

**NAFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 1559 of 2024**

**1** - Kanhaiya @ Narendra Patel S/o. Shri Raghuwar Patel Aged About 32 Years Profession Agriculture, R/o. Village - Timarlaga, P.S. Sarangarh, District - Sarangarh-Bilaigarh (C.G.)

**2** - Haricharan Patel S/o. Late Sitaram Patel Aged About 44 Years Profession Agriculture, R/o. Village - Timarlaga, P.S. Sarangarh, District - Sarangarh-Bilaigarh (C.G.)

**3** - Loknath Patel S/o. Shri Ramlal Patel Aged About 41 Years Profession Agriculture, R/o. Village - Timarlaga, P.S. Sarangarh, District - Sarangarh-Bilaigarh (C.G.)

**4** - Lalsay Nishad @ Lalu S/o. Shri Jalandhar Nishad Aged About 25 Years Profession Labour, R/o. Village - Timarlaga, P.S. Sarangarh, District - Sarangarh-Bilaigarh (C.G.)

**... Appellants****versus**

**1** - State Of Chhattisgarh Through The P.S. Sarangarh, District - Sarangarh-Bilaigarh (C.G.)

**... Respondent**


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For appellants No. 1, 3 and 4 : Mr. T.K. Jha, Adv. & Mr. Parth Kumar Jha, Adv.

For appellant No. 2 : Ms. Pooja Loniya, Adv. & Mr. Aishwary Diwan, Adv.

For State/respondent : Mr. Ashish Shukla, Addl. A.G. & Amit Verma, P.L.

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**Hon'ble Shri Justice Sanjay Kumar Jaiswal****Order/Judgment on Board**



**21/01/2026**

1. The present criminal appeal under Section 415 of CrPC has been preferred by appellants against the judgment of conviction and order of sentence dated 13.08.2024 passed by the learned Special Judge (Atrocities Act), Raigarh, District – Raigarh (C.G.) in Special Criminal Case (Atrocities Act) No. 31/2019 whereby the appellants have been convicted and sentenced as under:

| <b>Conviction</b>                                                                                          | <b>:</b> | <b>Sentence</b>                                                                                                 |
|------------------------------------------------------------------------------------------------------------|----------|-----------------------------------------------------------------------------------------------------------------|
| U/s 147 of IPC                                                                                             | :        | RI for 1 year (five times)                                                                                      |
| U/s 353 r/w Section 149 and 186/149 of IPC<br>(However, sentenced only for the offence u/s 353/149 of IPC) | :        | RI for 1 year (five times)                                                                                      |
| U/s 332 r/w Section 149 of IPC                                                                             | :        | RI for 2 years (five times)                                                                                     |
| U/s 341 r/w Section 149 of IPC                                                                             | :        | Fine of Rs. 100/- (five times) and in default of payment of fine additional R.I. for 1 day (5 day)              |
| U/s 307 r/w Section 149 of IPC (in respect of complainant Mayank Chaturvedi)                               | :        | RI for 10 years and fine of Rs. 10,000/- and in default of payment of fine amount additional R.I. for 6 months. |

(All the sentences were directed to run concurrently).

2. The case of prosecution, in brief, is that in compliance of the Raigarh Collector's order to track down the illegal mining a search team was constituted comprising of Assistant Collector Mayank Chaturvedi (PW-10), Shivshankar Naag (Deputy Director, Mining



Department/PW-12), Rakesh Verma, Revenue Inspector (PW-3), Ghanshyam Diwan (Driver/PW-7) & Nilambar Yadav (Driver of Assistant Collector/PW-9). In the intervening night of 11.04.2019 to 12.04.2019 at about 12:30 am, when the search team was travelling from Raigarh to Sarangarh and had reached near the Village Timarlaga, they all heard the noises of heavy vehicles used for mining purpose and therefore, they all went near the mining spot and found that the illegal mining of Dolomite was carried out. After some time, a person named Amrit Patel came out of that illegal mine along with some other persons on their motorcycles. The complainant/ Asst. Collector Mayank Chaturvedi (PW-10) had informed the accused Amrit Patel about his identity and asked him to stop and cooperate in the Governmental enquiry. Hearing this, the accused got angered and started using abusive language. On informing the accused persons that they are obstructing the public servant, which is an offence, the accused Amrit Patel got angered and told the driver of JCB, namely Lalsay Nishad, to hit the Bucket of JCB over the Govt. Vehicle and so was driven by the JCB Driver. At the very same time, the accused Amrit Patel also stepped up on the JCB and, by holding the collar of the complainant, pushed the complainant, due to which he fell near the JCB tyre and the JCB driver tried to drive the JCB over the complainant, but somehow the complainant saved himself. On the basis of the complaint, FIR was registered, and after due investigation, charge sheet was filed against the present appellants.

