IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (DB) No. 1233 of 2017

(AGAINST THE JUDGMENT OF CONVICTION DATED 05.06.2017 AND ORDER OF SENTENCE DATED 07.06.2017 PASSED BY LEARNED DISTRICT & ADDL. SESSIONS JUDGE-IV, DHANBAD IN SESSIONS TRIAL CASE NO. 193 OF 2012).

1. Mobin Ansari son of late Maqbul Ansari
2. Zahida Khatoon wife of Mobin Ansari
   Both are resident of Hirbandh, Mugma, P.O and P.S. Nirsa, District- Dhanbad. … Appellant(s)

Versus

The State of Jharkhand … … … … Respondent

……

For the Appellant: Mr. Jitendra Tripathi, Advocate.
For the State : Mrs. Priya Shrestha, Spl. P.P.

……

P R E S E N T

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

J U D G M E N T

Dated: 28.09.2026
By Court:

This criminal appeal is directed against the Judgment of conviction dated 05.06.2017 and order of sentence dated 07.06.2017 passed by learned District & Addl. Sessions Judge-IV, Dhanbad in Sessions Trial Case No. 193 of 2012, whereby the appellants having been found guilty of charges under Section(s) 302/34 and 201/34 of Indian Penal Code and have been convicted and sentenced to undergo rigorous imprisonment for life and fine of Rs. 10,000/- each for the offence under Section 302 IPC and also sentenced to undergo rigorous imprisonment for three years and fine of Rs.10,000/- each for the offence under Section 201 IPC.

2. Learned counsel for the appellants submits that the FIR was registered against unknown and the appellants were not named in the FIR. He further submits that the statement of P.W. 1 who stated that at about 9:00-9:30 p.m., he saw Mobin throwing something by the side of

the Mosque and on reaching there he saw the dead body of Sahil and mark of blood near the house of Mobin is not corroborated by any other witnesses; thus, the statement of witness No. 1 is not reliable. He further submits that P.W. 2 also deposed that there was mark of blood at the door of the house of Mobin and at 10:00 p.m. he also saw Mobin washing something. Thus, there is contradictions on the point of mark of blood in the statement of P.Ws. 1 and 2, hence the testimony of these witnesses is doubtful. He also submits that there are discrepancies in the statement of the witnesses. He also adds that no one has seen the deceased going into the house of the accused. It is his further contention that in a case of circumstantial evidence and each circumstantial chain is not connected and in this case, thus the chain is not complete. He also submits that the prosecution has not been able to prove its case beyond the shadow of reasonable doubt. On these grounds, he prays for acquittal of the appellants.

3. Learned counsel appearing on behalf of the State opposing the prayer of the appellants, submits that the prosecution has been able to prove its case beyond shadow of reasonable doubt against the appellants under Sections 302/201/34 IPC by leading oral evidence as all the witnesses have supported the prosecution case. She further submits that there is nothing to disbelieve the evidence of prosecution witnesses i.e. P.Ws.1, 2, 3 and P.W 6 (informant). She also adds that the case of the prosecution is based on circumstantial evidence and the prosecution has been able to prove its case against the accused persons. On the aforesaid grounds, she submits that the impugned judgment of conviction and order of sentence passed by the learned court is justified and should not be interfered with.

4. The FIR is at the instance of Md. Nasim Ansari (P.W-6), who is the father of the deceased. He stated that his son-Sahil was missing since 11:00 a.m. When the informant returned from garage at about 3:00-3:30 p.m, he knew about the missing of his son. The informant gave the information about missing of his son to the police at 9:00 p.m. When the informant returned from police station, after five minutes, he knew that the dead body of his son was lying behind the mosque of the

village. On this information, the informant and villagers went there and saw that the son of the informant was lying prone behind the Mosque and blood was oozing from his nose and there was black mark in the chest and neck of pressing.

On the basis of aforesaid report, Nirsa P.S. Case No. 135 of 2011 was registered for the offence under Sections 302/201 IPC against the unknown persons. After investigation, the police submitted charge-sheet against the appellants. Thereafter the cognizance of the offence was taken against the appellants and the case was committed to the Court of Sessions. Since the appellants pleaded not guilty, charges were framed under Sections 302/201/34 of the Indian Penal Code and they were put on trial.

5. The prosecution in order to prove its case has examined ten witnesses, who are as follows:-

P.W.1- Md. Salim,
P.W.2- Md. Faruq Ansari,
P.W.3- Jasim Ansari
P.W.4- Md. Jainul,
P.W.5- Dr. Shailendra Kumar
P.W.6- Md. Nasim Ansari (informant),
P.W.7- Tarrnum Begam,
P.W.8- Raj Narayan Singh (I.O.),
P.W.9 Kamruddin Ansari and
P.W.10- Md. Daud Ansari.

6. Some documents were also exhibited in this case, which are as follows:-

Ext.1- Postmortem Report of the deceased
Ext.2- Written application of Md. Nasim Ansari
Ext.3- Signature of informant on Fardbeyan.
Ext.3/1 Fardbeyan.
Ext.3/2 Writing and signature of ASI on registration of the case.
Ext.4 Formal FIR
Ext.5- Inquest Report.
Ext.6- Charge-sheet.
Ext.X- Photo of the deceased Md. Sahil.

