

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No. 471 of 2004**

.....

[Against the Judgment of conviction dated 19.01.2004 and order of sentence dated 21.01.2004, passed by learned Sessions Judge, Gumla in Sessions Trial No.77 of 2001]

.....

1. Tarsius Sorang
2. Maryanus Sorang.

Both are son of Late Siril Sorang. Resident of village Dholbir, police station – Palkot, District – Gumla.

.... **Appellants**

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 Appellants : Mr. A.K. Chaturvedi, Adv.
For the State : Mr. Vineet Kumar Vashistha, Spl. P.P.

.....

C.A.V. on 21.04.2026

Pronounced on 12.05.2026

Per Pradeep Kumar Srivastava, J.

1. We have already heard Mr. A.K. Chaturvedi, learned counsel for the appellants and Mr. Vineet Kumar Vashistha, learned Spl. P.P. appearing for the State.

2. Instant criminal appeal is directed against the judgment of conviction dated 19.01.2004 and order of sentence dated 21.01.2004 passed by learned Sessions Judge, Gumla in S.T. No.77 of 2001, whereby and whereunder the appellants have been held guilty for the offence under Section 302 read with Section 34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for life.

FACTUAL MATRIX

3. Factual matrix giving rise to this appeal is that the informant Silas Soren is posted as Chaukidar at Palkot Police Station but on the day of occurrence, he was deputed to discharge his duties as Chaukidar at Bank of India. It was alleged that on 02.11.2000 at about 04:30 p.m., after discharging his duties from bank, he was returning to his home and reached near the house of Tintus Soren then he heard some hallah and proceeded towards the house of his cousin brother Tintus Soren. In the meantime, he saw his cousin brothers Tarsius Soren and Mariyanus Soren coming out from the house of Tintus Soren and fleeing away. He also noticed a weapon like "Bongath" in the hands of Mariyanus Soren. It is alleged that with a view to know what happened, he went to the house of Tintus Soren. Then Sameer Lakra and Tintus Soren came out and told that informant's father Alfosh Soren has been assaulted by

Tarsius and Mariyanus who are fleeing away. The informant went inside the house of Tintus Soren where in the courtyard, he found his father was lying in injured condition sustaining injuries but he was not capable to speak anything. It was disclosed by Tintus Soren (P.W.7) and Sameer Lakra (P.W.2) that while they were consuming Hanria along with informant's father, meanwhile, Tarsius and Mariyanus entered in the house from back door. Tarsius was having a woodlog and assaulted 3-4 blows on the head of informant's father due to which he sustained injuries on head and fell down. When Sameer rushed to save the Alfosh Suren, meanwhile, the accused persons fled away. In the meantime, informant's brother and mother also arrived at the place of occurrence. The motive behind the occurrence is alleged that father and mother of the accused persons died and they were suspecting some black magic committed at the hand of deceased.

On the basis of above information, Palkot P.S. Case No.39 of 2000 dated 02.11.2000 was registered for the offences under Section 302/34 of the I.P.C. and Section 3/4 of the Prevention of Witch (Daain) Practices Act.

4. After completion of investigation, charge-sheet was submitted against the above named accused persons for the offences under Section 302/34 of the I.P.C. and Section 3/4 of the Prevention of

Witch (Daain) Practices Act. The case was committed to the Court of sessions where S.T. No.77 of 2001 was registered. The accused persons denied from charges and claimed to be tried.

5. In the course of trial, altogether seven witnesses were examined by prosecution. Apart from oral testimony of witnesses, following documentary evidences were adduced by the prosecution :-

Exhibit 1 : Signature of Silas Soren on fardbeyan

Exhibit 1/1 : F.I.R.

Exhibit 2 : Post-mortem Report

6. The case of defence is denial from occurrence and false implication. However, no oral or documentary evidence was adduced by defence.
7. The learned Trial Court after scrutinizing the evidence available on record has held the appellants guilty for the offence under Section 302/34 of the I.P.C. and sentenced as stated above.
8. Learned counsel for the appellants assailing the impugned judgment and order has strenuously argued that there is no eye witness of the occurrence. The informant has claimed to see the accused persons while fleeing away after assaulting his father, has also not adhered the same during trial. The original place of occurrences where offence of murder was committed belongs to Tintus Soren, who has been declared hostile by the prosecution

