IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No. 1632 of 2023

(*Arising out of judgment of conviction dated 31.05.2022 and order of sentence dated 04.06.2022, passed by learned Additional Sessions Judge-I-cum-Special Judge, Gumla, in Sessions Trial Case No.390 of 2015*)

Sohrai Soren @ Lepra, Son of Late Thakur Oraon, Resident of Village-Aadar Pokhra Toli, PO & PS-Ghaghra, Dist-Gumla, Jharkhand. **… … … Appellant(s)**

Versus

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

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

For the Appellant(s) : Mr. Saurav Kumar, Advocate
For the State : Mrs. Vandana Bharti, Addl. P.P

J U D G M E N T

By Court, :
04th November, 2026

This Criminal Appeal is preferred on behalf of the appellant being aggrieved by the impugned judgment of conviction dated 31.05.2022 and order of sentence dated 04.06.2022, passed by learned Additional Sessions Judge-I-cum-Special Judge, Gumla, in Sessions Trial Case No.390 of 2015, whereby and wherein the appellant has been convicted for offences under Section 302 of IPC and 3 & 4 of the Prevention of Witch (Daain) Practices Act. He was sentenced to undergo R.I. for life and pay fine of Rs.50,000/- for the offence under Section 302 of I.P.C. and in case of non-deposition of fine further to undergo R.I. for 2 years. He was further sentenced to undergo R.I. for 3 years under Section with a fine of Rs.10,000/- for the offence under Section 3 & 4 of the Prevention of Witch (Daain) Practices Act and in

default of payment of fine further undergo to S.I. for 6 months.

2. We have heard, learned counsel representing the appellant and learned AddI. P.P. representing the State and perused the material available on record.

3. Learned counsel representing the appellant submits that the prosecution case is doubtful as the informant himself has deviated from his statement as a witness from the statement made in the *fardbeyan*. It is his contention that in the F.I.R., it has been stated that the occurrence took place as the appellant is to brand the deceased as a *witch* but in his deposition, he stated that because of land dispute, the occurrence had taken place. On this ground, he submits that the prosecution case itself is liable to be dismissed. He further argues that the witnesses have stated that at the place of occurrence, there are several persons present even the children were also playing but none of them were examined as a witness which also suggest the falsity of the case. PW-1, PW-2, PW-4, PW-5 and PW-10 have been declared hostile and not supported the prosecution case. Considering this material inconsistencies, he submits that the appellant be acquitted.

4. Learned AddI. P.P. representing the State, oppose and submits that the Trial Court correctly appreciated the evidence of the prosecution witnesses. He further submits that it is a case of direct evidence as PW-3 is the eye-witness of the occurrence and also supported by medical evidence and PW-9 informant. The prosecution is successful in proving its case beyond reasonable doubt thus, judgment of conviction and order of sentence passed by Trial Court needs no interference.

5. The prosecution case is based on the *fardbeyan* of Faguni Oraon-PW-9. She stated that her uncle-appellant carrying a lathi (heavy stick) reached the field uttering that the deceased has practiced witch craft due to which, his wife fell ill since last month. He then

started assaulting the deceased. The deceased tried to flee but she was chased near the Akhara and multiple injuries was inflicted upon her on head, mouth, eye etc. She fell down and became unconscious. She was shifted for treatment to Health Centre at Ghaghra but she was declared dead.

6. After registering FIR on the basis of *fardbeyan*, investigation was carried out and the charge-sheet was submitted under Sections 302 of IPC against the appellant and after taking cognizance the case was committed to the Court of Sessions where charge was framed under Section 302 of IPC and 3/4 of Prevention of Witch (Daain) Practices Act.

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

P.W.-1 Bimla Devi is a hostile witness

P.W.-2- Gandur Oraon is a hostile witness

P.W.-3- Ramchandra Lohra is an ocular witness

P.W.-4- Vishnu Bhagat is a hostile witness

P.W.-5- Baidhnath Bhagat is a hostile witness

P.W.-6- Bandhu Oraon is a hearsay witness (son of deceased)

P.W.-7- Dr. Roshan Praveen Khalkho is an expert witness

P.W.-8- Rajendra Rajak, I.O. of this case.

