IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Appeal (D.B.) No.283 of 2018

(*Arising out of judgment of Conviction Dated 12.09.2017 and Order of Sentence Dated 20.09.2017, passed by learned Additional Sessions Judge, Simdega, in Session Trial No.161 Of 2016)*

Ganesh Manjhi, S/o Late Kastu Manjhi, R/o Vill- Karanga, Gudi Deodarha, PO & PS Kersai, District Simdega.

... ... Appellant(s)

Versus

The State of Jharkhand. **... ... ... Respondent(s)**

PRESENT : SRI ANANDA SEN, J.
: SRI PRADEEP KUMAR SRIVASTAVA, J.

For the Appellants : Mr. Mohit Prakash, Advocate
Mr. Abhinaw Kumar, Advocate
Ms. Shambhavi Malviya, Advocate

For the State : Mr. Pankaj Kr. Mishra, AddI. P.P.

J U D G M E N T

By Court, :

05th October, 2026

This Criminal Appeal is preferred on behalf of the appellant being aggrieved by the impugned judgment of conviction dated 12.09.2017 and order of sentence dated 20.09.2017, passed by learned Additional Sessions Judge, Simdega, in Session Trial No.161 of 2016, whereby and wherein the appellant has been convicted for offences under Section 302 of IPC and 3/4 Prevention of Witch (Daain) Practices Act. He was sentenced to undergo imprisonment for life, with fine of Rs.10,000/- and in default of payment of fine further to undergo S.I. for four months. He has further been sentenced to undergo RI for six months and fine of Rs.2,000/- and in default of payment of fine, further to undergo SI for one month for the offence under Section 3/4 Prevention of Witch (Daain) Practices Act. It was also ordered that 60% of fine deposited will go to the son of the deceased. Both sentences were ordered to run concurrently.

2. We have heard, learned counsel representing the

appellant and learned AddI. P.P. representing the State and perused the material available on record.

3. Learned counsel representing the appellant, submits that there is no eye witness to the said occurrence and only on the basis of recovery of alleged weapon, the appellant has been convicted. He submits that there is nothing in the FSL report to suggest that the weapon which was recovered was actually used in the murder of the deceased. Further, the FSL report suggests that there is no blood stain found in the wearing apparels of this appellant. The person from whose house the weapon was recovered was not even examined. Out of the two seizure list witnesses, one was not produced by the prosecution and other has been declared hostile. He submits that there is no evidence worth to be considered to convict the appellant in this case.

4. Learned AddI. P.P. representing the State, oppose and submits that on the confessional statement of the accused the murder weapon was recovered. He submits that there are sufficient evidence to suggest that the appellant used to brand the deceased as a witch, thus has committed murder.

5. The case of the prosecution, on the basis of *fardbeyan* of son of the deceased who is P.W.-2 (informant)- Madan Manjhi. He stated that he and his mother (deceased) was residing in their house. After taking food at night, the informant went to sleep in his room, whereas his mother went to sleep in DHABA in old house. In the next morning, the informant went in the house of his co-villagers namely, Sumti Devi and at about 10 O'clock, he asked Sumti Devi to provide food to her mother. Sumti Devi went to the house of the informant and saw that mother of the informant was lying dead in the pool of blood and her neck was almost beheaded. She immediately informed, the occurrence to the local Mukhiya, Ward Member and co-villagers and the police was arrived.

6. Thereafter investigation was carried out and the charge-sheet was submitted under Section 302 of IPC and under Section ¾ of the Prevention of Witch (Daain) Practices Act against the appellant, as

it is alleged that the deceased was being branded as a Witch. During investigation, this appellant was arrested, on his confession, the alleged murder weapon i.e. axe and knife was recovered from the house of one Baliram Manjhi. The police also recovered wearing apparels of this appellant. Thereafter, the case was committed to Court of Sessions where charge was framed and case proceeded.

