

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No. 1170 of 2003

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[Against the Judgment of conviction dated 17.07.2003 and order of sentence dated 19.07.2003, passed by learned Additional Sessions Judge, Fast Track Court No. III, Chatra, in S.T. Case No.40 of 2002]

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Anil Kumar Chaudhary son of Bigan Chaudhary residents of village Karudih, Police Station – Pratapur, District – Chatra.

.... **Appellant**

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 Appellant : Mr. A.K. Chaturvedi, Adv.
For the State : Mr. Saket Kumar, A.P.P.

.....

JUDGMENT

C.A.V. on 19.03.2026

Pronounced on 07.05.2026

Per Pradeep Kumar Srivastava, J.

1. We have already heard Mr. A.K. Chaturvedi, learned counsel for the appellant and Mr. Saket Kumar, learned A.P.P. appearing for the State.
2. Instant criminal appeal has been preferred by the above named sole appellant challenging the judgment of conviction dated 17.07.2003 and order of sentence dated 19.07.2003 passed by learned Additional Sessions Judge, Fast Track Court No.III,

Chatra in S.T. Case No.40 of 2002, whereby and whereunder the appellant has been found guilty for the offences under Sections 302/201 of the Indian Penal Code and sentenced to undergo imprisonment for life for the offence under Section 302 of the I.P.C. along with fine of Rs. 5,000/- with default stipulation and further sentenced to undergo R.I. for three years for the offence under Section 201 of the I.P.C. Both the sentences were directed to run concurrently.

FACTUAL MATRIX

3. Factual matrix giving rise to this appeal is that the informant's son Ratan Prajapati (since deceased) was married with one Munia Devi daughter of Shaligram Prajapati of Village Pratapur about four years ago. It is alleged that due to pregnancy, informant's daughter-in-law was residing at her parental home since seven months. It is further alleged that informant's son Ratan Prajapati frequently used to go to his sasural for looking after his wife. It is alleged that on 03.02.2001, Ratan had gone to his sasural and returned on 06.02.2001 again in the evening Ratan proceeded to his sasural. It is further alleged that on 07.02.2001, when informant Lakhan Prajapati (P.W.10) also went to Village Pratapur at the in-laws house of his son then he came to know that his son had not reached at his sasural. Thereafter, informant along with other relatives started searching his son, in that course on

13.02.2001, informant's co-villager Moien informed that one dead body is lying in a well. Thereafter, informant and others went to the place of occurrence and found dead body.

Police arrived at the place of occurrence, recorded the fardbeyan of the informant, accordingly Pratapur P.S. Case No. 07 of 2001 dated 13.02.2001 was registered for the offences under Sections 302/201 of the I.P.C. against unknown miscreants. The case was committed to the Court of Sessions where S.T. Case No.40 of 2002 was registered.

4. After completion of investigation, charge-sheet was submitted against present appellant Anil Kumar Chaudhary along with Santosh Kumar Chaudhary for the aforesaid offences.
5. The trial proceeded against both the charge-sheeted accused persons. After conclusion of trial, co-accused Santosh Kumar was extended the benefit of doubt and acquitted. The learned Trial Court found circumstantial evidence showing involvement of the present appellant in commission of alleged offence of murder and sentenced him as stated above.
6. Mr. A.K. Chaturvedi, learned counsel for the appellant has vehemently argued that admittedly, there is no eye witness of the occurrence. The prosecution has also failed to prove any motive behind the occurrence in connection with the appellant. The learned Trial Court has committed serious error of law in

accepting the evidence of the Investigating Officer S.I. Mahesh Singh (P.W.11). According to Investigating Officer, the appellant was running a shop of tadi liquor in hutment at Village Karudih. The shop of the appellant was burnt by someone and a pasuli with burnt handle was recovered from the shop which was used for cutting the tadi for preparation of liquor. Except the aforesaid recovery of pasuli which was never sent to F.S.L. for chemical examination to connect with commission of any offence by this pasuli, there is no incriminating material against appellant. Similarly, the Investigating Officer has also recovered a bicycle, allegedly belonged to deceased, from another well and connected the same with confessional statement of present appellant and also collected some dried blood near the well which was also not sent for chemical examination to F.S.L. It is further argued that the extorted confession of the appellant only on the basis of suspicion as admitted by the P.W.11 in his evidence and without collecting any further link evidence to connect the alleged recovery with commission of offence, cannot be relied upon and made basis for conviction. It is further argued that the informant and his family members as well as the in-laws of the deceased family have expressed no suspicion against the appellant rather it was sole suspicion raised by the Investigating Officer which never culminated into legal proof. The learned Trial Court without

