

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (D.B.) No. 524 of 1997(P)

[Against the Judgment of conviction dated 11.09.1997 and Order of sentence dated 19.09.1997 passed by learned 5th Additional Sessions Judge, Dumka, in Sessions Case No.154 of 1990 / 42 of 1990]

1. Kapoor Manjhi, son of late Inder Manjhi.
 2. Mahender Manjhi, son of Kapoor Manjhi.
 3. Birender Manjhi, s/o Kapoor Manjhi.
 4. Subek Manjhi, s/o Kapoor Manjhi.
 5. Prabhu Mandal, son of late Kishun Mandal.
 6. Pheku Mandal, s/o Tarni Mandal.
 7. Tapan Mandal, s/o Ramu Mandal.
 8. Murlidhar Mandal, s/o Ramu Mandal.
 9. Mangru Mandal, son of late Antu Mandal.
 10. Pradip @ Ranjeet Mandal, s/o Thakur Mandal.
 11. Kritiyanand Mandal, son of Ramu Mandal.
- All resident of village Sahara, P.O. Taljhari, Dist. Dumka.
- **Appellants**
- Versus
- The State of Bihar (now Jharkhand) **Respondent**

P R E S E N T

HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

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For the Appellants	: Mrs. Vani Kumari, Amicus Curiae
For the Respondent	: Mrs. Nehala Sharmin, Spl. P.P.

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C.A.V. on 20.12.2025 Pronounced on 22/01/2026

Per Sujit Narayan Prasad, J.

1. At the outset it needs to be mentioned that out of 17 appellants herein, appellant namely Ramu Mandal, Balbhadar Mandal, Basudeo Mandal, Sargun Mandal, Mahabir Manjhi and appellant Thakur Mandal died during pendency of the instant appeal. No leave has been sought by any of the legal heirs/close relatives of the deceased appellants in terms of section 394 of the Cr. P.C. *pari materia* to section 435 of the BNSS, accordingly, the Co-ordinate

Bench of this Court vide order dated 20.12.2025 had abated the appeal of the aforesaid appellants.

2. The instant appeal is directed against the Judgment of conviction dated 11.09.1997 and Order of sentence dated 19.09.1997 passed by learned 5th Additional Sessions Judge, Dumka, in Sessions Case No.154 of 1990 / 42 of 1990 wherein the Appellant no. 1 Kapoor Manjhi has been convicted under section 324 and section 148 of IPC and sentenced to undergo R.I. for two years each and fine of Rs. 1,000/- and in default of fine to undergo S.I. for three months under section 324 of IPC and sentence was directed to run concurrently.

The remaining appellants, i.e., Appellant Nos. 2 to 11 have been convicted under Section 147 I.P.C. and have been directed to undergo R.I. for one year.

Factual Matrix

3. This Court, before proceeding to examine the legality and propriety of the judgment of conviction and order of sentence, deems it fit and proper to refer the background of institution of prosecution case. The prosecution story in brief as per the allegation made in the First Information Report which reads hereunder as: -

According to the *fardbeyan* of the informant Narayan Mandal (P.W.-6), husband of the deceased Tila Devi, that on 26.10.1988 at about 10-11 A.M., he along with his wife Tilo

Devi, nephew Lal Mohan Prasad Mandal, his wife Radha Devi and Informant's daughter-in-law Ambati Devi along with 8 to 10 labourers had gone to harvest paddy from J.B. No.26 of mouza Bankanar belonging to Mostt. Asia Mandalain, who took in adoption, the son of the informant Tribeni Mandal about 15 to 20 years ago over which his son had transplanted the paddy crops.

It has been stated that while they were cutting the paddy crops, Ramu Mandal along with 23 others who were all named in the F.I.R. came variously armed and started abusing and asked as to why they were harvesting paddy and on which the labourers started fleeing from the field and the informant along with his wife and nephew left the paddy and started fleeing. All accused persons started chasing them for assaulting.

