2026:JHHC:32006

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J) No.100 of 2019

[Against the Judgment of conviction dated 18.01.2019 and Order of sentence dated 19.01.2019, passed by the learned Additional Sessions Judge – III, Chatra in Sessions Trial No.194 of 2012, arising out of Itkhori P.S. Case No.88 of 2010, (G.R. No.990 of 2010)]

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1. Bechan Sao, Son of Late Chulhan Sao, Aged about 65 years,
2. Deosharan Sao, Son of Late Chulhan Sao, Aged about 62 years,
3. Baleshwar Sao, Son of Late Chulhan Sao, Aged about 65 years,
4. Birendra Sao, Son of Bechan Sao, aged 40 years,
5. Shyamnandan @Shyamdeo Sao, Son of Deosharan Sao, aged about 38 years,
6. Barun Sao @ Barun Kumar Sao, Son of Deo Sharan Sao, aged about 27 years,

All residents of village – Mona, P.O & P.S. - Itkhori, District - Chatra. **..... Appellants**

Versus

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

PRESENT
HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellants : Mr. L. C. N. Shahdeo, Advocate
Mr. Vidhan Kr. Singh, Advocate
For the State : Mr. Pankaj Kumar, P.P
For the Informant : Mr. Sarvendra Kumar, Advocate

Order No.13/ Dated: 02nd November, 2026

1. Heard Mr. L. C. N. Shahdeo, learned counsel for the appellants, Mr. Pankaj Kumar, learned P.P and Mr. Sarvendra Kumar, learned counsel for the informant.

2. The present appeal is directed against the Judgment of conviction dated 18.01.2019 and order of sentence dated 19.01.2019, passed by the learned Additional Sessions Judge – III, Chatra, in Sessions Trial No.194 of 2012,

arising out of Itkhori P.S Case No.88 of 2010 (G.R. No.990 of 2010), whereby the appellants have been convicted under Sections 147/ 341/ 307/149 of the Indian Penal Code (in short IPC), and have been sentenced to undergo rigorous imprisonment for one year for the offence under Section 147 IPC, simple imprisonment for 15 days for the offence under Section 341 IPC, rigorous imprisonment for five years with fine of Rs.5,000/- each for the offence under Sections 307/ 149 IPC and in default of fine, the appellants were further directed to undergo rigorous imprisonment for six months. All the sentences were directed to run concurrently.

3. The prosecution story, in brief, as stated by the informant namely, Chanchala Devi, resident of Village – Mouna, is that the villagers were going to start construction work of Shivalaya Temple over lands sitated at khata no.11 plot no.362. The villagers namely, Bechan Sao, Deosharan Şao, Baleshwar Sao, all sons of Late Chulhan Sao and Birendra Sao, S/o Bechan Sao, Shyamdeo Sao, Barun Sao, both sons of Deosharan Sao, Pemni Devi W/o Bechan Sao, Tarwa Devi W/o Deosharan Sao, Reshmi Devi w/o Baleshwar Sao, Muniya Devi W/o Gayajit Sao and twelve unknown persons riding on four motorcycles, all of Village-Mouna came and stopped construction work of the temple and thereafter Tokhan Ram, Pintu Ram, Bharos Ram, Sudhir Ram, Sanjit Ram, Sarita Devi, Bhola Ram, Sitaram Ram, Rajendra Ram, Parvati Devi, Guriya Devi,

Ramswaroop Ram and Birju Ram, all of Village-Mouna asked the reason for restraining the construction work. Thereupon, the aforesaid all persons armed with sword, Axe and *lathi-danda* started assaulting and caused grievous hurt to all persons. They took out four thousands rupees from the pocket of Pintu Ram in course of the scuffle and also snatched his wrist watch. They snatched the gold earring and chain of Chanchala Devi.

On the basis of above written report, Itkhori P.S. Case No.88 of 2010 dated 24.11.2011 has been instituted under Sections 341/ 323/ 324/ 379/ 147/ 148/ 149/ 307/ 325/ 326 of IPC against ten named accused persons and twelve unknown.

