

Baldeo Marandi Vs State Of Jharkhand

Court: Jharkhand High Court

Date of Decision: Jan. 23, 2025

Acts Referred: Indian Penal Code, 1860 " Section 34, 302, 449

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

Bench: Division Bench

Advocate: Rajeeva Sharma, Rita Kumari, Neelu Singh, Fahad Allam, Saket Kumar

Final Decision: Dismissed

Judgement

Ananda Sen, J

1. These criminal appeals are directed against the judgment of conviction dated 08.08.2002 and order of sentence dated 09.08.2002 passed by learned

Additional Sessions Judge, Jamtara in Sessions Case No.209 of 1997/ 243 of 2001, whereby these appellants were convicted under Sections 302 and

449 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for life and fine of Rs.1,000/- each under Section 302 of IPC and they

are further sentence to undergo R.I. for five years under Section 449 of IPC.

2. Mr. Rajeeva Sharma, learned Senior counsel appearing on behalf of the appellants submitted that there was strained relationship between the

informant and the appellants as the deceased was the step-mother of the appellant- Sikhar Marandi. Informant- Babulal Marandi, who is the own son

of the deceased had driven out the parents from his house and due to grudge and to grab the land, he has implicated this appellant- Sikhar Marandi,

who is step-brother as an accused. It is inconceivable that once the informant had hid himself in the house, he could have seen the occurrence. It is

further submitted that the instant fardbeyan is not the first information. As per para 2 of his examination, his statement was recorded in the police

station when he had earlier gone there, but that particular information has not been produced before this Court. The wife of this informant has not

stated specifically about the overt act of each of these appellants. The daughter of the informant (P.W-4) is a child witness, who also claimed to be an

eye witness but her testimony must be scrutinized very cautiously. He further submitted that this witness had taken the name of only Sikhar Marandi

and another. There is no motive to commit murder of the deceased as before the Court, it was submitted by the witness that there was cordial

relationship between these appellants and informant prior to the date of occurrence. From the evidence of the defence witness it is clear that

informant- Babulal Marandi had driven out his parents including the deceased out of their house and it is the villagers, who had built a hut for the old

lady as the informant did not agree to the proposal put forth by the panchayat. On these grounds, learned counsel for the appellants prays for acquittal.

3. Learned counsel for the State opposed the prayer and submitted that wife of the informant and the daughter are the eye witnesses, who had

narrated the entire incident. Their testimony is consistent, cogent and trustworthy. The medical evidence also suggests that indiscriminate assault was

made upon the deceased by sharp cutting weapon. Since the medical evidence and ocular evidence matches, the conviction of the appellants needs to

be sustained. The discrepancy in the evidence, which has been shown by the learned counsel for the appellant is minor and has got no bearing on the

case. Thus, this appeal needs to be dismissed.

4. The prosecution case is based on the fardbeyan of the informant-Babulal Marandi, who stated that on 17.06.1997 at about 8.00 P.M. some stones

were pelted in his house upon which his mother Maku Mazian went outside and saw 5-6 persons pelting stones. She forbade them but those persons

inquired about him. He stated that when he came out of the house those persons chased him to the courtyard, but he ran back to his house and kept

himself locked in a room and saw that Chand Murmu, Sikhar Marandi, Rasad Murmu, Hema Marandi, Baldeo Marandi and Nema Marandi armed

with tangi, stones and bricks were searching for him. When his mother objected, she was assaulted with tangi by Sikhar Marandi and Nema Marandi.

Upon which, he ran outside screaming, but no one from the village came to his rescue. The said incident was also seen by his wife and children.

Thereafter, he searched in vain for the Doctor and the chowkidar. He went to the village and informed his relatives, thereafter, he went to the police

station. He further stated that the reason behind the incident was land dispute between the informant and the appellant-Sikhar Marandi.

5. On the aforesaid furdbeyan, Jamtara P.S. Case No.79 of 1997 was registered under Sections 302/34 of the Indian Penal Code. The police after

investigation filed chargesheet against these appellants.

6. Thereafter the Court took cognizance and committed the case to the Court of Sessions. As the appellants pleaded not guilty, charge was framed

against these appellants under Sections 302/34 and 449 of the Indian Penal Code and the trial proceeded.

7. Altogether six witnesses have been examined in this case, who are as follows:-

(i) P.W.-1 Dr. Balram Prasad

(ii) P.W.-2 Babulal Marandi

(iii) P.W.-3 Bahamani Murmu

(iv) P.W.-4 Fulkumari Marandi

(v) P.W.-5 Fuchu Ram Marandi

(vi) P.W.-6 Arun Kumar Rajak, Investigating Officer of this case

8. The following documentary evidences were also exhibited by the prosecution:-

Exhibit-1 Postmortem report.

Exhibit-2 Fardbeyan

Exhibit-3 Formal F.I.R.

Exhibit- 4 Inquest Report

Exhibit-5 Seizure List.

9. P.W.-1, is the Doctor, who conducted the postmortem examination of the deceased and found following antemortem wounds:-

(i) Incised wound of 4" x 1" x bond deep up to cervical vertebra with blood clot and sprinting of blood.

