

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No.779 of 2018

(Against the judgment of conviction dated 25.04.2018 and the order of sentence dated 27.04.2018 passed by the learned Additional Judicial Commissioner-XII-cum-FTC (CAW) Ranchi in Sessions Trial No. 489 of 2009)

Chamra Oraon, son of late Jagga Oraon, resident of Chhotka Toli,
PO and PS Ratu, District Ranchi ... **Appellant(s).**

Versus

The State of Jharkhand ... **Respondent(s).**

For the Appellant(s) : Mr. Jai P. Agrawal, Advocate
For the Respondent(s) : Mr. Shailendra Kr. Tiwari, Spl. PP

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PRESENT

SRI ANANDA SEN, J.

SRI PRADEEP KUMAR SRIVASTAVA, J.

J U D G M E N T

1stOctober 2026

By the Court: We have heard the learned counsel appearing for the appellant and the learned counsel for the State at length.

2. This Criminal Appeal has been preferred against conviction.

3. Before indulging and dealing with the facts and merits of the case, we feel it necessary to discuss the role of principle of natural justice in procedural law.

4. The principle of natural justice is one of the foundational principles of our justice delivery system. As we all know, the doctrine rests on two rules: *Nemo judex in causa sua* and *Audi alteram partem*. The principle is not limited to administrative law; it applies to all procedural law. This principle evolves through common law jurisprudence, safeguards against the arbitrary

exercise of power, and is grounded in the broader concept of fairness in decision-making.

5. In “*A.K. Kraipak vs. Union of India*” reported in (1969) 2 SCC 262, the Hon’ble Supreme Court has observed that the object of natural justice is to secure justice and prevent miscarriage of justice. In “*Maneka Gandhi vs. Union of India*” (1978) 1 SCC 248, the Hon’ble Supreme Court held that any procedure affecting personal liberty must be fair, just, and reasonable.

6. Thus, the underlying requirement is fairness whenever the exercise of public or statutory power has the potential to adversely affect the rights, interests, or any civil consequence.

7. A criminal trial is not merely a mechanism for determining the guilt of an accused; it is a process governed by fairness, impartiality and reasonable opportunity to defend. These requirements flow principally from Articles 14 and 21 of the Constitution. The principle of natural justice manifests itself in criminal proceedings through:-

- notice of the accusation
- knowledge of the evidence relied upon by the prosecution.
- opportunity to challenge the prosecution evidence.
- right of cross-examination
- opportunity to explain incriminating circumstances
- opportunity to lead a defense
- impartial adjudication
- legal representation, and
- fair and reasonable procedure.

Criminal jurisprudence therefore treats a fair trial as an integral component of Article 21.

8. In the case of “*Zahira Habibulla H. Sheikh vs. State of Gujarat*” reported in (2004) 4 SCC 158, the Hon’ble Supreme Court has held that a criminal trial must provide a meaningful opportunity to the prosecution, accused and other affected interested persons.

9. Section 313 of the Cr.P.C. is a manifestation of the principle of *Audi alteram partem* in the Criminal Procedure Code. It gives statutory recognition to the principle that no one should be condemned unheard. The object of Section 313 Cr.P.C. is to give an opportunity to the accused to explain the incriminating circumstances appearing against him in the prosecution evidence.

10. In “*Sharad Birdhichand Sharda vs. State of Maharashtra*” reported in (1984) 4 SCC 116, it has been held that the statement under Section 313 Cr.P.C. is not evidence but is a valuable safeguard. This principle is being consistently followed.

11. Section 313 of the Cr.P.C. reads as under:

“313. Power to examine the accused.-(1) In every inquiry or trial, for the purpose of enabling the accused personally to explain any circumstances appearing in the evidence against him, the Court-

(a) may, at any stage, without previously warning the accused, put such questions to him as the Court considers necessary;

(b) shall, after the witnesses for the prosecution have been examined and before he is called on for his defence, question him generally on the case:

Provided that in a summons-case, where the Court has dispensed with the personal attendance of the accused, it may also dispense with his examination under clause (b).

