2026:JHHC:26735

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No. 437 of 2009

[Against the judgment and order of conviction and sentence dated 22.04.2009 and 28.04.2009 respectively, passed by learned Additional Sessions Judge, F.T.C.-I, Garhwa in S.T. Case No. 219 of 2004]

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1. Rambriksh Chaudhary
2. Lakhan Chaudhary
3. Ramesh Chaudhary
4. Ramashish Chaudhary

All sons of Deepan Chaudhary, resident of Village-Shri Nagar, P.S.-Bhawanathpur, District-Garhwa

... ... **Appellants**

Versus

The State of Jharkhand … … **Respondent**

P R E S E N T

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants : Mr. A.K. Kashyap, Sr. Advocate
Mrs. Lina Shakti, Advocate
For the State : Mr. Bishambhar Shastri, A.P.P.

JUDGMENT

C.A.V. on 11.08.2026 **Pronounced on 03/09/2026**

1. I have already heard the arguments of Mr. A.K. Kashyap, learned senior counsel for the appellants and Mr. Bishambhar Shastri, learned A.P.P. for the State.

2. Originally, the appeal was filed by five appellants out of them one appellant, namely Deepan Chaudhary has died during the pendency of this appeal and his appeal was abated vide order dated 03.07.2026. The rest of the surviving appellants have been renumbered.

3. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 22.04.2009 and 28.04.2009 respectively, passed by learned Additional Sessions Judge, F.T.C.-I, Garhwa in S.T. Case No. 219 of 2004, whereby and whereunder the appellants have been held guilty for the offences under Sections 147,

323, 307, 304(1) read with Section 149 of the I.P.C. and sentenced to undergo R.I. for two years for the offence under Section 147 of the I.P.C.; R.I. for one year for the offence under Section 323 of the I.P.C.; R.I. for five years for the offence under Section 307 of the I.P.C.; R.I. for seven years along with fine of Rs.1000/- for the offence under Section 304 (part-I) read with Section 149 of the I.P.C. each with default stipulation. All the sentences were directed to run concurrently.

Factual Matrix

4. Factual matrix giving rise to this appeal as per *fardbeyan* of the informant, Uday Chaudhary, is that on 17.09.2000 at 04:00 P.M. his younger brother, Dilip Chaudhary was fastening his boat on the bank of Sone River near the village. At that time villagers Deepan Chaudhary and his sons Ramashish, Rambriksh, Lakhan and Ramesh came there armed with sticks, spears and swords and started assaulting his brother. It is further stated that the informant's father, Kailash Chaudhary went to save his son, whereupon the accused persons also started beating him with stick, *bhala* (spear) and sword, causing injuries to his head and hand. On hearing the cries, the informant and his mother rushed to the place of occurrence. The accused persons then surrounded the informant and his mother and assaulted them with stick, spear and sword. In the course of assault, the informant's mother sustained injuries on her head and back, while the informant sustained injuries on his neck, chest and forehead. It is further alleged that the accused persons also pressed the informant's neck. Subsequently, on the arrival of the villagers, the informant and his family members were saved, but

father of informant, namely Kailash Chaudhary died.

On the basis of above *fardbeyan*, Bhawnathpur P.S. Case No. 50 of 2000 dated 20.09.2000 was registered for the offences under Sections 147/148/149/302/307/324/323 of the I.P.C.

5. After completion of investigation, charge-sheet dated 30.12.2000 was submitted against the accused persons, namely Deepan Chaudhary, Rambriksh Chaudhary and Lakhan Chaudhary for the offences under Sections 302, 307, 324, 325, 323 read with Section 34 of the I.P.C. and another supplementary charge-sheet dated 31.07.2001 was submitted against the accused Ramashish Chaudhary for the offence under Sections 302, 307, 323, 324, 325 read with Section 34 of the I.P.C. Accordingly, cognizance was taken and subsequently, the case was committed to the Court of Sessions, where S.T. Case No. 219 of 2004 was registered. The charges were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

