**IN THE HIGH COURT OF JHARKHAND AT RANCHI**
**Criminal Appeal (DB) No. 782 of 2022**

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Krishna Prasad Mahato @ Krishna Pado Mahato @ Madi Ram Mahato, S/o Pritam Mahato, aged about 59 years, resident of Village-Hatiyadih, P.O. & P.S.-Boram, District-East Singhbhum

... ... **Appellant**

**Versus**

The State of Jharkhand …… **Respondent**

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

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For the Appellant : Mr. Jitesh Kumar, Advocate
For the State : Mr. Saket Kumar, A.P.P.

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**JUDGMENT**

**26th October, 2026**

***By Court: -*** Heard learned counsel for the appellant and learned A.P.P. appearing for the State.

2. The appellant in this appeal has challenged the judgment by which he has been convicted for committing the offence under Section 302 of the I.P.C. vide judgment dated 08th September, 2020 passed by the learned Additional Sessions Judge-IX, Jamshedpur and has been sentenced to undergo R.I. for life vide order dated 09th September, 2020.

3. The learned counsel for the appellant submits that the prosecution has not been able to prove the guilt of the appellant beyond all reasonable doubt. He submits that though the P.W.-1 tries to be an eye-witness, but careful reading of the evidence of P.W.-1 will lead to the only conclusion that she is not an eye-witness. He further submits that the P.W.-2, who is the informant and the wife of the deceased, is also not an eye-witness, as P.W.-1 has not taken the

name of P.W.-2 to be present at the time of occurrence and P.W.-1 has stated that only she was present. As per him, P.W.s-3, 4 and 5 are hearsay witness who have not seen the occurrence. Even P.W.-8, who is the son of the deceased and was present at the house has not stated that it is present appellant, who has committed the murder. P.W.-7 himself admits that he reached the place of occurrence after ten minutes, thus, he is also not an eye-witness. The counsel submits that the I.O. has failed to prove the place of occurrence and has not prepared any sketch map of the place. It is further submitted that the dead body was found in front of the house of one Agnu Mahato and not in front of the house of this appellant, which suggests the falsity of the case. He lastly relies upon the statement under Section 313 of the Cr.P.C., wherein the accused has stated that there was no land dispute between the parties. As per the counsel, this falsifies the very genesis of the occurrence which the prosecution relies to be a land dispute.

4. The counsel appearing on behalf of the State opposes and submits that P.W.1 and P.W.-2 are eye-witnesses, they have seen the occurrence. They also submit apart from P.W.1 and P.W.-2, there is another eye-witness, who is P.W.-6, he was sitting in his house and immediately within a second, he reached at the place of occurrence and has seen one blow given by the appellant to the deceased. It is a contention of the State that non-recovery of the murder weapon is irrelevant in this case as the ocular evidence clearly supports the prosecution case and the medical evidence also supports the ocular

evidence and in the manner in which the occurrence had taken place.

5. The F.I.R. in this case is at the instance of P.W.-2, who is the wife of the deceased. She stated that in the morning when her husband was taking the goat for grazing and this appellant came and assaulted the deceased with an axe on his head and neck. She further states that there was a serious dispute between the parties which resulted in this occurrence. The police after investigation filed charge-sheet and the trial proceeded as the appellant has pleaded not guilty.

6. Following documents were exhibited during trial:-

Ext.-1-Post-mortem report

Ext.-2-*Fardbeyan*

Ext.-2/1-Endorsement on *fardbeyan*

Ext.-3-Formal F.I.R.

Ext.-4-Inquest Report

**P.W.-1** is Shibhu Bala Mahato, who stated that the occurrence had taken place at 06:00 in the morning, when she was in the house. The deceased was going to graze the goat when this appellant came and assaulted with an axe on the head. She identified this appellant in the Court. The Court observed the demeanor of the witness and mentions that on identifying the accused this witness started weeping. She stated that her house was close to the house of the deceased. She also stated that the house of Kunj Bihari is just in front of her house. She stated that she was alone when the assault had taken place. She also admitted that she has narrated before the police that the assault was by axe.