It has further been alleged that the informant and his wife Tilo Devi fled towards northern side and by that time his wife Tilo Devi was assaulted by Balbhadra Mandal by *lathi* on her hand and his is wife fell down on the *parti* land of Harendra Yadav and accused Ramu @ Ramia assaulted with *farsa* on her face and appellant Kapoor Manjhi gave a sword blow on her face and head and his wife was seriously injured. The informant raised halla on which Kisan Mahamarik(P.W.- 8) came running to save her on which appellant Kapoor Manjhi assaulted him on his right hand with sword and he

sustained injury and Makula Mandal and Basudeb Mandal gave *lathi* blow to Kisun Mahamarik (P.W.-8).

It has been further alleged that the informant was assaulted by Balbhadra Mandal and Sargun Mandal by *lathi* and the occurrence was witnessed by his nephew Lal Mohan Mandal and when the villagers began to come, the accused fled away.

The informant came near his wife and found her injured and he arranged for taking her to hospital when she died in the way. The informant brought the dead body of his wife at the police station and lodged F.I.R.

4. On the basis of the fardbeyan of the informant recorded at the police station, F.I.R. was instituted for the offence under Sections 147, 148, 149, 323, 325, 307 and 302 of the Indian Penal Code against the accused persons.

5. After investigation, the police submitted charge sheet against the appellants.

6. After cognizance of the offence, the case was committed to the Court of Sessions. Charges were framed to which the accused persons pleaded not guilty and claimed to be tried.

7. The prosecution had altogether examined 11 witnesses who are P.W.-1 Prayag Mandal, PW-2 Hargovind Mandal, PW-3 Bisu Mandal, PW-4 Dr. G.P.Barnwal, PW-5 Ambati Devi, PW-6 Narayan Mandal, who is the informant of the case, PW-7 Lal Mohan Mandal, PW-8 Kishan Mahamarik, PW-9 Radha

Devi, PW-10 Dr. Indrakant Mishra and PW-11 Balmiki Goswami.

8. The Defence has not examined any witness in support of their case.

9. The trial Court, after recording the evidence of witnesses, examination-in-chief and cross-examination, recorded the statement of the accused persons, found the charges levelled against the appellants proved beyond all reasonable doubts. Accordingly, the appellants had been found guilty and convicted for the offence punishable under different Sections of the Indian Penal Code.

10. The aforesaid order of conviction and sentence is subject matter of instant appeal.

Submission of the learned counsel for the appellants:

11. Learned *amicus curiae* appearing for the appellants has submitted that the impugned Judgment of conviction and Order of sentence passed by the learned trial court cannot be sustained in the eyes of law.

12. The following grounds have been taken by the learned *amicus curiae* for the appellants in assailing the impugned judgment of conviction: -

- (i) The appellants have been falsely implicated in this case and the prosecution case suffers from several infirmities and improbabilities.

- (ii) The ground has been taken that there is no direct evidence as against the accused/appellants and there is nothing except suspicion against the accused.
- (iii) The ground has also been taken that there are material contradictions in the statement of witnesses and the witnesses had given complete go-by to the faradbeyan.
- (iv) The further ground has been taken that the faradbeyan has not been legally proved and the original F.I.R., the statement of P. W.8 Kishun Mamarik has been suppressed.
- (v) The ground has been taken that the informant (P.W.6) contradicts his own first information report making his evidence incredible.
- (vi) The informant stated in F.I.R. that accused Kapoor Manjhi assaulted deceased by sword, but had omitted his name in the evidence.
- (vii) P.W.-5 had stated in her evidence that she had not seen accused Kapoor Manjhi, assaulting anyone.
- (viii) The learned trial court has failed to appreciate that the medical report is not inconsonance with the ocular evidence as there was no sharp cutting injury on the head of the deceased. On the contrary, their specific case was that the deceased was assaulted on her head by sword by the accused Kapoor Manjhi, in the F.I.R.
- (ix) The ground has been taken that the place of occurrence of the case has not been established because neither

there is any seizure of paddy bundles nor there is any seizure of alleged bloodstained earth.

- (x) The ground has also been taken that the near relatives of the deceased admittedly were present, but they did not make any attempt to save her, which creates doubt on the prosecution version.

