IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No. 1580 of 2017

[*Against the Judgment of conviction and Order of sentence dated 03.03.2017 passed by learned Additional Sessions Judge-II, Lohardaga in Sessions Trial No. 12/2016*]

Budhan Asur, Son of Late Charo Asur, Resident of Pokhar, Pokarpath, Domarpath, P.O. & P.S. – Kisko, District – Lohardaga (Jharkhand).

... ... **Appellant**

Versus

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

.....

For the Appellant : Mr. Girish Mohan Singh, Advocate
For the Respondent : Mr. Priya Shrestha, Spl.P.P.

.....

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

JUDGMENT

Dated: 29th October, 2026

By Court:- The instant appeal is directed against the judgment of conviction and order of sentence dated 03.03.2017 passed by the learned Additional Sessions Judge-II, Lohardaga in Sessions Trial No. 12/2016, whereby and whereunder the appellant has been convicted for the offences punishable under Sections 302 and 307 of the Indian Penal Code and sentenced to undergo R.I. for life along with a fine of Rs. 10,000/- for the offence under Section 302 of the I.P.C. with default stipulation and further, R.I. for 10

years along with fine of Rs. 10,000/- for the offence under Section 307 of the Indian Penal Code with default stipulation. Both the sentences were directed to run concurrently.

2. We have heard Mr. Girish Mohan Singh, learned counsel representing the appellant and Mrs. Priya Shrestha, learned Spl.P.P. representing the State, at length, and have gone through the materials available on record.

3. Learned counsel for the appellant submits that the witnesses are interested witnesses as they have some enmity with the appellant. He submits that there was no intention of the appellant to get murder of the deceased. He also submits that the witnesses said that this appellant had behavioural problems. Thus, this may be ground to implicate this appellant in this case. He lastly submits that the right hand of the appellant was not functioning properly. Thus, it is impossible to accept the fact that the appellant will give a hammer blow on the head of the deceased.

4. Learned Spl.P.P. representing the State, opposes the prayer and submits that the trial court has very correctly considered all the judgment and has come to right finding which cannot be assailed. She submits that there are four eye-witnesses to the occurrence

and their deposition cannot be doubted. The medical evidence is also corroborated the ocular evidence. She submits that in case where there is direct eye – witness, there is no necessity to establish motive. So far as the physical condition of the appellant is concerned, she submits that same witness has stated that the appellant can do all work with his right hand though some of the fingers might have lost strength. Thus, she submits that this judgment, which is well-discussed and well-reasoned does not need any interference.

5. The prosecution case is based upon the fardbeyan of the informant Manga Asur (P.W.-5) is that he is working in BKB Company as labourer. On 05.10.2015 at about 8:30 A.M., his wife Lalita Asur went for her work working as labourer for construction of Road under NREGA and his two years old son was also with her and he was going to Kisko for bank work. When he reached near Daharbati more, he received a phone call from his maternal uncle namely, Kagu Asur that his wife Lalita Asur was assaulted by a heavy hammer by Budhan Asur (appellant). Thereafter, the informant rushed to the place of occurrence and saw that his wife was lying dead. She had sustained injury on her head and the labourers, who were working with his

wife, informed that Budhan Asur had assaulted his wife with hammer repeatedly, due to which she sustained injury and died. They further informed him that the appellant also assaulted his son, aged about two years, with stone causing him grievous injury and was taken to Sadar Hospital for his treatment. The appellant was apprehended at the place of occurrence by the co-villagers.

6. On the basis of fardbeyan, Kisko P.S. Case No. 66 of 2015 was registered for the offence under Sections 302 / 307 / 325 of the I.P.C. and after investigation, the I.O. of the case submitted charge sheet against the accused. After taking cognizance, the case was committed the court of Sessions, where charges were framed against the accused for the aforesaid offences.

7. The prosecution has examined altogether ten (10) witnesses, who are as follows:-

P.W.-1 : Somari Asur.

P.W.-2 : Manju Asur.

P.W.-3 : Ramdhan Nagesia.

P.W.-4 : Jhamal Nagesia.

P.W.-5 : Manga Asur.

P.W.-6 : Dr. Rajendra Prasad Sahu.

P.W.-7 : Baldeo Nagesia.

P.W.-8 : Dr. Kaushal Kumar Singh.

P.W.-9 : Kulmania Nagesia.

P.W.-10 : Navin Kumar Pandey (I.O.).

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

Exhibit-1 : Signature of Manga Asur on Fardbeyan.

Exhibit-1/1 : Fardbeyan.

Exhibit-2 : Post-mortem Report.

Exhibit-3 : Injury Report of Anand Asur.

Exhibit-4 : Formal F.I.R.

Exhibit-5 : Carbon copy of Inquest Report.

Exhibit-6 : Search-cum-Seizure List.

Exhibit-7 : SFSL Report.