7. The prosecution has altogether examined ten witnesses, statements of whom are as follows:-

P.W.-1 Fulchand Manjhi
P.W.-2- Madan Manjhi
P.W.-3- Sunita Devi
P.W.-4- Somnath Pradhan
P.W.-5- Manish Manjhi
P.W.-6- Rambachan Manjhi
P.W.-7- Ram Anup Prasad
P.W.-8- Subhash Chandra Singh
P.W.-9- Hari Shankar Singh
P.W.-10- Dr. Shyam Narayan Sahu

8. Some documents were also exhibited in this case, which are as follows:-

Exhibit-1 & 2- Forwarding letter and Challan
Exhibit-3 Fardbeyan
Exhibit-4 Formal FIR
Exhibit-5 Confessional statement
Exhibits 6 & 6/1 two Seizure lists
Exhibit-7- FSL report
Exhibit- 8- Inquest report
Exhibit-9- Postmortem report
Material Exhibit-I- Tangi
Material Exhibit-II- Knife
Material Exhibit-III- T-shirt
Material Exhibit-IV- Blood stained soil
Material Exhibit-V- Blood stained cloth piece

9. After hearing the parties, and going through the evidence and

materials on record, we find that one Sumti Devi was the first person, who had seen the deceased lying in the pool of the blood, but the said Sumti Devi has not been examined by the prosecution.

10. The material to convict the appellant is his statement based on which the murder weapon was recovered and recovery of wearing apparels which allegedly got the blood stains of the deceased.

11. So far as the blood stains in the wearing apparels of the appellant is concerned, the FSL report which is Exhibit-7, clearly suggest that no blood was detected in the exhibits mark as C/1 and C/2, which is t-shirt and full-paint of this appellant, thus, the stains which are on the said wearing apparels are not the blood marks.

12. The weapon which was recovered was sent for FSL examination. From the same exhibit, which is the FSL report, it is clear that the blood was found in the knife and the axe and on the earth and one from the cloth cutting, which was seized. The blood which was found is of a human being of Group-A. This does not lead to any conclusion that this appellant has committed murder. Exhibit-A refers to in the FSL report is blood stain earth, which was recovered from near the dead-body. The blood stain with the weapon were also of the human blood of Group-A, but it is not clear as to whether the blood, which was found on the murder weapon are from the same human being whose blood was there in the soil, which was obtained from the place of occurrence. No DNA profile of the blood, which was recovered from the place where the dead body was found and the blood which was found in the axe was done.

13. The murder weapon was recovered from the house of Baliram Manjhi, but surprisingly the said Baliram Manjhi was not examined. Another witness who can be said to be a seizure witness i.e. P.W.-3, who is none but the grand-daughter of the deceased was declared

hostile. She being the seizure list witness has stated nothing about the said seizure witness. In cross-examination, she stated that the axe and knife were not recovered in her presence.

14. In view of the fact that this witness becomes hostile and Baliram Manjhi was not examined, we are of the opinion that the prosecution has failed to prove the place of recovery of these materials.

15. Except the confessional statement which leading to recovery the alleged murder weapon there are no material against the appellant in this case.

16. Mere recovery of weapon is not sufficient to sustain a conviction of murder in absence of other corroborating evidence as held by the Hon'ble Supreme Court in the case of ***Govind vs. State of Haryana,*** **reported in** ***SCC OnLine SC 2456.*** Thus, on basis of this weak evidence, it was not proper to convict the appellant. Thus, giving benefit of doubt, we hold that the prosecution has not been able to prove the guilt of this appellant beyond all reasonable doubt.

17. Accordingly, this Criminal Appeal is **allowed.** The impugned judgment of conviction dated 12.09.2017 and order of dated 20.09.2017, passed by learned Additional Sessions Judge, Simdega in Session Trial No.161 of 2016, is hereby set aside. The appellant is acquitted from the charge, thus he is directed to be released from custody, if not required in any other case.

18. Trial Court Record be transmitted back to the Court concerned.

19. Pending Interlocutory Application(s), if any, stand disposed of.

(ANANDA SEN, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

HIGH COURT OF JHARKHAND, RANCHI
Dated:-05th October, 2026
R.S. /S.K.D.
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