13. The learned counsel for the appellants, based upon the aforesaid grounds, has submitted that the trial court has not taken into consideration of the aforesaid facts as such impugned judgment requires interference.

Submission of the learned counsel for the State:

14. While defending the judgment of conviction and order of sentence, learned Special Public Prosecutor appearing for the State raised the following arguments in response to the grounds as referred hereinabove:

- (i) Accused Kapoor Manjhi was armed with sword and had given sword blow on the face of the deceased.
- (ii) P.W.-8 has specifically stated in his evidence that accused Kapoor Manjhi had assaulted him with sword.
- (iii) The injuries sustained by the deceased and the injured P.W.-8 is corroborated by the evidence of the doctor.
- (iv) Informant's wife had died in the violence, hence, Accused /appellants were rightly convicted and sentenced by the learned trial court on the basis of

evidence of the eye witnesses P.W.-6, P.W.-7 and P.W.-8.

15. Learned APP appearing for the State based upon the aforesaid premise, has submitted that the impugned judgment does not suffer from any error, hence the instant appeal is fit to be dismissed.

Analysis

16. We have heard learned counsel for the parties, perused the documents available on record as also the finding recorded by the trial court in the impugned judgment.

17. We have also gone through the testimonies of the witnesses as available in the LCR as also the exhibits.

18. Learned trial court, based upon the testimonies of witnesses, has passed the judgment of conviction convicting the appellants under various Sections of the Indian Penal Code.

19. This Court before considering the argument advanced on behalf of the parties is now proceeding to consider the deposition of witnesses, as recorded by learned trial Court.

20. In this case the prosecution has examined altogether 11 witnesses out of which PW-1 Prayag Mandal and PW-2 Hargobind Mandal were declared hostile and PW-3 Bishu Mandal was tendered.

21. The testimonies of rest of the witnesses are being considered hereinbelow.

22. PW-4 Dr. G.P.Burnwal, had examined the injured witness Kishun Mamrik (PW-8). He has stated that on 26.10.1988, he was posted as Medical Officer in Jarmundi Primary Health Centre and on that day at 1.30 PM he had examined Kishun Mamrik S/o Jagan Mamrik of Vill. Sahara, P.S. Jarmundi and found following noted injuries: -

- i) An incised wound on external surface of right forearm on the medial side over the wrist 5 cm x 1 cm x 1/2 cm.
- ii) Incised wound 1 cm long-the dorson of the right-hand elbow the little finger.
- iii) Swelling of the right forearm.
- iv) Bruise 6" x 1/2" on this scapular area right side.

He has stated that the injuries were simple and injury (i) and (ii) were caused by sword and rest by hard and blunt substance and may be of *lathi*. He has proved the injury report which was marked as Ext. 1.

During cross-examination, he has stated that the injury no. (1) and (II) are not possible by fall on rocky surface. The injured did not tell me as to how he received injuries. Such type of injuries may not be manufactured.

23. PW-5 Ambati Devi is the daughter-in-law of the informant. She has stated in her evidence that the incident took place five years ago, on Wednesday in the month of *Kartik*, in the morning. She had gone to harvest paddy. In Bankanali, she, her father-in-law Narayan Mandal, her mother-in-law Tila Devi, her sister-in-law Radha Devi and her

brother-in-law Lal Mohan Mandal were harvesting paddy. Then, accused Rama Mandal, Tepan Mandal, Kritan Mandal, Mulhej Mandal, Pradeep Mandal, Thakuri Mandal, Sargun Mandal, Balbhadra Mandal, and Prabhu Mandal, arrived there and started hurling abuses. Everyone started running away, but she and her mother-in-law were left behind. First, Thakur Mandal and Balbhadra Mandal had beaten her mother-in-law with *lathi*. Ramu Mandal struck her mother-in-law with *farsa*. Pradeep Mandal had beaten her father-in-law with a *lathi*. Her mother-in-law fell down after being beaten. She was struck in the face with *farsa*. There was a commotion and the villagers gathered, then the accused persons fled away. Her mother-in-law died on the way to the doctor. There were many people among the accused. She recognized the accused Tepan, Mulhet, and Kapur Manjhi. She has further stated that she did not see Kapur Manjhi hitting anyone.

