IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Appeal (DB) No. 508 of 2020

Sushil Oraon, aged about 57 years, son of Late Turangi Oraon, resident of village-Dipadih, Karamtoli, Post-Bishunpur, P.S. Bishunpur, District-Gumla

… … Appellant

Versus

The State of Jharkhand …. Respondent

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

For the Appellant : Mr. Vikash Kumar, Advocate
For the Resp. State : Mr. Azeemuddin, A.P.P.

Dated: 03rd November, 2026

By Court:-

1. This appeal was filed through High Court Legal Services Committee and the same was entrusted to Mr. Vikash Kumar, learned counsel for the appellant. Today, he has submitted that as per fresh filing, he is not impaneled but *Vakaltnama* has been filed by the High Court Legal Services Committee and he is arguing this case. Admittedly, he is hesitating only one issue that he is not impaneled whether another lawyer in the panel of High Court Legal Services Committee or not. But, it is important here that the file was entrusted to him by High Court Legal Services Committee and *Vakalatnama* was filed and another important aspect is that, the High Court Legal Services Committee has not even instructed him to return the brief nor has been restricted to appear. Further, there is no another *Vakalatna* has been filed, thus, Mr. Vikash Kumar is having more than 12 years of practice is competent enough and is authorized to argue this case.
2. We have heard learned counsel for the appellant and learned counsel for the State at length.

3. This appeal is directed against the impugned judgment and order of conviction and sentence dated 28.11.2019 and 03.12.2019 passed by learned District and Sessions Judge-VI, Gumla in S.T. Case No.398 of 2014 arising out of Bishunpur P.S. Case No.15 of 2014 corresponding to G.R. Case No.493 of 2014, whereby and whereunder the appellant has been held guilty for the offence under section 302 of IPC and sentenced to undergo R.I. for life along with a fine of Rs.20,000/- with default stipulation.
4. Learned counsel for the appellant has submitted that all the witnesses on facts have turned hostile and there is no material to support the allegation, which has been leveled against this appellant. In view of the aforesaid fact, it is to be obvious that the prosecution has failed to prove the charge. He submits that the only the informant has supported the case of prosecution but she being the interested and related witness of the deceased heard, therefore, her evidence should not be solely relied upon by this Court. He also submits that the seizure list witnesses in their cross-examination have stated that their signatures have been taken on blank paper. On these backgrounds, he defends his arguments and submits that the conviction and sentence of the appellant must be set aside, allowing this appeal.
5. On the other hand, learned counsel appearing for the State submits that even if the witnesses turned hostile, the natural witness i.e. informant, who proves the present place of occurrence, has supported the prosecution case. First of all, there is no material to disbelieve her and also there is no material to discredit her. Thus, her evidence must be accepted. He further submits that the witness is wholly reliable witness and her oral evidence on the manner of assault is corroborated by the medical evidence. There is no material to disbelieve her, thus her conviction and sentence cannot be set aside and this appeal be dismissed.

6. Prosecution case as per the FIR (Ext.11) is that while the deceased, Bhola Oraon was removing the roof tiles from his house, the appellant came with an axe and mercilessly assaulted him upon which the deceased Bhola Oraon started shouting, then the wife of the deceased (mother of the informant) also came for his rescue but she was also mercilessly assaulted. The labourers who were working there could reach before this appellant committed the murder of the deceased. The informant also tried to intervene but out of fear, she could not and left the place of occurrence.
7. It is true that out of total 17 witnesses, all the material witnesses i.e. P.W.1-Sanjauy Bara, P.W.2-Baburam Oraon, P.W.3-Ajit Oraon, P.W.4-Pancham Oraon, P.W.5-Satish Kherwar, P.W.6-Gambhir Chik Baraik, P.W.7-Permeshwar Chik Baraik, P.W.8-Birendra Bara, P.W.9-Puran Chik Baraik have been declared hostile but this does not automatically leads to the conclusion that the occurrence has not happened and this appellant is not involved.
8. Further, P.W.11 Jogiya Oraon, P.W.12 Budhman Oraon, P.W.15 Tetri Bhagat are also seizure list witnesses but they have expressed their ignorance about the occurrence and seizure of incriminating articles before them rather they simply put their signature on the blank papers on instruction of police.
9. The only witness, who now remains, is P.W.16 and she is only sole eyewitness and daughter of the deceased. It is true that when there is sole eye-witness and the witness is interested, the court should be very cautious.
10. The Hon'ble Apex Court in the case of ***Laltu Ghosh v. State of W.B.*** reported in ***(2019) 15 SCC 344*** has held at paras 12, 13, 14, 15 and 16 as under:-

