
(2012) 02 JH CK 0159

In the Jharkhand High Court

Case No : Criminal (Jail) Appeal (D.B.) No. 1688 of 2004

Jagarnath Oraon

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 14-02-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : (2012) 2 JLJR 314

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

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This appeal has been filed against the judgment of conviction dated 11.09.2002 and order of sentence dated 12.09.2002 passed by Additional Sessions Judge, F.T.C. I, Gumla in Sessions Trial No. 184 of 1998 convicting the appellant u/s 302 of I.P.C. and sentencing him to undergo R.I. for life. The prosecution story in short is that on 9.4.1998 Laldeo Oraon (P.W. 1), son of the Atwa Oraon (deceased) lodged a fard beyan at about 12:45 P.M. before the police that at about 10:00 A.M., his father Atwa Oraon was coming home after taking bath. Meanwhile he heard Halla of children from the house of the appellant - Jagarnath Oraon who was the adjacent neighbour. Atwa Oraon started shouting that the appellant is assaulting his children and went there to see. On Halla other villagers Koma Oraon (P.W. 3), Shankar Oraon (P.W. 2), Shankar Mahto (P.W. 4), Kishore Oraon (P.W. 8), and Somni devi (P.W. 7) went there and saw the appellant. The appellant was assaulting Atwa Oraon with Tangi (Axe) repeatedly due to which Atwa fell down in front of the door. The appellant killed him by Tangi (Axe). When the informant party entered into the house of the appellant, they found that Bablu Oraon aged about 5 years and Dablu Oraon aged about 3 years, both sons of Jagarnath Oraon were killed by Tangi (Axe). When the informant party tried to apprehend the appellant, he started chasing them with Tangi. Out of fear, they fled away. Jagarnath Oraon locked himself in

the house from inside. It was further stated that the reason behind the occurrence is that the appellant had two wives. He fled with first wife. Thereafter the second wife Bihani Oraon died. Both the sons were born to him with second wife and after her death. Atwa Oraon (deceased) was looking after both the boys. When the appellant returned home, the deceased told him that because the appellant left his wife and children, the wife died and he was responsible for her death. Due to this, the appellant was angry with the deceased. For this reason the appellant killed the deceased and his own two children.

2. Mr. Pramod Kumar Sinha, Learned Counsel appearing for the appellant assailed the impugned judgment on various grounds. He submitted that there is no eye-witness of killing two children of the appellant. P.W. 1 and 7 who are said to be the eye-witness are not actually eye-witness. The appellant examined himself on his plea of alibi. He also submitted that the Investigating Officer has not been examined and the blood stained soil and the Axe have not been sent for chemical examination. He lastly submitted that the appellant has remained in jail for about 14 years by now.

3. On the other hand, Mrs. Nikki Sinha, Learned Counsel for the State supported the impugned judgment.

4. Prosecution examined 10 witnesses. P. W. 1 is informant, P. W. 2 is inquest witness, P. W. 3 and 4 are hostile witnesses, P. Ws. 5, 6 and 9 are doctors who conducted post-mortem on the three deceased, P. W. 7 is another eye-witness, P. W. 8 is hearsay witness and P. W. 10 is a formal witness.

5. P.W. 1 and 7 are the eye-witnesses, and they have fully supported the prosecution case. The doctors P. Ws. 5, 6 and 9 who conducted post-mortem on the three deceased, found several sharp cutting incised wounds on the vital parts of the body of all the deceased, caused, by heavy sharp cutting weapon such as, Tangi (Axe). The injuries were grievous in nature and were sufficient to cause death in ordinary course of nature. The appellant who examined himself on the plea of alibi also supported a portion of the prosecution story. He said that he went away for his work with his first wife leaving behind the second wife and children. The deceased-Atwa Oraon was looking after his children after death of the first wife of the appellant. However he could not substantiate the plea of alibi. It is true that nobody has seen the appellant killing his two children but, P.W. 1 and 7 heard the cry of children from the house. They also saw that the appellant killed Atwa Oraon by repeated Tangi blow and when they entered into the house, both the children of the appellant were found killed by cause Tangi (Axe) injuries on their bodies. The presence of any other person in the house was not indicated. Thus, the occurrence as narrated in the First Information Report supported by P.W. 1, 7 and the doctors and the inquest witness, cannot be disbelieved only because the blood stained soil and the Tangi (Axe) was not sent for chemical analysis. In the facts and circumstances noticed above, non-examination of I.O. has also not prejudiced the case of 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 beyond all reasonable doubts. Accordingly, this appeal is dismissed.