(ii) Incised wound over scapula 5" x 1" x 1" with blood clot.

(ii) Incised wound back medial to injury No.2 4" x 1" x 1" with blood clot.

Internal appearance- (a) On opening the scalp and skull- no fracture of skull line. Brain and meninges pale. (b) On opening the neck trachea was cut

transversally adjacent muscle and artery and vein were cut with massive destruction of muscle. (c) On opening the chest right plural cavity- full of blood. Left side

in costal part fifth, sixth, seven ribs were fractured. Lungs- pale, heart- empty. (d) On opening the abdomen- liver, spleen, kidney- pale. Stomach- about two

ounces semi digested food material mostly rice. Large and small intestine wall full of gases and fecal material. Urinary bladder- empty, uterus- N.A.D. External

genetice- NAD.

He opined that the cause of death is hemorrhage and shock due to injury No.1, 2 and 3 caused by sharp weapon like tangi. The postmortem report

was marked as Exhibit- 1.

P.W.-2 is the informant of this case. He stated that on the date of occurrence at about 08.00 P.M., he, his wife, his daughter and his mother were in

his house and all of sudden, he heard sound of pelting of stones, upon which his mother came out and saw some persons. Upon objection they asked

that they will kill Babulal. His mother started abusing them upon which, they entered his house and started searching for him. Due to fear, he locked

himself in a room and saw from the window that these appellants and other accused assaulting his mother with tangi. He raised alarm when the

miscreants fled. On the next day, he went to the police station where his statement was recorded. He stated that his father had two wives. From first

wife Sikhar Marandi was born and after the death of first wife his father married his mother. His father had partitioned the land and he has kept two

Bigha land for his maintenance. After the death of his father Sikhar Marandi wanted to forcibly cultivate the said land. His mother refused to partition

the land and at the time also Sikhar Marandi has assaulted his mother.

P.W.-3 is the wife of the informant. She stated that some persons pelted stones and bricks on her house. Her mother-in-law protested then the

appellants and other persons entered in his house and asked about her husband- Babulal. Her mother-in-law question them as to what his son did, then

the accused assaulted her mother-in-law, who died. In her cross-examination, she stated that when the stones and bricks started to fall in her house

they closed the door of their room and after half an hour when she opened the door she found her mother-in-law dead.

P.W.-4 is the daughter of the informant. She stated that she was present in the courtyard of her house along with her mother and grand-mother and

father were present in the courtyard. All of a sudden, bricks and stones started to fall in their house. In the meantime, her grand-mother opened the

door, then accused persons entered the house armed with tangi and lathi. She saw from window that Sukar, Sikhar and Baldeo assaulted her grand-

mother with tangi whereas other accused persons assaulted her with lathi, as a result, her grand-mother died.

P.W.-5 is declared hostile.

P.W.-6 is the Investigating Officer. He recorded the fardbeyan of the informant, which was marked as Exhibit-2 and on the basis of the said

fardbeyan, the F.I.R. was registered, which was Exhibit-3. Thereafter, he prepared the inquest report, which was marked as Exhibit-4. He stated that

on inspection, he found stones and mark of blood courtyard of the informant. He recorded the restatement and statement of other witnesses and

finally after investigation submitted the chargesheet.

10. After hearing the parties, I find that P.W.-2, P.W.-3 and P.W.-4 are the eye witness to the said occurrence. They had seen these appellants along

with others entering the premises of the informant and thereafter, searching Babulal for killing him. The mother of the deceased was there. P.W.-2

had seen the entire occurrence while confining himself in the room for his safety. P.W.-3, who was also in the house stated in the similar manner that

she had seen these appellants and others assaulting the deceased. She also confined herself for the purpose of safety and when she opened the door,

she saw her mother-in-law dead. P.W.-4 also stated in the similar manner. This clearly suggests that they are the eye witnesses as there is nothing in

their cross-examination to disbelieve them.

11. The Doctor found several incised wound, which would clearly suggest that the deceased was assaulted with sharp cutting weapon. From the

evidence of P.W.-2 and P.W.-4, it is clear that axe was used in the said assault. The place of the occurrence is the house of the informant and the

same is also proved by P.W.-6, the Investigating Officer. As per the prosecution case and the evidence of P.W.-2, P.W.-3 and P.W.-4, stones and

bricks were pelted in the house. The Investigating Officer found stones in the premises. There was blood in the courtyard of the informant. As per the

evidence of P.W.-2, P.W.-3 and P.W.-4, the assault upon the deceased had taken place in the courtyard, thus, naturally blood was found there.

12. All the aforesaid facts have been analyzed by the Trial Court and thereafter the Trial Court had arrived at a conclusion that these appellants are

guilty of commission of murder. I find no material to differ with the findings of the Trial Court. Accordingly, both these Criminal Appeals are

dismissed.

13. As the appellants are on bail, they are directed to surrender before the Trial Court. If the appellants do not surrender, the trial court is directed to

take appropriate step as per law.

14. Interlocutory application(s), if any, also stands disposed of.

15. Let the Trial Court record be transmitted to the Court concerned along with a copy of this judgment.