
(2013) 05 JH CK 0020
In the Jharkhand High Court
Case No : I.A. No. 1619 of 2013

Kahan Hansda and Another	Vs	APPELLANT
State of Jharkhand		RESPONDENT

Date of Decision : 01-05-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 307, 34, 460

Citation : (2013) 3 AJR 326

Hon'ble Judges : Shree Chandrashekhar, J; D.N. Patel, J

Bench : Division Bench

Advocate : Rahul Saboo, Amicus Guriae, for the Appellant; S.S. Prasad, Assistant Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

D.N. Patel, J.—The present appeal has already been admitted vide order dated 24th July, 2006. This Court has received records and proceedings of Sessions Trial No. 341 of 2003. The present interlocutory application has been preferred from jail for suspension of sentence awarded to the appellants who are original accused Nos. 1 and 2 of the Sessions Trial No. 341 of 2003. The appellants have been punished by learned 1st Additional Sessions Judge, Dumka for life imprisonment for causing murder of the deceased u/s 302 of the Indian Penal Code to be read with Section 34 of the Indian Penal Code as well as they have been punished for seven years rigorous imprisonment for the offence punishable u/s 307 of the Indian Penal Code to be read with Section 34 of the Indian Penal Code and they have also been punished for seven years rigorous imprisonment with fine for the offence punishable u/s 460 of the Indian Penal Code.

2. Looking to the records and proceedings of Sessions Trial and having heard learned counsel for both the sides, there is prima facie case against these appellants. As the criminal appeal is pending, we are not much analyzing the evidences on record, but, suffice it to say that these appellants have been punished mainly for the offence of causing murder of:

(a) Bitiya Hansda; and

(b) Babu Sal Soren.

3. The case of the prosecution is based upon more than one eye witnesses who are P.W. 1 and P.W. 5. Looking to the depositions of these two eye witnesses, they have clearly narrated the role played by these appellants for causing murder of both the deceased. The weapon alleged to have been used is a sharp cutting instrument. The deposition of two eye witnesses is constituting a prima facie case against both the appellants. Moreover, the deposition of P.W. 1 and P.W. 5 is getting enough corroboration by the medical evidence given by P.W. 7 Dr. Binoy Sharan. There are nine incised wounds upon the body of Bitiya Hansda which are capable of being caused by sharp cutting weapon and there are six incised wounds upon the body of Babu Sal Soren (deceased) which are also capable of being caused by sharp cutting weapon. Moreover looking to the deposition given by P.W. 5 (informant), it appears that he has also stated motive of the murder right from the First Information Report. There was land dispute and earlier Panchayati was held and because these appellants along with other co-accused have given threat, the appellants were punished by village Panchayati. This is the motive alleged in the First Information Report. Looking to these evidences on record, there is prima facie case against these appellants.

4. Looking to the gravity of offence, quantum of punishment and the manner in which both the appellants are involved in the offences, as alleged by the prosecution, we are not inclined to suspend the sentence awarded to them by the trial court. There is no substance in this interlocutory application and, hence, the same is, hereby, dismissed.

Nonetheless looking to the period of custody, we hereby direct the Registry of this Court to enlist this criminal appeal on the board of "Final Hearing" in its seriatim number, as per period of custody.