IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 683 of 2003

Laxmikant Das, son of Amulya Kumar Das, resident of Village-Gagi, P.S. Seraikela, District – Seraikela Kharsawan
... ... **Appellant**

Versus

The State of Jharkhand ... ... **Respondent**

CORAM:HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Appellant : Mr. Pankaj Verma, Advocate
For the State : Mr. Bishambhar Shastri, A.P.P.

C.A.V. on 07.01.2025 **Pronounced on 21.09.2026**

1. Heard Mr. Pankaj Verma, learned counsel for the appellant/convict and Mr. Bishambhar Shastri, learned A.P.P. for the State.

2. At the outset, it is required to be noted that the appellants/convicts namely, Laxmikant Das S/o Amulya Kumar Das and Amulya Kumar Das S/o Late Shiv Charan Das and Gyani Das S/o Late Amulya Kumar Das faced the trial before the learned trial court and all the three have been convicted and jointly they have preferred the present appeal, however during pendency of this appeal **appellant no.1 namely, Amulya Kumar Das** S/o Late Shiv Charan Das **and appellant no.3 Gyani Das** S/o Late Amulya Kumar Das had died and vide order dated 28.02.2025 passed by this Court, the appeal *qua* above **said two appellants/convicts got abated** therefore this appeal is being heard and decided against the sole appellant/convict Laxmikant Das S/o Amulya Kumar Das.

3. This appeal is directed against the judgment of conviction and the order of sentence dated 16.04.2003 passed by the learned Additional Sessions Judge, Fast Track Court, Seraikela in S. T. No. 93 of 2002, whereby and whereunder, Laxmikant Das (appellant/convict herein) has been convicted for the offence punishable under Section 307 of IPC and Section 27 of

the Arms Act and sentenced to undergo R.I. for seven years under Section 307 of IPC and three years under Section 27 of Arms Act and Amulya Kumar Das and Gyani Das (other appellants) have been convicted under Sections 307/34 of IPC and sentenced to undergo R.I. for seven years and all the sentences were directed to run concurrently.

4. In the present case, the FIR originates from the *fardbeyan* of Ghasiram Mahto, son of Late Chotu Mahto, resident of Village Ghagi, P.S. Seraikela, District West Singhbhum. The informant stated that on 13.06.1990 at about 07:00 A.M., he and his brother Kandru Mahto were fencing their *Bari* (backside garden). At that time, Lakhikant Das @ Laxmikant Das, son of Amulya Kumar Das, armed with a licensed double-barrel gun; Amulya Kumar Das, son of Late Shiv Charan Das, armed with a bow and arrow; and Gyani Das, son of Amulya Kumar Das, armed with a *tangi*, arrived at the spot. They abused the informant and forbade him from fencing the *Bari*. When he refused to stop, Amulya Das shot an arrow which missed, and immediately thereafter, Laxmikant Das fired a bullet from near his house, causing multiple injuries to the informant and his brother. The incident was witnessed by Anand Mahto. After the assault, all three accused entered their house. It was further alleged that there was a long-standing dispute between the parties over the *Bari*, and proceedings under Section 107 Cr.P.C. were already pending before the Court.

5. On the basis of these allegations, Seraikela P.S. Case No. 41 of 1990 was registered against the accused persons under Section 307 IPC and Section 27 of the Arms Act. After investigation, a charge-sheet was filed, cognizance was taken, and the matter was committed to the Court of Sessions, where it was registered as S.T. No. 93 of 2002. Charges were framed against Lakhi @ Laxmikant Das, Amulya Das, and Gyani Das

under Sections 307/34 IPC, and additionally under Section 27 of the Arms Act against Lakhi @ Laxmikant Das. The charges were read over and explained in Hindi, to which the accused persons pleaded not guilty and claimed to be tried.

6. The prosecution examined eleven witnesses to prove its case. No witnesses were produced by the defence. The accused persons, in their statements under Section 313 Cr.P.C., denied all allegations.

