

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 561 of 2009

[Against the Judgment of conviction dated 29.05.2009 and Order of sentence dated 05.06.2009 passed by learned Additional Sessions Judge, Fast Track Court-IX, Giridih in Sessions Trial No. 339 of 2001].

1. Rupan Mian, S/o Rasul Mian, aged about 45 years.
2. Hakim Mian, S/o Rasul Mian, aged about 35 years.
3. Abdul Mian, S/o Rasul Mian, aged about 40 years.
4. Nasir Mian, S/o Karu Mian, aged about 27 years.
5. Kasim Mian, S/o Karu Mian, aged about 30 years.

All residents of Village – Raghaidih (Dubedih),
P.O. & P.S. – Bengabad, District – Giridih (Jharkhand).

... .. **Appellants**

Versus

The State of Jharkhand **Respondent**

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For the Appellants : Mr. Rama Kant Tiwari, Advocate.

Mr. Shailendra Kr. Singh, Advocate

For the Respondent : Mr. Prabhu Dayal Agarwal, Spl.P.P.

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P R E S E N T

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

Dated : 1st May, 2026

By Court: Heard Mr. Rama Kant Tiwari, learned counsel for the appellants and Mr. Prabhu Dayal Agarwal, learned A.P.P. appearing for the State.

2. Above named appellants have preferred this criminal appeal challenging the judgment of conviction dated 29.05.2009 and order of sentence dated 05.06.2009 passed by learned Additional Sessions Judge, Fast Track Court-IX, Giridih in Sessions Trial No. 339 of 2001, whereby and whereunder, the appellants have been held guilty for the offence under Sections 147,

148 and 323/34 of the I.P.C. and sentenced them to undergo R.I. for one and half years under Section 147 of I.P.C., R.I. for two years under Section 148 of I.P.C. and R.I. for nine months under Section 323/34 of I.P.C. All the sentences were directed to run concurrently.

FACTUAL MATRIX

3. The factual matrix giving rise to this appeal is that on 28.11.1994 at about 6:00 A.M., when the informant had gone to search his bullocks, he saw the accused namely, Rupan Mian, Hakim Mian, Abdul Mian, Kasim Mian, Nasir Mian and co-accused Chikan Mian ploughing his filed bearing Khata Nos. 9 and 24 of the Village. It is alleged that all the accused persons including the appellants were variously armed with lathi, sword, spears and rod and when the informant protested and asked not to plough his field, appellant-Rupan Mian gave sword blow on the head of the informant, as a result of which, he sustained head injuries. Chikan Mian gave a spear blow on the head of the informant, which also resulted into head injury. Appellant Hakim Mian assaulted the informant with an iron rod on the hand and thigh of the informant, as a result of which, the left hand of the informant

fractured. It is alleged that the appellant – Abdul Mian and Hakum Mian also assaulted the informant with lathi. It is alleged that on hulla, his cousin Ghanshyam Dubey came over there and appellant Rupan Mian gave a sword blow on the head of Ghanshyam Dubey.

4. On the basis of aforesaid allegations, FIR being Bengabad P.S. Case No. 118 of 1994 was registered against the accused persons for the offence under Sections 147, 148, 149, 323, 324, 325, 326 and 307 of the I.P.C.
5. After completion of investigation, the I.O. of the case has submitted charge sheet against the appellants and the learned Chief Judicial Magistrate, Godda took cognizance and committed the case to the court of Sessions, where the charges were framed under Sections 147, 148, 323/34, 324/34 and 307/149 of the I.P.C. The case of one accused Chikan Mian was split up on 12.12.2006.
6. In order to substantiate the charges leveled against accused person, altogether 06 witnesses were examined by the prosecution.
7. Apart from oral evidence of ocular witnesses, following documentary evidences were also adduced.

Exhibit-1 : Written report.

Exhibit-2 : Injury report of Tuntun Dubey.

Exhibit-3 : Injury report of Ghanshyam Dubey.

8. The case of defence is that appellants are quite innocent persons and have committed no offence at all and they have been falsely implicated in this case. On behalf of defence, two defence witnesses have been examined namely, D.W.-1 Somra Mian and D.W.-2 Rasik Mian. However, no documentary evidence has been adduced on behalf of defence.
9. The learned trial court, after considering the evidence available on record, has convicted and sentenced the appellants as stated above.
10. Learned counsel for the appellants without touching the merit of the judgment confined himself towards quantum of sentence awarded to the appellants for the offence under Sections 147, 148 & 323/34 of the I.P.C. It is submitted that in course of trial, appellants have remained in custody about 03 months and maximum sentence awarded by the learned trial court is two years. More than 30 years have been elapsed from the date of alleged occurrence. It further appears that I.O. of this case has not been examined in this case, which has seriously prejudiced the appellants in their defence. It is further submitted that Doctor has

also not been examined in this case. Hence, there is no medical evidence to support the oral testimony of the witnesses. Therefore, imprisonment already undergone by the appellants would meet the ends of justice in this case, instead of undergoing further imprisonment awarded by the learned trial court. Therefore, this appeal may be disposed of with alternation in sentence.

- 11.** On the other hand, learned Spl.P.P. has raised no serious objection to the aforesaid point of argument, rather defended the impugned judgment of conviction and order of sentence on merits.
- 12.** It appears that the first information was lodged in the year 1994 for the offence under Sections 147, 148, 149, 323, 324, 325, 326 and 307 of the I.P.C. against the accused persons, but the accused persons had faced the trial for the offence under Sections 147, 148, 323/34, 324/34, 325/34 and 307/149 of the I.P.C and learned trial court, after considering the evidence on record, has convicted the appellants for the offence under Sections 147, 148 and 323/34 of the I.P.C. Therefore, on merits, I find no reason to interfere with the impugned judgment of conviction.
- 13.** So far quantum of sentence is concerned, considering the facts and circumstances of case, nature of offence

committed by the appellants, their age, antecedents and characters and also in view of the fact that considerable period has elapsed from the date of occurrence and appellants have also remained in custody for three months, out of maximum sentence of R.I. of two years, I feel inclined to reduce the sentence of the appellants to the period already undergone instead of imprisonment of two years as awarded by the learned trial court.

- 14.** Accordingly, this appeal is **dismissed** on merits, but with modification in sentence, as stated above.
- 15.** The appellants are on bail. As such, they are discharged from liability of bail bonds and sureties shall also discharged
- 16.** Let a copy of this judgment along with trial court record be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi

Dated : 1st May, 2026

Sunil /**N.A.F.R.**

Uploaded On : 07/05/2026