

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (DB) No. 1250 of 2018

Jyoti Mukhi, S/o Late Sohan Lal Mukhi, Age-32 years, R/o-Dhatkidih,
Harijan Basti, P.O. & P.S.-Bistupur, Town-Jamshedpur, Dist.-East
Singhbhum

... .. Appellant(s)

Versus

The State of Jharkhand

..... Respondent(s)

With

Criminal Appeal (DB) No. 194 of 2019

-
1. Holiya Mukhi, aged about 30 years,
 2. Khoon Mukhi @ Vikash Mukhi @ Vikash, aged about 24 years,
 3. Tika Mukhi @ Gopi @ Tika, aged about 30 years,
- All sons of Late Sohan Lal Mukhi, resident of Dhatkidih, Harijan
Basti, P.O. & P.S.-Bistupur, Town-Jamshedpur, Dist.-East Singhbhum.

... .. Appellant(s)

Versus

The State of Jharkhand

..... Respondent(s)

CORAM: SRI ANANDA SEN, J.
: SRI PRADEEP KUMAR SRIVASTAVA, J.

For the Appellant(s)	:	Mr. A.K. Kashyap, Sr. Advocate Mr. Pran Pranay, Advocate
For the State	:	Mr. Saket Kumar, APP [Cr. A. (DB) No. 194 of 2019] Mr. Rajneesh Vardhan, A.P.P. [Cr. A. (DB) No. 1250 of 2018]
For the Informant	:	Mr. Vikash Kumar, Advocate [Cr. A. (DB) No. 194 of 2019]

J U D G M E N T

<u>C.A.V. on 30.09.2026</u>	<u>Pronounced on 15/10/2026</u>
<u>Per- Pradeep Kumar Srivastava, J.</u>	

1. Above appeals are arising out of common judgment, hence taken
together for hearing.

2. Heard the arguments of learned Sr. counsel for the appellants as well as learned A.P.P.s assisted by learned counsel appearing for the Informant.
3. The above named appellants have been held guilty for the offence under Section 148, 302 read with Section 149 of the I.P.C and Section 27 of Arms Act vide judgment dated 30/31.08.2018 passed by learned Addl. Sessions Judge-Vth, East Singhbhum at Jamshedpur in S.T. No. 83 of 2007 (arising out of Bistupur P.S. Case No. 125 of 2016 corresponding to G.R. Case No. 1388 of 2016) whereby and whereunder appellants are convicted and sentenced to undergo rigorous imprisonment for life along with a fine of Rs. 20,000 each, with default stipulation; R.I. for 3 years and a fine of Rs. 1000/- under Section 148 of the I.P.C. along with default stipulation; R.I. for 5 years along with a fine of Rs. 5000/- with default stipulation.

Factual Matrix:-

4. Factual matrix giving rise to these appeals is that on 18.05.2016, at about 6:45 A.M., Munna Ghosh (informant) was sitting in the quarter of Kallu Ghosh who had gone to practise Yogashan. Informant sometime remained in the house of Kallu Ghosh, in the meantime, he heard sound of bullet firing and rushed towards the place and found Kallu Ghosh was screaming and Holiya Mukhi (appellant in Cr. App. (D.B.) No. 194 of 2019) has opened firing on his chest. The informant also noticed that Holiya

Mukhi and his brothers, all armed with pistol were chasing Kallu Ghosh and all the accused persons were shooting by fire arms. Informant was also aimed by firing against him which was misfired and the accused persons fled away. The injured was taken to T.M.H. where in course of treatment, he died at 2:30 PM. It is also alleged that prior to this occurrence, the aforesaid five accused persons, on 26.09.2015 assaulted to the deceased Kallu Ghosh with sword and for that occurrence, wife of deceased had lodged an F.I.R. and that case is pending. It is alleged that due to revenge of that case, they have committed murder of informant's brother.

5. On the basis of written report of the informant, Bistupur P.S. Case No.125 of 2009 was registered against the above named accused persons for the offence under Section 147, 148, 149, 302 of the I.P.C and Section 27 of the Arms Act.
6. The above case was investigated by an A.S.I. posted at the Bistupur police station. After taking charge of investigation, he reached at the place of occurrence. After registering a formal FIR, the station in-charge also reached at the spot. Three bullet shells were found at the place of occurrence and one bullet shell and some soil mixed with blood were also found at the second place of occurrence near the door of Premvati Devi which were seized and seizure list was prepared in presence of independent witnesses Prem Mukhi (P.W.-3) and Paresh Mukhi (P.W.-4)

marked as Exhibit 2/3. He also inspected the place of occurrence.