"12. As regards the contention that the eyewitnesses are close relatives of the deceased, it is by now well-settled that a related witness cannot be said to be an "interested" witness merely by virtue of being a relative of the victim. This Court has elucidated the difference between "interested" and "related" witnesses in a plethora of cases, stating that a witness may be called interested only when he or she derives some benefit from the result of a litigation, which in the context of a criminal case would mean that the witness has a direct or indirect interest in seeing the accused punished due to prior enmity or other reasons, and thus has a motive to falsely implicate the accused (for instance, see *State of Rajasthan* v. *Kalki* [*State of Rajasthan* v. *Kalki*, (1981) 2 SCC 752 : 1981 SCC (Cri) 593] ; *Amit* v. *State of U.P.* [*Amit* v. *State of U.P.*, (2012) 4 SCC 107 : (2012) 2 SCC (Cri) 590] and *Gangabhavani* v. *Rayapati Venkat Reddy* [*Gangabhavani* v. *Rayapati Venkat Reddy*, (2013) 15 SCC 298 : (2014) 6 SCC (Cri) 182]).

13. Recently, this difference was reiterated in *Ganapathi* v. *State of T.N.* [*Ganapathi* v. *State of T.N.*, (2018) 5 SCC 549 : (2018) 2 SCC (Cri) 793] , in the following terms, by referring to the three-Judge Bench decision in *State of Rajasthan* v. *Kalki* [*State of Rajasthan* v. *Kalki*, (1981) 2 SCC 752 : 1981 SCC (Cri) 593] : (*Ganapathi case* [*Ganapathi* v. *State of T.N.*, (2018) 5 SCC 549 : (2018) 2 SCC (Cri) 793] , SCC p. 555, para 14)

"*14*. "Related" is not equivalent to "interested". A witness may be called "interested" only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eyewitness in the circumstances of a case cannot be said to be "interested"…."

14. In criminal cases, it is often the case that the offence is witnessed by a close relative of the victim, whose presence on the scene of the offence would be natural. The evidence of such a witness cannot automatically be discarded by labelling the witness as interested. Indeed, one of the earliest statements with respect to interested witnesses in criminal cases was made by this Court in *Dalip Singh* v. *State of Punjab* [*Dalip Singh* v. *State of Punjab*, (1953) 2 SCC 36 :

1954 SCR 145 : AIR 1953 SC 364 : 1953 Cri LJ 1465] , wherein this Court observed: (AIR p. 366, para 26)

"*26*. A witness is normally to be considered independent unless he or she springs from sources which are likely to be tainted and that usually means unless the witness has cause, such as enmity against the accused, to wish to implicate him falsely. Ordinarily, a close relative would be the last to screen the real culprit and falsely implicate an innocent person."

15. In case of a related witness, the Court may not treat his or her testimony as inherently tainted, and needs to ensure only that the evidence is inherently reliable, probable, cogent and consistent. We may refer to the observations of this Court in Jayabalan v. State (UT of Pondicherry) [Jayabalan v. State (UT of Pondicherry), (2010) 1 SCC 199 : (2010) 2 SCC (Cri) 966] : (SCC p. 213, para 23)

"23. We are of the considered view that in cases where the court is called upon to deal with the evidence of the interested witnesses, the approach of the court while appreciating the evidence of such witnesses must not be pedantic. The court must be cautious in appreciating and accepting the evidence given by the interested witnesses but the court must not be suspicious of such evidence. The primary endeavour of the court must be to look for consistency. The evidence of a witness cannot be ignored or thrown out solely because it comes from the mouth of a person who is closely related to the victim."

16. In the instant matter, as already discussed above, we find the testimony of the eyewitnesses to be consistent and reliable, and therefore reject the contention of the appellants that the testimony of the eyewitnesses must be disbelieved because they are close relatives of the deceased and hence interested witnesses."

11. It is also true that if the witness is reliable, conviction can also be sustained based on the solitary testimony of this witness. The Hon'ble Apex Court in the case of ***Sunil Kumar v. State (Govt. of NCT of Delhi), (2003 11 SCC 367*** has held at para 9 as under:-

"9.Vadivelu Thevar case [AIR 1957 SC 614 : 1957 Cri LJ 1000] was referred to with approval in the case of Jagdish Prasad v. State of M.P.

> [1995 SCC (Cri) 160 : AIR 1994 SC 1251] This Court held that as a general rule the court can and may act on the testimony of a single witness provided he is wholly reliable. There is no legal impediment in convicting a person on the sole testimony of a single witness. That is the logic of Section 134 of the Indian Evidence Act, 1872 (in short "the Evidence Act"). But, if there are doubts about the testimony the courts will insist on corroboration. It is for the court to act upon the testimony of witnesses. It is not the number, the quantity, but the quality that is material. The time-honoured principle is that evidence has to be weighed and not counted. On this principle stands the edifice of Section 134 of the Evidence Act. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy, or otherwise.

