

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J.) No. 359 of 2019

(Against the judgment of conviction dated 06.02.2019 and order of sentence dated 13.02.2019 passed in S.T. No. 254 of 2013 arising out of Nagaruntari P.S. Case No. 95 of 2012 corresponding to G.R. Case No. 96 of 2012 by the learned Additional Sessions Judge-III, Garhwa)

Antu Rajwar age about 45 years son of Kail Rajwar, resident of Village Patagarakhurd P.O. Kochia, P.S. Nagaruntari District- Garhwa

--- --- **Appellant**

Versus

The State of Jharkhand

--- --- **Respondent**

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For the Appellant : Dr. Hasnain Waris, Advocate
Ms. Reshma Kumari, Advocate
For the State : Mr. Abhay Kr. Tiwari, A.P.P.

PRESENT
HON'BLE MR. JUSTICE RAJESH KUMAR

J U D G M E N T

By Court

1. Heard learned counsel for the appellant and learned A.P.P. representing the State.
2. The present appeal has been preferred against the judgment of conviction dated 06.02.2019 and order of sentence dated 13.02.2019 passed in S.T. No. 254 of 2013 arising out of Nagaruntari P.S. Case No. 95 of 2012 corresponding to G.R. Case No. 96 of 2012 by the learned Additional Sessions Judge-III, Garhwa, whereby the appellant has been convicted for the offence punishable under Section 307 of the IPC and has been sentenced to undergo R.I. for 5 years with a fine of Rs. 10,000/- and a default sentence of S.I. for 1 years.
3. The criminal law has been put into motion on lodging an F.I.R being Nagaruntari P.S. Case No. 95 of 2012 by the informant namely Naresh Raut before the Officer-In-charge, Nagaruntari Police Station on 19.05.2012.

The brief story as per the prosecution is that the informant is a munshi -clerk of a contractor. On 18.05.2012 at about 7.00 evening when he was making payment to labourers and two staffs- Saryu Yadav and Sanjay Yadav were watering the 'biri' leaves, the present accused namely Antu Arjwar, his wife Dulari Devi and two unknown person came there and demanded rangdari. On protest, accused Antu Rajwar snatched the money. Upon hue and cry, Saryu and Sanjay came for his rescue. Accused Antu Rajwar brought out one 'Garasha' from his house and assaulted Saryu Yadav and Sanjay Yadav at their head causing severe bleeding injury. Upon further hue and cry, the accused persons started fleeing away. Nearby residents snatched the 'Garasha' from the hand of the accused- Antu Rajwar.

4. On the basis of the written report, case was registered as Nagaruntari P.S. Case No. 95 of 2012 for the offence punishable under Section 341, 323,324, 379 and 34 of the IPC against the accused Antu Rajwar and his wife Dulari Devi and two unknown persons.

5. On the basis of investigation, the Police has submitted the chargesheet against the appellant, however, his wife and other two persons were found innocent.

6. Accordingly, charge under Sections 307 of the IPC was framed by the trial court, which was explained to the appellant to which he pleaded not guilty and claimed to be tried.

7. To substantiate the prosecution story altogether ten prosecution witnesses have been examined. Their brief statements are as follows:

- I. **P.W.1(Sanjay Yadav)** – He is one of the injured and an eye witness to the incident. He has stated that three persons including him were present at the place of occurrence i.e., the informant- Naresh Raut, another injured P.W.3- Saryu Yadav and he himself. He has supported the prosecution story. He has denied the allegation that false case has been lodged against the appellant as there is already a case against

him lodged by the appellant.

