m. We further find that the *fardbeyan* of P.W. 8 was written by

P.W-12- S.I. Awadhesh Kumar. P.Ws.- 9 and 10 (daughter and son of the deceased) are the important witnesses of this case as it is stated that they are the eye-witnesses of the occurrence. These witnesses were present in the house at the time of occurrence. P.W. 9 stated that she saw the occurrence. She deposed that her father came from back side with Chopper and started assaulting to her mother, who received injury on head, ear, neck and hand. She also deposed that on hearing *hulla*, several persons assembled there. P.W. 10 has deposed in the same manner, as deposed by P.W.9. In cross-examination, P.W. 10 in para 15 has stated that there was no light in the room, in which, he was sleeping. Both witnesses P.Ws. 9 and 10 in their cross-examination deposed that they hate their father. P.W. 9 has deposed that one lady came to his house, whereas, P.W. 10 stated that no body came to his house. Thus, it is quite clear that there is discrepancies in the evidence of eye witnesses, therefore the evidence of P.W. 9 and 10 is not reliable and trustworthy. It is also stated that P.W.4 tried to catch the accused as his cousin sister Namita Mahto (P.W,.9) and cousin Maheshwar Mahto (P.W.10) came to his house and told that their father is assaulting mother. Then they went outside and saw Nepal Mahto with blood stained chopper in the light of bulb. He tried to catch the accused but he fled away. Both eye witnesses have also deposed in cross-examination that they hate their father because of second marriage.

10. Admittedly, from the evidences of the witnesses, it appears that there is contradiction in the statement of the alleged eye witnesses with regard to electric bulb, which according to one, the bulb was on, but according to the other, the bulb was off. There is also contradiction in their statements that their sister came to the house before the incident or not as P.W. 9 deposed that her sister came to the house at 8:00-9:00 p.m. on the date of occurrence, whereas, P.W.10 deposed that on the date of occurrence, no one came to their house. Only on the basis of the statements of P.Ws. 9 and 10, it cannot be said that the accused-appellant has committed murder the deceased. Further the blood samples were not collected by the police as to check that the blood found with the chopper matches with the blood of deceased or

not.

11. It is the duty of the Court to consider the trustworthiness of evidence on record. The witnesses are the eyes and ears of justice. In the facts on hand, we feel that the evidence of the witnesses is filled with discrepancies, contradictions and improbable versions which draws us to the irresistible conclusion that the evidence of witnesses cannot be a basis to convict the accused. Due to the discrepancies and the inconsistencies, we are unable to place faith on the oral testimony of eye witnesses. In that circumstance, the reasonable doubt regarding a hypothesis of innocence assumes relevance. Further, it is the duty of the prosecution to prove beyond all reasonable doubt that it is only the appellant who has committed the crime. We find that the prosecution has utterly failed to do so. In that view, we are inclined to acquit the appellant from the charges levelled against him.

12. In view of the aforesaid facts, the Judgment of conviction dated 29.11.2017 as well as order of sentence dated 30.11.2017 passed by learned Addl. Sessions Judge-V, East Singhbhum, Jamshedpur in Sessions Trial No. 109 of 2017 is set aside. This Court directs the above-named appellant to be released forthwith from custody, if not required in any other case. Accordingly, this Criminal Appeal is **allowed.** Pending interlocutory application, if any, also stands disposed of.

13. Let the Trial Court Records be sent back to the Court concerned forthwith, along with a copy of this judgment.

(**ANANDA SEN, J.)**

(PRADEEP KUMAR SRIVASTAVA, J.)

Jharkhand High Court, Ranchi.
Dated: the 29th September, 2026.
NAFR/Anu/Cp.-3.

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