IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Appeal (DB) No. 2285 of 2017

(Against the judgment of conviction dated 12.09.2017 and the order of sentence dated 18.09.2017 passed by the learned Additional Sessions Judge-Simdega in Sessions Trial No.129/2015)

Samson Dang, son of Saban Dang, resident of village Hurpi, PO: Hatinghore, PS: Bano, District Simdega ….. …. **Appellant**

Versus

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

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

For the Appellant(s) : Mr. Ashok Kumar Sinha, Advocate;
Mr. Dilip Kumar Srivastava, Avocate

For the State : Mr. Fahad Allam, A.P.P.

By Court:

***4th November, 2026*:**

This Criminal Appeal is preferred on behalf of the appellant being aggrieved with the impugned judgment of conviction dated 12.09.2017 and order of sentence dated 18.09.2017, passed by the learned Additional Sessions Judge-Simdega in Sessions Trial No. 129 of 2015, whereby and whereunder, the appellant has been convicted for the offences under section 449 and 302 IPC and sentenced to undergo rigorous imprisonment for ten years with fine of Rs. 5,000/- for the offence under section 449 IPC and in default of payment of fine further sentenced to undergo SI for two months. The appellant is further sentenced to undergo life imprisonment with fine of Rs. 10,000/- for the offence under section 302 IPC and in default of payment of fine further sentenced to undergo S.I. for four months.

2. We have heard the learned counsel appearing on behalf of the appellant and the learned counsel appearing on behalf of the State.

3. The learned counsel appearing on behalf of the appellant has submitted that FIR is against unknown and there is no eye-witness to the occurrence. It is further stated that only on the confession of the appellant some articles have been recovered. He has further submitted that the seizure witnesses PW-2 and PW-3 both are silent on the point of seizure of the articles. It is further stated that PW-8 deposed that there is no signature of any police official or any witness on the seized articles which were sent to FSL for examination. He has further submitted that extra judicial confession if any made by the appellant is not admissible since there is no other corroborative evidence against the appellant. Therefore, the impugned judgment of conviction and order of sentence passed by the learned court below must be set-aside.

4. The learned counsel for the State has defended the impugned judgment and submitted that this is double murder case. The assault was made on several body parts of both the deceased which slows that there was intention to commit murder of the deceased. On confession of the appellant some articles were recovered from his own house and also the appellant has confessed his guilt before the police. Therefore, the conviction of the appellant required no interference.

5. The prosecution case, in brief, as per fard-beyan of the informant Saban Dang (PW-1) who is the uncle of the deceased that in the night of 20th /21st May,2015 after taking dinner he went to sleep in his house and as daily routine after woke up he met every one out side of his house but he did not meet with Sudhir Dang and his wife Basanti Dang. Then he went to their house and found that door of the house was opened but no voice came from inside. Then he called the neighbours and they went inside the house and found that Sudhir Dang and his wife Basanti Dang were lying dead on the bed on earth.

6. On the basis of fard-beyan of the informant Bano P.S. Case no. 30 of 2015 dated 21.05.2015 was registered under sections 449 and 302 of the IPC. Thereafter, investigation was carried out and after completion of investigation charge-sheet was submitted under the same sections. Cognizance was taken and case was committed to the Court of Sessions. Charges were framed under the same sections which were read and explained to the accused to which he pleaded not guilty and claimed to be tried.

7. The prosecution, in order to prove its case, has examined altogether ten witnesses, PW-1 Saban Dang is the informant, PW-2 Habil Bhengra is the uncle of the deceased, PW-3 Labenan Bhengra is the brother of the deceased, PW-4 Hermon Surin is the uncle of the deceased, PW-5 Mansid Bhuian is the neighbor of the deceased, PW-6 Nirmal Dang is the father of the deceased, PW-7 Sisir Dang is the brother of the deceased, P.W.8 Vishwanath Singh is the Sub-Inspector, PW-9 Subodh Lakra is the Investigating Officer and PW-10 is Dr. Prabhu Sahay Linda.

8. After going through the evidence of the witnesses we find that there is no eye-witness to the occurrence.

9. P.W.-10 is Dr. Prabhu Sahay Linda who has conducted post-mortem over the dead body of the deceased has found following injuries on the dead body of the deceased, namely, Basanti Dang:

External Injuries:

(i) Both eyes were closed, (ii) Mouth closed & tongue inside, (iii) Sharp cut injury over mid forehead 4" x 1/2" x viscera deep, (iv) Sharp cut injury over left temporal region 3" x 1/2" x bone deep, (v) Sharp cut injury over mandibular region 2 in number each measuring 3" x 1/2" x bone deep, (vi) Sharp cut injury over left maxilla below the nose measuring 3" x 1/2" x bone deep, (vii) Sharp cut injury over outer surface of left arm measuring

3" x 1/2" x bone deep, (viii) Sharp cut injury over anterior surface of left wrist measuring 3" x 1/2" x bone deep.

Internal Injuries:

(i) Frontal bone fractured and adjacent meninges and brain matter injured.

(ii) Temporal bone on left side fractured.

(iii) Mandible on left side fractured.