During her cross examination, she has stated that her marriage took place 14/16 years ago. She was married when she was 8/10 years old. Asia Mandaline is her paternal aunt. Asia adopted her husband as her son. She, lives with her mother-in-law and father-in-law and they had taken breakfast and went to harvest paddy. Paddy harvesting was also going on in the neighboring fields. No paddy was being harvested in the surrounding fields. Abusive language was exchanged, and 150-200 people had gathered. They started running away with the bundles of paddy. Her father-in-law ran towards the north.

She and her mother-in-law remained behind. The accused surrounded her mother-in-law and she was 8/10 steps away from her mother-in-law. Ram Mandal hit her twice with a *lathi* and there was a mark on her back. Ramu Mandal took a stick from Pradeep's hand and hit her twice on the back. She had shown her injury to the police officer. She did not get examined by a doctor. Her mother-in-law was first beaten by Thakuri Mandal. Her mother-in-law fell down and she was standing at a distance and watching. Her mother-in-law left arm was broken. Her mother-in-law was hit with a stick on her left arm. She has stated that there were five cuts on her face and forehead. The villagers arrived later and they did not witness the beating. Kishan Mahamarik came running and was telling the accused persons not to assault. She had told Kishan Mahamarik and all the people of the village about the beating.

24. PW-6 Narayan Mandal is the informant of the case. Informant has stated in his evidence that the incident took place on Wednesday, October 26, 1988, around 10/11 AM. He had gone to Banakwar to harvest paddy. The field's plot number is 203 and *jamabandi* number is 26 and the other field's plot number is 672. Informant further stated that the land was given to his son, Rajendra Mandal, through adoption. His son Rajendra Mandal was adopted by Ashiya Mandalain, wife of Suchan Mandal, who are from his village. The adoption took place in 1969 through a registered adoption

deed. We had planted paddy and he, his wife Tila Devi, Lal Mohan Mandal and Radha Devi and his daughter-in-law, Ambati Devi had gone to harvest the paddy. The accused Ramu Mandal, Tepan Mandal, Kritan Mandal, Mulhet Mandal, Thakur Mandal, Sargun Mandal, Pradeep Mandal, Phuku Mandal, Balbhadra Mandal, Prabhu Mandal, Mangal Mandal, Basudev Mandal, Parmanand Rai, Chhavikant Rai, Ravikant Rai, Kola Rai, Ravi Rai, Makula Mandal, Sundar Mandal, Mahendra Manjhi, Subeb Manjhi, Manjhi, Mahavir Manjhi, and Teper Mandal arrived there. Ramu Mandal was armed with *faras*, Balbhadra and Thakur had sticks, and Sargun had a spear. They came and stopped us from harvesting the paddy and they started hurling abuses and started fighting and beating us, so, they ran towards the north. Tila Devi was a little behind and Balbhadra Mandal and Thakur Mandal assaulted her with *lathi* on her hand as a result her left hand was broken. Tila Devi fell down. Ramo Mandal struck her on the head with *farsa*. He assaulted on her face, forehead, and other places. He didn't see anyone assaulting her with a sword. Besides these three, no one else struck his wife. He shouted for help but no one came to save them. Sargun Mandal hit him four or five times with a *lathi* as a result he sustained injury on his left leg and on his back. He carried his wife to home. He was taking her to the hospital, but she died on the way. He went to the police station. The police took his statement.

In his cross-examination, this witness has stated that injury was sustained by him, however, no visible marks of injury were found on his body.