(2) No oath shall be administered to the accused when he is examined under sub-section (1).

(3) The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them.

(4) The answers given by the accused may be taken into consideration in such inquiry or trial, and put in evidence for or against him in any other inquiry into, or trial for, any other offence which such answers may tend to show he has committed.

(5) The Court may take help of Prosecutor and Defence Counsel in preparing relevant questions which are to be put to the accused and the Court may permit filing of written statement by the accused as sufficient compliance of this section.]”

12. Fair trial is inbuilt in Article 21 of the Constitution. A trial is not fair if all incriminating material is not put to the accused. If those materials are used against the accused to prove his guilt, an opportunity must be given to the accused to explain and to put forth his defense to the circumstances which are being used against him.

13. Section 313 Cr.P.C. is based on the fundamental principle of fairness and no doubt is a facet of natural justice. Without complying with these provisions fairly, a person cannot be condemned. Not only should there be compliance with Section 313 Cr.P.C., but there should also be proper compliance, as justice not only must be done but must also be seen to be done. Non-compliance with the provisions of Section 313 Cr.P.C. causes serious prejudice to the accused and violates his valuable right.

14. Section 313 Cr.P.C. which we are dealing with is in two parts :

(i) Section 313 (1)(a)

(ii) Section 313(1)(b).

The first part relates to any stage of the inquiry or trial, while the second part occurs after the prosecution witnesses are examined and before the accused is called upon to enter his defense.

The former is particular and optional; but the latter is general and mandatory. The object of sec. 313(1)(b) Cr.P.C. is to bring the substance of accusation to the accused to enable the accused to explain each and every circumstance appearing in the evidence against him. The provisions of this section are mandatory and impose a duty on the Court to afford the accused an opportunity to explain each and every circumstance and incriminating evidence against him. The examination of the accused under Sec. 313(1)(b) Cr.P.C. is not a mere formality.

15. Since we are dealing in this case with Section 313 (1)(b), it is clear that the said provision provides that after prosecution evidence, it is mandatory to examine the accused about each incriminating circumstance against him. This examination is without any oath and without any cross-examination. The accused does not render himself liable to be punished also by refusing to answer such questions or by giving false answers.

16. In the "*State of Maharashtra vs. Sukhdev Singh*" reported in (1992) 3 SCC 700, it has been held that if an incriminating circumstance is not put to the accused under Section 313 Cr.P.C., the said circumstance cannot be used against him. The provision of Section 313 Cr.P.C. is not an empty formality. It is not only a statutory right available to the accused, but it is also a constitutional guarantee of a fair trial.

17. As observed earlier, justice is not only to be done, but the process should reflect fairness, which should not be under the smog of prejudice. It is the first time, after the prosecution closes its evidence, that an accused opens his mouth to explain in defence, the circumstances which the Court wants to use against him to prove his guilt. At this stage, the Court's responsibility and duty are enhanced a few fold. As held earlier, this process is not a mere formality. Naturally, a Court cannot make a

fundamental process into a mere formality. The Court must ensure that this process, for any reason, whether by the prosecution or the accused, is not reduced to a mere formality. Thus, the Court has a very important role to play.

18. Now the question may arise as to why we are dealing so deeply with this aspect. We are dealing with this aspect because the manner in which the appellant was examined under Section 313 Cr.P.C. raises a serious question as to whether the appellant received fair treatment.

