

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No. 638 of 2017

[Against the judgment of conviction and sentence dated 19.12.2016 and 20.12.2016 respectively passed by learned Additional Sessions Judge-I, Sahibganj in Sessions Trial No. 251 of 2011 arising out of Sahibganj (M) P.S. Case No. 94 of 2011 corresponding to G.R. No. 226 of 2011.]

Billa Yadav @ Jaidular Yadav, Son of Prabhu Nath Yadav, Resident of Village- Samada, P.O.- Sakrigali, P.S.- Sahibganj (M), Dist.- Sahibganj.

... .. **Appellant**

Versus

The State of Jharkhand

... .. **Respondent**

P R E S E N T

SRI ANANDA SEN, J.

SRI PRADEEP KUMAR SRIVASTAVA, J.

For the Appellant	: Mr. Gautam Kumar, Advocate
	: Mr. Ashutosh Kr. Sinha, Advocate
	: Mr. Manoj Kumar, Advocate
For the State	: Mr. Saket Kumar, A.P.P.

JUDGEMENT

C.A.V. on: 28.09.2026

Pronounced on: 15/10/2026

Per- Pradeep Kumar Srivastava, J.

1. Instant Criminal Appeal is directed against the judgment of conviction and order of sentence dated 19.12.2016 and 20.12.2016 respectively passed by learned Additional Sessions Judge-I, Sahibganj in Sessions Trial No. 251 of 2011 arising out of Sahibganj (M) P.S. Case No. 94 of 2011 corresponding to G.R. No. 226 of 2011, whereby and whereunder, the appellant has been held guilty for the offence under Section 302 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for life alongwith the fine of Rs. 10,000/- with default stipulation.

Factual Matrix:-

2. Factual matrix giving rise to this appeal is that on 14.05.2011 in the evening hour at about 6:00 P.M., the informant was standing on a Kacchi Sadak lying in front of his house and his father was going to call his neighbour Niwas Mandal for seeking his assistance for pulling the bamboo, which was already cut down by him. It is alleged that his opposite door neighbour, the accused Billa Yadav, on account of old enmity, inflicted Jhorani (a sharp edged weapon) blow causing severe cut injury over the neck of his father as a result of which, he fell down on the earth and the accused alongwith the Jhorani, fled away towards western side and threw the weapon in the bush. It is further alleged that after lapse of 5 to 7 minutes, his father succumbed to the injury on the spot. After the incident, the nearby people being 100 in numbers assembled there to whom, the informant narrated the incident. Later on his mother Purani Devi and brother also reached there. Thereafter, the incident was reported to the police by the villagers.
3. On the basis of above fardbeyan of the informant, F.I.R. (Sahibganj (M) P.S. Case No. 94 of 2011) was registered against the above named accused for the offence under Section 302 of the I.P.C.
4. After completion of investigation, charge-sheet was submitted against above named appellant for the offence under Section 302 of the I.P.C. After taking cognizance, the case was committed to the Court of Sessions, where Sessions Trial No. 251 of 2011 was registered.
5. The appellant denied the charge levelled against him and claimed to be tried.

6. In the course of trial altogether 10 witnesses have been examined by the prosecution. Apart from oral testimony of the witnesses, following documentary evidence has been adduced:-
- i. Exhibit-1: Signature of the informant on the fardbeyan.
 - ii. Exhibit-2: Postmortem report
 - iii. Exhibit-3: Signature of Jitan Kumar Mandal on seizure list.
 - iv. Exhibit-4: Farbeyan
 - v. Exhibit-5: Formal F.I.R.
 - vi. Exhibit-6: Produciton-cum-Seizure list
 - vii. Exhibit-7: Seizure list of blood stained soil.
7. On the other hand, defence has examined one witness, namely, DW-1 Dharmadeo Yadav and no documentary evidence has been adduced by him. The case of the defence is denial from the occurrence and plea of innocence.
8. The learned Trial Court after evaluating the evidence oral as well as documentary led by the respective parties, arrived at definite conclusion about the guilt of the appellant for the offence under Section 302 of the Indian Penal Code. Accordingly, the learned Trial Court convicted and sentenced the appellant as stated above, which has been assailed in this appeal.

