
(2012) 01 JH CK 0095

In the Jharkhand High Court

Case No : Criminal Appeal (D.B.) No. 1657 of 2003

Johan Munda and Birsa Munda

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 23-01-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 324, 34

Citation : (2012) 01 JH CK 0095

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 24.09.2003 and 25.09.2003 respectively, by the Additional Sessions Judge, Fast. Track Court-II, Chaibasa in Sessions Case no. 289/2000, convicting the appellants for committing the offence u/s 302/34 of the Indian Penal Code and has been sentenced to undergo R.I. for life and also u/s 324/34 of the Indian Penal Code for which they have been sentenced to undergo R.I. for two years, both the sentences were to run concurrently. The prosecution case in brief is that on 07.06.2000 at about 8 p.m. appellant no. 2 - Birsa Mundu having Danda, along with Boai Mundu (absconding accused) with Dawli (sharp cutting weapon), and appellant no. 1. - Johan Mundu came to the house of the informant. Birsa called wife of the informant Kairee@Salmee Kue "Dian", when the family members resisted. Boai, assaulted wife and daughter of the informant with Dawli, Birsa assaulted the informant with Danda. Informant, his wife and daughter sustained injuries. Seeing such occurrence Mansukh Mora Munda- elder brother of the informant (the deceased) who was sitting on his door intervened and warned the accused persons. On this, Birsa said that they were actually searching Mansukh. The accused persons went towards the house of Mansukh. Birsa and Johan dragged Mansukh from his house. It is alleged that Johan caught hold Mansukh, Birsa assaulted him with Danda and lifted his neck upward and

then Boai cut the neck of Mansukh, due to which he died.

It was further alleged that the accused persons used to call wife of the informant as "Dian" which was opposed by the deceased, informant and other family members due to which this occurrence took place, in which Mansukh died and the informant, his wife and daughter sustained injuries.

2. Mr. R.C. Khatri, learned counsel for the appellants assailed the impugned judgment on various, grounds. He submitted that the cause of death is incised injuries caused by Dawli by absconding accused Boai and so far as the appellants are concerned, the allegation against them is of causing injury by Danda and catching hold the deceased. He further submitted that the occurrence took place due to dispute and quarrel regarding witchcraft and there was-no intention to kill the deceased and for that the appellants are languishing in jail custody for more than 11 years.

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

4. The prosecution is examined 8 witnesses:

P.W. 1- is Masidas Mundu, a hearsay witness.

P.W. 2- is the injured wife of the informant.

P.W. 3- is the informant.

P.W. 4- is the inquest witness.

P.W. 5- is the seizure list witness.

P.W. 6- is the Doctor who conducted post mortem.

P.W. 7- is the Doctor who examined the injured witnesses.

P.W. 8- is the Police Officer who proved the case-diary.

5. There is no reason to disbelieve the prosecution case as narrated in the First Information Report and corroborated with injured eye-witnesses P.Ws. 2-3 and the Doctors P.Ws. 6-7. The accused persons came together with Danda and Dawli (sharp cutting weapon) and used the weapons assaulting on vital parts of the body of the informant and his wife, though the injuries were found to be simple. When the deceased intervened, the appellants took active part in assaulting him by Danda, catching hold him, keeping his neck upward which was cut by one of the accused Boai by Sharp cutting weapon. Doctor - P.W.6, found that the incised injuries were by sharp cutting weapon such as Dawli. There were cut injuries on the neck and on the chest which were found to be cause of death. There was one abrasion also.

6. There is nothing in the evidence of the prosecution witnesses to disbelieve/ discredit them. The submission made by Mr. Khatri, that there was no intention

to kill, cannot be accepted in view of the materials on record as noticed above. After carefully examining the case it appears that, the prosecution has been able to prove its case against the appellants, beyond all reasonable doubts. No grounds have been made out for interference by this Court with the impugned judgment of conviction and sentence, passed against the appellants. Accordingly, this appeal is dismissed.