IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Appeal (DB) No. 162 of 2018

(Against the judgment of conviction dated 15.06.2016 and the order of sentence dated 21.06.2016 passed by the learned District & Additional Sessions Judge, Ghatsila in Sessions Trial Case No.10/2016)

Lal Mohan Nayek @Lal Mohan Nayak, son of late Gokul Nayek, resident of Village: Bhakar, PO and PS: Gurabanda, District East Singhbhum (Jharkhand) ….. …. **Appellant**

Versus

The State of Jharkhand …. ….. **Respondent**

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

For the Appellant(s) : Mr. Shivam Utkarsh Sahay, Advocate
For the State : Mr.Shailendra Kumar Tiwari, Spl.P.P.

By Court:
***18th November, 2026*:**

This Criminal Appeal is preferred on behalf of the appellant being aggrieved by the impugned judgment of conviction dated 15.6.2016 and order of sentence dated 21.6.2016, passed by the learned District & Additional Sessions Judge, Ghatsila in Sessions Trial Case No. 10 of 2016, whereby and whereunder, the appellant has been convicted for the offence under sections 302/201/34 IPC and sentenced to undergo rigorous imprisonment for life with fine of Rs. 20,000/- for the offence under section 302 IPC with default stipulation of SI for 9 months. He has further been sentenced to undergo rigorous imprisonment for 5 years with fine of Rs. 10,000/- for the offence under section 201 IPC with default stipulation of S.I. for 6 months. Both the sentences were directed to run concurrently.

2. We have heard the learned counsel appearing on behalf of the appellant and the learned counsel appearing on behalf of the State.

3. The learned counsel appearing on behalf of the appellant has submitted that there is no eyewitness to the occurrence**.** There is no allegation of enmity between the appellant and the deceased, as such, there was no motive present in this case and in absence of motive the conviction of the appellant cannot be sustained. He has also stated that the I.O. of this case has admitted that he has not recorded the confessional statement of the appellant and he has not recovered the iron

rod. He has further stated that the learned court below has failed to take into consideration those facts and has convicted the appellant on the ground of presumption which is not sustainable under the law.

4. The learned counsel for the State has defended the impugned judgment and submitted that there is sufficient evidence to prove that the appellant was fully involved in commission of crime and hence, the judgment of conviction and order of sentence passed by the learned court below needs no interference.

5. The prosecution case, in brief, as per fard-beyan of the informant Tata Muni @ Tatamai Nayek (PW-5) who is wife of the deceased that on 27.7.2015 at about 07:00 a.m. the deceased went to work but did not return during lunch time. At about 12 O'clock she went outside in search of him and found him near old godown along with this appellant, Ashok Sahu (the appellant in Cr.A.(DB) no. 648 of 2016, now dead) and one Satyanath Mahto @ Lepa Sahu. All of them were cooking meat and one bottle of liquor was also there. The informant asked her husband to return home. Till 05:00 p.m. when her husband did not return she again went there in search of him but she could not find him. On 28.7.2015 at about 08:00 a.m. she went to old go-down and enquired from the appellant but he did not disclose anything to her. Thereafter, the dead body of her husband was found inside the go-down with multiple injuries. The informant raised suspicion that the appellant along with Satyanath Mahto and Ashok Sahu killed her husband. Hence, Gurabanda P.S. Case no. 17 of 2015 dated 28.07.2015 was registered.

6. Thereafter, investigation was carried out and on completion of investigation charge-sheet was submitted under sections 302 and 201/34 IPC. Cognizance was taken and charges were framed under the same sections to which the appellant pleaded not guilty and claimed to be tried.

7. The prosecution, in order to prove its case, has examined altogether eight witnesses. PW-1 Shyampad Nayek, PW-2 Gour Chand Nayek, PW-3 Anup Kumar Nayek, PW-4 Tarapad Dhiwar, PW-5 Tatamuni Nayek, PW-6 Sudhir Prasad Singh, PW-7 Dr. Upendra Prasad and PW-8 Arjun Purti.

8. The prosecution has produced following documents:

(i) Ext.1 signature of Shyampad Nayek on the seizure list,

(ii) Ext.1/1 signature of Tarapad Dhiwar on the seizure list,

(iii) Ext.2 fardbayan,

(iv) Ext.3 Formal FIR

(v) Ext.4 relevant part of the confessional statement of Lal Mohan Nayek

(vi) Ext.5 seizure list and

(vii) Ext.6 post-mortem report.

9. Neither any witness has been examined in defence nor any document has been produced.

10. The trial court on the basis of evidences convicted the appellant and Ashok Sahu (now dead) and acquitted the co-accused, namely, Satyanath Mahto.

