



2026:CGHC:21378-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRMP No. 1010 of 2023

State Of Chhattisgarh Through - Police Station - Thankhamhariya, District - Bemetara
Chhattisgarh ... **Petitioner(s)**

versus

Jagdish Sahu S/o Santram Sahu Aged About 52 Years R/o - Village-Chijgaon, Police
Station - Thankhamhariya District Bemetara Chhattisgarh ...**Respondent(s)**

(Cause-title taken from Case Information System)

For Petitioner/State : Shri SS Baghel, Govt Advocate
For Respondent : None appears

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Justice Ravindra Kumar Agrawal
Order on Board

Per Ramesh Sinha, Chief Justice
07.05.2026

Heard Shri SS Baghel, learned Government Advocate, appearing
for the State.

1. Petitioner has filed the present petition for the following reliefs:

“It is, therefore, most humbly and respectfully prayed that, this
Hon’ble Court may kindly be pleased to:

- i) Set aside the impugned judgment of acquittal, convict
the respondents and award suitable punishment to him.

- ii) proceed against the respondents U/s 390 of the Code of Criminal procedure, 1973, during pendency of the instant appeal.
- iii) pass such order, as it deems fit, in the circumstances of the case. ”

2. Present is an application for grant of leave to appeal under Section 378(3) of the CrPC filed by the State against the impugned judgment of acquittal dated 23.01.2023 passed by the learned Sessions Judge, Bemetara, District-Bemetara, CG in Sessions Trial- 89 of 2021, whereby the accused/respondent has been acquitted from the offence of Section 307 of the IPC.

3. Case of the prosecution is that on 03.09.2021 complainant-Laxman Sahu, PW1 lodged a written complaint Ex.P1 to the Police alleging that at about 7.30 am he was being assaulted by the accused/respondent-Jagdeesh Sahu by danda near Sheetla Mandir Chowk by abusing him with filthy language. The incident was witnessed by Ubhayram, PW2 and one Dheeraj Kumar. He could save himself and informed his son Birendra Sahu and came to lodge the report. Based on the written complaint, FIR Ex.P2 was registered for the offence under Sections 294, 506 and 323 of the IPC.

4. Complainant was sent for his medical examination to the Government Hospital, Thankhamariya, district-Bemetara, where he was medically examined by Dr.Yash Shrivastav, PW6, who after the examination, gave report Ex.P6. While medically examining the

complainant, the doctor has noticed one lacerated wound on parietal region of scalp on the head, one abrasion on frontal region on midline, lacerated wound on middle finger phalynx of right hand. The complainant was referred for x-ray of his right hand, and NCCT of head for internal brain injury and opinion was reserved regarding nature of injuries. Spot Map Ex.P3 was prepared by the Police. The accused was arrested and bamboo club has been seized from him vide seizure memo Ex.P5. The said bamboo club was sent for its query report to the doctor, PW6 and also for query of nature of injuries and its affect on the body. The doctor has opined in his query report Ex.P7 that injury-1 and 3 are grievous in nature, and injury-2 is simple in nature, injury-1 endangerous to the life of subject, and all the injuries might have been caused by the danda which has been sent for its examination.

5. After recording statement of the witnesses, and completion of the investigation, charge-sheet was filed against the accused before the learned JMFC Saja, District-Bemetara for the offence 294, 506, 323, 325 and 307 of the IPC.

6. The case was committed to the court of learned Sessions Judge, Bemetara for its trial. The learned Sessions Judge framed charge against the accused for the offence under Section 307 of the IPC. Accused denied the charge and claimed trial.

7. In order to prove the charge against the accused, prosecution has examined as many as six witnesses. Statement of the accused under

Section 313 has also been recorded in which he denied the circumstances appearing against him and pleaded innocence and submitted that he has been falsely impleaded in the offence.

8. After appreciation of oral as well as documentary evidence led by the prosecution, learned trial Court has acquitted the accused/respondent from the alleged offence. Hence, this acquittal appeal as well as application for grant of leave to file the appeal.

9. Learned counsel for the petitioner/appellant would submit that prosecution has proved its case beyond any reasonable doubt. The complainant, PW1 has duly supported the prosecution case, and injuries have been found on his body. The injuries of the complainant have been proved by the doctor, PW6- Dr Yash Shrivastav. He would further submit that there is case and counter case against both the parties, which directly implicate the accused in the offence in question. Although the other witnesses have not supported the prosecution case, but from the evidence of complainant, who is an injured witness, prosecution proved its case beyond any reasonable doubt. As per the query report Ex.P7, the injuries found on the body of complainant are grievous in nature, which were on the vital part of the body i.e. head, and therefore, acquittal of respondent/accused from the offence is bad in law. There is no reason for false implication of the respondent/accused as there was quarrel between the parties. Therefore, the impugned judgment of acquittal suffers from perversity and illegality and leave to appeal may be granted

to the appellant/State and the Acquittal Appeal may be heard on merits as there is sufficient ground for grant of leave to appeal and to hear the appeal on merits.