considering the above vital infirmities appearing in the evidence of Investigating Officer (P.W.11) has recorded the findings of guilt of the appellant on irrelevant incriminating circumstances alleged to be collected during investigation against the appellant. The learned Trial Court has further failed to appreciate that on the basis of same evidence another co-accused Santosh Kumar Chaudhary has been acquitted extending the benefit of doubt, the appellant could not be convicted on the basis of same circumstantial evidence. The alleged recovery of gamcha of the appellant found wrapped in the neck of deceased was also not proved to belong to the appellant. Therefore, conviction and sentence of the appellant is absolutely illegal and beyond the weight of evidence available on record which is fit to be set aside by allowing this appeal.

7. On the other hand, Mr. Saket Kumar, learned A.P.P. for the State controverting the aforesaid contentions raised on behalf of the appellant, has submitted that the learned Trial Court has very wisely and aptly evaluated the circumstantial evidence available on record. The bicycle of the deceased could not be discovered/recovered without the disclosure statement of present appellant. In the course of investigation, it was revealed that the deceased was habitual drinker of tadi and used to take liquor at the shop of the accused appellant which was situated near the village Pratapur in

the way to parental home of deceased's wife. The recovery of pasuli and gamcha on the basis of confessional statement of appellant and the Postmortem Report of the deceased which shows that his neck was cut by sharp cut weapon and which was wrapped with gamcha of the present appellant, proves beyond doubt the involvement of appellant in the alleged offence of murder. Clinching circumstantial evidence are available against the appellant. Therefore, mere absence of motive does not absolve the appellant from liability. As such, there is no illegality or infirmity in the impugned judgment of conviction and sentence of the appellant calling for any interference in this appeal which is devoid of merits and fit to be dismissed.

8. We have gone through the record of the case along with the impugned judgment in the light of contentions raised on behalf of both side.
9. The only point for determination in this appeal is that as to whether impugned judgment of conviction and sentence of appellant suffers from any error of law or not ?
10. Before imparting our verdict on above point, we have to appraise with oral and documentary evidence adduced before the Trial Court.
11. It appears that altogether 11 witnesses were examined by the prosecution including the Investigating Officer.

Apart from oral testimony of witnesses following documentary evidence has been adduced :-

- Exhibit 1 : Postmortem Report of deceased
- Exhibit 2 : Formal F.I.R.
- Exhibit P3 : Signature of Moien Mian on carbon copy of Inquest Report
- Exhibit P4 : Threatening letter of accused.
- Exhibit P5 : Seizure list of Pasuli
- Exhibit P6 : Seizure list of cycle
- Exhibit P7 : Fardbeyan
- Exhibit P8 : Confessional statement of appellant
- Material Exhibit 1 : Seized pasuli
- Material Exhibit 2 : Cycle of deceased

12. The case of defence is denial from occurrence and false implication. However, one documentary evidence Exhibit D/1 cycle receipt is produced.

P.W.1 Dilip Chaudhary has been declared hostile by the prosecution.

P.W.3 Basant Chaudhary has been declared hostile by the prosecution and has expressed no knowledge about the occurrence. His attention has been drawn towards the statement recorded under Section 161 Cr.P.C. which he denied, wherein it was stated that on the date of occurrence in the evening at about

06:30 p.m. Ratan (deceased) came to his tadi shop and drink tadi. He has also stated that there were some dues against the deceased then he paid Rs.100/- to this witness and after deducting Rs.35/-, he returned Rs.65/- to him thereafter deceased went from his shop. Next day morning, he also saw that Anil Chaudhary (present appellant) was going to his house very rapidly by cycle.

P.W.4 Suresh Yadav is Advocate Clerk and formal witness who has proved the formal F.I.R. (Ext.2) in the handwriting of the then A.S.I. Mahesh Singh of Pratapur Police Station.

P.W.5 Pradeep Kumar Sao has also expressed no knowledge about the occurrence rather he has stated that the deceased was habitual drinker and about one year ago, he was seen under intoxication and falling from his cycle. He has stated nothing else.