7. Upon consideration of the evidence, the trial court convicted all three accused. Laxmikant Das was sentenced to rigorous imprisonment (R.I.) for seven years under Section 307 IPC and three years under Section 27 of the Arms Act. Amulya Kumar Das and Gyani Das were sentenced to R.I. for seven years under Sections 307/34 IPC. The sentences were directed to run concurrently. Aggrieved by the above stated judgment of conviction and order of sentence, the convicts preferred the present appeal.

8. Learned counsel for the appellant/convict contended that the prosecution failed to establish the place of firing, as witnesses gave contradictory accounts. This inconsistency, it was argued, is sufficient to vitiate the conviction. Counsel further submitted that for the same incident, a counter-case was lodged by Laxmikant Das against the informant side, alleging that they attempted to cut trees and attacked the accused with an unlawful assembly, and that the gunshot was fired by Amulya Das in self-defence. However, witnesses deliberately named Laxmikant Das as the person who fired bullets. It was also pointed out that no injury report was produced, and the Investigating Officer was not examined. The injuries described by witnesses, counsel argued, support the defence plea of self-defence. On these grounds, acquittal was sought.

9. In reply, learned A.P.P. for the State submitted that this is an open-and-shut case, where the accused themselves admitted to the act, and therefore, no interference is warranted with the trial court's findings.

10. The Court has heard learned counsel for both sides and carefully examined the materials and documents on record.

11. Before analyzing the factual matrix of the present case, it is apposite to discuss 'intention' which is most important ingredient of Section 307 of IPC. The Hon'ble Supreme Court in the case of ***State of M.P. v. Saleem*** reported in ***(2005) 5 SCC 554*** while re-appreciating the true import of Section 307 of IPC has held as follows:

> *"12. To justify a conviction under this section, it is not essential that bodily injury capable of causing death should have been inflicted. Although the nature of injury actually caused may often give considerable assistance in coming to a finding as to the intention of the accused, such intention may also be deduced from other circumstances, and may even, in some cases, be ascertained without any reference at all to actual wounds. The section makes a distinction between an act of the accused and its result, if any. Such an act may not be attended by any result so far as the person assaulted is concerned, but still there may be cases in which the culprit would be liable under this section. It is not necessary that the injury actually caused to the victim of the assault should be sufficient under ordinary circumstances to cause the death of the person assaulted. What the court has to see is whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section. An attempt in order to be criminal need not be the penultimate act. It is sufficient in law, if there is present an intent coupled with some overt act in execution thereof.*
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> *13. It is sufficient to justify a conviction under Section 307 if there is present an intent coupled with some overt act in execution thereof. It is not essential that bodily injury capable of causing death should have been inflicted. The section makes a distinction between the act of the accused and its result, if any. The court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section. Therefore, an accused charged under Section 307IPC cannot be acquitted merely because the injuries inflicted on the victim were in the nature of a simple hurt."*
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> *(emphasis supplied)*

12. It is by now a lucid dictum that for the purpose of constituting an offence under Section 307 of IPC, there are two ingredients that a court must consider, *first*, whether there was any intention or knowledge on the part of the accused to cause death of the victim, and, *second*, such intent or knowledge was

followed by some overt actus rea in execution thereof, irrespective of the consequential result as to whether or not any injury is inflicted upon the victim. The courts may deduce such intent from the conduct of the accused and surrounding circumstances of the offence, including the nature of weapon used or the nature of injury, if any. The manner in which occurrence took place may enlighten more than the prudential escape of a victim. It is thus not necessary that a victim shall have to suffer an injury dangerous to his life, for attracting Section 307 of IPC.

13. To prove its case, the prosecution examined eleven witnesses, namely: P.W.-1 Bhola Mahto (cousin of the informant), P.W.-2 Budhni Mahtain (wife of the injured/informant P.W.-7), P.W.-3 Gomin Mahtain (wife of injured P.W.-8), P.W.-4 Gunna Mahto (informant's brother and injured), P.W.-5 Ranjeet Mahto (injured), P.W.-6 Anand Mahto, P.W.-7 Ghasiram Mahto (informant and injured), P.W.-8 Kandru Mahto (informant's brother/injured), P.W.-9 Dr. P.K. Pati, P.W.-10 Giri Mahto, and P.W.-11 Ahmad Hussain.