25. PW-7 Lal Mohan Mandal is the nephew of the informant. He has stated in his evidence that 4/5 years ago, on a Wednesday, in the month of *Kartik*, around 10 o'clock in the morning, he went to harvest paddy in Rajendra's field. Narayan Mandal, his wife Radha Devi, Ambati, and Tila Devi were with him. Then, Ram Mandal, Tepan Mandal, Krityanand Mandal, Mumhet Mandal, Thakur Mandal, Sargun Mandal, Pradeep Mandal, Mangru Mandal, Basudev Mandal, Feku Mandal, Balbhadra Mandal, Prabhu Mandal, Mahavir Manjhi, Mahul Mandal, Sumin Mandal, Parmanand Rai, Kewal Rai, Chhavikant Rai, Shyamakant Rai, Ravikant Rai, Kapoor Manjhi, Birendra Manjhi, Mahendra Manjhi, and Suber Manjhi from Sahara village arrived there. They were carrying sticks, *farsa*, and swords. They came and said, "Get out of the field, or we will kill you." Thereafter, Balbhadra Mandal assaulted Tila Devi with a *lathi* and Thakur Mandal also assaulted Tila Devi with a *lathi*. They started running away, but, Tila Devi couldn't run away. Ramu Mandal assaulted Tila Devi on her face with *farsa*. Tila Devi fell down. When Kisan Mamrik went to restrain them, he was also assaulted, but who assaulted him he cannot say. Balbhadra Mandal, Thakur Mandal and Ramu Mandal had assaulted Narayan Mandal and Ramu Mandal assaulted her. P.W.-7 further

stated that *daroga jee* had made the inquest report of deceased Tila Devi, in his presence on which he had signed.

In his cross-examination he has stated that land dispute under Section 145 was initiated by Thakur Mandal prior to the incident. On the day of the incident, he and four family members went to harvest paddy and no outside laborers were involved in the harvesting and in nearby Kisan Mamrik and Baldev, were checking their own fields. He did not tell in his statement to the police, that apart from family members others were accompanied in harvesting paddy.

He had further stated that he arrived at the field to cut paddy at approximately 10:00 AM and only some paddy was cut, accused persons had arrived there. He had further stated that Rajendra had not gone to harvest paddy, he had gone somewhere else. Rajendra lived as an adopted son and did not own ancestral land in that specific area.

He has stated that accused persons had surrounded the field and accused persons did not assault all five of them. They began to flee and those who were unable to escape were assaulted.

He has also stated that Tilo Devi was first assaulted on her left arm with a *lathi*, as a result she fall flat on her back. She was assaulted by only three accused persons and she received 2-3 *lathi* blow as a result her hand was broken. Accused persons fled away after the assault.

26. PW-8 is Kishan Mamrik. He has stated in his evidence that incident took place seven or eight years ago, in the month of *Kartik*, on a Wednesday, at 10:00 AM. He was in his paddy field. He saw Narayan Mandal, Tila Devi, Lal Mohan, Lal Mohan's wife and Narayan Mandal's daughter-in-law harvesting their paddy. Then, Ramu Mandal, Tepan Mandal, Krityanand Mandal, Kulhet Mandal, Mangru Mandal, Basdev Mandal, Thakur Mandal, Sargun Mandal, Pradeep Mandal, Balbhadra Mandal, Prabhu Mandal, Parmanand Rai, Ravikant Rai, Chhavi Rai, Sumin Mandal, Makul Mandal, Kewal Rai, Ravi Rai, Kapur Manjhi, Mahendra Manjhi, Subekh Manjhi, Arvind Manjhi, and Mahavir Manjhi, a total of 21 men came there armed with *lathi*, *farsa*, spears and swords and said, "Run away, or we will kill you." Thereafter, people harvesting the paddy started running away. As they were running, they reached Harender Manjhi's land and there Balbhadra Mandal hit Tila Manjhi on her left arm with a *lathi* and Tila Manjhi fell down. Then Thakur Mandal assaulted her with a *lathi* and Ramu Mandal struck her with *farsa* three-four times. When he went to intervene then, Ramu Mandal, Kapur Manjhi, and Basdev Mandal also attacked him. Kapur Manjhi, Ramu Mandal and Basdev Mandal assaulted him. Kapoor Manjhi struck him with a sword, which hit his right arm. Ramu Mandal and Basudeo beat him with *lathi* as a result he sustained injuries on his back and right arm and he also fell down. His family members picked him up and took him away.

He went to the police station and from there, he was sent to the hospital. Tila Devi died due to assault.