6. In the course of trial, altogether 15 witnesses were examined by the prosecution:-

(i) P.W.-1-Shanti Kunwar, (wife of deceased Kailash Chaudhary)

(ii) P.W.-2-Shukar Ram

(iii) P.W.-3-Dilip Chaudhary

(iv) P.W.-4-Uday Chaudhary

(v) P.W.-5-Birendra Kumar Singh

(vi) P.W.-6-Bigan Chaudhary

(vii) P.W.-7-Dr. Jwala Prasad Singh

(viii) P.W.-8-Suresh Chaudhary

(ix) P.W.-9-Dr. Ajay Kr. Jha

(x) P.W.-10-Dr. Kishore Chandra Chaudhary

(xi) P.W.-11-Kameshwar Prasad

(xii) P.W.-12-Rajendra Chaudhary

(xiii) P.W.-13-Gauri Shankar Chaudhary

(xiv) P.W.-14-Ashok Chaudhary

(xv) P.W.-15-Mular Devi

7. Apart from oral testimony following documentary evidence have also been adduced by prosecution.

(i) Exhibit-1-Signature of Birendra Singh on inquest report

(ii) Exhibit-2-Post-moretem report of Kailash Chaudhary

(iii) Exhibit-3-Injury report of Shanti Devi prepared by P.W.-9

(iv) Exhibit-4-Injury report of Uday Chaudhary prepared by P.W.-9

(v) Exhibit-4/1-Supplementary injury report of Uday Chaudhary prepared by Dr. A.K. Jha

(vi) Exhibit-4/2-X-ray report of Uday Chaudhary

(vii) Exhibit-5-Injury report of Uday Chaudhary prepared by P.W.-10

(viii) Exhibit-5/1-Injury report of Shanti Devi prepared by P.W.-10

(ix) Exhibit-5/2-Injury report of Kailash Chaudhary prepared by P.W.-10

(x) Exhibit-6-Fardbeyan

(xi) Exhibit-6/1-Endorsment on fardbeyan

(xii) Exhibit-7-Formal F.I.R.

8. On the other hand, two defence witnesses, namely Ravindra Singh (D.W.-1) and Bishambhar Chaudhary (D.W.-2) have also been examined by the defence.

9. The case of defence is denial from occurrence, plea of innocence and false implication.

10. After conclusion of trial, the appellants were held guilty for the offences under Sections 147, 323, 307, 304(1) read with Section 149 of the I.P.C. and sentenced as stated above which has been assailed in this appeal.

Submissions on behalf of appellants: -

11. Mr. A.K. Kashyap, learned senior counsel appearing for the appellants has submitted that the learned Trial Court has failed to properly consider the defence version, the innocence of the appellants and false implication in this case. The presence of the appellants at the place of occurrence is doubtful and no incriminating article or weapon was recovered from their possession. The Investigating Officer was not examined, resulting in non-proving of material contradictions and lapses in investigation. The prosecution witnesses are not reliable eyewitnesses and have made material improvements with regard to the manner of assault and weapons allegedly used. The F.I.R. was lodged after unexplained delay and the medical evidence does not support the prosecution case regarding the alleged use of sharp-cutting weapons,

particularly when the injuries were found to be simple in nature. It has further been submitted that the presence of appellant Nos. 3 and 4 is specifically disputed by P.W.2, thereby creating serious doubt regarding their false implication. The prosecution has also failed to establish any motive or intention to commit murder and as the accused persons allegedly reached the place of occurrence one by one, there was no common object, meeting of minds or premeditation to attract Section 149 I.P.C. The conviction under Section 307 I.P.C. is also not sustainable in view of the medical evidence. It has also been submitted that the prosecution has failed to establish the place and manner of occurrence beyond reasonable doubt. Hence, the impugned judgment is liable to be set aside and appellants deserve acquittal from the charges levelled against them, allowing this appeal.

