2026:JHHC:28639-DB

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Appeal (D.B.) No.67 of 2019

(Against the judgment of conviction dated 12.06.2018 and the order of sentence dated 26.06.2018 passed by the learned Additional Sessions Judge-1st-cum-Special Judge-cum-FTC, Bokaro in Sessions Trial Case No. 85 of 2016)

Tajuddin, S/o Nasuruddin Ansari, resident of Mouza-Palkudri, Baniyadih, PS and PO-Chandankiyari, District Bokaro

… **Appellant**(s).

Versus

The State of Jharkhand … **Respondent**(s).

For the Appellant(s) : Mr. Sunil Singh, Advocate
For the Respondent(s) : Mr. Vineet Kumar Vashistha, APP

……

PRESENT

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

J U D G M E N T

23rd September 2026

Per Ananda Sen,J. We have heard the learned counsel appearing for the appellant and the learned counsel for the State at length.

2. This Criminal Appeal arises out of the judgment of conviction dated 12.06.2018 and the order of sentence dated 26.06.2018 passed in Sessions Trial Case No. 85 of 2016 whereby and whereunder learned Additional Sessions Judge-1st-cum-Special Judge-cum-FTC, Bokaro convicted the appellant under Section 302 of the Indian Penal Code and sentenced him to undergo rigorous imprisonment for life.

3. The learned counsel appearing on behalf of the appellant submits that there is no eye witness to the occurrence. He submits that all the prosecution witnesses are either hearsay witness or are the witness who came to the place of occurrence after the incident. He further submits that there is no motive in the occurrence. He submits that there is no scientific evidence by

the investigating officer as he has neither seized the blood stained cloths nor taken sample of blood from the rock which is alleged to have been used for committing murder. Further some of the witnesses have also stated that the mental condition of the appellant was not stable. Thus, considering the fact that there is no eye witness to the occurrence he prays that this appeal may be allowed and the appellant be released.

4. The learned counsel for the State admits that though there are no eye witness to the occurrence yet the prosecution witnesses have supported the prosecution case. Further, there is confession of offence of the appellant before the witnesses which is corroborated with the deposition of the prosecution witnesses. Learned counsel for the State submits that in the statement of the appellant under Section 313 of Cr.P.C. the appellant confessed his guilt.

5. The prosecution case is based on fardbeyan of the informant. On 08.10.2015, the informant-Nasuruddin Ansari gave fardbeyan before the ASI, Chandankiyari (Barmasia), PS Palkudari that due to regular quarrel with his son, he along with his wife were residing in their daughter's house. On 08.10.2015 his wife came to see his son at the evening and at night about 9:00 pm. when she had gone towards the pond, his son also followed her. After some time, her wife raised alarm when villagers reached the place and saw his wife severely injured, lying there with oozing blood and her clothes were also torn. His son was sitting there. The informant believes that his son has crushed her mother's head with stone which resulted in her death. Based on the aforesaid *fardbeyan,* FIR vide Chandankiyari (Barmasiya OP) PS Case No. 171 of 2015 was instituted under Section 302 of the Indian Penal Code.

6. After investigation, the Investigating Officer submitted chargesheet against the appellant for the offence punishable under Section 302 of the Indian Penal Code and the appellant was put on trial.

7. On the basis of chargesheet and materials available on record, cognizance was taken and the case was committed to Court of Sessions where charge was framed under Section 302 of the Indian Penal Code and trial proceeded.

8. To prove the prosecution case, altogether 8 witnesses were examined by the prosecution, who are as under:-

PW1-Yunus Ansari deposed that at 9:30 p.m. upon hearing commotion of the villagers he came out of his house and reached near the pond where he saw Tajuddin who was standing near his mother's dead body after killing her. There was blood in his hand and his mother was lying dead and the blood was oozing out from her head. He was telling that he has executed the work and let the people bury her. In cross-examination he stated that as it was dark near the pond and has not seen the occurrence. He also denied to have made any statement before the police.

PW2-Maquasud Ansari has stated that some children told him that Tajuddin was shouting near the pond. It is Tajuddin who told the children that he had committed murder of his mother. Thereafter those children told him about the incident. When he reached there Tajuddin told him to bury her mother as he has committed murder of his mother. In his cross-examination he has stated that he has not seen Tajuddin committing murder of his mother.