In his cross-examination, he has stated that he knows Narayan Mandal from long time, but he cannot say where his father's house is. He has not seen Narayan Mandal's father. He has always seen Narayan Mandal living in the village. Narayan owns his own land. His son is a foster son in his village, living with Asho Mandal. Asho Mandal was related to Narayan Mandal. Informant party five in number, were cutting paddy in their field. He had gone to irrigate his field. Before he was injured, he saw Tila Devi cutting paddy. He did not tell the police officer that laborers were also cutting paddy with Tila Devi. The accused persons had surrounded Tila Devi and she was running north from her field. Others ran away, leaving Tila Devi behind. Tila Devi was beaten first and thereafter, he was beaten. Tila Devi died and he fell down after being beaten. He was beaten in Patwari Mahamarik's field. His son came upon hearing the commotion and Patwari also came. Narayan Mandal also came there again and villagers also came to see. He was conscious even after falling. He cannot tell the name the villagers who came. He had told Patwari Mahamarik and Makdam Mahamarik about the incident. He reached the police station at 11-11.30. The police officer wrote down his statement over which he put his signature. It's also not true that he gave a false statement or that no such incident occurred.

27. PW-9 is Radha Devi. She has stated in her evidence that incident took place six years ago in the month of *Kartik*, on a Wednesday, at 10:00 AM. She had gone to harvest paddy in Rajendra Mandal's field. Amba Devi, Tila Devi, Lal Mohan Mandal and Narayan Mandal were with her. At that time, Ramu Mandal, Tepan Mandal, Ketu Mandal, Mumhet Mandal, Thakur Mandal, Sargun Mandal, Pradeep Mandal, Balbhadra Mandal, Prabhu Mandal, Parma Rai, Ravikant Rai, Kapoor Manjhi, Mahendra Manjhi, and Dhirendra Manjhi, a total of 21 men came with *lathi*, spears, swords, and *farsa*, and told us to leave the field. They got up and started running towards the north. Near Harendra Manjhi's field, Balbhadra Manjhi chased Tila Devi and struck her on the left arm with a *lathi*. Tila Devi fell down, then Thakur Mandal assaulted her with a *lathi* and Ramu Mandal struck her on the face with *farsa*. When Kishan Mamrik came to help, no one attacked him. After beating, the accused persons left the place. Tila Devi died before she could reach the village. When the police officer arrived, at that time she was alive. Her statement was recorded by *daroga jee*.

During cross-examination, she has stated that when the *daroga jee* arrived, Tila Devi was picked up. But she died on the way to the village. Besides Tila Devi, no one else was injured. Tila Devi had left her sickle in the field and ran away. Everyone's sickles and the harvested paddy were left in the field. They had harvested five kathas of paddy. Tila Devi

couldn't escape and hence, she was beaten. This witness was nearby when Tila Devi was beaten. The village is one mile away from the paddy field. This witness's father-in-law remained at the scene of the incident. She told the *daroga jee* that Thakur Mandal had beaten Tila.

28. PW-10 Dr. Indra Kant Mishra had conducted postmortem on the dead body of the deceased Tilo Devi. He has stated that on 27.10.1988, he was posted in Dumka Sadar Hospital as CAS and on that day at 2 pm he had conducted P.M. examination of dead body of Tilo Devi W/o Narain Mandal at Vill. Sahra, P.S. Jarmundi, Distt. Dumka. The dead body was identified by constable No. 448 Rambrikch Mandal and Changuljan Mian. The dead body was of a female aged about 50 years of average built. Rigor mortis was present. Eyes and mouth closed. He found following ante-mortem injuries over the dead body:

- i) Lacerated wound 5" x 1" x bone deep over middle of scalp-on dissection fracture of frontal bone found. On further dissection main brain and brain matter found lacerated over fractured area with presence of blood clots in the cranium.
- ii) Incised wound 4" x 1/2"x1/4" over right side of face extending from upper lip near nose to right ear directed downwards laterally.
- iii) Lacerated wound 2" x 1/2" x 1/4" over left side of forehead near left eyebrow.

- iv) Incised wound 3" x 1/2" x 1/4" over right cheek extending from right angle of mouth laterally downwards.
- v) Lacerated wound 2" x 1/2" x 1/4" over scam of menable.
- vi) Swelling 4" x 3" over left upper arm with baculuse of the shaft of left humer.

