

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (DB) No. 1692 of 2017

(Against the judgment of conviction dated 4th April, 2017 and order of sentence dated 7th April, 2017, passed by learned Sessions Judge, Gumla in Sessions Trial No.356 of 2014)

Lalu Ram @ Laloo Ram, S/o Late Jagdeo Ram, Village-Pirha Chattam, Bhairo Toli, P.O. & P.S.-Palkot, District-Gumla

... **Appellant**

Versus

State of Jharkhand **Respondent**

P R E S E N T

HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD

HON'BLE MR. JUSTICE SANJAY PRASAD

....

For the Appellant : Mr. Tarun Kumar Mahato, Advocate

For the State : Mr. Vineet Kumar Vashistha, Spl. P.P

....

C.A.V./Reserved on 14.07.2026
Per Sujit Narayan Prasad, J.:

Pronounced on 06/08/2026

Prayer:

1. The instant appeal has been filed under Section 374 (2) of the Code of Criminal Procedure against the judgment of conviction dated 4th April, 2017 and order of sentence dated 7th April, 2017, passed by learned Sessions Judge, Gumla in Sessions Trial No.356 of 2014, by which the appellant has been convicted for the offence under Section 302 IPC and sentenced to undergo rigorous imprisonment for life and fine of Rs. 25,000/- and in default of payment of fine S.I. for 3 months and out of Rs. 25,000/-, Rs. 20,000/- to be paid to the son of deceased, P.W.-5 Ghanshyam Ram.

Prosecution Case:

2. The prosecution case was instituted on the basis of the Fardbayan of the informant Fani Kumar Ram (P.W.-2) recorded on 24.08.2014 at 10:45 hrs., by Sri R.K. Tiwari, the Officer-in-Charge of Palkot police Station, District-Gumla .
3. Informant Fani Kumar Ram (P.W.-2) has stated in his Fard-beyan that on 23.08.2014, when he was in his school, he got an information that his cousin brother Ramprit Ram (deceased) was killed with an axe by another cousin brother Lalu Ram (appellant herein). On receiving such information, he came to the place of occurrence and saw the dead body of Ramprit Ram lying in his house and his neck was cut and blood was oozing out.
4. Informant has further stated that deceased was residing in his house along with his mother Jitni Devi, aged about 80 years and his son Ghanshyam Ram (P.W.-5) aged about 15 years and at that time, only the mother of the deceased was present in the house and his son had gone to graze the cattle.
5. Informant further stated that on 23.08.2014, at about 11 am, the accused/appellant took an axe from his house and went to the house of deceased Ramprit Ram. At that time deceased was sleeping in his house and the

accused/appellant gave axe blow over the neck of the deceased, in the presence of his mother as a result of which the deceased died at the place of occurrence itself. The occurrence was seen by the mother of the deceased and when accused/appellant was running away with an axe, he was seen by Raju Ram (P.W.-12) and Chandrika Ram (P.W. 1). The reason for occurrence is that the accused/appellant intended to grab the land of the deceased.

- 6.** On the Fardbeyan of informant, Palkot P.S. Case No. 52/2014 dated 24.08.2014 was registered for the offences under Section 302 of IPC.
- 7.** After investigation Police submitted charge-sheet against the accused /appellant for the offences under Section 302 of IPC.
- 8.** The learned trial court framed charge against the accused/appellant under Section 302 of IPC which was read over and explained to him to which he pleaded not guilty and claimed to be tried.
- 9.** In course of trial, the prosecution had examined altogether 12 witnesses out of whom P.W.-2 Fani Kumar Ram, is the informant of the case; P.W.-1 Chandrika Ram, P.W.-3 Mahabir Ram; P.W.-4 Ram Prasad Ram; P.W.-5 Ghanshayam Ram, who is the son of the deceased; P.W.-6 Sartho Ram; P.W.-7 Narayan Ram;

P.W.-8 Dr. Sourav Prasad, who conducted post-mortem;
P.W.-9 Bigu Ram, who is the Investigating Officer of the
case; P.W.-10 and P.W.-11 both are same person namely
ASI Purustam Tiwary and P.W.-12 is Raju Ram.

10. The defence case is the total denial of the involvement of the accused in the case.
11. The trial Court, after recording the evidence of witnesses, examination-in-chief and cross-examination, recorded the statement of the accused and found the charges levelled against the appellant proved beyond all reasonable doubts.
12. Accordingly, the appellant had been found guilty and convicted, as stated above, which is the subject matter of instant appeal.

Submission on behalf of appellant:

13. Mr. Tarun Kumar Mahato, learned counsel appearing for the appellant has assailed the impugned judgment of conviction and order of sentence on the following grounds.
14. Submission has been made that prosecution has miserably failed in proving the charge leveled against the appellant and learned trial court has committed error of law in evaluating and analyzing the evidence in coming to the conclusion.

- 15.** Further submission has been made that the impugned judgment of conviction and order of sentence are absolutely against the weight of evidence available on record and as such are unsustainable and liable to be set aside.
- 16.** The learned trial court did not appreciate the evidence available on record properly, legally and in its correct perspective and the judgment of conviction and order of sentence has been passed without taking into consideration the evidence of P.Ws recorded in cross-examination and apparently on the basis of evidence recorded during their examination-in-chief.
- 17.** It is a case where the alleged sole eye witness i.e. mother of the deceased, to the occurrence has not been examined and only on the basis of surmises and conjectures, the appellant has been convicted and sentenced for life imprisonment.
- 18.** All the witnesses examined on behalf of prosecution are hearsay witness and so reliance cannot be placed upon them to convict the appellant for life.
- 19.** Further submission has been made that the judgment of conviction is based on circumstantial evidence but admittedly there is no complete chain to prove the case of murder by the appellant to the deceased.

