



2026:CGHC:9466-DB



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 309 of 2017

State of Chhattisgarh, through P. S. Raghunath Nagar, District Balrampur-Ramanujganj, (C.G.).

... Appellant

Versus

1 - Harinath Singh, S/o Late Jeendlal, aged about 48 years, R/o Village Chanwarsarai, P. S. Raghunath Nagar, District Balrampur- Ramanujganj, (C.G.).

2 - Sitaram, S/o Harinath Gond, aged about 24 years, R/o Village Chanwarsarai Bhutaiyapara, P. S. Raghunath Nagar, District Balrampur-Ramanujganj, (C.G.).

3 - Rajaram, S/o Harinath Gond, aged about 22 years, R/o Village Chanwarsarai Bhutaiyapara , P. S. Raghunath Nagar, District Balrampur-Ramanujganj, (C.G.).

4 - Arvind Kumar, S/o Manikchand Gond, aged about 24 years, R/o Village Chanwarsarai Bhutaiyapara, P. S. Raghunath Nagar, District Balrampur-Ramanujganj, (C.G.).

5 - Manikchand, (Died) and Deleted as per Hon'ble Court Order Dated 17-11-2025

... Respondents

(Cause title is taken from Case Information System Software.)

For State/Appellant : Mr. Atanu Ghosh, Dy. G.A.

For Respondents : Mr. Tanuj Patwardhan, Advocate.

Hon'ble Smt. Justice Rajani Dubey, J.

Hon'ble Shri Justice Radhakishan Agrawal, J.

Judgment on Board

Per, Rajani Dubey, J.

24/02/2026



1. This acquittal appeal has been preferred by the State/appellant against the impugned judgment of acquittal dated 17.05.2017 passed by the Additional Sessions Judge, Ramanujganj, District- Sarguja (C.G.) in Sessions Trial No. 33/2016, whereby the accused/respondents were acquitted of the charge levelled against them under Sections 147, 148, Section 323 in alternate Section 323/149, Section 307 in alternate Section 307/149 of IPC.
2. Brief facts of the case as adumbrated are that the complainant Jitendra Kushwaha informed at the Raghunath Nagar Police Station on 07.07.2015 alleging that on 07.07.2015 at about 9 am, Sitaram Gond started cultivating complainant's land with a plough and bullocks which was already ploughed by the complainant. When the complainant went to plough with his tractor, he asked Sitaram as to why he was cultivating his land, on this issue a debate started between the complainant and Sitaram. At the same time, the accused and other co-accused persons constituted unlawful assembly being armed with sticks in their hands. The complainant's uncle Ramchandra had gone to the field to plough with a tractor, when the complainant called him on mobile phone, his uncle Ramchandra came running there and along with him his cousin Raghubir Kushwaha too came and they tried to convince them, all the accused started fighting and started assaulting the complainant, his uncle and cousin Raghubir Kushwaha with sticks and spear in their hands and voluntarily inflicted injuries upon them. The co-accused Rajaram and Harinath assaulted the complainant with sticks due to which the complainant sustained injuries on his back, left wrist and right wrist. Rajaram, Arvind, Harinath and Manikchand assaulted the complainant's uncle Ramchandra with sticks due to



which his head got cracked and he was bleeding profusely, his right hand got torn near the thumb, he also sustained injuries on his back, waist and palm. Sitaram, Harinath and Arvind assaulted the complainant's cousin Raghubir Kushwaha too with sticks. Hearing the victims' cries for help, Babunandan Kushwaha, Gopi Kushwaha, and Santosh Kushwaha rushed to the scene to rescue them, causing the assailants to flee. As such, on the basis of the above information, the crime was found to have occurred and hence the Raghunath Nagar Police Station registered an F.I.R. against the accused persons under Crime No. 35/15 for offence punishable under Sections 147, 148, 149, 307 and 323 of IPC and the matter was taken up for investigation. During the course of investigation, the injured Jitendra Kushwaha, Ramchandra Kushwaha and Raghu Kumar Kushwaha were medically examined and their X-Ray was done. A spot map of the incident was prepared and the statements of the witnesses were recorded. According to the seizure memo, a bamboo stick was seized from the accused Rajaram, and a wooden stick called Kari from the accused Arvind. The seized articles were confiscated and the accused persons were found to have committed crime under Sections 147, 148, 149, 307 and 323 of IPC and were duly arrested.

3. After completion of due and necessary investigation, charge-sheet was filed against the accused persons before the concerned Jurisdictional Magistrate, who, in turn, committed the case for trial. On the basis of the material contained in the charge-sheet, learned trial Court acquitted the accused/respondents of all the charges levelled against them. Hence, this appeal filed by the State/appellant.



