IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No. 1520 of 2017

[*Against the Judgment of conviction dated 28.07.2017 and Order of sentence dated 03.08.2017 passed by learned Additional Sessions Judge-IV, Deoghar in Sessions Case No. 19/2016*]

Govind Yadav, son of Taro Mahto, resident of Village – Dudhani, P.O. + P.S. – Kunda, District - Deoghar.
... ... **Appellant**

Versus

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

.....

For the Appellant : Mr. Arvind Kr. Choudhary, Advocate
For the Respondent: Mrs. Vishwanath Roy, Spl.P.P.

.....

P R E S E N T
SRI ANANDA SEN, J.
SRI PRADEEP KUMAR SRIVASTAVA, J.

JUDGMENT

Dated: 24th September, 2026

By Court: Heard learned counsel for the parties.

2. Instant criminal appeal is directed against the judgment of conviction dated 28.07.2017 and order of sentence dated 03.08.2017 passed by learned Additional Sessions Judge-IV, Deoghar in S.C. No. 19 of 2016, arising out of Deoghar Kunda P.S. Case No. 887 of 2015 corresponding to G.R. No. 2039 of 2015, whereby and whereunder, the appellant has been convicted for the offence under Section 302 of the I.P.C. and sentenced to undergo Rigorous Imprisonment of life along with fine of Rs. 10,000/- with default stipulation.

Factual Matrix

3. The factual matrix giving rise to appeal, as per written report of one Rajesh Kumar Yadav dated 29.09.2015 is that the informant's sister Sila Devi, aged about 27 years (since deceased) was married with Govind Yadav (present appellant) about 10 years ago. It is alleged that out of their wedlock, they were blessed with two sons namely, Karan Kumar, aged about 7 years and Prince Kumar, aged about 3 years. It is further alleged that on 27.09.2015 at about 10:30 P.M., the present appellant returned to his home and started abusing and assaulting to his wife Sila Devi and pouring kerosene oil on her body set on ablaze. The informant came to know through telephonic message about the said incident from Guria Devi (gotni of the deceased) and immediately proceeded to his sister's matrimonial home and brought her to Sadar Hospital, Deoghar for treatment. The deceased has also disclosed above incident before the police. Thereafter, in course of treatment, she died on 28.09.2015 at about 4:00 A.M. The informant has claimed that his brother-in-law has killed his wife by setting her on ablaze.

4. On the basis of above information, FIR was registered being Deoghar (T) Khunda P.S. Case No. 887 of 2015 for the offences under Sections 341, 323, 302 of I.P.C.

5. After conclusion of investigation, charge sheet was submitted against the sole accused for the aforesaid offences. After taking cognizance, the case was committed to the court of Sessions, where S.C. No. 19/2016 was registered. The appellant denied from the charges and claimed to be tried.

6. In course of trial, altogether 10 witnesses were examined by prosecution namely,

P.W.-1 : Rajesh Kumar Yadav (*Informant*).

P.W.-2 : Taro Mahto (*father-in-law of deceased*).

P.W.-3 : Karan Kumar (*son of the deceased*).

P.W.-4 : Kamdeo Yadav (*brother of the appellant*).

P.W.-5 : Dr. Anil Kumar (*conducted autopsy of the dead body of the deceased*).

P.W.-6 : Kalicharan Yadav (*witness to the inquest report*).

P.W.-7 : Sudama Choudhary (*first I.O. of this case*).

P.W.-8 : Sukhdeo Yadav (*father of deceased*).

P.W.-9 : Asim Kamal Topno (*second I.O. of this case*).

P.W.-10: Bhola Prasad Yadav (*A.S.I. of Deoghar (Town) P.S. has recorded the dying declaration of deceased*).

Apart from oral testimony of aforesaid witnesses, following documentary evidences were also adduced:-

Exhibit-1 : Signature of P.W.-1 Rajesh Kumar Yadav on Written complaint.

Exhibit-1/1	:	Signature of informant on the inquest report.
Exhibit-1/2	:	Signature of Kalicharan on inquest report
Exhibit 2	:	Written Report before P.S.
Exhibit-2/1	:	Endorsement on Written Report.
Exhibit-2/2	:	Registration of formal F.I.R.
Exhibit-3	:	Post mortem report.
Exhibit-4	:	Fardbeyan of Sila Devi in the handwriting of Bhola Prasad Yadav.
Exhibit-4/1	:	Signature of Rajesh Yadav on the fardbeyan of deceased Sila Devi.
Exhibit-4/2	:	Endorsement on fardbeyan of Shila Devi.
Exhibit-5	:	Inquest report.
Exhibit-6	:	Charge sheet.
Exhibit-7	:	Application of the second investigating Officer before C.J.M. to include the fardbeyan of deceased in original record.
Exhibit-8	:	Fardbeyan of deceased Sila Devi.