19. The appellant admittedly is a rustic villager, and he is not even literate, as he has put his L.T.I. in the document where his statement under Section 313 Cr.P.C. is recorded. If a person puts his L.T.I. in a document where he is not compelled to put L.T.I., and the document lacks a signature, it is presumed that he doesn't know how to read and write. In that scenario, the person recording the statement, or the person in whose presence it is recorded, should act more responsibly to safeguard the interests of the person giving his L.T.I. In this case, his entire statement under Section 313 Cr.P.C. is recorded in English. The questions were put in English, and the answers were recorded in English. Nothing on record suggests that these questions and answers were recorded after translating them into English from the accused's mother tongue. There is no bar to such translation, but once a person gives his statement before the recorder in his mother tongue and the transcript is not in the same language in which he is deposing, then there should be an endorsement by the person who is recording the statement to the effect that what has been translated and transcribed is read over and explained to the maker of the statement in his mother tongue, i.e. the language in which he has deposed.

20. After going through this document, we find that this document, which was duly signed by the A.J.C.-III, bears the L.T.I. of the accused. We couldn't find any such certification in it. As noted earlier, all the questions were put in English, and all the answers are recorded in English. This is a serious lapse in the trial, and it goes to the root of the matter and shakes the edifice of a fair trial in this case. A person who doesn't even know how to read, write, or understand English should not be asked any questions in that language. If there is a communication gap and a lack of understanding of the language, the accused should be provided an interpreter. We can very well hold that, in this case, the questions put to him, even if they relate to the circumstances being used against him, were not understood by him, as they were in English. It is also not known what questions were put to him, what circumstances were put to him, or what answers he actually gave. This leads to the only conclusion that, in this case, the process carried out to comply with Section 313 Cr.P.C. was reduced to a mere formality.

21. Another aspect is that the statement was recorded on 22.07.2016, but there is an endorsement to the effect that the same was shown to him and his L.T.I. was taken on the next date, i.e., on 23.07.2016. This endorsement has been made by the A.J.C.-III. It is necessary to quote the endorsement which is hereunder.

"Note: Statement was recorded on 22.07.2016 but due to non supply of electricity printout could not be taken out on that day as back up of computer after recording statement after finalized. Print out taken today and was signed by undersigned today. LTI of accused also taken today."

22. We are also shocked by this approach of the learned A.J.C.-III. The aforesaid endorsement is dated 23.07.2016, and

the excuse is that, due to non-supply of electricity, the printout could not be taken on 22.07.2016. If that is so, it is surprising that, beneath the signature of A.J.C.-III, the date mentioned is 22.07.2016. If the printout was taken on 23.07.2016, it means A.J.C.-III also signed the document on 23.07.2016 and got his L.T.I. on 23.07.2016. That means the accused was examined and left to go, and on the next date, i.e., 23.07.2016, his L.T.I. was taken. Even on that day he was not made to understand on what document he is putting his L.T.I. and what has been written there.

23. Thus, we are of the opinion that gross injustice has been caused in this case. Accordingly, we hold that compliance with Section 313 Cr.P.C. in this case is not in accordance with the law and has caused gross prejudice to the appellant.

24. The Hon'ble Supreme Court in the case of "*Nar Singh vs. State of Haryana*" reported in (2015) 1 SCC 496 at paragraph 30 onwards has summarized the courses available to the Appellate Court in this type of situation. At paragraph 30.4 of the judgment, the Hon'ble Supreme Court has held that if the statement taken under Section 313 Cr.P.C. is not proper, the Appellate Court may decline to remit the matter to the Trial Court for retrial on account of long time already spent in the trial of the case and the period of sentence already undergone by the convict and, in the facts and circumstances of the case, may decide the appeal on its own merits, keeping in view the prejudice caused to the accused.

25. In our opinion, at this stage, after a long period of time, it is not proper to remand the matter to be decided by the Trial Court from the stage of Section 313 Cr.P.C. The improper recording of the statement under Section 313 Cr.P.C. itself is a ground for acquittal, as the natural consequence is that the

circumstances against the accused, derived from the witnesses' depositions, were not put to the accused to explain but were used against him.

