IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (DB) No. 119 of 2022

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1. Kaishav Mohali @ Kesho Mohli, aged about 37 years, Son of Late Bhuja Mohli,
2. Radhe Mohali @ Radhe Mohli, aged about 69 years, Son of Late Tulo Mohali @ Late Dhulo Mohli,
3. Kari @ Rani Devi, aged about 27 years, Wife of Shri Neman Mohli,
4. Sukumari Devi, aged about 32 years, Wife of Binod Mohli,

All resident of village-Kosogondodighi, P.O.-Chatro, P.S.-Deori, Dist.-Giridih (Jharkhand) ... ... **Appellant(s)**

Versus

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

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

For the Appellants : Mr. Kumar Nitish, Advocate
Mr. Sumit Prakash, Advocate
For the State : Mr. Bhola Nath Ojha, Spl.P.P.

J U D G M E N T

03rd November, 2026
By Court:-

Heard learned counsel for the appellants as well as learned Spl.P.P. appearing for the State.

2. The appellants in this appeal have challenged the judgment by which they have been convicted for committing the offence under Sections 302/34 and 323/34 of the I.P.C. vide judgment dated 06th December, 2021 passed by the learned Addl. Sessions Judge-V, Giridih and have been sentenced to undergo R.I. for life with a fine of Rs. 10,000/- for the offence under Section 302/34 of the IPC and R.I. for six months with a fine of Rs. 1000/- for the offence under Section 323/34 of the IPC, with default stipulations, vide order of sentence dated 08th December, 2021. Both the sentences were directed to run, concurrently.

3. The learned counsel for the appellants submits that though the prosecution has stated that the occurrence has occurred, due to land dispute but none of the witnesses has come forward giving the details of the land, which is the subject matter of this case. He further submits that immediately prior to the occurrence, there is nothing to suggest that there was any dispute between the parties, so allegation against these appellants for committing the murder of the deceased cannot be believed. He also argues that against these two appellants i.e. Kari @ Rani Devi (appellant No. 3) and Sukumari Devi (appellant No. 4), there is no evidence to connect them with the offence punishable under Section 302 of the IPC. He submits that P.W.-2 and P.W.-5 cannot be said to be an eye witness and the other witnesses are related to each other. Thus, this appeal needs to be allowed setting aside the impugned judgment of conviction.

4. Learned Spl.P.P. opposed and submits that the witnesses have supported the prosecution case and there are injured witnesses also. The injured witnesses were examined by the Doctor and injuries were found which suggest that they were present at the place of occurrence and their testimony cannot be easily overlooked. He also submits that the Dr. who has treated the injured witness also found injuries. Lastly, he submits that the death is homicidal and Rani Devi and Sukumari Devi have also participated in the offence and thus, they have been convicted.

5. The prosecution case in brief as per the Fardbeyan of P.W.-5 (Informant-Taleshwar Mohli) is that the informant was taking dinner and at that time, he heard commotion, he came out and found that the

accused persons armed with deadly weapons assaulting the deceased (Gopi Mohali). He stated that the assault was due to land dispute between Gopi Mohali (deceased) and Radhe Mohali (appellant-2). It has stated that he tried to pacify the matter, when, Sukumari Devi (appellant No. 4) and Rani Devi (appellant No. 3) armed with Lathi and Danda came there and also started assaulting the deceased. The accused Radhe Mohali gave blow on the head of deceased by means of Axe and Kesho Mohali gave blow on Gopi Mohli by a Katari (Sharp Cutting Weapon). Binod Mohali also assaulted the deceased on his chest by means of an Axe. On raising hue and cry, Nakul Mahto came out from the house and tried to pacify but he was also assaulted.

6. On the basis of aforesaid statement of the Informant (P.W.-5), F.I.R. was registered and after completion of investigation, the Investigating Officer submitted the charge-sheet.

7. The prosecution has examined altogether 9 witnesses in order to substantiate the aforesaid charges:-

P.W.-1	Mahendra Mohli
P.W.-2	Bharat Mohli
P.W.-3	Nakul Mohli
P.W.-4	Budhni Devi
P.W.-5	Taleshwar Mohli
P.W.-6	Dr. P.N. Jha
P.W.-7	Simon Soy
P.W.-8	Dr. Sunil Kumar Choudhary
P.W.-9	Pancration Xaxa

8. Apart from above oral testimony, the prosecution ahs also adduced following documentary evidence:-

Ext.-1 to 1/1	Signatures of P.W.-1 and P.W.-2 on seizure list.
Ext.-2	Post Mortem Report of deceased
Ext.-3	Fardbeyan including registration and endorsement

