
**Pawan Mahto, Chatuwa Mahto and Nirmala Devi Vs The State of
Jharkhand**

Criminal Appeal (DB) No. 834 of 2012

Court: Jharkhand High Court

Date of Decision: Sept. 11, 2012

Acts Referred:

Penal Code, 1860 (IPC) " Section 302, 34

Hon'ble Judges: Prashant Kumar, J; Dhirubhai Naranbhai Patel, J

Bench: Division Bench

Advocate: Ravi Kerketta and Amrendra Pradhan, for the Appellant; Sanjay Kumar Srivastava, Assistant Public Prosecutor, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

D.N. Patel, J.

Present appeal is admitted. Records and proceedings of Sessions Trial No. 188/317 of 2008 be called for from the trial

court. Registry of this Court is directed to get the paper books prepared with neatly typed copy of depositions and other documents as required

under Rule No. 190 and 191 of High Court of Jharkhand Rules 2001.

2. We have heard counsel of both the sides for suspension of sentence awarded by Judicial Commissioner-II- Khunti to the appellants in Sessions

Trial No. 188/317 of 2008 by judgment of conviction and order of sentence dated 15th/16th of May 2012. These appellants have been mainly

punished for the offence punishable under Sections 302 read with Section 34 of the Indian Penal Code for life imprisonment.

3. Having heard counsel of both the sides and looking to the evidences on record, there is prima-facie case against the appellant No. 1 and 2

namely Pawan Mahto and Chatuwa Mahto. As the criminal appeal is pending, we are not much analyzing the evidences on record. Looking to the

depositions of P.W. -1, P.W. -2, P.W. -3 and P.W. -4, who are eye witnesses to the incident, their evidences are against appellant No. 1 and 2,

who are original accused No. 1 and 2. But looking to these evidences of P.W. -1, P.W. -2, P.W. -3 and P.W. -4, it appears that appellant No. 3,

who is also accused No. 3, has not caused any injury upon the body of the deceased. Moreover, depositions of P.W. -1, P.W. -2, P.W. -3 and

P.W. -4, who are eye witnesses is getting enough corroboration by the deposition of P.W. -12, which is medical evidence, given by Dr. Tulsi

Mahto, as well as post-mortem note, which is Ext-8 of the record of Sessions Trial and P.W. -7, who is informant and eye witness. Looking to

these evidences on record, there is prima-facie case against appellant No. 1 and 2 (original accused No. 1 and 2), therefore, looking to the gravity

of offence, quantum of punishment and the manner in which these two appellants are involved in the offence as alleged by the prosecution

witnesses, we are not inclined to suspend the sentence awarded by Judicial Commissioner-II, Khunti to these two appellants. Hence prayer of

suspension of sentence of these two appellants namely Pawan Mahto and Chatuwa Mahto is rejected. So far as appellant No. 3 namely Nirmala

Devi is concerned, as stated herinabove, she has not caused any injury on the body of the deceased. She was also on bail during trial. Keeping in

mind these evidences, there is prima-facie case in favour of appellant No. 3. We, therefore, suspend the sentence awarded to appellant No. 3

namly Nirmala Devi by Judicial Commissioner-II, Khunti by judgment of conviction and order of sentence dated 15th/16th of May 2012 in

Sessions Trial No. 188/317 of 2008, upon execution of bail bond of Rs. 10,000 (Rs. Ten thousand) with two sureties of the like amount each to

the satisfaction of the Trial Court and also on the condition that appellant shall be available as and when her presence is required by this Court and

she shall not change her residential address without prior permission of this Court.