20. Learned counsel for the appellant, in the backdrop of aforesaid grounds, has submitted that the judgment of conviction and order of sentence since is not based upon cogent evidence and as such it cannot be said that the prosecution has been able to prove the charge beyond all reasonable doubt.

Submission of the learned Spl. P.P. for the State:

21. *Per Contra*, learned Special Public Prosecutor appearing on behalf of State has defended the impugned judgment of conviction and order of sentence taking the ground that the impugned judgment has been passed based upon the testimony of witnesses who have supported the prosecution version.

22. Submission has been made that it has come in the evidence of the witnesses that witnesses saw that after killing the deceased, accused was running away with *tangi* in his hand from the house of the deceased. Even in the confessional statement the accused admitted that he killed the deceased with *tangi* and on his information the *tangi* was recovered from his house and to that extent the confession of the appellant is admissible in law. It has further been submitted that it is not a case of hearsay witness rather the prosecution has succeeded in establishing the charge by proving the circumstantial evidence.

23. Learned State counsel based upon the aforesaid ground has submitted that the prosecution has been able to prove the guilt of the appellant beyond all reasonable doubt.

Analysis

24. We have heard learned counsel for the parties, perused the documents available on record and the testimony of witnesses as also the finding recorded by learned trial Court in the impugned order.

25. This Court, before appreciating the argument advanced on behalf of the parties as also the legality and propriety of the impugned judgment, deems it fit and proper to refer the testimonies of the prosecution witnesses.

26. P.W.-2 Fani Kumar Ram, is the informant of the case and cousin brother of the deceased. Informant has stated in his evidence that on 23rd August, 2014, at about 11 a.m, Ramprit Ram was killed and at that time, he was in Karatoli School. At about 11.30 a.m, son of Ram Vilas Ram came at his school and informed that Lalu Ram had killed Ramprit Ram. Thereafter, he went to the house of Ramprit Ram and saw the dead body of Ramprit Ram was laying there and old mother of Ramprit Ram, namely Jitni Devi was present there. Jitni Devi told that, after taking meal, Ramprit Ram was sleeping, in the

meantime, accused Lalu Ram armed with *tangi* came there and cut Ramprit Ram. He further deposed that villagers also assembled there and on query, Chandrika Ram (P.W.-1) and Raju Ram (P.W.-12) told him that they saw Lalu Ram was coming out from the house of Ramprit Ram with *tangi* in his hand.

27. Informant further stated that he saw the dead body of Ramprit Ram and found the neck was cut and the blood was oozing from the neck. Reason behind the occurrence, was land disputes between Ramprit Ram and Lalu Ram and prior to this, on one two occasions also there was a quarrel between the two. On 24.08.2014 at about 10 a.m, police came and recorded his Fardbeyan, upon which he put his signature and same is marked as Ext.-1.

28. Informant in his cross-examination, stated that the distance from the place of occurrence to his school is about 3 k.m. and he had reached at the place of occurrence at about 12 noon, at that time Jitni Devi was sitting on the Verandah. They had not gone to the police station on the same day (i.e. 23.08.2014) and on the next day on 24.08.2014, they had gone to the police station.

29. P.W.-1 Chandrika Ram, had stated in his evidence that about 1 year 4 months ago, at about 11 a.m, Ramprit Ram was killed and at that time he was in his

house. The mother of deceased was crying then on hearing the same, he went to the house of deceased and saw Lalu Ram was coming out from the house of Ramprit Ram after killing him and the *tangi* stained with blood was in his hand. Thereafter, he entered into the house and saw the dead body and found there was a cut injury upon the neck and blood was oozing out. At that time, mother of Ramprit Ram, Jitni Devi was in the house and she said that Lalu Ram had killed her son. Thereafter, on next day police came. Due to land dispute Lalu had killed Ramprit Ram. He also deposed that Raju Ram was also with him. Jitni Devi is not in a position to walk due to her old age.

30. In his cross-examination, P.W.-1 stated that his house is situated in front of the house of the deceased and at the time of occurrence, he was in front of the house of the deceased. When, he went to the house of Ramprit Ram at that time, he had died.

31. P.W.-3 Mahabir Ram, has stated in his evidence that he had signed on the arrest memo of Lalu Ram and his signature on the arrest memo was marked as Ext.-2. He also deposed that he had put his signature upon seizure list of *tangi*, which was recovered from the house of accused Lalu Ram and his signature on the seizure list was marked as Ext.-2/1.

32. P.W.-4 Ram Prasad Ram, had stated in his evidence that one year ago Ramprit Ram was killed and at that time, he was in his village. On hearing halla, he went to the house of Ramprit and saw his dead body. He saw the dead body and there was injury upon his head. P.W.-4 further stated that he had signed on the inquest report and his signature on the inquest report was marked as Ext.-3.

33. P.W.-5 Ghanshayam Ram, is the son of the deceased. He had stated in his evidence that Lalu Ram had killed his father with *tangi* and he came to know this from his grandmother, who saw the occurrence. Raju Ram and Chandrika Ram, saw Lalu fleeing away with *tangi* in his hand. In his cross-examination, he stated that at the time of occurrence, he had gone to graze the cattle.

