IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (D.B.) No.1777 of 2003

[Against the judgment of conviction dated 14.11.2003 and order of sentence dated 17.11.2003 passed by learned 5th Additional Sessions Judge-FTC No.2, Godda in S.C. No.96 of 2003]

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1. Ujagar Yadav, son of Bhagwat Yadav
2. Manku Yadav, son of Bhagwat Yadav
3. Bhim Yadav, son of Bhagwat Yadav

All residents of Chilona, P.S.-Godda (M), Dist. Godda, Jharkhand .... …. Appellants

Versus

The State of Jharkhand .... Respondent

For the Appellants : Mr. Jay Prakash Jha, Sr. Advocate
For the Resp. State : Mr. Anup Pawan Topno, A.P.P.

PRESENT
HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
JUDGMENT

CAV On 21/04/2026 **Pronounced On 06/05/2026**

Per- Pradeep Kumar Srivastava, J.

1. We have already heard Mr. Jay Prakash Jha, learned senior counsel appearing for the appellants and learned A.P.P.
2. It is to be mentioned at the very outset that out of five appellants, appellant Nos.1 and 2, namely, Bhagwat Yadav and Yogendra Yadav @ Yogenshwar Yadva respectively have been died and their appeal was abated vide order dated 04.12.2025. The name of surviving appellants, Ujagar Yadav, Manku Yadav and Bhim Yadav has been renumbered and the appeal is heard on behalf of the aforesaid alive appellants.

3. The instant appeal has been preferred by the appellants against the judgment of conviction dated 14.11.2003 and order of sentence dated 17.11.2003 passed by learned 5th Additional Sessions Judge-FTC No.2, Godda in S.C. No.96 of 2003, whereby and whereunder the appellant has been held guilty for the offences under section 302/34 of Indian Penal Code and has been sentenced to undergo R.I. for life.

Factual Matrix

4. The factual matrix giving rise to this appeal as per *fardbayan* of Bechan Yadav recorded on 09.12.1994 at about 9:00 pm at Sadar Hospital, Godda is that there is a land dispute between the informant and Fuleshwar Yadav and the case is pending in consolidation court in which the date was fixed on 09.12.1994. It is alleged that on 08.12.1994 at about 4:00 pm the informant along with Shyam Yadav went to village, Chilona to manage witnesses but could not succeed and when he along with his father–in-law were returning back to his village, Ramnagar, Yogendra Yadav, Bhim Yadav, Manku Yadav, Ujagar Yadav and Bhagwat Yadav intercepted them for taking dinner. On request of accused persons, Bechan Yadav(informant) left him and returned back to his own village. It is further alleged that till the night, Shyam Yadav did not return to his house, then a search was conducted and Shyam Yadav was found under unconscious state lying near 6th pillar of bridge over the Kajiya

river. The informant brought Shyam yadav on a rickshaw to Sadar Hospital, Godda and admitted him for treatment, where the police arrived and *fardbayan* of the informant was recorded. It is suspected by the informant that Yogendra Yadav and others have brutally assaulted Shyam Yadav and might have administered something and thrown his body below the bridge of Kajiya river.

5. On the basis of above information, Godda Musaffil P.S. Case No.367 of 1994 was registered for the offence under sections 341, 307, 323, 504/34 of PC. In course of investigation, the said Shyam Yadav died. Accordingly, section 302 of IPC was added. After completion of investigation, charge-sheet was submitted against the above named appellants for the offence under sections 342, 302/34/120-B of IPC. The case was committed to the court of Sessions where S.C. No.96 of 2003 was registered.

6. In course of trial, altogether 13 witnesses were examined by the prosecution. Apart from oral testimony of the witnesses following documents were also adduced:-

Ext.1 Signature on *Fardbayan*
Ext.1/1-Signature on formal FIR
Ext.2 & 2/1-Signature on inquest report
Ext.3-Post Mortem Report
Ext.4-Fardbayan and signature
Ext.4/1-Pages of *fardbeyan*
Ext.5-Charge-sheet

Ext.6-Certified copy of formal FIR of Godda (M) No.245/1988

Ext.7-Certified copy of formal FIR Godda (M) 205/1987.