Submissions on behalf of State: -

12. On the other hand, learned A.P.P. has opposed the aforesaid contentions raised on behalf of appellants and submitted that the learned Trial Court has rightly convicted the appellants on the basis of material available on record, therefore, there is no illegality or infirmity in the impugned judgment of conviction and sentence of the appellants and no merits in this appeal which is fit to be dismissed.

13. I have gone through the record of the case along with the impugned judgment in the light of contentions raised on behalf of both side.

14. The only point for determination in this appeal is **"as to whether the impugned judgment and order of conviction and sentence of the**

appellants suffers from any serious error of law calling for any interference in this appeal?"

Analysis, discussions and reasons:-

15. Before imparting my verdict on above point, it is desirable to take brief resume of ocular testimony of witnesses examined in this case.

P.W.-1-Shanti Kunwar is the wife of deceased, Kailash Chaudhary. She has deposed that the occurrence is about five years ago. According to her, it was Sunday and the time was about 4:00 P.M. At that time, she was at her home when she heard shout and went running towards the bank of river Sone. On reaching there, she found that her husband and her sons, Dilip and Uday were being assaulted by the accused persons, namely Deepan Chaudhary, Ramesh, Ashish, Rambriksh and Lakhan. According to her, the accused persons were having Barchha, Bhala and *lathi*. She has further deposed that her husband sustained injury on his head, from which flesh came out and bleeding started. She has also stated that there was bleeding from his mouth. When she objected to the assault, she was also assaulted with *lathi*. Her son Uday also sustained injuries. After her husband fell down, the accused persons fled away. Thereafter, the Gotias took her husband to the Government Hospital, Kandi and she accompanied him. From Kandi her husband was referred to Government Hospital, Garhwa, where he died during treatment. Subsequently, post-mortem was conducted on his dead body.

In her cross-examination, she has stated that she was examined

by the police twice, first at Garhwa and thereafter at Bhawnathpur, as she could not properly give her statement at Garhwa. She has denied the defence suggestions that she had not disclosed to the police about the use of Barchha, Bhala and *lathi* by the accused persons or that flesh had not come out from the forehead of the deceased. She has stated that the deceased had sustained injuries on his head, back and hand, though she could not specify the weapon carried by each accused or the number of blows inflicted. She stated that the place of occurrence was at the bank of river Sone, about half a kilometer from her house and that the deceased was found lying partly inside and partly outside a pit. She has further stated that she herself sustained about 10–12 *lathi* blows and that Uday also sustained an injury on his head. She stated that the occurrence arose out of a dispute regarding tying of a boat and that there was no land dispute between the parties.

P.W.-2-Shukar Ram has deposed that the occurrence took place about five years ago, on Sunday, at about 4.00 P.M. At that time, he was grazing cattle near the road. He stated that Dilip and Uday were tying boat at the bank of river Sone, which was objected to by Rambriksh, who abused them. Thereafter, Deepan Lakhan, Ashish and Ramesh also arrived armed with Bhala, Barchha and stick. On hearing the commotion, Kailash came there. He has further stated that the accused persons assaulted Kailash with Bhala, Barchha and stick, causing him to fall down. In the meantime, his wife Shanti arrived and the accused persons also assaulted her. Thereafter, the accused persons fled away from the place of occurrence. Kailash was initially taken to the village

on cot and thereafter to Kandi Hospital, where he died during treatment.

In his cross-examination, this witness has stated that he had previously deposed in other cases, but could not remember how many. He stated that Hariharpur O.P. was about 2 km from Sri Nagar village and that he had informed the Chaukidar rather than the police. At the time of the incident, he was grazing cattle on Government land and, although he shouted for help, he did not attempt to save anyone and could not name the villagers who came to the spot. He has stated that members of Dilip's family and Kailash's wife also came there and that he disclosed the names of the assailants to the police. He has further stated that Ramashish and Ramesh were not present at the place of occurrence and that they were subsequently made accused by the police on the basis of Uday's statement. He has also admitted that he had not seen Dilip being assaulted. According to him, the accused persons came one after another—first Deepan, then Rambriksh, and thereafter Lakhan and nobody else came to the spot. He stated that the dispute arose over the tying of a boat, followed by an exchange of words and then an assault, with the quarrel starting suddenly. He also stated that Ramesh is presently working in Hindalco.