14. It is noteworthy that the Investigating Officer (I.O.) was not examined in the present case. However, one police official, Ahmad Hussain (P.W.-11), identified the handwriting and signature of Bansidhar Sharma, the then Officer-in-Charge, Seraikella, and proved the formal FIR, which was marked as Exhibit-1. The *fardbeyan* of the informant was marked as Exhibit-2, the production-cum-seizure list of the vest of Ranjeet Mahto was marked as Exhibit-3, and the seizure list prepared by Bansidhar Sharma for the gun, licence, and one empty cartridge was marked as Exhibit-3/1.

15. P.W.-7, Ghasiram Mahto (informant and injured), reiterated in his testimony the contents of the *fardbeyan*. He stated that on the day of the incident, while fencing the *Bari* with his brother (P.W.-8), Amulya Das shot an arrow which missed, and

Laxmikant Das fired three bullets, causing injuries to him, Kandru, and Ranjeet Mahto. He fell to the ground, and thereafter the accused persons fled to their house. He, along with the other injured, was taken to Seraikella Hospital for treatment, where his *fardbeyan* was recorded.

16. In cross-examination, he stated that the accused persons forbade them from fencing the *Bari* from a distance of 10–12 hands, while armed with a gun and bow and arrows. He further stated that he sustained bullet injuries on his hand and leg but could not confirm whether the bullets had lodged inside his body. At the time of firing, his wife and his brother's wife were not present; they were in the courtyard. He categorically admitted that for the same incident, Laxmikant Das had lodged a case against him and eleven others, alleging that they attempted to grab land, cut trees, and commit murder by forming an unlawful assembly, and that the gunshot was fired into the air in self-defence.

17. P.W.-8, Kandru Mahto, also injured, corroborated that while fencing with P.W.-7, three rounds of bullets were fired by Laxmikant Das, injuring him, Ghasiram, and Ranjeet Mahto. He stated that bullets struck his leg and head. He confirmed that he is the real brother of Ghasiram (P.W.-7). He further stated that Amulya Kumar Das forbade them from fencing, and when they did not stop, the accused fired bullets. He expressed ignorance about the gun licence.

He denied the defence suggestion that he, along with eleven others, formed an unlawful assembly, entered the accused persons' house, and injured Laxmikant Das, and that he and his brother sustained injuries from gunshots fired into the air in self-defence.

18. P.W.-5, Ranjeet Mahto, another injured, stated that he had no animosity with the accused. When he reached near the *Bari* of Ghasiram (P.W.-7), pellets struck his back. He stated that

Amulya Kumar Das carried a bow and arrow, while Laxmikant Kumar Das carried a gun, and both fled to their house. He further stated that Ghasiram (P.W.-7) and Kandru (P.W.-8) fell in the *Bari*. He was taken to Seraikella Police Station, where he handed over his blood-stained vest and shirt with holes to the police. A paper was prepared, and he, along with Giri Mahto and Lankeshwar Mahto, signed it.

In cross-examination, he stated that when the bullet struck him, he was in front of Kamla Baraik's house, and it was only then he realized that he had been hit by a bullet. He did not hear any commotion while walking. He admitted that Laxmikant had lodged a case against him and ten others for entering his house and cutting trees on the same day.

19. He categorically stated that he had no quarrel with Amulya Das but was falsely implicated. He admitted there was a dispute between Amulya Das and Ghasiram/Kandruregarding demarcation of the *Bari*. He further stated that when the bullet struck him, he sat down, was taken by his wife, and the bullet was removed by the doctor. In paragraph 9 of his cross-examination, he admitted that he had not seen the incident and only sustained injury on his back. He denied the defence suggestion that they had cut Amulya Das's tree and attempted to kill the accused, compelling Amulya Das to fire into the air in self-defence. He stated that had such firing not taken place, the entire family of the accused could have been killed that day.

20. P.W.-1, Bhola Mahto, also claimed to be an eyewitness and corroborated the testimony of Ghasiram (P.W.-7) and Kandru (P.W.-8).

In cross-examination, he stated that Ranjeet did not come to the *Bari* but was passing by the road. He further stated that when the arrow was shot, he was at the backside of the *Bari*, and the gun was fired by the accused from near their

house. He also mentioned that there was a passage after the informant's house and *Bari*, followed by the houses of other persons.

