

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (D.B.) No. 261 of 2003

[Against the judgment of conviction and order of sentence dated 30.01.2003 & 31.01.2003, respectively passed by learned 5th Additional Sessions Judge, Fast Track Court No.2, Godda in Sessions Case No.41 of 2002]

1. Ganesh Singh, son of Late Ramchela Singh
2. Birendra Singh
3. Budul Singh

Both sons of Shri Ganesh Singh and all resident of village-Surni, P.S.-
Meharma, District-Godda

... .. **Appellants**

Versus

The State of Jharkhand

... .. **Respondent**

P R E S E N T

HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants : Mr. A. K. Kashyap, Sr. Advocate

For the State : Mr. Pankaj Kumar Mishra, A.P.P.

JUDGEMENT

C.A.V. on 13.04.2026

Pronounced on 06/05/2026

Per- Pradeep Kumar Srivastava, J:

1. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 30.01.2003 and 31.01.2003 respectively, passed by learned 5th Additional Sessions Judge, Fast Track Court No.2, Godda, in Sessions Case No.41 of 2002, whereby and whereunder the appellants have been held guilty for the offence under Sections 302 read with Section 34 of the I.P.C. and sentenced to undergo rigorous imprisonment for life along with fine of Rs.1,000/- each with default stipulation.

Factual Matrix:-

2. Factual matrix giving rise to this appeal as per *fardbeyan* of Siyawati Devi is that on 20.02.1998 at about 06:00 P.M., one Sunita Devi daughter of Ganesh Singh came to her house and called her husband for *Panchayati* held at her house. The reason for convening *Panchayat* was that a watch of informant's son Santosh Kumar was traceless since 4-5 days and suspicion was against son of Sunita Devi. It is alleged that informant's husband went along with Sunita Devi to attend *Panchayat* where Ganesh Singh, Birendra Singh and Budul Singh brutally assaulted her husband due to which he became unconscious then around 07:00 P.M., the accused persons Birendra Singh, Budul Singh and Pappu Singh lifting her husband brought to her house and left in her drawing room. The informant's husband complained about the assault given by the accused persons and was under apprehension of his death. He also asked water and after taking water her husband died in the night.

On the basis of above *fardbeyan*, F.I.R. was registered for the offence under Sections 302/34 against above named accused persons. After completion of investigation charge-sheet was submitted and the case was committed to the Court of Sessions. The appellants did not plead guilty and claimed to be tried.

3. In the course of trial, altogether 10 witnesses were examined by prosecution apart from documentary evidence.
4. The case of defence is denial from occurrence and false implication due to previous dispute, however, no oral or documentary evidence has been adduced by defence.

Submissions on behalf of appellants: -

5. Assailing the impugned judgment, Mr. A. K. Kashyap, learned senior counsel for the appellants has vehemently argued that there is no eye-witness of the occurrence and no one has claimed that the deceased went to the house of appellants for attending a *Panchayat*. Although, **P.W.-1 Amrendra Prasad Singh**, who happens to be brother-in-law of deceased, has stated that he returned from the market along with deceased after purchasing onion seeds, he also went to the house of accused persons along with Sunita Devi but due to threatening extended by accused persons, he returned back. He has also stated that a *Panchayat* was convened. It is very surprising that not a single witness who attended the *Panchayat* has been examined by prosecution. It is further submitted that the claim of prosecution is that the deceased was brutally assaulted by appellants and thereafter, left at his house and in the night he died but no external injury was found on the person of deceased rather two injuries were on back side caused by hard blunt substance which have been opined by the doctor not sufficient to cause death of the deceased rather they were simple in nature. Therefore, the whole prosecution story as depicted in the F.I.R. becomes false and the prosecution has miserably failed to prove the cause of death of the deceased.
6. The viscera of the deceased were also preserved but no report was submitted till the completion of trial. Therefore, the appellants are absolutely innocent and have been falsely implicated in this case merely on the basis of suspicion after death of the deceased in his own house. As such, impugned judgment and order of conviction and

sentence of the appellants suffers from serious error of law which is fit to be set aside allowing this appeal.

Submissions on behalf of State: -

7. On the other hand, learned A.P.P. opposing the aforesaid contentions has submitted that there is clear cut evidence of the ocular witnesses that deceased was called upon from his home to the house of accused persons by Sunita Devi, daughter of Ganesh Singh. This fact is not rebutted by the defence. Thereafter, informant's husband was brought to his home in injured condition, who told to his wife that he has been assaulted by accused persons and he has lost his hope to remain in this world and succumbed to injuries inflicted upon him. Therefore, prosecution has proved the guilt of accused persons beyond all reasonable doubt and learned Trial Court has committed no illegality in awarding sentence life imprisonment against the appellants. This appeal has no merits and fit to be dismissed.
8. The only point of determination is that **“as to whether the impugned judgment of conviction and sentence suffers from any serious error of law calling for any interference in this appeal?”**

Analysis, reasons and decision

9. We have perused the case record along with impugned judgment in the light of contentions raised on behalf of both side. We have also given anxious consideration towards the ocular testimony of witnesses available on record.
10. It appears that altogether 10 witnesses were examined by the prosecution but none of them have seen the occurrence nor have claimed that the deceased was left at his house by the appellants in

injured condition except the wife of deceased examined as (P.W.-8). She testified that her husband was called upon by Sunita Devi to attend *Panchayat* as there was dispute about stolen watch. She has further stated that all the accused persons after assaulting her husband left at her house. Her husband told that he has been brutally assaulted and there is faint chance of his life, this witness started weeping and also served water to her husband but he died.