34. P.W.-6 Sartho Ram, had stated in his evidence that Lalu Ram had killed Ramprit Ram with *tangi* and at that time, he was in his house. His house is situated in front of the house of accused Lalu Ram. He further deposed that he saw the dead body and there was land dispute in between the accused Lalu Ram and Ramprit Ram.

35. P.W.-7 Narayan Ram, is another seizure list witness to the recovery of axe. He had proved his signature on the seizure list which was marked as Ext.-2/2. In his cross-

examination, he stated that he put his signature on the saying of police.

36. P.W.-8 Dr. Sourav Prasad, had conducted post-mortem on the dead body of the deceased. He had stated in his evidence that on 24th August 2014, he was posted as Medical Officer at Sadar hospital, Gumla and on the same day, he conducted post-mortem examination upon dead body of Ramprit Ram 50 years male S/O Late Tejpal Ram and found the following injures: -

1. *Incised wound 6"X2" extending from one sternomastoid to another sternomastoid over neck. All major vessels were cut through and through.*

2. *Incised wound 2"X2" over right frontal region skin deep.*

Cause of death due to shock and hemorrhage.

Time since death greater than 24 hours. Injury caused by sharp cutting instrument. He has proved his signature upon the post-mortem report which is marked Ext.-4. He further deposed that such type of injury may also be caused by *tangi*.

37. P.W.-9 Bigu Ram, is the Investigating Officer of the case. He had stated in his evidence that on 24.08.2014, he was posted as S.I. at Palkot Police Station. On that day, he received information that someone was killed in Pihra Chattan Karotoli and thereafter, a sanha was instituted by the then Officer-in-Charge Ramakant Tiwari

and the Officer-in-Charge along with S.I Anil Kumar and other arms force member went there. The inquest report was prepared by S.I Anil Kumar Nayak which bears his signature. The inquest report was marked as Ext.-3/1. The statement of the informant was recorded by the Officer-in-Charge, which bears the signature of informant Fani Kumar Ram and endorsement in English made by the then Officer-in-Charge. Fardbeyan was marked as Ext.-1/1.

38. Investigating Officer further stated that he had inspected the place of occurrence, which is the house of deceased Ramprit Ram, situated at Dipatoli Pirha Chattan Karotoli, the main door of house was towards southern and there were two *khaprail* room and in the Northen side of room, dead body of Ramprit Ram was found.

39. He raided the house of accused Lalu Ram and arrested him in presence of two witnesses namely, Narayan Ram and Mahabir Ram and memo of arrest was prepared by Anil Nayak, which bears his signature and also signature of Narayan and Mahabir Ram and Lalu Ram, marked as Ext.-5. Thereafter, confessional statement of accused was recorded by Anil Nayak, which bears the signature of Anil Nayak as well as his signature and signature of accused Lalu Ram. The Confessional statement was marked as

Ext.-6. Then, in presence of the villagers Mahabir Ram, Narayan Ram, house of the accused Lalu Ram was searched and a *tangi* was recovered from his house and seizure list of it was prepared, which bears his signature as well as signature of Mahabir Ram and Narayan Ram, marked as Ext.-7.

40. Investigating Officer in his cross-examination stated that he received information on 24.08.2014 and proceed towards the occurrence at about 8.30 a.m. and reached at the place of occurrence at about 10.40 a.m. The Officer-in-charge had handed over the investigation to him. He had not seized the blood spot and did not get forensic examination of the axe.

41. PW-10 and PW-11 is the same person namely ASI Purustam Tiwary. When he was examined as PW-10, he produced death certificate of Jitni Devi (mother of the deceased), which was marked as Ext.-8, according to which Jitni Devi died on 06.04.16. When he was examined as PW-11, he produced an axe, before the court, which was marked as material Ext.-1.

42. P.W.-12 Raju Ram, had stated in his evidence that occurrence took place about two years seven months ago, at about 10/11 a.m. and at that time, he had gone to his field. When he was on way to his house, from the field, then he met with Chandrika Ram (PW-1) and thereafter,

when they reached near the house of Ramprit Ram, heard the alarm raised by Ramprit's mother. He saw accused Lalu Ram was coming out from the house of Ramprit Ram and he was fleeing away with *tangi* in his hand. He went to the house of Ramprit Ram and saw the dead body of Ramprit Ram and he also saw blood and injury upon the neck of the Ramprit Ram, which was caused by *tangi*. Ramprit's mother told him that Lalu Ram had killed his son and fled away. He further stated that since, area was affected with MCC, therefore, case was instituted on the next day.

43. In his cross-examination, he stated that he had not seen the occurrence. When he was on way to his house he met with Chandrika Ram and thereafter, he met Lalu, but he had no talk with Lalu.

44. Before adverting into merit of the case it would be apt to note down the admitted and undisputed facts which are as follows:

- (i) It stands established on record that the death of the deceased was homicidal in nature. This fact is not in dispute and is borne out from the medical evidence adduced.
- (ii) The alleged sole eye-witness, namely the mother of the deceased has not been examined before the Court.

(iii) The alleged weapon of offence, i.e. tangi, though stated to have been seized from the house of the appellant, has not been forwarded for forensic examination.

