
(2025) 01 JH CK 0067

Jharkhand High Court

Case No: Criminal Appeal (D.B.) No. 189 Of 1998 (R)

Lalka Ganjhu

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision: Jan. 14, 2025

Acts Referred:

- Code of Criminal Procedure, 1973 - Section 313
- Indian Penal Code, 1860 - Section 34, 201, 302

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

Bench: Division Bench

Advocate: Chandan Kumar, Manoj Kr. Mishra

Final Decision: Allowed

Judgement

Rongon Mukhopadhyay, J.Â Â Â Â

1. Heard Mr. Chandan Kumar, learned counsel for the appellants and Mr. Manoj Kr. Mishra, learned A.P.P. for the State.

2. This appeal is directed against the judgment and order of conviction and sentence dated 11.06.1998 (sentence passed on 18.06.1998) passed by Shri

Sudarshan Upadhyay, learned 1st Additional Sessions Judge, Chatra in Sessions Trial No. 113/1997, whereby and whereunder, the appellants have

been convicted for the offences punishable u/s 302/34 and 201/34 of the IPC and have been sentenced to undergo R.I. for life for the conviction u/s

302/34 of the IPC. No separate sentence has been passed for the conviction u/s 201/34 of the IPC.

3. The fardbeyan of Rudia Devi was recorded on 24.09.1996, in which, it has been stated that in the previous night the informant was sleeping in her

house with her children and Saheb Ganjhu was sleeping in a separate cot. At about 10:00 A.M., Lalka Ganjhu, Daso Ganjhu, Madhu Ganjhu and

Chandrika Ganjhu came to her house and Chandrika Ganjhu demanded liquor which was not given to him. It has been alleged that Chandrika Ganjhu

became inquisitive as to the person sleeping on the cot and while seeing so all the accused persons tied the hands and legs of Saheb Ganjhu who was

sleeping and started assaulting him with a Kachra. Chandrika Ganjhu told the other accused persons to take the informant also to the Jungle and the

informant was also given a blow with a Kachra. The informant was being taken to the Jungle but she managed to escape and fled to the maize field

and informed about the incident to Bengali Ganjhu, Chunni Ganjhu, and others. At this, Bengali Ganjhu along with Chunni Ganjhu and Munni Ganjhu

went to the Jungle in search of his brother but he could not be traced out. In the morning, the informant along with the brothers of Saheb Ganjhu went

towards the Jungle in search of Saheb Ganjhu who was found lying dead with his hands and legs tied. The cause of the incident is that the accused

persons suspected that the informant was having an illicit relationship with Saheb Ganjhu. A Panchayati was also held but the informant had refused to

accept the decision of the Panchayat.

Based on the aforesaid allegations Chatra P.S. Case No. 135/1996 was registered u/s 302/201 of the 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 Sessions Trial No.

113/1997. Charge was framed against the accused u/s 302/34 and 201/34 of the IPC which was read over and explained to the accused in Hindi to

which they pleaded not guilty and claimed to be tried.

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

5. P.W.1 (Bengali Ganjhu) has stated that the incident is of a year back and it was the day of Karma festival. Saheb Ganjhu who is his elder brother

had gone to the house of Rudia Devi to eat and it was 10:00 P.M. when Lalka Ganjhu, Chandrika Ganjhu, Daso Ganjhu and Madhu Ganjhu had come

and entered into the house of Rudia Devi and tied Saheb Ganjhu with a rope. Rudia Devi was assaulted 2-4 times with a Kachra. He has stated that

Rudia Devi had fled away and hid herself in the field and later on came to his house and disclosed about his brother having been taken to the Jungle by the accused persons. At this, he and his brother Chunni Ganjhu rushed to the Jungle where they found all the four accused persons present and they had committed the murder of his brother. He has stated that out of fear he came back to his house and along with Nageshwar and Chunni went to the Jungle but could not locate the dead body. He searched for the body from 10:00 P.M. to 4:00 A.M. in the Jungle but could not find the dead body. The matter was informed to Chatra P.S. and the Police on search recovered the dead body in the Jungle. He has proved the fardbeyan which has been marked as Exhibit-1.

In cross-examination, he has deposed that there was no illicit relationship between Rudia Devi and Saheb Ganjhu. He had not seen the accused entering the house of Rudia Devi. Later on he has said that he had seen the accused in the Jungle. He had not seen the accused persons taking away Saheb Ganjhu. It was a dark night. When he had seen the assault committed by the accused persons Saheb Ganjhu was already dead by then. As soon as he saw the assault he and his brother had come back home. He has not disclosed the incident to anyone in the village. He has deposed that there was a rumor in the village that Rudia Devi was having an illicit relationship with Saheb Ganjhu.

6. P.W.2 (Chunni Ganjhu) has been tendered by the prosecution.

7. P.W.3 (Nageshwar Ganjhu) has also been tendered by the prosecution.

8. P.W.4 (Rudia Devi) is the informant and P.W.5 (Nago Ganjhu) both did not support the case of the prosecution and were declared hostile by the prosecution.