Submissions on behalf of appellant: -

9. Learned counsel appearing on behalf of the appellant assailing the impugned judgement has submitted that the learned Trial Court has miserably failed to properly appreciate the evidence available on record. The statements of the informant, who is son of the deceased, his mother,

brother and other independent witnesses are self-contradictory and not consistent to the version of each other. Kanhai Mandal (PW-3) and Tinku Kr. Mandal (PW-5) are said to be the eye witness of the occurrence but they can't be said to be an eye witness as their evidence are contradictory with each other. In the F.I.R. itself, the informant has alleged that due to old enmity the accused inflicted jhorni blow on his father but in the cross-examination, he admits that there was no previous enmity with the accused. It is further submitted that there is no iota of cogent and reliable evidence against the present appellant to connect him with the alleged occurrence. The alleged murder weapon, i.e., jhorni has neither been recovered from conscious possession of the appellant nor on the basis of his confessional statement. Moreover, the alleged seized weapon is not connected with the commission of crime. It is also submitted that the seized materials, i.e., blood stained soil and murder weapon Jhorni have never been sent to the S.F.S.L for its chemical analysis, as such, in absence of the report, the very factum of recovery and preparation of seizure list does not have any relevance in the facts and circumstance of the case. Therefore, the impugned judgment of conviction and sentence suffers from serious illegality, based on conjecture and surmises and liable to be set aside and the appellant deserves to be acquitted from the charge levelled against him. Accordingly, this appeal may be allowed.

Submissions on behalf of State:-

10. Per contra; learned A.P.P. defending the impugned judgment of conviction and sentence of the appellant has argued that the learned Trial Court has very wisely and aptly analysed overall aspects of the case and

properly scrutinized the evidence available on record. There is strong circumstantial evidence against the appellant showing his involvement in commission of murder of the deceased. The informant alongwith other eye witness of the occurrence have fully supported the prosecution case. The learned Trial Court has considered every aspect of the case, which has been got explained in the examination of the accused under Section 313 of the Cr.P.C. Therefore, there is no illegality or infirmity in the impugned judgment of conviction and sentence of the appellant calling for any interference in this appeal, which is devoid of merits and fit to be dismissed.

Analysis, discussions and reasons: -

11. We have gone through the record of the case alongwith impugned judgment in the light of contentions raised on behalf of respective parties.
12. On the basis of rival contentions of both the parties, the only question for consideration in this appeal emerges that *“as to whether the impugned judgment of conviction and sentence of the appellant suffers from any serious error of law calling for any interference in this appeal or not?”*
13. Before advertng to record any finding on the above point, we have to appraise with the evidence available on record adduced by the prosecution during trial.
14. It appears that altogether 10 witnesses have been examined in this case by the prosecution:-
15. **PW-1 Purni Masomat** is wife of the deceased Suchan Mandal. She has stated that on the relevant date of occurrence, her husband had gone

to call his next door neighbour for having his assistance for pulling the bamboo and in that course, when he was on the way, the accused Billa Yadav inflicted by means of Jhorni (Sharp cut weapon), which resulted into cut injury over his neck, which led to his instantaneous death and the accused alongwith weapon fled away. She has further deposed that Somani Masomat (PW-2) had come there and also seen the occurrence.

In her cross-examination, she admits that deceased was his husband and there was no any enmity with the accused prior to the occurrence. She has further stated that "मेरे पति मार खाकर गिर गए तो वहाँ पर पांच छः सौ आदमी जमा हो गया।" She has further deposed at para-5 that मैं हल्ला किया था की बिल्ला मारकर भाग गया। मैं अकेली औरत को हिम्मत नहीं था कि उसको पकड़ सकते। दाहिना गर्दन पर मारा था। पुलिस ने पूछताछ किया था।"

PW-2 Somni Masomat has also stated that the deceased had gone to call his next door neighbour for having his assistance for pulling the bamboo and in that course, the accused Billa Yadav inflicted by means of Jhorni (Sharp cut weapon) to deceased Suchan Mandal, which resulted into cut injury over his neck, which led to his death.

