

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**Cr. Appeal (SJ) No. 1184 of 2008**

*[Against the judgment and order of conviction and sentence dated 19.08.2008 and 22.08.2008, passed by learned Additional Sessions Judge, Fast Track Court No.1, Gumla, in Sessions Trial Case No. 151 of 2006]*

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Chuiya Oraon, son of Buchiya Oraon, resident of Village-Kumhariya Harvatoli, P.S. & District-Gumla

... .. **Appellant**

**Versus**

The State of Jharkhand

... .. **Respondent**

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**P R E S E N T**

**HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA**

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For the Appellant : Mr. Dharmendra Kumar Malityar, Advocate  
Mr. Mohid Prasad, Advocate  
For the State : Mr. V.S. Sahay, A.P.P.

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**J U D G M E N T**

**C.A.V. on 04.05.2026**

**Pronounced on 09/06/2026**

1. Heard, Mr. Dharmendra Kumar Malityar, learned counsel for the appellant and learned A.P.P.
2. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 19.08.2008 and 22.08.2008, passed by learned Additional Sessions Judge, Fast Track Court No.1, Gumla, in Sessions Trial Case No. 151 of 2006, whereby and whereunder the appellant has been held guilty for the offence under Section 304 Part II of the I.P.C. and sentenced to undergo R.I. for five years along with fine of Rs.1,000/- with default stipulation.

**Factual Matrix**

3. Factual matrix giving rise to this appeal is that on 14.02.2006, at about 7:00-08:00 P.M., the informant Sawani Devi (P.W.-2) cooked rice and meat and her husband Harku Oraon went to call his uncle Ratu Oraon (P.W.-8) from the house of Tetru Oraon for taking dinner

together. It is alleged that when the informant's husband reached near the house of Tetru Oraon the accused Chuiya Oraon, all of a sudden, caught hold of the informant's husband by collar and pulled down him on the ground and step on the chest and abdomen of the husband of the informant by his both legs. Hearing the scream, informant rushed to save her husband then accused fled away. The informant's husband was admitted to Sadar Hospital, Gumla for treatment and was discharged on 17.02.2006 but in the morning of 20.02.2006 at about 04:00 A.M. informant's husband died in his house.

4. On the basis of above information, Gumla P.S. Case No. 44 of 2006 was registered for the offence under Section 304 of the I.P.C. After completion of investigation, charge-sheet was submitted. The case was committed to the Court of Sessions. The sole accused denied from the charges and claimed to be tried.

5. In the course of trial, altogether 9 witnesses were examined by the prosecution apart from documentary evidence.

*P.W.-1-Doctor Sugendra Sai*

*P.W.-2-Smt. Sawani Devi*

*P.W.-3-Mangra Oraon*

*P.W.-4-Leity Oraon*

*P.W.-5-Bandha Oraon*

*P.W.-6-Smt. Kandi Orain*

*P.W.-7-Dukha Oraon*

*P.W.-8-Ratu Oraon*

*P.W.-9-Avinash Kumar Singh*

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

**Submissions on behalf of appellant: -**

7. Assailing the impugned judgment, learned counsel for the appellant has vehemently argued that the independent witnesses examined in this case are P.W.s' 3, 4, 6, 7 & 8 who have been declared hostile and not supported the prosecution case. Similarly, P.W.-5 is hearsay witness. P.W.-1 and P.W.-9 are the Doctor and I.O. of the case. Therefore, the sole testimony of informant Sawani Devi (P.W.-2) as an eye-witness does not find corroboration from any independent source. As per testimony of P.W.-2, she also arrived at the place of occurrence after the incident. Therefore, she is also not an eye-witness of the occurrence. The learned Trial Court has failed to properly consider the evidence of P.W.-2 in the light of her cross-examination and undue weightage has been given to her evidence for arriving at conclusion about guilt of the appellant. Therefore, impugned judgment suffers from serious error of law and fit to be set aside, allowing this appeal.

In the alternative, it is pleaded that no motive behind the occurrence has been shown and it was sudden dispute and no lethal weapon was used for assaulting the deceased and he died after one week of the occurrence. About two decades has been lapsed from the date of occurrence and the appellant has also undergone two years five months custody during the pendency of the trial and post conviction out of five years imprisonment awarded to him. The appellant has

maintained mainstream of life without indulging in any criminal activities and the dependents of the deceased have also been settled in their life having no grievance with the appellant. It was first offence of the appellant and except this fateful event he was never involved in any other criminal activity. Therefore, sentence passed against the appellant may be reduced to the imprisonment already undergone.

**Submissions on behalf of State: -**

8. On the other hand learned A.P.P. has defended the impugned judgment of conviction and order of sentence on merits and submitted that the learned Trial Court has rightly convicted the appellant and there is no merit in this appeal, therefore, this appeal is fit to be dismissed.

**Analysis, discussions and reasons:-**

9. I have gone through the record of the case along with impugned judgment in the light of contentions raised on behalf of both sides.

10. It appears that P.W.-2 is the sole eye-witness of the occurrence and other witnesses namely, P.W.s' 3, 4, 6, 8 & 9 although declared hostile but reached at the place of occurrence after hearing hulla and found the informant's husband injured who was brought to hospital. The injuries sustained by the informant's husband also find corroboration from his P.M. report marked as Exhibit-1 wherein following injury has been noticed in the ante mortem report:-

There was no apparent external injury.

**On dissection**

There was collection of dirty fluid in the abdominal cavity. There was perforation of upper part of small intestine. The loops of small

intestine were blue and swollen, leading to gangrenous changes. Stomach was empty.

**Cause of death**

Shock due to peritonitis due perforation and gangrene of small intestine.

11. There is no reason to disbelieve the unrebutted testimony of the P.W.-2 and there is no motive for false implication of the appellant. I find that the learned Trial Court has very wisely and aptly analyzed scanned and appreciated the overall evidence available on record and arrived at right conclusion which suffers from no error of law calling for any interference in this appeal.

12. So far quantum of sentence is concerned, it appears that at the time of occurrence, age of the appellant was 22-23 years. He had no criminal antecedent at the time of occurrence and post event also. The appellant has undergone agony of trial for two decades and also sustained half of the sentence awarded to him. He has restored to mainstream of social life. Therefore, sending again to prison for sustaining the remaining period of imprisonment to the appellant will serve no useful purpose particularly in the factual scenario of this case.

13. In view of above, the conviction of the appellant for the offence under Section 304 Part II of the I.P.C. is hereby upheld and confirmed and his sentence is reduced from R.I. for 5 years to the imprisonment already undergone during trial of the case. Accordingly, this appeal is **dismissed on merits with modification in sentence** as stated above.

14. Appellant is on bail, as such he is discharged from the liability of

bail bond and sureties are also discharged.

15. Pending I.A(s), if any, is also disposed of accordingly.

16. Let a copy of this judgment along with Trial Court Record be sent back to the court concerned for information and needful.

**(Pradeep Kumar Srivastava, J.)**

*Jharkhand High Court*

*Dated 09/06/2026*

*Arpit/ N. A. F. R.*

*Uploaded on 10/06/2026*