

Anant Lal Hansda Vs State Of Jharkhand

Court: Jharkhand High Court

Date of Decision: Jan. 14, 2025

Acts Referred: Code of Criminal Procedure, 1973 â€” Section 313
Indian Penal Code, 1860 â€” Section 34, 302

Hon'ble Judges: Rongon Mukhopadhyay, J; Arun Kumar Rai, J

Bench: Division Bench

Advocate: Sharon Kerketta, Priya Shrestha

Final Decision: Allowed

Judgement

Rongon Mukhopadhyay, J.Ã, Ã, Ã, Ã,

1.Ã, Ã, HeardÃ, Ms. SharonÃ, Kerketta, learned amicus curiae for the appellant and Mrs. Priya Shrestha, learned Spl. P.P.

2. This appeal is directed against the judgment and order of conviction and sentence dated 22-07-1998 passed by Shri R. P. Verma, learned Sessions

Judge, Godda, in S.T. No.108/97 whereby and whereunder, the appellant has been convicted for the offence punishable under Section 302/34 IPC and

has been sentenced to undergo rigorous imprisonment for life.

3. The prosecution case arises out of the fardbeyan of Babu Hansda, recorded on 30-01-1997, in which it has been stated that the informant along

with his mother were going to Kero Bazar on 29-01-1997 at 3:00P.M. with the informant just ahead of his mother, who was following him. It has been

alleged that as the informant and his mother crossed the door of Anant Lal Hansda (appellant), he gave a blow with a Kulhari upon the mother of the

informant who fell down and, in the meantime, Tala Babu Hansda assaulted her with a Kulhari while Ram Charan Hansda gave a lathi blow upon the

mother of the informant. When the informant was making efforts to save his mother, Anant Lal Hansda exhorted his companions, at which all three

rushed towards the informant, who due to fear fled away. The mother of the informant died on account of such assault.

Based on the aforesaid allegations, Sunderpahari P.S. Case No. 2/97 was instituted under Section 302/34 IPC. On completion of investigation, charge

sheet was submitted and after cognizance was taken, the case was committed to the Court of Sessions, where it was registered as S.T. No.108/97.

Charge was framed against the accused under Section 302/34 IPC which was read over and explained to him in Hindi to which he pleaded not guilty

and claimed to be tried.

4. The prosecution has examined as many as seven witnesses in support of its case.

P.W.1 Babu Hansda is the informant who has stated that about 10 months back on a Wednesday at 3:00PM, he and his mother Barki Murmu were

going to the market and as soon as they reached the door of Anant Lal Hansda, his mother shouted and as he turned around, he saw Anant Lal

Hansda with the blunt portion of a Kulhari assaulting his mother on the neck who fell down as a resultant effect. Thereafter, Tala Babu Hansda had

assaulted his mother on the left side of her neck with a Kulhari and Ram Charan Hansda had assaulted her with a lathi. His mother died due to the

assault. When he was threatened by the accused persons, he fled away to the house of Tala Tudu. The reason for the occurrence is that in the

murder case of the daughter of Bhaiya Hansda, his daughter had given her evidence and this caused consternation to the accused persons.

In cross-examination, he has deposed that at the time of the incident, when an alarm was raised, none of the villagers had come to the place of

occurrence. He had stated before the Police that Tala Babu Hansda had snatched the Kulhari from Anant Lal Hansda after which he had assaulted

his mother on the neck.

P.W.2 Jailal Marandi has stated that he was going to Kero Hatia with his maternal grandmother(deceased) and uncle(informant) and his grandmother

was making up the rare when all of a sudden Anant Lal Hansda had assaulted his grandmother with a tangi on head and neck and Tala Babu, by

snatching the tangi from the hands of Anant

Lal Hansda, had also given a tangi blow on his grandmother and she died. He thereafter, called the Chowkidar and on the next day, he and his

maternal uncle had gone to the Police Station where the fardbeyan of his maternal uncle was recorded. He has proved his signature on the fardbeyan

which has been marked as Exhibit-1.

In cross-examination, he has deposed that no person had assembled at the time of raising of a cry of alarm. Tala Babu had assaulted his grandmother

with the sharp portion of the tangi which caused her death.

P.W.3 Debi Mai Murmu is the daughter-in-law of the deceased who has stated about the assault committed by Anant Lal Hansda upon her mother-

in-law with the blunt portion of the tangi followed by Tala Babu Hansda with the sharp end of the tangi and thereafter, Ram Charan Hansda had

assaulted her with a lathi.

In cross-examination, she has deposed that she had seen the assault from a distance of 25 feet and she kept standing even when her mother-in-law

fell down.

P.W.4 Bhaiya Hansda has stated that while he was going to Kero Hatia, he heard the sound of alarm of Barki and when he went near the wall, he

saw Anant Lal Hansda assaulting Barki with a Kulhari as a result of which she fell down and thereafter, Tala Babu Hansda had assaulted her with

the sharp portion of a Kulhari.

In cross-examination, he has deposed that there were no one present on the way to the Hatia. When he had gone near the wall, he had found Barki

lying on the ground dead with blood scattered at the said place. He after seeing the incident went to Hatia but he did not inform about the incident to

any other person.

P.W.5 Tala Tudu has proved his signature as well as the signature of Charku Marandi on the inquest report which have been marked as Exhibit-1/1

and 1/2 respectively.