7. On the other hand, no oral or documentary evidence has been adduced by the defence. The case of defence is denial from the occurrence and false implication.

8. Learned trial court after evaluating the evidence available on record held the appellants guilty for the aforesaid offences and sentenced them as stated above.

Submission on behalf of the appellants

9. Assailing the impugned judgment, learned counsel for the appellants has submitted that there are material discrepancies and infirmities in the statement of witnesses and the First Information Report, which has not been corroborated. There is no iota of evidence to prove the involvement of present appellants in the alleged offence. The alleged statement of deceased, while under treatment, recorded at Bhagalpur Hospital has not been brought on record, which might have disclosed real picture, which has resulted in serious prejudice to the defence. Learned counsel for the appellants has further submitted that P.W.1, Bechan Yadav, P.W.2-Subodh Kumar Yadav, P.W.3-Gyandev Yadav, P.W.4-Anantlal Yadav, P.W.5-Param Sao @ Pran Sao, P.W.6-Nilkanth Sah, P.W.7-Niro Sah have expressed no knowledge about the occurrence and P.W.8-

Bishnu Kumar Yadav, P.W.9-Sri Kant Raut and P.W.10-Mahendra Yadav have given their evidence before the concerned trial court but their evidence has been recorded in english and there is no certificate of any translator or even of the court that exact evidence in Hindi of the witnesses were read over and explained to them. Thereafter, they signed and put their thumb impression respectively. Learned counsel for the appellants has placed reliance upon the reported judgment in ***Naim Ahamed Vs. State (NCT of Delhi) (2023) 15 SCC 385,*** wherein "the conviction and sentence of the appellant passed by Sessions Court and affirmed by High Court was set aside except the direction for the payment of compensation to the prosecutrix and direction was issued to all courts while recording the evidence of the witnesses, shall duly comply with the provisions of Section 277 Cr.P.C." It is further submitted that there is no eye-witness to the occurrence and no circumstances of conclusive nature has been brought on record except the evidence of P.W.1, who states about last seen theory before one day of occurrence. Therefore, the entire prosecution case hinges upon circumstantial evidence on last seen theory and no nexus has been proved showing proximity of time when the deceased and the present appellants were seen together and the murder of the deceased. Learned trial court has committed serious error of law while recording the guilt of

the appellants on weak circumstances having no evidentiary values in the eyes of law. Therefore, the impugned judgment is liable to be set aside and the appellants deserve acquittal from the charges leveled against them.

Submission on behalf of the State

10. On the other hand, learned A.P.P. defending the impugned judgment on merits has submitted that the sufficient circumstantial evidence are available against the appellants, who were having custody of the deceased just previous night of occurrence. Thereafter, the deceased was brutally assaulted and thrown under the bridge over the river. The motive behind the occurrence has also been proved and the appellants have offered no explanation as to what happened to the deceased while he was in their custody and under what circumstances, he died. The defence has miserably failed to offer any explanation, which furnishes additional link in the chain of circumstances against them. Learned trial court has very wisely and aptly considered all the aspects of the case in a threadbare manner and arrived at right conclusion. Therefore, there is no illegality or infirmity in the impugned judgment and order of conviction and sentence of the appellants calling for any interference by way of this appeal, which is fit to be dismissed.

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

12. The only point for determination in this appeal is that "**as to whether the impugned judgment and order of conviction and sentence of the appellants passed by learned trial court suffers from any error of law calling for any interference in this appeal?**"

Analysis, Reasons and Decision:-

13. Before imparting over verdict on the above point, we have to apprise with oral and documentary evidence adduced by the prosecution.

14. It appears that altogether 13 witnesses were examined by the prosecution.

P.W.1- Bechan Yadav is the informant-cum-son-in-law of the deceased. According to his evidence, on the date of occurrence, he along with his father-in-law, Shyam Yadav were returning to Ramnagar, the accused persons, Yogendra Yadav, Bhim Yadv, Manku Yadv, Ujagar Yadav and Bhagwat Yadav met them in the village and offered dinner to his father-in-law and this witness. Thereafter, this witness returned to his village, Ramnagar and his father-in-law stayed with the accused persons. In the next day morning, this witness started searching his father-in-law and found him under unconscious