7. No oral or documentary evidence has been adduced by the defence. The case of defence is denial from occurrence and false implication. In statement under Section 313 of Cr.P.C., the accused has pleaded

innocence. His brother-in-law Rajesh Kumar Yadav (Informant) has taken loan from the bank in the name of wife of this accused, but he failed to satisfy the loan amount and for re-payment of loan his wife was demanding money from him. Hence, she herself set on fire and died.

8. As per trend of suggestion extended to witnesses, while cooking on kerosene stove, it burst accidently and deceased caught fire and died due to burn injuries.

9. The learned trial court after appreciating the evidence adduced by the prosecution arrived at definite conclusion about guilt of the appellant for causing murder of his own wife by setting her on ablaze by pouring kerosene oil and convicted and sentenced, as stated above, which has been assailed in this appeal.

Submissions on behalf of the appellant

10. Learned counsel for the appellant has strenuously argued that the learned trial court has failed to properly appreciate the evidence of witnesses available on record. There is no eye-witness of occurrence, except P.W.-3, who is the son of the appellant and at the time of occurrence, he was merely about 7 years old child. The alleged dying declaration of the deceased is a doubtful document in the shape of

fardbeyan of the deceased, but no F.I.R. was lodged by the deceased. The authenticity of the dying declaration has also not been proved through cogent and reliable evidence. It is further submitted that after death of wife of the appellant, his both sons were taken away to their matrimonial uncle's home, who happens to be informant of this case. The son of the appellant Karan (P.W.-3) was brought to court for testifying as a witness by the informant after tutoring him. Therefore, the testimony of P.W.-3 has wrongly been relied upon by the learned trial court as basis for conviction of the appellant. Rest of the witnesses of facts are hearsay and highly interested witnesses. The learned trial court has committed serious error of law while placing reliance upon such tainted testimony. The F.I.R. was also lodged after 24 hours of the death of deceased. No certificate of fitness has been issued by conducting doctor that the deceased was under fit condition to state anything. As against it the informant himself admits that he brought the injured Sila Devi under unconscious state at the hospital. Therefore, the dying declaration (Exhibit-4) relied upon by the prosecution is absolutely unreliable and cannot be made basis for conviction of the appellant. In view of above premises, it is submitted by learned

counsel for the appellant that the impugned judgment of conviction and sentence of the appellant is liable to be set aside and this appeal may be allowed.

Submissions on behalf of State

11. Per contra, learned Spl.P.P. for the State controverting the aforesaid contentions raised on behalf of the appellant, has submitted that the learned trial court has very wisely and aptly appraised, appreciated, scanned and evaluated the oral and documentary evidence available on record. There is no reason to disbelieve the evidence of P.W.-3, who is none else but son of the appellant and sole eye-witness of this occurrence. The testimony of P.W.-3 goes to show that he is quite intelligent in answering the questions put by court and nothing has been elicited casting any doubt on his presence at the relevant time of occurrence as an eye-witness of the occurrence. The defence has also failed to elicit any material showing that P.W.-3 was tutored in any manner to depose at the instance of the informant, even having no knowledge about the occurrence. There is no legal impediment to accept the evidence of child witness. It does not suffer from any embellishment, tutoring or otherwise unreliable. A child being innocent and free from animosity is expected to speak truth and nothing

else. The dying declaration of the deceased (Exhibit-4) was also scribed by Bhola Prasad Yadav (P.W.-10) and signed by witnesses. On that basis, a sanha was entered, but the formal F.I.R. was lodged on the basis of written report of the informant. The overall episode proved by the prosecution leads towards single conclusion about guilt of the appellant. The appellant has miserably failed to offer any valid explanation as to how and under what circumstances his wife caught fire and sustained 100% burn injuries at odd time of night about 10:30 P.M. The appellant himself in his statement under Section 313 of Cr.P.C. has admitted that there was some vehicle loan dispute taken by the informant in the name of appellant's wife, which cannot be satisfied by informant and appellant's wife was asking money from her husband / appellant, hence, she committed suicide, is also not believable story. Moreover, no bank loan document was brought on record as defence evidence to substantiate the above defence plea. The testimony of witnesses cannot be bruised aside simply on the ground that they are close relative of the deceased or interested witnesses unless some clinching reasons to disprove their testimony has been brought on record. The learned trial court has very cautiously scrutinized the

evidence of the witnesses and recorded a very reasoned judgment holding the appellant guilty for the murder of his wife. There is no reason to take a different view on the grounds pointed out by the appellant. Therefore, there is no merits in this appeal, which is fit to be dismissed.