11. We have heard the learned counsel appearing on behalf of the both sides and gone through the evidences and exhibits in details.

12. After going through the evidences, we find that it is an admitted case of prosecution that there is no eye-witness to the occurrence. The entire case is based upon circumstantial evidence. One of the circumstances is last-seen-together as on 27.7.2015 PW-5 who is the informant had seen the deceased in the company of the appellant and others and thereafter her husband was found dead. This fact has also been established by the statement of PW-8.

13. Only on the basis of last-seen-together theory the appellant cannot be convicted as there have to be some other material coupled with motive to implicate a person with the commission of crime.

14. The prosecution has tried to bring another circumstance which is confessional statement of the appellant on the basis of which the murder weapon i.e. iron rod has been recovered. Admittedly, from the evidence of PW-8 who is officer-in-charge of the Jadugora PS, the confessional statement of the appellant was recorded on 29.7.2015 on the basis of which murder weapon which is alleged to be an iron rod was recovered from the godown itself but from a different room.

15. In this context it is worthwhile mentioned that PW-8 officer-in-charge of the Jadugora PS was not the investigating officer of this case. The fard-beyan and the evidence of the investigating officer (PW-6) clearly suggest that PW-6 was entrusted with this case immediately after the FIR was registered.

16. It is surprising that if the investigating officer of this case is PW-6 then how on 29.7.2015 the officer-in-charge of Jadugora PS recorded the

confessional statement of this appellant and thereafter went to the place of occurrence and recovered murder weapon. It suggests that some parallel investigation was being conducted by the officer-in-charge of Jadugora PS which was beyond his jurisdiction.

17. Now the next important issue with respect to recovery of murder weapon is highlighted by P.W.-6. PW-6 the investigating officer has clearly stated in paragraph no.8 of his cross-examination that he had not recorded confessional statement of the appellant. Further, in paragraph no.10 he stated that he had inspected old godown from where the dead body was recovered but he did not find any iron rod but later on stated that he had seen the iron rod but he did not make any entry of the same in the case diary and the same was also not sealed which creates doubt in the mind of the court as to whether actual iron rod was recovered from the go-down or not.

18. We noted that the dead body of the deceased was recovered on 28.7.2015 and the police reached at the place of occurrence on the same day itself but neither the investigating officer nor the officer-in-charge had found any iron rod and only after recording of confessional statement of the appellant on 29.7.2015 iron rod was recovered from the adjacent room of the godown from where the dead body of the dceceaed was found which creates doubt about recovery of iron rod. Further such type of recovery cannot be connected with the confessional statement of the accused person as it is the matter of ordinary search and seizure.

19. In a case of circumstantial evidence, motive plays a vital role. In this case there is no motive casted upon this appellant. PW-5 and other witnesses have stated that relationship between deceased and the appellant was cordial which is also apparent from the fact that they were cooking meat together and enjoying company of each other. The motive has been tried to be injected in this case but surprisingly not by any witness or relative but by the prosecution which came up with a plea that son of the appellant was taken by the deceased and thereafter his son died. The appellant had grudge with the deceased and, therefore, he killed the deceased but there is no substantial proof of the said motive. There is no any material evidence to support this case. It is the prosecution who in the effort of proving the role of this appellant has put forth his motive. Though PW-5 the wife of the deceased has stated that there was some dispute between them but she has not specified what was

the dispute and what was the motive. In the FIR also the informant has not stated about taking of the son of this appellant by the deceased.

20. PW-5, in paragraph no.8 of her cross-examination has stated that she did not give any statement to the police rather her RTI was taken in a blank paper. Another glaring aspect is that in her deposition she had signed her name in Hindi but surprisingly in the fardbeyan her RTI was taken which creates doubts in the mind of this court. It also appears that on the same set of evidence one of the co-accused, namely, Satyanath Mahto @ Lepa has been acquitted by the trial court itself.

21. In the facts and circumstances of the case the conviction of the appellant under section 302/201/34 of the Indian Penal Code vide judgment dated 15.06.2016 and the order of sentence of rigorous imprisonment for life with fine of Rs. 20,000/-under section 302 of the Indian Penal Code and further rigorous imprisonment for five years with fine of Rs. 10,000/- under section 201 of the Indian Penal Code, passed by the learned District & Additional Sessions Judge, Ghatsila in Sessions Trial Case No.10 of 2016 are set-aside.

22. The instant Criminal Appeal is **allowed**.

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

24. Pending Interlocutory Application(s), if any, stand disposed of.

25. Let a copy of this judgment along with Lower Court Records be sent to the learned court below for information and needful.

(Ananda Sen, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court
Dated: 18th November, 2026
KNR/Uploaded On:20th November, 2026