

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No. 1086 of 2003

[Against the Judgment of conviction dated 08.07.2003 and Order of sentence dated 09.07.2003 passed by learned Additional Judicial Commissioner, Fast Track Court No. VI, Ranchi in Sessions Trial No. 498 of 1995]

Raju Lakra, Son of Sri Bishu Lakra, resident of Village –
 Kusai Ghaghra, P.S. – Doranda, District - Ranchi.

... .. **Appellant**

Versus

The State of Jharkhand **Respondent**

.....

For the Appellant : Mrs. Supriya Dayal, Advocate.

For the Respondent : Mr. Shiv Shankar Kumar, A.P.P.

.....

P R E S E N T

HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V. on 06.01.2026

Pronounced on 28.01.2026

Per Pradeep Kumar Srivastava, J.

1. At the very outset, it is to be mentioned that three accused persons have been convicted in this case, out of whom, appellant no. 1 Koncha Oraon has died during pendency of this appeal and appeal on his behalf has been abated vide order dated 19.08.2025. So far convict Mannu Kachap, who has preferred another appeal i.e. Cr. Appeal (DB) No. 1179 of 2003 is concerned, his appeal has been abated vide order dated 06.10.2025 as he has also died during pendency of appeal.
2. Heard Mrs. Supriya Dayal, learned counsel for the sole surviving appellant as well as Mr. Shiv Shankar

Kumar, learned A.P.P. for the State.

3. The instant appeal is directed against the judgment of conviction dated 08.07.2003 and order of sentence dated 09.07.2003 passed by learned Additional Judicial Commissioner, Fast Track Court, Ranchi in Sessions Trial No. 498 of 1995, whereby and whereunder, the present appellant along with two others have been held guilty and convicted for the offence under Section 302/34 & 201/34 of the I.P.C. and sentenced to undergo rigorous imprisonment for life each for the offence under Section 302/34 of the I.P.C. and rigorous imprisonment for 5 years each for the offences under Section 201/34 of the I.P.C. Both the sentences were directed to run concurrently.

FACTUAL MATRIX

4. The factual matrix giving rise to this appeal is that on 15.05.1995 in the night informant, Sanjay Kachap along with his sisters Geeta Kachap and Reeta Kachap, Kuldeep Oraon and Sushil Oraon (deceased) went to fetch Manda Mela in his village. In the said Mela, Koncha, Raju Lakra and Mannu Kachhap were singing and dancing. It is further alleged that Sushil Oraon was sitting beside Geeta, sister of the informant and on seeing this, the accused persons at about 2:45 A.M. asked Sushil to accompany them and took away Sushil Oraon with them. It is alleged that

at about 6:00 A.M. when informant along with his sisters Geeta and Reeta and Kuldeep were returning to their home then they found accused persons coming towards the Bahiyar, then they asked about Sushil Oraon. The accused persons did not tell about the Sushil Oraon, but said that they should go to their own house and thereafter, they would come to know about Sushil. It is further alleged that after considerable lapse of time when Sushil did not return either to the informant or to his own sister's house, then informant along with Kuldeep searched him and reached in Bahiyar of the Village situated towards north east and found shoes of deceased near the well of Koka Oraon and when they saw into well, a dead body was floating. The dead body of the deceased was brought out which was of Sushil Oraon, who had sustained injuries on cheeks, nose and head. The police also approached the place of occurrence, where fardbeyan of the informant Sanjay Kachhap (P.W.-3) was recorded. It is also alleged that there was love affairs between Geeta Kachhap and Raju Lakra and Raju Lakra always used to say about marriage with her and seeing Sushil Oraon with his sister Geeta on 15.05.1995, the plan of murder of Sushil was hatched.

5. On the basis of above fardbeyan, Doranda P.S. Case

No. 132/1995 was registered for the offence under Sections 302 / 201 / 34 of the I.P.C. against three accused persons. After conclusion of investigation, charge sheet was submitted for the aforesaid offences. The learned Judicial Magistrate, after taking cognizance committed the case to the court of Sessions, where S.T. No. 498/1995 was registered and trial proceeded against the accused persons.

