# Romania Toppo @ Romanus Toppo Vs The State of Jharkhand

**Court:** Jharkhand High Court

**Date of Decision:** Aug. 7, 2012

**Acts Referred:** Penal Code, 1860 (IPC) â€" Section 302

**Citation:** (2013) 1 AJR 637 : (2012) 4 JLJR 251

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

**Bench:** Division Bench

**Advocate:** Pravin Kumar, A.C, for the Appellant;

**Final Decision:** Dismissed

## Judgement

1. This appeal arises from the judgment of conviction dated 21st December, 2002 and order of sentence dated 23rd December, 2002 passed by

Shri Radha Govind Singh Nagesh, 1"" Additional District & Sessions Judge, Latehar in S.T. No. 52 of 2002 convicting the appellant u/s 302 I.P.C.

and sentencing him to undergo rigorous imprisonment for life. The appellant has also been sentenced for a fine of Rs. 5,000/- and in default thereof

he has further to undergo R.I. for one year. However, both the sentences were directed to run concurrently. The prosecution case in brief is that

Melani Toppo (P.W. 2) lodged a Fardbayan on 27.12.2001 at about 16 hours that on 25.12.2001 on the occasion of "Christmas" there was

quarrel between her husband Vimal Toppo (deceased) and her father-in-law- Romania Toppo @ Romanus Toppo (appellant) during which, the

appellant threatened him to kill. Then on 26.12.2001 at about 2 p.m. her husband asked for food. Her sister-in-law Usha Toppo (P.W. 1) was

also sitting there. The informant went to bring food. In the meantime, her husband and P.W. 1 raised alarm then the informant came out and she

saw that the appellant assaulted her husband on his head by "Tangi" and broke his head. When her husband fell down, the appellant again

assaulted at his arms. The Doctor was called but before he came, the injured died in the evening. Chaukidar was informed. The appellant had also

killed his other relative in the year 1990 by cutting his neck by "Tangi"". After remaining in jail for about 10 years, he had come out and then has

committed this crime. On this F.I.R., the case proceeded.

2. Mr. Pravin Kumar, learned Counsel appearing for the appellant assailed the impugned judgment on various grounds. He submitted that P.W. 1

and P.W. 2 are not the eye-witness. The parties are relatives. The deceased used to drink liquor and fight with the appellant and therefore during

quarrel the alleged occurrence took place.

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

4. P.W. 1 and P.W. 2 are the natural eye-witness present in the house. Their presence is mentioned in the F.I.R. They have fully supported the

statements made in the Fardbayan in their evidences. Counsel for the appellant tried to take advantage of one sentence in the cross-examination of

P.W. 1 in which she said that she saw her brother dead and one sentence in the cross-examination of P.W. 2 in which she said that when she came

on alarm of her husband she saw him injured. On the basis of these two stray sentences, the totality of the deposition cannot be brushed aside and

it cannot be held that they are not the eye-witness. It was further submitted that as per the F.I.R. the appellant fled away after throwing Tangi. In

our opinion this is not a vital contradiction to disbelieve the prosecution case. The statement of P.W. 1 and P.W. 2 is fully supported by the

medical evidence of Doctor-P.W.-8, who found four sharp cutting injuries on the deceased. Two on arms and two on head. P.W. 3 to 7 are the

hearsay witnesses. P.W. 6 has said that she saw P.W. 1 chasing the appellant immediately after the occurrence. The quarrel between the appellant

and the deceased took place on 25.12.2001 whereas the present occurrence took place on 26.12.2001 and therefore, it cannot be said that the

occurrence took place during quarrel between the parties. Moreover, there are repeated blows on the deceased by sharp cutting weapon.

Therefore, it cannot be said that he had no intention to kill the deceased. In this case the appellant has killed his step son. It further appears that

earlier he had killed his other relative in the year 1990 and prior to the occurrence of this case, he was released from jail after remaining for about

10 years. After hearing the parties at length and considering the materials on record, we are satisfied that the prosecution has been able to prove its

case against the appellant beyond all reasonable doubts and the impugned judgment does not call for any interference. Accordingly, this appeal is

dismissed.