

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (D.B.) No. 1047 of 2023

Laxman Doraiburu @ Laxman Deraiburu, aged about 24 years,
Son of Late Ladura Doraiburu, Resident of Village-Gumuria, Tola
Talasai, P.O. & P.S.-Jagannathpur, Dist.- West Singhbhum.

... ...Appellant

Versus

The State of Jharkhand

... ...Respondent

P R E S E N T

HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant : Mr. Gautam Kumar, Advocate

Mr. Birat Kumar, Advocate

Mr. Sanjay Kumar, Advocate

Mr. Ashutosh Kr. Sinha, Advocate

For the Respondent : Mr. Vishwanath Roy, Spl. P.P.

C.A.V. on 13.01.2026

Pronounced on 25/02/2026

J U D G E M E N T

Per: Pradeep Kumar Srivastava, J

We have heard Mr. Gautam Kumar, learned counsel for the appellant and Learned Spl.P.P. for the State.

2. The instant criminal appeal is directed against the judgment dated 21.03.2023, passed in S.T. No. 188 of 2021, by the learned Sessions Judge, West Singhbhum at Chaibasa, whereby and whereunder, the appellant has been held guilty for the offence under Section 302 of the IPC and sentenced to undergo imprisonment for life along with a fine of Rs. 10,000/- with default stipulation.

Factual Matrix:-

3. Factual matrix giving rise to this appeal is that on 09.05.2021, at about 08:00PM, informant's husband Ankura Doraiburu went to participate in marriage ceremony along with his younger brother namely Laxman Doraiburu (present appellant). It is alleged that while returning from the marriage party, both brother started quarrelling with each other on the question of sale of their Ox and reached near the courtyard of their house. Meanwhile, Laxman Doraiburu whipped out a knife and with intention to kill his brother stabbed from the backside of the body, due to which, Ankura Doraiburu sustained severe injuries and brought to CHC, Jagannathpur for treatment but died in the way to Hospital.

4. The F.I.R. was lodged by the wife of the deceased (P.W.-4) namely Manisha Doraiburu which was registered for the offence under Section 302 of the IPC against the above named sole appellant.

5. After investigation, charge-sheet was submitted for the said offence and after taking cognizance, the case was committed to the Court of Sessions, where S.T. No. 188 of 2021 was registered. The appellant denied from the charge and claimed to be tried.

6. In course of trial, altogether seven witnesses were examined by the prosecution.

7. Apart from the oral testimony of witnesses, following documentary evidence has been adduced:-

- i. Exhibit-1/PW1-Signature of P.W.-1 namely Ramchandra Laguri upon Seizure List*
- ii. Exhibit-1/1 /P.W.2 -Signature of P.W.-2 namely Mora Purty upon Seizure List*
- iii. Exhibit-P-1/2/PW6-Seizure List in writing and signature of S.I. Jouni Kumar of Jagannathpur P.S.*
- iv. Exhibit-P-2/PW6- Fardbeyan in writing and signature of S.I. Jouni Kumar of Jagannathpur.*
- v. Exhibit-P2/1/PW6- Endorsement on Fardbeyan to register the case in writing and signature of P.W.-6 namely Devsay Bhagat, I.O.*
- vi. Exhibit P3/PW6- Carbon Copy of inquest report in writing and signature of S.I. Jouni Kumar of Jagannathpur P.S.*
- vii. Exhibit-P4/PW6- Formal FIR prepared by Billu Mahto, Computer Operator under supervision of P.W.6 namely Devsay Bhagat, I.O.*
- viii. Exhibit P5/PW7- Post-Mortem Report of deceased in writing and signature of P.W.7 Dr. Md. Khalid Anjum.*
- ix. Exhibit-P6- Biological Examination Report*
- x. Exhibit P-6/1-D.N.A. Examination Report*

8. On the other hand, the case of the defence is denial from occurrence and plea of innocence along with plea of alibi of the accused that he was not present at the place of occurrence at the relevant date and time.