45. This Court, on the basis of aforesaid factual aspect vis-à-vis argument advanced on behalf of parties, is now proceeding to examine the legality and propriety of impugned judgment of conviction and order of sentence by formulating following questions to be answered by this Court:

- i. Whether the long interval in lodging the FIR by the informant has been reasonably explained by the prosecution?*
- ii. Whether there is vital contradiction in the testimony of PW-1 and PW-12, who have been projected by the prosecution to have witnessed the appellant, coming out from the house of the deceased, carrying axe in his hand?*
- iii. Whether the alleged recovery of axe vide seizure list Ext7, said to be recovered from the house of the appellant, can be treated as cogent evidence to prove the culpability of the appellant in the alleged commission of crime?*

Re: Issue No.(i)

46. The first issue is whether the long interval in lodging the FIR by the informant has been reasonably explained by the prosecution?

47. At this juncture, it would be pertinent to see the judgments on the issue of prompt lodging of the FIR.

Hon'ble Apex Court in case of ***Thulia Kali v. State of T.N., (1972) 3 SCC 393***, on the issue of prompt lodging of FIR had laid down that the object of insisting upon prompt lodging of the report to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of eyewitnesses present at the scene of occurrence. Delay in lodging the first information report quite often results in embellishment which is a creature of afterthought. On account of delay, the report not only gets bereft of the advantage of spontaneity, danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of deliberation and consultation. It is, therefore, essential that the delay in lodging of the first information report should be satisfactorily explained. Paragraph-12 of this judgment is quoted herein below-

"12. It is in the evidence of Valanjiaraju that the house of Muthuswami is at a distance of three furlongs from the village of Valanjiaraju. Police Station Valavanthi is also at a distance of three furlongs from the house of Muthuswami. Assuming that Muthuswami PW was not found at his house till 10.30 p.m. on March 12, 1970, by Valanjiaraju, it is not clear as to why no report was lodged by Valanjiaraju at the police station. It is, in our opinion, most difficult to believe that even though the

accused had been seen at 2 p.m. committing the murder of Madhandi deceased and a large number of villagers had been told about it soon thereafter, no report about the occurrence could be lodged till the following day. The police station was less than two miles from the village of Valanjiaraju and Kopia and their failure to make a report to the police till the following day would tend to show that none of them had witnessed the occurrence. It seems likely, as has been stated on behalf of the accused, that the villagers came to know of the death of Madhandi deceased on the evening of March 12, 1970. They did not then know about the actual assailant of the deceased, and on the following day, their suspicion fell on the accused and accordingly they involved him in this case. First information report in a criminal case is an extremely vital and valuable piece of evidence for the purpose of corroborating the oral evidence adduced at the trial. The importance of the above report can hardly be overestimated from the standpoint of the accused. The object of insisting upon prompt lodging of the report to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of eyewitnesses present at the scene of occurrence. Delay in lodging the first information report quite often results in embellishment which is a creature of afterthought. On account of delay, the report not only gets bereft of the advantage of spontaneity, danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of deliberation and consultation. It is, therefore, essential that the delay in the lodging of the first information report should be satisfactorily explained. In the present case, Kopia, daughter-in-law of Madhandi deceased, according to the prosecution case, was present when the accused made murderous assault on the deceased. Valanjiaraju, step-son of the deceased, is also alleged to have arrived near

the scene of occurrence on being told by Kopia. Neither of them, nor any other villager, who is stated to have been told about the occurrence by Valanjiaraju and Kopia, made any report at the police station for more than 20 hours after the occurrence, even though the police station is only two miles from the place of occurrence. The said circumstance, in our opinion, would raise considerable doubt regarding the veracity of the evidence of those two witnesses and point to an infirmity in that evidence as would render it unsafe to base the conviction of the accused-appellant upon it.”

(emphasis supplied)

48. Further, in case of **Girish Yadav v. State of M.P., (1996) 8 SCC 186**, Hon’ble Apex Court laid down that once it is found that the FIR is promptly lodged, it must be held that the contents of the FIR would reflect the first-hand account of what had actually happened on the spot and who were responsible for the offence in question. Paragraph-10 of this judgment is quoted herein below-

“10. Once it is found that the FIR was promptly lodged after the incident by witness PW 2 Indu Tiwari, and that set in motion the police machinery which started investigation on the spot immediately thereafter, it must be held that the contents of the FIR would reflect the first hand account of what had actually happened on the spot and who were responsible for the offence in question. In this connection learned counsel for the respondent rightly invited our attention to a decision of this Court in the case of State of Punjab v. Surja Ram [1995 Supp (3) SCC 419 : 1995 SCC (Cri) 937 : AIR 1995 SC 2413] wherein M.K. Mukherjee, J., speaking for this Court observed that the FIR which was promptly lodged and which contained detailed outline of the prosecution case, clearly corroborates eyewitness account.”

49. Again, in case of ***Jai Prakash Singh v. State of Bihar, (2012) 4 SCC 379***, Hon'ble Apex Court laid down that the FIR in a criminal case is a vital and valuable piece of evidence though may not be substantive piece of evidence. The object of insisting upon prompt lodging of the FIR in respect of the commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of the actual culprits and the part played by them as well as the names of the eye-witnesses present at the scene of occurrence. If there is a delay in lodging the FIR, it loses the advantage of spontaneity, danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of large number of consultations/deliberations. Undoubtedly, the promptness in lodging the FIR is an assurance regarding truth of the informant's version. A promptly lodged FIR reflects the first-hand account of what has actually happened, and who was responsible for the offence in question. Paragraph-12 of this judgment is quoted herein below-

