IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (D.B.) No. 1541 of 2004

[Against the judgment of conviction dated 18.03.2004 and sentence dated 22.03.2004, passed by learned Sessions Judge, Godda in S.T. No. 36 of 2000.]

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1. Darbari Soren, S/o. Lathu Soren;
2. Lakhi Ram Soren, S/o. Late Lakhu Soren;

Both are resident of Village- Makundi Dikwani, P.S.-Godda(M), District-Godda. ... ... **Appellants**

Versus

The State of Jharkhand … … **Respondent**

With

Cr. Appeal (D.B.) No. 1621 of 2004

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1. Babujee Murmu, Son of Late Chunu Murmu;
2. Parmay Murmu, Son of Sita Ram Murmu;

Both are resident of Village- Makundi, Dikwani, P.S.-Godda(M), District-Godda. ... ... **Appellants**

Versus

The State of Jharkhand … … **Respondent**

With

Cr. Appeal (D.B.) No. 1723 of 2004

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1. Saheb Soren, Son of Darbari Soren
2. Jerman Soren, Son of Sakhla Soren.

Both are resident of Mukandi, Dikwani, P.S.-Godda(M), District-Godda.

... ... **Appellants**

Versus

The State of Jharkhand … … **Respondent**

P R E S E N T

HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants : Mr. Ashish Kr. Thakur, Advocate
: Mr. Manoj Kr. Sah, Advocate
: Ms. Kabisha Goenka, Advocate
For the State : Mr. Saket Kumar, A.P.P.

: Mr. Tarun Kumar, A.P.P.

JUDGEMENT

C.A.V. on 09.04.2026 **Pronounced on 06 /05/2026**

Per- Pradeep Kumar Srivastava, J:

1. Above Criminal Appeals are arising out of the common judgment passed by the learned Sessions Judge, Godda in S.T. No. 36 of 2000, dated 18.03.2004 / 22.03.2004, whereby and whereunder the appellants have been held guilty for the offences under Sections 147, 307/148 & 302/149 of the I.P.C. and sentenced to undergo imprisonment for life for the offence under Section 302/149 of the I.P.C.; R.I. for 7 years for the offence under Section 307/148 of the I.P.C. and R.I. for one year for the offence under Section 147 of the I.P.C. All the sentences are directed to run concurrently.

Factual Matrix:-

2. Factual matrix giving rise to these appeals is that on 14.01.2000 at about 6:00 P.M., while the informant Jairam Murmu alongwith other family members were sitting in front of their house, meanwhile all the above appellants came there and asked for participating in dance on the eve of Bandhana festival, but they refused to participate in the dance due to some differences going on between the parties. It is alleged that due to refusal from participation in the dance, the aforesaid accused persons infuriated and started dashing and pulling them, which was protested by the informant. It is further alleged that the accused persons went to their house and again returned with *lathi*, *garasa* and *sabbal*, etc., and started assaulting to the informant party. It is further alleged that accused Lakhi Ram Soren assaulted to Mangal Murmu with lathi on head, accused Sita Ram Soren assaulted by *lathi* to Chand Muni Hansda, accused Saheb Soren assaulted to Sanjhali Murmu by *Sabbal*, accused Bhaiya Soren and Babujee Murmu assaulted to Bihari Murmu by *lathi* and *sabbal*

respectively and accused Jarman Soren and Betka Murmu assaulted to Talamai Murmu by *lathi* on her head. All the accused persons were assaulting with intention to kill them. It is further alleged that during course of assault, Suraj Murmu came for rescue to the aforesaid injured persons, then Darbari Soren, Sita Ram Soren, Betka Murmu, Saheb Soren, Jarman Soren and Lakhiram Soren assaulted him by *lathi, Garasa,* and *Sabbal* on his head, due to which he died in the course of treatment at Sadar Hospital, Godda.

3. On the basis of above information, Godda (M) P.S. Case No. 18 of 2000 was registered for the offence under Sections 147, 148, 149, 323, 324, 307 & 302 of the I.P.C. Charge of investigation was received by S.I. Sri Nageshwar Das (PW-7). The injured were sent to Sadar Hospital, Godda for medical examination and dead body of the deceased was sent for post-mortem examination.