The **first place of occurrence** was the pavement road located in the Harijan Basti of Dhatkidih village. On the north side of the road, behind the house of deceased Kallu Ghosh, there is a platform of about 20 x 10 feet built under a Peepal tree. There is a Peepal tree on the eastern end of this platform. The northern end of the platform is adjacent to the wall of the house of deceased Kallu Ghosh. The northern end of this platform meets the wall of the house of deceased Kallu Ghosh, three bullet shells were recovered lying on the ground. It is said that deceased Kallu Ghosh was shot and injured while doing yoga at this very place.

The **second place of occurrence** is located approximately two hundred yards northeast of the first incident site, on a mud platform built near the door of Premvati Devi's house. A bullet hole was found lying on the northern edge of the platform. Some blood-stained mud was also found, which was seized in the presence of two independent witnesses. In the course of investigation, inquest report (Ext.-1/2) was prepared and dead body of deceased was sent for post-mortem. The statements of the witnesses Julie Ghosh (wife of deceased), Animesh Ghosh, Anjan Ghosh and Paresh Mukhi were recorded. Post-mortem report of the deceased Kallu Ghosh along with two bullet fragments were obtained from the hospital in a sealed envelope. A production cum seizure list was prepared (Exhibit 8).

7. After completion of investigation, finding sufficient evidence against accused persons for offences under Sections 147, 148, 149 & 302 of the IPC and 27 of Arms Act, charge-sheet was submitted.
8. After taking cognizance of aforesaid offences, the case was committed to the Court of Sessions, where S.T. No. 83 of 2017 was registered. The charges were framed and explained to the accused persons in Hindi to which they pleaded not guilty and claimed to be tried.
9. In the course of trial, altogether 10 witnesses were examined by the prosecution:-

P.W.-1	Animesh Ghosh
P.W.-2	Anjan Ghosh
P.W.-3	Prem Mukhi
P.W.-4	Paresh Mukhi
P.W.-5	Juli Ghosh
P.W.-6	Dr. Lallan Choudhary
P.W.-7	Munna Ghosh (Informant)
P.W.-8	Shambhu Nath Thakur
P.W.-9	Chitranjan Mishra
P.W.-10	Ramchandra Ram

10. Apart from oral testimony of the witnesses, following documentary evidence has also been adduced on behalf of the prosecution:-

Ext. -1 & 1/1 Signature of Anjan Ghosh (P.W.-2) and Munna Ghosh (P.W.-7) on Inquest report.

Ext.-2, 2/1, 2/2 & 2/3 Signature of P.W.-3 (Prem Mukhi), P.W.-4 (Paresh Mukhi) & P.W.-7 (Munna Ghosh) on seizure list.

Ext.-3 Post Mortem Report dated 19.05.2016

Ext.-4 & 4/1 Written Report and Endorsement

Ext.-5 Challan

Ext.-6 Confessional Statement of accused Holiya Mukhi

Ext.-7 Formal F.I.R.

Ext.-8 Seizure list

11. On the other hand, no oral or documentary evidence has been adduced on behalf of the defence. The case of defence is denial from occurrence, plea of innocence and false implication.

12. The learned Trial Court after evaluating the evidence, both oral as well as documentary arrived at definite conclusion about guilt of the present appellants and accordingly, convicted and sentenced them as stated above, which has been assailed in these appeals.

Submissions on behalf of appellants: -

13. Learned counsel for the appellants challenging the validity of the impugned judgment has pointed out following grounds/points:-

- The learned Trial Court has failed to properly scrutinize the oral as well as documentary evidence available on record in proper perspective and interpreted the evidence merely on speculation and presumption and the basis of

findings recorded by the learned Trial Court has been sustained on inadmissible evidence.

- There is no eye-witness of the occurrence and the witnesses who are claiming to be eye-witness of occurrence cannot be relied upon as per the materials elicited in their cross-examination showing that they have reached at the place of occurrence after the death of the deceased and all have seen that the deceased was laying dead on Earth and thereafter projected a story that the accused persons were fleeing away opening fire in the air.
- It is admitted fact by PW-5 Juli Ghosh, wife of the deceased that at the time of occurrence, informant was inside her house. She herself is not an eye-witness. Similarly, the informant cannot be branded as an eye-witness of the occurrence.
- No incriminating article or weapon of offence has been recovered or seized from the conscious possession of the appellants connecting them with the alleged occurrence.
- There was specific allegation against Jyoti Mukhi about firing in the stomach of the deceased but the other accused persons who happened to be brother of the Jyoti Mukhi have been falsely roped in this case without proving their specific role, improperly invoking the principles under Section 149 of the I.P.C.