P.W.-9- Faguni Oraon is informant of this case.

P.W.-10-Sunil Oraon is a hostile witness.

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

Exhibit-1- Signature of Bandhu Oraon on death inquest report.

Exhibit-2- Post-mortem report

Exhibit-3 Thumb impression of Phaguni Oraon and

signature of Pramila Oraon on *fardbeyan*

Exhibit-4 Signature of Kalim Ansari on formal FIR

Exhibit-5 Endorsement of Kalim Ansari on written *fardbeyan*

Exhibit-6 Inquest Report of deceased Balki Orain.

Exhibit-7- Signature of Rajendra Rajak on charge-sheet.

Mark 'X' Thumb Impression of Faguni Oraon on *fardbeyan*.

9. After closure of the prosecution evidence, statement under Section 313 Cr. P.C. was recorded. The defence has not adduced or produced any oral or documentary evidence on their behalf. Finally, after hearing both the parties, the Trial Court has convicted the appellant and sentenced as aforesaid.

10. After going through the records, we find that PW-1, PW-2, PW-4, PW-5 and PW-10 are hostile witnesses.

11. PW-3 is an eye-witness, PW-9 is the informant, PW-7 is the doctor who conducted post-mortem of the deceased. The Investigation Officer is PW-8 and PW-6 admittedly is a hearsay witness.

12. The post-mortem report has been marked as Exhibit-2. The doctor who conducted the post-mortem is PW-7. He stated that he found the following injuries: -

On inspection:- Rigor Mortis present in the upper and lower limb, mouth and eye partially closed, face and cloth soiled with blood and sand particles.

External Injuries:-

(i) Lacerated wound size about 2"x1" or right zygomatic region with fracture of zygomatic bone.

(ii) Lacerated wound size about 2" x 1" on left zygomatic region with fracture of zygomatic bone.

(iii) Left wrist deform due to fracture of redius and ulna.

(iv) Lacerated wound size about 2” x 2” on chin

All the injuries are antemortem in nature.

On dissection:-

(i) Frontal lobe of brain contused containing blood clot on both the sides.

(ii) Heart, great vessels and lungs congested.

(iii) Stomach empty.

He opined that the injuries caused by hard and blunt substances and the cause of death is cardiac respiratory failure due the injury to the brain. The post-mortem report and the evidence of the doctor clear suggests that the death is homicidal.

13. PW-3 is an eye-witness. He stated that the occurrence had taken place on 25.06.2015 at about 5:00 PM. He was returning with Bimla Devi, Vishnu Oraon and others. He stated that then he saw the appellant assaulting the deceased with sticks near the Akhara. He further stated that the deceased became unconscious and thereafter, he was taken to the hospital. He stated that while the appellant was leaving the place, the appellant was threating that if anyone comes to depose, he will kill them also. By saying this, he fled towards the jungle. He also stated that the appellant was saying that the deceased was doing some witch craft, as a result of which, his wife was ill. The doctor declared the deceased dead.

In cross-examination, he stated that his statement was recorded by the police. He stated that near the Akhara, there were several other persons and everyone had seen the occurrence. He stated that he could identify the appellant as because he is from the same village.

In cross-examination, he also stated that there is a witch craft case among the parties, which is pending and the appellant has also stated about witch craft in his presence and he used to say that the

deceased claimed that his wife has come under the influence of witches.

In cross-examination, he also reiterated that the appellant went towards the jungle and threatened everyone not to give evidence.

14. From his statement, the fact which can be gathered is that he has seen the appellant assaulting the deceased with the stick and appellant was threatening that no-one should give evidence in this case. He also supported the fact that the appellant had complaint of witch craft. There is nothing in his deposition to disbelieve him and discard his evidence, rather we accept him to be the eye-witness.

15. PW-9 is the informant. She is the daughter. She stated that they were sowing groundnuts when this incident occurred and the incident occurred because of land dispute. She stated that it is this appellant who has assaulted the deceased.