state under Kajiya river bridge and several people were assembled there. He saw his father-in-law sustaining severe injuries on his body. This witness brought his father-in-law to Sadar Hospital, Godda under injured condition and after some treatment, he was referred to Bhagalpur for better treatment but at about 4:00 pm, he died. This witness also states that the accused persons, Yogendra Yadav, Bhim Yadav, Ujagar Yadav, Manku Yadav and Bhagwat Yadav had previously murdered his father on 28.10.1987 but after trial, they have been acquitted. The *fardbayan* of this witness was recorded and he signed on it and his signature is marked as Ext.1. This witness further stated that Fuleshwar Yadav was not present at the time of occurrence. He has also denied any land dispute with Bhagwat Yadav and his sons rather he admits the land dispute with Fuleshwar Yadav, who had filed Title Suit No.39 of 1988 wherein Bhagwat Yadav was also defendant. The suit was filed in connection with disputed lands belonging to one Darsan Mandal and he had no issue. Both Fuleshwar and Bhagawat are nephew of Darsan Mandal.

This witness has denied the suggestion of the defence that he has given absolutely false evidence that he went in search of witnesses along with his father-in-law and the accused persons stopped them and his father-in-law stayed with the accused persons at any point of time and he is giving

false evidence due to land dispute between the accused persons.

P.W.2-Subodh Kumar Yadav has stated that on 08.12.1994 in the morning, he came to know that Shyam Yadav (since deceased) has been thrown near Kajiya river after assault. He went to see him at Sadar Hospital, Godda, where he saw Shyam Yadav under unconscious condition and was alive at that time. This witness has simply stated that Bechan Yadav (P.W.1) along with father-in-law went to village, Chilona and when they were returning, the accused persons requested for dinner to Shyam Yadav, who stayed there over night. Thereafter, this occurrence took place.

P.W.3-Gyandev Yadav is brother of the deceased. He is also not an eye-witness of the occurrence but he came to know that his brother went to village Chilona along with son-in-law Bechan Yadav(P.W.1) in connection with partition suit pending in the court of ASO, where the accused persons requested Shyam Yadav for dinner and in the next day after assaulting him, they threw him under Kajiya river bridge. This witness went to place of occurrence and saw his injured brother lying unconscious.

P.W.4- Anantlal Yadav has stated that in the year, 1994 at about 4:00 pm he went towards Kajiya river for discharging nature call and saw that five persons namely Yogendra Yadav,

Urjan Yadav, Bhim Yadav, Manku Yadav and Bhagwat Yadav were carrying a cot and they kept the cot under Kajiya river bridge and went away from there. When this witness went near the cot, he saw the dead body of Shyam Yadav. This witness is the brother-in-law of the informant and he has stated completely different story and no one has seen the injured, Shyam Yadav lying on the cot at the place of occurrence and even at that time, he was not died but alive.

In cross-examination, this witness admits that he did not disclose the name of the accused persons to the wife of the Shyam Yadav (deceased) or any other persons and he has disclosed the name of the accused persons in the court for the first time. This witness has denied the suggestion of the defence that being brother-in-law of the informant and due to inimical terms with the accused persons, he is giving false evidence.

P.W.5-Param Sao @ Pran Sao has expressed no knowledge about the occurrence.

P.W.6-Nilkanth Sah has been declared hostile by the prosecution and has not supported the prosecution case.

P.W.7- Niro Sah has also been declared hostile by the prosecution and has expressed no knowledge about the occurrence.

P.W.8-Bishnu Kumar Yadav is the son of the deceased. This witness has also created a new story and according to him, he himself along with father had gone to village Chilona for managing the witnesses where they met with appellants, Yogendra, Bhim Yadav, Ujagar, Manku and Bhagwat Yadav and they requested for special program for eating and drinking, therefore, his father stayed there. According to his evidence, Bechan Yadav (P.W.1) also stayed along with his father at village Chilona. When this witness returned, he came to know about the occurrence of murder of his father caused by the accused persons from Anantlal Yadav (P.W.4). Therefore, this witness has also given contradictory evidence to the evidence of P.W.1, who has claimed himself as eye-witness of the occurrence. The evidence of this witness is also not reliable, in view of the fact that in his statement recorded under section 161 Cr.P.C., he has stated that on the date of occurrence, he was not present and returned after two days.