**3.** During the trial, the main accused, Amrit Patel, died; therefore, the case against Amrit Patel had abated.



**4.** The prosecution has in all examined 14 witnesses and exhibited 27 documents to prove its case. The accused persons were examined under Section 313 CrPC, abjured the guilt and pleaded false implication. After conclusion of trial and considering the evidence of prosecution witnesses and material available on record, learned Trial Court by impugned judgment, acquitted the appellants for the offence punishable under Sections 3(2)(v) of SC & ST (Prevention of Atrocities) Act. However, the appellants have been convicted and sentenced as mentioned above. Hence, the appeal.

**5.** At this stage, learned counsels for the appellants submit that he does not challenge the finding of conviction but since the occurrence is related to the year 2019 and the appellants have already been served the jail sentence of 1 year and 8 to 10 months. The main accused, Amrit Patel, has died. The appellants are not highly educated; they are laborers by profession. The injuries sustained by the victim are simple in nature. Therefore, they pray that the sentence awarded to the appellants for the aforesaid offences may be reduced to the period already undergone by them.

**6.** Per contra, learned State Counsel supports the impugned judgment and opposes the arguments advanced on behalf of the Appellants. He submits that appellant No. 1 has one criminal antecedent for the offence under Sections 341, 294 & 387 of IPC and appellants No. 2 and 3 have also one criminal antecedent for the offence under Section 5 of the Explosive Substance Act.



**7.** I have heard learned counsel for the parties and have also perused the material available on record including the impugned judgment.

**8.** Dr. Ritesh Sen (PW-2) conducted the MLC of injured Mayank Chaturvedi (PW-10) and gave his report vide Ex.P-2. According to the MLC report (Ex.P-2) following injuries were found on the body of the injured:-

1. A cut/abrasion above the left eye, measuring 0.5x05. Cm and red in colour.
2. A contusion on the right arm, measuring 4x4 cm and read in colour.
3. A contusion below the right elbow, measuring 5x5 cm and read in colour.
4. Swelling on the front of the left leg below the knee, measuring 5x5 cm.

Dr. Ritesh Sen (PW-2) opined that all the above injuries were caused by a hard and blunt object. All the injuries are minor in nature and will heal within 7-10 days if not infected.

**9.** Having gone through the material available on record and the statements of witnesses Dr. Ritesh Sen (P.W.2), Rakesh Verma (P.W.3), Shivkumar Dewangan (P.W.6), Munendra Datta Joshi (P.W.8), Mayank Chaturvedi (P.W.10), G.S. Dubey (P.W.11), Shivshankar Nag (P.W.12), Prakashchand Sahu (P.W.13) and Jitendra Khunte (P.W.14), establish the involvement of the appellants in crime in question, this Court does not find any illegality or infirmity in the findings recorded by the trial Court as regards the conviction of the appellants for the offence punishable under Sections 147, 186/149,



353/149, 332/149, 341/149 and 307/149 of IPC and it is hereby affirmed.

10. However, as regards sentence, in **Mohammad Giasuddin v. State of Andhra Pradesh (1977) 3 SCC 287**, Hon'ble Supreme Court while emphasizing the reformatory approach has expounded the words expressed by George Bernard Shaw : "If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries". Para-9 of the said judgment is quoted below :

"9. Western jurists and 'sociologists, from their own angle have struck a like note. Sir Samuel Romilly, critical of the brutal penalties in the then Britain, said in 1817 :

"The laws of England are written in blood". Alfieri has suggested : 'society prepares the crime, the criminal commits it'. George Nicodotis, Director of Criminological Research Centre, Athens, Greece, maintains that 'Crime is the result of the lack of the right kind of education.' It is thus plain that crime is a pathological aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturation. Therefore, the focus of interest in penology is the individual, and goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defense. We, therefore consider a therapeutic, rather than an in 'terrorem' outlook, should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind. In the words of George Bernard Shaw : 'If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and, men are not improved by injuries'. We may permit ourselves the liberty to quote from Judge Sir Geoffrey Streatfield : "If you are going to have anything to do with the criminal Courts, you should see for yourself the



conditions under which prisoners serve their sentences.”