- The motive asserted in the F.I.R. has also not been proved by leading evidence in support thereof. There is no direct or circumstantial evidence against the appellants showing their involvement in commission of the murder of the deceased.
- In the above premises, it is prayed that appellants deserves to be acquitted from the charges leveled against them and the impugned judgment of conviction and order of sentence of the appellants is liable to be set aside and in this appeal may be allowed.

Submissions on behalf of the State

14. On the other hand, learned A.P.P. assisted by learned counsel for the informant has opposed the contentions raised on behalf of the appellants and has contended that the learned trial Court has very wisely and aptly apprised and appreciated the evidence available on record in the light of overall circumstances under which the offence of murder was committed. Therefore, there is no illegality or infirmity in the impugned judgment calling for any interference by way of these appeals, which are devoid of merits and fit to be dismissed.

Analysis, reasons and decision:

15. We have gone through the record of the case along with impugned judgment in the light of contentions raised on behalf of respective parties.

16. The only point for determination in these appeals is “as to whether the impugned judgment and order of conviction and sentence of the appellants suffers from any error of law, which requires any interference in these appeals?”
17. Before embarking to decide the above point, it is pertinent to take brief resume of oral as well as documentary evidence adduced, during trial.

P.W.-1 Animesh Ghosh has deposed that this incident occurred on 18/5/2016 at 6:45 a.m. when he was at home and his sister, Pooja Ghosh, was also inside, then, he heard sound of three or four gunshots. He went outside and saw his uncle, Kallu Ghosh, staggering. He then saw Holia Mukhi, Khun Mukhi alias Vikas, Tika Mukhi alias Gopi, Khujali Ganesh alias Ganesh Ghosh, and Jyoti Mukhi, all armed with pistols were running and firing two or three shots, threatening to kill anyone. It is also stated that prior to this incident, on the morning of 26/9/2015, these five men attacked his uncle, Kallu Ghosh, with swords, and aunt's clothes were torn.

His younger brother, Anjan Ghosh, drove the scooter, and he sat behind his uncle on the scooter. They took him to TMH and got him admitted, where he died during treatment at 2-2:30 pm. **His uncle told him at the place of occurrence that Holiya Mukhi shot him from behind, then, Khujali Ganesh shot him in the chest, and Khun Mukhi alias Vikas, Tika Mukhi, and**

Jyoti Mukhi also shot him. There is a platform near his house from where three empty cartridges were found, and one near Akera Mukhi's house, where his uncle had fallen. Two bullets were recovered during the post-mortem. All the accused who shot him are present in court and this witness identifies them.

P.W.-2 Anjan Ghosh has deposed that this incident occurred on 18.5.2016 at around 6:45 – 7:00 a.m. when he was inside the house, he heard three or four gunshots coming from outside. He came out and saw his uncle Kallu Ghosh running and staggering, followed by Holia Mukhi, Khujali Ganesh alias Ganesh Ghosh, Jyoti Mukhi, Tika Mukhi, and Khoon Mukhi, were firing bullets and threatening to kill anyone. His brother and this witness then took his uncle Kallu Ghosh to TMH Hospital and got him admitted. His uncle Kallu Ghosh died at the hospital at around 2:30 P.M. While he was taking his uncle to the hospital on his scooter, **his uncle Kallu Ghosh told them that Holiya Mukhi shot him from behind, Khujali Ganesh shot him in the chest, and the three others, Tika Mukhi, Khoon Mukhi, and Jyoti Mukhi, also shot him.** They pinned him on the ground and beat him with kicks and punches. At the same time, Khujali Ganesh hit him with butt. Even before that, on 26.9.2015, the accused persons had attacked his uncle with a sword, a case for which is pending in Bistupur.

P.W.-3 Prem Mukhi has proved his signature on the seizure list (Ext.-2) According to his evidence on 18.05.2016 at 15:45, the police recovered four Khokha (shells) and blood-stained soil in front of this witness. Three Khokha were recovered from the platform (Chabutra) near the Peepal tree and one was recovered from near Ekra's house. The police prepared the seizure list. He was also present inside house on the date of occurrence and hearing the sound of firing came out and saw that Kallu Ghosh was lying in injured condition in front of Ekra Mukhi's house.