P.W.6 Dr. Ashok Kumar was posted as a Civil Assistant Surgeon at Godda and on 31-01-1997, he had conducted autopsy on the dead body of Barki

Murmu and had found the following:

(i) It was a dead body of an old-aged female, about 65 years, thinly built. Rigor mortis was almost absent on the upper limbs while present in the lower limbs. The

heart was empty, lungs were congested, liver and kidneys were pale, stomach had about 4oz. of partially digested food materials.

(ii) There was one antemortem injury on the neck on the left side, which was a sharp cut wound 1 inch below the ear lobule. The size of the wound was 2 inches x

1.5 inches x 2 inches with skins, vessels, muscles and nerves all cut in the region.

The cause of death was opined to be due to shock and hemorrhage as a result of the above noted injuries. He has proved the post-mortem report

which has been marked as Exhibit-2.

P.W.7 Nand Kishore Singh was posted as an Officer-in-Charge in Sundarpahari P.S. and on 30-01-1989, he had recorded the fardbeyan of Babulal

Hansda alias Babu Hansda in the Police Station itself. He has proved the fardbeyan which has been marked as Exhibit-3. He had inspected the place

of occurrence which is a winding road about 5 feet from the main door of Anant Lal Hansda in village Bansjori. He has proved the post-mortem

report which has been marked as Exhibit-4. He had recorded the restatement of the informant as well as the statements of Jailal Marandi, Debi Mai

Murmu, Bhaiya Hansda and Tala Babu Hansda.

In cross-examination, he has deposed that Babu Hansda had not stated before him that Tala Babu Hansda had snatched the Kulhari from Anant Lal

Hansda and assaulted his mother on the neck. The witness Jailal Marandi had stated that Tala Babu Hansda had his own Kulhari with which he had

assaulted the mother of the informant. The witness Bhaiya Lal Hansda had not stated that Anant Lal Hansda had assaulted Barki with a Tangi.

5. The statement of the accused was recorded under Section 313 Cr.P.C. in which he has denied his complicity in the murder.

6. The defence has examined one witness in support of its case: D.W.1 Birendra Kumar Bhagat has proved the complaint case lodged by Tala Mai

Soren which has been marked as Exhibit-A.

7. It has been submitted by Ms. Sharon Kerketta, learned amicus curie that so far as the appellant is concerned, there is no evidence that it was the

appellant who had committed any assault upon the deceased. All the witnesses of the prosecution are related to the deceased, hence interested

witnesses. The evidence of the Investigating Officer (P.W.7) completely demolishes the case of the prosecution and in fact, the post-mortem report

also does not corroborate the manner of assault attributed to the appellant.

8. Mrs. Priya Shrestha, learned Special P.P. has referred to the evidence of P.W.1, P.W.2, P.W.3 and P.W.4, who all are eyewitnesses and who

have clearly stated that the assault upon Barki Murmu was initiated by the appellant and followed up by Tala Babu Hansda.

9. We have heard the learned counsel for the respective parties and have also perused the trial court records.

10. The assault alleged to have been initiated upon Barki Murmu, leading to her death, was by the appellant, Tala Babu Hansda and Ram Charan

Hansda. While Ram Charan Hansda has been acquitted by the learned trial court, Tala Babu Hansda had absconded. The evidence of the informant

who has been examined as P.W.1 reveals that at the time when P.W.1 was going with his mother to Kero Hatia, there were no one with them. Even

after the assault was committed and a cry of alarm was raised, none of the villagers had assembled. The existence of P.W.2, P.W.3 and P.W.4 do

not surface in the evidence of P.W.1. P.W.2, who claims himself to be the nephew of P.W.1, has stated about accompanying P.W.1 and the

deceased to the market while P.W.3, who is the daughter-in-law of the deceased is said to have witnessed the incident from a distance of 25 feet.

P.W.4 is not an eyewitness to the occurrence as when he had gone near the wall, Barki Murmu was already dead by then. Even before the

Investigating Officer, P.W.4 had not stated about the appellant committing assault upon Barki Murmu with Tangi. The statement of P.W.1 and P.W.2

before the Investigating Officer also seems to have contradicted their evidence as it seems that on account of previous enmity, they have developed

their case to the detriment of the appellant. The other notable feature is the findings recorded in the post-mortem report which detected only one injury

on the person of the deceased and its nature clearly attributes the same to Tala Babu Hansda. The prosecution has failed to prove that the appellant

was also one of the assailants involved in causing the death of Barki Murmu.

11. We, therefore, on the basis of the discussions made hereinabove, set aside the judgment and order of conviction and sentence dated 22-07-1998

passed by Sri R.P. Verma, learned Sessions Judge, Godda in S.T. No. 108/97.

12. This appeal is allowed.

13. Pending I.A.s, if any, stands closed.

14. Since the appellant is on bail, he is discharged from the liability of his bail bonds.

15. Before parting with this order, we must appreciate the assistance rendered by Ms. Sharon Kerketta, learned amicus curie and we direct the

Member Secretary, High Court Legal Services Committee to extend the stipulated fees to Ms. Kerketta within two weeks from the date of

receipt/production of a copy of this order.

16. Office is directed to send a copy of this order to the Member Secretary, High Court Legal Services Committee.