IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Appeal (DB) No. 204 of 2020

(Against the judgment of conviction dated 27.01.2020 and the order of sentence dated 29.01.2020 passed by the learned Additional Sessions Judge-III, Rajmahal in S.T. Case No.105/2015)

---

1. Thethe @ Tetay Besara @ Padum Besra @ Paddum, aged about 37 years, son of late Sam Besra @ Begla Besra.
2. Paku Murmu, aged about 30 years, wife of Thethe @ Tetay @ Padum Besra.

Both are residents of village Bala Pokhar, Pathariya, PO and PS Taljhari, District Sahibganj. ….. …. **Appellants**

Versus

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

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

For the Appellant(s) : Mr. Gautam Kumar, Advocate;
Mr. Ashutosh Kumar Sinha, Advocate

For the State : Mr. Sanjay Kumar Srivastava, A.P.P.

By Court:
***28th October, 2026*:**

This Criminal Appeal is preferred on behalf of the appellants being aggrieved by the impugned judgment of conviction dated 27.01.2020 and order of sentence dated 29.01.2020, passed by the learned Additional Sessions Judge-III, Rajmahal in S.T. No. 105 of 2015, whereby and whereunder, the appellants have been convicted for the offences under section 302/34 IPC and sentenced to undergo imprisonment for life with fine of Rs. 20,000/- for the offence under section 302/34 IPC and in default of payment of fine further sentenced to undergo R.I. for three years.

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

3. The learned counsel appearing on behalf of the appellants has submitted that the occurrence has taken place on the spur of moment as there was land dispute between the parties. There was no intention of the appellant No.1 to commit murder of the deceased who in fact his own brother. There was no pre-meditation. He has also submitted that appellant no.2 Paku Murmu is the wife of appellant no.1 Thethe @ Tetary Besara @ Padum Besra @ Paddum, save and except statement of the witnesses that she has brought spade from the house on the direction of her husband there is nothing against her. There is no evidence that there was any meeting of mind between the appellant no.1 and the appellant no.2 on the point of commission of murder. It is further submitted that Section 34 of the Indian Penal Code will not be applicable in the present case so far as appellant

no.2 is concerned.

4. The learned counsel for the State has defended the impugned judgment and submitted that there was intention to commit murder or to inflict bodily injury which is sufficient to cause death in ordinary course of nature. The assault was made on the face, chest and skull of the deceased which are vital parts of the body which suggests the intention of the appellants to commit murder. He also submits that this case cannot come under any Exception of Section 300 IPC and, as such, the learned court below has rightly convicted the appellants. It is further submitted that PW-1 and PW-2 are the eye-witnesses who had seen the assault. PW-3 and PW-7 reached at the place of occurrence within seconds and came to know about the occurrence, thus, they are independent witnesses. The medical evidence also corroborates the ocular evidence. Therefore, the conviction of the appellants cannot be questioned.

5. The prosecution case, in brief, as per fard-beyan of the informant Majhali Hembrom (PW-2) who is the wife of the deceased that on 23.11.2014 her husband Sriram Besra had gone to village Baskola to play football and at about 6:45 p.m. he returned home, at about 07:00 p.m. he was going to hand-pump, which is in front of her house, to take water then quarrel and abuse started between her husband and her brother-in-law(devar) regarding construction of house and on hearing noise she came out and saw that the appellant no.1 Thethe @ Tetary Besara @ Padum Besra @ Paddum was assaulting her husband and in the mean time he asked his wife the appellant no.2 Paku Murmu to bring Kudal who brought Kudal from her house and gave it to the appellant no.1 and thereafter the appellant no.1 had assaulted her husband with kudal over his nose and chest, as a result of which, her husband fell down and died.

6. On the basis of fard-beyan of the informant Taljhari P.S. Case no. 134 of 2014 dated 23.11.2014 was registered. Thereafter, investigation was carried out and after completion of investigation charge-sheet was submitted under section 302/34 IPC. Cognizance was taken and case was committed to the Court of Sessions. On 01.2.2016 charge was framed under the same section which was read and explained to the accused to which they pleaded not guilty and claimed to be tried.

7. The prosecution, in order to prove its case, has examined altogether ten witnesses, out of whom, PW-1 Sunil Besra and PW-2 Manjhali Hembrom, the informant, are the eye-witnesses to the occurrence. PW-3 is Marangmai Chaure, PW-4 William Marandi, PW-5 Dular Marandi, PW-6 Dr. Mohd. Alimuddin Ansari, PW-7 Tala Hembram, P.W.-8 Dwarika Ram, I.O. of the case, PW-9 Umesh Rama and PW-10 Gumit Turi.

8. After going through the evidence of the witnesses we find that PW-1 and PW-2 are eye-witness to the occurrence.

9. P.W.-1 Sunil Besra is the son of the deceased who has stated that on the date of occurrence he and his father, the deceased, came to the house at 07:00

p.m. after playing football. His father was going to hand-pump to take water then quarrel took place between his father and the appellant no.1. The appellant no.2 brought kudal from her house and gave it the appellant no.1 who assaulted his father with kudal over his nose and chest, as a result of which, his father died.

10. PW-2, Manjhali Hembrom is the informant who is the wife of the deceased. She deposed that while her husband was going to hand-pump after returning from football ground was assaulted by appellant no.1. There was dispute between them with respect to land. The appellant no.2 who is the wife of the appellant no.1 brought a spade from the house and appellant no.1 assaulted the deceased with the spade on the nose and chest. This witness stood firm and could not be shaken during her cross-examination.