P.W.-4 Paresh Mukhi also stated that on May 18, 2016, at 6:45 a.m., suddenly, he heard sound of three or four gunshots then, went to the place of occurrence. He saw Kallu Ghosh lying on the ground in front of the Peepal tree, under pool of blood. Holiya Mukhi, Tika Mukhi, Khujali Ganesh, Jyoti Mukhi, and Khoon Mukhi were also present there, kicking and punching him and hitting him with the butts of pistols. As they left, they fired three or four shots again in the air threatening to kill anyone. Anjani and Animesh arrived at the scene. A commotion erupted in the neighborhood. Kallu was taken to TMH on a black scooty. He followed them to TMH. **Kallu was conscious on the way. He narrated that Holiya Mukhi had fired the first shot, pointing at his back.** He died during treatment at TMH. The police recovered three empty cartridges in front of the Peepal tree and in front of Ekra Mukhi's house, one empty

cartridge and blood stained soil were seized. The police prepared the seizure list. He proves his signature on seizure list marked as Ext.2/1.

P.W.-5 Juli Ghosh is the wife of the deceased. According to her evidence, her husband had gone for practicing yoga and she along with her brother-in-law Munna Ghosh were chatting. Her husband went towards the Peepal tree to practice yoga which is about **five steps from the house**. She further states that on 18.05.2016, at about 6:45 AM, she heard sound of firing and along with her Dever Munna Ghosh rushed outside and saw that her husband was staggering due to gunshot injury. He was saying that Holiya Mukhi had shot him in the back. Her husband then went and sat down some distance away. After sitting down, Khujli Ganesh hit him with the butt of a gun. Vikas Mukhi, Tika Mukhi, and Jyoti Mukhi also fired at her husband, hitting him in the chest and back side. All the accused were saying that anyone who dares, would face the same consequence, and they fled, firing bullets. Her nephews, Animesh Ghosh and Ranjan Ghosh took her husband, Kallu Ghosh to TMH Hospital. Later, at around 2:30 pm, her husband was declared dead. She further states that prior to this incident, the same accused persons have assaulted her husband, Kallu Ghosh, with a sword. A case was lodged, which is still pending.

She has identified all the accused persons namely Holiya Mukhi, Khujali Ganesh, Vikas Mukhi, Jyoti Mukhi, Tika Mukhi.

P.W.-6 is Dr. Lallan Choudhary, he has conducted the Postmortem of deceased Kallu Ghosh. He has proved the postmortem report, which has been marked as Ext.-3. He has found the following antemortem injuries present over the body of deceased.

(A)- Stitched wound -

- (i) Two in number separately over Rt. side of neck.
- (ii) Longitudinal over mid line of abdomen 30 cm and 11 cm transversally (all surgical) and two stitches over left side of chest. 9 cm below left axilla.

(B)- Entry wounds-

- (i)- 1 cm x 0.75 cm surrounded by blackening 4 cm x 2.5 cm over outer aspect of left arm making an exit over inner aspect of the left arm 1 cm x 1 cm and again making an entry wound 1cm x 1cm over left side of chest 1 cm below axilla in same line.
- (ii)- 2 cm x 2 cm with abraded margin over Rt. shoulder mid line tap.
- (iii) 1 cm x 1 cm over left side back of lower chest 7 cm left lateral to vertebral column and 29 cm below left side nape of neck margin is abraded.

On dissection-

One mettalic bullet recovered from left side front of chest 6 cm below left clavicle and one other mettalic bullet recovered from

left shoulder. Both bullets marked capital (L) on base, sealed in an envelope and handed over to constable.

Left lung pearsed, bed of spleen grossly contused, bed of left kidney contused. Both sides on neck grossly contused.

Size of bullet-

(I) length 1.3 cm, circumference 2.4 cm

(ii) length 1.3 cm circumference 2.4 cm

Left shoulder dislocated.

Stomach contain blood about 50 ml and urinary bladder empty.

Opinion-

Cause of death- Hemorrhage and shock, injuries in (B) and internal injuries are caused by fire arm.

Time since death- 18 hours to 24 hours approx.