Ext.-4 Seizure list
Ext.-5 Carbon Copy of inquest report of the deceased
Ext.-6 and 7 Requistion for Medical Treatment of P.W.-3 & 5
Ext.-8 and 8/1 Injury Report of P.W.-5 and P.W.-3
Ext.-9 Forwarding Letter for production of seized materials
Ext.-10 and 10/1 S.F.S.L. Nos. 354/2015 dated 17.08.2015 and 21.08.2015

9. The prosecution has also examined following Material Exhibits:-

M. Ext.-I Tangi
M. Ext.-II Bamboo Sticks
M. Ext.-III Blood Stained Soil

10. Now, before imparting our verdict, it is pertinent to discuss the evidence available on record for proper adjudication.

10.1 **P.W.-1 Mahendra Mohli** is a witness to seizure list of blood-stained Axe, Sticks and the blood-stained soil. He has stated that blood stained soil and axe was recovered near the house of Radhe Mohli. This witness is son of the deceased. He has stated that the occurrence took place in the night at about 8:00-8:30 pm when he was in his house and on hearing Hulla, he immediately rushed there and saw the incidence. He stated that Kesho Mohli and Radhe Mohli assaulted the deceased and Rani Devi and Sukumari Devi also assaulted with Sticks. He stated that all were armed with weapons. He further stated that Nakul Mohli and Taleshwar Mohli came to save his father but they were also assaulted. He stated that because of assault, his father died.

In his cross-examination, he stated that there is no report of the fact that there were dispute between the parties. He admitted that the injured were not taken to the Hospital and they were waiting for the police. He admitted that there was dispute between the families.

10.2 **P.W.-3 Nakul Mohli** is also an injured witness. He stated that he heard the commotion and he came out and tried to intervene when he was also assaulted by the appellants.

10.3 **P.W.-5 Taleshwar Mohli** is also an injured witness. He stated that he also tried to intervene but he was also assaulted.

P.W.-1 has stated the name of these two witness i.e. P.W.-3 and P.W.-5 that these two witnesses came to intervene and they were also assaulted.

10.4 **P.W.-8 Dr. Sunil Kumar Choudhary** is the Doctor who examined Nakul Mohli and Taleshwar Mohli. He stated that injury of the Taleshwar was on his chest but the same was simple in nature caused by hard-blunt substance.

Be it noted here that Taleshwar Mohli, when he was examined as P.W.-5, he also showed his injuries in the Court which was on his chest though he stated that he was assaulted by Tangi but the nature of injury was simple caused by hard blunt substance.

In this context, we would like to note that every assault by a Tangi did not result in a sharp cut injury; it depends on the sharpness of the blade of the Axe.

The Dr. also examined Nakul Mohli (P.W.-3) and found the injuries on his forehead, right eye brow and mid of forearm left side which was caused by hard blunt substance. Both injury reports were marked as Ext.-8 and 8/1.

10.5 **P.W.-3 Nakul Mohli** in his statement stated that he was assaulted on his head and hand. The Doctor also examined this witness and found

his injury over forehead, eye brow and forearm. Thus, the injuries also match.

He also does not specifically state that who was armed with whatever though he states that deceased was assaulted on the head by Tangi but who has assaulted is not mentioned.This clearly proves that these two persons (P.W.-3 and P.W.-5) were present at the place of occurrence.

10.6 The Hon'ble Supreme Court in the case of **Bhajan Singh v. State of Haryana, (2011) 7 SCC 421** has held that injured witnesses must be given due weightage as his presence on the place of occurrence cannot be doubted. The relevant paragraph is extracted hereunder:-

> *36. The evidence of the stamped witness must be given due weightage as his presence on the place of occurrence cannot be doubted. His statement is generally considered to be very reliable and it is unlikely that he has spared the actual assailant in order to falsely implicate someone else. The testimony of an injured witness has its own relevancy and efficacy as he has sustained injuries at the time and place of occurrence and this lends support to his testimony that he was present at the time of occurrence. Thus, the testimony of an injured witness is accorded a special status in law. Such a witness comes with a built-in guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone. "Convincing evidence is required to discredit an injured witness." Thus, the evidence of an injured witness should be relied upon unless there are grounds for the rejection of his evidence on the basis of major contradictions and discrepancies therein.* (Vide Abdul Sayeed v. State of M.P. [(2010) 10 SCC 259 : (2010) 3 SCC (Cri) 1262] ;Kailas v. State of Maharashtra [(2011) 1 SCC 793 : (2011) 1 SCC (Cri) 401]