P.W.8 Krishna Prajapati has proved his signature A and B on seizure list as Ext.P5 dated 15.02.2001. According to him, a pasuli was recovered at the instance of accused Anil Kumar Chaudhary from the well. On the same day, one cycle was also produced and production-cum-seizure list was prepared as Ext.P6 and he has proved his signature as C and D, the cycle was recovered from the well.

In his cross-examination, he admits that pasuli and cycle was recovered simultaneously. At the time of seizure, he was in the

market adjacent to the Police Station where he was called upon by the police and told that pasuli and cycle have been seized at the police station itself, he was shown the cycle and pasuli and signed over the seizure list. He also admits that he has never gone to the tadi shop of the accused Anil Kumar Chaudhary. Seized pasuli and cycle has not been produced before the Court.

P.W.9 Harihar Prajapati is another witness of seizure list but he has given a different story about the place of seizure. According to this witness pasuli was recovered from the hut and cycle was recovered from half kilometer away from the well. Both pasuli and cycle were recovered on disclosure by villagers and Anil Chaudhary (accused) to Police. He has proved his signature on the seizure list Ext.P5 as Exts. C and D and on Ext.P6 as Exts. E and F. He further admits that he does not know the owner of the hut from where pasuli and cycle were recovered. He also admits that prior to his signature on seizure list, one Krishna Prajapati also signed whereafter his statement was not recorded by any police officer.

P.W.2 Dr. Shyam Nandan Singh has conducted autopsy on the dead body of the deceased Ratan Prajapati on 13.02.2001 at about 03:45 p.m. produced and identified by Choukidar 1/5 Ramchandra Paswan, Choukidar 3/7 Rameshwar Gope and

Indradeo Prajapati (father-in-law of the deceased) and found following :-

- (i) **Neck** – Incised wound on the mid of neck 15 cm in length, 3 cm width deep upto trachea involving it, red in colour from mid line to posterior-lateral region was seen.
- (ii) Below No.(i) - another incised wound 10 cm x 3 cm deep to trachea and involving it, red in colour. On exploration skin, subcutaneous tissue, muscles, great vessels and trachea was involved.
- (iii) There was abrasion on forehead 7 cm x 5 cm red in colour.
- (iv) There was abrasion on anterior chest wall linear 17 cm x 1 cm.
- (v) Chest – Lungs mild congested, a part preserved heart empty.
- (vi) Heart – empty, a part preserved
- (vii) Abdomen, stomach contain small amount of liquid preserved.
- (viii) Intestine-preserved.
- (ix) Liver, spleen, kidney were mildly congested and preserved.

Time since death about 39 hours. Cause of death is opined to be shock and asphyxia caused by above mentioned

ante-mortem wound and drowning. However, viscerae have been preserved. He has proved the Postmortem Report marked as Ext.1.

P.W.6 Moien Mian as per F.I.R., this witness for the first time informed to informant about death of deceased. **According to this witness, Ratan returned from his sasural at about 12 p.m. on Tuesday and on the same day again, he took Rs.100/- from his father and went to his sasural. On the same day, i.e., Tuesday, this witness came to know that Ratan has been killed and his dead body has been thrown in the well.** He also came to know that the neck of the deceased was slit and after slitting the neck, he was thrown into well. Upon this information, this witness informed to police and also to the father of deceased who came at the place of occurrence. Thereafter, inquest report of the deceased was prepared upon which he has put his signature as Exts.A and B and the inquest report is marked as Ext.3. He simply states that he knows the accused Anil Kumar Chaudhary because he sells tadi liquor. This witness has also produced a letter wherein the accused had threatened to deceased but this witness warned him not to do such type of act.

In his cross-examination, this witness further admits that the well from which the dead body was found is situated at a distance of 1 km from his Village Pratapur. He went to Village Mahkampur

to inform the father of the deceased in the morning at about 06:00 a.m. He came to know about the incident from Indradeo Prajapati who is Chachera Sasur of the deceased. The well from which the dead body was brought out belongs to one Baijnath Sao mukhiya ji. He also claims that dead body was brought out from the well by him. He also admits that Ratan Prajapati (deceased) was not in inimical terms with anyone. He further admits that the letter which is produced by him Ext.4 was written by accused threatening to this witness but he could not identify his signature. He also admits that the accused is in jail custody. This witness was examined on 12.09.2002, the incident is of 6/7.2.2001 but this letter (Ext.4) was received in writing to him about 15 days ago. He further explains that this letter was given to him by Ratan of Pratapur Village. This letter is produced in the Court for the first time. He further admits that copy of this letter was given at police station also.