4. The Investigation Officer, after completion of the investigation submitted charge-sheet against altogether nine accused persons, out of them one Bhaiya Soren died during pendency of trial and accused Sita Ram Murmu has died during the pendency of this appeal and his appeal has been abated by order dated 24.04.2025. The accused persons denied from the charges and claimed to be tried.

5. The learned Trial Court, after evaluating the evidence available on record, recorded findings about guilt of the appellants. Accordingly, convicted and sentenced to them as stated above, which has been assailed in these appeals.

Submission on behalf of the appellants:-

6. Assailing the impugned judgment, learned counsel for the appellants has contended that the witnesses examined by the prosecution have given different story regarding manner of occurrence and the actual role played by the

appellants in assaulting the injured persons and the deceased. There are general and omnibus allegations against all the appellants. All the family members and well wishers of the appellants have been falsely roped in this case due to previous enmity. There is no reason to believe that when the appellants were already under inimical terms with the informant party, then they would come to informant's house and requested them for participation on the dance organised on the occasion of Bandhana festival. Therefore, the genesis of occurrence is not believable at all. The learned Trial Court has committed serious error of law while placing reliance upon contradictory testimony of the witnesses while arriving at conclusion.

In the alternative, it is also argued that all the appellants have remained in custody during trial of the case for more than 08 years. The genesis and manner of occurrence including the manner of assault does not warrant invoking the ingredients of Section 302 of the I.P.C. The occurrence has taken place in a sudden manner without pre-meditation and there was no intention to cause death of any particular person including the deceased who intervened in the matter as outsider and at the spur of moment, was assaulted, although, resulting in his death. At best, the offence committed by the appellants falls under Section 304 Part-II of the I.P.C. for which maximum sentence is R.I. for 10 years. The appellants have already undergone imprisonment for more than 8 years during trial of the case and have sufficiently been punished for their guilt. In this view of the matter, the conviction of the appellants for the offence under Section 302/149 of the I.P.C. requires to be altered/modified under Section 304 Part-II of the I.P.C. and the appellants may be awarded the sentence of imprisonment already undergone by them, which is more than 8 years.

Submission on behalf of the State:-

7. On the other hand, learned A.P.Ps. for the State have defended the impugned judgment on merits and submitted that all the appellants have acted in concerted manner forming an unlawful assembly. Although, the dispute crept on the ground of taking participation in dance on the occasion of Bandhana festival but upon refusal of the informant party, all the appellants went to their home and returned again lashed with dangerous weapons and assaulted to the informant party causing severe injuries to several persons. Therefore, conviction and sentence of the appellants does not suffer from an illegality or infirmity calling for any interference in these appeals, which is fit to be dismissed.

8. On the basis of respective arguments of the learned counsels for the parties and from perusal of impugned judgment, the only point for consideration emerges in these appeals, as to **"whether the impugned judgment of conviction and sentence of the appellants suffers from any error of law?"**

Analysis, discussions and reasons:-

9. Before imparting our verdict on the above point, it is apposite to take brief resume of ocular testimony of witnesses examined for proper adjudication of the above issue. In the course of trial, altogether 09 witnesses were examined by prosecution:-

P.W.-1 Dr. G. P. Pandey

P.W.-2 Chandmuni Hansda

P.W.-3 Mangal Murmu

P.W.-4 Munilal Tudu

P.W.-5 Sanjhali Murmu

P.W.-6 Talamai Tudu

P.W.-7 Sri Nageshwar Das (Investigating Officer)

P.W.-8 Sakal Tudu

P.W.-9 Dr. Ashok Kumar

10. Apart from the oral testimony of witnesses, following documentary evidence has been adduced:-

Exhibit-1- Injury report of Mangal Murmu

Exhibit-2-Fardbeyan of the Informant

Exhibit-3-Formal F.I.R.