> ;Durbal v. State of U.P. [(2011) 2 SCC 676 : (2011) 1 SCC (Cri) 877] and State of U.P. v. Naresh [(2011) 4 SCC 324 : (2011) 2 SCC (Cri) 216]"

10.7 Similarly, in the case of **State of M.P. v. Mansingh, (2003) 10 SCC 414,** the Hon'ble Supreme Court of India has held as under:-

> *"9. The evidence of injured witnesses has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly. Merely because there was no mention of a knife in the first information report, that does not wash away the effect of the evidence tendered by the injured witnesses PWs 4 and 7. Minor discrepancies do not corrode the credibility of an otherwise acceptable evidence. The circumstances highlighted by the High Court to attach vulnerability to the evidence of the injured witnesses are clearly inconsequential. It is fairly conceded by the learned counsel for the accused that though mere non-mention of the assailants' names in the requisition memo of injury is not sufficient to discard the prosecution version in entirety, according to him it is a doubtful circumstance and forms a vital link to determine whether the prosecution version is credible. It is a settled position in law that omission to mention the name of the assailants in the requisition memo perforce does not render the prosecution version brittle."*

10.8 It is the prosecution case that the deceased was assaulted by all the appellants. There is specific allegation against the Kesho Mohli (appellant No. 1) and Radhe Mohli (appellant No.2) who have assaulted the deceased with sharp cut weapon i.e. Axe and Tangi. This witness i.e. P.W.-3 in his evidence has stated that Gopi Mohli (deceased) was assaulted on the head by an Axe as a result of which he died. P.W.-5 stated that Radhe Mohli with the sharp end of the Axe assaulted the

deceased on his head which struck on the back of his head, thereafter, Binod also assaulted by Tangi. P.W.-1 stated that there was a dispute going on between the parties and when he reached at the place of occurrence, he saw Radhe Mohli (appellant No. 2), Kesho Mohli (appellant No. 1), Binod Mohli, Neman Mohli, Gendo Mohli, Kari Devi @ Rani Devi (appellant-3) and Sukumari Devi (appellant-4) were present and they were assaulting his father (deceased). He stated that Nakul and Taleshwar also came to save the deceased but they were also assaulted. He stated that Taleshwar also sustained injury on his chest (the fact of injury of Taleshwar has been corroborated by Taleshwar and the Doctor also). He stated that his father was assaulted on his head which led profusely, thereafter, he died. He is also a witness to seizure of the Axe and blood-stained earth, etc. This witness though stated that deceased was assaulted by all but has not stated who assaulted the deceased by which he died. His statement is general that all were armed with Lathi, Danda, Axe, Katari and Tangi.

10.9 **P.W.-2 Bharat Mohli** is not an eye witness but is a hearsay witness who reached at the place of occurrence after hearing commotion. He saw the dead body and he stated that he found injury on the head and forehead of the deceased. He stated that Nakul Mohli (P.W.-3) and Taleshwar Mohli (P.W.-5) have narrated him about the incidence. He stated that the deceased was assaulted by Radhe Mohli (appellant No. 2), Kesho Mohli (appellant No. 1), Binod Mohli, Neman Mohli, Gendo Mohli, Kari Devi(appellant no. 3) and Sukumari Devi (appellant No. 4). He stated that there was land dispute between him and these appellants.

He is also seizure list witness of the blood-stained soil and blood stained Axe.

10.10 **P.W.-4 Budhni Devi** is the wife of the deceased and also an eye witness who stated that Kesho Mohli has assaulted the deceased with Tangi and Binod Mohli also with Tangi and so did Radhe Mohli. He stated that other ladies assaulted with sticks. She has stated that she has seen the occurrence. She also stated that P.W.-3 and P.W.-5 came to save but they were also assaulted and Taleshwar Mohli was assaulted on his chest. She caught hold of her husband but husband died.

10.11 **P.W.-7 Simon Soy** is the Investigating Officer who stated that the F.I.R. is at the instance of Taleshwar Mohli (P.W.-5) and Fardbeyan was scribed by Sunit Kumar, S.I., who is the officer-in-charge and the same was exhibited as Ext.-3. He identifies the seizure list and also his writing marked as Ext-4. The inquest report was exhibited as Ext.-5. He recorded the statement of the witnesses. According to them, they have supported the prosecution case. He inspected the place of occurrence which is Radhe Mohli house. He described the place of occurrence and gives the boundary of the area. He states that the seizure list witnesses also supported the prosecution case.

10.12 **P.W.-9 Pancration Xaxa** is a formal witness who produced material exhibits.