P.W.-7 Munna Ghosh has deposed that the incident occurred on 18.05.2016 at 6:30 a.m. He had gone to his brother Kallu Ghosh's house. They were sitting and chatting with his wife, Juli Ghosh, Kallu Ghosh left after telling them that he was going to the platform to do yoga. Three to four minutes later, we heard gunshots. Juli Ghosh and this witness came out of the house and saw that Holiya Mukhi, Vikas Mukhi, Tika Mukhi, Khujali Ganesh, and Jyoti Mukhi had shot Kallu Ghosh one by one. Holiya Mukhi shot with a pistol in the back of Kallu Ghosh. Kallu Ghosh came staggering and running away from the place of occurrence. He was saying that Holiya Mukhi, Vikas Mukhi,

Tika Mukhi, Khujali Ganesh, and Jyoti Mukhi had shot him. He fell near Ekra Mukhi's house. He saw all five accused running away. They had pistols in their hands. When his brother fell, all five accused shot him separately. They also hit him with the butt of pistol and legs and threatened to kill anyone. They then fled, firing in the air. People from the neighborhood arrived. His son, Animesh Ghosh, Anjan Ghosh, and his cousin, Chandan Ghosh, arrived, then, his son, Anjan Ghosh, and Animesh took his brother, Kallu Ghosh, on a scooty to TMH Hospital. While undergoing treatment there, his brother was declared dead at around 2:30 p.m. He has further deposed that earlier on 26.09.2015, the same five accused had attacked my brother Kallu Ghosh with a sword, in connection with which a case was registered in Bistupur police station. He submitted a written report to the police station in-charge. His friend Kumar Vishwas on his dictation scribed his report. He read it and signed it, which he recognizes as Exhibit 4. Inquest report was prepared and the police seized three empty bullets from the platform and one from near Ekra Mukhi's house. Blood-stained soil was also seized. A seizure list was prepared, which bears his signature marked as Ext.2/2. He identified all the accused persons present through V.C.

P.W.-8 Shambhu Nath Thakur presented the seized item AND Challan before the Court relating to Bistupur Police Station Case

No. 125/16. A sealed envelope was presented in connection with Bistupur Police Station Case No. 125/16 dated 18.9.2016 under sections 147, 148, 149, 302 of the Indian Penal Code and 27 of the Arms Act. The sealed envelope was opened. Four bullet cartridges were found inside it and blood stain visible on one of these pieces of paper. All four cartridges are marked as exhibits M1, M2, M3, M4 and the blood stain on the piece of paper is marked as exhibit M5.

P.W.-9 Chitranjan Mishra has taken the charge of investigation from earlier I.O. and after investigation submitted charge-sheet and supplementary charge-sheet.

18. On the other hand, the case of defence is simple denial from occurrence and plea of innocence.

19. From the aforesaid discussion of oral as well as documentary evidence adduced by the prosecution, it appears that the manner in which the occurrence took place has categorically and consistently been proved by the P.W.-1 and P.W.-2 (Nephew of the deceased), P.W.-4 (Independent witness), P.W.-5 (wife of the deceased) and P.W.-7 (brother of the deceased) without any contradictions in their testimony deposing that when they went outside after hearing gunshots, saw deceased (Kallu Ghosh) staggering. Then, they saw Holia Mukhi, Khun Mukhi alias Vikas, Tika Mukhi alias Gopi, Khujali Ganesh alias Ganesh Ghosh, and Jyoti Mukhi, all armed with pistols, were running,

firing two or three shots, threatening to kill anyone. Moreover, it also appears from the testimony of P.W.-1, 2, 4, 5 and 7 that all have also stated that prior to this incident, on the morning of 26/9/2015, these five men attacked on deceased, Kallu Ghosh, with swords against that, a case is also pending. The doctor (P.W.-6) who has conducted the post-mortem on the body of the deceased has also opined the cause of death due to hemorrhage and shock due to injuries caused by fire arm. Two pellets were also recovered from the body of the deceased. The manner of injuries as inflicted by the accused persons and as disclosed by the prosecution witnesses is also corroborated with the post-mortem report.

20. In view of the above, the manner of occurrence shows that there was common object of all the accused persons forming an unlawful assembly to commit the murder of the deceased. The learned trial Court has also dealt with entire facts of crime in the light of oral and documentary evidence adduced by prosecution. There appears no legal substance in the points of arguments raised on behalf of appellants. Therefore, we do not find any error of law warranting any interference in the impugned judgment to take a different view than that of the learned trial Court.

21. In view of the aforesaid discussions and reason, **these appeals stand dismissed.**

22. Appellants are in custody.

23. Let a copy of this judgment be furnished forthwith to the appellants through learned A.P.P.

24. Pending I.A., if any, stands disposed of, accordingly.

25. Let a copy of this judgment be sent to concerned trial court for information and needful.

(Pradeep Kumar Srivastava, J.)

I agree

Ananda Sen, J.

(Ananda Sen, J.)

Jharkhand High Court, at Ranchi

Date: 15/10/2026

Basant/-N.A.F.R.

Uploaded on 15/10/2026