IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (DB) No. 284 of 2017

Lala Gope, Son of Jhulan Gope, Resident of Village-Gothain Tanger, P.O. & P.S.-Simdega, Dist.-Simdega ... ... **Appellant(s)**

Versus

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

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

For the Appellant : Mr. Ajit Kumar, Advocate
For the State : Mr. Saket Kumar, A.P.P.

08/ 28th September, 2026

Heard learned counsel for the appellant as well as learned A.P.P. appearing for the State.

2. The appellant in this appeal has challenged the judgment by which he has been convicted for committing the offence under Section 302 of the I.P.C. vide judgment dated 26th May, 2016 passed by the learned Addl. Sessions Judge, Simdega and has been sentenced to undergo R.I. for life vide order dated 30th May, 2016.

3. The learned counsel for the appellant submits that the informant cannot be said to be an eye witness of the occurrence, if his evidence is scrutinized properly. He also submits that even if his statement is taken to be correct, there is no other corroborative evidence to suggest that it is the appellant who has committed murder of the deceased. It is further submitted that the occurrence has taken place during dark in evening and thus, it is not possible for the informant to identify the appellant. Lastly, he submits that from the evidence, it is clear that the appellant was residing separately and the defence witnesses have stated that it is the informant himself, who has committed the murder of the deceased.

4. Learned A.P.P. opposed and argues that the deceased is none else but the son of the informant and the accused also happens to be another son of the informant through his first wife. Thus, the doubt raised by the appellant about the identification at the evening hours is of no value. He also submits that the oral evidence finds corroboration from the post-

mortem report of deceased, which reveals sharp cut injuries sustained by deceased. The I.O. has stated that the dead body was found on the road, which also corroborates the F.I.R. and the statements.

5. The F.I.R. is at the instance of P.W.-6 Jhulan Gope. He has stated that the deceased is his son and so is the accused, but both these brothers are step brothers. He has stated that the appellant always used to demand share in the joint property and used to create nuisance. To avoid the disputes/problems, the informant had accepted that he will give the land, goats, etc. to the appellant. He further states that on the fateful day, again, the appellant came and started creating trouble, when this informant forbade him, at that point of time, the appellant took an axe and chased the deceased. The deceased in order to save himself fled but the appellant struck with an axe and assaulted him on the road resulting in his death. The informant stated that he has seen the entire occurrence.

6. After, the F.I.R. was instituted, the police investigated the case and filed charge-sheet, finding the facts true. The appellant pleaded not guilty. Thus, charge was framed against him. The appellant was put on trial.

7. There were eight witnesses examined by the prosecution.

P.W.-1 Dhan Singh and **P.W.-2 Vishnu Bhagat** are the seizure list witnesses who have identified their signature on seizure list and exhibited also. The axe was seized. Though, these two witnesses have stated that they have not read the seizure list but it is of no consequence.

P.W.-3 Samru Gope is a villager who has stated that he reached at the place of occurrence after the occurrence had taken place. Thus, he is not the eye witness.

P.W.-4 Jailal Nayak is the local Chowkidar who is also not the eye witness.

P.W.-5 Jaimohan Gope has been declared hostile by the prosecution.

P.W.-7 is **Dr. Omprakash Rawani**. He has conducted the post-mortem on the dead body of the deceased. The post-mortem report has been exhibited by him as Ext.-3. He found the following external injuries on the body:-

(i) A depressed fracture wound 4”x1/2” on the forehead.

(ii) Cut wound bone deep with fracture of bone, right side vertex 3”x1”.

(iii) Sharp cut wound on the nape of the neck 4”x1”x bone deep.

In para-5, he stated that the death is due to heavy sharp cutting weapon on the head leading to intra-cranial hemorrhage and shock. He was not cross-examined by the defence.

The star witness in this case is **P.W.-6 Jhulan Gope,** who is none else but the father of the deceased and the accused. He in his evidence has supported his statement in the Fardbeyan. According to his evidence, the occurrence took place in the evening, at about 7 o’clock and he was present at the place of occurrence. He stated that this appellant (Lala) with an axe had assaulted the deceased causing instantaneous death. He admitted that his fardbeyan was recorded and he has put his thumb impression. He identified the appellant. In his cross-examination, he admitted that earlier, prior to this occurrence, there was dispute between him and the appellant. He also admits that because of the dispute, he was residing in a different house. In para-7, he admits that he has seen the occurrence. There is nothing much in his cross-examination.

P.W.-8 Arjun Singh Kunkal is the I.O. who has described the place of occurrence which is a road where the assault had taken place and the dead body was lying. He admits that he has prepared the seizure list in his own handwriting in presence of the witnesses and seized the blood stained axe also. He has not taken any sample of blood nor sent the axe to the Forensic Science Laboratory

8. Following documents were exhibited during trial:-

Ext.-1 & 1/1-	Signature of Dhan Singh and Vishnu Bhagat on the seizure list.
Ext.-2	Signature of Dhan Singh on inquest report.
Ext.-3	Post-mortem report
Ext.-4	Formal F.I.R.
Ext.-5	Fardbeyan

Ext.1/2	Seizure list.
Ext.2/1	Inquest Report
Ext.-6	CHALAN relating to material exhibit
Ext.-I	Tangi

9. Thus, after evaluating the evidence, we find that the conviction of appellant is based on the evidence of the sole eye witness i.e. P.W.-6, who is none but father of the accused and the deceased. When the accused is the son of the informant, there cannot be any doubt regarding the identity of the accused person. Further, it is the prosecution case that the deceased was chased by this appellant and on the road, the murder had taken place due to assault by axe. The place of occurrence is thus the road which is outside the house of this appellant. The place of occurrence has been proved by the I.O. where he found the dead body.

10. The murder weapon as per the informant is an axe. The I.O. also found the axe. The post-mortem report also suggests that the death was caused by sharp cutting weapon.

11. The post-mortem report also suggests that all the injuries were on the vital part of the body and injury No. (i) is the cause of death which is sufficient to cause death in ordinary course of nature. The injuries on the body also corroborates the ocular evidence of the witnesses and the weapon which has been used. There is nothing contrary in the evidence of P.W.-6 to disbelieve him. The defence has not extracted any material whatsoever to doubt the creditworthiness of this witness.

12. The defence relied upon some defence witnesses, who have stated that it is the informant, who has committed murder of his son. When we go through the deposition of defence witnesses, all of them have categorically admitted that they have not got their statement recorded before the I.O. Thus, they have appeared before the Court for the first time at the instance of the accused to depose before the Court. Thus, these defence witness are not reliable witness.

13. After going through the evidence and the documents on record, we come to the conclusion that the prosecution has been able to prove the guilt of the appellant beyond all reasonable doubt. The learned Trial

Court has correctly appreciated all these facts and the evidence while convicting the appellant for committing the murder of the deceased. Thus, we do not find any merits in this appeal and the same is dismissed.

14. Appellant is in custody. Let a copy of this judgment be furnished forthwith to the appellant through learned A.P.P.

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

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

(ANANDA SEN, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

28.09.2026
Basant/
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