
(2019) 08 JH CK 0005

In the Jharkhand High Court

Case No : Criminal Appeal (DB) No. 456 Of 2001

Ravi Ganjhu And Ors

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 06-08-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 201, 302

Citation : (2019) 08 JH CK 0005

Hon'ble Judges : Chandrashekhar, J; Ratnaker Bhengra, J

Bench : Division Bench

Advocate : Amit Kumar Das, Swati Salini, Kumar Basant Narayan, Shivam Sahay, Ravi Prakash

Final Decision : Allowed

Judgement

Chandrashekhar, J

1. Three accused persons, namely, Ravi Ganjhu, Madan Ganjhu and Putna Pramanik were sent up for trial after a charge-sheet was filed in Bundu P.S. Case No. 56 of 1991, which was registered on 16.08.1991 on the basis of the fardbeyan of Tulsi Das, brother of the deceased Chandan Das.
2. During the trial, Putna Pramanik passed away and, therefore, his name was expunged from the case vide order dated 21.09.1995.
3. The accused persons, namely, Ravi Ganjhu and Madan Ganjhu have been convicted under section 302/34 IPC and section 201 IPC and they have been sentenced to undergo R. I. for life under section 302/34 IPC and R.I. for 2 years under section 201 IPC.
4. By order dated 28.01.2002 both the appellants have been granted bail by this Court.
5. During the trial, the prosecution has examined 7 witnesses; the informant is P.W.-1.

6. In his fardbeyan, the informant has stated that at about 7:00 p.m. in the evening of 15.08.1991 his brother, namely, Chandan Das went to Radharani Mandir to take part in the Kirtan, however, he did not come back till 9:00 p.m. in the night. At about 9:30-10:00 p.m. when he heard explosion he and his friend Dhananjay Mahto rushed to that side. The informant says that when they reached near the house of Ravi Ganjhu they saw the appellants and Putna Pramanik dragging his injured brother to the Angan (courtyard) of Ravi Ganjhu. He says that the accused Madan Ganjhu assaulted his brother with Bhujali while the other two accused persons were holding him. He claims that he has seen the occurrence in the electric light. In the court, the informant has narrated a similar story of the occurrence which has taken place in the night of 15.08.1991. He has named the appellants and Putna Pramanik as the persons who dragged his brother inside the house of Ravi Ganjhu and killed him.

7. Sri Ravi Prakash, learned Special P.P. submits that the informant has remained consistent in the Court and in his cross-examination nothing material could be elicited from him by the defence.

8. The incident in which brother of the informant has died has happened at about 9:30-10:00 p.m. on 15.08.1991 and the fardbeyan of the informant was recorded at 6:30 a.m. on 16.08.1991. The informant has tried to explain this delay by stating that his friend asked him not to go out of his house, for he may also be killed. He says that Ravi Ganjhu is a CPI leader who wielded considerable influence in the neighbourhood. However, the explanation sought to be put forward by the informant is falsified when he admits in his cross-examination that he had informed his neighbours, namely, Badkai and Nityanand Das about the incident. This statement of the informant has to be further examined in the context of his examination-in-chief where he says that no one from the neighbourhood came to his house due to fear of Ravi Ganjhu. It has also come in the evidence that there were as many as eleven members in the family of the informant, but, none of them has been examined during the trial. In his fardbeyan, the informant has said that at the time when his brother left home his mother was in the house, however, his mother has also not been examined by the prosecution. The friend of the informant, namely, Dhananjay Mahto has also not been examined during the trial.

9. During the trial, out of seven witnesses, five witnesses have either been declared hostile or tendered for cross-examination. The Investigating Officer who has conducted the investigation was not examined during the trial and the doctor who has conducted the postmortem examination has not been produced by the prosecution. The crime weapon has not been seized and the seizure list of the bloodstained soil taken from the house of Madan Ganjhu was not proved. PW-2 and PW-6 are the seizure-list witnesses, however, during the trial PW-6 has been tendered by the prosecution. In the context of the claim of the informant that he has seen the occurrence in the electric light, it has come in the prosecution's evidence that there was no electricity laid in the entire village. The post-mortem

examination report discloses multiple injuries on Chandan Das, many of them were stab injuries. However, the informant has claimed that Madan Ganjhu has assaulted his brother on his neck with a Bhujali.

10. In the aforesaid state of affairs; (i) important witnesses were not examined by the prosecution, (ii) the doctor who has conducted autopsy has not been produced, (iii) the Investigating Officer of this case has not been examined, (iv) the crime weapon has not been recovered, and (v) evidence of the informant during his cross-examination by the defence creates serious doubt on veracity of his statement, we are of the opinion that the prosecution has failed to establish the charge under section 302/34 IPC against the appellants. It has also failed to establish the charge under section 201 IPC framed against the appellants.

11. The appellants are acquitted of the charges framed against them. They are on bail and, therefore, they are discharged of liability of bailbonds furnished by them.

12. In the result, Criminal Appeal (DB) No. 456 of 2001 is allowed.

13. Let lower court record be transmitted to the Court concerned, forthwith.