**P.W.-2** is the informant of this case. She stated that she was accompanying the deceased in the morning when this appellant had assaulted the deceased with an axe. She stated that the reason of the assault is a land dispute which was nearly ten years old. She stated that the appellant assaulted the deceased on the back of his head and also on the neck. In paragraph 5 she stated that the assault had taken place 2/3 houses beyond their house. In paragraph 11 she takes the name of P.W.1 and says that she was also present and had seen the occurrence. She states that the appellant walked away with the axe.

7. The evidence of P.W.-2 remained intact and consistent in her cross-examination also. There is nothing to cast a doubt that she is not an eye-witness. She also takes the name of P.W.-1 to be present at the place, who had seen the occurrence. The manner in which the assault had taken place and the time and the place as submitted by both P.W.1 and P.W.-2 matches with each other's statement. As per their statement, the deceased was assaulted by this appellant with an axe on the head.

8. The doctor who has conducted the post-mortem, the deceased is P.W.-9, he stated that he found two lacerated wounds: -

(i) 2 c.m. x 1 c.m. x 1 c.m. under the left angel of mandible.

(ii) 1.5 x 1.5 x muscle deep over left temporal region.

These two injuries which the doctor found during post-mortem matches with the ocular evidence of P.W.-1 and P.W.-2.

**<u>On dissection</u>** the doctor found that the right parietal and the

occipital scalp contused 13 c.m. x 6 c.m. Left temporal scalp contused 3 c.m. x 4 c.m. brain contused. The doctor found sternum fractured under surface contused. Pericardium contused. Left side 2nd and 4th ribs fractured in back. Pericardial sack contains blood, heart ruptured. Viscera congested lungs contused. Stomach contained semi-digested food rice and pulse 200 gms. Bladder empty.

The doctor opined that the cause of death is the head and chest injuries by hard and blunt substance.

Thus, from the evidence of the doctor, the homicidal death of the deceased is proved and the ocular evidences of P.W.-1 and P.W.-2 matched.

9. **P.W.-6** is another eye-witness. He stated that he was in his house at the time of occurrence, which is in the morning about 6:00 – 7:00 A.M. On hearing human cry, he rushed to the place of occurrence and saw the deceased was assaulted by this appellant with an axe and thereafter, the appellant fled after seeing him. He stated that he and his wife accompanied him. He stated that it hardly took any time for him to reach the place of occurrence, though he states that hardly 1– 1.5 seconds. He stated that the soil was smeared with blood at the place of occurrence.

In cross-examination, nothing was elicited from him to disbelieve his testimony.

Thus, from his testimony we find that he is not only a reliable witness, but an eye-witness also. His statement also corroborates

manner in which the assault was made and the part of the body was subjected to multiple injuries by the appellant.

10. **P.W.-3**, **P.W.-4** and **P.W.-5** though are not the eye-witnesses, but were co-villagers, who narrated the story of this assault after hearing from the other villagers.

11. **P.W.-11** is the I.O., who proved the place of occurrence. He stated that the body was found in front of the house of Agnu Mahato. From the inquest report, I.O. also found injury on the neck and on the back of the head. It is pertinent to mention that the house of this appellant, deceased and Agnu Mahato are situated nearby i.e. just more next to each other. The I.O. also exhibited the thumb impressions of the F.I.R. which was found as *Exhibit-2* and proved the F.I.R. The formal F.I.R. was also proved by him. He admitted that he has recorded the statement of the witnesses. The inquest report was also exhibited by him as *Exhibit-4*.

12. Thus, from the aforesaid discussion, it emerges that P.W.-1, P.W.-2 and P.W.-6 are reliable witnesses and are eye-witnesses and their testimony was not demolished. Non-recovery of the murder weapon in this case is not fatal to prosecution and the appellant could not put forth any prejudice what has been caused to him on non-production of the weapon.

13. In light of the evidence discussed hereinabove, we find that there is no illegality committed by the Trial Court in convicting the appellant as the prosecution has proved the guilt of this appellant

beyond all reasonable doubt. Accordingly, we do not find any merits in this appeal, which is hereby **dismissed**.

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

15. Pending I.A., if any, stands disposed of, accordingly.

16. Let a copy of this judgment be sent to the concerned trial court for information and needful.

**(ANANDA SEN, J.)**

**(PRADEEP KUMAR SRIVASTAVA, J.)**

**26.10.2026**
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