- II. **P.W.2(Ayodhya Yadav)** – He is not an eye witness to the incident rather he is a hearsay witness.
- III. **P.W.3(Saryu Yadav)** – He is another eye witness. Although he has deposed that at the place of occurrence, he along with the informant and co-victim were there but in his cross examination, he has stated that at the time of occurrence, payment was being made to the labourers and there could be 50 persons present. He has admitted that the ‘garasha’ was snatched by him and it was given to the Police by him only. Thus, this witness has contradicted the statement made by P.W.1 regarding the number of person present at the place of occurrence.
- IV. **P.W.4(Ashok Raut)** – He is a hearsay witness. In his cross examination, he has denied the allegation that the informant party had molested the wife of the appellant and as such, false case has been lodged against the appellant to put pressure on him.
- V. **P.W.5(Bhagat Ram)**- He is a hearsay witness. In his cross examination, he has denied the allegation that the informant party had molested the wife of the appellant and as such, false case has been lodged against the appellant to put pressure on him.
- VI. **P.W.6 (Sitaram Rajwar)**- He is also a hearsay witness.
- VII. **P.W.7 (Naresh Raut)** – He is the Informant of the case and as per P.W.1 he was present at the place of occurrence. But he has denied his presence rather he has stated that he was 500 yards away from the place of occurrence. He has further admitted that it was payment day and so many persons were present at the place of occurrence and there is a case by the wife of the appellant against him and P.W.1 and P.W.3.

VIII. **P.W.8(Satyanarayan Yadav)** – Although, his presence has not been stated by P.W.1 but he was not at the place of occurrence and he reached there on hearing hulla. He has also admitted about the case lodged by the wife of the appellant against the informant party. He has also claimed that ‘garasha’ was handed over by him to the Police.

There are so many claimants who have stated that they had handed over the ‘garasha’ to the police.

IX. **P.W.9(Gopal Yadav)** – He is a hear say witness.

X. **P.W.10 (Dr. Dinesh Kumar)** – He has examined the injured Sarju Yadav and Sanjay Yadav. As per him the injuries are simple in nature and that too lacerated. Further, the time of injury was 4 hours while time of examination has not been disclosed. In cross examination he has admitted that no grievous injury was found as there was no bone fracture.

8. The prosecution has also adduced some documentary evidence as under:

- I. **Exhibit -1-** Written complaint proved by P.W.7.
- II. **Exhibit-1/1-** Signature of P.W.8 over the same
- III. **Exhibit-2** -Signature of P.W.8 over the seizure list
- IV. **Exhibit-3-** Injury report of the victim Sanjay Yadav proved by the Doctor (P.W.10)
- V. **Exhibit-3/1** -Injury report of Saryu Yadav proved by the doctor (P.W.10).

9. After conducting full-fledged trial, the learned Trial Court has convicted and sentenced the appellant as aforesaid.

10. Learned counsel for the appellant has submitted that the learned Trial Court has not appreciated the evidences on record in right perspective. The testimonies of the prosecution witnesses are full of doubt and are not reliable. There is a contradiction in the statement of so-called eye witness i.e., P.W.1, P.W.3 and P.W.7. Learned Trial Court

failed to take into consideration that a counter case has already been lodged by the wife of the appellant for molestation against P.W.1, P.W.3 and P.W.7.

11. Learned counsel for the State has supported the judgment of conviction passed by the learned Trial Court and has submitted that there are enough materials on record to prove the prosecution case.

12. Heard learned counsel for the parties, After perusal of the record, it appears that depositions of witnesses are full of contradiction, which is evident from the following facts:

- a) As per P.W.1 there were three persons present at the place of occurrence but rest of the witnesses have stated that it was payment day and 40-50 persons were there.
- b) The prosecution witnesses have claimed that they had snatched the 'garasha' from the accused and handed it over to the Police and the Investigating Officer has not been examined.
- c) Whether the 'garasha' was the weapon of crime or not, there is no forensic examination report to that effect.
- d) All the witnesses have admitted that there is a case against the informant party i.e., P.W.1, P.W.3 and P.W.7 for molesting the wife of the appellant.
- e) Even as per the witnesses, there were so many person present at the place of occurrence but none have claimed to be the eye witness.

13. Thus, the entire evidences are full of contradiction and are not reliable at all.

14. In that view of the matter, the judgment of conviction dated 06.02.2019 and order of sentence dated 13.02.2019 passed in S.T. No. 254 of 2013 arising out of Nagaruntari P.S. Case No. 95 of 2012 corresponding to G.R. Case No. 96 of 2012 by the learned Additional Sessions Judge-III, Garhwa is quashed and set aside.

15. Consequently, the present appeal is allowed.

16. Appellant is already on bail; hence he is discharged from the liability of the bail bond.

17. Let the Trial Court Record be sent back to the learned Trial Court.

(Rajesh Kumar, J.)

A. Mohanty
Jharkhand High Court
Dated 6th May, 2026

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