26. Thus, considering the judgment passed by "*Nar Singh*" (supra), we are indulging in the merits of this case also.

27. This Criminal Appeal arises out of the judgment of conviction dated 25.04.2018 and the order of sentence dated 27.04.2018 passed in Sessions Trial No. 489 of 2009 whereby and whereunder learned Additional Judicial Commissioner-XII-cum-F.T.C. (CAW), Ranchi convicted the appellant under Section 302 of the Indian Penal Code and sentenced him to undergo imprisonment for life with a fine of Rs. 20,000/-. In default of payment of the fine, he has to further undergo S.I. for one year.

28. The learned counsel appearing on behalf of the appellant submits that all the witnesses are related witnesses and co-villagers. He submits that there is a land dispute between both the parties. Further, there is no injury to the body of the deceased. Further, there is a contradiction in the witnesses' depositions. The trial Court has not properly appreciated the evidence. He submits that considering the aforesaid facts, the appellant be released.

29. The learned counsel for the State submits that there are eyewitnesses to the occurrence and other witnesses have also supported the case of the prosecution. Further, the medical evidence also supports the prosecution witnesses' version. The prosecution has proved its case beyond all shadow of reasonable doubt. In view of the aforesaid facts, the Trial Court's judgment cannot be interfered with.

30. The prosecution case, in brief, based on the fardbeyan of the informant, is that on 26.02.2009 at about 4:00 P.M., the accused, Chamra Oraon, uncle of the informant, intentionally

jumped into a well while holding the informant's wife, Parmeshwari Devi, and forcibly pushed her underwater, resulting in her death. The informant also jumped into the well, but despite efforts by the informant and villagers to rescue her, they could not save her. The villagers had taken out the accused, informant, and dead body of the deceased from the well. The villagers detained the accused, and as it was night, they informed the police the next morning. The informant alleged that the accused had committed the murder in a pre-planned manner due to a land dispute. Based on the aforesaid *fardbeyan*, the police instituted an F.I.R. vide Ratu P.S. Case No. 32 of 2009 under Section 302 of the Indian Penal Code.

31. After investigation, the Investigating Officer submitted a chargesheet against the appellant for the offense punishable under Section 302 of the Indian Penal Code.

32. On the basis of the chargesheet and materials available on record, cognizance was taken, and the case was committed to the Court of Sessions, where charge was framed under Section 302 of the Indian Penal Code, and trial proceeded.

33. To prove the prosecution case, altogether 7 witnesses were examined by the prosecution, who are as under:-

PW1-Jatru Oraon is the informant. He stated that the accused, holding her wife, jumped into the well. He saw the accused drowning her wife. He stated that the accused tried to drown him also. He stated that villagers dropped a rope into the well and, with the help of the rope, he climbed out of the well, and after that he became unconscious.

PW2-Bachia Orain is the deceased's mother-in-law and the informant's mother. She stated that Chamra Oraon caught her daughter-in-law and jumped into the well. He drowned her in the water.

PW3-Ranjit Khalkho stated that when the deceased had gone to fetch water from the well, accused-Chamra Oraon caught hold of her and jumped into the well. They, along with other villagers, dropped a rope in the well through which Jatru Oraon came out of the well, but the deceased died in the well. He identified his signature on the inquest report.

PW4, Chama Oraon, is the brother-in-law of the deceased. He stated the incident had occurred at 12:00 O'clock. He stated that at the time of the incident, he was at home chopping wood and reached the place of occurrence after hearing a commotion.

PW5-Baiju Khalkho reached the place of occurrence on hearing commotion. He stated that when he ran to rescue the deceased and put the rope into the well, the accused had already drowned the deceased.

PW6-Harendra Kumar Rai is the investigating officer of this case. He only received the postmortem report of the deceased and finally submitted the charge-sheet. In cross-examination, he denied that he recorded any statement from any witness. He also denied visiting the place of occurrence.

PW7-Dr. Reema Kanchan Khalkho is the doctor who conducted the postmortem of the dead body of the deceased and found the following injuries:

"The body is of average built, rigor mortise was present all over the body, abdomen distended, washer women hands and feet developing, nails cynosed.