6. The trial court after scrutinizing the evidence of prosecution and defence arrived at conclusion of guilt of the accused persons and sentenced them as stated above.
7. Learned counsel for the appellant submits that the appellant has been falsely implicated in this case only on the basis of concocted story of last seen and no proximity of time between taking of the deceased and his murder has been proved by the prosecution. There is no iota of evidence showing that the appellant, Raju Lakra, was present on the spot and he met with the deceased at any point of time on the date of occurrence or later on. The learned trial court has miserably failed to properly appreciate the prosecution evidence and the circumstances relied upon by the prosecution don't suggest any interference about guilt of the appellant for commission of murder of the deceased. No motive

behind the occurrence has been brought on record. Prosecution has also failed to prove any existence of inimical terms between the appellant, Raju Lakra and deceased Sushil Oraon or any acquaintance with each other. The learned trial court has miserably failed to record any finding as to how and under what circumstances, it was inferred that the appellant along with other co-convict has acted in concerted manner and in prosecution of common intention assaulted the deceased and disposed of the dead body into well. The whole approach of the learned trial court is based upon conjecture and surmises and blind reliance upon the contents of FIR without going it to be substantiated by any evidence oral or documentary. The Investigating Officer of this case has not been examined. Therefore, the impugned judgment and order of conviction and sentence of the appellant is absolutely illegal, beyond weight of evidence, hypothetical and not sustainable under law, which is fit to be set aside, allowing this appeal.

- 8.** On the other hand, learned A.P.P. appearing for the State has contended that the appellant along with other co-convicts have called upon the deceased with them from the Village Mela at 2:45 A.M. and while they were returning after killing and disposing of the dead body, they met with informant, who asked about

the deceased, but they pretended and told that in the morning everything will be revealed and also threatened against searching of the deceased. Later on, in the course of search, the dead body of the deceased was found into well near Bahiyar of Village. Therefore, there is close proximity of time between taking of the deceased by the appellant along with other co-convict and killing and disposing of the dead body. The appellant has failed to offer any explanation as to what happened with the deceased while he was with them and under his custody. Therefore, the learned trial court has rightly recorded the finding of guilt of the appellant along with other co-convicts. There is no illegality or infirmity in the impugned judgment and order, calling for any interference, by way of this appeal, which is fit to be dismissed.

- 9.** The only point for determination in this appeal is that as to “whether the impugned judgment and order of conviction and sentence of appellant suffers from any error of law, calling for any interference in this appeal or not?”
- 10.** Before imparting verdict on above point, we have to take brief resume of the prosecution evidence adduced in this case.
- 11.** It appears that altogether 04 witnesses have been examined by the prosecution. Apart from oral

testimony of witnesses, following documentary evidence has been adduced:-

Exhibit-1 : Signature of informant on Fardbeyan.

Exhibit-1/1 : Signature of Kuldeep Oraon on Fardbeyan.

Exhibit-2 : Post-mortem report of the deceased.

12. P.W.-1 Sohrai Oraon has simply stated that on 17.05.1995 at about 6:00 P.M., police was present in the village and dead body of the deceased Sushil Oraon was recovered from the well of Koka Oraon. He has put his thumb impression over the Inquest Report prepared by police and stated nothing else about the factual aspects of the case.

13. P.W.-2 Rupni Kachhap has been tendered by the prosecution. She admits that the deceased Sushil Oraon was her brother and on 14.05.1995, her brother had come to her house at Village Bara Ghaghra. She has stated nothing else.