4. Learned counsel for the State/appellant submits that the learned trial Court has failed to appreciate the evidence brought on record by the prosecution in its true perspective and has reached to an erroneous conclusion as regard to many issues and aspects in the matter. This erroneous appreciation of evidence and conclusion has led to erroneous acquittal of the respondents and thus has resulted into miscarriage of justice. The learned trial Court has failed to appreciate the medical evidence available on record specifically the medical evidence in respect of Ramchandra, who had suffered inter alia the injury of lacerated wound from frontal bone to parietal bone and on occipital bone on his head about which the Doctor had initially opined that this injury was dangerous to his life. The learned trial Court has utterly failed to consider the medical report in respect of other injured persons also in the case and erroneously and ignoring the evidence which had given on the record, it reached to the conclusion of acquittal of the respondents/accused. The learned trial Court has wrongly and erroneously appreciated the fact as regard to the alleged aggression by the victims Jitendra, Ramchandra and Raghuveer and reached to the conclusion that the respondents/accused caused injuries in exercise of their right to self defence and defence of property. The learned trial Court has completely failed to appreciate and correctly apply the principle of right of self defence and defence of property in the facts and circumstances of present case. The injuries suffered by the victims in the present case are so grievous in nature especially the injuries of Ramchandra, that it could not have been termed as simple injuries. Therefore, it was totally erroneous on the part of the learned trial Court to reach to the conclusion that in the case at hand, the



injuries caused to the victims were simple in nature and such injuries have been caused only while exercising the right of self defence and defence of property. The learned trial Court gave erroneous reasons in the impugned judgment and reached to the conclusion of acquittal of the accused/respondents and the same cannot be sustained in law. Therefore, looking to the facts and circumstances of the case, the judgment and finding of the learned trial Court is perverse and is liable to be set aside.

5. *Per contra*, learned counsel for accused/respondent supported the impugned judgment and submits that the learned trial Court upon due appreciation of oral and documentary evidence rightly acquitted the respondents/accused persons of the aforesaid charges levelled against them, as such, there is no need to interfere with the impugned judgment.
6. Learned counsel for the respondents places reliance on the decision of Hon'ble Apex Court in the matter of ***Rakesh Dutt Sharma v. State of Uttarakhand*** reported in ***Criminal Appeal No. 1461 of 2012***.
7. We have heard learned counsel for the parties and perused the material available on record.
8. It is clear from the record of the learned Trial Court that it framed charges against the accused/respondents under Sections 147, 148, Section 323 in alternate Section 323/149, Section 307 in alternate Section 307/149 of IPC and after appreciation of oral and documentary evidence available on record, the learned Trial Court acquitted the respondents of all charges on this ground that the prosecution has failed to prove its case beyond all reasonable doubts.



9. PW-01 Jitendra Kushwaha has stated that on the date of incident i.e., on 07.07.2015 he was cultivating his field, at that time, the accused Sitaram came to his field and dispute arose between them with regard to cultivating of the field. At the same time, the accused and other co-accused persons constituted unlawful assembly being armed with sticks in their hands. The complainant's uncle Ramchandra had gone to the field to plough with a tractor, when the complainant called him on mobile phone, his uncle Ramchandra came running there and along with him his cousin Raghubir Kushwaha too came and they tried to convince them, all the accused started fighting and started assaulting the complainant, his uncle and cousin Raghubir Kushwaha with sticks and spear in their hands and voluntarily inflicted injuries upon them. The co-accused Rajaram and Harinath assaulted the complainant with sticks due to which the complainant sustained injuries on his back, left wrist and right wrist. Rajaram, Arvind, Harinath and Manikchand assaulted the complainant's uncle Ramchandra with sticks due to which his head got cracked and he was bleeding profusely, his right hand got torn near the thumb, he also sustained injuries on his back, waist and palm. Sitaram, Harinath and Arvind assaulted the complainant's cousin Raghubir Kushwaha too with sticks. Hearing the victims' cries for help, Babunandan Kushwaha, Gopi Kushwaha, and Santosh Kushwaha rushed to the scene to rescue them, causing the assailants to flee. Thereafter, the complainant had lodged an F.I.R. vide Ex. P/01 at Police Station Raghunath Nagar, spot maps of the incident were prepared vide Ex. P/02 and Ex. P/03. He further denied the suggestion that the disputed land was in possession of the accused/respondents.