9. The learned trial court after evaluating the evidence available on record held the appellant guilty and sentenced for the offence under Section 302 IPC as stated above which has been assailed in this appeal.

Submissions on behalf of appellant: -

10. Mr. Gautam Kumar, learned counsel for the appellant has argued that out of seven witnesses examined in this case by the prosecution except P.W.-4, wife of the deceased-cum-informant, none is eye-witness of occurrence. P.W.-1-Ramchandra Laguri is hearsay witness and all other witnesses of facts namely, P.W.-2-Mora Purty, P.W.-3- Joteya Kishore Pingua and P.W.-5-Jingi Doraiburu have been declared hostile by the prosecution. P.W.-6 is the investigating officer and P.W.-7 is Dr. Md. Khalid Anjum has conducted autopsy on the dead body of the deceased. It is further submitted that the sole eyewitness i.e. P.W.-4, wife of the deceased, has also not seen the occurrence and admitted in her evidence that when she came out of her home, she saw her husband under injured condition. It is further submitted that even if, the whole prosecution story may be accepted to be true, for the sake of argument, the case under Section 302 of the IPC is not made out, in view of the fact that there was single stab injury sustained by the deceased and due to property dispute, the occurrence took place, in a sudden manner, without any premeditation and there was absence of intention to kill the deceased. Therefore, the case falls under Exception-IV of Section 300 of the IPC and appellant may be held guilty for the offence under Section 304-Part-I of the IPC and not under Section 302 of the IPC.

In this connection, learned counsel for the appellant has placed reliance upon the reported judgment in **Surinder Kumar Vs. Union Territory, Chandigarh, AIR 1989 SC 1094.**

Submissions on behalf of State:-

11. On the other hand, learned Spl.P.P. refuting the aforesaid contentions raised on behalf of the appellant submitted that it is not the number of witnesses rather quality of the evidence of witness, which has to be taken into account. In this case, P.W.-4, Manisha Doraiburu is none else but the wife of the deceased. She has categorically deposed that her brother-in-law (appellant) stabbed with knife on back side of the deceased. She also intervened and forbade the accused stabbing her husband but she was threatened of life. There was electricity light at the relevant time. Her testimony has not been rebutted in her cross-examination and rightly relied upon by the learned trial Court and also finds corroboration from the evidence of P.W.-7 i.e. Dr. Khalid Anjum who has conducted autopsy on the dead body of the deceased. The stab injury inflicted by appellant, damaged the lungs of deceased instantaneously and before reaching the hospital, he died. The circumstance categorically indicates that the appellant was armed with knife and in a pre-planned manner, due to dispute of property has intentionally eliminated his own brother. The ingredients of Exception –IV of Section 300 of the IPC are not applicable in the facts and circumstances of this case. Admittedly, the deceased was having no weapon and there was exchange of only abusive words during scuffle.

Therefore, it cannot be said that there was a sudden fight between the deceased and the appellant, which involves exchange of assault from both side. Similarly, the appellant holding a knife has given a mighty blow on the vital part of the body to the deceased who was without arm, indicates as to how cruelly and in unusual manner, the appellant has executed the offence. Therefore, there is no legal substance in the contentions raised on behalf of the appellant and no merits in this appeal, which is fit to be dismissed.

12. We have gone through the record of case along with impugned judgment in the light of contentions raised on behalf of respective parties. Following points emerges in this appeal for adjudication: -

- i. Whether the impugned judgment of conviction and sentence of the appellant suffers from any error of law calling for any interference in this appeal?
- ii. Whether the appellant is entitled for the benefit of Exception IV of Section 300 of the IPC and his conviction and sentence is liable to be altered from Section 302 of the IPC to 304-Part-I of the IPC?