21. He further stated that there was a distance of about 20 hands between Ghasiram (P.W.-7) and Kandru (P.W.-8). When the bullet was fired, he fled, and only after being called 10–15 minutes later, he had returned to the place of occurrence. He also stated that Ghasiram (P.W.-7) sustained injuries on his hand, chest, and head, while Kandru (P.W.-8) sustained injuries on his hand and head. He denied the defence suggestion that the informant side had assaulted and caused injuries to the accused persons.

22. P.W.-6 Anand Mahto corroborated the testimony of other witnesses, stating that when Amulya Das forbade Ghasiram (P.W.-7) and Kandru (P.W.-8) from erecting a boundary in the *Bari* (backside garden), and they refused to stop, Amulya Das shot an arrow and Laxmikant Das fired three bullets. He admitted that Laxmikant Das had lodged a case for the incident on the morning of the same day against him and ten others. He denied the defence suggestion that they had cut tree branches, attempted to kill Amulya Das and others, and that the accused fired bullets into the air in self-defence.

23. He further stated that Ghasiram (P.W.-7) and Kandru (P.W.-8) are his maternal fathers-in-law. He added that the gun was fired from the veranda, while Kandru and Ghasiram were standing on the eastern side facing west. He also stated that both injured persons remained conscious and were taken to the hospital.

24. P.W.-2 BudhniMahtain, wife of Ghasiram (P.W.-7), and P.W.-3 Gomin Mahtain, wife of Kandru (P.W.-8), stated that they reached the *Bari* after the incident and saw Ghasiram and Kandru in an injured condition.

25. Similarly, P.W.-4 Gunna Mahto, brother of Ghasiram (P.W.-7) and Kandru (P.W.-8), stated that after hearing commotion, he went to the *Bari* and found both lying on the ground with blood oozing out.

26. In cross-examination, he admitted that he was also an accused in the case lodged by Laxmikant. He stated that Laxmikant had filed a case alleging that his tree was forcibly cut and that an attempt was made to kill him and others by forming an unlawful assembly. He also stated that Amulya Das possessed a licensed gun. He denied the defence suggestion that the accused fired into the air in self-defence when assaulted by the informant side. He categorically denied the defence suggestion that Amulya Das had a licensed gun and that, therefore, it was falsely shown that Laxmikant fired the bullet.

27. P.W.-9 Dr. D.K. Pati, the doctor, was unable to testify about the injuries due to the non-availability of the injury report on record. P.W.-10 Giri Mahto, cousin (*phuphera bhai*) of Ranjeet Mahto (P.W.-5), stated that he saw Ranjeet injured and handed over his vest to the police.

28. In the present case, Ghasiram (P.W.-7), Kandru (P.W.-8), and Ranjeet (P.W.-5) are the injured persons who sustained pellet injuries. According to the prosecution, while P.W.-7 and P.W.-8 were erecting a boundary in the *Bari*, Amulya Das and others objected and forbade them. When they did not stop, Amulya Das shot an arrow which missed, and Laxmikant Das fired three bullets, injuring Ghasiram, Kandru, and Ranjeet. Ghasiram sustained injuries on his head and leg, Kandru on his hand and leg, and Ranjeet on his back. Ghasiram testified that the accused fired gunshots from a distance of 10–12 hands. Kandru did not specify the exact place of firing but stated that the accused approached them and fired when they continued fencing. Ranjeet, in cross-examination, stated that

he realized he had sustained a pellet injury only when struck on his back; at that time, there was no commotion, and he had not seen the accused.

29. P.W.-6 Anand Mahto stated that Ghasiram (P.W.-7) and Kandru (P.W.-8) are his maternal fathers-in-law and that gunshots were fired from the veranda. From the evidence, it appears that the informant's *Bari* was situated on the eastern side of the accused's premises. P.W.-7 and P.W.-8 were erecting the boundary when the accused, from a distance of 10–12 hands, asked them to stop. On examining the evidence, it can be inferred that the gunshots were fired from the accused's premises. The defence suggested that the informant side trespassed into the *Bari* and house of the accused, cut trees, and attempted to kill them, and that Amulya Kumar Das (since deceased) fired into the air in self-defence. This suggestion was denied by all witnesses, though they admitted that for the incident as alleged, on the morning of the same day, Laxmikant Das lodged a case against P.W.-7, P.W.-8, P.W.-5, P.W.-6, and others, alleging unlawful assembly, tree cutting, and attempted murder, and that bullets were fired into the air in self-defence.