Both these witnesses have stated that it was the appellant no.1 who has ordered his wife, the appellant no.2, to bring spade. Thus, the prosecution has been able to prove the involvement of both the appellants beyond all reasonable doubts.

11. The defence has taken plea that both these witnesses are related witnesses as PW-1 is the son of the deceased and PW-2 is the wife of the deceased and, hence, they are interested witnesses.

12. It is well-settled that the evidence of the related witnesses cannot be burst aside rather there should be conscious scrutiny. The Hon'ble Supreme Court in the case of ***Pulicherla Nagaraju v. State of A.P.***, ***(2006) 11 SCC 444 : (2007) 1 SCC (Cri) 500 : 2006 SCC OnLine SC*** 839 at page 453 has held as under:

> *"16. In this case, we find that the trial court had rejected the evidence of PW 1 and PW 2 merely because they were interested witnesses being the brother and father of the deceased. But it is well settled that evidence of a witness cannot be discarded merely on the ground that he is either partisan or interested or closely related to the deceased, if it is otherwise found to be trustworthy and credible. It only requires scrutiny with more care and caution, so that neither the guilty escape nor the innocent wrongly convicted. If on such careful scrutiny, the evidence is found to be reliable and probable, it can be acted upon. If it is found to be improbable or suspicious, it ought to be rejected. Where the witness has a motive to falsely implicate the accused, his testimony should have corroboration in regard to material particulars before it is accepted."*

13. Further in the case of ***Namdeo v. State of Maharashtra, (2007) 14 SCC 150 : (2009) 1 SCC (Cri) 773 : 2007 SCC OnLine SC 354*** at page 164 the Hon'ble Supreme Court has held as under:

> "*38. From the above case law, it is clear that a close relative cannot be characterised as an "interested" witness. He is a "natural" witness. His evidence, however, must be scrutinised carefully. If on such scrutiny, his evidence is found to be intrinsically reliable, inherently probable and wholly trustworthy, conviction can be based on the "sole" testimony of such witness. Close relationship of witness with the deceased or victim is no ground to reject his evidence. On the contrary, close relative of the deceased would normally be most reluctant to spare the real*

culprit and falsely implicate an innocent one."

Thus, testimonies of the above two eye-witnesses cannot be disbelieved.

14. PW-3 and PW-7 deposed that they were in their house which is in proximity to the place of occurrence. They deposed that on hearing noise they immediately came to the place of occurrence. They corroborated the prosecution story.

From their evidence it is quite clear that appellant no.1 had given fatal blow to the deceased due to which he died.

15. PW-6 is Dr. Mohd. Alimuddin Ansari who has conducted post-mortem over the dead-body of the deceased and found following injuries:

On Dissection:-

(i) *Over face/skull- Maxillary Bone fracture and nasal structure have crushed injury and filled with blood clot.*
(ii) Over Chest- thorasic cavity contains blood and lungs are pale, collapsed and ruptured.
Liner, spleen, kidney are pale. Heart-both chambers partially filled with blood. Urinary Bladder empty. Stomach empty and only mucus. Brain: Pale and white. Rib- Multiple rib fracture and sternum also fracture.
Cause of death:- Cardio respiratory failure and due to crushed injury over face and chest which caused neoragenic and hypovolumanic shock.

The post-mortem report has been marked as Ext. 2.

16. The doctor has opined that death has caused due to Cardio respiratory failure and due to crushed injury over face and chest which caused neoragenic and hypovolumanic shock.

The prosecution has been able to prove that the assault was made on the face, skull and chest of the appellant and also there is fracture of ribs. All these parts are vital parts of the body and thus it cannot be said that the assault was made in the spur of moment and there was no intention to commit murder. If there was no intention to cause bodily injury the assault could have been made on the non-vital parts of the body. The medical also proves that the death was homicidal.

17. We could not find any material in the arguments of the defence that the case will come under section 304 Part-1 or Part-II of the IPC.

18. This Court finds that there is sufficient evidence to prove guilt of the appellant no.1, namely, Thethe @ Tetary Besara @ Padum Besra @ Paddum and, thus, the instant appeal *qua* appellant no.1 Thethe @ Tetary Besara @ Padum Besra @ Paddum stands dismissed.

19. So far as appellant no.2, namely, Paku Murmu is concerned, admittedly, she was not the person who had inflicted any blow on the deceased. All the witnesses have consistently stated that only on the direction of her husband she brought spade from the house and handed over the same to the appellant no.1 who inflicted several blows on the face, chest and nose of the deceased due to which he died. There is no evidence that the appellant no.2 had shared common intention with the appellant no.1 to commit murder of the deceased.

20. In the facts and circumstances of the case the conviction of the appellant

No.2, namely, Paku Murmu under sections 302/34 IPC vide judgment dated 27.1.2020 and the order of sentence of imprisonment for life with fine of Rs. 20,000/-under section 302/34 IPC dated 29.01.2020 passed by the learned Additional Sessions Judge-III, Rajmahal in S.T. No.105 of 2015 are set-aside.

21. The appellant No.2, namely, Paku Murmu is on bail. She is discharged from the liabilities of her bail bonds.

22. The instant Criminal Appeal is partly allowed.

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

(Ananda Sen, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court
Dated: 28th October, 2026
KNR/Uploaded On:30.10.2026