Para 15 and para 16 of his cross-examination statements are reproduced hereunder for ready reference:-

" 15 .यह कहना गलत है कि कभी हम लोग खेती किये है। यह कहना गलत है कि आरोपीगण को हम लोग कमजोर आदिवासी समझ कर उनका जमीन हडपना चाहते है। यह कहना सही है कि घटना के दिन सीताराम झगडे वाले जमीन पर हर वर्ष की भाति हल चला रहा था। "

16 .यह कहना सही है कि घटना के दिन उसी समय जब सीताराम हल जोत रहा था मैं अपना टेक्टर ले कर वहां जोतने पहुंच गया था। यह कहना सही है कि मैं भी उस खेत को जोतने लगा। यह कहना सही है कि इस पर सीताराम मुझे मना किया। यह कहना गलत है कि सीताराम के पिता हरिनाथ ने मुझे मना किया था। "

10. PW-02 Ramchandra has supported the statement of PW-01 and stated that all the accused persons assaulted him with sticks due to which he sustained injuries on his head and became unconscious. In cross-examination he admitted this suggestion that disputed land was not in their name and on the date of incident, the accused Sitaram was cultivating the disputed land and at that time, Jitendra Kushwaha went to the field with the tractor. In para 18 of his cross-examination, he admitted that " *आरोपीगण के रिपोर्ट पर हम लोग के विरुद्ध थाना रघुनाथनगर में गाली गलौज मारपीट टेक्टर से दबाने का अनुसूचित जनजाति क तहत् प्रकरण पंजीबद्ध है।* " .
11. PW-03 Babunandan has stated that on the date of incident, Sitaram was cultivating his field, at that time Jitendra Kushwaha came with a tractor and caused injury. The prosecution declared him hostile and cross-examined him, but he denied all suggestion of the prosecution and admitted this suggestion of defence that on the disputed land, the accused/respondents were in possession since long and on the date of incident, the complainant were trying to dispossess them.



12. PW-05 Dr. Shashank Gupta has examined the injured Jitendra Kushwaha and found three simple injuries and gave his report vide Ex. P/14. He also examined Ramchandra and found six injuries and advised him for CT Scan as per his report vide Ex. P/15. He also examined Raghu Kumar and found simple injuries as per his report vide Ex. P/16. He also stated that as per X-Ray report, no fracture was found of Ramchandra.
13. PW-06 Santosh Kumar, PW-07 Sant Kumar, PW-09 Gopichand have not supported the prosecution case. The prosecution declared them hostile and cross-examined them, but they denied all suggestions of the prosecution. PW-08 Raghu Kumar supported the statement of complainant and has stated that all the accused persons have assaulted them and he also sustained injuries.
14. It is evident that the learned trial Court has minutely appreciated the oral and documentary evidence including the medical evidence and finds that the complainant are aggressor of the crime and the accused/respondents have assaulted them in their defence. The Investigating Officer PW-10 A.S.I. Kripal Singh has admitted this suggestion of defence that on the same incident, the case was registered against the complainant Jitendra Kushwaha and Ramchandra under Sections 294, 506, 323 of IPC and Section 3 (1) (x) of The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989. The respondent/accused Sitaram has examined himself as DW-01 and he filed certified copy of counter case vide Exs. D/01 to D/10, so it is clear that on the date of incident the



respondents/accused were in possession of the disputed land and the complainant were trying to dispossess them.

15. Hon'ble Apex Court in the matter of Rakesh Dutt Sharma (supra) has held in para 07 which reads as thus :-

"7.Considering the principle governing the right of private defence, this Court, in Darshan Singh (supra) was pleased to hold as under:

"54. In Vidhya Singh v. State of Madhya Pradesh, (1971)3 SCC 244, the court observed that:

"18. The right of self-defence is a very valuable right, serving a social purpose and should not be construed narrowly. Situations have to be judged from the subjective point of view of the accused concerned in the surrounding excitement and confusion of the moment, confronted with a situation of peril and not by any microscopic and pedantic scrutiny. In adjudging the question as to whether more force than was necessary was used in the prevailing circumstances on the spot it would be inappropriate, as held by this court, to adopt tests by detached objectivity which would be so natural in a court room, or that which would seem absolutely necessary to a perfectly cool bystander. The person facing a reasonable apprehension of threat to himself cannot be expected to modulate his defence step by step with any arithmetical exactitude of only that much which is required in the thinking of a man in ordinary times or under normal circumstances."



55. In *Jai Dev v. State of Punjab*, AIR 1963 Supreme Court 612

the court held as under:

"13.....as soon as the cause for the reasonable apprehension has disappeared and the threat has either been destroyed or has been put to rout, there can be no occasion to exercise the right of private defence.

