IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 492 of 2008

[*Against the judgment of conviction and sentence dated 13.03.2008 & 14.03.2008 respectively, passed by the learned Addl. Sessions Judge-VI (FTC), Jamshedpur, East Singhbhum in Sessions Trial No. 266 of 2005.****]***

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1. Binay Kumar Tiwary, S/o. Ram Singar Tiwari;
2. Sudesh Prasad Shukla, S/o. Rajendra Prasad Shukla;
3. Rajendra Prasad Shukla @ Chhote Lal;
4. Situ Shukla;
5. Prem Shukla;
6. Nandu Shukla;

   Appellant Nos. 3-6 are son of late Manishankar Shukla;
7. Rupesh Shukla @ Rupesh Kumar Shukla, S/o. Rajendra Prasad Shukla;

   All are R/o. H. No. 26, Line No. 2, Bhuinyadih, Nand Nagar, Gwala Basti, P.S.-Sidhgora, District-East Singhbhum.

... ... **Appellants**

Versus

The State of Jharkhand

…… **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants : Mr. Ritesh Ranjan, Advocate

For the State : Mr. Pankaj Kr. Mishra, A.P.P.

For the Informant : Mr. J. N. Upadhyay, Advocate

: Mr. Rahul Kumar, Advocate

J U D G M E N T

Dated: 7th September, 2026

By Court:-

1. Learned counsel for the appellant as well as learned counsel for the informant have jointly apprised this Court that parties are not in contact with them even after several attempts by communicating letters also. As such, compromise petition between the parties could not be filed.

2. Heard, Mr. Ritesh Ranjan, learned counsel for the appellants and Mr. Pankaj Kr. Mishra, learned A.P.P. assisted by Mr. J. N. Upadhyay, learned counsel for the informant on merits.

3. This criminal appeal is directed against the judgment of conviction and sentence dated 13.03.2008 & 14.03.2008 respectively, passed by the learned Addl. Sessions Judge-VI (FTC), Jamshedpur, East Singhbhum in Sessions Trial No. 266 of 2005, whereby and whereunder the appellants have been convicted for the offences under Sections 147, 148, 452/149 & 308/149 of the I.P.C. and sentenced to undergo R.I for three years alongwith the fine of Rs. 2,000/- each for of the offence under Section 308/149 of the I.P.C.; R.I. for 3 years alongwith the fine of Rs. 1,000/- each for the offence under Section 452/149 of the I.P.C.; R.I. for one year each for the offences under Sections 147 & 148 of the I.P.C. with default stipulation. All the sentences are directed to run concurrently.

Factual Matrix:-

4. The factual matrix giving rise to this appeal is that on 08.04.2001 at about 8:30 P.M., the informant Sambhu Nath Tiwari was talking with his cousin Santosh Kumar Tiwari in his courtyard and one Shankar Yadav was taking water from hand pump. In the meantime, he heard some noise from outside and saw Rajendra Prasad Shukla was coming with sword and Nandu Shukla, Situ Shukla, Prem Shukla, Sudesh Shukla and Rupesh Shukla and his relative Vinay Kumar Tiwari armed with rod and sword entered into his house. It is alleged that the accused persons caught his cousin Santosh Kumar Shukla and Rajendra Prasad

Shukla gave sword blow on the face of Santosh Kumar Tiwari with an intention to kill him. It is further alleged that the accused Sudesh Prasad Shukla hit at back side of head of the Santosh Kumar Tiwari. Situ Shukla and Nandu Shukla also assaulted Santosh by sword. It is further alleged that Rupesh Shukla, Prem Shukla and Vinay Shukla also assaulted by rod. When the ladies of the house started raising alarm, the accused persons fled away. The reason behind the occurrence as stated by the informant is that a day before the occurrence, i.e., on 07.04.2001, there was a quarrel between the driver of Rajendra Shukla and Santosh Kumar Tiwari on the issue of overtaking.

5. On the basis of above fardbeyan of the informant, police registed F.I.R. being Sidhgora P.S. Case No. 48 of 2001 for the offences under Sections 147, 148, 149, 114, 458, 341, 323, 324 & 307 of the I.P.C.

6. After completion of investigation, the charge-sheet was submitted against the above appellants for the offences under Sections 147, 148, 149, 114, 458, 341, 323, 324 & 307 of I.P.C and after taking cognizance, the case was committed to the court of Sessions, where Sessions Trial No. 266 of 2005 was registered. The charges were framed under Section 147, 148, 452/149, 341/149, 323/149 & 307/149 of the I.P.C.

7. The appellants denied the charges levelled against them and claimed to be tried.

8. The learned Trial Court after scrutinizing the evidence oral as well as documentary led by the respective parties, arrived at definite conclusion about the guilt of the appellant for the offences under Sections 147,

148, 452/149 & 308/149 of the I.P.C. Accordingly, the learned Trial Court convicted and sentenced the appellants as stated above, which has been assailed in this appeal.