“12. The FIR in a criminal case is a vital and valuable piece of evidence though may not be substantive piece of evidence. The object of insisting upon prompt lodging of the FIR in respect of the commission of an offence is to obtain early information regarding the circumstances in which the crime

was committed, the names of the actual culprits and the part played by them as well as the names of the eye-witnesses present at the scene of occurrence. If there is a delay in lodging the FIR, it loses the advantage of spontaneity, danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of large number of consultations/deliberations. Undoubtedly, the promptness in lodging the FIR is an assurance regarding truth of the informant's version. A promptly lodged FIR reflects the first hand account of what has actually happened, and who was responsible for the offence in question. (Vide Thulia Kali v. State of T.N. [(1972) 3 SCC 393 : 1972 SCC (Cri) 543 : AIR 1973 SC 501] , State of Punjab v. Surja Ram [1995 Supp (3) SCC 419 : 1995 SCC (Cri) 937 : AIR 1995 SC 2413] , Girish Yadav v. State of M.P. [(1996) 8 SCC 186 : 1996 SCC (Cri) 552] and Takdir Samsuddin Sheikh v. State of Gujarat [(2011) 10 SCC 158 : (2012) 1 SCC (Cri) 218 : AIR 2012 SC 37])”

50. Thus, from the aforesaid proposition of law it is evident that if there is a delay in lodging the FIR, it loses the advantage of spontaneity, danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of large number of consultations/deliberations. It is, therefore, essential that the delay in the lodging of the first information report should be satisfactorily explained.

51. In the case in hand, Fani Kumar Ram (P.W.-2), is the informant of the case. He is the cousin brother of the deceased Ramprit Ram. In his examination-in-chief, informant had stated that Ramprit Ram (deceased) was murdered at 11 a.m., on 23rd August, 2014 and he had

received the information of murder of Ramprit Ram at 11.30 am, when he was at school. In his cross-examination, informant had stated that he had reached at the place of occurrence at 12 O'clock, in the noon.

52. The FIR was registered on the next day i.e. on 24th August, 2014.

53. Investigating Officer P.W-9, had stated in his examination-in-chief that on 24.08.2014, in the morning at 8 a.m., information was received in rumor that someone was killed in village Pihra Chattan, Karotoli, and thereafter, a sanha was instituted by the then Officer-in-Charge Ramakant Tiwari and the Officer-in-Charge along with S.I Anil Kumar and other arms force member went there.

54. Hence, question arises that when Ramprit Ram (deceased) was murdered at 11 a.m., on 23rd August, 2014, and informant had received the information of murder of Ramprit Ram, after half an hour at 11.30 am, on the same day and thereafter, at 12 O' clock, in the noon, informant had reached at the place of occurrence, then, why the informant, withheld the information of murder his cousin brother from the police and did not inform at the police station about the occurrence on the same day i.e. on 23 August, 2014 itself and that too when informant is para teacher i.e. literate person.

55. Further, informant in his cross-examination had stated the distance of police station from his house is 22 Km and hence, hence, he did not inform about the occurrence on the same day i.e. on 23rd August, 2014 and on the next day i.e. on 24 August, 2014, he informed about the occurrence at the police station.

56. But this explanation given by the informant cannot be accepted due the reason that in the FIR distance of police station to the place of occurrence is noted as 15 km. Even if according to the informant, police station was 22 km away from the place of occurrence, then also informant had ample time to inform the police as it is the own admission of the informant that he came to know about the murder of the deceased at about 11.30 am, on 23 August, 2014 and thereafter, at 12 O' clock, in the noon, he had reached at the place of occurrence. Hence, after reaching to the place of occurrence at 12 O' clock, in the noon, on 23rd August, 2014, informant did not take any steps to inform to the police though informant had plenty time after 12 O' clock, in the noon, on 23rd August, 2014, to inform about the occurrence at the police station. It is also not the case of the prosecution that incident occurred at night, so informant was not able to inform at the police station.

57. Thus, the prosecution has failed to explain satisfactorily the delay in lodging the FIR, which raises doubt in the case of the prosecution.

58. Accordingly, issue no.(i) has been answered.

Re: Issue no.(ii)

59. The second issue is whether there is vital contradiction in the testimony of PW-1 and PW-12, who have been projected by the prosecution to have witnessed the appellant, coming out from the house of the deceased, carrying axe in his hand?

60. Both PW-1 and PW-12, in their testimony had deposed that they had seen the appellant coming out from the house of the Ramprit Ram (deceased) and at that time appellant had axe in his hand. The learned Trial Court had also relied on the testimony of the PW-1 and PW-2, in convicting the appellant.

61. To answer the instant issue, this court has gone through the testimony of PW-1 and PW-12. PW-12 in his examination-in-chief had stated that on the day of occurrence he had gone to his field and when he was returning to his home, from the field, then he met with Chandrika Ram (PW-1) and then, when both reached near the house of Ramprit Ram (deceased), they heard alarm of Ramprit's mother. In his cross-examination, also PW-12 reiterated that on the day of occurrence at

about 7 a.m., in the morning he had gone to dig his field and he was returning home from the field at about 10 a.m., and on the way he met Chandrika Ram (PW-1).

62. Hence, it is the own admission of PW-12 that on the day and time of occurrence, PW-1 was along with PW-12.

63. But, contrary to that PW-1, in his examination-in-chief had stated that on the day of occurrence, he was at his home.

64. So, vital contradiction has emerged in the testimony of PW-1 and PW-12 as PW-1 had stated in his evidence that at the time of occurrence, he was at his home, but, contrary to that in the evidence PW-12 had admitted that at the time of occurrence, PW-1 had met him on the way and both were together.