External features – No evidence of any mechanical injury either external or internal. There is no evidence of presser over nose, mouth, neck and chest.

Internal findings-

(i) Lungs are voluminous, oedematous, over lapping. On cutting frothy fluid comes out. The respiratory passage contains blood tinged frothy fluid.

In the opinion of the doctor, death is due to asphyxia as a result of drowning. Time since death is 6 hours to 24 hours. In the cross-examination, she stated that asphyxia may also be caused by throttling and by putting a pillow on one's nose and mouth. She denied any external injury on the dead body.

34. Following documents have been exhibited in this case :

- i. Ext.1 – *Fardbeyan of informant.*
- ii. Ext.2– *Postmortem Report of deceased Parmeshwari Devi.*

35. After closure of evidence of the prosecution witnesses, the statement under Section 313 Cr.P.C. was recorded. After hearing the parties and perusing the records, the Trial Court convicted the accused under Section 302 I.P.C. and sentenced him as aforesaid.

36. From the records, we find that most of the prosecution witnesses are relatives. PW1 stated that the accused, after catching his wife, jumped into the well, and at that time he was about 125 to 150 yards away from the place, and he stated that, on seeing that, he reached near the well and saw the accused drowning her wife. He stated that he also jumped into the well trying to save her, and the villagers dropped a rope, with the help of which he climbed up and thereafter lost consciousness. However, in his cross-examination at paragraph no. 7, he stated that he fainted inside the well and the water entered his stomach. Further, in paragraph no. 9, he stated that when the accused caught her wife, he was 10 steps away from her, and her wife was 10 steps away from the well. Thus, we find a major contradiction in his statement.

Further, in his examination-in-chief, he has stated that the water in the well was 3 feet deep. This creates a doubt as to how a person can be forcibly drowned in only 3 feet of water. Further, we find that PW1 stated that there was a bleeding

injury on the deceased, and PW2 also stated that the deceased was injured by the accused, but from the evidence of the doctor we find no injury on the body of the deceased. Further, the investigating officer denied that he visited the place of occurrence; the main investigating officer who took the witnesses' statements was also not examined; and the subsequent investigating officer admitted that he did not record the statements of any witness. This gives a fatal blow to the prosecution's case.

It is the prosecution's case that there is a land dispute between the parties, and it is quite possible that, in order to frame the accused, a mere accident has been given the color of murder, as by this process the informant may get an opportunity to grab the property of the accused, as they are relatives. Further, we find that the other independent witnesses reached the place of occurrence only after the deceased, accused, and informant went into the well. When we examine the evidence of the doctor who conducted the postmortem examination, he stated that there was no evidence of any mechanical injury, either external or internal. There was no evidence of pressure on the nose, mouth, neck, or chest. This evidence casts doubt on the prosecution's story. Thus, from the facts stated above, combined with the Trial Court's lapse in taking the statement of the accused under Section 313 Cr.P.C., we find that the prosecution has miserably failed to prove its case beyond shadow of reasonable doubt.

37. In the facts and circumstances of the case giving benefit of doubt to the appellant, the conviction of the appellant under Section 302 I.P.C. vide judgment of conviction dated 25.04.2018 passed by learned Additional Judicial Commissioner-XII-cum-FTC (CAW), Ranchi in Sessions Trial Case No.489 of 2009, is

hereby set aside and accordingly the sentence awarded by the learned Trial Court vide order of sentence dated 27.04.2018, is also set aside.

38. Accordingly, this Criminal Appeal is **allowed**. Pending interlocutory applications, if any, stand disposed of.

39. This Court directs the above-named appellant to be released forthwith from custody, if not required in any other case.

40. Let a copy of the judgment along with the Trial Court Records be sent to the Court concerned forthwith.

(ANANDA SEN, J.)

(PRADEEP KUMAR SRIVASTAVA, J.)

01.10.2026

Tanuj/

A.F.R.

Uploaded on 14.10.2026