In his opinion the death was due to shock and hemorrhage as a result of injury no. I which was sufficient enough cause death in ordinary course of relevant weapon used for injury no. i, iii, v and vi is hard and blunt substances such as *lathi*. Injury no. ii and iv by sharp cutting weapon. Time elapse since death within 36 hours of postmortem examination. He has stated that injury no. ii may be caused by sword and *farsa*. He proved the P.M. examination report which is in his pen and signature and P.M. report was marked as Ext.-2.

During cross-examination, he has stated that rigor mortis was present over whole body. Bladder was found empty. He cannot say the probability of murder being committed in early hour of morning as bladder can be empty any time. On receiving injury no. vi, the possibility of victim to fall is towards back on the ground. The injury no. i may be caused by a person in standing position. The injury no. ii and iv were simple injuries. Incised injuries may be caused by different fall on hard and blunt substances.

29. PW-11 Balmiki Goswami, is a formal witness. This witness has proved the First Information Report, inquest

report and seizure list which have been marked as Ext.-3, Ext.-4 and Ext.-5 respectively.

30. Hence, from the evidence of the prosecution witnesses and documents available on record, this court finds that on 26.10.1988, when informant side were harvesting their paddy, then about 24 named accused persons mentioned in FIR including the appellants had arrived at the place of occurrence variously armed with *lathi*, *farsa* and sword and restrained the informant side from harvesting paddy.

31. Thereafter, informant side started fleeing away from the place of occurrence, but informants' wife was assaulted by *lathi* and *farsa* and was done to death. P.W.-8 Kishan Mamrik, who was working in the nearby field came forward to restrain the accused persons/appellants, but he was also assaulted by the accused as a result he also sustained injury.

32. Here, it is pertinent to note that in the present case 24 accused persons were tried by the learned trial court for one or the other charges and were convicted under for one or the other offences under sections 324/323/148/147/ or 302/34 of IPC and were sentenced accordingly.

33. Thereafter, 17 accused/appellants had filed the present appeal out of which 6 appellants namely appellant Ramu Mandal, Balbhadar Mandal, Basudeo Mandal, Sargun Mandal, Mahabir Manjhi and appellant Thakur Mandal died during pendency of the instant appeal. Hence, appeal of these appellants was abated by order dated 20.12.2025, passed by

co-ordinate bench of this court, as discussed in the preceding paragraph.

34. Hence, at present 11 appellants survives and this court is proceeding to decide their appeal on basis of their alleged culpability.

35. Before, proceeding further, it would be pertinent to note that accused/appellants Balbhadar Mandal, Ramu Mandal and Kapoor Manjhi were charged under section 302/34 of IPC and 24 accused persons including these appellants were charged and tried under section 302/149 of IPC by the learned trial court.

36. But, learned rial court had acquitted all the 24 accused persons including these appellants under section 302/149 of IPC.

37. So, far as charge under section 302/34 of IPC is concerned, the learned trial court had convicted the accused/appellants Balbhadar Mandal and Ramu Mandal under section 302/34 of IPC, but, appeal of accused/appellants Balbhadar Mandal and Ramu Mandal, have been abated since they died during pendency of the instant appeal as referred above.

38. Further it is pertinent to note herein that the learned trial court had acquitted the appellant no.1 Kapoor Manjhi for the charge under section 302 of IPC.

39. Hence, fact remains that none of the appellants herein have been convicted under section 302 of IPC.

40. On going through the impugned judgment, this court finds that Appellant No.1 Kapoor Manjhi has been convicted under section 324 and 148 of IPC and rest of the appellants have been convicted under Section 147 I.P.C.

Re: conviction of the Appellant No.1 Kapoor Manjhi for his conviction under section 324 and 148 of I.P.C.

41. On going through the evidence of P.W.-8 Kishan Mamrik, this court finds that P.W.-8 Kishan Mamrik, is an injured eye witness.

