IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Appeal (DB) No.1871 of 2004

[Against the judgment of conviction and order of sentence dated 09.08.2004, passed by learned Additional Sessions Judge-Simdega in Sessions Trial No.113 of 2001]

Sakhi Ram Dhobi .... …. Appellant

Versus

The State of Jharkhand .... Respondent

For the Appellant : Mr. Sunil Kumar Mahato, Amicus Curiae.

For the State : Mr. Tarun Kumar, A.P.P.

PRESENT

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

JUDGMENT

C.A.V. On:-10th December, 2025 **Pronounced on:-23/12/2025**

Per:- Pradeep Kumar Srivastava, J.

1. Instant criminal appeal is directed against the judgment and order of conviction and sentence of appellant dated 09.08.2004, passed by learned Additional Sessions Judge-Simdega in Sessions Trial No.113 of 2001, whereby the whereunder, the appellant has been held guilty for the offences under Sections 302, 201 read with Section 34 of the I.P.C. and sentenced to undergo R.I. for life. Further co-accused, the main conspirator (Tetri Devi) was extended benefit of doubt and acquitted from the charges.

2. It is to be mentioned at the very outset that this appeal was registered on the basis of Prisoner's Petition received through Jail Superintendent, Birsa Munda Central Jail, Ranchi dated 13.10.2004.

2. We have already heard Mr. Sunil Kumar Mahato, learned amicus curiae for the appellant as well as Mr. Tarun Kumar, Additional Public Prosecutor appearing for the State and perused the record.

Factual Matrix

4. Factual matrix giving rise to this appeal is that since 05.09.2001 informant's brother Paras Ram was traceless from the house. The informant Narayan Ram made hectic search of his brother for two days in the village and other relatives, but no clue was found. It is further alleged that one-day co-villager Sakhi Ram Dhobi (present appellant) with the help of other villagers was interrogated because there was rumor in the village that said Sakhi Ram Dhobi had illicit relationship with the wife (Tetri Devi) of the Paras Ram (missing) for the last four years. It is alleged that in order to enjoy their illicit relationship freely and without hindrance wife (Tetri Devi) induced her husband to go for fishing in the field, where the appellant (Sakhi Ram Dhobi) met with Paras Ram in the night of 05.09.2001 and killed him by assaulting through spade and buried the dead body in the earth. It is further alleged that Sakhi Ram Dhobi (present appellant) also told about the place where the dead body was buried.

Thereafter, information was given to the police in writing by the informant. Accordingly, T. Tangar P.S. Case No. 25 of 2001 was registered for the offences under Section 302/201/120B of the I.P.C. dated 17.09.2002.

5. After submission of charge-sheet against the present appellant and wife (Tetri Devi) of the deceased, the case was committed to the court of Sessions and trial commenced.

6. In order to prove the charges against the appellant, the prosecution has examined 12 witnesses and apart from oral testimony of witnesses following documentary evidences were also adduced:-

Exhibit-1:- Signature of informant Narayan Ram on fardbeyan.

Exhibit-1/1 & 1/3:- Signature of witnesses Sitaram Prasad, Shiv Charan Ram and Lal Chand Ram on the fardebyan, respectively.

Exhibit-2:- Inquest Report.

Exhibit-3:- Fardbeyan.

Exhibit-3/1:- Endorsement on Fardbeyan.

Exhibit-4:- Confessional Statement.

Exhibit-5:- Seizure list of spade

Exhibit-5/1:- Signature on seizure list.

Exhibit-5/2:- Signature on seizure list.

Exhibit-6:- Seizure list of stick of the deceased.

Exhibit-6/1:- Signature of witness on the seizure list of stick of the deceased.

Exhibit-6/2:- Signature of witness on the seizure list of stick of the deceased.

Exhibit-7:- Formal F.I.R.

Exhibit-7/1:- Signature on F.I.R.

Exhibit-8:- P.M. Report.

7. On the other hand the case of defence is denial from the occurrence and false implication. However, no oral or documentary evidence has been adduced by the defence.

8. The learned trial court after evaluation of evidence available on record has recorded findings of guilt of the appellant for the offence under Section 302, 201 I.P.C. read with Section 34 of the I.P.C.