The police, after completing the investigation, has submitted the charge-sheet to which cognizance has been taken and finally the court has framed the charge against ten accused persons, including the present appellants, under Sections 147, 341 and 307/149 IPC. Thereafter, the case has been committed to the court of Sessions to which the appellants have pleaded innocence and claimed to be tried and accordingly, the trial has commenced.

4. To substantiate the charges, the prosecution has examined altogether 15 witnesses and their depositions, in short, are as follows :-

5. P.W.-1, Chanchala Devi, is the informant of the case and she has proved the prosecution story. In her examination in chief, she has deposed that there was ten

named and twelve unknown persons and they had come on four motorcycles. The incident had taken place on 24.11.2010 at 7-8 P.M., while she was present at her home. There was construction work going on in a Shiv Mandir which was situated nearby her house. One branch of mango tree was bent due to a tractor carrying goods for which the accused came there and assaulted her younger son, daughter in law and others. Due to the assault they have sustained serious injuries and for treatment of the same they were sent to RIMS, Ranchi. They were remained there for five days. Some of the injured were treated at Itkhori Government Hospital. She has deposed that the accused Bechan Sao has assaulted her by means of rod on her neck and back and also on her finger due to which she got fracture on her index finger.

In her Cross examination, she has admitted that the temple in which the construction work was going on was situated on a *gairmazurua* land. She has also admitted that brother of the accused namely Baleshwar Yadav has filed a case for the same set of incident on the same day which is pending. She has also admitted that there was a civil suit between them.

6. P.W.-2, Ajit Kumar @ Pintu Kumar, is the son of the informant and he has also supported the prosecution story. He has identified the accused Bechan Sao in the Court.

In his cross examination, he has deposed that all the

accused are family members of Bechan Sao, but they live separately. Further the Temple was situated in a *gairmazura* land for which a civil suit was instituted before Additional Collector, Chatra. He has also admitted the fact that there was a case between the accused party and his mother. Police has not seized any weapon from the house of the accused.

7. P.W.-3, Sanjit Kumar, is the brother of the injured Ajit Kumar (P.W.-2). He has stated that on hulla he came out from his house and saw that the accused party was assaulting his brother by means of rod, sword and lathi. He was also assaulted by the accused persons. After the incident the injured were brought to Itkhori Hospital for treatment. They were referred to RIMS, Ranchi for better treatment for which they stayed there for a week.

In his cross examination, he has admitted that the informant is his mother. He has also admitted that the accused Bechan Sao has also filed a case against them for the same incident.

8. P.W.-4, Tokhan Ram, is a villager and he has supported the prosecution story. In his examination in chief he has stated that his son Sudhir Ram was also assaulted by the accused persons by means of sword on his head due to which he sustained head injury. He went to save his son but he was also assaulted by the accused. He has deposed that the accused Bechan Sao was restraining the construction work of the Temple.

In his cross examination, he has admitted that there was a land dispute between the parties. Police has not seized any weapon from the place of occurrence. The accused party have also instituted a case for the same set of incident.

9. P.W.-5, Ramswaroop Chandravanshi, is a local resident and one of the injured. He has also supported the case. He has sustained fracture injury on his both legs as well as injury on his head. After being treated in Itkhori Hospital he was sent to RIMS, Ranchi for better treatment where he stayed for 10-15 days. The scuffle was due to construction work of the Temple.

In his cross examination, he has admitted that the temple was partly constructed two years ago and he cannot state the boundary of the temple and the place of occurrence.

10. P.W.-6, Narsingh Ram, is also a local resident and he has supported the case.

In his cross examination he has admitted that there were so many litigation between the parties. The land in which the Shiv Mandir was built is a *gairmazurua* land. He has also sustained injury on his face. The accused Bechan Sao has also filed a case for the same incident.

