

(2012) 06 JH CK 0008

Jharkhand High Court

Case No: Criminal Appeal (PB) No. 354 of 2012

Karam Chand Manjhi @ Karama
Manjhi

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision: June 18, 2012

Acts Referred:

- Penal Code, 1860 (IPC) - Section 302

Citation: (2012) 4 JCR 586

Hon'ble Judges: R.K. Merathia, J; Dhruv Narayan Upadhyay, J

Bench: Division Bench

Advocate: Ganga Kewat and Awadhesh Pandey, for the Appellant; Amaresh Kumar, Assistant Public Prosecutor, for the State, for the Respondent

Final Decision: Allowed

Judgement

1. This appeal is directed against the judgment of conviction and sentence dated 10.3.2005 and 14.3.2005 respectively passed by learned

Additional Sessions Judge, F.T.C. No. 1, Bermo at Tenughat in Sessions Trial No. 234 of 2002, convicting the appellant u/s 302 I.P.C. and

sentencing him to undergo imprisonment for life. The prosecution case in short is that Mehilal Manjhi (P.W. 9), informant gave a written report

stating, inter alia, that on 27.11.2001 at about 8.30 a.m. in the morning when he was lying in his house and his mother, namely, Chintamani Devi

was working in the cattle field, he heard cry of his mother, he rushed to the field and saw her in injured condition with bleeding cut injury on her

head. He saw the appellant standing nearby. When the informant inquired as to why he assaulted his mother, then the appellant fled away. The

deceased was given treatment, but ultimately she died.

2. Learned counsel for the appellant submitted that there is no eye witness to the alleged occurrence. He assailed the judgment on various grounds.

3. On the other hand, learned counsel for the State supported the impugned judgment.

4. In the F.I.R., the informant did not disclose that he learnt from Ram Prasad Tudu and Preeti who were also shouting.

However, in his deposition he said that when his mother was crying for help, Ram Prasad Tudu and Preeti were also shouting and when he

reached to the place of occurrence, he saw his mother lying on the ground in injured condition and found the appellant standing beside her. When

the informant inquired as to why he assaulted his mother, the appellant ran away. The informant clearly stated that Ram Prasad Tudu and Preeti

have seen the accused assaulting his mother, but they have not been examined in this case.

5. It appears that except P.W. 9, there is no eye witness in this case. Ram Prasad Tudu and Preeti have been projected by P.W. 9 as eye witness

in his deposition, but they were even not charge-sheet witness and were not examined. P.W. 9 said that when he reached to the place of

occurrence, the appellant was standing there with a Kudal. It has also come in evidence that the deceased was the grand mother of the appellant.

In our opinion, the prosecution has not been able to prove its case beyond all reasonable doubt and accordingly the impugned judgment of

conviction and sentence is set aside and this appeal is allowed. The appellant is directed to be released from jail forthwith, if not wanted in any

other case.