9. The learned amicus curiae assailing the impugned judgment and order of conviction and sentence has submitted that the motive behind the occurrence is the theory of illicit relationship with the wife of deceased and the present appellant. No other motive of any kind has been attributed against the appellant for commission of murder of the deceased. The learned trial court has acquitted the co-accused (Tetri Devi) extending benefit of doubt, therefore, no motive or reason remains against the appellant for committing the alleged offence, even then the appellant has been held guilty with the aid of Section 34 of the I.P.C. It is further submitted that no witnesses of facts have claims to have seen the deceased and appellant together while fishing or at any point of time during the occurrence or any ill motive, quarrel or any other reasons whatsoever to commit the murder of the deceased. The informant and villagers have inimical terms with the appellant and after recovery of dead body from the field have manipulated a false story regarding extra-judicial

confession of the appellant that he has killed the deceased and dead body was recovered on his disclosure. Such type of statement has no evidentiary value in the eye of law. It is further submitted that spade allegedly used in the commission of murder of the deceased was seized. The spade was never sent to F.S.L., Ranchi for serological examination regarding presence of blood etc. The spade is a common agricultural utensil which is bound to found in the house of every villager. Therefore, the circumstances brought on record by the prosecution have no tendency to conclusively prove the guilt of the appellant. Therefore, impugned judgment of conviction and sentence of the appellant suffers from serious error of law which is liable to be set aside and the appellant deserves acquittal from the charges levelled against him.

10. On the other hand, learned Additional Public Prosecutor has opposed the contentions raised on behalf of appellant and submitted that prosecution has successfully proved that the appellant had taken away the deceased with him in the night on 05.09.2001 in pretext of fishing as categorically stated by P.W.4 (Son of the deceased). The appellant himself voluntarily confessed before villagers about illicit relationship with (Tetri Devi) and has also given extra-judicial confession before P.W.7 and P.W.9 that he has killed the deceased by spade and buried the dead body in the field. Accordingly, dead body was recovered and spade was also seized from the house of the appellant and stick of the deceased was also recovered from the place of occurrence. The post mortem report of

the deceased also corroborates the manner of assault to the deceased as disclosed by the appellant. Therefore, learned trial court has committed no error of law in convicting and sentencing the appellant for the offence of the murder of the deceased. There is no valid reason to interfere with the impugned judgment. Therefore, this appeal is devoid of merits and fit to be dismissed.

11. We have given thoughtful consideration to the rival contentions raised on behalf of the respective parties and perused the impugned judgment and order along with trial court record.

12. The only point for determination in this appeal is that "as to whether the impugned judgment and order of conviction and sentence of the appellants suffers any error of law calling for any interference by way of this appeal?"

13. Before imparting our verdict on the above point, we have to apprise with the evidence adduced in this case.

14. It appears that altogether 12 witnesses were examined by the prosecution to substantiate the charges leveled against the appellant.

P.W.1 Narayan Ram is the informant-cum-brother of the deceased. According to this witness after 11 to 12 days from missing of the deceased, his son Nilamber Ram (P.W.4) told that in the night,

Sakhi Ram Dhobi called upon his father (Paras Ram) and went together for fishing. Thereafter, Paras Ram did not return to home. Thereafter, this witness along with other villagers had interrogated forcibly with Sakhi Ram Dhobi near the Kinkel Nala, then Sakhi Ram Dhobi disclosed that he has killed and buried the deceased near the Nala and in presence of several villagers identified the place where he had buried the deceased. The dead body was brought out. Thereafter, this witness along with Shiv Charan and Sita Ram Prasad went to police station. The police arrived at the place of occurrence and his statement was recorded in presence of several villagers which has been marked as Exhibit-1, 1/2 and 1/3.

In his cross-examination this witness has failed to disclose any illicit relationship between the appellant and the wife of the deceased rather he admits that there was some land dispute in between this witness and the appellant.

P.W.3 Lalchand Ram is the brother of Tetri Devi and maternal uncle of Nilamber Ram. This witness also came to know about missing of his brother-in-law (Paras Ram) from his Bhagina (Nilamber Ram) after 10 to 12 days of missing. His Bhagina

(Nilamber Ram) has disclosed that in the night, Sakhi Ram Dhobi called upon his father. Thereafter, his father did not return and he also admits that on the basis of suspicion villagers interrogated with the appellant, who disclosed about the commission of murder of the deceased and also buried the dead body in the Nala. He has further deposed that in presence of the appellant, the dead body was recovered. Therefore, this witness is also a hearsay witness and having no personal knowledge of the incident. He has also not disclosed about any illicit relationship between his sister (Tetri Devi) and the appellant.

P.W.3 Sitaram Prasad: is a witness of inquest report of dead body of the deceased and proved his signature as Exhibit-2. According to him, there was rumor in the village about the illicit relationship between the appellant and the wife of the deceased, which was being protested by the deceased, who was handicapped. He has also stated about confession made by accused before him that he had gone for fishing along with the deceased where he killed the deceased by spade and buried the dead body. There is nothing else in the cross-examination.