Exhibit-4- Inquest Report of deceased Suraj Murmu

Exhibit-5 & 5/1- Injury report of injured Chandmuni Hansda and Sanjhali Murmu

Exhibit-6-Postmortem report of deceased Suraj Murmu

11. **PW-1 Dr. G. P. Pandey** is the Medical Officer Incharge, Primary Health Centre, Sahibganj, who has examined the injued Mangal Murmu on 14.01.2000 at about 7:45 P.M. and found the following injuries on his person:-

(a) Incised wound 3" x ½" x scalp deep on right side of head.

Nature of injury was opined to be simple caused by sharp cutting weapon within 6 hours.

The injury report was marked as Exhibit-1

PW-9 Dr. Ashok Kumar has examined the injured Chandmuni Hansda on 14.01.2000 at about 9:40 P.M. and found the following injuries:-

I. Lacerated wound on the left occipital area of scalp 1 ¼" x ¼" x ¼"

II. Bruise right shoulder in its top with tenderness 1 ½" x ¾"

Both the injuries were caused by hard and blunt substance and were simple in nature caused within 12 hours.

The injury report was marked as Exhibit-5.

On the same day at about 9:10 P.M., this witness examined the injured Sanjhali Murmu, D/o. Mangal Murmu and found the following injuries:-

I. Lacerated wound on the left parietal area posteriorly size 1” x ¼” x ¼”

II. Mark, swelling, pain with tenderness on the left forearm. X-ray was advised.

Injury report was marked as Exhibit-5/1.

On 15.01.2000 at 12:30 P.M., he conducted post-mortem examination on the dead body of deceased Suraj Murmu and found the following on his person:-

Anti-mortem injuries:-

1. Sharp cut wound on right parietal area in A/p direction size 3” x ¼” x ¼”
2. Almost a sharp wound on right parietal area lateral to the injury no. 1 size 2 ¼” x ¼” x ¼”.
3. Lacerated wound on right parietal occipital area, size 2" x ¼" x ¼".

On Dis-section:-

Large amount of clotted blood underneath the skin in fascia on right parietal temporo occipital area of scalp. There were blood clots in the above mentioned lobes of brain and meanings. Heart was empty. Spleen was moderately large size. Stomach had about 300 grams of partially digested food material.

Probable time since death- 24 hours.

Opinion:-

The cause of death is opined to be due to shock and blooding as a result of above mentioned ante-mortem injury.

He has proved this post-mortem report as Exhibit-6.

PW-2 Chandmuni Hansda is one of the injured. She has categorically deposed that on the date of occurrence, she was sitting alongwith the family

members. The accused persons came there and requested for taking part in dance on the occasion of Bandhan festival, which was declined by the informant party. Thereafter, all the accused persons started assaulting them by *lathi*, *garasa*, *sabbal* and other weapons. *She also admits that prior to this occurrence, some dispute had taken place between the parties due to scuffle between the children. That was the main reason for this occurrence.* She also admits that the dance had started and she was also present there and at about 6:00 A.M., at the time of dance some scuffle took place and both the parties had consumed *Haria (Rice Liquor)* on the occasion of Bandhana festival. She has also not stated the name of the accused persons as to who had assaulted her. Her injury also does not correspond with the manner of occurrence as stated by her. Her husband Suraj Murmu was also assaulted, who died during the course of treatment but she has failed to state as to who had assaulted her husband.

PW-3 Mangal Murmu is another injured. He has also stated that sudden scuffle took place between the parties on the occasion of Bandhana festival, when they declined to participate in the dance. Although, this witness was also injured in the said occurrence, but he has not disclosed the name of his assailant.

PW-4 Munilal Tudu has claimed to be present on the occasion of Bandhana festival in his *sasural* at village Mukundi. The scuffle took place between the informant party and the accused persons due to declining from taking part in dance on the occasion of Bandhan festival. Thereafter, the accused persons assaulted the informant party causing injuries to Mangal Murmu, his wife, Suraj Murmu and others. In the said occurrence, Suraj Murmu died.