(iv) Maxillary bone fractured on left side.

(v) Left humorous fractured at middle.

(vi)Both radio ulna bone fractured near wrist joint.

10. The doctor has further found following injuries over the dead body of the deceased, namely, Sudhir Dang:

External Injuries:

(1) Both eyes were closed, (ii) Mouth closed & tongue inside, (iii) Sharp cut injury over Zygomatic region measuring 3" x 1/2" x bone deep, (iv) Sharp cut injury over upper part of neck just below the left ear measuring 3" x 1/2" x bone deep, (v) Sharp cut injury just behind left ear measuring 3" x 1/2" x bone deep, (vi) Sharp cut injury over left side of upper half of leg measuring 3" x 1/2" x bone deep, (vii) Sharp cut injury over left side of occipital region measuring 3”x ½” bone deep,(viii) sharp cut injury over outer surface of right wrist measuring 3”x ½” x skin deep.

Internal Injuries:

(i) Large vessel of the neck on left side cut separated.

(ii) Zygomatic bone fractured.

(iii) Left parietal bone fractured.

(iv) Left occipital bone fractured.

(v) C-3 & 4 fractured.

(vi) Meninges and brain matter contused & edematous.

The doctor has opined that the cause of death is cardio respiratory arrest due to severe external haemorrhage and neurogenic shock. The weapon used was heavy and sharp cutting.

Both the post-mortem reports were proved and marked as Exts. 9/1 and 9 respectively.

11. Admittedly, as per the prosecution case FIR is against unknown. There is no eye-witness to the occurrence. The only material is statement of the father and mother of the appellant before PW-2 to the effect that it is their son (appellant) who has committed murder of the deceased.

12. PW-2, Habil Bhengra deposed that he got information about the occurrence. On the next day morning mother and father of the appellant came to his house and informed him that the appellant had committed murder of the deceased thereupon he called Mukhiya. The parents of the appellant also confessed before the Mukhiya that their son had committed murder of the deceased.

13. PW-3 Labenan Bhengra also stated that the father and mother of the appellant came and stated that it is the appellant who committed murder of the deceased.

14. PW-8 Vishwanath Singh, S.I. who on the instruction of the officer-in-charge Bano Police Station has produced and proved the materials sent for FSL examination, deposed that the said materials did not contain signature of any police officer or any witness. The said FSL report has been proved and marked as Ext.1.

15. PW-4 Hermon Surin deposed that though he did not see the occurrence taking place but before the police the appellant has confessed his guilt before co-villagers but he did not know the motive of the occurrence.

16. Surprisingly, the prosecution has not examined father and mother of the appellant before whom the alleged confession was made initially. Even the Mukhiya of the village has also not been produced as a witness. Thus, it is not a case where the appellant has been made accused on the basis of any extra-judicial confession. If at all there is any extra-judicial confession, the person before whom the said confession was made must be produced and examined by the prosecution.

17. The entire case established on the circumstantial evidence and weak extra-judicial confession.

18. The Hon'ble Supreme Court in the case of ***Ramu Appa Mahapatar v. State of Maharashtra, (2025)3 SCC 565*** in paragraph no. 25 held as under:

> *"25. This court acknowledged that extra-judicial confession is a weak piece of evidence. Wherever the court intends to base a conviction on a extra judicial confession, it must ensure that the same inspires confidence and is corroborated by other prosecution evidence. If the extra-judicial confession suffers from material discrepancies or inherent improbabilities and does not appear to be cogent, such evidence should not be considered. This Court held as follows: (Sahadevan case [Ramu Appa Mahapatar v. State of Maharashtra, 2010 SCC OnLine Bom 1839].SCC p.410, para 14 which is as under.*
>
> > *"14. It is a settled principle of criminal jurisprudence that extra-judicial confession is a weak piece of evidence. Wherever the court, upon due appreciation of the entire prosecution evidence, intends to base a conviction on an extra-judicial confession, it must ensure that the same inspires confidence and is corroborated by other prosecution evidence. If, however, the extra-judicial confession suffers from material discrepancies or inherent improbabilities and does not appear to be cogent as per the prosecution version, it may be difficult for the court to base a conviction on such a confession. In such circumstances, the court would be fully justified in ruling such evidenced out of consideration."*

19. In the facts and circumstances of the case the conviction of the appellant under sections 449 & 302 of the Indian Penal Code vide judgment dated 12.09.2017 and the order of sentence of rigorous imprisonment for ten years with fine of Rs.5,000/-under section 449 of the Indian Penal Code and further life imprisonment with fine of Rs. 10,000/- under section 302 of the Indian Penal Code dated 18.09.2017 passed by the learned Additional Sessions Judge, Simdega

in Sessions Trial No.129 of 2015 are set-aside.

20. The instant Criminal Appeal is **allowed**.

21. The Court directs the above-named appellant to be released forthwith from custody, if not required in any other case

22. Pending Interlocutory Application(s), if any, stand disposed of.

23. Let a copy of this judgment along with Trial Court Records be sent back to the concerned court below.

(Ananda Sen, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court
Dated: 4th November, 2026
KNR/Uploaded On:6.11.2026