12. Keeping in mind the aforesaid position of law, we proceed to scrutinize the evidence of P.W.16. She states that the occurrence has taken place 4 years ago at about 3-4 pm in the day. She was present at the time and place of occurrence while her father was removing the mud tiles (*khapra*) of her house and then the appellant armed with *tangi* (axe) came to her house and started assaulting her father. At this stage, the court records the demeanor of the witness by mentioning that the witness started weeping. She states that her father was assaulted on his back, chest and stomach and caused injures. Her father started crying for help, then her mother came and she was also assaulted with the same axe on her head and waist and both of them died there except her. She also states that she was threatened as well but she kept herself away. Then, the police was informed and she has given the reason of occurrence but it is not of much importance. In cross-examination, she reiterates that she was present at the place of occurrence and informed the police about the occurrence. Further, in her cross-examination, nothing important was extracted from her rather she stood firm on the point of assault and manner of occurrence and place. We find nothing to disbelieve this witness.

13. P.W.14-S.I. Sanjay Kumar Verma submits that the murder weapon i.e axe was recovered on the confessional statement of accused. P.W.14 has also proved the place of occurrence, which is in consonance with the statement of the eye-witness (P.W.16).

14. The doctor, who has conducted post-mortem on the bodies of both the deceased, has been examined as P.W.10 and found following injuries of the deceased, Bhola Oraon:-

(i) Incise wound over right sternoclavicular joint cutting the clavicle first ribs and lungs and underlying lung size 2 ½ " x ½" x 2".

(ii) incise wound over left parietal eminence cutting the parietal bone, frontal bone and brain matter size 3" x ½" x 2".

He has opined that all the above injuries are ante-mortem grievous and caused by sharp cutting weapon. Cause of death hemorrhage and shock.

15. On the same day, he has also conducted the post-mortem on the body of deceased Jhubu Devi and found following:-

(i) Incise injury over right parietal eminence cutting the bone and brain matter size 2" x ½" x 2"

(ii) Incise injury over left pinna up to zygomatic process of maxilla size 3" x ½" 2" cutting the bone and branches internal carbotic artigic

He has opined that the injuries are grievous and caused by sharp-cutting weapons.

16. The injuries of both the deceased clearly suggests that the deceased died because of hemorrhage and shock and the injuries on the vital parts of the body were caused by a sharp-cut weapon and are homicidal in nature and it corroborates to the testimony of the informant.

17. In the entire record and even in the evidence, we could not find any material to suggest that the incident occurred in a hit of moments. The allegation is that without any provocation, the appellant came and mercilessly assaulted both the deceased persons.

18. So far as the motive is concerned, it loses all relevance when there is direct ocular evidence supporting the assault that caused the death, as held by the Hon'ble Supreme Court in the case of ***Shivaji Genu Mohite v. State of Maharashtra (973) 3 SCC 219*** that "*in case, the prosecution is not able to discover an impelling motive, that could not reflect upon the credibility of a witness proved to be a reliable eyewitness. Evidence as to motive would, no doubt, go a long way in cases wholly dependent on circumstantial evidence. Such evidence would form one of the links in the chain of circumstantial evidence in such a case. But that would not be so in cases where there are eyewitnesses of credibility, though even in such cases if a motive is properly proved, such proof would strengthen the prosecution case and fortify the court in its ultimate conclusion. But that does not mean that if a motive is not established the evidence of an eyewitness is rendered untrustworthy.*"

19. Considering what has been held above, we find that the prosecution has been able to prove the guilt of the appellant beyond all reasonable doubt. Thus, the judgment of conviction and sentence of the appellant passed by the learned Trial Court need no interference.

20. Accordingly, this criminal appeal stands **dismissed**.

21. Appellant is in custody. Let a copy of this judgment be furnished forthwith to the appellant through learned A.P.P.

22. Let the copy of this judgment be sent to concerned Trial Court for information and needful.

23. Pending I.A.(s), if any, stands disposed of, accordingly.

24. We express our appreciation for the assistance rendered by Mr. Vikash Kumar, learned counsel for the appellant. The Member Secretary, High

Court Legal Services Committee, is directed to pay him remuneration of Rs. 5,500/- (Rs. Five Thousand and Five Hundred) within a period of two weeks from the date of receipt/production of a copy of this order.

25. Office is directed to ensure that a copy of this judgment is served upon Member Secretary, High Court Legal Services Committee.

(ANANDA SEN, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

High Court of Jharkhand, Ranchi

Dated;-*03/11/2026*

***Pappu*-N.A.F.R./-**

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