PW-5 Sanjhali Murmu is also an injured witness, who has stated that Shahebram assaulted her on head and her father was assaulted by Lakhi Ram, Darbari, Jarman, Betka, etc., by *sabbal*. Therefore, she has proved the occurrence and the manner of assault.

PW-6 Talamai Tudu has also proved the occurrence which happened due to not taking part in the dance on the occasion of Bandhana festival by the informant party. She was also present there. In the course of scuffle, Suraj Murmu was assaulted by Darbari Soren, Saheb Soren, Jarman Soren, Lakh Ram Soren, Gulu Soen and Pranay Murmu. She was also assaulted by *lathi* by Pranay Murmu. Sanjhali Murmu was also assaulted by Saheb Soren. Sona had also received injury and Surja Murmu died.

PW-8 Sakal Tudu is a hearsay witness, who has only heard about the murder of deceased Suraj Murmu.

PW-7 Sri Nageshwar Das is the Investigating Officer of this case. This witness has proved the *fardbeyan* of the informant as Exhibit-2 and formal F.I.R. as Exhibit-3. The charge of the investigation was given to this witness, then he recorded re-statement of injured Jairam Murmu and also visited the place of occurrence. The place of occurrence is a *Kachi Sadak* near the house of the informant. He has further proved the inquest report of the deceased Suraj Murmu as Exhibit-4. He recorded the statement of witness. Thereafter, further charge of investigation was handed over to the then Officer-in-Charge of Godda P.S., Sri A. K. Sahi on 26.02.2000 due to transfer of this witness.

12. On the other hand, the case of defence is denial from occurrence and false implication.

13. We have given thoughtful consideration to the testimony of the witnesses as discussed above. It is quite obvious that the scuffle took place between the parties in a sudden manner only due to declining by the informant party from dancing on the occasion of Bandhana festival. The previous dispute is also attributed on account of some scuffle between children of both the parties. The injuries sustained by the injured persons, namely, PW-3 Mangal Murmu, PW-2 Chandmuni Hansda and PW-5 Sanjhali Murmu has been opined to be simple in nature. The deceased Suraj Murmu, who died in the course of scuffle sustaining

some injuries as discussed in the post-mortem report is also not opined to be sufficient to cause death in the ordinary course of nature. The death was caused due to shock and bleeding resulting from injuries.

14. Considering the cumulative effect of the circumstance as proved by the prosecution witnesses, the ingredients of Section 302/149 are not attracted in this case rather the injuries caused by the appellants to the injured and deceased may be said to be caused without intention but with the knowledge that it was likely to cause death, which falls under Section 299 of the I.P.C. In respect of other injured persons, it is apparent that they have sustained simple injures caused by hard and blunt substance and sharp weapon which falls under Section 323 and 324 of the I.P.C. Therefore, it is not a case of murder punishable under Section 302 of the I.P.C. rather it falls under Section 304 Part-II of the I.P.C. Since the prosecution has also failed to prove that the appellants have gathered forming any unlawful assembly at any point of time with object as defined under Section 141 of the I.P.C., Section 147 of the I.P.C. is also not attracted.

15. It further transpires that the appellants have already undergone the imprisonment for more than eight years during the pendency of the trial of the case and therefore, they have been sufficiently punished for their guilt.

16. In view of the above discussion and reasons, we find substance in the contentions of the learned counsel for the appellants and merits in these appeals. Therefore, conviction and sentence of the appellants for the offence under Sections 302/149 and 307/148 of the I.P.C. is hereby altered/modified to the offence under Section 304 Part-II of the I.P.C. Since the appellants have already remained in custody for more than 8 years, therefore, the appellants are awarded sentence of imprisonment already undergone instead of the sentence awarded by the learned Trial Court.

17. In view of the above, these appeals are **dismissed on merits with modification in sentence** as stated above.

18. Pending I.A., if any, stands disposed of.

19. Let a copy of this judgment sent to the concerned court for information and needful.

(RONGON MUKHOPADHYAY, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

Jharkhand High Court
Dated 06/05/2026
Rahul/ **N. A. F. R.**
Uploaded on 06/05/2026