P.W.9-Srikant Raut is a ward attendant in Sadar Hospital, Godda. According to him, Shyam Yadav was initially admitted to Sadar Hospital, Godda from where he was referred to Bhagalpur on instruction of Dr. Satyendra Mishra and he was also ordered to go to Bhagalpur on the special equipped ambulance. The injured was unconscious and his condition was critical, so he was directed to give him oxygen

and saline water also. This witness has also stated that in the way, the injured started shouting "don't assault me" taking the name of Bhim Yadav, Bhagirath Yadav and others. Therefore, the credence of this witness does not reflect any material circumstance against the appellants.

P.W.10- Mahendra Yadav is witness of inquest report and proved his signature and another witness Jai Prakash Yadav as Ext.2 and 2/1.

P.W.11-Dr. Kailash Jha has conducted autopsy on the dead body of the deceased on 10.12.1994 at about 3:40 pm and found following injuries:-

Anti-mortem injuries:

(i) Multiple bruises and abrasions of different sized on left forearm, right forearm, chest and back.

(ii) Bruise and smelling on right side head with defused swelling at right temporoparietal area

On dissection of head

(i)There was hematoma under skull on right half of head and 4" linear fracture at right parietal bone anterior posterior.

(ii) Extra Dural Hematoma on right side size 4 ½" x 2"x ½"

Sub-Dural this hematoma on right half of brain surface.

Meninges and brain congested.

On examination of nothing particular.

Trunk-Lungs congested, heart contained blood both sides, liver and other viscera's congested, stomach contained blackish fluid half pound.

Above injuries were caused by hard and blunt substance.

The cause of death is opined to be intracranial hemorrhage. Time elapsed since death 24 hours. He has proved the post-mortem report as Ext.3.

P.W.12-Sanjay Kumar Singh was posted at Godda (Mussafil) Police Station as Sub-Inspector on 08.12.1994. According to him, on 09.12.1994, he got information from Godda Town Police Station that one Shyam Yadav has been injured. This witness along with S.I. B.P. Singh of Godda Town Police Station went to Sadar Hospital, Godda where *fardbayan* of Bechan Yadav was recorded by S.I. B.P. Singh, which is marked Ext.4 (objection). He has further proved the endorsement of the above fardbayan for registration of the case, which was marked as Ext.4/1. He has further proved formal FIR written by literate constable of Godda (T) police station, which bears the signature of the then officer-in-charge, Sri Rakesh Kumar Brihamchari marked as Ext.1/1. The charge of investigation of this case was given to A.S.I. Mani Bhushan Marandi of Godda Police Station. He further deposed that as per order of Superintendent of Police, Godda, he further

assumes the charge of investigation by taking the charge of investigation from ASI, Mani Bhushan Marandi and after assuming the charge of investigation, he went to village Chillona and inspected about the matter and he found the incident to be true against the present appellants and submitted charge-sheet (Ext.5) against them.

In his cross-examination, this witness clearly admits that he has not recorded the statement of any witnesses because, no one was present. He has also admitted that he has not visited the place of occurrence himself and simply submitted the charge-sheet. In spite of this fact, he has denied the suggestion of defence that he has conducted no investigation in this case rather he has simply charge-sheeted on direction of superior officer.

P.W.13-Bhani Bhushan Marandi is the first I.O. of this case. According to him, he received the charge of investigation of Godda (Musafil) P.S. Case No.367 of 1994 and thereafter he went to Sadar Hospital, Godda and learnt that the injured has been sent to Bhagalpur for better treatment. The injured, Shyam Yadav died on 10.12.1994 in course of treatment at Jawahar Lal Medical College and Hospital, Bhagalpur. He has further stated that Bechan Yadav (P.W.1) has given his second statement on 10.12.1994 before S.I. Barari Police Station, Sri R.B. Mochi, which is mentioned in para 26 of the case diary.

