2026:JHHC:26887

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J.) No. 717 of 2009

Tetu Paswan, Son of Dahru Paswan, resident of village-Gangti, P.S.-Chandramandih, District-Jamui (Bihar) … … Appellant

Versus

The State of Jharkhand …. Respondent

With

Cr. Appeal (S.J.) No. 591 of 2009

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1. Radho Paswan, Son of Srawan Paswan, resident of village-Gharwasan, P.S.-Chandamandi, District-Jamui (Bihar)
2. Sahdeo Paswan, son of Pitamber Paswan, resident of village-Kiyajori, P.S.-Chakai, District-Jamui … … Appellant

Versus

The State of Jharkhand …. Respondent

With

Cr. Appeal (S.J.) No. 624 of 2009

Pawan Paswan, Son of Rajendra Paswan, resident of village-Gangati, P.S.-Chandramandi, District-Jamui (Bihar) … … Appellant

Versus

The State of Jharkhand …. Respondent

For the Appellants : Mr. Vishal Kumar Binay, Advocate
Ms. Puja Kumari, Advocate
[In Cr. Appeal (SJ) Nos.717/624 of 2009]
Mr. Ram Lakhan Yadav, Advocate
Ms. Savita Kumari, Advocate
[In Cr. Appeal (SJ) No.591 of 2009]

For the Resp.-State : Mr. Jitendra Pandey, A.P.P.
Mrs. Vandana Bharti, A.P.P.

PRESENT

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

Dated: 07th September, 2026

By Court:-

1. Heard learned counsel for the respective parties.

2. All the above appeals are arising out of common judgement, hence heard together and are being disposed of by common judgment.

3. These appeals are directed against the judgment and order of conviction and sentence dated 30.05.2009 and 01.06.2009 respectively passed by the learned Additional Sessions Judge-Fast Track Court-IV, Bokaro in S.T. No.378 of 2007 arising out of Harla P.S. Case No.115 of 2006 corresponding to G.R. Case No.919 of 2006, whereby and whereunder the appellants have been held guilty for the offences under sections 395 Indian Penal Code and sentenced to undergo rigorous imprisonment for 8 years.

Factual Matrix:-

4. Factual matrix giving rise to this appeal is that on 27/28.08.2006, the informant was alone in his home. In the night at about 12:45 pm, he came out from the room to drink water and after drinking water, when he was closing the door, then 2-3 unknown miscreants pushed the door and thrown him on the bed and in the meantime, 2-3 more unknown miscreants came there and tied his hand at his back and gagged her mouth with towel. One of the miscreants pointed a knife at him and threatened him not to move and 4-5 miscreants opened his almirah and took out five new *Sarees* and they also broke another almirah and took out one silver *Hasuli*, one pair of *Baju*, *Kangan*, one pair of gold *Bala*, two gold chains of his wife, gold ear tops in five pairs, gold *Mangtika*, and 15-20 new *Sarees*. It is further alleged that the miscreants have also

taken the documents of the land, ATM cards, passbook, one *Hasuli* of bronze with gold polish, five woolen blankets, jacket, Rs.9,000/- cash, four synthetic *Sarees* worth Rs.15,000/-. It is further alleged that the miscreants have also snatched the gold ring of the informant, Nokia set mobile phone, titan wrist watches. It is further alleged that all the miscreants were 5 to 6 in numbers and were aged between 20-25 years and they were thin and dark in colour.

5. On the basis of *fardbayan* of the informant, Herla P.S. Case No.115 of 2006 was instituted for the offences under Sections 395 and 397 of IPC and sections 412 of IPC was added later on.

6. After completion of investigation, the charge-sheet was submitted against the appellants and after taking cognizance, the case was committed to the court of Sessions, where S.T No.378 of 2007 was registered. The appellants have denied the charges leveled against them and claimed to be tried.