14. P.W.-4 is Dr. Saroj Kumar, who has conducted autopsy on the dead body of the deceased Sushil Oraon, Son of Godla Oraon of Village – Kokar Tunki Tola, aged about 22 years, District – Ranchi and found following injuries:

A) Incised wounds :-

- (i) 10 x 3 cm x bone deep over left cheek and adjoining nose situated obliquely cutting the underlying bone.
- (ii) 9 x 2 cm x bone deep over right fronto parietal region of head situated antero posteriorly cutting the underlying bone and brain matter.
- (iii) 9.1/2 x 2 cm x bone deep over right fronto parietal region of head situated 4 cm left to proceedings injury cutting the bone and brain matter.
- (iv) 5 x 1 cm x bone deep over right frontal region of head cutting the underlying bone completely.
- (v) 7 x 2 cm x bone deep right cheek lower part cutting the right side of mandibular bone completely.
- (vi) 8 x 2 cm x bone deep over right lateral neck situated transversally cutting the soft tissue blood vessels and 5th cervical vertebrae partially.
- (vii) 5 x 2 cm x 3 cm over front part of neck lower part cutting the trachea.

Opinion

Above noted injuries were ante mortem caused by heavy sharp cutting weapon, may be by sharp edge of Kudal. Death was due to shock and hemorrhage caused by the above injuries. Injuries were sufficient to cause death in ordinary course. Time elapsed since death was between 18 to 48 hours from the time of post mortem examination.

The post mortem report of the deceased is marked as Exhibit-2.

- 15.** The star witness of the prosecution in this case is the **P.W.-3 Sanjay Kachhap**, who is the informant of this case. According to his evidence, on 15.05.1995 at about 10:00 P.M., he along with Kuldeep Oraon, Geeta Kachhap, Reeta Kachhap and Sushil Oraon went to Kusai Maidan for fetching Manda Mela. They were sitting together and seeing the dance performed by Kocha, Mannu and Raju (accused persons). He has further deposed that at about 3 A.M., Koncha, Mannu and Raju came towards the informant, where he was sitting along with Kuldeep, Geeta, Reeta and Sushil and they have taken away Sushil with them. This witness along with Geeta, Reeta and Kuldeep was returning from the aforesaid Mela at about 6:00 A.M., then he saw the accused persons Koncha, Mannu and Raju were returning from the side of Bahiyar of

Village. Upon interrogation by this witness as to where they have left Sushil, then accused persons told that you have to go to your own house and later on whereabouts of Sushil will be known. He has further deposed that when Sushil neither come to house of this witness and nor went to house of his sister Rupni Kachhap (P.W.-2), then they started searching him, but no trace was found. In the course of search, this witness along with others went towards Bahiyar, then saw a shoe near the well of Koka Oraon, then they peeped into the well and saw dead body of Sushil was floating. He has further deposed that when he was searching to Sushil then accused persons Koncha, Mannu and Raju met him and threatened to drop the search of Sushil, otherwise the result would be same like that of the Sushil. He has further deposed that in the evening at about 5:00 P.M., the police approached at Baraghagra and dead body of Sushil was brought out from the well, then he saw injuries on his forehead, cheeks and neck. His fardbeyan was recorded by police, which was signed by him and witness Kuldeep Oraon. Signature has been proved as Exhibit-1 and Exhibit-1/1 respectively.

In his cross-examination, this witness admits that his fardbeyan was recorded in the Village – Bara

Ghagra. Thereafter, he went to the place of occurrence, where dead body was brought out from the well. He clearly admits that from his house at Bara Ghaghra that Bahiyar is situated at a distance of 1 Km. He further states that the deceased also proceeded with them to see the Mela under information to his sister (P.W.-2) and brother-in-law. At first, shoes of the deceased were seized, thereafter the dead body was brought out from the well.

In his cross-examination on behalf of accused Raju Lakra (present appellant), he specifically states that prior to the date of occurrence, he was not acquainted with Raju Lakra and he was acquainted with deceased Sushil Oraon about two months ago. He also admits that P.W.-2 Rupni Oraon is own sister of deceased Sushil Lakra and Sushil frequently used to come at the house of his sister. This witness further admits that on the date of occurrence in the evening at about 6:00 P.M. Sushil had come to his village, but he met with him at about 7:00 P.M. in Manda Mela. Thereafter, he along with Sushil came to his own house then also accused persons met them in the way and he also talked with them and proceeded to his home. He further admits that when at his own home, he was sitting along with Sushil in the meantime, Raju Lakra also approached there along

