

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 1449 of 2004

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1. Nand Kishore Mahto @ Kishori Mahto, Son of Late Amrit Mahto,
 2. Rajdeo Mahto, S/o Girdhari Mahto
 3. Raghubir Mahto, S/o Late Amrit Mahto
 4. Charan Mahto, S/o Late Amrit Mahto
 5. Kedar Mahto, S/o Nandlal Mahto
 6. Shambhu Mahto, S/o Jagdish Mahto
 7. Prayag Mahto, S/o Late Madho Mahto
 8. Deonarain Mahto, S/o Dilo Mahto
 9. Chhako Mahto, S/o Late Madho Mahto
 10. Hari Mahto, S/o Nanhku Mahto
 11. Heman Mahto, S/o Late Madho Mahto
 12. Charitar Mahto, S/o Sarju Mahto
 13. Tapeswar Mahto, S/o Late Kishun Mahto
 14. Mahendra Mahto, S/o Charan Mahto
 15. Nando Mahto, S/o Girdhari Mahto
 16. Shakaldeo Mahto, S/o Charan Mahto
 17. Lakhani Mahto, S/o Bhago Mahto
 18. Sobran Mahto, S/o Late Bhago Mahto

All residents of village Mangarh, P.S. Chouparan, Dist.
Hazaribagh. **Appellants**

Versus

The State of Jharkhand **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants	:Mr. P.P.N. Roy, Sr. Advocate Ms. Sakshi Charu, Advocate Mr. P.A.N. Roy, Advocate
For the State	:Mrs. Nehala Sharmin, Spl.P.P.
For the Informant	:Mr. Sushanan Bhaumik, Advocate

J U D G M E N T

Dated: 03rd August, 2026

By Court:-

1. It is pertinent to mention, at the very outset, that appeal preferred by Khirodhar Mahto, Sarju Mahto, and Jagdish Mahto stood abated vide order dated 03.10.2024 and the appeal preferred by Lato Mahto stood abated vide order dated 25.04.2006 passed by co-ordinate bench of this Court.
2. Heard learned Sr. counsel for the appellants and learned Spl.P.P. assisted by learned counsel for the informant.

3. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 24th August, 2004 passed in S.T. No. 158 of 1996 by the learned VIth Addl. Sessions Judge, Hazaribagh, whereby and whereunder, the appellants namely Nand Kishore Mahto, Mahendra Mahto, Prayag Mahto, Kedar Mahto, Sobran Mahto, Heman Mahto, Khirodhar Mahto, Shambhu Mahto, Rajdeo Mahto, Tapeswar Mahto, Jagdish Mahto and Chhako Mahto have been convicted and sentenced to undergo R.I. for 7 years along with a fine of Rs.2000/- for the offence under Section 307/149 of the IPC with default stipulation; further R.I. for two years along with a fine of Rs. 1000/- for the offence under Sections 324/149 of the IPC with default stipulation; further R.I. for three years along with a fine of Rs. 1000/- for the offence under Section 325/149 of the IPC with default stipulation; further R.I. for one year for the offence under Sections 147 and 148 of the IPC along with a fine of Rs. 1000/- with default stipulation and the appellants namely Raghubir Mahto, Charan Mahto, Deo Narain Mahto, Hari Mahto, Sarju Mahto, Lato Mahto, Charitra Mahto, Nando Mahto, Shakaldeo Mahto and Lakhan Mahto have been convicted and sentenced to undergo R.I. for one year along with a fine of Rs. 1000/- for the offence under Section 147 and 148 of the IPC with default stipulation. All the sentences were directed to run, concurrently.

Factual Matrix

4. The factual matrix giving rise to this appeal is that on 08.08.1995,

at about 7:00AM, the informant along with his labourers had gone to the field for the purpose of plantation. It is alleged that at about 7:30AM, all the accused persons including Kishori Mahto, Rajdeo Mahto, Deonarain Mahto, Kedar Mahto and Khirodhar Mahto armed with **sword**, Charitra Mahto, Tapeswar Mahto, Charan Mahto, Dilo Mahto, Mahendra Mahto, Hari Mahto, Jagdish Mahto, Lakhan Mahto, Raghubir Mahto, Heman Mahto and Nanhku Mahto armed with **Bhala**, Prayag Mahto, Sarju Mahto, Sobran Mahto, Nando Mahto and Chhako Mahto armed with **Lathi**, Lato Mahto and Rewa Mahto armed with **Farsa**, Shambhu Mahto armed with **iron rod**, Shakaldeo Mahto armed with **knife** came to the place of occurrence and assaulted the informant and his labourers who were planting in the field due to which the informant sustained injuries on his body and his wrist watch was also snatched by the accused persons. On raising alarm, the co-villagers assembled there and rescued the informant and his labourers and they were brought to Primary Health Centre, Chouparan for treatment.

5. On the basis of fardbeyan of the informant, Chauparan P.S. Case No. 99 of 1995 was registered for the offences under Sections 147, 148, 149, 448, 323, 324, 325, 326 and 379 of the IPC. After completion of investigation, the charge-sheet was submitted against the accused persons and after taking cognizance, the case was committed to the court of Sessions, where S.T. No.158 of 1996 was registered. The accused persons pleaded not guilty and

claimed to be tried.

6. In course of trial, altogether 11 witnesses were examined by the prosecution, apart from documentary evidence.
7. On the other hand, no oral evidence has been adduced by the defence. However, some documentary evidence has been adduced. The case of the defence is complete denial from the occurrence and false implication.
8. The learned trial Court after considering the evidence available on record has convicted and sentenced the accused persons as stated above which is assailed in this appeal.