In her cross-examination, she stated that her husband and Nandosi Amrendra Singh (P.W.-1), returned at 04:00 P.M. Her husband used to consume liquor, but on that day he was not under intoxication. She also admits that she had not gone to the place of *Panchayat*, **she can't tell who assaulted her husband.** She also admits that **her Nandosi Amrendra Singh was not present in the drawing room and she can't tell where he was at the time of occurrence.** She has denied the suggestion of defence that her husband died due to some ailment and not by assaulting and he might have fell down under intoxication. She has falsely implicated the accused persons on suspicion.

P.W.1-Amrendra Prasad Singh is the brother-in-law of deceased, who has also stated that he returned from the market after purchasing onion seeds along with deceased. Thereafter, Sunita Devi called upon the deceased to attend the *Panchayat* at her home. He also went there but due to threatening given by accused persons, he returned from there. He further stated that Anirudh Singh (deceased) was left at his house in drawing room. Thereafter, he saw him several injuries but blood was not oozing from the injuries.

P.W.-2-Tej Narayan Singh has been declared hostile by the prosecution. He has simply stated that he heard some *hulla* in the evening and thereafter he came to know from villagers that some scuffle has taken place between Ganesh Singh and Anirudh Singh, he has stated nothing else. Similarly, P.W.-3-Kirty Narayan Singh, P.W.-4-Sharda Prasad Singh, P.W.-5-Dilip Kumar Singh, P.W.-6-Saryu Prasad Singh, P.W.-7-Dipak Kumar Singh have also not supported the prosecution story rather simply stated that they heard about death of Anirudh Singh in his house, **no cause of death has been stated by above witnesses.**

P.W.-9-Dr. Gadadhar Prasad Pandey has conducted autopsy on the dead body of the deceased and found following ante-mortem injuries:-

1. Bruise 4" X 1" left side of back
2. Bruise 5" X 1" on back right side

On dissection :-

1. Skull-Brain Normal
 2. Neck-Normal
 3. Chest lungs normal
 4. Heart blood present on both sides
 5. Abdomen, liver normal
 6. Spleen normal
 7. Kidneys normal
 8. Stomach contains semi digested food
 10. Intestine distended with gas and fecal matter
- Bladders contains urine about 2 ounces

Time since death within 24 hours.

Cause of Death-No definite opinion can be given however viscera preserved for examination.

He has proved the post-mortem report as Exhibit-1. This witness specifically admits that **above injuries can be caused by fall on the ground and the injuries sustained by the deceased cannot be sufficient to cause death.**

P.W.10- S.I., Sanjay Kumar Singh is the Investigation Officer of the case. According to this witness, on 21.02.1998, on the basis of rumour he along with other police personnel went to Village Surthi and reached there at about 09:30-09:45 P.M. where he recorded *fardbeyan* of Siyawati Devi, whose husband had died. He also prepared inquest report of the deceased and assumed the charge of investigation. He sent the dead body for post mortem examination at Sadar Hospital, Godda. Inspected the place of occurrence and after returning to police station, formal F.I.R. was registered which is marked as Exhibit-2 in the handwriting of S.N. Tewari and marked as Exhibit-2/1.

According to this witness, the first place of occurrence of this case was the house of the accused Ganesh Singh where nothing incriminating was found. The second place of occurrence was the house and drawing room of deceased Birju Singh. The drawing room was made of bricks but roofed with mud tiles. The dead body of the deceased was found in the drawing room. He recorded the statement of witnesses and after finding sufficient evidence, he has submitted charge-sheet against the accused persons.

11. We have given anxious consideration to the oral testimony of witnesses. Admittedly, there is no eye-witnesses of occurrence of assaulting the deceased by the appellants. There is simple evidence that deceased was called upon by the daughter of appellant Ganesh Singh thereafter, he was left under injured condition to his drawing room. In this connection, P.W.-1 who happens to be the brother-in-law of deceased, has given a dubious statement, at the first instance he says that he also went to the house of accused persons but was threatened and returned.

On the other hand, P.W.-8, the wife of deceased admits that at the time when her husband was left in the drawing room, Amrendra Prasad Singh, (P.W.-1) was not there. It is also apparent that P.W.-1 has not seen the occurrence of assault given to the deceased. The most serious circumstance in the whole prosecution case is that mere two abrasions were found on the back side of the deceased and there were no other internal or external injuries over the body.

12. P.W.-9, **Dr. Gadadhar Prasad Pandey** specifically opined that above injuries could not be sufficient to cause death, therefore, the claim of prosecution that the deceased died due to assault given by the appellants becomes completely falsified. The doctor has attributed no other reason or definite opinion showing cause of death of the deceased rather viscera was preserved which could not be brought on record.
13. In the above mentioned circumstances as brought on record by the ocular testimony of witnesses, we arrive at definite conclusion that although some assault might have been given to the deceased by the

appellants but that was not the cause of his death. Moreover, the prosecution has not definitely proved that even the above injuries were caused by appellants. Therefore, whole prosecution story is shrouded with doubt only on account of dispute about theft of wrist watch of informant's son. We are, therefore, constrained to hold that the learned Trial Court has miserably failed to properly appreciate the evidence, as such committed serious error of law regarding the findings of guilt of the appellants. Accordingly, impugned judgment and order of conviction and sentence of the appellants is hereby set aside and this appeal is **allowed**.

14. The appellants are on bail; they are discharged from the liabilities of bail bonds and their sureties are also discharged.
15. Pending I.A., if any, stands disposed of.
16. Let a copy of this judgment along with the Trial Court record be sent back to the concerned court for information and needful.

(RONGON MUKHOPADHYAY, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

Jharkhand High Court

Dated 06/05/2026

Arpit/ N. A. F. R.

Uploaded on 06/05/2026