with two others and they take dinner. Thereafter, Raju and two unknown boys went away. Thereafter sister of Sushil also came to his house to call her brother to stay at her home, but he did not go there. He also admits that it was a rainy season on the date of occurrence and in the night at about 10 P.M., he along with Geeta, Reeta, Kuldeep and Sushil went to Manda Mela, but at that time, it was not raining. He further admits that when Sushil was present in his house, he was seen by local villagers namely Sunil, Anil and Mangal, father of this witness and brother-in-law of Sushil namely, Raushan. He further admits that Geeta and Reeta are his sisters and there was no love affair between Geeta and Sushil. This witness has given further contradictory statement by admitting that he was acquainted with Raju Lakra (present appellant) prior to occurrence and they were under good relationship. Further admission of this witness gives serious jolt to his entire evidence, wherein he states that he met with accused persons in Manda Mela at 12:00 hours in night. Thereafter, accused persons did not meet with him.

- 16.** We have given thoughtful consideration to the testimony of sole eye witness of this case, who happens to be informant Sanjay Kachhap (P.W.-3). It is admitted position that Sunil, Anil, Mangal,

Raushan, Geeta and Reeta, who were all along present together and even at the time of alleged occurrence, the presence of Geeta and Reeta as alleged by P.W.-3, but none of them were examined to corroborate his testimony. In the FIR itself Sanjay Kachhap (P.W.-3) has stated that about 2:45 P.M. the accused persons approached to the place where informant along with Sushil, Reeta, Geeta and others were sitting and took away Sushil with them, but in his deposition, during trial, he clearly admits that at about 12 hours in night, the accused persons met with him at Manda Mela, thereafter, they did not meet with this witness. Therefore, under such circumstances, the claim of informant Sanjay Kachhap (P.W.-3) that the accused persons took away the deceased at 2:45 P.M. cannot be believed at all. Moreover, P.W.-3 at one place states that he was not acquainted with appellant Raju prior to the occurrence and at subsequent stage of his cross-examination admits that when he was sitting with family members along with his sisters Reeta and Geeta, accused Raju Lakra also came to his house, who was acquainted with him and they have cordial relationship with each other. Therefore, the whole story interwoven by the informant suffers from inherent improbability and cannot be relied upon. The

theory of last seen is also not proved by the P.W.-3 or any other witness. The conduct of informant shown throughout the lodgment of the case and prior to thereof itself indicative of suspicious conduct of the informant himself. Therefore, the story projected by the informant is productive of some ill-will of his own with the deceased. Therefore, the true picture of the offence and real state of affairs have not been brought on record. There is no iota of evidence showing any motive of the appellant to commit murder of the deceased. There is also no evidence that at the relevant time of performance of dancing and music any altercation took place between the appellant and the deceased for any reason whatsoever. It is also not brought on record that the deceased was acquainted with the accused persons and due to friendship or any other reason, he went with them.

In the aforesaid circumstances, we are unable to accept the theory of last seen as propounded by the prosecution only on the basis of sole testimony of P.W.-3, who himself appears to be a doubtful witness and not reliable at all.

- 17.** In view of the aforesaid discussions and reasons, we are of the definite view that the learned trial court has committed serious error of law in relying upon the testimony of P.W.-3, who happens to be a star witness

of prosecution and whose testimony suffers from material contradictions, infirmities and inherent improbabilities. Therefore, we are constrained to set aside the impugned judgment and order of conviction and sentence of the appellant and acquit him from the charges levelled against him.

18. Accordingly, the impugned judgment of conviction and order of sentence of the appellant is hereby set aside.

19. This appeal is **allowed**.

20. The appellant is on bail. He is discharged from the liability of bail bond and sureties shall also discharged.

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

22. Let a copy of this judgment along with trial court record be sent back to the court concerned for information and needful.

(Rongon Mukhopadhyay, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated, the 28th January, 2026.

Sunil / **N.A.F.R.**

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