Analysis, discussions and reasons

12. We have gone through the record of the case along with impugned judgment in the light of contentions raised on behalf of both side.

13. The only point for consideration in this appeal is as to "whether the judgment of conviction and sentence of the appellant passed by the learned trial court suffers from any serious error of law, calling for any interference in this appeal?"

14. Before imparting our verdict on the above point, we have to take brief resume of ocular testimony of witnesses for proper appreciation of the case.

15. It is a case of gruesome murder by a husband of his own wife upon some quarrel between them in the night. The sole eye witness of the occurrence is P.W.-3 Karan Kumar, who was examined on 29.07.2016, just after 10 months of the occurrence, who has disclosed his age about 11 years. This witness was found competent to understand the questions put to him

reasonably and intelligently. According to his evidence, his mother has been died. In his own language, he has stated thus: "मेरे पिताजी गोविन्द यादव मेरी मम्मी शीला देवी के शरीर पर मिट्टी का तेल छिड़क कर आग लगा दिया । मेरी मम्मी चिल्लाने लगी और मैं भी चिल्लाने लगा लेकिन मेरे पिताजी गोविन्द यादव मुझे कुछ करने नहीं दिये और मेरे पिताजी वहीं बगल में खड़ा होकर मम्मी को जलता देख रहें थे।" He has further stated that his uncle Kamdeo Yadav and Saroj Yadav and aunt Guria Devi and Lalita Devi also arrived and dashed the door, which was opened then his mother while burning rushed outside the room and fell down on earth. Thereafter, his father fled away. His uncle and aunt extinguished the fire and his aunt Guria Devi informed his maternal uncle through telephonic message. Thereafter, maternal uncle Rajesh Yadav arrived on a vehicle and his mother was brought to Sadar Hospital, Deoghar, but in the morning at about 4:00 A.M., she died.

The learned trial court has also recorded demeanour of this witness in following words "साक्षी न्यायालय में साक्ष्य देते समय रो रहा है और उसके ऑख से पूरा ऑसू चल रहा है।" This witness has further categorically stated that in his parental home, there is sewing machine, T.V., Gas Cylinder and other utensils, electricity connection is also in the house. <u>There is no kerosene stove in his house and in case of non-availability of gas, food are</u>

cooked on mud stove through fire wood and cow dung cake etc. No question has been asked by defence to demolish his testimony as stated above. He has simply been suggested by the defence that his mother caught fire due to accidental burst of kerosene stove, which has been denied and again reiterated that there was gas connection and fire wood fuel was also used.

16. **P.W.-1 Rajesh Kumar Yadav** is the informant-cum-brother of the deceased. He was informed through telephonic message by Guria Devi in the night of 27.09.2015 that his sister has been set on ablaze by his brother-in-law by pouring kerosene oil. He immediately rushed to matrimonial home of his sister and found that she was lying on a cot under burn condition, although she was breathing. He immediately brought her to Sadar Hospital, Deoghar where her treatment was started and A.S.I. Bhola Prasad Yadav has recorded her statement, but she could not be saved and died in the morning at about 4:00 A.M. The statement of his sister was recorded by A.S.I. Bhola Prasad Yadav also bears his signature marked Exhibit-1. His father has also put his LTI. He has further proved his signature and signature of witness Kali Charan Yadav on inquest report as Exhibit-1/1 and Exhibit-1/2 respectively. He further

proved the written report, which was scribed by his friend Rakesh Roshan on 29.09.2015, which bears his signature and marked as Exhibit-2.

In his cross-examination, he admits that he was busy in getting treatment of his sister and after her death, in her post-mortem. He brought her dead body to her matrimonial home. Thereafter, lodged this case. There is nothing in his cross-examination to rebut his aforesaid testimony.

He has denied the suggestion of defence that his sister caught fire accidently during cooking and he has falsely implicated his brother-in-law.

17. **P.W.-2 Taro Mahto** is the father-in-law of the deceased and father of the present appellant. According to his evidence, at the time of occurrence, he was not present in the house, rather was working in School. When he returned to home, he was informed that Sila Devi has caught fire while cooking due to bursting of kerosene stove. This witness has been declared hostile by the prosecution.