56. In order to find out whether right of private defence is available or not, the injuries received by the accused, the imminence of threat to his safety, the injuries caused by the accused and the circumstances whether the accused had time to have recourse to public authorities are all relevant factors to be considered.

57. In *Buta Singh v. The State of Punjab*, (1991)2 SCC 612, the court noted that:

"10.....a person who is apprehending death or bodily injury cannot weigh in golden scales in the spur of moment and in the heat of circumstances, the number of injuries required to disarm the assailants who were armed with weapons. In moments of excitement and disturbed mental equilibrium it is often difficult to expect the parties to preserve composure and use exactly only so much force in retaliation commensurate with the danger apprehended to him where assault is imminent by use of force, it would be lawful to repel the force in self-defence and the right of private-defence commences, as soon as the threat



becomes so imminent. Such situations have to be pragmatically viewed and not with high-powered spectacles or microscopes to detect slight or even marginal overstepping. Due weightage has to be given to, and hyper technical approach has to be avoided in considering what happens on the spur of the moment on the spot and keeping in view normal human reaction and conduct, where self- preservation is the paramount consideration. But, if the fact situation shows that in the guise of self-preservation, what really has been done is to assault the original aggressor, even after the cause of reasonable apprehension has disappeared, the plea of right of private defence can legitimately be negated. The court dealing with the plea has to weigh the material to conclude whether the plea is acceptable. It is essentially, as noted above, a finding of fact.

58. The following principles emerge on scrutiny of the following judgments:

(i) Self-preservation is the basic human instinct and is duly recognised by the criminal jurisprudence of all civilised countries. All free, democratic and civilised countries recognise the right of private defence within certain reasonable limits.



(ii) The right of private defence is available only to one who is suddenly confronted with the necessity of averting an impending danger and not of self-creation.

(iii) A mere reasonable apprehension is enough to put the right of self defence into operation. In other words, it is not necessary that there should be an actual commission of the offence in order to give rise to the right of private defence. It is enough if the accused apprehended that such an offence is contemplated and it is likely to be committed if the right of private defence is not exercised.

(iv) The right of private defence commences as soon as a reasonable apprehension arises and it is co-terminus with the duration of such apprehension.

(v) It is unrealistic to expect a person under assault to modulate his defence step by step with any arithmetical exactitude.

(vi) In private defence the force used by the accused ought not to be wholly disproportionate or much greater than necessary for protection of the person or property.

(vii) It is well settled that even if the accused does not plead self-defence, it is open to consider such a plea if the same arises from the material on record.

(viii) The accused need not prove the existence of the right of private defence beyond reasonable doubt.



(ix) The Indian Penal Code confers the right of private defence only when that unlawful or wrongful act is an offence.

(x) A person who is in imminent and reasonable danger of losing his life or limb may in exercise of self defence inflict any harm even extending to death on his assailant either when the assault is attempted or directly threatened.”

16. In the light of the above cited judgment and in the present case, the learned Trial Court rightly finds that the respondents have their right to private defence and accordingly acquitted the accused/respondents of the charges levelled against them. So, the finding recorded by the learned Trial Court is based on proper appreciation of oral and documentary evidence.

17. The Hon'ble Apex Court in its **judgment dated 12.02.2024** passed in **Criminal Appeal No.1162 of 2011**) in case of **Mallappa and Ors. Versus State of Karnataka**, has held in para 36 as under:-

“36. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarized as:-

“(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive inclusive of all evidence, oral and documentary;

(ii Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;

(iii If the Court, after appreciation of evidence, finds that two views are possible, the one in



favour of the accused shall ordinarily be followed;

(iv) If the view of the Trial Court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;

(v) If the appellate Court is inclined to reverse the acquittal in appeal on a re-appreciation of evidence, it must specifically address all the reasons given by the Trial Court for acquittal and must cover all the facts;

(vi) In a case of reversal from acquittal to conviction, the appellate Court must demonstrate an illegality, perversity or error of law or fact in the decision of the Trial Court."

18. Considering the facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in **Mallappa** (supra) and the view which has been taken by the learned trial Court appears to be plausible and possible view and in the absence of any patent illegality or perversity this Court is not inclined to interfere with the impugned judgment.
19. Accordingly, the acquittal appeal is devoid of any merit and the same is liable to be and is hereby **dismissed**.

Sd/-
(Rajani Dubey)
JUDGE

Sd/-
(Radhakishan Agrawal)
JUDGE