42. P.W.-8 Kishan Mamrik, has stated in his examination-in-chief that on the day of occurrence, he was at his paddy field and when accused persons were assaulting the informant side, then he had gone to restrain the accused persons. But he was also assaulted by accused Kapoor Manjhi, and Ramu Mandal and Basudeo Mandal. P.W.-8 has specifically deposed that Kapoor Manjhi (Appellant No.1 herein) had assaulted him on his right hand with sword.

43. PW-4 Dr. G.P.Burnwal, had examined the injured Kishun Mamrik (PW-8). On going through the deposition of doctor, this court finds that doctor had found two incised wounds on the right hand of the injured Kishun Mamrik, which are-

- i) An incised wound on external surface of right forearm on the medial side over the wrist 5 cm x 1 cm x 1/2 cm.
- ii) Incised wound 1 cm long-the dorson of the right-hand elbow the little finger.

44. Doctor had opined that injury no.(i) and (ii) were simple and caused by the sword.

45. Hence, the ocular evidence of the injured P.W.-8 Kishan Mamrik is corroborated by medical evidence of PW-4 Dr. G.P.Burnwal.

46. Therefore, it is considered view of this Court prosecution has been able to prove the fact beyond reasonable doubt that Appellant No.1 Kapoor Manjhi had assaulted the Kishun Mamrik (PW-8) by sword due to which Kishun Mamrik had sustained two incised wounds on his right hand.

47. Further from the perusal of the testimony of the other witnesses and finding of the impugned order it has fully been corroborated that this appellant was armed with the deadly weapon like sword and was part of the unlawful assembly.

48. Hence, charges under section 324 and 148 of IPC are proved against the Appellant No.1 Kapoor Manjhi.

Re: Conviction of the Appellant Nos. 2 to 11 for their conviction under Section 147 I.P.C.

49. It needs to refer herein that rioting is defined under Section 146 of the IPC wherein it has been stipulated that when force or violence is used by an unlawful assembly to achieve its common object then every member of that assembly being guilty of offence of Rioting. Further Punishment for rioting, has been prescribed in Section 147 IPC, wherein two years imprisonment, or fine, or both has been given.

50. Now going through the material evidence available on record, we find that all these accused/appellants were named

in the FIR. Further, informant Narayan Mandal (P.W.-6), Informant's nephew Lal Mohan Mandal (P.W.-7) and injured eye witness Kishun Mamrik (PW-8) have stated in their evidence/testimony that these accused /appellants formed unlawful assembly and by show of force had restrained the informant side from harvesting paddy crop which was sowed by the informant party.

51. Hence, charge under section 147 of IPC is proved beyond reasonable doubt against Appellants no.2 to 11.

Conclusion:

52. Accordingly, the impugned Judgment of conviction dated 11.09.1997 and Order of sentence dated 19.09.1997 passed by learned 5th Additional Sessions Judge, Dumka, in Sessions Case No.154 of 1990 / 42 of 1990 wherein the Appellant no. 1 Kapoor Manjhi has been convicted under section 324 and section 148 of IPC, is hereby sustained and upheld.

53. Conviction of the Appellants Nos. 2 to 11 for their conviction under Section 147 I.P.C., is also hereby sustained and upheld.

54. On the question of sentence, this court finds that incident is of 26.10.1988 and already about 37 years have passed. At the time of the delivery of impugned judgment Appellant no. 1 Kapoor Manjhi was about 45 years and now he would be about more than 80 years old and injury inflicted by him were simple in nature and further, remaining

Appellants no.2 to 11, are also in their sixties or seventies and there is no specific allegation against them for causing injury to the informant side. Hence, we are inclined to modify the sentence of the appellants to the period already undergone by them. Appellants are discharged from their liability of bail bonds.

55. Accordingly, the instant appeal stands dismissed with aforesaid modification in sentence.

56. Pending interlocutory application(s), if any, stands disposed of.

57. Let the Lower Court Records be sent back to the Court concerned forthwith, along with the copy of this Judgment.

(Sujit Narayan Prasad, J.)

I agree.

(Arun Kumar Rai, J.)

(Arun Kumar Rai, J.)

Jharkhand High Court, Ranchi

Dated, the 22nd January, 2026.

Birendra / **A.F.R.**

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