In cross-examination, she stated that from the field, appellant started assaulting the deceased and she was assaulted near the Akhara where she fell down. She stated that the small children were present there who had seen the occurrence and the villagers also had seen. She stated that before the Police, she did not say that there was a land dispute. She stated that deceased was treated in Ghaghra hospital but there is no document. She admitted that she had put her thumb impression before the Police in the document but she is not aware what was written in the paper. She denied the suggestions that no incident had occurred and her mother was not assaulted.

16. This witness though stated that the reason of the occurrence is land dispute but in the F.I.R. she had stated that her mother was branded as a witch thus she was attacked and killed. This is a discrepancy in her statement but in our opinion that is not a glaring discrepancy which can affect the merits of the case. Admittedly, she had stated that her mother was assaulted with sticks and was chased

up to the Akhara where again she was assaulted and she fell unconscious and later on died while taking to the hospital. This fact has also been supported by PW-3.

17. On these minor contradictions, it cannot be said that this witness is wholly unreliable. On the point that who has assaulted the deceased, we find this witness as reliable. In ***State of Rajasthan vs. Kalki*** reported in ***(1981) 2 SCC 752***, the Hon'ble Supreme Court has observed that in the deposition of witnesses there are always normal discrepancies however honest and truthful they may be.

18. In ***Sunil Kumar Sambhudayal Gupta v. State of Maharashtra*** reported in ***(2010) 13 SCC 657*** the Hon'ble Supreme Court has observed that while appreciating the evidence the Court has to take into consideration whether the contradiction and omissions had been of such magnitude that they may materially affect the trial and minor contradiction, inconsistency, embellishment or improvement on trivial matter without affecting the core of the prosecution should not be made a ground to reject the evidence of a witness in its entirety. Paragraph No.30 of the judgment reads as under:

> *"30. While appreciating the evidence, the court has to take into consideration whether the contradictions/omissions had been of such magnitude that they may materially affect the trial. Minor contradictions, inconsistencies, embellishments or improvements on trivial matters without effecting the core of the prosecution case should not be made a ground to reject the evidence in its entirety. The trial court, after going through the entire evidence, must form an opinion about the credibility of the witnesses and the appellate court in normal course would not be justified in reviewing the same again without justifiable reasons. (Vide State v. Saravanan [(2008) 17 SCC 587 : (2010) 4 SCC (Cri) 580 : AIR 2009 SC 152].)"*

19. Both the eye-witnesses have stated that the deceased was assaulted with a *lathi*. This fact has been supported by the medical evidence, as the doctor also said that the assault was by hard and blunt substance.

20. So far as the place of occurrence is concerned, we find that both PW-3 and PW-9 had stated that the main assault had taken place near the Akhara where after being mercilessly assaulted, the deceased became unconscious. There is no deviation in their statements and statement of each other matches on the place of occurrence.

21. Further, learned counsel for the appellant submits that there were several witnesses and the children were also playing there but none of the persons have been produced as a witness which dents the prosecution case. We are not in agreement with the argument of the appellant.

22. The Hon'ble Supreme Court has held that it is not the quantity but quality of the witness which matters. We don't find any qualitative degradation in the statement of the eye-witnesses i.e. PW-3 and PW-9. They stood firm and they supported the prosecution case.

23. Further, the witnesses have stated that the appellant had threatened the onlookers of dire consequences if they appear and depose against him. This may be a ground for others not to come forward which is a genuine and reasonable ground.

24. So far as Investigating Officer is concerned who is PW-8, the Investigating Officer has identified the place of occurrence. The first place of occurrence is the field from where the first assault was given and the second place of occurrence is the Akhara. The I.O. had described both the places. There is nothing in the cross-examination to discredit these witnesses nor any major contradictions have been taken in his cross-examination.

25. Thus, from what has been held above, we find that the prosecution has been able to prove the guilt of the appellant beyond all reasonable doubt. The Trial Court has correctly convicted and sentenced the appellant under Sections 302 of IPC and Section 3 & 4 of the Prevention of Witch (Daain) Practices Act.

26. The judgment of conviction and order of sentence of the Trial Court needs no interference, thus, this appeal stands **dismissed**.

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

28. 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
S.K.D/Cp-3

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