IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 544 of 2009

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1. Munna Ram
2. Ajay Ram
   Appellant Nos. 1 and 2 are sons of Sri Sitaram Paswan, resident of village Chiranjiya P.O., P.S. and District Garhwa
3. Nanda Ram S/o Manger Ram resident of Village Lakhiya P.O. P.S. and District Garhwa ... ... **Appellants**

Versus

The State of Jharkhand …… **Respondent**

CORAM:HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants :Mr.Yogesh Modi, Advocate
For the State :Mr. Shiv Shankar Kumar, A.P.P.

J UDGMENT

Dated:12th June, 2026

1. Heard Mr. Yogesh Modi, learned counsel for the appellants and Mr. Shiv Shankar Kumar, learned A.P.P for the State.

2. Counter affidavit has been filed on behalf of the State wherein it has been stated that appellant no. 3, namely, Sudama Ram @ Sudama Paswan has died on 17.03.2025 during pendency of this appeal. Accordingly, the appeal filed on behalf of the appellant no. 3 is abated. Rest of the surviving appellants are renumbered.

3. The instant criminal appeal is directed against the judgment of conviction dated 27.05.2009 and order of sentence dated 03.06.2009 passed in S.T. No. 309 of 2001 by the learned Addl. Sessions Judge (F.T.C.-I), Garhwa whereby and whereunder the appellants have been convicted under Section 307/34 of IPC and sentenced to undergo R.I. for five years along with a fine of Rs. 500/- each with default stipulation.

Factual Matrix

4. The factual matrix giving rise to this appeal is that on 07.04.2000, on

Friday at about 7:00 P.M. the informant was returning from Sarswati River after answering the call of the nature. Informant further stated that near a stump of mango tree accused persons, namely, Sudama Ram, Munna Ram, Ajay Ram and Nanda Ram surrounded the informant. It is alleged that Sudama Ram assaulted by the back of Tangi on the chest near the collar bone so that the informant fell down. Thereafter, Sudama Ram gave tangi blow on the lip and throat of the informant by the sharp side. Others accused persons were also assaulted the informant by stick. The informant fainted. The teeth of the informant were broken and neck and face was cut. Informant further stated that after the first assault he could shout once or twice, thereafter, failed to shout. The accused persons were throwing the informant between the wooden planks of mango tree. Meanwhile Deoraj Dusadh saw the occurrence and shouted, thereafter, other witnesses came running. Then accused persons ran away leaving behind the informant. The informant regained consciousness in the hospital.

5. The written complaint was filed on behalf of informant before the court of C.J.M. Garhwa. The learned Magistrate directed the officer in charge to register a case under section 156(3) Cr.P.C. and as per direction by court, Garhwa P.S. Case No. 79 of 2000 was registered under section 323,324,325 and 307 of IPC. After submission of charge sheet, cognizance was taken and case was committed to the court of Sessions, where charges under sections 323,324,326,307 read with section 34 of IPC have been framed. Charges were read over to the

accused persons to which they pleaded not guilty and claimed to be tried. After conclusion of trial, aforesaid judgment of conviction and order of sentence has been passed which has been assailed in this appeal.

6. It appears that altogether seven witnesses have been examined by the prosecution: -

i.	P.W.-1	Bali Ram
ii.	P.W.-2	Shahabuddin
iii.	P.W.-3	Lalan Paswan
iv.	P.W.-4	Ramadhar Ram (injured and informant of the case)
v.	P.W.-5	Krishna Ram
vi.	P.W.-6	Dr. Ajit Kumar Singh
vii.	P.W.-7	Islam Ansari

7. Apart from oral evidence, several documentary evidences have also been adduced.

8. On the other hand, the defence has also examined three witnesses: -

i.	D.W.-1	Ram Prasad Sao;
ii.	D.W.-2	Kaili Devi;
iii.	D.W.-3	Ram Lal Ram

9. Apart from oral evidence, certified copy of complaint petition has also been adduced on behalf of defence.

Submissions on behalf of the appellants: -

10. Learned counsel for the appellants submits that there is direct allegation of assaulting the informant against appellant no. 3, Sudama Ram @ Sudama Paswan who has been died. There is specific allegation that he assaulted to the informant by use of axe and while its handle gave a blow on shoulder and neck and again caused injuries

on his lips, throat and face etc. The injured was treated at RIMS, Ranchi for 20 days and, thereafter, discharged from the hospital. The learned Trial Court has committed serious error of law in appreciating the evidence of witnesses coupled with nature of injury sustained by the informant while conviction for the offences under Section 307 of the Indian Penal Code. The required intention for knowledge to attract the offence under Section 307 of the Indian Penal Code is absolutely lacking in this case. At first, the offence falls under Section 325 of the Indian Penal Code. It is further submitted that it was first offence of the appellants who had been convicted in this case with aid of Section 34 of the Indian Penal Code and no specific overt act was attributed against them. Admittedly, it was first offence of the appellants, but the learned Trial Court without recording any special reasons as mandated under law has declined to extend the benefit of Section 4 of Probation of Offenders Act to the appellants.

Submission of behalf of the State

11. Learned A.P.P. has defended the impugned judgment on merits but so far question of first offence of the appellants is concerned, it is fairly admitted that in the impugned judgment itself, the plea of first offence was taken by the appellants which has not been taken into consideration.

Analysis, reasons and decision

12. 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 sides.

13. From perusal of aforesaid evidence available on record, it is crystal clear that the informant has sustained injuries caused by handle of axe on his shoulder and other parts of the body, the present appellants also participated in the aforesaid incident. The evidence of P.W.6, Dr. Ajit Kumar Singh revealed that the injured informant was admitted in hospital and undergone a treatment for 20 days. He has also described the injuries on different parts of the body sustained by the informant. Therefore, it is crystal clear that the evidence of informant finds corroboration from injury report. So far conviction of appellants for the offence under Section 307 of IPC is concerned, the intention/knowledge can be ascertained from the facts and circumstances of the case, nature of injuries, force of blow and vital parts of body for causing the injuries. The cumulative effect must indicate the clear-cut intention of the accused persons for causing death or its knowledge as required under Section 300 of IPC. In the instant case, the genesis, manner and injuries sustained by the informant does not sufficiently prove the required intention and knowledge to constitute the offence under Section 307 of IPC. At this, the offence committed by the appellants falls under Section 325 read with 34 of the Indian Penal Code, instead of section 307 of IPC.

14. In view of above discussion and reasons, the conviction and sentence of the appellants for the offence under Section 307/34 of the IPC, altered and modified to the offence under Section 325/34 of IPC.

15. So far, quantum of sentence is concerned, apparently it is the first offence of the appellants and there is no criminal background. The

occurrence also took place in the year 2000 and more than two decades have passed during pendency of this case. Therefore, the appellants have sustained agony of trial for considerable period. Having regard to facts and circumstances of the case and nature of offence committed by the appellants, 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.

16. Accordingly, the appellants are directed to be released on furnishing probation bond of Rs. 10,000/- (Rupees Ten Thousand) with one surety of like amount to the satisfaction of learned trial court under section 4 of 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.

17. 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.

18. 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.

19. Accordingly, this appeal is **dismissed with modification in conviction and sentence**, as stated above.

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

21. 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.)

12.06.2026
Rashmi/-
Uploaded on 22.06.2026