30. The record further reveals that the gun licence was seized but was not produced during trial and is not available on record. However, witnesses namely P.W.-1 Bhola Mahto and P.W.-4 Ghuna Mahto have stated that accused Amulya Kumar Das (since deceased) was having a licenced gun.

It must also be noted that no pellets or empty cartridges were recovered from the spot, though the double-barrel gun, its licence, and one empty cartridge were seized from the house of Amulya Das. In the absence of a ballistic report, there is no clear link between the seized weapon and the alleged incident. Furthermore, P.W.-9, the doctor, was unable to comment on the injuries sustained by the victims

due to the non-availability of the injury report on record. However, two injured witnesses (P.W.-7 and P.W.-8) stated that gunshots were fired by the appellant/convict, while one injured witness admitted to receiving injuries but did not witness the actual firing.

31. The records further show that in his statement under Section 313 Cr.P.C., the appellant/convict Laxmikant Das denied the incident of 13.06.1990 and also denied causing injuries to the informant and others by firing gunshots. He claimed that the informant side had lodged a false case to grab his land and house and to drive him out of the village. Amulya Das (since deceased), in his statement under Section 313 Cr.P.C., categorically stated that he fired a gunshot into the air in self-defence, as the informant side attempted to murder him by entering his house. The prosecution witnesses also admitted that a counter-case had been lodged against the informant side for the alleged incident that occurred on the morning of the same day.

32. It is apposite to refer herein the judgment of the Hon'ble Supreme Court in the case of ***Reena Hazarika v. State of Assam*** reported in ***(2019) 13 SCC 289*** wherein it has held that Section 313 Cr.P.C. confers a valuable right upon an accused to establish his innocence and can well be considered beyond a statutory right, as a constitutional right to a fair trial under Article 21 of the Constitution. The relevant paragraph is quoted here under –

> *19. Section 313 CrPC cannot be seen simply as a part of audi alteram partem. It confers a valuable right upon an accused to establish his innocence and can well be considered beyond a statutory right as a constitutional right to a fair trial under Article 21 of the Constitution, even if it is not to be considered as a piece of substantive evidence, not being on oath under Section 313(2) CrPC. The importance of this right has been considered time and again by this Court, but it yet remains to be applied in practice as we shall see presently in the discussion to follow. If the accused takes a defence after the prosecution evidence is closed, under Section 313(1)(b)*

> *CrPC the Court is duty-bound under Section 313(4) CrPC to consider the same. The mere use of the word "may" cannot be held to confer a discretionary power on the court to consider or not to consider such defence, since it constitutes a valuable right of an accused for access to justice, and the likelihood of the prejudice that may be caused thereby. Whether the defence is acceptable or not and whether it is compatible or incompatible with the evidence available, is an entirely different matter. If there has been no consideration at all of the defence taken under Section 313 CrPC, in the given facts of a case, the conviction may well stand vitiated. To our mind, a solemn duty is cast on the court in dispensation of justice to adequately consider the defence of the accused taken under Section 313 CrPC and to either accept or reject the same for reasons specified in writing.*

33. Thus, the purpose of Section 313 Cr.P.C. is to provide the accused with a reasonable opportunity to explain the adverse circumstances that have emerged against him during trial. Such opportunity requires that all incriminating evidence be put to the accused in the form of questions, enabling him to articulate his defence and provide an explanation.

If all circumstances are bundled together and only a single opportunity is given, the accused may not be able to provide a rational or intelligible explanation. Such an exercise reduces the process to a mere formality. Failure to fulfil the true spirit of Section 313 Cr.P.C. may cause grave prejudice to the accused and deprive the court of necessary facts and circumstances to reach a fair conclusion.