P.W.-3-Dilip Chaudhary has deposed that the occurrence was of about five years prior at about 4:00 P.M. He stated that he had brought his boat from the other side of the Sone River and had tied it to a peg in the field of Deepan. Deepan objected to the same and abused him, asking why he had fixed the peg there. He replied that he would

remove the peg. Thereafter, he came onto the road and raised an alarm, on hearing which his father and brother Uday Chaudhary came there. In the meantime, Deepan Chaudhary, Rambriksh, Ramashish, Lakhan and Ramesh, five persons in all, came to the spot and started assaulting his father and brother indiscriminately with sticks. On his alarm, Sukan and his mother also came there. When his mother attempted to save his father, the accused persons assaulted his mother with sticks as well. After the assault, the accused persons fled away from the place of occurrence. Thereafter, villagers, including Ashok Chaudhary and others, arrived at the spot. His father, brother and mother were taken to Hariharpur O.P., where a requisition for their treatment was issued. They thereafter went to Garhwa Hospital, where his father died at about 9:00 P.M. His father's post-mortem examination was subsequently conducted. He has further stated that the police recorded his statement. According to him, his father had sustained an injury on his head from which flesh had protruded, besides injuries on his arm and back.

In his cross-examination, he has stated that he had taken a boat to Parchha across the Sone River, left there at about 3:30 P.M., and reached the place of occurrence around 4:00 P.M. About five minutes after he tied the boat in Deepan’s field, Deepan arrived. He also stated that he had told the police that Ramashish, Lakhan and Ramesh were also among those who assaulted them. According to him, he was assaulted first, followed by his father who came after hearing his alarm, and then his brother. Even after his father fell, all five accused allegedly continued assaulting him. He could not specify the exact

number of stick blows. He further stated that, after the Sub-Inspector issued a requisition, they first went to Kandi Hospital and then to Garhwa by jeep and that his brother remained unconscious throughout the night.

P.W.-4-Uday Chaudhary is the informant of the case. He has deposed that on 17.07.2000 (Sunday) at about 4:00 P.M., he was at a distance of about 20 steps from the place of occurrence. His younger brother Dilip was tying a boat on the bank of the river. At that time, accused Deepan Chaudhary objected to the tying of the boat and slapped Dilip, whereupon Dilip raised an alarm. On hearing the alarm, his father and mother reached the place of occurrence. Thereafter, Deepan Chaudhary, Ramesh, Ashish, Rambriksh and Lakhan started assaulting his father and mother indiscriminately with sticks. When he reached the spot and attempted to rescue them, the accused persons also assaulted him. He sustained injuries on his head, stomach and right hand. He further stated that his father's head was severely injured and flesh was oozing from the injuries. He has further deposed that he became unconscious as a result of the assault and regained consciousness at the Government Hospital, Garhwa, at about 4:00 P.M. on the following Monday. The police came to the hospital and recorded his statement. As he was experiencing difficulty in signing the statement, his thumb impression was obtained thereon. He has stated that he could not ascertain when his father died. Bigan Chaudhary was also admitted in the hospital and had put his thumb impression on the statement. He has further stated that thereafter the police went to the

village and recorded his restatement. He identified the accused persons, stating that Deepan Chaudhary and Ramesh were present in court and that he could identify the remaining accused persons as well. He has further stated that he was producing the X-ray plate in support of his injuries and that he was subsequently treated at Ranchi. He has also stated that his father died as a result of the occurrence.

