

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J.) No. 304 of 2019

(Against the judgment of conviction dated 22.02.2019 and order of sentence dated 23.02.2019 passed in Sessions Trial No. 145 of 2014 arising out of Kolebira P.S. Case No. 12 of 2014 corresponding to G.R. Case No. 145 of 2014 passed by the learned Sessions Judge, Simdega)

Mane Kharia, aged about 30 years, son of Saban Kharia, resident of Bokba Karamtoli, PO. And P.S. Kolebira, District Simdega

--- --- **Appellant**

Versus

The State of Jharkhand

--- --- **Respondent**

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For the Appellant : Mr. Aman Ali, Advocate

For the State : Mr. Rajneesh Vardhan, A.P.P.

PRESENT

HON'BLE MR. JUSTICE RAJESH KUMAR

J U D G M E N T

By Court

1. Heard learned counsel for the appellant and learned A.P.P. representing the State.
2. The present appeal has been preferred against the judgment of conviction dated 22.02.2019 and order of sentence dated 23.02.2019 passed in Sessions Trial No. 145 of 2014 arising out of Kolebira P.S. Case No. 12 of 2014 corresponding to G.R. Case No. 145 of 2014 passed by the learned Sessions Judge, Simdega, whereby the appellant has been convicted for the offence punishable under Section 341,323,324 of the I.P.C and has been sentenced to undergo R.I. for 3 years with a fine of Rs. 5000/- and in default of payment of fine, to undergo R.I. for 6 months under Section 324 of the IPC; S.I. for 1 year with a fine of Rs. 1000/- under Section 323 of the IPC and imprisonment for 1 month under section 341 of the IPC. All the sentences have been directed to run concurrently.
3. The criminal law has been put into motion on lodging an F.I.R

being Kolebira P.S. Case No. 12 of 2014 by the informant namely Mithun Kumar before the Officer-In-charge, Kolebira Police Station on 13.04.2014.

The brief story as per the prosecution is that on 09.04.2014 at about 7.30 P.M. the informant was going towards Bari. In the meantime Mane Kharia-accused came there and caught his neck. Meanwhile, Bene Munda came there and assaulted him with blunt portion of Tangi on his back. The appellant Mane Kharia also assaulted him with lathi on his head. The informant fell down on the ground and became unconscious. He was treated at Kolebira Hospital and thereafter he was referred to RIMS, Ranchi for better treatment.

4. On the basis of the written report, case was registered as Kolebira P.S. Case No. 12 of 2014 for the offence punishable under Section 341, 323,324, 307/34 against the accused – appellant and one Bene Munda. However, the present appellant has faced the trial.

5. On the basis of the investigation, the Police submitted the chargesheet against the appellant for the offence punishable under Section 341,323,324, 307 of the IPC. Thereafter cognizance has been taken and the case was committed to the Court of Sessions.

6. Accordingly, the charge under Sections 341, 323,324,307 of the IPC was framed, which was explained to the appellant in Hindi to which he pleaded not guilty and claimed to be tried.

7. To substantiate the allegations altogether four prosecution witnesses have been examined:

- I. **P.W.1(Subhadra Devi)** – She has deposed in her chief examination that the alleged occurrence took place a year ago at 7-8 P.M. A fight had taken place between the accused Mane Kharia and the informant Mithun Kumar. On hulla, she came out of the house and saw the informant Mithun Kumar bleeding from his head. Thereafter he was brought to Kolebira Hospital from where he was referred to RIMS. She has stated that when she came out of the house, the accused

Mane Kharia was not at the place of occurrence. She has also admitted that she has not seen the occurrence.

- II. **P.W.2(Sanju Kumar Sahu)** – He has deposed that at the time of alleged occurrence he was in his house. On hearing hulla, he came out of the house and saw the scuffle was going on between Mithun and Mane. When he came out of his house, by that time accused Mane had already gone from the place of occurrence.
- III. **P.W.3(Jagarnath Sao)** – He has been declared hostile.
- IV. **P.W.4(Benedik Munda)** – He has deposed that on the alleged date of occurrence he was outside the house. When he returned in the evening and was sitting in his courtyard, Mithun Sao came there and assaulted him with fist on his nose due to which he received bleeding injury. He does not know as to anyone assaulted Mithun. Thereafter this witness has been declared hostile.
- V. **P.W.5(Md. Yusuf)**- He is the Investigating Officer of the case. He has deposed that on 13.04.14 he was posted as ASI in Kalebira PS. On that day, Kalebira PS Case No. 12/14 U/s 341,323,324,307 IPC was registered on the basis of written report of Mithun Kumar and he was entrusted with investigation of this case. After taking charge, he recorded re-statement of the informant and inspected the place of occurrence. The place of occurrence is Karanjtoli village. During investigation, he has recorded statement of witnesses who have supported the prosecution case. Thereafter he arrested the accused Mane Kharia. He has proved memo of arrest marked as Exhibit-1. He obtained injury report from RIMS, Ranchi and after completing investigation, he has submitted charge sheet against accused Mane Kharia for the offence U/s 341,323,307/34 L.P.C. He has proved charge sheet marked as Exhibit-2, Formal FIR and its registration