65. Again, on going through the evidence PW-12, this court finds one more contradiction appearing in the testimony of PW-12. PW-12 had stated in his cross-examination that he firstly met with Chandrika Ram (PW-1) and thereafter, he met Lalu (appellant herein).

66. Hence, when it is specific testimony of PW-12 that after meeting Chandrika Ram (PW-1), he met Lalu (appellant herein) on the way, then, question arises when PW-12 had met the appellant on the way, then, how it was possible that both PW-1 and PW-12 had seen the

appellant coming out from the house of the Rampriti Ram(deceased) and that too carrying axe in his hand.

67. At this juncture, it needs to refer herein the settled position of law that not every discrepancy or contradiction matters for assessing the reliability and credibility of a witness, unless the discrepancies and contradictions are so material that it destroys the substratum of the prosecution case.

68. Reference in this regard be made to the judgment rendered by the Hon'ble Apex Court in case of **Sunil Kumar Sambhudayal Gupta (Dr.) v. State of Maharashtra, (2010) 13 SCC 657**, wherein Apex court has dealt material contradiction, which is quoted for ready reference-

“30. While appreciating the evidence, the court has to take into consideration whether the contradictions/omissions had been of such magnitude that they may materially affect the trial. Minor contradictions, inconsistencies, embellishments or improvements on trivial matters without effecting the core of the prosecution case should not be made a ground to reject the evidence in its entirety. The trial court, after going through the entire evidence, must form an opinion about the credibility of the witnesses and the appellate court in normal course would not be justified in reviewing the same again without justifiable reasons. (Vide State v. Saravanan1.)

31. Where the omission(s) amount to a contradiction, creating a serious doubt about the truthfulness of a witness and the other witness also makes material improvements before the court in order to make the

evidence acceptable, it cannot be safe to rely upon such evidence. (Vide State of Rajasthan v. Rajendra Singh².)

32. The discrepancies in the evidence of eyewitnesses, if found to be not minor in nature, may be a ground for disbelieving and discrediting their evidence. In such circumstances, witnesses may not inspire confidence and if their evidence is found to be in conflict and contradiction with other evidence or with the statement already recorded, in such a case it cannot be held that the prosecution proved its case beyond reasonable doubt. (Vide Mahendra Pratap Singh v. State of U.P.³)

33. In case, the complainant in the FIR or the witness in his statement under Section 161 CrPC, has not disclosed certain facts but meets the prosecution case first time before the court, such version lacks credence and is liable to be discarded. (Vide State v. Sait⁴.)

34. In State of Rajasthan v. Kalki⁵, while dealing with this issue, this Court observed as under : (SCC p. 754, para 8) “8. ... In the depositions of witnesses there are always normal discrepancies however honest and truthful they may be. These discrepancies are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of the occurrence, and the like. Material discrepancies are those which are not normal, and not expected of a normal person.”

35. The courts have to label the category to which a discrepancy belongs. While normal discrepancies do not corrode the credibility of a party's case, material discrepancies do so. (See Syed Ibrahim v. State of A.P.⁶ and Arumugam v. State⁷.)

36. In Bihari Nath Goswami v. Shiv Kumar Singh⁸ this Court examined the issue and held: (SCC p. 192, para 9) “9. Exaggerations per se do not render the evidence brittle. But it can be one of the factors to test the credibility of the prosecution version, when the entire evidence is put in a crucible for being tested on the touchstone of credibility.”

37. While deciding such a case, the court has to apply the aforesaid tests. Mere marginal variations in the statements cannot be dubbed as improvements as the same may be elaborations of the statement made by the witness earlier. The omissions which amount to contradictions in material particulars i.e. go to the root of the case/materially affect the trial or core of the prosecution case, render the testimony of the witness liable to be discredited.”

69. Likewise, the Hon'ble Apex Court in the case of **Shyamal Ghosh v. State of West Bengal**, reported in **(2012) 7 SCC 646**, wherein, paragraphs-46, it has been held as under:

“46. Then, it was argued that there are certain discrepancies and contradictions in the statement of the prosecution witnesses inasmuch as these witnesses have given different timing as to when they had seen the scuffling and strangulation of the deceased by the accused. It is true that there is some variation in the timing given by PW 8, PW 17 and PW 19. Similarly, there is some variation in the statement of PW 7, PW 9 and PW 11. Certain variations are also pointed out in the statements of PW 2, PW 4 and PW 6 as to the motive of the accused for commission of the crime. Undoubtedly, some minor discrepancies or variations are traceable in the statements of these witnesses. But what the Court has to see is whether these variations are material and affect the case of the prosecution substantially. Every variation may not be enough to adversely affect the case of the prosecution.

70. Thus, from the aforesaid proposition of law it is evident that minor discrepancies, embellishments and contradictions in the evidence of the eyewitness do not destroy the essential fabric of the prosecution case, the

core of which remains unaffected. But at the same time, it is equally settled that the discrepancies which go to the root of the matter and shake the basic version of the witnesses that can be annexed with due importance.

71. Now, reverting back to the fact of the present case, this court finds that vital contradictions have cropped up in the prosecution case due to contradiction in the testimony of PW-12 vis-à-vis PW-1. *Firstly*, as PW-1 had stated in his evidence that at the time of occurrence, he was at his home, but, contrary to that in the evidence PW-12 had admitted that at the time of occurrence, PW-1 had met him on the way and both were together. *Secondly*, that when PW-12 had specifically deposed that he met Lalu (appellant herein) on the way, then, how it was possible that both PW-1 and PW-12 had seen the appellant coming out from the house of the Ramprit Ram(deceased) and that too carrying axe in his hand.