P.W.7 Munia Devi is the wife of the deceased. According to her evidence, on Saturday, her husband came to visit her at Village Pratapur and stayed about 3 days, thereafter, on Tuesday, her husband went to his home saying that he will return but he did not come again. On the next day morning, her father-in-law (P.W.10) asked about her husband then she disclosed that he has not reached here. Thereafter, search of her husband was made by all

relatives and after 8 days, dead body of her husband was found in a well in Village Shivpur at a distance of 2 km from Pratapur. She along with other family members went at the place of occurrence, dead body was brought out and she identified her husband. The neck was slit but some part was joined with the body. Therefore, she was suspecting that since her husband was habitual drinker, he might have taken liquor from the shop of Anil Chaudhary who has murdered him. She also found that a gamcha was wrapped on the neck of the deceased which belonged to accused Anil Chaudhary.

In her cross-examination, she states that the well belongs to mukhiya ji which is surrounded by the field of mukhiya ji from all side. She came to know about the dead body lying in well from Moien Mian (P.W.6) but name was not disclosed after 8 days of occurrence. She also admits that in her statement before police, she has not stated that the neck of the deceased was wrapped with gamcha which belong to Anil Chaudhary. She has also not disclosed that Anil Chaudhary has killed her husband. She was not acquainted with Anil Chaudhary (appellant) prior to occurrence.

P.W.10 Lakhan Prajapati is the informant-cum-father of the deceased. Admittedly, he is not eye witness of the occurrence but came to know from Moien Mian (P.W.6) that dead body of his son lying in well. He has further deposed that on Tuesday, his son

returned from his sasural and took Rs.100/- from him and again went to his sasural because his wife was pregnant at advanced stage. His son did not reach to his sasural then he went to Village Pratapur at the sasural of his son on the next day and also started searching his son. On sixth day, Moien Mian came to his house and told that his son has been died and dead body is lying in well at Village Shivpur. This witness was also brought by Moien Mian to the well where he saw dead body of his son. Police also approached to the place of occurrence and his fardbeyan was recorded. He also noticed that a gamcha was wrapped on the neck of the deceased which was removed then it was found that throat was cut. He has further deposed that his son was habitual drunker of tadi liquor and in greed of money, Anil Chaudhary has murdered him. Police Officer also called upon Anil Chaudhary then he confessed his guilt in presence of Krishna Prajapati and Moien Mian and said that he has murdered the deceased. The accused also disclosed that he has cut the throat by pasuli which was recovered from his hut and he also stated that the cycle of the deceased is in the well. Pasuli and cycle was seized by police.

In his cross-examination, he admits that no missing report of his son was lodged at Police Station. **Moien Mian told him that he has informed to police about the incident who brought out the dead body from the well.** He cannot tell who brought out the

dead body from the well. He further admits that in his fardbeyan, he has told before police that an unknown person has killed his son and disposed of the dead body into well. He has not stated before police that gamcha was belonging to accused rather the same was put in a polythene and kept on a tree by the police. He was also not acquainted with accused Anil Chaudhary prior to occurrence. He also admits that the cycle of the deceased was given to him by his father-in-law at the time of marriage. **He further admits that cycle was not recovered from the well in his presence.** He has levelled accusation of murder against the accused Anil Chaudhary only on the basis of guess mark.

