

(2012) 02 JH CK 0020

Jharkhand High Court**Case No:** Criminal Appeal (DB) No. 353 of 2003

Lago Sinku @ Sunil Sinku

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision: Feb. 7, 2012**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 302, 84

Citation: (2012) 2 JCR 389**Hon'ble Judges:** R.K. Merathia, J; Dhrub Narayan Upadhyay, J**Bench:** Division Bench**Final Decision:** Dismissed

Judgement

1. This appeal is directed against the impugned judgment of conviction and sentence passed on 10th September, 2003 and 12th September 2003, respectively by the Additional Sessions Judge, Fast Track Court-I. West Singhbhum at Chaibasa in Sessions Trial No. 170 of 2000, convicting the appellant for committing the offence under Sections 302 of the Indian Penal Code and sentenced him to undergo R.I. for life and to pay fine of Rs. 2.000/- and in default thereof he was to undergo R.I. for three months. The prosecution case, in short, is that the informant Kaira Sinku (PW-1) gave a fardbeyan on 11/12/1998 at about 1 "O" Clock in the night to the effect that at about 4.30 p.m., while he was working in the field, he heard the cries of his mother Shanti Kui (deceased), aged about 60 years. He went there and saw that the appellant Lago Sinku gave dagger blow on the neck of his mother in the field and fled away after throwing the dagger. Shanti Kui sustained injury on her neck. She fell down and succumbed to the injury. It was further stated that the other witnesses namely, Ram Chatar (PW-2) and Baigo Munda (PW-3) had also seen the occurrence. He further stated that the reason behind the occurrence was that before the occurrence, the accused had quarreled with his wife and the deceased forbade him. On this, the accused became angry and took revenge by assaulting her with dagger.

2. Mr. R.C. Khatri, learned counsel appearing for the appellant assailed the impugned judgment on various grounds. He submitted that there could not be intention on the part of the appellant to kill the deceased on such a trivial issue. He further submitted that during trial the mental condition of the appellant was not found fit by the Doctors and the Investigating Officer has not been examined in this case. He lastly submitted that the appellant has remained in jail custody for more than 13 years by now.

3. On the other hand, Mr. Amresh Kumar, learned APP supported the impugned judgment.

4. PW-1 Kaira Sinku is the informant and the eyewitness of the case. Pws-2 and 3 are also the eyewitnesses, named in the fardbeyan. PWs-4, 5 and 6 are the hearsay witnesses. PW-7 is the Doctor, who conducted the Post Mortem. He found one abrasion over the right side of back. He also found sharp cutting injury over lower part of neck on anterior surface size 4" x 2" deep to cutting great vessels trachea and oesopharus, which was the cause of death in ordinary course of nature and was caused by sharp cutting weapon, may be dagger. He also stated that the said injury was not possible by fall.

5. PWs- 1, 2 and 3, who was the eyewitnesses, have fully supported the prosecution case, which finds corroboration in the evidence of the Doctor PW-7. There is nothing to disbelieve or discredit the said witnesses. The intention is to be gathered from the manner and the weapon of assault and the part of the body chosen. In this case the assault by dagger was made on the neck causing immediate death of the deceased. Therefore, it cannot be accepted that the appellant had no intention to kill the deceased. Even if the appellant was found mentally unfit during trial, he could claim the advantage of Section 84 IPC. There was nothing to show that at the time of the alleged crime, he was mentally unfit. None examination of the Investigating Officer in this case has not caused prejudice to the appellant. After carefully going through the records and hearing the parties at length, in our opinion, the prosecution has been able to prove its case against the appellant, beyond all reasonable doubts. No grounds have been made out for any interference by this Court with the impugned judgment of conviction and sentence, passed against him. In the result, this appeal is dismissed.