Analysis, discussions and reasons: -

13. Before imparting our verdict on the aforesaid points, we have to take brief resume of evidence adduced in this case.

P.W.-4 Manisha Doraiburu is the sole star eye witness in this case and wife of the deceased who has been examined as P.W.-4. She has corroborated the contents of her fardbeyan and deposed

that on the date of occurrence, her husband along with his brother-in-law had gone to attend marriage ceremony and returned at about 8 PM in night. Laxman Doraiburu stabbed her husband. She came out from the house and told her brother-in-law as to why he was assaulting to her husband and also stopped him to give any further assault then she was threatened to life by the accused. She has further stated that in the next morning, police arrived at her house and her fardbeyan was recorded. She also informed about the occurrence to the village Manki and Munda.

This witness has been extensively cross-examined by the defence, wherein, she admits cordial relationship between her husband and deceased and they were not scuffling to each other at any point of time. She has denied that on the date of occurrence; she had gone to her paternal home and was not present. Attention of this witness has been drawn towards the minor contradictions that she has not stated before the police that there was electricity light when the accused was assaulting to her husband (deceased) and she intervened and forbade her brother-in-law. She has also denied the suggestion of the defence that with a view to grab the lands of the accused, she has lodged false case and no such occurrence took place. There is nothing else to discredit her testimony.

P.W.-1 Ramchandra Laguri is a local villager and hearsay witness of occurrence who came to know in the village that present appellant has given stab wound to his own brother. He

informed the police and after arrival of police in the village, the knife used in the commission of assault to the deceased was seized in his presence and he has also signed over the seizure list marked as Exhibit-1.

P.W.-2 Mora Purty is also hearsay witness and arrived at the place of occurrence after receipt of information. He has also identified the signature on the seizure list of knife marked as Exhibit 1/1. He has been declared hostile.

P.W.-3 Joteya Kishore Pingua has been declared hostile by the prosecution and expressed no knowledge about the occurrence.

P.W.-5 Jingi Doraiburu is the mother of the deceased and she has also been declared hostile by the prosecution. The reason is obvious that both the appellant and deceased are her son and she is not interested to get punishment of another son.

P.W.-7 Dr. Md. Khalid Anjum was posted at Sadar Hospital Chaibasa as Medical Officer. On 10.05.2021 at 12:05 PM, he conducted post-mortem examination on the dead body of the deceased and found the following findings: -

- i. Rigor mortis present partially in both upper and lower limb

External Injuries

- i. Eye closed, mouth closed.
- ii. A stab injury over interscapular area of 03 cm x 01 cm font going antro-inferiorly.

External Injuries**A-Thorax –**

- i. Right lung-intact and congested.
- ii. Left lungs severely lacerated and collapsed.
- iii. Blood in pleural cavity.
- iv. Heart-intact and empty.

B-Abdomen

- i. Liver-intact and congested.
- ii. Spleen-intact
- iii. Both kidney-intact and C.M.J. Maintained.
- iv. Stomach-Contain undigested food particle
- v. Urinary Bladder-intact and 50 Ml. Urin
- vi. Rest all viscera-intact and within normal limit.

C-Head-

- i. Skull vault –intact
- ii. Brain parenchyma- intact

He has opined that time since death- within 18-38 hours and cause of death is Haemorrhagic shock and lung damage caused by sharp and pointed object. Such injuries may be caused by knife.

He has proved his handwriting and signature over post-mortem report marked as Ext. P-5.