Inquest report of the deceased, Shyam Yadav was prepared at Bhagalpur Hospital, which is also mentioned at para 26 of the case diary. Thereafter, FIR was altered with section 302 of IPC. According to his evidence, there are two places of occurrence i.e. the first place of occurrence is the house of accused person, Bhagwat Yadav situated in village Chilona and the second place of occurrence is Kajiya river under 6th pillar of bridge. The total length of bridge is 350 yards to 360 yards where Shyam Yadav was found injured and under unconscious state. He has found no bloodstained at the place of occurrence. He has recorded the statement of Nilkanth Sah, Raghu Yadav, Manish Kumar, Anant Lal Yadav, Amin Sah, Raju Yadav, Bechan Yadav and restatement of Bechan Yadav, Bishun Kumar Yadav, Sri Kant Rout, Amin Sah and Sardari Paswan etc. Thereafter, he was transferred and further charge of investigation was handed over to then officer-in-charge.

In cross-examination, he admits that *fardbayan* was not recorded by him. He further admits that *fardbayan* of this case was recorded by S.I. B.R. Singh of Godda (T) Police Station. He further admits that from Bhagalpur also, one *fardbayan* was received on 12.12.1994 along with inquest report of the deceased. He further admits that he visited with the injured Shyam Yadav at the Sadar Hospital, Godda where he recorded

fardbayan of the informant on 09.12.1994. Thereafter, he never met with the injured.

15. We have given anxious consideration to the testimony of the ocular witnesses. It appears that except P.W.1, who has proved theory of last seen, none of the witnesses have been able to prove even the last seen. If the evidence of P.W.1 is compared with the evidence of P.W.8-Bishnu Kumar Yadav, who happens to be the son of deceased, the testimony of P.W.1 becomes absolutely false. According to P.W.8, he along with his brother-in-law, Bechan Yadav (P.W.1) and his father, Shyam Yadav went to village, Chilona in search of witnesses for the partition suit pending between his father and Fuleshwar Yadav and in return to his village, they met with the appellants and a party was organized by the appellants at their house, who are *gotiyas* of the deceased. According to this witness, his father and brother-in-law Bechan Yadav stayed at village, Chilona in the night but this fact has been suppressed by P.W.1, Bechan Yadav for reasons better known to him. It is also quite obvious from the evidence of P.W.1 that his father was murdered and the present appellants were accused in that case and his father-in-law was one of the witnesses but the case was resulted in acquittal of the accused persons. Therefore, this witness had strong motive to falsely implicate the appellants in a false case by manipulating the story that he

returned back to his home leaving his father-in-law at the hands of the accused persons for attending party. The another witness, P.W.4, Anantlal Yadav in nexus with P.W.1-Bechan Yadav, who happens to be cousin of P.W.1 has concocted a false story that the injured Shyam Yadav was seen in moonlight throwing under Kajiya river bridge by the present appellants brought on a cot and he also went near the cot and saw the dead body of Shyam Yadav. As against this, real fact is that the deceased was brought to Sadar Hospital in injured condition being unconscious and thereafter to Bhagalpur hospital. It also appears that there are two *fardabayan* of P.W.1, Bechan Yadav and one of which could not be brought on record having different story.

16. In view of the above glaring suspicious circumstances, the theory of last seen propounded by P.W.1 and supported by P.W.8 in different manner cannot be given credence. Therefore, we do not find any iota of legal evidence direct or circumstantial against the appellants showing their culpability in commission of alleged offence of murder. It appears that the learned trial court has ignored very vital circumstances, which are sufficient to discard the testimony of so-called eye-witnesses and arrived at wrong conclusion about the guilt of the appellants.

17. In view of the above discussion and reasons, we find merits in this appeal and substance in the points of argument raised on behalf of the appellants. Accordingly, the judgment of conviction dated 14.11.2003 and order of sentence dated 17.11.2003 passed by learned 5th Additional Sessions Judge-FTC No.l2, Godda in S.C. No.96 of 2003 is, hereby, set aside and this appeal is **allowed.**
18. In the result**,** the appellants are acquitted from the charge leveled against them and set at liberty forthwith.
19. The appellants are on bail, hence, they are discharged from liability of bail bond. The sureties are also discharged.
20. Pending I.A(s), if any, is also disposed of accordingly.
21. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned for information and needful.

(Rongon Mukhopadhyay, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, at Ranchi
Date:06 /05/2026
Pappu/- N.A.F.R.