PW3-Md. Khalil Ansari stated that two years ago when Tajuddin's mother went near the pond, Tajuddin killed her by

assaulting her with stone on her head and face. Blood was oozing from her head and mouth. There was blood also in Tajuddin's hand. On having asked, Tajuddin said that he had killed his mother and asked him to bury her. In his cross examination this witness stated that at the time of occurrence he was at his home sleeping and he had not seen the occurrence.

PW4-Nasiruddin Ansari is the informant and husband of the deceased Noorjahan Bibi. He stated that he and his wife were living at his daughter's house. His wife came to village Palkudri. He stated that the villagers of Palkudri told him over phone that his son has killed his wife near the pond with stone. In cross-examination he stated that he has not seen the occurrence. His son is a mental patient. He further stated that after fardbeyan the police never took his restatement.

PW5-Jafira Bibi is a hearsay witness, as she came to know about the occurrence from the villagers on telephone.

PW6-Israil Ansari stated that when he heard the commotion he reached near the pond where he saw Tajuddin's mother lying dead. He further stated that Tajuddin told him to bury her mother as he has committed murder of his mother. In his cross-examination he has stated that the police has not taken any statement from him and he has not seen the occurrence.

PW7-Dr. Bikash Kumar is the doctor who conducted the postmortem of the dead body of the deceased and found the following injuries:

> *"i. Rigor mortis present, eyes and mouth – closed, Tongue-inside.*
> *ii. External Injury – lacerated wound over all left parietal region on the head, this injury is ante-mortem in nature.*
> *iii. On dissection – Skull – Fracture of left parietal bone, Brain-blood and Blood Clot found under skull, Hyoid bone – Intact, Trachea and Larynx – Normal, Heart right chamber full and left*

chamber empty, Lungs, Liver, Spleen, Kidney – congested, Stomach – contents digested food, Bladder about 60 ml injury, Uterus small in size
iv. Cause of death – Head Injury
Time since death within 24 hours."

The postmortem report has been exhibited as Ext.2. In the cross examination he opined that this type of injury may be caused by fall from hard and rough stone.

PW8-Budru Oraon, ASI of Chas PS has recorded the fardbeyan of the informant-Nasuruddin Ansari which is marked as exhibit-3. He has also exhibited the forwarding letter which was marked at exhibit-4. The endorsement on the fardbeyan was marked as exhibit-5. He has also exhibited the inquest report which was marked as Ext.6. He stated that on the night of 08.10.2015 at about 10:00 p.m., he was informed about the murder of a woman. After registering the said information as Sahna No. 23 he along with other police officials reached the place of occurrence. He further stated that he recorded the fardbeyan of the informant and prepared the inquest report. Thereafter he sent the dead body for postmortem. He stated that during investigation he took the restatement of the informant and visited the place of occurrence. He had given the description of the place of occurrence and taken statement of the witnesses. After taking supervision report from the higher officials and after receiving the postmortem report he has filed chargesheet under Section 302 I.P.C.

9. Following documents have been exhibited in this case :

i. Ext.1 – Signature of PW4 on fardbeyan
ii. Ext.2 – Postmortem Report
iii. Ext. 3 – Fardbeyan
iv. Ext. 4 – Forwarding on the fardbeyan
v. Ext.5 – Endorsement on fardbeyan
vi. Ext.6 – Carbon copy of inquest report

Mark X for identification : photograph of deceased dead body.

10. After closer of evidence of the prosecution witnesses, the statement under Section 313 Cr.P.C. was recorded. There is no witness on behalf of the defense. After considering the arguments of both the parties, the Trial Court has convicted the appellant under Section 302 I.P.C. and sentenced him to undergo rigorous imprisonment of life.

11. We have gone through the entire records and have heard the argument of the parties. From the depositions of the witnesses, we find that there is no eye witness to the occurrence. All the prosecution witnesses are either hearsay witness or the witnesses who came to the place of occurrence after the incident. Further, we also find that PW1, PW2 and PW6 have deposed that no statement of theirs has been recorded by the police during investigation. As per them, they have recorded their statement for the first time while deposing as a witness. Thus it will not be proper to rely on their evidence.