72. So, this court is of the view that evidence of PW-1 and PW-12 is self-contradictory as to witnessing the appellant coming out from the house of the Ramprit Ram(deceased) carrying axe in his hand.

73. Accordingly, issue no.(ii) is hereby answered.

Re: Issue no.(iii)

74. The third issue is whether the alleged recovery of axe vide seizure list Ext.-7, said to be recovered from the

house of the appellant, can be treated as cogent evidence to prove the culpability of the appellant in the alleged commission of crime?

75. In the case in hand, prosecution case is that deceased was murdered by giving axe blow on the neck of the deceased and the axe allegedly used in the commission of the crime was recovered from the house of the accused/appellant on the confessional statement made by the accused before the police.

76. In the present case PW-3 and PW-7 are the seizure list witnesses and both have supported the recovery of axe from the house of the appellant.

77. But, seizure list witness PW-3 had stated in his evidence that in the village, in almost all the houses, axe is kept. Likewise, PW-12 had also stated in his evidence that his village is surrounded by the forest and mountain and everybody keeps axe in their house.

78. Further, Investigating Office P.W.-9, in his cross-examination had stated that he did not get the forensic examination of the axe.

79. At this juncture, it needs to refer herein that the non-sending of a seized weapon for forensic examination in an alleged crime can significantly impact the prosecution's case. The prosecution's case in a murder trial, where the seized weapon (herein tangi) has not been

subjected to forensic examination and there are no eyewitnesses to the occurrence, faces substantial legal challenges. While the absence of either direct evidence or forensic corroboration is not necessarily fatal on its own, their combined absence significantly elevates the burden on the prosecution to establish guilt beyond a reasonable doubt through other means, primarily circumstantial evidence.

80. The mere recovery of a weapon, even if alleged to be the instrument of crime, is not sufficient to establish guilt. For a seized weapon to have strong probative value, it must be forensically examined to determine if it was indeed used in the commission of the crime (e.g., presence of victim's blood, fingerprints, matching with injuries on the deceased).

81. The Hon'ble Supreme Court has repeatedly emphasized that mere recovery of a weapon, even if blood-stained, is not enough to establish murder unless the weapon is forensically linked to the cause of death. The absence of such forensic analysis leaves a critical gap in the chain of evidence, making it difficult for the prosecution to prove that the "tangi" seized was, in fact, the weapon used to commit the murder. Herein without forensic corroboration, the recovery of the tangi remains

a piece of evidence that is not conclusively connected to the crime.

82. In the case of ***Deen Dayal Tiwari Vs State Of Uttar Pradesh, Crl.A. No.-002220-002221 – 2022***, the Hon'ble Apex Court has categorically stated that crucially, the appellant highlighted the absence of any serological report confirming that the bloodstains on the weapons or clothes belonged to the deceased. The Court noted that in the absence of such forensic evidence, the link between the appellant and the weapons remained unproved.

83. The said judgment emphasizes that without conclusive forensic evidence, such as serological reports matching bloodstains on the recovered weapons to the victims, the evidentiary value of the mere recovery of weapons is significantly diminished. This supports the argument that mere recovery is insufficient to establish guilt.

84. In the ***Nazim Vs the State of Uttarakhand, Crl.A. No.-000715-000715 – 2018*** it has been observed that the forensic report is neutral, the recovery is procedurally suspect, and the High Court failed to grapple with these deficiencies. This indicates that the absence of a proper forensic report on the weapon, coupled with procedural irregularities in its recovery, diminishes its evidentiary value.

85. The aforesaid case highlights that a defective investigation, including the failure to send a seized weapon for forensic examination, can weaken the prosecution's case and raise doubts about the guilt of the accused. The Court's observation that the High Court failed to address these deficiencies suggests that such lapses can be crucial in an appeal.

86. In the case of ***Raja Naykar v. State of Chhattisgarh, (2024) 3 SCC 481*** the Hon'ble Apex Court has observed that the mere recovery of a blood-stained weapon, even if it bears the victim's blood group, is insufficient to establish murder unless the weapon is forensically linked to the cause of death. The presumption of innocence prevails unless guilt is proven beyond doubt.

87. Thus, in a murder case, a complete lack of credible evidence to connect the convicts to the homicidal death, including the absence of bloodstains or other forensic evidence on recovered weapons, warrants acquittal by giving the benefit of doubt to the accused.

88. Thus, it is settled position of law that an FSL report, even if it links the weapon forensically to the crime, serves as supporting evidence and not as standalone proof. It must be corroborated by independent evidence, and if the chain of evidence is broken or doubtful, the

recovery of the weapon becomes insufficient to uphold a murder conviction. The standard of proof beyond reasonable doubt must be strictly upheld, and any lingering doubt about the accused's involvement must result in the benefit of doubt being given to the accused, leading to acquittal.

89. In the backdrop of the aforesaid settled position of law this Court is now re-adverting to the facts of the present case. It is admitted fact herein that seized axe recovered from the house of the appellant alleged to be used in the commission of crime was not sent for the forensic examination in the laboratory.

90. In the present case, when no eye witness has been examined, then, it was necessary to send the axe alleged to be used in murder of the deceased for chemical examination to FSL so as to establish link between the blood stain, if any, found on the axe.