Submissions on behalf of the appellants:-

9. Learned counsel for the appellants assailing the impugned judgment has submitted that the learned trial Court has failed to take into consideration the vital contradiction in the evidence of the witnesses and has wrongly convicted the appellants. It has further been submitted that the learned trial Court has also failed to consider that witnesses have given vague and omnibus allegation against the appellants and the prosecution failed to prove any specific overt act against these appellants. It has also been contended that the alleged occurrence took place due to land dispute and in a spur of moment. The investigating officer has also not found any blood stain at the place of occurrence which falsify the case of the prosecution. It has also been submitted that the appellants have also sustained injuries which is more serious than the prosecution party, therefore, no case under Section 307 or 324

or 325 is made out against these appellants and the learned trial Court has erred in passing the impugned judgment which is fit to be set aside.

Submissions on behalf of the State assisted by informant

10.Learned Spl.P.P. assisted by learned counsel for informant has opposed the contentions raised on behalf of the appellants and submitted that the learned trial Court has very categorically and minutely examined the evidence available on record and by finding sufficient evidence against all these appellants has rightly convicted the appellants. There is no merit in this appeal which is fit to be dismissed.

Analysis, reasons and decision

11.I have gone through the record of the case along with the impugned judgment and order of conviction and sentence in the light of the contentions raised on behalf of both side.

12.It appears that the learned trial court has held the appellants namely Nand Kishore Mahto, Mahendra Mahto, Prayag Mahto, Kedar Mahto, Sobran Mahto, Heman Mahto, Khirodhar Mahto, Shambhu Mahto, Rajdeo Mahto, Tapeswar Mahto, Jagdish Mahto and Chhako Mahto guilty for the offences under Sections 307/149, 324/149, 325/149, 147 and 148 of the IPC. So far as appellants namely Raghubir Mahto, Charan Mahto, Deo Narain Mahto, Hari Mahto, Sarju Mahto, Lato Mahto, Charitra Mahto, Nando Mahto, Shakaldeo Mahto and Lakhan Mahto is concerned, they have been held guilty for the offence only under Section 147 and 148 of the

IPC. It also appears from perusal of evidence of prosecution witnesses including the injured witnesses i.e. informant Rameshwar Mahto (P.W.-9), Suresh Rana (P.W.-2), Dipu Rana (P.W.-8), Kauleshwar Rana (P.W.-4), Jamuni Devi (P.W.-7), Udai Rana (P.W.-3), Kunjo Rana (P.W.-1), Rewa Shanker Rana (P.W.-5), there was a existing land dispute between the parties with respect to possession of the said land against which case and counter case was filed and from the injury report which was prepared by Dr. A.K. Singh (P.W.-10), it appears that the injuries which were sustained by the injured witnesses were simple and grievous but not on the vital part of the body of the injured witnesses which shows lack of intention to commit murder of the informant's party, therefore, the conviction of the appellants under Section 307 of the IPC is not justified under law. The Hon'ble Apex Court in the case of **Jage Ram vs. State of Haryana, (2015) 11 SCC 366** has also laid down some basic ingredients that has to be established for conviction under Section 307 of the IPC. Relevant para 12 of the above judgment is extracted as under:-

“12. For the purpose of conviction under Section 307 IPC, the prosecution has to establish (i) the intention to commit murder; and (ii) the act done by the accused. The burden is on the prosecution that the accused had attempted to commit the murder of the prosecution witness. Whether the accused person intended to commit murder of another person would depend upon the facts and circumstances of each case. To justify a conviction under Section 307 IPC, it is not essential that fatal injury capable of causing death should have been caused. Although the nature of injury actually caused may be of assistance in coming to a finding as to the intention of the

accused, such intention may also be adduced from other circumstances. The intention of the accused is to be gathered from the circumstances like the nature of the weapon used, words used by the accused at the time of the incident, motive of the accused, parts of the body where the injury was caused and the nature of injury and severity of the blows given, etc.”

13. In view of the above discussions and reasons, the conviction of the respective appellants under Section 307 of the IPC is set aside. So far as offences under sections 325/149, 324/149, 147 and 148 of the IPC are concerned, the learned trial Court has rightly held the appellants guilty which is hereby affirmed.

14. Considering the overall factual background, genesis, manner, place and nature of offence committed by the appellants, their age, character and antecedent, it appears expedient in the ends of justice to extend the benefit of Section 4 of the Probation of Offenders Act of 1958, instead of awarding substantive sentence of imprisonment as awarded by the learned trial court.

15. In view of the above, this **appeal is dismissed with modification in conviction and sentence** to the extent that instead of undergoing substantive sentence of imprisonment awarded to the respective appellants by learned Trial Court for the offence under Sections 325/149, 324/149, 147 and 148 of the IPC, the appellants are hereby directed to be released on furnishing bond of Rs.5,000/- (Rupees Five Thousand) each with one surety of like amount to the satisfaction of learned trial court under Section 4 of the Probation of Offenders Act, 1958 within two months from the date of this

order for maintaining peace and be of good behavior for one year from the date of furnishing the bond.

16. If the bond is not furnished within above stipulated time, the learned trial Court shall issue notice upon the appellants to secure their attendance for furnishing the bond.

17. In case of violation of the terms and conditions of the bond, the appellants shall be called upon to receive the sentence of imprisonment already awarded to them by the learned trial Court.

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

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

(Pradeep Kumar Srivastava, J.)

03.08.2026

Basant/

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