

**(2012) 04 JH CK 0181**

**In the Jharkhand High Court**

**Case No :** Criminal (Jail) Appeal (DB) No. 569 of 2003

Mangal Singh Bankira

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

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**Date of Decision :** 12-04-2012

**Acts Referred:**

Penal Code, 1860 (IPC) — Section 302

**Citation :** (2012) 04 JH CK 0181

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

**Bench :** Division Bench

**Advocate :** Ravi Prakash, Addl. P.P. For the State, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

By Court : This appeal arises out of judgment and order of conviction and sentence dated 25.1.2003 and 27.1.2003 respectively passed by the 3rd Additional Sessions Judge, Chaibasa, in Sessions Trial No. 260 of 2001 whereby the sole appellant has been held guilty for offence under sections 302 of the Indian Penal Code and accordingly he has been sentenced to undergo rigorous imprisonment for life. Prosecution case, in short, is that the informant-(PW2) Pandu Bankira lodged fard beyan with the Police at 4.00 p.m. on 4.3.2001 to the effect that when he went to his field in the morning, his mother Nandi Bankira (PW1) came to him and told that his sister Sombari Bankira (deceased) was killed by the appellant by throttling her as she had refused to serve food.

2 On the basis of the said fardbeyan of the informant (PW2), Sonua P.S case No. 7 of 2001 was registered on 4.3.2001 at 4.00 p.m. After investigation, charge sheet was submitted against the appellant who faced the trial and was convicted as aforesaid.

3. None appears on behalf of the appellant. On the other hand, Mr. Ravi Prakash, appearing on behalf of the State supported the impugned judgment.

4. We have carefully gone through the impugned judgment and the evidence on

record.

5. The prosecution has examined altogether eight witnesses. PW1 is the mother of the informant-PW2. PW1 has been projected as the only eye witness, but she stated in her cross examination that she did not see the appellant throttling the deceased. The informant-PW2, PW3 Narendra Banikra, PW4 Naykee Karma and PW5 Beeran Karma are hearsay witnesses. PW6 Jeet Mohan Besra is inquest witness. PW7 Dr. Surendra Lov held post mortem examination on the dead body of the deceased and found that death was due to asphyxia caused by throttling. He had found abrasions on both sides of the front neck of the deceased. PW8 Chandra Mohan Hansa is the investigating officer.

6. It appears that PW1 who has been projected as the only eye witness has also denied to have seen the occurrence and therefore, in our opinion, the prosecution has not been able to prove its case beyond all reasonable doubt against the appellant that he killed the deceased by throttling the deceased for not serving food. Thus, we are inclined to give benefit of doubt to the appellant. For the reasons aforesaid, this appeal is allowed and the impugned judgment and order of conviction of the appellant by the trial court in Sessions Trial No. 260 of 2001 u/s 302 of the Indian Penal Code is hereby set aside. The appellant is in jail for about eleven years. He is directed to be released forthwith, if not wanted in connection with any other case(s)