She has stated in her cross-examination at para-4 that "सूचन मंडल के घर मेरा खूब आना जाना होता है। उससे दोस्ती था उसके परिवार के साथ भी दोस्ती है। सूचन मंडल को पांच छोटा छोटा बच्चा है। आज मैं सूचन मंडल के पत्नी के वास्ते गवाही देने आयी हूँ जैसे जैसे पत्नी बताई वह बात बोली हूँ।"

PW-3 Kanhai Mandal has stated that he was doing some electric work on the pole and the deceased Suchan Mandal was coming for getting assistance by his neighbour to pull bamboo, at the same time, the

accused Billa Yadav inflicted blow by Jhorni on the left side neck of deceased Suchan Mandal, due to which he fell on the earth and succumbed to his injury. Thereafter, on hulla, villagers reached there. Police also reached there and his statement was also recorded.

In his cross-examination, this witness has stated that his house is situated at 20 meter distance from the house of deceased. He has further stated that he has come to the Court on instruction of wife of the deceased Suchan Mandal. He was not in talking terms with the deceased and he had not gone to his house prior to the occurrence but after occurrence he started going his house. He had tried to catch the accused but could not succeed due to coming down from electric pole. He has further stated that except him, no one was present at the time of occurrence.

PW-4 Jagdish Mandal @ Jagdish Kr. Mandal is the informant of this case. He has stated that the occurrence took place in the evening at 6:00 P.M. on 14.05.2011. At that time, he was just a bit ahead to his father, who was calling his neighbour for helping in pulling the bamboo, which was already cut by him. Then, the accused came there and inflicted Jhorani blow to his father causing severe cut injury over his neck, as a result of which, he fell down on the earth writhing with pain and thereby succumbed to his injury on the spot. Thereafter, he started crying then the villagers reached there and seeing their arrival, the accused fled away from there. Thereafter, the police came there and recorded his statement, which has been marked as Ext.-1.

In his cross-examination, this witness has stated that there was some darkness as the occurrence took place in the evening. The accused had inflicted blow upon his father within one minute and fled away instantly. After four to five minutes, the villagers arrived. He does not know as to who had informed the police. He has further stated in his cross-examination that he was ahead of his father. His father had no enmity with the accused prior to the occurrence. He had shown the blood stained soil to the police but the same was not seized by the police.

PW-5 Tinku Kr. Mandal is another son of the deceased. He has also stated that at the time of occurrence, he was in the gali situated in front of his house. His father was going to call his neighbour for his help in pulling the bamboo, which was already cut by him. Then, the accused came there and inflicted blow by Jhorani to his father causing severe cut injury over his neck, as a result of which, he fell down and died. On our screaming and crying, the villagers reached there. Thereafter, the police also arrived there. Police also recorded his statement and his elder brother's statement.

In his cross-examination, he has stated that neighbour Niwas Mandal had not come out from his house even after the occurrence. He cannot say as to who had informed the police. His elder brother had reached first at the place of occurrence and thereafter he reached after two minutes. This witness has also stated that there was no enmity with the accused prior to the occurrence.

PW-6 Dr. Devesh Kumar is the Medical Officer, who performed post-mortem of deceased Suchan Mandal on 15.05.2011 and found following external injuries:

Rigor mortis was present in both the upper and lower limbs.

On External Examination:-

Eyes-open, mouth- closed; hair- black, no bleeding from mouth or nostril.

Sharp and deep cut wound measuring 6"x2" present on the left lateral side of neck.

On Internal Examination:-

Skull- N.A.D.

On opening the skull brain- N.A.D.

On opening the chest lungs- N.A.D.

Heart- Empty.

On opening the abdomen- No blood present in the abdominal cavity.

Lower limb- N.A.D.

Cause of death- opined to be shock and haemorrhage, due to cut on left side of neck by any sharp cutting object.

Time elapsed since death- within 24 hours.

He has proved the post-mortem report, marked as Ext.- 2.

In cross-examination, this witness has admitted that such type of cut injury can be caused if a man falls over a sharp cutting weapon in the proportional force.

PW-7 Dinesh Yadav had gone to see the deceased in the morning. He has also shown his unawareness about the occurrence as to who had killed the deceased. **He has been declared hostile by the prosecution.**

This witness has been cross-examined by the prosecution, wherein, he has denied any statement given before the police with regard to the occurrence.

PW-8 Jitan Mandal has also expressed his no knowledge about the occurrence. As such, **he was also declared hostile by prosecution.**

This witness has been cross-examined by the prosecution, wherein, he has denied the suggestion of prosecution that on 14.05.2011, on hearing hulla, he had gone to the place of occurrence, where he came to know that the accused Billa Yadav fled away after slitting the throat of deceased Suchan Mandal. He identifies his signature on the seizure list marked as Ext.-3.