In his cross-examination, he has stated that he returned from Ranchi after about 15 days of the occurrence, where he had been treated by Dr. K. K. Sinha. He has further stated that after being discharged from Garhwa, he went to his home and thereafter proceeded to Ranchi for further treatment. He has stated that his father died on 19.09.2000. He has further stated that Bhawnathpur is about 8 kilometres from his village and has a hospital, whereas Kandi is about 2 kilometres away. He could not say how he was brought from Kandi to Garhwa. He stated that at the time of the occurrence, he was about 20 feet away from the place of occurrence and was grazing cows. He could not say which accused was carrying a sword or a bhala, nor could he state who assaulted first. He has stated that five persons had assaulted them and that he had sustained three injuries in all, besides several blows with sticks. He has denied the defence suggestion that he had quarrelled with his father and had thereafter obtained private treatment. He has also denied that he was concealing the fact that the assault was committed with a bhala and sword and further denied having been treated by a private doctor. He has denied the suggestion that Deepan also had a boat. He could not say whether more passengers travelled by

Deepan's boat and fewer passengers travelled by their boat.

P.W.-5-Birendra Kumar Singh has deposed that on 19.09.2000, the inquest report of the deceased, Kailash Chaudhary, was prepared by the police in his presence. He signed the same. This is the carbon copy of the said inquest report. He identifies his signature, which has been marked as **Exhibit-1**.

In his cross-examination, he has stated that he was acquainted with Kailash Chaudhary. He has further stated that Uday Chaudhary and his father, Kailash Chaudhary, had remained at Hariharpur on the night of the occurrence. However, they did not tell him the names of the assailants. He has further stated that when the F.I.R. was recorded at Garhwa, he was present there and both Uday and he signed the F.I.R. Uday had not stated the names of Deepan and Ramesh.

P.W.-6-Bigan Chaudhary has deposed that Kailash Chaudhary died at Garhwa Sadar Hospital about five years ago. The police prepared the inquest report and he put his thumb impression on it. He has further stated that there was an injury on the forehead of the dead body of Kailash Chaudhary.

In his cross-examination, he has stated that Kailash Chaudhary and his family members were not present in his village on the night of the occurrence. They were in Kandi. He has further stated that on the next day, at about 8:00 A.M., he came to Garhwa Hospital. Birendra Singh was also present with him. Dilip told them how the occurrence had taken place and who had assaulted them. They had been treated at Kandi during the night.

P.W.-7-Dr. Jwala Prasad Singh has deposed that on 19th September, 2000, he was posted as Medical Officer at Sadar Hospital, Garhwa. On that day, at 12.15 P.M., he has conducted autopsy on the dead body of Kailash Chaudhary (deceased) and found the following injuries:-

(i) Lacerated wound 3¼" x 1/5" x skin deep right side of forehead.

(ii) Abrasion 6" x 4" on right shoulder posterior aspect,

(iii) Abrason 2" x 1" posterior aspect of right elbow,

(iv) Lacerated wound 1¼" x 1/4" posterior aspect of right forearm.

On dissection scalp blood and blood clot were present under the scalp. Blood and blood clot present under layer of dura mater skull nothing abnormal.

Cause of death- The death was caused by shock and haemorrhage due to above injuries. All the injuries were opined to be simple in nature.

Weapons used- Hard and blunt substance, such as *lathi*, stone, etc.

Time elapsed since death 12 to 24 hours. This post-mortem report is in his handwriting and bears his signature, which is marked as **Exhibit-2**.

P.W.-8-Suresh Chaudhary has deposed that the incident about five years ago, he had heard about an assault committed by Deepan Chaudhary upon Kailash Chaudhary and Uday Chaudhary. He further

stated that Kailash Chaudhary subsequently died at Garhwa.

P.W.-9-Dr. Ajay Kr. Jha has examined Shanti Devi on 18.09.2000 and found the following injuries:-

(i) Bruise 2" x 1/2" on left scapular region

(ii) Abrasion 3/4" x 1/4" over occipital region of scalp

She also complained of pain over the body.

Age of injuries was about six hours.

Nature of injuries simple caused by hard and blunt substance such as *lathi*.