He has denied the suggestion of prosecution that in order to save his son, he has given false evidence.

To a court question, he has stated that when his daughter-in-law's body caught fire after stove bursting, his son was at home at that time, but

instead of taking her to the Hospital for treatment, he left her burning and fled from the house.

18. **P.W.-4 Kamdeo Yadav** is the brother of the appellant. According to his evidence, on the date of occurrence, he was sleeping in his room after taking dinner. Thereafter, he heard sound of bursting stove and reached towards the courtyard of his house then saw his sister-in-law Sila Devi was burning. He raised alarm, but door of the room of Sila Devi was burning. He raised alarm to broke open the door and saw Sila Devi was lying on earth sustaining burn injuries. He further admits that he did not bring Sila Devi to Hospital and also denied any statement before police. Therefore, this witness has also been declared hostile by prosecution.

After drawing attention to his statement under Section 161 Cr.P.C., this witness was suggested that he has given false evidence with a view to save his own brother, which was denied.

19. **P.W.-5 Dr. Anil Kumar** has conducted autopsy on the dead body of the deceased and found following:-

External Findings :– Rigor mortise present in all limbs, both eyes closed, mouth partially open, blackish skin of face and burn face and hair, bandage on whole body after removal of bandage burn skin on

whole body found with blackish colour and redish brown colour skin on chest, public region both legs and neck (burn about 100%).

Internal Findings :– Brain and meaninges contested and intact, neck – blackish particle found in trachea, lungs – congested, heart – blood in all chamber, liver – intact and pale, Spleen – Intact and pale, both kidney intact and pale, stomach contain about 200 ml. of gastric fluid, intestine – contain some gases, urinary bladder – empty, Uterus – non gravid.

Time elapse since death – within 12 to 24 hours.

He has opined that the cause of death was due to hypovolemic shock caused by burn by fire.

This witness has identified the post-mortem report and his signature on post-mortem report and the post-mortem report has been marked as Exhibit-3.

20. **P.W.-6 Kalicharan Yadav.** He is witness of inquest report, who has admitted his signature on inquest report prepared on 28.09.2015.

21. **P.W.-7 Sudama Choudhary** is the first I.O. of this case. According to his evidence on 29.09.2025, he was handed over the investigation of this case. In course of investigation, he has recorded the statement of

informant and proceeded to the place of occurrence at Village – Dhudhnia, where he recorded the statement of witnesses Karan Kumar Yadav, Kamdeo Yadav and Taro Mahto. Witness **Taro Mahto (P.W.-2)** has stated before him that his son Govind Yadav set on ablaze to his own wife by pouring kerosene oil, due to which, she sustained severe injuries and in course of treatment at Sadar Hospital, she died. The place of occurrence is the house of the accused Govind Yadav made of mud situated in Village Dhudhnia having its main door towards west fitted with a wood door. There are two rooms after entrance from the door. In the inside room, there was a cot, a T.V. was on table and odour of Kerosene oil and burn clothes were coming from the room. Govind Yadav was arrested. He was also interrogated, but no satisfactory explanation was given by him.

The attention of this witness has been drawn towards the statement of witness Kamdeo Yadav (P.W.-4), who has stated before him that his brother Govind Yadav frequently used to assault his wife and on the date of occurrence, after hearing cries of his wife, he came out and saw the flash light in the room of his brother. The door was not opened; then he dashed the door and broke open the same then his brother Govind Yadav fled away and his wife Sila Devi

came out in burning condition and fell down on earth. Thereafter, telephonic message was given to Rajesh Kumar Yadav, who arrived at the place of occurrence and brought the injured Sila Devi to Sadar Hospital, Deoghar, but she died.

This witness has also received a fardbeyan of Sila Devi (deceased), her inquest report, dead body challan. The fardbeyan of deceased was recorded by A.S.I. Bhola Prasad Yadav on 27.09.2015 at Sadar Hospital, Burn Ward, Bed No. 3, which is marked Exhibit-4 and signature of Rajesh Yadav as Exhibit-4/1. He has handed over the charge of investigation to Asim Kamal Topno on 19.10.2015.

22. **P.W.-8 Sukhdeo Yadav** is the father of the deceased. He also appears to be hearsay witness and came to know about the occurrence from his son and also went to Sadar Hospital.