and not supported the prosecution story. Similarly, Sameer Lakra who was also alleged to be present at the time of occurrence has been declared hostile. The informant himself has given an absolutely contradictory story during trial giving go by to his earliest statement before police. He has admitted that when he returned from his duty, he went to his home and along with his mother and brother went to the house of Tintus Soren and saw the dead body of his father lying under pool of blood sustaining head injuries. Therefore, his claim that he saw the accused persons even fleeing away along with a lathi in the hands of Mariyanus Soren is absolutely false version. It is further submitted that the main culprit were Tintus Soren and Sameer Soren who put different story to the informant regarding involvement of present appellants and later on became hostile. There is no iota of evidence on record showing involvement of the appellants in the alleged offence of murder. The learned Trial Court has acted upon the evidence of hostile witnesses picking out some statements hither and thither, which does not bear any truth and made the basis of conviction of the appellants. The learned Trial Court has also not put any specific question under Section 313 Cr.P.C. appearing from the evidence of witnesses showing any specific culpability of each of the appellants, rather he has put a compound question against both

the accused persons which cannot be the basis of conviction of the appellants. Therefore, appellants deserve acquittal from the charges levelled against them. The very motive for the alleged offence has not been proved by the prosecution and the appellants have not been found guilty under Section 3/4 of the Prevention of Witch (Daain) Practices Act. Therefore, conviction and sentence of the appellants is absolutely illegal and beyond the weight of evidence, which is liable to be set aside. The appellants deserve acquittal from the charge levelled against them. As such, this appeal may be allowed.

9. On the other hand, learned Spl. P.P. appearing for the State has submitted that the learned Trial Court has very wisely and aptly analyzed and appreciated the overall aspects of the case as well as evidence of witnesses and arrived at right conclusion. The injury sustained by deceased also finds corroboration from the post-mortem report. Therefore, there is no illegality or infirmity in the judgment of learned Trial Court calling for any interference in this appeal, which is devoid of merits and fit to be dismissed.
10. The only point for consideration is that as to **"whether the impugned judgment suffers from any error of law calling for any interference in this appeal ?"**

11. Before imparting our verdict on the above point, we have to take brief resume of the evidence available on record.
12. It appears that altogether seven witnesses were examined by the prosecution to substantiate the charges levelled against the appellants. Out of them **P.W.2 Sameer Lakra**, who as per F.I.R., was present at the time of occurrence, has been declared hostile by the prosecution. He has expressed no knowledge about the occurrence and he did not go even to see the dead body of Alfosh Soren.

P.W.3 Sirnus Soren has simply stated that Alfosh died in the house of Tintus Soren where he went after hearing hullah and saw the dead body of Alfosh sustaining injuries on head. He has stated nothing about involvement of any of the appellants in the alleged occurrence.

P.W.7 Tintus Soren in whose house the dead body of deceased was found, has also been declared hostile. According to his evidence, he was not present at the time of occurrence rather in the next day morning, he came to know about murder of Alfosh Soren in his house. He does not know who has killed the deceased. He has also denied any statement before police.

13. The main witness of fact is informant-cum-son of deceased namely **Silas Soren (P.W.4)**, who is also not an eye witness of

occurrence. According to his evidence on 02.11.2000 at about 04:30 p.m., after discharging his duties from bank as Guard, he returned to his home then Sameer Lakra (P.W.2) told him that his father has been killed by Tarsius and Mariyanus Soren. This witness along with Sameer Lakra went to the house of Tintus Soren and in the way, he saw Mariyanus was having a lathi and Tarsius was having no arm were fleeing away from the house of Tintus Soren. He went to the house of Tintus Soren where his father was lying dead under pool of blood and was unconscious. In the next day morning, he informed to police about the occurrence. His statement was recorded on next day morning at about 10:00 a.m. by the police and he has proved his fardbeyan as Ext.1 and formal F.I.R. as Ext.1/1.

In his cross-examination, this witness reiterates that the occurrence took place in the house of Tintus Soren (P.W.7). He also admits that after returning from bank, he straightforward went to his own house, which is situated at a distance of one kilometer from the house of Tintus Soren. After receiving information about assault meted to his father, he went to the house of Tintus Soren along with his mother Benedika (P.W.1) and brother Silvester (P.W.5), who have returned from the market. Therefore, claim of this witness that he saw the accused persons

while fleeing away with wood-log or lathi is absolutely not believable at all.