10.13 **P.W.-6 Dr. P.N. Jha** is the Doctor who had conducted the post-mortem. He found three incised wound on the body of the deceased which is over the left parietal area of skull and deep over mid occipital area and deep over right occipital parietal area. He stated that the cause

of death is shock and hemorrhage due to head injury which is caused by sharp edged weapon. The post-mortem report has been exhibited as Ext.-2.

In cross-examination, he stated that all the injuries might have been sustained while standing position. From the medical evidence of post-mortem report it is clear that the death is homicide.

11. Though, all the witnesses except P.W.-4 (wife of the deceased) gave a general statement that all the appellants and other accused assaulted deceased with Axe, Katari, Etc. but they have not stated specifically as to who has assaulted by which weapon. This specific allegation comes from the evidence of P.W.-4 who is wife of the deceased and who has also seen the occurrence. He has taken the name of Radhe Mohli (appellant No. 2) and Kesho Mohli (appellant No. 1) assaulting the deceased with the sharp cutting weapon and the ocular evidence matches with the medical evidence as sharp cutting injuries were found on the head which is part of the body. P.W.-1 although has stated that all of them were armed with sharp cutting weapons and sticks.

12. After analyzing the evidence, we further find that so far as appellant Nos. 3 and 4 are concerned that they were armed with sticks and the statement of P.W.-6 suggests that there are three injuries on the body of the deceased which was incised wound and caused by sharp edged weapon. This suggests that there was no assault upon the deceased by these ladies who were holding Lathi and Danda. Thus, these two appellants could not have been convicted for the offence under Section 302 of the IPC and their conviction under Section 302 is bad and the

same is set aside.

13. So far as conviction under section 34 is concerned, we find no evidence and there is nothing on record to suggest that in furtherance of common intention, these two lady appellants had participated in the occurrence as we have already held that there is nothing on record except having a Lathi and Danda in their hand.

14. So far as the other two appellants i.e. Kesho Mohli and Radhre Mohli are concerned, there is consistence evidence that they were all armed with sharp cutting weapons and they have assaulted the deceased. Though, there is no specific statement against the appellants that how each of the them have inflicted the blow and what weapon but the fact that they were armed with sharp cutting weapons has been proved by the witnesses and they have assaulted, has also been proved. P.W.-3 and P.W.-5 are injured witnesses and their presence are not disputed. P.W.-1 also stated about the presence of P.W.-3 and P.W.-5. P.W.-2 though is not an eye witness, saw the injury on the forehead of the deceased, which is corroborated by the statement of Doctor (P.W.-8). Thus the involvement of these two appellants i.e. Radhe Mohli (appellant No. 2) and Kesho Mohli (appellant No. 1) in commission of the offence has been proved by the prosecution. We further find that, by no stretch of imagination, this case comes within the purview of section 304 Part-I or Part-II of the IPC as the allegation stands in grievous in nature and there is direct evidence against appellant No. 1 and appellant No. 2.

15. Thus the conviction for the offence punishable under section 302 of the IPC for committing the murder of the deceased has been proved

by the prosecution against these two appellants i.e. Kesho Mohli (appellant No. 1) and Radhe Mohli (appellant No. 2).

16. So far as section 323 is concerned against these two appellants i.e. Kesho Mohli (appellant No. 1) and Radhe Mohli (appellant No. 2), we find that the injuries upon the witnesses P.W.-3 and P.W.-5 are simple in nature and thus, the conviction of these two persons under Section 323 of the I.P.C. also needs no interference.

17. In view of the above, this appeal is **dismissed** so far as appellant No. 1 and 2 is concerned and the same is **allowed** with respect to appellant No. 3 and 4.

18. Accordingly, the appellant No. 3 and appellant No. 4 are on bail, hence, they are discharged from the liabilities of bail bond. Sureties are also discharged and the suspension of sentence granted to the appellant namely Kaishav Mohali @ Kesho Mohli vide order dated 27.09.2022, during pendency of this appeal, is hereby cancelled, his sureties are also discharged and he is directed to surrender before the learned Trial Court within two months from the date of this Judgment to undergo the remaining period of sentence awarded to him by the learned trial Court, failing which, the learned Trial Court shall take all coercive steps for arrest and detention of the aforesaid appellant for sustaining the remaining period of sentence awarded to him.

19. Let a copy of this judgment be furnished forthwith to the appellant No. 2 namely Rahde Mohli through learned A.P.P/Spl.P.P.

20. In result, this appeal is party **allowed.**

21. Pending I.A., if any, stands disposed of, accordingly.

22. Let a copy of this judgment be sent to concerned trial court for information and needful.

(ANANDA SEN, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

03.11.2026
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Uploaded on 06/11/2026