**11.** Applying the analogy laid down in **Mohammad Giasuddin** (supra) and keeping in view the fact that the maximum sentence imposed upon the appellants is 10 years under Section 307/149 of IPC and the appellants are in jail since 13.08.2024 and as per the Arrest Memo (Ex.P.6), appellant Kanhaiya has studied upto 8th class; he is a farmer, Arrest Memo (Ex.P.20) appellant Haricharan Patel has studied upto 8th class; he is a farmer, Arrest Memo (Ex.P.22) appellant Loknath Patel has studied upto 10th class; he is a farmer & Arrest Memo (Ex.P.21) appellant Lalsay Nishad has studied upto 10th class; he is a labourer, the incident occurred about six years ago, the appellants have their family liabilities, and the injured sustained simple injuries and thus looking to the over-all circumstances it will be just and proper if the sentence of 10 years RI awarded by the trial court for offence under Section 307/149 IPC is reduced to 2 years & 6 months RI.

**12.** Accordingly, the conviction u/s 307/149 IPC of each of the appellants is maintained, and the sentence is reduced from 10 years' R.I. to 2 years & 6 months' R.I. for each of the appellants. However, the sentence of fine imposed by the trial Court shall remain intact. Further, the conviction and sentence of each of the appellants for the offences under Sections 147, 186/149, 353/149, 332/149 & 341/149 are hereby maintained.

**13.** The period of total custody shall be set off against the jail sentence. The appellants have served the jail sentence for the period as under:-



| <b>Name of the Appellant</b> | <b>Custody Period</b>                                                                                         | <b>Total custody period</b>   |
|------------------------------|---------------------------------------------------------------------------------------------------------------|-------------------------------|
| 1. Kanhaiya @ Narendra Patel | From 16.05.2019 to 22.08.2019 (3 months & 6 days)<br>From 13.08.2024 to 21.01.2026 (1 year, 5 months, 7 days) | 1 year, 8 months and 13 days. |
| 2. Haricharan Patel          | From 28.05.2019 to 27.08.2019 (3 months)<br>From 13.08.2024 to 21.01.2026 (1 year, 5 months, 7 days)          | 1 year, 8 months and 7 days.  |
| 3. Loknath Patel             | From 28.05.2019 to 27.08.2019 (3 months)<br>From 13.08.2024 to 21.01.2026 (1 year, 5 months, 7 days)          | 1 year, 8 months and 7 days.  |
| 4. Lalsay Nishad @ Lalu      | From 28.05.2019 to 05.10.2019 (4 months, 8 days)<br>From 13.08.2024 to 21.01.2026 (1 year, 5 months, 7 days)  | 1 year, 9 months and 15 days. |

**14.** The order to confiscate the seized vehicles i.e. a JCB bearing Identification No. HAR3DXXTV02714769, a motorcycle bearing registration No. CG-13-AE-8254, and a Hyundai Creta car bearing Engine No. GAFGJUS17622 Model CRETA 16 VTVT SX (0), Chassis No. MALC 381 CLJM481033, KEY No. P1710 is hereby set aside. The JCB was in the custody of Prakash Patel, and the motorcycle was in the custody of Haricharan Patel, which shall remain as it is, and the vehicles shall be considered released in their favour. The Hyundai Creta bearing Engine No. GAFGJUS17622 will be handed over to the registered owner or his/her legal heirs after due verification.



**15.** In the result, the appeal is **allowed in part** to the extent indicated here-in-above.

**16.** Let a certified copy of this order along with the original record be transmitted to the concerned trial Court forthwith for information and necessary action. A copy of this judgment be also sent to the concerned Superintendent of Jail where the appellants are undergoing jail sentence.

Sd/-

**(Sanjay Kumar Jaiswal)**  
**Judge**

H.L. Sahu