P.W.4 Nilamber Ram is the son of the deceased aged about 11 years on the date of occurrence. He has stated that about 11-12 days prior to murder of his father, present appellant came to his house, called upon his father and went together for fishing.

In cross-examination this witness categorically admits that he has stated before the court as tutored by his elder father (informant).

P.W.5 Devant Kumar is daughter of the deceased aged about 25 years. Admittedly, she was not present at house on the date of occurrence but claimed to have seen the deceased with the appellant. She has further stated that on the date of occurrence her younger brother Nilamber Ram (P.W.4) was sleeping with her father and she was sleeping with her mother in another room. She also claims that when her father was missing, then she met with present appellant on the next day morning and asked about her father, but he made no reply. Later on, dead body of her father was found buried in the field.

P.W.6 Shivcharan Ram has stated about extra-judicial confession of the appellant that he has killed the deceased and buried the

dead body in the field and the dead body was recovered from the field identified by him.

In his cross-examination, he admits that the dead body was recovered after information given to police, but no such confessional statement of accused has been recorded by the investigating officer (P.W.8) leading to recovery of the dead body of the deceased.

P.W.7 Mathura Ram has also stated that on the basis of suspicion, Sakhi Ram Dhobi was interrogated by the villagers, then he disclosed about the commission of murder and concealing of the dead body of the deceased, but in his cross-examination he categorically admits that he was not present at the time of interrogation with the accused by villagers.

P.W. 8 S.I. Budhiman Bhagat is the investigating officer of the case and he got information about the occurrence through rumor on 17.01.2001 that dead body of a person is lying in the field at village Konmangra Toli is found. He went there and started interrogating with villagers where Narayan Ram gave a written report. Sakhi Ram Dhobi and Tetri Devi were also present there. Sakhi Ram Dhobi and Tetri Devi were arrested on the spot. Sakhi Ram Dhobi

confessed his guilt and told that at the instance of Tetri Devi, he brought the deceased to field in pretext of fishing where he killed him by causing injuries by spade and buried the dead body. He has proved the confessional statement of the accused marked as Exhibit-4. He has further deposed that accused Sakhi Ram Dhobi also produced the spade which was seized in presence of witnesses and marked as exhibit 5, 5/1 and 5/3. A stick which was used to support the deceased for walking was also seized in presence of witnesses from the place of occurrence, which is marked as exhibit-6, 6/1 and 6/2. He has further proved the inquest report of the deceased as exhibit-2. This witness inspected the place of occurrence which is situated at ridge of field of Paras Ram and just adjacent to it, there is a Nala in which the dead body was buried. He interrogated with other witnesses and after finding sufficient evidence, submitted charge-sheet.

P.W.9 Thepai Ram according to this witness also on the basis of suspicion, Sakhi Ram Dhobi was interrogated by villagers, then he disclosed that he has killed the deceased by assaulting with spade and buried the dead body near his field in a Nala.

P.W.10 Lallan Prasad:- is a witness of seizure list and has put signature on the seizure list which is marked as exhibit 6/1.

P.W.11 Manoj Prasad is a witness of seizure list and has put signature on the seizure list which is marked as exhibit 6/2.

P.W.12 Dr. Subhash Tetarway :- has conducted the post mortem on the dead body of Paras Ram Dhobi and found following external injuries:-

(i) A cut wound extending from mid line to right side over the occipital.

(ii) Cut wound near angle of mandible 4″ x 1″ x bone deep starting from the angle of mandible extending forward.

(iii) Cut wound over the scalp near anterior fornatanale 3″ x 1/2" x scalp deep.

Internal Injuries:-

* Fracture of right mandible at the angle.

* Stomach hard and other vessels were pale. Small vessels at the occipital and near angle of mandible cut.

* **Nature of Weapon used** Sharp cutting weapon.

* Cause of death opined to be hemorrhage leading to shock and cardiorespiratory failure due to injuries on occipital, scalp and near angle of mandible.

15. Upon careful examination of testimony of witnesses as discussed above, it is explicit that there is no eye-witness of the occurrence. The prosecution has projected a story of illicit relationship between wife of the deceased and the present appellant going on since three to four years which is the sole motive behind the occurrence. The other circumstances leading to conviction of the appellant is recovery of spade from his house, a stick of the deceased from the place of occurrence, the extra-judicial confession of the appellant before villagers and the informant leading to recovery of dead body of the deceased. A close scrutiny of evidence of eye-witnesses of facts including informant does not establish the illicit relationship between wife of the deceased and the present appellant, therefore, the very motive behind the occurrence has been uprooted by the prosecution leading to acquittal of co-accused Tetri Devi.