12. It is the submission of the learned counsel for the State that the appellant has confessed his guilt before the witnesses. Law with regard to extra-judicial confession is well-settled that extra-judicial confession is a weak piece of evidence. Thus, extra-judicial confession without any corroborating evidence it has got no weight in the eye of law. The Hon'ble Supreme Court in the case of **Sahadevan v. State of T.N., (2012) 6 SCC 403** referring to the aspect of evidentiary value of extra-judicial confession observed as under:

> *"14. It is a settled principle of criminal jurisprudence that extra-judicial confession is a weak piece of evidence. Wherever the court, upon due appreciation of the entire prosecution evidence, intends to base a conviction on an extra-judicial confession, it must ensure that the same inspires confidence and is corroborated by other prosecution evidence. If, however, the extra-judicial confession suffers from material discrepancies or inherent improbabilities and does not*

appear to be cogent as per the prosecution version, it may be difficult for the court to base a conviction on such a confession. In such circumstances, the court would be fully justified in ruling such evidence out of consideration."

13. Further, it is the submission of the learned counsel for the State that in the statement under Section 313 Cr.P.C. the appellant has confessed that he has committed murder of his mother. Contention of the learned counsel for the State cannot be accepted as the acceptance of guilt under Section 313 Cr.P.C. solely is not enough for conviction. The prosecution has to independently prove the guilt of the accused. It is well settled that the statement of the accused under Section 313 Cr.P.C. is not a substantive piece of evidence. It can be used for appreciating evidence led by the prosecution to accept or reject it. It is, however, not a substitute for the evidence of the prosecution. In **Mohan Singh v. Prem Singh, (2002) 10 SCC 236** the Hon'ble Supreme Court has observed as under:

"30. The statement of the accused under Section 313 CrPC is not a substantive piece of evidence. It can be used for appreciating evidence led by the prosecution to accept or reject it. It is, however, not a substitute for the evidence of the prosecution. As held in the case of Nishi Kant [(1969) 1 SCC 347 : AIR 1969 SC 422] by this Court, if the exculpatory part of his statement is found to be false and the evidence led by the prosecution is reliable, the inculpatory part of his statement can be taken aid of to lend assurance to the evidence of the prosecution. If the prosecution evidence does not inspire confidence to sustain the conviction of the accused, the inculpatory part of his statement under Section 313 CrPC cannot be made the sole basis of his conviction."

Further, the Hon'ble Supreme Court in the case of **Manu Sao v. State of Bihar, (2010) 12 SCC 310** has observed that conviction of the accused cannot be based merely on the statement made under Section 313 Cr.P.C. as it cannot be regarded as a substantive piece of evidence. Paragraph nos.14 & 15 of the judgment reads as under:

> *"14. The statement of the accused can be used to test the veracity of the exculpatory nature of the admission, if any, made by the accused. It can be taken into consideration in any enquiry or trial but still it is not strictly evidence in the case. The provisions of Section 313(4) explicitly provides that the answers given by the accused may be taken into consideration in such enquiry or trial and put in evidence against the accused in any other enquiry or trial for any other offence for which such answers may tend to show he has committed. In other words, the use is permissible as per the provisions of the Code but has its own limitations. The courts may rely on a portion of the statement of the accused and find him guilty in consideration of the other evidence against him led by the prosecution, however, such statements made under this section should not be considered in isolation but in conjunction with evidence adduced by the prosecution.*
>
> *15. Another important caution that courts have declared in the pronouncements is that conviction of the accused cannot be based merely on the statement made under Section 313 of the Code as it cannot be regarded as a substantive piece of evidence. ....."*

14. Further, when we go through the record, we find that the prosecution failed to establish motive of the appellant behind the occurrence. Further, in this case the police have neither taken any sample of blood from cloths of the deceased nor taken any sample from the stone which was alleged to have been used for committing murder of the deceased. This type of latches of the police weakens the case of the prosecution as it cannot be ascertained as to whether the blood present in the cloths matches with the blood found on the stone or not. The murder weapon has also not been established.

15. In the facts and circumstances of the case, the conviction of the appellant under Section 302 of the Indian Penal Code vide judgment of conviction dated 12.06.2018, passed by learned Additional Sessions Judge-1st-cum-Special Judge-cum-FTC, Bokaro in Sessions Trial Case No. 85 of 2016 is hereby set aside and accordingly, the sentence awarded by learned Trial Court vide order dated 26.06.2018 of rigorous imprisonment for life with fine of Rs. 10,000/- is also set-aside.

16. Accordingly, this Criminal Appeal is **allowed**.

17. This Court directs the above-named appellant to be released forthwith from custody, if not required in any other case.

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

(ANANDA SEN, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

23.09.2026
Tanuj/
N.A.F.R.

Uploaded on 29.09.2026