

**(2024) 10 JH CK 0065**

**Jharkhand High Court**

**Case No:** Criminal Appeal (DB) No.2223 Of 2017

Ramu Oraon, S/o Late Chilgu  
Oraon

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

**Date of Decision:** Oct. 16, 2024

**Acts Referred:**

- Indian Penal Code, 1860 - Section 302, 304, 307, 325, 326

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

**Bench:** Division Bench

**Advocate:** A. K. Kashyap, Anurag Kashyap, Vandana Bharti

**Final Decision:** Dismissed

**Judgement**

Â Heard learned counsel for the appellant and learned counsel for the State.

1. The instant Criminal appeal is directed against the judgment of conviction dated 26.04.2017 and order of sentence dated 29.04.2017, passed by

learned Sessions Judge, Lohardaga, in Sessions Trial No.114 of 2016 (arising out of Kuru P.S. Case No.69 of 2016 & G.R. No.301 of 2016), whereby

and whereunder the appellant has been convicted under Sections 302, 307 IPC and sentenced to undergo RI for life and to pay fine of Rs.10,000/- and

in default, to further undergo SI of three months under Section 302 IPC and also sentenced to undergo RI for ten years along with fine of Rs.10,000/-

under Section 307 IPC and in default of the same, to further undergo SI of three months. Both the sentences were ordered to run concurrently.

2. Informant is the father of the deceased and the injured. As per the fardbeyan of the informant (P.W.2), on 24.05.2016 at about 6.30 p.m., the wife

of the informant was cooking food and her two sons were studying in the courtyard. Ramu Oraon (appellant/accused) entered into the house armed

with a Gaita (double edged weapon) with an intention to cause death to his son(s) and inflicted sharp cutting injury resulting in critical injury to both his

sons. When he went to their rescue, then the appellant fled away by throwing Gaita. On hulla, villagers gathered there and apprehended the appellant

on spot. He took both of them for treatment, where during the course of the treatment one of his sons died (namely Bipul Kujur).

3. On the basis of the fardbeyan of the informant, Kuru P.S. case No. 69 of 2016 was registered under Sections 302, 307 and 325 of the Indian Penal

Code against the appellant/accused- Ramu Oraon.

4. Police on investigation found the case to be true and submitted charge-sheet against the sole accused person and he was put on trial for the offence

punishable under Sections 302, 307 and 326 of the Indian Penal Code.

5. Altogether eleven witnesses have been examined on behalf of the prosecution and relevant documents including post-mortem examination report,

F.I.R. and seizure list etc. have been proved and marked as Exhibits.

6. It is argued by the learned Senior counsel on behalf of the appellant that P.W.3, P.W.4, P.W. 8, P.W. 9 and P.W. 10 are not the eye witnesses of

the said occurrence as they have reached the place of occurrence after the incidence on hulla. As such, they are hearsay witnesses as they were

informed about the incidence by P.W.1.

7. Doctor is the P.W. 6 who conducted the post-mortem examination on the dead body and found only single injury which was lacerated, whereas, as

per the testimony of the witness(es), injury was inflicted by sharp edged weapon. Further, this injury does not disclose the requisite intention to commit

murder. Even if the prosecution version is accepted, it will be a case of Section 304 and not under Section 302 of the IPC.

8. It is also argued that P.W. 5 (Arsh Nayan Kujur) who was merely aged about 7 years, as such, impugned judgment of conviction and sentence

cannot be passed upon the statement of child witness.

9. Learned counsel for the State opposes the prayer and submitted that the incidence took place within the premises of the home, where the mother of

the victim (who is wife of the informant) was cooking food at the relevant time and one of the brothers i.e. P.W. 5 who is the injured witness and he specifically stated that it was this appellant who entered into the house armed with Gaita (double edged weapon) and inflicted sharp cutting injury on him and his brother. P.W. 1 has been cross-examined at length and P.W. 5 has not been cross-examined at length, but defence has failed to elicit any vital contradictions in their account.

10. Learned APP has defended the judgment of conviction and sentence. Law is settled that an injured witness is entitled to a higher degree of credence. There is not a shade of doubt that PW-5 was also injured in the same transaction.

P.W. 7 Dr. Anand Prakash has examined the injured Arsh Kujur (PW-5) on 24.05.2016 and found the following :-

Injuries found on the person-Swelling of right temporal- parieto frontal area of scalp approx. 12 cm X 8 cm.

Mark of identification:- Mole on right chest.

C.T. Scan of Brain and skull was done in department of Radiology, RIMS, Ranchi vide registration no. 5111578 dated 25.05.2016 which shows fracture in right parieto temporal bone.

Nature of injury :- Grievous on the basis of C.T. Scan of Brain and Skull showing fracture of right parieto-temporal bone.

Time since injury:- Less than 12 hours at the time of admission.

11. PW-5 has specifically stated about the manner of incidence which has been duly corroborated by his mother P.W. 1 and was a natural witness

since the incidence took place in the house in her presence. The appellant was caught by the police at the hospital which is evident from the testimony

of the investigating officer (P.W.11). There is no reason to disbelieve the account of these witnesses that it was the appellant who had committed the offence.

12. Taking into account the antemortem injuries found on the dead body, it cannot be said that injuries were not sufficient to cause the death of the

minor boy. P.W.6 " Dr. Jyoti Asha Champi has conducted the post mortem examination on 25.05.16, upon the dead body of Bipul Kujur (Male aged

about 8 years) and found the following: -

Abrasion :- i. 1 cm x  $\frac{1}{2}$  cm on the left knee lateral side.

ii. 6cm x 2cm on the right side of the chin.

iii. 1 cm x  $\frac{1}{2}$  cm on the right shoulder top.

iv. 1 cm x  $\frac{1}{2}$  cm on the right scapula region.

Lacerated stitched wound 5 cm x  $\frac{1}{2}$  cm x bone deep with three stitches on the right occipital region of scalp.

Internal: - There is diffused contusion of both temporal-parieto occipital scalp and a mosaic fracture 9 cm x 8 cm on the right parieto occipital bone

and a crack fracture 6 cm long on the left temporal parieto bone. There is contusion of brain and presence of subdural blood and blood clot on both

sides of brain.

13. We are of the view that there is no infirmity in the Judgment of conviction and sentence which is accordingly affirmed.

Criminal Appeal accordingly stands dismissed.

Pending Interlocutory Application, if any, stands disposed of.

Let T.C.R. along with a copy of this judgment be sent to the court concerned at once.