11. P.W.-7, Bharos Kumar, is is a cultivator and was doing work in the construction work. He got injured by Deosharan Sao on back side of his head, thereafter he got treatment in Itkhori Hospital.

In his cross examination, he has admitted that the said land is a common land and the Temple is old one. The accused Bechan Sao was making claim over the land of the temple.

12. P.W.-8, Bhola Ram, is also a local resident and he has deposed in his examination in chief that he was present at the place of construction work when the incident took place. The accused came there and assaulted the victim party and then fled away. The Police came at the hospital where the injured were being treated.

In his cross examination, he had admitted that there was no land dispute between the parties. He cannot say the reason for the occurrence. The existence of Temple was since five years back. He has also stated that the accused Bechan Sao has also filed a case for the same occurrence.

13. P.W.-9, Sarita Devi, is *bhabhi* of injured Ajit Kumar (P.W.-2) and she has supported the case. She came out of her house when the altercation started and saw that the accused were assaulting her brother in law. When she went to save him she was also assaulted due to which her finger got fractured. She has stated that she was unable to identify the accused as they were outsiders. However, she has identified the accused Bechan Sao.

In her cross examination, she has admitted that she cannot say boundary of her house and also colour of the alleged motorcycle. She has stated the boundary of place of occurrence in paragraph No.13 of the cross examination.

14. P.W.-10, Sitaram Singh, is a witness to the incident and he has deposed that the accused arrived at the place of occurrence and assaulted them. He could not identified some of the accused persons as they were outsiders. The injured were firstly taken to Itkhori Hospital and then RIMS, Ranchi for further treatment. He has deposed that due to assault his front tooth had broken out. He has further deposed that he is able to identify the accused persons who are villlagers.

In his cross examination, he has admitted that he is a old person, aged about 70 years and he has lost his two tooth. The land in which the Temple is situated is a *gairmajurua* land. He has stated boundary of the place of occurrence which is mentioned at paragraph No.20 of the cross examination. He has also admitted that the accused Bechan Sao has also filed a case for the same set of incident.

15. P.W.-11, Sudhir Ram, is a witness to the incident and an injured. He has deposed that due to assault, he sustained injuries on his head, hand and finger. He became unconscious and for treatment he was admitted in Itkhori Hospital. He has identified the accused Bechan Sao in the Court.

In his cross examination, he has admitted that the accused has also filed a case for the same set of incident. There is a dispute of Temple between the parties for last seven years. The altercation had taken place inside the

Temple. He has also stated that the accused Bechan Sao is aged about 70-75 years.

16. P.W.-12, Parvati Devi, is an eye witness to the incident and she has supported the case.

In her cross examination, she has admitted that she is aged about 60 years. She has stated that the accused Bechan Sao has also filed a case against the villagers for the same occurrence, but he has not filed case against her husband. There is dispute for the land of the Temple. The police has not seized any articles from the place of occurrence.

17. P.W.-13, Sidheshwar Prasad Singh, is the Investigating Officer of the case. He has proved the formal FIR and the endorsement. He has recorded the statement of the victim and issued the injury letter (Ext- 3 to 3/14). He gave an application for adding Section 307 IPC in the FIR and after transfer of record he handed over the charge of investigation to another I.O.

In his cross examination, he has admitted that the place of occurrence is situated at 9 kms away from the police station. He has not investigated the case and prepared the injury letter in a short time. He has recorded the statement of all the injured same day. He has not seized anything either from the place of incident or from the house of the accused.

18. P.W.-14, Dr. Ajay Kumar Ravi, is the is the doctor, who has treated the victims. During treatment, he found

that the injured Sarita Devi (P.W.-9) has sustained fracture on her right ring finger, which is serious in nature. During treatment of injured Sitaram (P.W.-10), he found that the injured has sustained grievous injury as his one lower tooth was missing and blood was coming out from there. Rest of the injuries, sustained by other victims, were reported as simple in nature either caused by hard and blunt substance or by falling on hard surface.