34. In the present case, the trial court failed to properly scrutinize the defence version put forward by the appellant/convict in his statement under Section 313 Cr.P.C. Therefore, the alternate version advanced by the appellant/convict could not have been ignored. Moreover, although no documents relating to the counter-case filed by the appellant/convict were produced during trial, the witnesses admitted that such a case had been lodged. Hence, the defence version cannot be disbelieved on this aspect.

35. Here, Amulya Das (since deceased) categorically stated in his Section 313 Cr.P.C. statement that he fired a gunshot into

the air to save his life, while the appellant/convict claimed that a false case was lodged against him. From the evidence, it appears that the gunshot was fired into the air and from a considerable distance. Although no injury report is available on record, P.W.-7 testified that he sustained injuries on his leg and head, P.W.-8 on his head and leg, and P.W.-5 on his back.

36. The accused persons admitted that a gunshot was fired in the air to save their lives, thereby proving that firing did occur on that day. It further appears that P.W.-7 (informant) and P.W.-8 (his brother) were in their *Bari* but at different locations, while P.W.-5 was on the passage behind the *Bari*. The seizure list shows that only one empty cartridge was recovered from the house of Amulya Das (since deceased). No explanation is available as to why the other two cartridges were not recovered, despite witnesses stating that three bullets were fired. The defence plea that a bullet was fired in the air appears more probable, as pellets injured three persons at different places, yet only one cartridge was recovered.

Witnesses also admitted that the gun licence was in the name of Amulya Das, who himself admitted firing a bullet in the air. The defence further suggested that witnesses intentionally attributed the firing to Laxmikant Das because the licence was in Amulya's name. Considering the overall circumstances, a doubt arises regarding whether the appellant/convict fired the gun.

37. Taking into account the legal principles and the evidence on record, this Court is of the considered view that the requisite intention or knowledge to constitute an offence under Section 307 IPC cannot be inferred. No injury report is available on record. The doctor who was examined as P.W.-9 was unable to tell the nature of injury due to non-availability of injury report. However, since the appellant/convict himself admitted that a gunshot was fired in self-defence, the

ingredients of Sections 324/34 IPC (voluntarily causing hurt by dangerous weapons) stand established against the appellant/convict. These aspects have not been considered by the learned trial court, therefore, this Court finds appellant/convict guilty under the Section 324/34 IPC.

38. With respect to Section 27 of the Arms Act, the appellant/convict is entitled to the benefit of doubt. As discussed herein above, the gunshot was fired from a considerable distance, and it is difficult to accept the witnesses' version that the appellant/convict had fired the shot, particularly when Amulya Das (since deceased) admitted firing the bullet in his statement recorded under Section 313 Cr.P.C. and witnesses themselves have stated that gun was licensed in the name of Amulya Das. In the absence of cogent evidence, it appears that witnesses intentionally attributed the firing to Laxmikant Das to attract Section 27 of the Arms Act. Accordingly, the appellant/convict is entitled to the benefit of doubt in respect of the charge under Section 27 of the Arms Act.

39. Resultantly, the appellant/convict is found guilty under Section 324/34 IPC. Record reveals that appellant/convict has remained in judicial custody for a period of five months fifteen days, out of the sentence imposed by the learned trial court. Since, the incident pertains to the year 1990 and the appellant/convict is facing the rigors of litigation for more than two decades, this Court is of view that ends of justice would be met, if sentence awarded to the appellant/convict is modified to the period of sentence already undergone against the maximum punishment of three years as provided for the offence under Section 324 IPC.

40. Resultantly, the judgment of conviction and the order of sentence dated 16.04.2003 passed by learned Additional

Sessions Judge, Fast Track Court, Seraikela in S.T. No. 93 of 2002 are, hereby, modified to the above extent.

41. The instant criminal appeal being Cr. Appeal (S.J.) No. 683 of 2003 is, hereby, partly allowed.

42. Since, the appellant is already on bail, he is discharged from the liability of his bail bonds.

43. Let trial court record be sent back to the court concerned forthwith.

44. Pending I.A., if any, stands disposed of.

(Arun Kumar Rai, J.)

Umesh/-
Dated, the 21.09.2026
N.A.F.R.