This witness has also been cross-examined by the defence, wherein, he shows his unawareness about signature on the seizure list.

PW-9 Chhabinath Yadav has stated that he came to know about the murder of someone by the police. Police had not inquired from him about the occurrence and only took his signature on the seizure list. Thereafter, this witness has been declared hostile.

PW-10 Sri Bhagwan Singh is the Investigating Officer of this case. He has stated that on dated 14.05.2011, he was posted at Sahibganj Mufassil Police Station as the Station House Officer (SHO / Thana In-charge). On the very same day, a telephonic information was received stating that a person has been murdered in the village Sakrigali. Upon

receiving this information, he accompanied with police force proceeded towards the said village to conduct field verification. He found the telephonic information to be accurate upon arriving at the spot. Thereafter, he officially recorded the statement of PW-4 Jagdish Kumar Mandal, who is the son of the deceased. He disclosed that the accused Billa Yadav (son of Nunu Mahto), inflicted Jhorni blow on neck of his father and deliberately murdered him. The Fardbeyan of informant Jagdish Kumar Mandal (PW-4) has been marked as Ext.-4 and the formal F.I.R. as Ext.-5. He has further stated that in the course of the investigation, he systematically prepared the Inquest Report of the deceased, the official entry of which was recorded sequentially in the Case Diary. The sharp-edged murder weapon (Jhorni) was seized, and a seizure list was prepared with details of the collection of the weapon in the presence of independent recovery witnesses, namely, Chhabinath Yadav and Gedan Mandal. The seizure list available on record, has been marked as Ext.- 6. Similarly, blood-stained soil was collected from the place of occurrence, and a matching seizure list was compiled in the presence of witnesses Jitan Kr. Mandal and Munna Kumar marked as Ext.-7. In further course of the investigation, he sent the dead body of the deceased to Sadar Hospital, Sahibganj, for a comprehensive post-mortem examination. Following that action, he completed a detailed physical inspection of the place of occurrence and recorded as follows:

The place of occurrence is an unpaved rural road situated directly between the village of Sakrigali Samda Seej and the house belonging to the accused. Adjoining this road to the North situates the house of the

deceased, and directly to the South is the house of the accused. The precise boundaries (Chauhaddi) are defined as: East: Residence of Paltu Yadav and a community handpump (Chaapakal), West: Residence of Arjun Yadav, North: Residence of the deceased, Suchan Mandal and South: Residence of Billa Yadav (accused) and Ajay Kumar Yadav. After executing the inspection, he re-recorded the statement of the informant and compiled statements from other structural witnesses, namely: Tinku Mandal (brother of the informant), Mostt. Purani Devi, and fellow villagers Kanhai Mandal, Chhabinath Yadav, Sumni Masommat, and Dinesh Yadav, all of whom consistently supported the occurrence. During the investigation, he also obtained the official criminal history profile of the accused and detailed it inside the Case Diary. Thereafter, he received the official Post-Mortem (P.M.) Report. Having finalized the investigation across all critical verification points, and acting under instructions from senior command, finding the underlying case facts to be true, he submitted the formal Charge Sheet against the accused under Section 302 of the Indian Penal Code (I.P.C.).

In his cross-examination, this witness has stated that Samda Seej village consists roughly of two to three hundred households. It is correct that towards the west of the boundaries is the place of occurrence, the house of Arjun Yadav is situated completely outside. He admits that during the course of the investigation, the blood-stained sharp weapon (Jhorni), which was seized, was not sent to the laboratory for forensic examination. He has further stated that the word "blood stain" was later on added by pen on column 6 of seizure list, which is exhibited on

