

(2024) 10 JH CK 0045

Jharkhand High Court

Case No: Criminal Appeal (D.B.) No.657 Of 2002

Ramdhan Lohra

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision: Oct. 29, 2024

Acts Referred:

- Indian Penal Code, 1860 - Section 34, 302

Hon'ble Judges: Ananda Sen, J; Gautam Kumar Choudhary, J

Bench: Division Bench

Advocate: A.K. Kashyap, Supriya Dayal, Lily Sahay

Final Decision: Dismissed

Judgement

8. Now, the entire prosecution case of implicating these appellants and convicting them, is based on the sole testimony of the eye witness " P.W.-9.

P.W.-9 is the son of the deceased who was with the deceased while they were returning. He stated that he went along with his mother to sell

vegetables but at 4 Oâ€™ Clock, while returning, near the river, his mother was murdered near the banyan tree. The murder was committed by

Ramdhan and Jaya with balua. He stated that he has seen the occurrence. He went to the village and raised alarm and when the villagers reached th

place of occurrence, his mother was already dead. He stated that the head of the dead body was towards east direction. The police came and

recorded his statement. In cross-examination, he stated that his father lives elsewhere and he has also informed about the murder to his father but his

father did not go to the place of occurrence. He admitted that his statement was recorded by the police. Bhudu Rijha, Ramcharan and several other

accompanied him to the Police Station. He stated that these two appellants were known to him and they are from Birhu Village. Before th

occurrence, he had met the appellants earlier also. Prior to committing the murder of his mother, earlier he was also assaulted by these two appellants,

for which a case was also filed in Khunti Police Station. He stated that his mother's dead body was lying on the road near Tajna Line Hotel. Th

dead body was taken to the Police Station. As per him, there was some distance between his mother and him while they were returning. He stated

that his father has driven out his mother as he had solemnized second marriage. His father was not maintaining his mother nor had given share in the

property. His father also did not attend the last rites of his mother.

17. There was no occasion to tutor the informant because all the witnesses have stated that he came running to the village and narrated the entire fact

which is exactly same as has been narrated in the F.I.R. and he had taken the name of these two appellants as the assailants. Further, from the entire

evidence, we find that there was no one in his house except he and his mother, as the father has already deserted them and had not even came at the

time of occurrence or thereafter, so there is no occasion for anyone to tutor him. Even this P.W.-4 who had stated that the informant is of lesser IQ

corroborates the statement of the informant that it is these two appellants who have committed the murder as the informant had also narrated to him in

details. The time period i.e. the time when the murder had taken place and the informant narrating the incident to the villagers taking name of the

appellants, is too short. Within this short period no one can tutor a witness, that too when there is nothing to suggest that he met anyone during the

intervening period. Thus, the contention of learned senior counsel representing the appellants that this informant is a tutored witness as he is of

unsound mind, is not accepted by the Court and this Court is not agreeable that the informant is tutored. Though, P.W.-4 had stated that the informant

is a person of less IQ but that does not mean that he is a person of unsound mind. There is nothing in the evidence of the informant that he is o

unsound mind. The Court who had recorded the statement of the informant as P.W.-9 has also not made any such recording. This witness may be of

a lesser IQ but that does not mean that he is incompetent to depose or he can easily been tutored. Thus, we are not accepting the said submission o

learned counsel representing the appellant, more so in view of the overwhelming corroborative evidence against these appellants.