P.W.11 A.S.I. Mahesh Singh is the Investigating Officer of this case. He has proved the fardbeyan of informant recorded by him on 13.02.2001 as Ext.P7. He has further proved the Ext.2 the formal F.I.R. and inquest report of the deceased as Ext.P3 prepared by him in carbon copy in the same process. He bears the signatures of witnesses Moien Mian and thumb impression of L.T.I. of Ramvriksh Singh. He assumed the charge of investigation of this case himself. He has further proved the seizure list Ext.P5 on 15.02.2001 at about 12:30 p.m. about the recovery of a shining pasuli burnt wooden handle. The copy of seizure list was given to the accused. Above seized materials were recovered on the basis of confessional statement of accused Anil

Chaudhary. This witness has further deposed that the second seizure list Ext.P6 was prepared on 15.02.2001 at about 14:15 p.m. The said cycle was recovered from the well of Janardan Prasad of Village Pratapur situated at a distance of half kilometer from Village Shivpur. This cycle was Hero Jet and Fram No. J958862. This cycle was also recovered on the basis of confessional statement of accused Anil Chaudhary. He has further deposed that in the course of investigation, he interrogated with witnesses Munia Devi, Pradeep Kumar Sao, Dilip Chaudhary, Moien Mian, Basant Chaudhary etc. He also inspected the place of occurrence. He has disclosed three places of occurrence of this case : First place of occurrence is situated at a distance of half kilometer west from Pratapur Kakheri Tola which is the pakka well belonging to Baijnath Sao, Mukhiya. He also noticed dried blood stains near the boundary of well. The dead body of the deceased was brought out from this well.

The second place of occurrence is situated at a distance of half kilometer from Pratapur Kakheri Tola which is vacant land belonging to one Basant Ram of Village Pratapur upon which the accused Anil Chaudhary constructed a hut and running tadi liquor shop which was found burned remaining ashes. Some bamboo remains were present there. At a distance of 10 yards from this shop, the accused Anil Chaudhary has constructed a new hut from

which on the basis of disclosure statement of accused Anil Chaudhary, pasuli was seized with burnt wooden handle. He also seized burnt bamboo. From this place, the well of Baijnath Sao, mukhiya was situated at a distance of 400 yards.

The third place of occurrence is situated at a distance of half kilometer from village Shivpur, in the well of Janardan Prasad of Village Pratapur from which cycle of deceased was recovered on the basis of disclosure statement of accused Anil Chaudhary. He also received the Postmortem Report of the deceased. After completion of investigation, he submitted charge-sheet against accused Anil Kumar Chaudhary and Santosh Kumar Chaudhary for the offence under Sections 302/201 read with Section 34 of the I.P.C. He has further produced the seized pasuli marked as Material Ext.1 which was recovered from the hutment shop of accused Anil Chaudhary. Material Ext.2 is the cycle which was recovered from the well of Janardan Prasad on disclosure statement of accused Anil Chaudhary. He has also recorded confessional statement of accused Anil Chaudhary which is proved as Ext.P8 bearing his own signature and the signature of accused. On the basis of this confessional statement, recovery was effected.

In his cross-examination, this witness admits that the fardbeyan of informant was recorded at the first place of

occurrence on 13.02.2001 at about 09:30 a.m. and from that very time he started making entry in case diary. He further admits that on 15.02.2001, he arrested both the accused persons Anil Kumar Chaudhary and Santosh Kumar Chaudhary on the basis of suspicion because hut of Basant Chaudhary (P.W.3) was burnt while he had gone to bring tadi from forest, when he reached near his hutment shop, he saw Anil Chaudhary was running fast by his cycle. He also received some secret information. He further claims that he went to the first place of occurrence after coming to know about the presence of dead body in the well through rumour. He also made S.D. Entry No.181 dated 13.02.2001 and proceeded for verification of the above information and necessary action along with armed forces. He has expressed his no knowledge about any information of occurrence given at place of occurrence by Lakhan Prajapati and Moien Mian, later reiterates that he proceeded from police station through rumour message.

Attention of this witness has been drawn towards the statement of Moien Mian (P.W.6) recorded under Section 161 Cr.P.C. wherein he has not stated before him that “Ratan took Rs.100/- from his home and again sent to his sasural and on the same day (Tuesday) he came to know that Ratan has been murdered and his dead body has been thrown into well and this message was informed by him to police and father of deceased.”

P.W.7 Munia Devi has not stated before him expressing her suspicion in causing murder of her husband upon any person.

The receipt of cycle was produced by Lakhan Prajapati (P.W.10) but he has not prepared the seizure list of that receipt. He further states that the receipt of cycle was bearing Frame No. 19588624/97 which was purchased by father-in-law of the deceased on 15.04.1998 from Bindal Cycle Store but he has not verified the above purchase from the Bindal Shop Store. The receipt of cycle was produced by accused and marked as Ext.D1 with signature. It was suggested by defence that the purchase receipt of cycle bears the date 15.04.1990 instead of 15.04.1998 as relied by prosecution. He has also denied the suggestion of defence that he has manipulated the confessional statement of accused Anil Chaudhary as well as the alleged recovery of pasuli, cycle and burnt remains of shop of accused which was prepared at police station in connivance with witnesses.