- record. Similarly, Sakrigali Samda Seej village is situated at the specified location from where the blood-stained soil was recovered. He denies the suggestion of defence that he did not conduct the investigation of this case in a lawful, methodical manner and he has submitted charge sheet based on insufficient evidence under the pressure or orders of the senior officers.
16. On the other hand, case of the defence is denial from the occurrence and false implication only on the basis of suspicion.
 17. The defence has also examined one witness, namely, DW-1 Dharmdeo Yadav. He has stated that the accused Billa Yadav is innocent and has been falsely implicated in this case. Allegation of murder against the accused is baseless.
 18. We have given thoughtful consideration to overall aspects of the case as testified by the prosecution witnesses during trial and also examined the evidence available on record.
 19. We have also gone through the impugned judgment, it transpires that on the basis of testimony of P.W.- 4, Jagdish Mandal @ Jagdish Kr. Mandal, who claimed to be eye-witness of the occurrence, the present appellant has been held guilty and sentenced.
 20. The evidence of P.W.-4 itself does not inspire confidence to be acted upon as wholly reliable witness. He has admitted inimical terms with the present appellant initially in the F.I.R. but in his cross-examination, he has stated that his father had no enmity with the accused prior to the occurrence. Moreover, the testimony PW-1 mother of the informant and PW-5 brother of the informant also admit no previous enmity with

accused. PW-1 & PW-5 also claim to be the eye witnesses but from their evidence, it appears to be something doubtful as PW-1 has not stated anywhere that she was present at the place of occurrence and PW-5 reached at the place of occurrence after the informant. It also transpired from the evidence of PW-3, who also claimed to have seen the occurrence, wherein, the present appellant was seen while inflicting Jhorni blow on the neck of the deceased causing cut injury on the left side of his neck and by sustaining the same, he fell on the surface and succumbed to his injury. In this context, PW-3 in his examination during trial has stated that he climbed up on the electric pole for some electric work, whereas in his cross-examination, he does not claim to be an electrician. In his cross-examination, he states that he has come to the Court on instruction of wife of the deceased Suchan Mandal. He was not in talking terms with the deceased and he had not gone to his house prior to the occurrence but after occurrence he started going his house. He also claims that except this witness, no one was present at the time of occurrence.

21. The investigating officer, (PW-10) has seized the sharp-edged murder weapon (Jhorni) produced at the crime scene by the informant and a seizure list was prepared with details of the collection of the weapon in the presence of independent recovery witnesses, namely, Chhabinath Yadav (PW-9) and Gedan Mandal. Similarly, the blood-stained soil was collected from the place of occurrence and a matching seizure list was compiled in the presence of witnesses Jitan Kr. Mandal (PW-8) and Munna Kumar. The aforesaid seized materials have not been sent to

S.F.S.L. for chemical examination. In this context, the informant (PW-4) himself has deposed in his cross-examination that he had shown the blood stained soil to the police but the same was not seized by the police at the time of arrival of police. Moreover, so far recovery of the murder weapon is concerned, the same has neither been recovered from conscious possession of the appellant nor upon his confessional statement. There is also doubt as to how and from which place the murder weapon was recovered. The investigating officer has also not explained in this regard.

22. In view of above discussion and reasons, it appears that the testimony of the informant PW-4 and PW-3 Kanhai Mandal cannot be relied upon. There is no other evidence on record, showing direct involvement of the present appellant in the alleged offence. The whole prosecution story appears to be doubtful. The conduct of PW-3 himself is doubtful. The overall material collected during investigation and the evidence of witnesses shows that they have given contradictory statements in material particulars. Therefore, the evidence of the informant, mother and brother of the informant and PW-3, who projected themselves to be eye witness, cannot be believed. It is trite that where the offence is severely punishable, the evidence must also be of higher quality, concrete, cogent and reliable. The learned Trial Court has not properly considered the evidence of witnesses in right perspective and ignored the material contradictions appearing in their evidence as regards commission of alleged murder by the present appellant. They cannot be branded as wholly reliable witnesses or the eye witnesses of the occurrence.

23. Therefore, we are of the firm view that the learned Trial Court has committed serious error of law while placing reliance upon inconsistent and scanty circumstances available on record for basing the conviction of the appellant. Therefore, the appellant is extended the benefit of reasonable doubt. Accordingly, the impugned judgement of conviction and sentence of the appellant is hereby set aside.
24. The appellant is acquitted from the charge levelled against him. Accordingly, this appeal is **allowed**.
25. Pending I.A.(s), if any, stands disposed of.
26. The appellant is in custody, as such, he is directed to be released forthwith, if not required in any other case.
27. Let a copy of this judgment along with trial court records be sent back immediately to the concerned Trial Court for information and needful.

(PRADEEP KUMAR SRIVASTAVA, J.)

Per Ananda Sen, J. : I Agree

(ANANDA SEN, J.)

High Court of Jharkhand at Ranchi

Date: 15/10/2026

Rahul/ N. A. F. R.

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