In his cross-examination, he has stated as under:-

3. *Aforesaid injuries may be sustained by any sharp and pointed object than knife.*
4. *Time since death may vary according to climate.*

5. *No chemical examination over the dead body was done.*
6. *Viscera was not preserved for any test.*
7. *It is not true that report is vague.*

P.W.-6, S.I. Devsay Bhagat is the investigating officer of this case. According to his evidence, on 10.05.2021, he was posted as officer-in-charge of Jagannathpur Police Station. He received telephone message that in village Gumuriya Tola Talasai, one Laxman Doraiburu has stabbed his own brother Ankura Doraiburu causing his death. He registered S.D. Entry and along with other police personnel proceeded towards place of occurrence after giving information to superior police and reached at the place of occurrence at village Gumuria Tola Talasai and fardbeyan of Manish Doraiburu was recorded by S.I. Jouni Kumar in presence of village Manki Ramchandra Laguri and other witnesses Mora Purti and Jingi Doraiburu and the fardbeyan was proved as Exhibit P/2.

S.I. Jouni Kumar also prepared inquest report of the deceased in the presence of two independent witnesses which is marked as Exhibit-P/3. He has further deposed that considering the gravity of offence, he himself took charge of investigation of this case and recorded restatement of the informant and also seized the blood-stained knife used in commission of murder of the deceased in presence of witnesses which was prepared in writing by the S.I. Jouni Kumar and marked as Exhibit P-1/2. He has further endorsed on fardbeyan for registration of case

which is marked as Exhibit P-2/1. Formal FIR has been proved as Exhibit-P-4.

In the course of investigation, he recorded confessional statement of accused who has confessed his guilt. He inspected the place of occurrence which is the house of Manisha Doraiburu (informant) where deadbody of her husband was lying. He recorded statement of other witnesses namely Ramchandra Laguri, Mora Purty, Joteya Kishore Pingua, Jingi Doraiburu, etc.

Attention of this witness has also been drawn towards the statement of witness Mora Purti, P.W.-2 who has stated before him that “on 09.05.2021, at about 8 PM, Ankura Doraiburu and Laxman Doraiburu returned from the marriage ceremony to their home scuffling with each other due to sale of Ox. Meanwhile, younger brother has assaulted and stabbed on back side of his elder brother. The injured was being brought to hospital but died”. He has also stated that witness Joteya Kishore Pingua and Jingi Doraiburu have also stated that both brothers were scuffling due to dispute about sale of Ox after returning from marriage ceremony and Ankura Doraiburu was stabbed by his brother Laxman Doraiburu. This witness finding sufficient evidence against the accused for the offence under Section 302 of the IPC submitted charge-sheet No. 37/2021 dated 11.06.2021. This witness has been cross-examined by the defence but no attention has been drawn of this witness that informant was not present on the date of occurrence rather had

gone to her paternal home. No material affecting the prosecution case has been elicited in the cross-examination of this witness.

14. We have given thoughtful consideration to the overall evidence adduced by the prosecution. No oral or documentary evidence has been adduced by the defence except plea of innocence and non-presence at the place of occurrence.

15. It is quite obvious from the deposition of sole eye witness P.W.-4 namely Manish Doraiburu that the appellant and elder brother (deceased) went to attend the marriage ceremony and returned at about 8:00 PM, in the evening, suddenly, a dispute broke up between the deceased and the present appellant on the question of selling an Ox jointly owned by them. The dispute accelerated and the present appellant at the spur of moment got enraged and gave a stab blow from knife from behind to his own brother, who sustained injury causing damage of lungs immediately, resulting in his death. The Post Mortem Report of the deceased as proved by Dr. Md. Khalid Anjum also goes to show that the deceased has sustained stab injury over interscapular area which was the immediate cause of bleeding, shock and haemorrhage resulting in the death of the deceased. There was no injury except single injury caused by knife. The evidence of P.W.-6, S.I. Devsay Bhagat who is Investigating Officer in this case has proved the place of occurrence to be the house of the appellant and accused persons. He also seized blood-stained knife from the place of occurrence, which was used in stabbing the deceased in presence of witnesses but the

same was not produced during trial as material exhibit nor it was sent to F.S.L. for chemical examination.

16. Mere aforesaid omissions of the investigating officer cannot give a premium to the accused in the shape of serious doubt in prosecution story. Therefore, it is established beyond doubt that it is the appellant himself who has stabbed his own brother causing his instantaneous death. There is no reason to believe the theory of innocence and plea of *alibi* taken by the appellant.