16. So far other circumstances relied upon by the learned trial court regarding recovery of spade as produced by the appellant not

connected with commission of murder of the deceased by the said weapon as same was not sent for serological examination and no report about presence of blood etc. is available and even the said spade was not produced during trial as material exhibit. The Investigating Officer (P.W.8) has recorded the confessional statement of the appellant (Exhibit-4) which has no value in the eyes of law. Neither the dead body nor any other incriminating material has been recovered/discovered on the basis of confessional statement of appellant before the police.

17. The learned trial court has further relied upon extra-judicial confession made by appellant before the informant and other villagers like P.W.2 (Lal Chand Ram), P.W. 3 (Sita Ram Prasad) P.W. 6 (Shiv Charan Ram),.

In the F.I.R. itself, it is disclosed that the informant came to know from his nephew, Nilambar Ram (P.W.4) after 10 to 12 days from missing of this brother (deceased) that present appellant has called upon the deceased from his house in the night in the pretext of fishing in the pond, then suspicion arose against the appellant. Accordingly, appellant was brought to the pond and forcibly

interrogated by villagers then he disclosed that he has killed the deceased and buried the dead body.

18. It is settled law that for accepting the extra-judicial confession as a piece of evidence, the Court has to carefully examine as to whom the confession is made, connection of accused with that person, reason or occasion for confession and the circumstances under which the confession is made. Above all such confession must be true and voluntary and should not be outcome of threat, coercion or promise or any third degree.

Here in this case, the informant (P.W.1) clearly admits that the accused was interrogated forcefully with the help of villagers. P.W.3 (Sita Ram Prasad) admits in his cross-examination that he was not present at the time of interrogation with the accused by villagers. P.W.6 (Shiv Charan Ram) has also stated that the dead body of the deceased was recovered after information given to police. The investigating officer of the case P.W.8 (S.I. Bhudhiman Bhagat) has categorically stated that on 17.01.2001, he got information through rumor that dead body of a person is lying in the field at village Konmangara Toli. There is no whisper in his evidence that the present appellant has identified the place from

where the dead body of the deceased was exhumed. Rather the dead body was present in upon place. The simple confessional statement of the appellant as proved by the investigating Officer is that Sakhi Ram Dhobi confessed his guilt and told that at the instance of Tetri Devi, he brought the deceased to field in pretext of fishing and killed him by causing injuries by spade and buried the dead body. Therefore, the provision of Section 27 of the Evidence Act is also not applicable in this case. The alleged confession also appears to be not true and voluntary. Therefore, the learned trial court has committed serious error of law in placing reliance over extra-judicial confession of the appellant.

19. The analysis of oral testimony of the informant clearly goes to show that for the first time he came to know that his brother is missing from 10 to 12 days from his nephew (Nilamber Ram) who is son of the deceased aged about 11 years. The said Nilamber Ram has categorically admitted in his cross-examination that whatever he is saying before the court was tutored by his uncle (Narayan Ram). In between 10 to 12 days, P.W.4 (Nilamber Ram) disclosed nothing to any of the villagers that the present appellant has called upon his father in the night in pretext of fishing who

did not return home. The informant (P.W.1) has also admitted that there was land dispute with the present appellant who has weaved the threads of alleged conspiracy between Tetri Devi and the present appellant for the sake of their free illicit relationship, but in his evidence during trial did not adhere to above statement. The informant appears to be instrumental to grind his own sword for taking revenge due to inimical terms with the appellant.

20. In view of above discussion and reasons we find that the learned trial court has failed to properly appreciate the testimony of witnesses and acted upon inadmissible evidence while recording guilt of the appellant and acquitting the co-accused. Therefore, we are of the firm view that conviction and sentence of the appellant is not sustainable under law and fit to be set aside. Accordingly, conviction and sentence passed by the learned trial court is hereby set aside and this appeal is **Allowed**. Appellant is hereby acquitted from the charge leveled against him.

21. It appears that the appellant is on bail by furnishing his personal bond, therefore, he is discharged from liability of bail bond.

22. Pending I.As, if any stand disposed of.

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

(RongonMukhopadhyay, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, at Ranchi
Date:23/12/2025
Amar/- N.A.F.R.
Uploaded on:- 23.12.2025.