On the same day, he has also examined Uday Chaudhary and found following injuries:-

(i) Swelling 3" x 2" right temporo parietal region of scalp.

(ii) Swelling 1 ½" x 1/2" left cheek.

He also complained pain over chest. Age of injury about six hours old. Nature-opinion reserved for injury No.(i) other was simple caused by hard and blunt substance, such as *lathi*.

Supplementary injury report of Uday Chaudhary–X-ray plate dated 19.09.2000 showed depressed fracture of parietal bone of skull. Hence injury is grievous in nature caused by hard and blunt substance such as *lathi*.

He has further stated that injury report of Shanti Devi as well as injury report of Uday Chaudhary and the supplementary injury report of Uday Chaudhary all were prepared in his handwriting and bear his signature, which are marked as **Exhibits-3, 4 and 4/1** respectively. The X-ray plate dated 19.09.2000 of Uday Chaudhary also bears his

signature, which is marked as **Exhibit-4/2**.

P.W.-10-Dr. Kishore Chandra Chaudhary has examined Uday Chaudhary and found following injuries:-

(1) **<u>Swelling and tenderness</u>**

(a) 10 c.m. x 5 c.m. on the left side of the interior scalp.

(b) 7 c.m. x 4 c.m. on the right side of the interior scalp.

(c) 10 c.m. x 10 c.m. on the upper part of the middle chest.

(2) **<u>Bruise</u>**

(a) 3 c.m. x 1 c.m. on the back of the neck.

He has opined that age of injury was within 24 hours. The injury was caused by hard and blunt substance, such as *lathi* and danda. The nature of injury was simple.

He has proved the injury report in his handwriting and signature, which is marked as **Exhibit-5**.

(3) On the same day, he has further examined Shanti Devi and found following injuries:-

(1) **<u>Bruises</u>**

(a) 3 c.m. x 3 c.m. on the top of right shoulder

(b) 7 c.m. x 3 c.m.,

(c) 5 c.m. x 3 c.m. –Both on the upper part of the right side of the back.

(2) **<u>Swelling and tenderness</u>**

(a) 3 c.m. x 3 cm. on the middle of scalp.

He has further opined that the age of injury was within 24 hours. It was caused by hard and blunt substance. The nature of injury was

simple.

He has proved the injury report in his handwriting and signature, which is marked as **Exhibit-5/1**.

(4) On the same day, he has also examined Kailash Chaudhary and found following injuries:-

(i) Stiched wound 10 c.m. x 2 c.m. on the right side of anterior scalp,

(ii) Lacerated wound 7 c.m. x 1 cm. x 1 c.m. on the back upper part of right forearm.

(iii) Bruise and swelling 7 c.m. x 4 c.m. on the upper and lower eye lid of right eye.

(iv) Clotted blood was present in both the nostril and mouth.

He has further stated that the injured was unconscious.

He has opined that the age of injury was within 24 hours and injury Nos. (i) & (v) caused by unknown. Injury Nos. (iv) & (v) caused by unknown. Injury Nos. (ii) & (iii) caused by hard and blunt substance such as *lathi*.

Nature of injury

Injury Nos. (ii) and (iii) were simple in nature.

Injury Nos. (i) and (iv) could not be decided.

Injury No.(v) was grievous in nature.

He has proved the injury report in his handwriting and signature, which is marked as **Exhibit-5/2**.

P.W.-11-Kameshwar Prasad is an Advocate Clerk. He has deposed that the *fardbeyan* bears the handwriting and signature of S.I.

Rajanikant Jha, which is marked as **Exhibit-6**. He further stated that the endorsement on the *fardbeyan* bears the handwriting and signature of Sindhu Paswan, the then O/C of Bhawnathpur, which is marked as Exhibit-**6/A**. He has further stated that the formal F.I.R. bears the handwriting and signature of the then O/C, Sindhu Paswan, which is marked as **Exhibit-7**.