13. On the other hand, the case of defence is denial from occurrence and plea of innocence and false implication. However, no oral or documentary evidence has been adduced by defence.
14. We have given thoughtful consideration to the overall facts and circumstances revealed by the witnesses, it is quite evident that there are no eye witnesses of the occurrence and entire prosecution case hinges upon circumstantial evidence, which also

appears to be scanty and the link of chain are not so strengthened with each other leading towards conclusion of guilt of the appellant. The main circumstances stoutly relied upon by the prosecution are as under :-

- (i) The F.I.R. was lodged after seven days of occurrence.
- (ii) Cycle of the deceased was recovered from well on disclosure of the appellant.
- (iii) A pasuli with burnt handle was also recovered from the liquor shop of the appellant.
- (iv) A gamcha of the appellant was found wrapped over the neck of the deceased.
- (v) The deceased was addicted of consuming country made liquor (tadi) and the appellant had a shop of tadi near the place of occurrence.
- (vi) The dead body of deceased was found in the well situated near the tadi shop of the appellant at a distance of 400 yards.
- (vii) The shop of appellant and Basant Chaudhary (P.W.3) were burnt in absence of Basant while he had gone to collect tadi from forest and when he was returning, he saw present appellant was speedily going by his bicycle.
- (viii) Since the accused Anil Chaudhary had tadi shop, hence, he was involved in this case on the basis of suspicion.

- 15.** We have examined the evidence of witnesses very cautiously and with close scrutinization, keeping in view the fact that the prosecution hinges on circumstantial evidence alone, the entire spectrum of prosecution story may be summarized as under :-

The occurrence is of 06.02.2001, when the deceased proceeded from his house at about 05:00 p.m. to go to his sasural but he did not reach there. It is also admitted by informant that in the morning on 07.02.2001, he went to sasural of his son and came to know that his son has not reached there, then he started searching about his son. He did not lodge any F.I.R. regarding missing of his son rather on 13.02.2001 in the morning Moien Mian (P.W.6) came to his home and told that the dead body of his son is lying in a well, then he along with Moien Mian went to the well and identified the dead body of his son. Thereafter, police arrived at the place of occurrence, where fardbeyan of the informant Lakhan Prajapati (P.W.10) was recorded by A.S.I. Mahesh Singh (P.W.11).

- 16.** P.W.6 Moien Mian appears to be star witness in this case, who has at the earliest time informed about the occurrence to the father of deceased. A very surprising fact has been disclosed by this witness that on the same day, i.e., 06.02.2001 (Tuesday), this witness came to know that Ratan has been killed and his dead body has been thrown into the well. He also came to know that neck of the

deceased was slitted and body was thrown into well. This witness has not only informed about the occurrence to father of deceased but also to police. Here it is quite surprising that this witness was knowing about the dead body was lying in the well since 06.02.2001, why he did not disclose this fact either to informant or to police. Wife of the deceased Munia Devi (P.W.7) has also admitted that she came to know about the dead body of her husband lying into well from Moien Mian (P.W.6) but he did not disclose the name of any persons. The well from where dead body was found belongs to Mukhiya Ji and surrounding the well there is land of Mukhiya Ji. It is also clearly stated by P.W.6 Moien Mian that he came to know about the incident from Inderadeo Prajapati who is chachera sasur of the deceased who has not been examined in this case. P.W.6 was so much instrumental that he also produced a letter marked as (Ext.4) during his evidence purported to be written by the appellant threatening to him but this witness forbade him and warned from doing such type of work. This letter was not believed by the learned Trial Court due to non-identification of signature of accused. The dead body was brought out from the well of Baijnath Sao, Mukhiya Ji. He himself brought out the dead body from the well. He also admits that the letter was received by him about 15 days ago from the date of his

deposition, i.e., 12.09.2002 and given by the deceased Ratan Prajapati himself.