23. **P.W.-9 Asim Kamal Topno** (2nd I.O.) has deposed that on 19.10.2015, he was posted as Officer-in-Charge of Kunda Police Station and received charge of investigation of this case. In course of investigation, he had gone through the previous investigation. Thereafter obtained Post-Mortem Report of the deceased and finding sufficient evidence submitted charge sheet against the accused on 24.12.2015. He

has further stated that on 02.01.2016, he filed an application along with charge sheet for enclosing the fardbeyan of the deceased recorded by A.S.I. Bhola Yadav under S.D. No. 20/2015 dated 29.09.2015 marked Exhibit-7.

24. **P.W.-10 A.S.I. Bhola Prasad Yadav.** According to his evidence, on 27.09.2015, he was posted at Deoghar (Town) P.S. on that date at about 11:40 P.M., at Burn Ward Bed No. 3 of Sadar Hospital, Deoghar, he recorded the fardbeyan of injured Sila Devi in presence of her brother Rajesh Kumar Yadav, which bears the right thumb impression of Sila Devi. He has proved the fardbeyan in his own handwriting, marked as Exhibit-8. On the basis of above fardbeyan of the injured, Deoghar (Town) S.D. Entry No. 20/2015 dated 29.09.2015 was made and forwarded to Kunda Police Station.

In his cross-examination, this witness admits that in the fardbeyan of injured Sila Devi, he has not obtained signature of conducting doctor, nurse or compounder, although the Doctor was present in his Chamber. He has only obtained the signature of Sukhdeo Yadav and Rajesh Yadav. He has denied the suggestion of defence that the deceased had died on the spot itself and he has prepared this fardbeyan of

the deceased under conspiracy with the informant. No such statement was ever recorded by him and this fardbeyan is forged document.

25. We have given anxious consideration to the oral as well as documentary evidence available on record as discussed above.

26. It is admitted fact that the deceased has died due to severe burn injuries sustained all over her body on chest, public region both legs and neck inside her room. The presence of appellant and his son (P.W.-3) at the relevant time of occurrence is also not disputed. Moreover, the present appellant has in his statement under Section 313 Cr.P.C. has admitted that due to dispute of loan transaction taken in the name of his wife by her brother (informant), she herself set on ablaze. It further transpires that the other eye-witnesses of this case namely, Taro Mahto (P.W.-2) and Kamdeo Yadav (P.W.-4) have been turned hostile, but the evidence of Investigating Officer (P.W.-7) clearly explains the contradictions appearing in the evidence of aforesaid witnesses, wherein Kamdeo Yadav (P.W.-4) has stated that in the night while he was sleeping he heard crying sound of his sister-in-law, then reached towards the room of his brother, door was not opened and it was burning, then he

dashed the door and saw Sila Devi was lying on earth sustaining burn injuries. In this background, the testimony of P.W.-3 although, who happens to be child witness has given vivid description of the circumstances, under which the occurrence took place, he clearly states that his father scolded him while he was intervening and stated in clear terms that his father poured kerosene oil on the body of his mother and lite match stick due to which she caught fire and sustained burn injuries. Although, the dying declaration of deceased (Exhibit-4) is alleged to be recorded in the shape of fardbeyan of the injured, but the same appears to have been registered as Sanha i.e. of 29.09.2015 that was also not certified by any conducting Doctor that the injured was under fit mental and physical condition to state anything. The said Sanha was also attached with charge sheet for the first time as admitted by P.W.-9. Therefore, the veracity of the alleged dying declaration appears to be doubtful and no blind reliance can be placed upon it.

27. We have further noticed that even if the purported dying declaration (Exhibit-4) scribed by P.W.-10 may be excluded from consideration, there are sufficient unimpeachable evidence showing the culpability of the appellant in commission of murder of his wife, as

discussed above. We further find that the learned trial court has meticulously considered all the aspects of the case while arriving at conclusion about guilt of the appellant. We do not find any valid reason to take a different view from that of the learned trial court. The grounds of objection on account of interestedness or relative witnesses against the impugned judgment taken by the appellant do not appear to be legally sustainable. The delay in lodging the F.I.R. is also not inordinate and properly explained.

28. In view of above discussions and reasons, we do not find any merit in this appeal. Accordingly, the impugned judgment of conviction and order of sentence of the appellant is hereby upheld and confirmed and this appeal is **dismissed**.

29. Pending I.A., if any, stand disposed of.

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

(Ananda Sen, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated, the 24th September, 2026.
Sunil /**N.A.F.R.**
Uploaded on 29/09/2026