9. P.W.6 (Jagan Ganjhu), P.W.7 (Charka Ganjhu), P.W.8 (Chourathi Ganjhu) and P.W.9 (Munni Ganjhu) have been tendered by the prosecution.

10. P.W.10 (Dr. Satyendra Kumar Choudhary) was posted as a Civil Assistant Surgeon at Sadar Hospital, Chatra and on 24.09.1996 he had conducted autopsy on the dead body of Saheb Ganjhu and had found the following:

1. Lacerated wound 2½ x 1½ dark red in colour.

2. Lacerated wound on the occipital region of scalp 2½ x 1½ dark red in colour.
3. Lacerated wound on the right shoulder joints 3 x 2 x ½ dark red in colour.
4. There were several bruises all over the body in different shape and size. Colour dark red.

The cause of death was opined to be on account of shock and hemorrhage. He has proved the postmortem report which has been marked as Exhibit-

2.

11. P.W.11 (Uma Shankar Singh) has proved the formal FIR which has been marked as Exhibit-3. He has also proved the fardbeyan which has been marked as Exhibit-4.

12. P.W.12 (Masidas Horo) has proved page nos. 7 to 20 of the case diary which has been marked as Exhibit-5.

13. P.W.13 (Indradeo Singh) was posted at Sadar P.S. Chatra and on 24.09.1996 he had recorded the fardbeyan of Rudia Devi. He had taken over

the investigation of the case and had inspected the place of occurrence which is the house of the informant at Brahmani Village. On the southern side

there is a room where a cot was found and the deceased Saheb Ganjhu was said to be sleeping on the said cot from where the accused persons had

tied him and taken him to the Jungle. The houses of the accused are nearby to the place of occurrence. He had recorded the restatement of the

informant. The witness Bhago Ganjhu has stated that the accused persons had assaulted Saheb Ganjhu with Kachra and he had witnessed the assault

by hiding behind a bush. On completion of investigation he had submitted charge-sheet.

In cross-examination, he has deposed that he did not find any blood or any incriminating article at the place of occurrence.

14. The statements of the accused were recorded u/s 313 Cr.P.C., in which, they have denied any role in the murder of Saheb Ganjhu.

15. It has been submitted by Mr. Chandan Kumar, learned counsel for the appellants that there are no eye-witnesses to the occurrence. Even the

informant has not supported the case of the prosecution and was declared hostile. There has been no recovery of any incriminating article and

absolutely no evidence has surfaced which would implicate the appellants of committing the murder of Saheb Ganjhu.

16. Mr. Manoj Kr. Mishra, learned A.P.P. for the State has submitted that there are strong circumstantial evidence pointing towards the guilt of the appellants. He has also submitted that motive has been proved by the prosecution.

17. We have heard the learned counsel for the respective parties and have also perused the Trial Court Records.

18. It is the case of the prosecution that in the night of 23.09.1996 the appellants had entered into the house of the informant and Saheb Ganjhu who

was sleeping in a cot in the said house was forcibly taken away by them to the Jungle after tying his hands and legs. The appellants were also taking

away the informant but somehow she managed to escape and informed the brother of Saheb Ganjhu and others about the incident. The informant who

has been examined as P.W.4 was declared hostile by the prosecution. In fact, most of the prosecution witnesses have either turned hostile or have

been tendered by the prosecution. P.W.1 who is the brother of the deceased has claimed himself to be an eye-witness but such claim has been

contradicted by him in his cross-examination, in which, he has stated that he had neither seen the appellants entering into the house of the informant

nor had he seen them leaving the said house. The conduct of P.W.1 also seems to be questionable as in spite of seeing the assault as claimed by him

he and his brother nonchalantly came back home and did not also inform the villagers about the incident. Even in the fardbeyan of the informant there

is no hint that P.W.1 had seen the occurrence. The evidence of P.W.1 reveals that he had gone to the Jungle in search of Saheb Ganjhu with Chunni

Ganjhu but the said Chunni Ganjhu has been tendered by the prosecution. The evidence of P.W.1 has to be discarded on account of the various

infirmities in such evidence which does not ascertain his role as that of an eye-witness as also in absence of any corroboration. The Investigating

Officer (P.W.13) has stated about the disclosure made by Bhago Ganjhu of having witnessed the assault but Bhago Ganjhu has not been examined by

the prosecution. Moreover, the prosecution has failed to collect any incriminating materials to connect the appellants with the commission of murder of

Saheb Ganjhu. The judgment of conviction passed by the learned trial court is perverse as absence of any incriminating circumstances against the appellants has been completely overlooked by it.

19. We therefore, on the basis of the findings recorded by us come to the conclusion that the prosecution has miserably failed to prove its case against

the appellants and consequently we set aside the judgment and order of conviction and sentence dated 11.06.1998 (sentence passed on 18.06.1998)

passed by Shri Sudarshan Upadhyay, learned 1st Additional Sessions Judge, Chattri in Sessions Trial No. 113/1997.

20. This appeal is allowed.

21. Since the appellants are on bail they are discharged from the liability of their bail bonds.