7. In course of trial altogether, 5 witnesses have been examined by the prosecution namely:-

P.W.1-Urmila Devi
P.W.2-Mahavir Prasad (Informant)
P.W.3-Damodar Pd. Singh
P.W.4-Joku Ram (I.O.)
P.W.5-Sanjay Kumar (T.I.P. Witness)

8. Apart from oral evidence, the prosecution has also adduced the following documentary evidence as well as material exhibits;

Ext.1 & 1/1-Signature of informant on *Fardebeyan*

Ext.1/2-Fardbeyan

Ext.1/3-Forwardiing on fardbayan

Ext.**1/4-**Endorsement on fardbayan

Ext.2-Signature on T.I.P.

Ext.**2/1-**T.I.P. Material

Ext.**3to 3/1-**Signature on bond

Ext.4-Formal FIR

Ext.5-Seizure list

Mark X for identification- Photo copy of seizure list.

***Material Exhibits*:-**

Ext.I-Gold chain with locket

Ext.II-Two pairs of gold *jhumka*

Ext.III-One pair of gold tops

Ext.IV-One gold ring

Ext.V-One pair of silver *payal*

Ext.VI-Silver Kara of Child

Ext.VII-Nokia Mobile

Ext.VIII-Old *sarees*

9. On the other hand, no oral or documentary evidence has been adduced by the defence.

10. The case of defence is completely denial form the occurrence and false implication.

Submission on behalf of appellants:-

11. Learned counsel for the appellants without touching the merits of the judgment has confined their argument towards the quantum of sentence awarded to the appellants and submitted that during trial and post-conviction, the appellant has remained in custody for more than 3 years.

Considering the nature of offence committed by the appellants, they have sufficiently been punished for his guilt. The occurrence is of the year 2006. The appellants have undergone agony of trial for more than two decades and have sufficiently been punished for their guilt, therefore, again sending the appellants to jail custody for remaining period of sentence would not meet the ends of justice and disproportionate to the offence committed by them. Hence, the sentence awarded to the appellants may be reduced to the imprisonment already undergone by them.

Submission on behalf of State:-

12. On the other hand, learned A.P.Ps. have defended the judgment of learned trial court on merits. So far as the quantum of sentence is concerned, they have fairly submitted that this case is stale one of the year 2006 and the appellants have sustained custody for more than 3 years, hence, appropriate order may be passed in the ends of justice.

Analysis, Reasons and Decision:-

13. I have considered the submission of the respective parties and also perused the impugned judgment. It appears that the unknown miscreants entering into the house of the informant have taken away several articles belonging to the informant and his family and have committed the offence of dacoity. After investigation, the name of above appellants surfaced in this case and they were apprehended and on their confessional statement, several stolen articles were recovered and

seized. In the T.I. Parade, the informant has identified the articles, which were stolen from his house and on his application, the recovered articles were released to him by the court. Considering the nature of offence and direct involvement of the appellants in the alleged offence, which was corroborated by the recovered articles recovered from the possession of the appellants and also considering the evidence adduced by the prosecution, I find that there is no error in the judgment and order of conviction of the appellants. Hence, the conviction of the appellants for the offence under section 395 is upheld.

14. So far as the sentence of the appellants is concerned, it appears that the occurrence is of the year 2006 and since then, more than two decades have expired, the appellants have suffered long agony of the trial and they have remained in custody for more than 3 years out of the total period of imprisonment as awarded to them, therefore, no useful purpose would be served by sending them again in jail for sustaining the rest of the imprisonment. Hence, it appears expedient, in the ends of justice to modify/alter the sentence of the appellants.

15. Accordingly, the sentence of the appellants is modified to the extent of period already undergone by them.

16. Consequently, these appeals are **dismissed** on merits with modification in sentence as stated above.

17. Appellants are on bail, hence, they are discharged from the liabilities of bail bonds. The sureties are also discharged.

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

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

(Pradeep Kumar Srivastava, J.)

High Court of Jharkhand, Ranchi

Dated:-07/09/2026

***Pappu*/-N.A.F.R.**

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