7. After closure of prosecution evidence, the statement of the appellants were taken under Section 313 Cr.P.C.

8. The Trial Court, after considering the oral and documentary

evidence, convicted the appellants for committing the offence under Sections 302/201/34 of the Indian Penal Code and sentenced as stated above.

9. From the evidence, led by the prosecution, we find that the informant's son (Sahil), aged about 6 years was missing from 11:00 a.m. on 21.6.2011 but the informant reported the matter to the police Station at 9:00 p.m. When he returned from police station, he knew that the dead body of his son was lying behind the mosque. Thereafter, he went there and saw that his son was lying behind the mosque and blood was oozing out from the nose and black mark was on neck and chest of the deceased.

10. As per the *fardbeyan*, there was no dead body up to 9:00 p.m. near the place of occurrence. The informant has suspicion that his son was murdered somewhere by pressing his neck and after sometime, the dead body was kept there. P.W. 1 deposed that he saw Mobin throwing something by the side of the Mosque. When he reached there he saw the dead body of the deceased. He deposed that he had not seen the murder of the child but he had seen Mobin throwing the dead body from 15-20 ft. away and at that time there was no electricity. P.W. 2 deposed that at 10:00 p.m, when he was going to the house of Nasim, he saw Mobin washing something in the pond. There was blood spot at the door of Mobin and police encircled the blood sport and Salim saw Mobin cleaning the blood sport. P.W. 3 stated that the police came and prepared the document and he and Kamruddin put thumb impression. P.W. 6 has stated that on 21.6.2011 i.e. on the day of occurrence, his son had not gone to his school and from 11:00 a.m., he was missing. He deposed, as per his statement given in *fardbeyan*. P.W. 7 has also deposed as stated by P.W.6. She further stated that 4-5 days prior to the occurrence, there was a quarrel in between her son and the son of Mobin and she was threatened for dire consequences. Other witnesses are only hearsay witnesses or witnesses who reached there after the dead body of the deceased was recovered.

11. From the aforesaid facts, it appears that the son of the informant i.e. the deceased (Sahil) was missing from 11-12 noon on

21.6.2011 and on that day, he had not gone to his school as he had sore eyes. The deceased had gone to the house of his grand-mother (*nani*) but he returned from the door and the way was from the house of Mobin. Thereafter he was missing. P.W.7 as well as other villagers went to search the missing boy but they did not find. P.W. 1 saw the dead body of the boy near mosque. P.W. 6 had gone to Police Station to inform the matter to police. When P.W. 6 returned from police station, after five minutes, he heard *hulla* about the dead body of the deceased-Sahil. He went there and saw the dead body lying near the mosque and blood was oozing out from the nose and stool was in the pant. The police came and prepared the inquest report and the dead body was sent for postmortem. The witnesses have stated that the blood sport was present at the door of Mobin but at 5:00 a.m the blood spot vanished. P.W. 10 has stated that after finding the dead body, both appellants i.e. Mobin and his wife came to his house and the wife of Mobin used his bathroom. P.W. 2 has stated that he had seen Mobin washing something in the pond at 10:00 p.m on the day of occurrence. On asking he replied that he had come from duty and so he came to pond. P.W. 6 and P.W. 7 have deposed that prior to the occurrence a quarrel was happened in between the deceased and the son of the accused persons. When P.W. 7 (the mother of the deceased) went to the house of the accused to complain wife of Mobin, she was threatened with dire consequences.

12. Admittedly, no one has seen the appellants committing the murder of the deceased. There was enmity between the family of the informant and the accused. P.W. 1 deposed that he had seen the appellant- Mobin throwing something behind the mosque. He is not clear where it was the dead body or something else. Further, the statement that the sniffer dog went to the room of the appellants, where the floor was besmeared with white soil and P.W. 8 also saw white soil on the back side of pant of the deceased; but only on the basis of these statements, it cannot be said that the accused-appellants have committed murder the deceased. Further the blood samples were not collected by the police as to check that the blood found near the door of

the Mobin matches with the blood of deceased or not. Thus, there is only suspicion against the appellants that they committed the murder of the deceased.

13. As already discussed hereinabove, merely on the basis of suspicion, conviction would not be tenable. It is the duty of the prosecution to prove beyond all reasonable doubt that it is only the appellants who have committed the crime. We find that the prosecution has utterly failed to do so. In that view, by giving benefit of doubt, we are inclined to acquit the appellants from the charges levelled against them. Accordingly, this Court directs the appellants to be released forthwith from custody, if not required in any other case.

14. In that view, the Judgment of conviction dated 05.06.2017 and order of sentence dated 07.06.2017 passed by the learned Dist. & Addl. Sessions Judge-IV, Dhanbad in Sessions Trial Case No. 193/2012 is set aside. This Court directs the above-named appellants to be released forthwith from custody, if not required in any other case. Accordingly, this Criminal Appeal is **allowed.** Pending interlocutory application, if any, also stands disposed of.

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

(**ANANDA SEN, J.)**

(PRADEEP KUMAR SRIVASTAVA, J.)

Jharkhand High Court, Ranchi.
Dated: the 28th September, 2026.
NAFR/Anu/Cp.-3.

Uploaded on: 06.10.2026