10. We have heard learned counsel appearing for the State and perused the record of the trial Court.

11. From perusal of the impugned judgment passed by the learned trial court, it transpires that the case of the prosecution solely based on the evidence of PW1, who was injured in the case. The other witnesses, PW2-Ubhayram, PW3-Omkar and PW4-Vishnu Sahu have not supported the prosecution case.

12. Learned trial Court has also considered that there was a free fight between the parties and by holding that the prosecution has failed to prove its case beyond any reasonable doubt, and acquitted the accused/respondent. When this Court was examining the evidence of PW1-Laxman Sahu who is complainant in the case, it is found that he fell down from the two wheeler vehicle-Scooty when he was going to his field and the accused/respondent assaulted him by danda. There is some inconsistency in his written complaint as well as the Court statement.

13. In his written complaint, complainant-Laxman Sahu stated that when he was going to his field on his scooty, the accused assaulted him by danda. At nowhere he stated that he fell down from the vehicle. In the deposition, he stated that when he was going by his scooty, on being

assault made by the accused, he fell down from the scooty. Even after falling down from the scooty, accused/respondent assaulted him on various parts of his body, by which he received injuries. In written complaint Ex.P1, he stated that the incident was witnessed by Ubhayram and his son Dheeraj Kumar .

14. Ubhayram has been examined as PW2 and Dheeraj Kumar has turned hostile, not supported the prosecution case and he has not been examined. The complainant- PW1 has admitted in his cross-examination that on the report lodged by the accused/respondent, he was also prosecuted for the offence. The evidence of the complainant that he was also being prosecuted on the report lodged by the accused/respondent was supported by the evidence of PW2-Ubhayram, though he turned hostile but before declaring him hostile, he stated in his evidence that he saw the quarrel between the complainant and accused and thereafter, he went inside of his house. He denied that the accused/respondent assaulted the complainant by danda. PW3 Omkar and PW4-Vishnu Sahu have not stated anything about the incident and they are the formal witness of the spot map Ex.P3, and seizure memo of danda Ex.P5.

15. PW6-Dr Yash Shrivastav has stated about the injuries found on the body of the injured Laxman Sahu. However, in the cross-examination, he admitted that the injuries found on his finger were simple in nature and the injury found on the head is not sufficient to cause death on its own. He further admitted that the injuries found on the body of the

complainant should have been caused by scuffling between two persons. He further admitted that on the same day, he also medically examined the accused /respondent and he was being informed that there was scuffle and quarrel between the complainant and respondent.

16. From perusal of the evidence produced by the prosecution it transpires that there was scuffling and quarrel between the complainant and respondent. Though certain injuries have been found on the body of the complainant, and as per the evidence of the doctor, certain injuries have also been found on the body of the accused/respondent, and the injuries found on the body of the complainant- Laxman Sahu, could have been also caused by the said scuffling between the two persons. The deposition of the complainant has not been supported by any eyewitness as has been disclosed by him in his written complaint EX.P1.

17. Learned trial Court, on the basis of quality evidence produced by the prosecution, does not find it sufficient to hold conviction of the accused, and by holding that the prosecution has failed to prove its case beyond any reasonable doubt that the accused has attempted to commit murder of the complainant and has acquitted from the offence of Section 307 of the IPC which, in the opinion of this Court, does not suffer from any perversity, or any illegality .

18. The learned trial Court has also elaborately considered the evidence available on record, and has acquitted the accused/respondent,

holding that the prosecution could not establish its case, and acquitted him by giving benefit of doubt.

19. Applying the law governing the scope of interference in an appeal of acquittal, Hon'ble Supreme Court, in case of **State of Rajasthan Vs. Kistoora Ram**, 2022 SCC On Line SC 984, has held as under:

“8. The scope of interference in an appeal against acquittal is very limited. Unless it is found that the view taken by the Court is impossible or perverse, it is not permissible to interfere with the finding of acquittal. Equally if two views are possible, it is not permissible to set aside an order of acquittal, merely because the Appellate Court finds the way of conviction to be more probable. The interference would be warranted only if the view taken is not possible at all.”

20. Yet in other matter of **Jafarudheen and Others Vs. State of Kerala**, 2022 (8) SCC 440, Hon'ble Supreme Court has considered the scope of interference in appeal against acquittal in paragraph-25 as under:

“25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC, the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double

presumption that ensures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

21. After considering the material available on record, as well as the elaborate judgment passed by the trial Court and being very much conscious about the legal position as held by Hon’ble Supreme Court in cases of **Kistoora Ram** (supra), and **Jafarudheen** (supra), in an appeal against the acquittal, if two views are possible on the basis of evidence led by the prosecution, and the trial Court taking one view, revert the accused, the version of the finding of acquittal by the appellate Court taking the other possible view for consideration, is not permissible in the law. This Court, therefore, of the considered opinion that the judgment impugned, acquitting the accused/respondent, is just and proper and does not call for any interference.

22. Accordingly, application for grant of leave to appeal under Section 378(3) of the CrPC filed by the State against the impugned judgment of acquittal of the accused/respondent, as also the appeal is hereby dismissed.

23. Record of the trial court along with copy of this judgment be sent back to the trial Court concerned.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice