IN THE HIGH COURT OF JHARKHAND AT RANCHI

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Criminal Appeal (D.B.) No.530 of 2020

(***Arising out of judgment of conviction dated 13.11.2019 and order of sentence dated 14.11.2019, passed by learned Additional Judicial Commissioner- XVIII, Ranchi, in Sessions Trial Case No.71 of 2016***)

Ram Pahan, S/o Late Lofar Pahan, R/o Village Jareya, PO & PS Namkum, District Ranchi

… … … Appellant(s)

Versus

The State of Jharkhand. **… … … Respondent(s)**

WITH

Criminal Appeal (D.B.) No.233 of 2022

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Etwa Munda, S/o Late Delo Munda, R/o Village- Jareya, PO and PS Namkum, District- Ranchi

… … … Appellant(s)

Versus

The State of Jharkhand. **… … … Respondent(s)**

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

For the Appellant(s) : Mr. Shailash Poddar, Advocate
Mr. Shiv Prasad Singh, Advocate

For the State : Mr. Abhay Kumar Tiwari, AddI. P.P.
Mr. Manoj Kr. Mishra, AddI. P.P.

J U D G M E N T

By Court, :
04th November, 2026

Reference be made to the order dated 13th October, 2026.

2. Mr. Sailesh Poddar appears on behalf of the appellant and he has filed *vakalatnama*.

3. These Criminal Appeals are preferred on behalf of the appellants being aggrieved by the impugned judgment of conviction dated 13.11.2019 and order of sentence dated 14.11.2019, passed by

learned Additional Judicial Commissioner- XVIII, Ranchi, in Sessions Trial Case No.71 of 2016, whereby and wherein the appellants have been convicted for offences under Section 302/34 of I.P.C. They were sentenced to undergo imprisonment for life and fine of Rs.10,000/-, for the offence under Section 302 of I.P.C. and in default of payment of fine to undergo R.I. for one year and also convicted for the offence under Section ¾ of Witch Craft Act sentenced to one year R.I. with fine of Rs.5,000/- and in default of payment of fine to undergo R.I. for two months.

4. We have heard, learned counsels representing the appellants and learned AddI. P.P. representing the State and perused the material available on record.

5. Learned counsel representing the appellants, submits that there is delay in lodging the FIR. The date of occurrence is of 23.07.2015 about 05:00 PM, but surprisingly, the matter has been reported before the police after much delay i.e. 24.07.2015 at about 06:00 A.M. in the morning and the formal F.I.R. was drawn up on 01:30 P.M. He further submits that the appellants were apprehended after three days in the village and if at all they have committed the murder, they would not have remained in the village, they should have fled. He further submits that Investigating Officer was not examined in these cases, which caused great prejudice as the place of occurrence could not be proved. He also submits that due to non-examination of the Investigation Officer, the cause of delay in lodging the F.I.R. is not been properly explained. The murder weapon axe was not recovered and the blood stained soil which was collected was not sent for the FSL examination. He also submits that one Bandu Munda in his statement under Section 161 Cr.P.C. stated that these appellants were in intoxicate condition, thus this case will come under the exception

of Section 302 of IPC. He also submits that the eye witness was related witness and none of the villagers have been examined as eye witness though if in the village this cruel murder had taken place there should have been other eye witnesses. He further submits that the doctor opined that injuries can be caused by sword also thus, there is confusion in respect of the murder weapon.

6. Learned AddI. P.P. representing the State, oppose and submits that merely being related witness, their credibility cannot be questions. He submits that they are natural eye witnesses. He further submits that the deceased was branded as a witch and thereafter, she was murdered. In villages where old ladies are branded as a witch, seldom someone comes forward to depose. He further submits that non-examination of the Investigating Officer has not caused any prejudice as there was no delay in lodging the F.I.R. He further submits that non recovery of the tangi and not sending the blood stained soil to the FSL is not fatal. He submits that place of occurrence has already been proved by other witnesses and from their cross-examination, there is nothing to suggest that these appellants have disputed the place of occurrence and the commission of the murder. He submits that if the evidence is read in entirety, it will clearly suggest that in the defence also there is no doubt that the murder has been committed and it has been committed by these appellants.

7. The prosecution case is based on fardbeyan of PW-2, Munda Pahan (son of the deceased). He states that these accused used to brand the deceased as a witch. On 23.07.2015 at about 5:00 P.M., the accused armed with axe came to their house where the deceased was sitting, then suddenly they inflicted axe blow on the deceased, which resulted in her death. He stated that Bundu Pahan and other villagers also witness the aforesaid incident.

8. After the investigation charge-sheet was submitted and cognizance was taken. Thereafter, the case was committed to the Court of Sessions, where the Court framed charge under Sections 302/34 of IPC and Section 3/4 of the Prevention of Witch Craft Act against the accused, and the case proceeded.

9. The prosecution has altogether examined seven (07) witnesses, statements of whom are as follows:-

P.W.-1- Bandu Pahan
P.W.-2 Munda Pahan
P.W.-3- Buta Pahan
P.W.-4 Dr. A.K. Choudhary
P.W.-5 Sikram Pahan
P.W.-6 Ghasi Munda
P.W.-7 Shankar Hajam

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

Exhibit-1- Signature of P.W.-1 on inquest report
Exhibit-1/1- Signature of P.W.-2 on inquest report
Exhibit-2- Signature of P.W.-2 on fardbeyan.
Exhibit-3- Signature of P.W.-2 on seizure list
Exhibit-4- Postmortem report of the deceased

10. The first ground taken by the appellants before us is that there is a huge delay in lodging the F.I.R. We are not in agreement with the learned counsel for the appellants. The occurrence had taken place on 23.07.2015 at 5:00 PM in evening. It has come in evidence that it was raining heavily. The matter was reported to the police on 24.07.2015 at 6: 00AM in morning. This time gap is not at all a delay. Thus, it cannot be said that there is any delay in lodging the FIR.

So far as, death is concerned, the Doctor (P.W.-4) who has conducted the post-mortem of the deceased, stated that he found incised wound on the forehead and there was a cut injury also on the frontal bone with the crack fracture on the left frontal bone and there

are other several fractures. He also found injury on the neck and cutting of soft tissues and blood vessels. It is necessary to quote the injury which was found:-

> ***Injuries (External): Incised Wounds****:*
> *(i) 5 cm x 1 cm x bone deep on the forehead under neath there was cut injury 5 c.m. long on frontal bone with crack fracture, 6 c.m. on left frontal bone and another crack fracture 12 c.m. long on right frontal bone, cutting the dura matter and brain under neath with presence of blood and blood clots in the cranial cavity.*
> *(ii) 7 c.m. x 1 c.m. x soft tissue on right side of neck lateral side middle part and 5c.m. x 1 c.m. on the right side of neck lateral side lower part with cutting soft tissues and blood vessels.*
> *(iii) 3 c.m. x 1 c.m. x soft tissue on left side of neck lateral and upper part cutting the soft tissues.*
> *(iv) 5 c.m. x 1 c.m. x soft tissues on left side of neck lateral side upper part cutting soft tissues and trachea.*

The doctor opined that all the injuries are ante-mortem caused by heavy sharp cutting weapon and death is due to combined effect of hemorrhagic shock and head injury. The postmortem report marked as Exhibit-4. In cross-examination, nothing important has been extracted. Save and expect, the opinion of the doctor that these injuries can be caused by sword also.

11. From the evidence of the doctor and the post-mortem report, it is clear that the death was by sharp cutting weapon and all the assault was made on the vital part of the body, which caused death as there were several incised injuries on the neck and head. This clearly proves that the death is homicidal in nature and caused after assault.

12. Now on the question of involvement of the appellants, we find that PW-3 is an eye-witness. In examination-in-chief, he stated that at the point of time, he was in his house. These two appellants came there and assaulted on the head and neck of the deceased. He also stated that they used to brand the deceased as a *Witch.* Surprisingly, in the cross-examination, the defence has taken out from him that he is an eye-witness as he stated that he has seen the occurrence. He also

admitted that his statement was recorded by the Police and he also in a question by the defence accepted the fact that he had also narrated to the Police that he had seen the occurrence. He also stated that except him, there were others also who have seen the occurrence. In paragraph 3 of the cross-examination, he reiterates that he had seen Etawa Munda giving blows on the head of the deceased. From his examination, there is no room to disbelieve him as an eye-witness. Further, there is nothing to suggest that he is tutored. Further, from his evidence, there is nothing to suggest that the appellants have been falsely implicated in these cases. On the point of assault, his testimony is corroborated with the medical evidence.

PW-2, Munda Pahan, he is also an eye-witness. He stated that the deceased was branded as a *Witch* by these two appellants. He also stated that he had seen the occurrence where these appellants have assaulted the deceased. He also stated that the assault was on the head and neck. From his evidence, it is clear that he is also an eye-witness and there is nothing to disbelieve them or to discredit him, this evidence also corroborates with the medical evidence.

PW-1 also stated in the same manner.

Thus, we come to the conclusion that all three witness are eye-witnesses and they stood firm while deposing as witnesses.

13. Though the witnesses are related to the deceased, but there is nothing to suggest they are falsely implicating these appellants. Thus, there is no ground to discredit their deposition.

14. It is true that the I.O. has not been examined in this case, but from the evidence and from the argument, we could not find any material to suggest that because of non-examination of the Investigating Officer, the accused persons have been prejudiced. As decided earlier, there is no delay in lodging the FIR. Non-recovery of

the murder weapon cannot be a ground to disbelieve or falsify the entire prosecution story, in view of the specific statement of the eye-witnesses, who had seen occurrence of the murder. Non-examination of the *Mukhiya* or not sending the blood stained soil to the F.S.L. is of no relevance, in view of the direct ocular evidence.

15. So far as the place of occurrence is concerned, the defence has not suggested before the witnesses about any other alternative place of occurrence.

16. So far as the plea of intoxication is concerned, if at all the appellants were in an intoxicated state, voluntary intoxication cannot be a defence in a case of murder. Thus, we find no merit in these appeals. These appeals stand **dismissed.** Since, the appellant- Etwa Munda in Cr. Appeal (D.B.) No.233 of 2022 is on bail, his bail bond is cancelled and he is directed to surrender before the Trial Court to serve the rest of the sentence. If he does not surrender, the Trial Court is directed to take appropriate steps against him in accordance with law.

17. Pending I.A.(s) if any, stands dismissed.

18. Trial Court Record be transmitted back to the Court concerned.

(ANANDA SEN, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

HIGH COURT OF JHARKHAND, RANCHI
Dated:- 04th November, 2026
R.S. /S.K.D.
N.A.F.R.
Uploaded on 06/11/2026.