91. Hence, in a situation, as in the present case, when it has come in the evidence that in almost all the houses of the village, axe is kept in the house, then, by not sending the axe for chemical examination, prosecution has failed to establish link how the axe recovered from the house of the appellant was used in the murder of the deceased.

92. Therefore, the axe recovered from the house of the appellant, cannot be treated as cogent evidence to prove

the culpability of the appellant in the alleged commission of crime.

93. Accordingly, issue no.(iii), is hereby answered.

94. It needs to refer herein that the Hon'ble Apex Court in catena of decision has propounded the proposition that in the criminal trial, there cannot be any conviction if the charge is not being proved beyond all reasonable doubts, as has been held in the case of ***Rang Bahadur Singh & Ors. Vrs. State of U.P., reported in (2000) 3 SCC 454,*** wherein, at paragraph-22, it has been held as under:-

"22. The amount of doubt which the Court would entertain regarding the complicity of the appellants in this case is much more than the level of reasonable doubt. We are aware that acquitting the accused in a case of this nature is not a matter of satisfaction for all concerned. At the same time we remind ourselves of the time-tested rule that acquittal of a guilty person should be preferred to conviction of an innocent person. Unless the prosecution establishes the guilt of the accused beyond reasonable doubt a conviction cannot be passed on the accused. A criminal court cannot afford to deprive liberty of the appellants, lifelong liberty, without having at least a reasonable level of certainty that the appellants were the real culprits. We really entertain doubt about the involvement of the appellants in the crime."

95. Likewise, the Hon'ble Apex Court in the case of ***Krishnegowda & Ors. Vrs. State of Karnataka, 2017 (13) SCC 98,*** has held at paragraph-26 as under:

"26. Having gone through the evidence of the prosecution witnesses and the findings recorded by the High Court we feel that the High Court has failed to understand the fact

that the guilt of the accused has to be proved beyond reasonable doubt and this is a classic case where at each and every stage of the trial, there were lapses on the part of the investigating agency and the evidence of the witnesses is not trustworthy which can never be a basis for conviction. The basic principle of criminal jurisprudence is that the accused is presumed to be innocent until his guilt is proved beyond reasonable doubt."

96. Further, it needs to refer herein the principle of 'benefit of doubt' belongs exclusively to criminal jurisprudence. The pristine doctrine of 'benefit of doubt' can be invoked when there is reasonable doubt regarding the guilt of the accused, reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in the case of ***State of Haryana Vrs. Bhagirath & Ors.***, reported in **(1999) 5 SCC 96**, wherein, it has been held at paragraph-7 as under: -

"7. The High Court had failed to consider the implication of the evidence of the two eyewitnesses on the complicity of Bhagirath particularly when the High Court found their evidence reliable. The benefit of doubt was given to Bhagirath "as a matter of abundant caution". Unfortunately, the High Court did not point out the area where there is such a doubt. Any restraint by way of abundant caution need not be entangled with the concept of the benefit of doubt. Abundant caution is always desirable in all spheres of human activity. But the principle of benefit of doubt belongs exclusively to criminal jurisprudence. The pristine doctrine of benefit of doubt can be invoked when there is reasonable doubt regarding the guilt of the accused. It is the reasonable doubt which a conscientious judicial mind entertains on a conspectus of the entire evidence that the accused might not have

committed the offence, which affords the benefit to the accused at the end of the criminal trial. Benefit of doubt is not a legal dosage to be administered at every segment of the evidence, but an advantage to be afforded to the accused at the final end after consideration of the entire evidence, if the Judge conscientiously and reasonably entertains doubt regarding the guilt of the accused."

97. It needs to refer herein that the Hon'ble Apex Court, in the case of **Allarakha K. Mansuri v. State of Gujarat** reported in **(2002) 3 SCC 57** has laid down the principle that the golden thread which runs through the web of administration of justice in criminal case is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted, for ready reference, paragraph 6 thereof requires to be referred herein which reads hereunder as :-

"6. -----The golden thread which runs through the web of administration of justice in criminal case is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. —"

214. It needs to refer herein before laying down the aforesaid view, the Hon'ble Apex Court in the case of **Sharad Birdhichand Sarda v. State of Maharashtra** reported in **(1984) 4 SCC 116** has already laid down the same view at paragraph 163 which is required to be

referred which read hereunder as-

"163. We then pass on to another important point which seems to have been completely missed by the High Court. It is well settled that where on the evidence two possibilities are available or open, one which goes in favour of the prosecution and the other which benefits an accused, the accused is undoubtedly entitled to the benefit of doubt.---"

- 98.** This Court, after having discussed the factual aspect and legal position as discussed hereinabove, is of the view that the prosecution has failed to prove the charges against the appellant Lalu Ram @ Laloo Ram, beyond all reasonable doubt as such the impugned judgment of conviction and order of sentence requires interference by this Court.
- 99.** Accordingly, the judgment of conviction dated 4th April, 2017 and order of sentence dated 7th April, 2017, passed by learned Sessions Judge, Gumla in Sessions Trial No.356 of 2014, is hereby quashed and set aside.
- 100.** In consequence thereof, the instant appeal stands allowed.
- 101.** Since, the appellant, is in custody and, as such, he is directed to be set free forthwith, if not wanted in connection to any other criminal case.
- 102.** Let the Lower Court Records be sent back to the Court concerned forthwith, along with a copy of this Judgment.

103. Pending Interlocutory Applications, if any, stand disposed of.

I Agree

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

(Sanjay Prasad, J.)

6th August, 2026

Alankar/ **A.F.R.**

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