

Lakhinder Koiri Vs State Of Jharkhand

Court: Jharkhand High Court

Date of Decision: Jan. 23, 2025

Acts Referred: Indian Penal Code, 1860 " Section 34, 302, 307, 324, 448, 452

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

Bench: Division Bench

Advocate: Kaushalendra Prasad, Vineet Kumar Vashistha

Final Decision: Dismissed

Judgement

Gautam Kumar Choudhary, J

1. This appeal was originally preferred by three appellants including Haripado Koiri, who died during the pendency of appeal and consequently, appeal

was declared as abated against him vide order dated 07.02.2019.

Appellants are before this Court in appeal against the judgment of conviction and sentence under Sections 302, 307 and 452 of the IPC.

2. Informant (P.W. 6) is the son of the deceased. As per the fardbeyan, recorded on 04.08.1998 when the informant was not at home, the appellants

branded his mother as witch and attributed the illness of his mother to witch craft having been practiced by her. When the informant and his brother

returned home at night, it was informed by his brother's wife that Mahesh Koiri was identifying his mother as a witch. Informant raised objection

at this with the appellants, who conjointly entered into his house with sword and other sharp cutting weapons and started assaulting the informant and

grievously injured him. Thereafter, they assaulted his mother who was sitting in the courtyard, inflicting injury over her neck. When his younger

brother Govind Koiri rushed to her rescue, he was also assaulted by them. When people started gathering there, they fled away.

3. On the basis of the fardbeyan, Ranchi Sadar P.S. Case No.47/98 was registered under Sections 448, 324, 307, 302/34 of the IPC against these

appellants. Police on investigation, found the case true and submitted charge sheet. All these appellants were put on trial for the offences under

Sections 302, 307 and 452 of the IPC.

4. Altogether nine witnesses were examined on behalf of prosecution and relevant document including post-mortem examination report of Subala Devi

and injury reports of Ravindra Nath Koiri and Govind Kori were adduced into evidence and marked as exhibits.

5. It is argued by the learned Amicus Curiae on behalf of the appellants that no independent witnesses have supported the prosecution case which

rests on the testimony of close relatives. It is also argued that there are vital contradictions in the testimony of witnesses.

6. Learned A.P.P. has defended the judgment of conviction and sentence. It is argued that there is no Rule of Law that related witnesses are

interested witnesses particularly when the place of occurrence is the house, they can be accepted as natural witness to the incidence. Furthermore,

sons of the deceased namely Govind Koiri (P.W. 3) and Ravindra Nath Koiri (P.W. 6), who were also injured in the same incidence, have given a

consistent account of the incidence in which the informant party were brutally assaulted by the appellants with sharp cutting weapons, resulting in the

death of one and grievous injuries to other two family members.

FINDING

7. Appreciation of evidence in any case to determine and prove a fact proceeds on certain consecrated principles. When the place of occurrence is

the house, inmates of it become natural witness to the occurrence. The injured witnesses are entitled to a higher degree of credence because injury

sustained by them assures their presence at the place of occurrence.

8. Generally speaking, there are two parts of judicial determination in a criminal case. The first is whether a crime did take place or not, and the

second is the person or persons who committed the crime.

9. In the present case, homicidal death and injuries sustained by the injured persons have been objectively established by the Doctors (P.W. 8 and

P.W. 7) who conducted post-mortem examination of the dead body and examined the injured persons. This part of the finding has not been seriously

challenged in appeal. It would be desirable to set out the post-mortem examination and injury reports. This is so, as intention or knowledge is a mental

element which can be gathered by the nature of injury inflicted and the weapon used in the assault. As per the post-mortem examination report of

Subala Devi (Exhibit 5), the following ante mortem injuries were found: -

I.Ã, Stitched wound: -

a) 21 x 3 cm x bone deep on right arm lateral side and adjoining right scapular region cutting the tissues, right humerus bone and scapula.

b) 18 x 3 cm x bone deep on right cheek and adjoining right lateral neck, upper part cutting the soft tissues and right side of mandible.

c) 6 x 1 cm x soft tissues right cheek prominent.

II.Ã, Incised wound: -

a) There is amputation through right wrist. The amputated right hand is missing. On inspection of amputated wound, it is clearly cut.

b) Linear cut 21 cm long on left chest front.

III.Ã, Stab wound: -

a) 2 x 1 cm x cavity deep on right abdomen front situated 4 cm right to mid-line and 10 cm above the umbilicus.

The weapon passed through abdominal wall and enters into small intestine. There is presence of pus and fluid on abdominal cavity.

As per the injury report of Ravindra Nath Koiri (Exhibit 2) following injuries were found: -

I. One sharp cut wound on left side of scalp on parietal region 1Ã,Ã½ Ã¢,Ã" x 1/3Ã¢,Ã" x skin deep.

II. One sharp cut wound on left shoulder near clavicle, size of wound Ã,Ã½ Ã¢,Ã" x Ã,Ã¼ Ã¢,Ã" x skin deep.

III. Sharp cut wound on back of chest on vertebral column in middle 2Ã¢,Ã" x Ã,Ã¼Ã¢,Ã" skin deep.

IV. One sharp cut wound on left arm of dorsal side in middle Ã,Ã½ Ã¢,Ã" x Ã,Ã¼Ã¢,Ã" x skin deep.

V. One sharp cut wound in between thumb and index finger in the left hand 2Ã¢,Ã" x 1Ã¢,Ã", depth could not be ascertained.

VI. One sharp cut wound on scalp above forehead in middle scalp 4 Ã,Ã½Ã¢,Ã" x Ã,Ã¼Ã¢,Ã", depth could not ascertain.

As per the injury report of Govind Koiri (Exhibit 3) following injuries were found : -

I. Sharp cut wound on right side of abdomen in middle 4Ã¢,Ã" x 1/5Ã¢,Ã" x 1/5Ã¢,Ã".

II.Ã, An abrasion on left side of back of shoulder 1Ã¢,Ã" x Ã,Ã¼Ã¢,Ã".

10. P.W. 6 is the injured Ravindra Nath Koiri (informant) and P.W. 3-Govind Koiri (his brother), both were injured in the incidence. A consistent

account has been given by both these witnesses that the appellants had conjointly assaulted the informant, his mother and brother with sharp cutting

weapon like sword, Ballam and Barcha, when they objected to branding their mother as witch by the appellants. Their testimony is corroborated by

the medical evidence and also by P.W. 1, who is a co-villager. He has deposed in para 1 that appellants entered into the courtyard of informant

variously armed with weapons. All the three assaulted his mother. P.W. 2 is also a co-villager who has further corroborated the testimony of injured

witnesses regarding the manner of assault. P.W. 4 is the wife of Govind Koiri and deposed that all the three appellants entered into the courtyard and

started assaulting the informant party. P.W. 5 is the wife of the informant and her testimony is also on the same line. Defence has absolutely failed to

impeach the credit of this witness.

11. In view of these evidences, I do not find any infirmity in the judgment of conviction and sentence passed by the learned trial Court.

Criminal Appeal stands dismissed.

The appellants are on bail, their bails are cancelled. They are directed to surrender before the learned Court below within two weeks of receipt of

copy of judgment to serve the remaining part of sentence.

Considering the assistance given by learned Amicus Curiae, we hereby direct the Member Secretary, JHALSA, Ranchi to pay remuneration of

Rs.7500/- to him at the earliest.

Pending Interlocutory Application, if any, is disposed of.

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