17. It is settled principle of law that conviction can be based upon solitary testimony of witness who is considered to be absolutely reliable and his testimony does not suffer from any malice or ill-will towards the accused.

18. Now, we have to consider whether in the given set of facts and circumstances of this case, the offence committed by the appellant falls under Exception 4 to Section 300 of the IPC which reads as under:-

“Exception 4 : Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Explanation : It is immaterial in such cases which party offers the provocation or commits the first assault.”

19. In order to invoke the above explanation, following requirements must be satisfied: -

(i) There must be a sudden fight;

- (ii) There must not be premeditation;
- (iii) The act was done in a heat of passion; and
- (iv) the assailant had not taken any undue advantage or acted in a cruel manner.

In order to invoke above exception, the cause of the quarrel is not relevant nor is it relevant as to who offered the provocation or started the assault. The number of wounds caused during the occurrence is not a decisive factor but what is important is that the occurrence must have been sudden and unpremeditated and the offender must have acted in a fit of anger. Of course, the offender must not have taken any undue advantage or acted in a cruel manner.

20. In the case of **Surinder Kumar Vs. Union Territory, Chandigarh, AIR 1989 SC 1094** relied upon by the learned counsel for the appellant, the factual matrix was that the deceased and his brother had a heated argument and while heated exchange of abusive words in presence of sister, the accused picked up a knife from kitchen and inflicted blow on the neck of his brother causing a bleeding injury which resulted in his death.

21. In the above factual aspects, an assault given by the appellant, it was held by the Hon'ble Supreme Court that "where in case of quarrel between the deceased and the accused, the death is caused without premeditation and without taking any undue advantage or acting in a cruel or unusual manner, the accused was given benefit of Exception 4 to Section 300 of the

IPC.” It was also held that merely because three injuries were caused to the deceased during the scuffle, it could not be said that he had acted in a cruel and unusual manner and his conviction was altered from offence under Section 302 of the IPC to Section 304, Part-I of the IPC and sentence was also altered to the extent of 7 years rigorous imprisonment.

22. In the instant case, we find that the genesis, manner and place of occurrence has been proved by the prosecution to the hilt. There is also no doubt that a single stab blow was given by the appellant to his own brother in a sudden quarrel without premeditation. In the facts and circumstances of the case, it cannot be assumed that there was any intention to kill the deceased or any undue advantage was taken by the appellant. Mere possession of knife by the appellant cannot give rise to the conclusion that he was intending to kill the deceased. Therefore, we find that the ingredients of Exception 4 to Section 300 of the IPC have been categorically established in this case.

23. In view of the above discussion and reasons, we feel inclined to set aside the conviction and sentence of the appellant for the offence under Section 302 of the IPC rather he is convicted and held guilty for the offence under Section 304, Part-I of the IPC. The sentence of appellant is also altered and he is directed to undergo rigorous imprisonment for 7 years along with a fine of Rs. 10,000/-, in case of default in payment of fine, further to undergo simple imprisonment for one years. The fine, if realized, shall be paid to the wife and children of the deceased.

24. The period of custody already undergone by appellant shall be set off from the substantive period of imprisonment awarded to him in this appeal.

25. The Chairman, District Legal Services Authority, West Singhbhum at Chaibasa is also directed to process the adequate compensation to the victims/heirs of the deceased from State Victim Compensation Fund, in accordance with law.

26. In view of the above, this appeal is **partly allowed**.

27. Let a copy of this order be sent to the concerned court below.

28. Let a copy of this Order be also sent to the Chairman, DLSA, West Singhbhum at Chaibasa.

(RONGON MUKHOPADHYAY, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

Jharkhand High Court

Date 25/02/2026

Basant/ N. A. F. R.

Uploaded on 26/02/2026