17. It is also admitted fact that the F.I.R. was registered against unknown miscreants but during the course of investigation present appellant along with co-accused Santosh Chaudhary were apprehended only on the basis of suspicion that accused appellant run tadi shop nearby the place of occurrence. As regards seizure list witnesses, it appears that P.W.8 Krishna Prajapati has claimed that a shining pasuli with burnt handle was recovered at the instance of accused Anil Kumar Chaudhary from the well and one cycle was produced and production-cum-seizure list was prepared. According to him Pasuli and cycle both were recovered simultaneously.

Another seizure list witness Harihar Prajapati (P.W.9) says that pasuli was recovered from the hut and cycle was recovered from the well. He also categorically states that both pasuli and cycle were recovered on disclosure by villagers and Anil Chaudhary (accused to police).

At this juncture, it is relevant to discuss the evidence of A.S.I. Mahesh Singh (P.W.11), who is Investigating Officer of the case. This witness belies the claim of P.W.6 Moien Mian that he informed to police about the existence of dead body into well rather he got knowledge through rumour and went to place of

occurrence for verification of the information. He has categorically denied any information given by Lakhan Prajapati (informant) or Moien Mian prior to his arrival at the place of occurrence. According to Investigating Officer, the shining pasuli with burnt handle was seized from the hut shop of accused Anil Kumar Chaudhary. The cycle allegedly belonged to deceased, was recovered from the well of Janardan Prasad at a distance of half kilometer western side from village Shivpur bearing Frame No. J958862 of black colour.

18. On the other hand, the witnesses of seizure list as discussed above states that the cycle of the deceased was recovered from the well of Janardan Prasad which was produced and it was production-cum-seizure list. The informant Lakhan Prajapati (P.W.10) also states that cycle was not recovered from the well in his presence.
19. In view of above discrepancies appearing in the evidence of Investigating Officer, witnesses of seizure list and the place of recovery of seized materials, it cannot be said to be co-related with any disclosure statement of the appellant before police leading to discovery rather these seized materials are outcome of ordinary search and seizure. Therefore, cannot be relevant under Section 27 of the Evidence Act.
20. Another interesting feature of this case lies in the evidence of P.W.3 Basant Chaudhary, although he has been declared hostile on

the point of incriminating facts within his knowledge, but he clearly stated in his statement under Section 161 of the Cr.P.C. which is also fortified by P.W.11 A.S.I. Mahesh Singh (Investigating Officer) that: *"on the date of occurrence, in the evening at about 06:30 p.m. Ratan (deceased) came to his tadi shop and consumed tadi. There were some dues against the deceased who paid Rs.100/- and after deducting Rs.35/-, this witness returned Rs.65/- to him, thereafter, deceased went from his shop. Next day morning, he also saw that Anil Chaudhary (present appellant) was going to his house very rapidly by cycle."* The above facts reveal that the deceased had not consumed tadi liquor on the relevant date and time of occurrence from the shop of present appellant nor there were any dues against the deceased of this appellant.

21. The alleged seized pasuli was not found with blood stained rather it was shining at the time of recovery from the shop of present appellant and has not been sent to F.S.L. for chemical examination regarding presence of blood to connect the same with commission of murder. The gamcha allegedly wrapped on the neck of deceased, was also not seized and produced.
22. From the aforesaid discussion of evidence, it appears that overall prosecution story has been cooked up by Moien Mian P.W.6 for whatsoever reason and there are no sufficient incriminating

circumstances against the appellant to connect him with the alleged offence of murder. It appears that the learned Trial Court has committed manifest error of law while relying upon testimony of witnesses of facts and acted upon the incriminating circumstances without any basis and without any link to complete the chain of circumstances leading conclusion towards the guilt of the appellant.

23. In view of above discussion and reasons, we find merit in this appeal and substance in the arguments raised on behalf of the appellant. Accordingly, this **appeal is allowed**. Impugned judgment and order of conviction and sentence of the appellant is hereby set aside. The appellant is acquitted from the charges levelled against him and set at liberty with all prestige and honour.
24. The appellant is on bail, he is discharged from liability of bail bond and sureties are also discharged.
25. Pending I.A., if any, stands disposed of.
26. Let a copy of this judgment along with Trial Court record be sent to concerned Trial Court for information and needful.

(Rongon Mukhopadhyay, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated: 07/05/2026
Sachin / **NAFR**
Uploaded on: 08/05/2026