P.W.-12-Rajendra Chaudhary has deposed that the occurrence had taken place about eight years prior to his deposition. On the day of the occurrence, he was at his house. The incident took place at about 4:00–4:30 P.M. He has further stated that Dilip Chaudhary had tied his boat on the bank of the Sone River, to which Deepan objected. However, Dilip did not pay heed to his objection, whereupon Deepan slapped him. Dilip thereafter narrated the incident to his parents at his house. On this, Kailash Chaudhary went to inquire from Deepan about the matter. An exchange of hot words took place between them. In the same transaction, Deepan, Ramesh, Ashish, Rambriksh and Lakhan assaulted Kailash with *lathi*. On hearing the cries of Kailash, Uday Chaudhary also went there to rescue him, whereupon the accused persons also assaulted him with sticks. Thereafter, Shanti went to the place of occurrence and she was also assaulted by them. As a result of the assault, Kailash Chaudhary fell down and started bleeding. He has further stated that he along with other villagers, took Kailash and Uday to Kandi, from where the doctor referred them to Garhwa. Kailash Chaudhary died at Garhwa Hospital. Uday Chaudhary was referred to Ranchi for treatment, where he received medical treatment.

P.W.-13-Gauri Shankar Chaudhary has deposed that the occurrence took place on 17.07.2000, which was a Sunday, at about 4:00 P.M. He was near the Sone River and also had a boat. He further stated that Dilip Chaudhary was tying his boat on the land of Deepan. Deepan objected to this, but Dilip did not pay heed to his objection. Thereafter, Deepan slapped Dilip. Dilip then went into his nearby hut. The father of Dilip asked Deepan about the incident. At this, Deep Narain Chaudhary assaulted Kailash with a stick. Rambriksh Chaudhary, Ram Lakhan Chaudhary, Ramashish Chaudhary, and Ramesh Chaudhary also assaulted Kailash Chaudhary with a Farsa, Kudal, and Talwar. When Uday Chaudhary went to save him, they also assaulted Uday. When Shanti Devi came there, she too was assaulted by the accused. Uday Chaudhary sustained a bleeding injury. However, he did not notice any blood on the body of his father. Thereafter, all three injured persons were taken to Hariharpur O.P. and then to Kandi Hospital. From Kandi, they were referred to Garhwa. During the course of treatment, Kailash died.

P.W.-14-Ashok Chaudhary has deposed that the occurrence took place about eight years ago at about 04:00 P.M. He was in the village at that time. He has further stated that the wife of Kailash Chaudhary asked him to take Kailash to a doctor. Thereafter, they went to village Dagar. The compounder refused to treat him, whereupon they went to Hariharpur O.P. Uday Chaudhary, his mother, and Kailash were accompanying him. Kailash had sustained an injury on his head, which was bleeding. Uday had also sustained an injury on his head. His

mother had received a simple injury. Shanti Devi did not disclose the names of the assailants. He was declared hostile.

P.W.-15-Mular Devi has deposed that the occurrence took place about eight years ago at about 04:00 P.M., when she was collecting cow dung. She further stated that the wife of Kailash had gone towards the riverbank to see a boat and thereafter, Kailash also went there. Kailash asked Deepan why he had pushed his son into the water. Deepan replied by asking who had made such an allegation. Kailash stated that his son had told him so. Deepan then told Kailash that the dispute could be resolved in the morning. When Kailash questioned why he should go then, Deepan assaulted him with a Bhakuli, i.e., a stick having an iron portion attached to it. Kailash was struck on his back, resulting in bleeding. Thereafter, Rambriksh assaulted Kailash on his temple, as a result of which Kailash started writhing in pain. Uday came forward to save Kailash, but Rambriksh also assaulted Uday, causing an injury to his head. She has further stated that she thereafter went to give water to Kailash and noticed that blood was coming from his mouth.