Submissions on behalf of the appellants:-

9. Learned counsel for the appellants has submitted that there is allegation of assaulting Santosh Kumar Tiwari, who is cousin of the informant, by rod and sword blow by the accused persons. It is further submitted that as per fardbeyan of the informant itself, the occurrence took place due to some dispute over speed riding of vehicle on previous date of occurrence by Santosh Kumar Tiwari. The injured has sustained injury, which is simple in nature, therefore, Section 308 of the I.P.C. is not attracted here rather Section 323 is made out and maximum sentence is one year for the offence under Section 323. The occurrence is of the year 2001. The appellants have remained in custody for almost one month and they have sufficiently been punished for their guilt. The appellants are having no criminal background. The appellants have sustained the agony of trial since more than two decades. Therefore, the sentence of the appellants may be reduced to the extent of the imprisonment already undergone by them instead of the sentence awarded by the learned Trial Court.

Submissions on behalf of the Respondent:-

10. On the other hand, learned A.P.P. assisted by learned counsel for the informant has defended the impugned judgment on merits and submitted that in the said occurrence, cousin of the informant has sustained injuries. The accused persons armed with sword and rod

entered into the house of the informant and assaulted the cousin of the informant. The Injury report shows that his injury caused by hard and blunt substance which has been corroborated by P.W.- 1 Dr. Nilanjan Ray. Therefore, the learned Trial Court has rightly convicted the appellants. So far the sentence awarded to the appellants is concerned, it is submitted that the matter is of the year 2001 and more than two decades have been elapsed. Therefore, appropriate order may be passed.

Analysis, discussion and reasons:-

11. It appears that altogether 12 witnesses have been examined by the prosecution apart from following documentary evidence: -

I. Exhibit-1 Injury report of Santosh Kumar Tiwari

II. Exhibit -2 Fardbeyan

III. Exhibit- 3 Formal F.I.R.

IV. Exhibit-4 Arrest memo of Rajendra Prasad Shukla

V. Exhibit-5 Arrest memo of Rupesh Kumar Shukla

VI. Exhibit-6 Arrest memo of Binay Kumar Tiwari

VII. Exhibit-7 Arrest memo of Prem Shukla

12. On the other hand, no oral or documentary evidence has been adduced on behalf of the defence. The case of the defence is denial from the occurrence and false implication.

13. Perused the record of the case alongwith the impugned judgment in the light of contentions raised on behalf of both the parties.

14. It appears that in this case the genesis of the occurrence and dispute between the parties is due to hot exchange of words over speed riding of vehicle by the injured Santosh Kumar Tiwari and the driver of

the accused Rajendra Prasad Shukla on previous date of alleged occurrence, to which on the next day, the accused persons armed with rod and sword entered into the house of the informant and assaulted cousin of the informant namely Santosh Kumar Tiwari by rod and sword, due to which, the inured sustained as many as eight injuries. PW-1 Dr. Nilanjan Roy has examined the injured, who was admitted at T.M.H., Emergency Ward.

15. From the deposition of PW-1, it is clear that the injuries sustained by the injured are simple in nature caused by hard and blunt substance, which may be caused by accidental fall during the scuffle. No sharp cutting weapons, like, sword & garasa were used as alleged by the informant party. So far alleged injuries on the eye is concerned, it is also found by the doctor due to conjunctivitis with muco-purulent discharge. Hence, I tis quite clear that the learned Trial Court while considering the evidence of the prosecution, has not given weightage of the evidence of PW-1 and has wrongly convicted the appellants for the offence punishable under Section 308/149 I.P.C. rather it is a case of voluntarily causing simple hurt punishable under Section 323/149 of the I.P.C. Hence, conviction of the appellants for the offence under Section 308 I.P.C. is set aside and the appellant are convicted under Section 323 I.P.C.

16. So far conviction of the appellants under Sections 147, 148 & 452/149 is concerned, all the accused persons making unlawful assembly had entered in the house of the informant. Therefor,

conviction of the appellants under Sections 147, 148 & 452/149 is hereby upheld.

17. So far quantum of sentence of the appellants is concerned, the appellants have already remained in custody for almost one month. The occurrence is of the year 2001 and more than two decades have been elapsed and the appellants have also sustained the agony of trial remaining considerable period of custody. Parties have also settled in their life. There was also direction of payment of fine of Rs. 15,000/- by the learned Trial Court, which has been received by the injured.

18. In view of above discussion and reasons, I find that the appellants have been sufficiently punished for their guilt. Accordingly, in the ends of justice, the sentence of the appellants is reduced / modified and they are awarded the sentence of imprisonment already undergone as against the sentence awarded by the learned Trial Court for the offences under Sections 147, 148, 452/149 & 323/149.

19. Accordingly, this appeal is **dismissed on merits with modification in conviction and sentence** to the extent as stated above.

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

21. The appellants are on bail. As such, they are discharged from the liability of their bail bonds and sureties are also discharged.

22. Let a copy of this judgment alongwith the trial court records be sent back immediately to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court
Dated: 07.09.2026
Rahul / NAFR-
Uploaded on 10/09/2026