P.W.1 Benedika Kerketta is the mother of the informant and wife of the deceased. She also states that at about 05:00 p.m., she returned from the Palkot market and after hearing about the occurrence, she went to the house of Tintus Soren along with her son Silas Soren. She also claims to have seen the accused persons while fleeing. Although, she entered into the house of the Tintus Soren, where she found her husband had died, therefore, mere claim of this witness that she saw the accused persons while fleeing does not inspire confidence. She also states that the accused persons were assuming that her husband has played some black magic, due to which one year prior to occurrence, father of accused persons died.

In her cross-examination also, she admits that when she reached at the place of occurrence, in the way Sameer (P.W.2) told her about the occurrence. She also states that accused persons never called her or her husband as daain.

P.W.5 Silvester Soren is also brother of informant. According to informant (P.W.4) and Benedika Kerketta (P.W.1) wife of deceased, this witness also proceeded to the place of occurrence at the house of Tintus Soren together. This witness has

deposed that on 02.11.2000, he had gone to Palkot market along with his father (deceased) and returned about 04:00 p.m. thereafter, his father (deceased) went to grazing cattle and this witness went for irrigating the field after one hour he returned from the field then in the way, he saw Tarsius and Mariyanus (appellants) were entering in the house of Tintus Soren who assaulted to his father inside the house. Thereafter, he saw the dead body of his father. He further states that he came to know about the occurrence from Samuel Lakra, who has not been examined in this case. The claim of this witness is that he saw the accused persons while entering into the house of Tintus Soren and fleeing away after assaulting his father, is absolutely further improvement and finds no corroboration from the evidence of his own brother and mother. Therefore, no reliance can be placed upon evidence of this witness.

P.W.6 Dr. A.D.N. Prasad has conducted autopsy on the dead body of deceased and found following ante-mortem injuries :-

I. Lacerated wound over the right perital region of the skull with fracture of frontoperital region of the skull 3" x 1/4" x bone deep.

II. Hematoma on the left side of skull over the perital region with fracture of the skull underneath the skull with

hematoma inside the cranium.

Cause of death :- Head injury No.(I) resulting in death of deceased. Time elapsed since death 24 hours. The Postmortem Report is proved as Ext.2.

14. We have also gone through the impugned judgment, it appears that the learned Trial Court has simply translated the evidence of witnesses from Hindi to English and in the last para observation was made that in the statement under Section 313 of the Cr.P.C., the accused persons have not stated anything for their false implication and arrived at conclusion about the guilt of the appellants. It is quite obvious from the impugned judgment that the learned Trial Court has miserably failed to properly appreciate the evidence of witnesses in the light of material contradictions appearing in their evidence, except the initial claim in the F.I.R. that both the appellants were seen fleeing away from the house of Tintus Soren, which is the place of murder of the deceased, nothing else has been pointed out by the witnesses.

From the evidence of P.W.1 Benedika Kerketta, P.W.4 Silas Sorena and P.W.5 Silvester Soren, it is crystal clear that they have no occasion even to see the accused persons while fleeing away from the place of occurrence rather they came to know about the injury sustained by Alfosh Soren (deceased) in the house of Tintus

Soren, they went there and saw the dead body of deceased. The main witnesses were Sameer Lakra and Tintus Soren, who were all along present with the deceased and took Haria (liquor made of rice) together have deliberately become hostile in this case, which itself speaks a different story, whereby inference can be drawn against these two witnesses of deliberate falsehood or suppression of real facts. The trend of evidence adduced in this case does not inspire confidence to reflect a truthful story. The involvement of appellants is absolutely doubtful and there is no material to prove the guilt of appellants beyond all shadow of reasonable doubt. Mere silence of accused or not offering any explanation is not sufficient to infer their guilt rather the rigour of law is against the prosecution to prove the guilt of the accused persons to the hilt.

15. In view of above discussion and reasons, we find substance in the arguments raised on behalf of the appellants and merits in this appeal. In the absence of cogent and reliable evidence against the appellants, we are constrained to hold that the learned Trial Court has committed serious error of law in appreciating the evidence of the witnesses and overlooked the material contradictions rendering the witnesses unreliable and concluded about the guilt of the appellant. Therefore, impugned judgment and order is hereby set aside and this appeal is **allowed**.

16. The appellants are on bail, they are discharged from liability of bail bonds and sureties are also discharged.
17. Pending I.A., if any, stands disposed of.
18. Let a copy of this judgment along with Trial Court record be sent back to concerned Trial Court for information and needful.

(Rongon Mukhopadhyay, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi

Dated: 12/05/2026

Sachin / **NAFR**

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