On the other hand, **D.W.-1, Ravindra Singh** has deposed that on 17.09.2002 at about 5:00 P.M., he was at his home. He has further stated that the house of Suryadeo Singh is in his neighbourhood and that his son, Akhilesh Singh, is a quack (Jhola Chhap Doctor). He further stated that he found Uday Chaudhary, Kailash Chaudhary, his wife, and his younger son being treated there. He talked to Uday, who told him that a quarrel had taken place in the family. However, Uday did not disclose who had assaulted them. He has further stated that

there is a police outpost in his village. He has stated that they remained there throughout the night and that, in the morning, after the death of Kailash Chaudhary, he did not know where they had gone. He has further stated that Kandi is about 3½ kilometres from his village and that there is a Government Hospital and a police station there. He also stated that he had disclosed all these facts to the police.

D.W.-2, Bishambhar Chaudhary has deposed that on 17.09.2000, after 3:00 P.M., Uday Chaudhary told him that some quarrel had taken place in the family and that he was going for private treatment. He has further stated that Uday told him that if they went to the Government Hospital, they would be in trouble. He has stated that the police had enquired from him and that he had disclosed these facts to the police.

16. I have carefully considered the rival submissions and perused the evidence available on record, it appears that the prosecution has been able to establish the occurrence and the participation of the appellants therein beyond reasonable doubt. The ocular testimony of P.Ws.-1, 2, 3, 4, 12, 13 and 15, when considered in its entirety, substantially supports the prosecution case with regard to the assault upon the deceased Kailash Chaudhary and the other injured persons. The injury of the injured witnesses also stands corroborated by the medical evidence.

17. So far as the death of Kailash Chaudhary is concerned, the post-mortem report, duly proved by P.W.-7, discloses a lacerated wound on the forehead, besides abrasions and lacerated wound on the other parts of the body. On dissection, blood and blood clot were found under the

scalp and under the dura mater. The doctor opined that the death was caused due to shock and haemorrhage resulting from the injuries found on the person of the deceased and that the injuries were caused by hard and blunt substance such as *lathi* or stone. Thus, the medical evidence does not create any break in the chain of circumstances connecting the occurrence of death of the deceased rather, it lends assurance to the ocular account regarding the assault.

18. The specific opinion of P.W.-7 is that the death was caused by shock and haemorrhage due to the injuries noticed during the post-mortem examination. The nature and location of the injuries, coupled with the presence of blood and blood clots beneath the scalp and under the dura mater, sufficiently corroborate the prosecution version regarding the assault upon the deceased.

19. The evidence of the injured witnesses assumes considerable significance. P.W.-4 Uday Chaudhary himself sustained injuries in the occurrence, which are corroborated by the medical evidence, including the depressed fracture of the parietal bone. Similarly, the injuries sustained by Shanti Devi also stand medically corroborated. Their presence at the place of occurrence is thus not merely asserted but is supported by contemporaneous medical evidence.

20. The mere fact that the Investigating Officer was not examined cannot, in the facts and circumstances of the present case, be treated as fatal to the prosecution when the material witnesses have been examined and the occurrence is otherwise duly proved by reliable ocular and medical evidence.

21. So far as the conviction under Sections 147, 323, 307 and 304 Part-I read with Section 149 of the I.P.C. is concerned, this Court finds that the learned Trial Court has appreciated the evidence available on record in its proper perspective.

22. In view of the above discussion and reasons, I do not find any legal substance in the point of arguments raised on behalf of the appellants and no merit in this appeal to take a different view and interfere with the impugned judgment passed by the learned Trial Court. As such, conviction and sentence of the appellants passed by the learned Trial Court is hereby upheld and confirmed.

23. Accordingly, this appeal is **dismissed**.

24. The appellants are on bail, their bail bonds are cancelled and they are directed to surrender before the concerned Trial Court within two months from the date of this judgment to sustain the remaining period of sentence awarded to them, failing which, learned Trial Court shall take all coercive steps for arrest and detention of the appellants for serving the remaining period of sentence awarded to them.

25. Pending I.A(s), if any, stands disposed of.

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

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court
Dated 03/09/2026
Arpit/ ***N. A. F. R.***
Uploaded on 05/09/2026