19. P.W.-15, Surendra Sharma, is also the Investigating Officer and he has deposed that after taking charge of investigation, he has arrested the accused persons and thereafter, submitted the charge-sheet against the accused persons. He has not recorded the statement of the Doctor of RIMS, Ranchi during the investigation. He has found that there was litigation between the parties for *gairmazuruwa* land for temple. He has not recovered any article from the place of occurrence during the investigation. He has not recorded any statement of witnesses during the investigation.

20. The trial Court, on the basis of above materials available on record, has convicted the appellants under Sections 147, 341, and 307/149 IPC and sentenced them as stated above.

21. Referring to the materials available on record, it has been submitted by the learned counsel for the appellants that all the injuries are simple in nature except two grievous injuries i.e. fracture of finger and broken tooth,

which have been caused by hard and blunt substance. On that basis, it has been submitted by the learned counsel for the appellants that :-

(i) at best it is an offence under Section 325 IPC and no offence under Sections 147, 341 and 307 IPC is made under which the conviction has been made.

(ii) there is a case and counter case between the parties. The other side has also been convicted, but they have been given the benefit of Probation of Offenders Act, 1958.

(iii) apart from the grievous injuries i.e. broken tooth and fracture in the finger, both the parties have suffered similar type of injuries and they are relatives and there is a property dispute between them also.

It has further been submitted by the learned counsel for the appellants that since there is a mitigating circumstances and the other sides have been given the benefit of Probation of Offender Act, 1958, hence these appellants should be treated leniently and the sentencing part may be reduced to the period already undergone by them.

As per the custody report, total period of custody undergone by the the appellants is as follows :-

Sl. No.	**Name of the convicts/ appellants**	**Total period of custody**
1	Bechan Sao	08 months 07 days

2	Deosharan Sao	05 months 24 days
3	Baleshwar Sao	08 months 23 days
4	Birendra Sao	05 months 24 days
5	Shyamnanda @Shyamdeo Sao	10 months 04 days
6	Barun Sao @ Barun Kumar Sao	08 months 21 days

22. On the other hand, learned P.P and learned counsel for the informant have supported the judgment of conviction and submitted that vital part of the body has been targeted and further, there is grievous injury and as such the conviction of the appellants under Sections 147, 341 and 307/149 IPC is justified.

23. Having heard learned counsel for the parties and on perusal of the record it appears that :-

(i) there was a free fight between the parties and both the parties have suffered similar type of injuries, save and except the fracture in finger (P.W.-9) and broken of tooth (P.W.-10), sustained by the informant side,

(ii) there is no evidence on record which suggests that any deadly weapons have been used or even the injury, sustained by the informant side, is a life threatening.

Considering the above facts, this Court finds that the conviction of the appellants Sections 147, 341 and 307/ 149 IPC is bad in law rather, the material, available on record, suggests that the conviction of the appellants should be only under Section 325 IPC.

Accordingly, the conviction of the appellants awarded by the trial court under Sections147, 341 and 307/ 149 IPC is hereby modified and they are convicted under Section 325 IPC only.

24. So far as sentencing part is concerned, this Court finds that :-

(i) there is a mitigating circumstances, as there was a free fight between both the parties and both the parties have sustained similar type of injury and further, the informant party has been given the benefit of Probation of Offender Act.

(ii) both the parties are relatives and there is a property dispute between them also.

Considering the above fact, the sentencing part is reduced to the period already undergone by the appellants.

25. The appellants are in custody and as such, they are directed to be released from custody forthwith, if not wanted in any other case.

26. With above modification in the conviction and sentencing part, the present appeal stands partly allowed.

27. Pending interlocutory application being I.A No.12320 of 2026, stands disposed of.

28. Let the Trial Court Records be sent back to the Court concerned forthwith, along with a copy of this Judgment.

(Rajesh Kumar, J.)

Jharkhand High Court, Ranchi
Dated, the 02nd November, 2026
Ravi-Chandan/- **NAFR**
Uploaded on 03.11.2026