Material Exhibit-I : Iron Hammer.

Material Exhibit-II : Blood Stained Stone.

9. After closure of the prosecution evidence, the trial court has recorded the statement of the accused under Section 313 of Cr.P.C. and the accused in his defence has denied the occurrence and pleaded his innocence.

10. The trial court, after hearing both the parties, vide its judgment of conviction and order of sentence, convicted the appellant and sentenced him, as delineated in the opening paragraph of this judgment, which has been challenged in this Criminal Appeal.

11. After hearing the parties, we have also gone through the evidence documentary and oral evidence.

12. The F.I.R. is at the behest of the P.W.-5, who is husband of deceased. He states that his wife was working in a construction work and when he received information that his wife has been assaulted on the head with a heavy hammer (used for crushing stones) by this appellant, he reached at the place of occurrence and found his wife lying dead. Resulting in lodging of this F.I.R. He was also informed that his child, aged about 02 years, was also assaulted with stone by this appellant causing him grievous injury.

13. As noticed earlier, there are 10 witnesses in this case. P.W.-1 to P.W.-4 are eye witnesses. Their presence and place of occurrence have been established as they themselves said that they were also working with the deceased at the same place. They stated that they were working within a distance of few feet from the deceased where this appellant came and gave blow on the head of the deceased by heavy hammer, which was used for breaking stones to make stone chips. They all stated that the infant child of the deceased was also with her and he was also assaulted by stone. P.W.-1, P.W.-2, P.W.-3 and P.W.-4 have stated in same manner and there is no discrepancies in them

and the cross-examination is also not brought anything to on record to disbelieve them. Though the witnesses have stated that there are some behavioral problems with the appellant, but there is nothing to suggest that he was lunatic and was suffering from any mental disorder**.** Though, P.W.-3, in para-8, had stated that there was some problem in the finger of the right hand of this appellant, but on a query made by the Court, he clarified that this appellant was doing all his work with his right hand. Further, we find that there is no medical document produced by this appellant in support that his right hand or finger of right hand is not working.

14. Thus, from what has been discussed above, it is clear that P.W.-1, P.W.-2, P.W.-3 and P.W.-4 are eye witnesses and they have seen this appellant giving a blow on head of the deceased by hammer and assaulted the child also.

15. Further, it is evident that the appellant was apprehended on the spot.

16. So far as the medical evidence is concerned, P.W.-6 is the Doctor, who had conducted the post-mortem of the deceased. He found injury on the left mandible region and temporal region and there was bleeding from left ear and there was contusion on left temporal

region. This injury corroborates with the ocular evidence as the case of the prosecution is that the appellant came and gave hammer blow on the head of the deceased. The Doctor also found fracture on the left petrus bone, blood clot in left ear and blood clot in temporal region. The opinion of the Doctor is that the injuries found on the body can be caused by hammer. Thereafter, he said that the injury is enough in ordinary course of nature to cause death. In his cross-examination, nothing fruitful has been extracted by the defence. This evidence clearly suggests that the death is homicidal in nature.

17. P.W.-8 is the Doctor, who had examined the infant child of the deceased. He found swelling over occipital region and the child was semi-conscious and not responding to vocal commands. The Doctor suspected inter cranial injury and thus, referred to RIMS, Ranchi immediately. He opined that the injury could be due to hit over occipital region by hard and blunt object. In his cross-examination, it has been stated that if a child falls very heavily on the stone, this injury can happen. It is case of the prosecution that this child was hit on the head by stone. Thus, this medical evidence so far as child is concerned also corroborates the ocular evidence of P.W.-1 to P.W.-4.

18. P.W.-10 is the I.O., who has recorded and fardbeyan given by Manga Asur and has identified the same marked as Exhibit-1/1. He has further identified the formal F.I.R. marked as Exhibit-4 and the inquest report of the deceased marked as Exhibit-5. Thereafter, he examined the place of occurrence and seized one hammer stained with blood, one stone which was also blood stained and blood stained mud and prepared seizure list. He has identified the seizure list marked as Exhibit-6 and sent the materials to SFSL, Ranchi for examination. He has also recorded the statement of witnesses, who according to him stated in same manner as witnesses P.W.-1 to P.W.-4 had stated. He had seized the material exhibits and had also proved the place of occurrence. He found hammer with blood stained and stones with blood stains. The FSL report i.e. Exhibit-7 also suggest that the blood found to be human blood.

19. All these evidences emphatically read to be only conclusion that this appellant had committed the offence. Thus, the prosecution has proved the guilt of the appellant beyond all reasonable doubt as there is direct evidence.

20. Thus, we find no merit in this appeal, which is hereby **dismissed**.

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

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

(Ananda Sen, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated, the 29th October, 2026.
Sunil /**N.A.F.R.**
Uploaded on 04/11/2026