which has been marked as Exhibit-3 & 4 respectively

- VI. **P.W.6 (Mithun Kumar)** -He is the informant, who has stated that the alleged occurrence took place on 09.04.14 at 7.30 PM. At that time he was going towards his field and when he reached near the house of Bene Munda, Bene Munda assaulted him from behind with Tangi due to which he sustained injury and fell down. Mane Kharia also assaulted him with Lathi due to which he sustained injury on his head and he became unconscious His aunt and cousin brought him to Kalebira Hospital. He has proved his written report marked as Exhibit-4/1. He has identified the accused Mane Kharia. In his cross examination he has stated that the accused was doing labour work with his father and when he did not pay wage to Mane then he has assaulted him with Tangi and Bene assaulted him with Lathi.
- VII. **P.W.7 (Dr. Thomas Justin Minz)**- He has deposed that on 14.4.2014 he was posted at RIMS, Ranchi as Associate Professor, Deptt. of Neuro Surgery and on that day he examined Mithun Sao S/o Dhaneshwar Sao R/o Bokba Karamtoli, P.S. Kalebira, District-Simdega brought by his brother Pinku Kumar and Ashok Yadav and found the following:-
- Injuries**- (i) Stitched wound about 3 inches long over right parieto occipital region of head. (ii) Swelling over left ankle with tenderness measuring 3cm x 2 cm. (iii) An abrasion over left ankle 2 cmx2cm.
- M.I**- A scar mark on middle side of foot. C.T. scan of brain and skull was done in the Radiology Department on 10.04.14. Report of above C.T. scan was found normal. He has proved injury report marked as Exhibit-5.

The doctor has opined that the above injury can be caused due to lathi blow. Further the above injuries can also

be caused from the back side of Tangi.

8. The prosecution has also adduced documentary evidence as under:

- I. **Exhibit -1-** Memo of arrest
- II. **Exhibit-2-** Charge sheet
- III. **Exhibit-3** -Signature of Brij Kumar on F.I.R
- IV. **Exhibit-4-** Endorsement on written petition of informant
- V. **Exhibit-4/1** -Written petition
- VI. **Exhibit-5-** Medical (Injury Report)

9. After conducting full-fledged trial, the learned Trial Court has acquitted the appellant from the charge under Section 307 of the IPC and convicted and sentenced the appellant as aforesaid.

10. Since the injured witness has supported the allegation and injury has been corroborated by the medical evidence, as such, learned counsel for the appellant has assailed the impugned judgment of conviction and order of sentence under Section 324 of the IPC only.

11. It has been submitted that no dangerous weapon has been used rather the assault by alleged tangi is attributed to Bene Munda and not this appellant. Further, Section 34 of the IPC has not been pressed into service and this appellant was only responsible for lathi blow, which is not a dangerous weapon. The injury caused is also simple in nature. In that view of the matter, conviction of the appellant under Section 324 of the IPC is bad in law.

12. Learned A.P.P. appearing on behalf of the State has supported the judgment of conviction but could not dispute the above factual matrix.

13. Having heard learned counsel for the parties and having perused the record, it appears the witnesses have supported the allegation and injury has also been proved.

14. Thus, this Court finds that the judgment of conviction dated 22.02.2019 and order of sentence dated 23.02.2019 passed against the appellant by the learned Sessions Judge, Simdega in Sessions Trial

No. 145 of 2014 arising out of Kalebira P.S. Case No. 12 of 2014 under Section 323 and 341 of the IPC is justified.

15. So far as conviction of the appellant under Section 324 of the IPC is concerned, neither dangerous weapon has been used nor there is grievous injury. In that view of the matter, conviction of the appellant under Section 324 of the IPC cannot be sustained.

16. Accordingly, the judgment of conviction dated 22.02.2019 and order of sentence dated 23.02.2019 passed against the appellant by the learned Sessions Judge, Simdega in Sessions Trial No. 145 of 2014 arising out of Kalebira P.S. Case No. 12 of 2014, so far as Section 324 of the IPC is concerned, is quashed and set aside.

17. It has been informed that appellant has already remained in custody for about 13 months 15 days. Hence, he has served out the sentence so far as conviction under Section 323 and 341 of the IPC is concerned. Accordingly, he is discharged from the liability of his bail bond.

18. With above modification in the judgment of conviction dated 22.02.2019 and order of sentence dated 23.02.2019 passed in Sessions Trial No. 145 of 2014 arising out of Kalebira P.S. Case No. 12 of 2014 corresponding to G.R. Case No. 145 of 2014 by the learned Sessions Judge, Simdega, the present appeal stands disposed of.

(Rajesh Kumar, J.)

A. Mohanty
Jharkhand High Court
Dated 5th May, 2026

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