

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 755 of 2008

[Against the judgment of conviction dated 15.05.2008 and sentence dated 19.05.2008 passed in Sessions Trial No. 202 of 2003 by the learned Addl. Sessions Judge (F.T.C.)-III, Jamshedpur.]

1. Karu Majhi, S/o. Late Bhonda Majhi, resident of Village Rajahata, P.O. & P.S.- Patamda, Dist.- East Singhbhum.

... .. **Appellant**

Versus

The State of Jharkhand

..... **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant : Mr. D. K. Karmkar, Advocate

For the State : Mrs. Vandana Bharti, A.P.P.

J U D G M E N T

Dated: 16th April, 2026

1. At the very first outsell, it is to be observed that out of three appellants, appellant no. 1 Bhushu Majhi and appellant no. 3 Toro Majhi have died during the pendency of this appeal and affidavit in this regard has already been filed by the learned A.P.P. As such, the appeal of appellant nos. 1 and 3 stands abated. The name of appellant is re-numbered.
2. Heard Mr. D. K. Karmkar, learned counsel for the appellant and Mrs. Vandana Bharti, learned A.P.P.
3. This criminal appeal is directed against the judgment of conviction dated 15.05.2008 and sentence dated 19.05.2008 passed in Sessions Trial No. 202 of 2003 by the learned Addl. Sessions Judge (F.T.C.)-III, Jamshedpur whereby and whereunder, the appellant has been convicted under Section 324 read with section 34 of IPC and sentenced to undergo R.I. for one year for the offence under Sections 324 of the I.P.C.

Factual Matrix

4. The factual matrix giving rise to this appeal is that on 06.12.2002 at about 4:30 PM, while the informant was coming after loading paddy on his bullock cart from his field, the accused

persons, namely, Toro Majhi, Bhusu Majhi and Karu Majhi met him on the way and started scuffling. In the meantime, accused Toro Majhi took out pistol from his waist and opened fire towards the informant with an intention to kill him, to which Pilate hit at the left hand of the informant and he sustained injuries. Thereafter, all the accused persons fled away from the place of occurrence. The informant was treated in MGM Hospital, Jamshedpur. It is further alleged that in the year 2000, above miscreants had assaulted the informant by an arrow.

5. On the basis of written report of the informant, Patamda P.S. Case No. 81 of 2002 was registered on 06.12.2002 for the offence under Section 307/34 of I.P.C. and Section 27 of the Arms Act.
6. After completion of investigation, the charge-sheet was submitted against the above named accused persons and after taking cognizance, the case was committed to the court of Sessions, where Sessions Trial No. 202 of 2003 was registered. The accused persons have denied the charges levelled against them and claimed to be tried.
7. It appears that altogether eight witnesses have been examined by the prosecution: -

P.W.-1	Jyoti Lal Murmu
P.W.-2	Lilu Murmu
P.W.-3	Sripat Murmu
P.W.-4	Budheshwar Murmu
P.W.-5	Shiv Ram Murmu
P.W.-6	Somnath Murmu (Informant-cum-Injured)
P.W.-7	Santosh Kumar Jha (Investigating Officer)
P.W.-8	Dr. G. S. Pattar

Apart from the oral evidences, following documentary evidences have also been adduced on behalf of the prosecution, i.e.:-

- (i) Exhibit-1: Written report of the informant
- (ii) Exhibit-2: forwarding letter of Injured-cum-informant
- (iii) Exhibit-3: Endorsement on written report

(iv) Exhibit-4: Formal F.I.R.

(v) Exhibit -5: Injury Report

8. On the other hand, no oral or documentary evidence has been adduced on behalf of defence.

Submissions on behalf of the appellant:-

9. Learned counsel for the appellant has submitted that the learned Trial Court has miserably failed to consider that there was mere presence of the appellant Karu Majhi on the spot and no specific overact has been attributed against him. The main assailant of the informant using fire arm was appellant no. 3 Toro Majhi, who has died. The learned Trial Court has also not invoked the principles laid down under Section 34 of the I.P.C. for the purpose of fixing joint liability of the appellant. Therefore, this case was decided by the learned Trial Court on the basis of individual overt act of each appellant. The learned Trial Court without discussing any element of Section 34 of the I.P.C. attracted in this case has erroneously held the appellants guilty for the offence under Section 324 of the I.P.C. although there is no individual charge against the appellant Karu Majhi that he himself has committed any act of assault to the informant. Therefore, conviction and sentence of the appellant is absolutely illegal and fit to be set aside.

Submissions on behalf of the State:-

10. On the other hand, learned A.P.P. has opposed the aforesaid contentions and has submitted that charge was framed under Section 307 of the I.P.C. read with Section 34 of the I.P.C. It has further been submitted that the learned Trial Court on the basis of evidence of PW-6 who is the informant, has held the appellant guilty for the offence under Section 324/34 of the I.P.C. and the co-convict, namely, Toro Majhi was also held guilty for the offence under Section 324/34 of the I.P.C. and Section 27 of the Arms Act. Therefore, there is no valid reason for any interference in the impugned judgment. This appeal is devoid of merits and fit to be dismissed.

Analysis, discussions and reasons: -

11. From perusal of the impugned judgment, it appears that the informant has been examined as PW-6 who has simply stated about the presence of the appellant Karu Majhi alongwith other accused persons. It is specifically stated that accused Toro Majhi has opened fire against the informant causing injury on his left hand, which finds corroboration from the evidence of PW-8 Dr. G. S. Pattar, who found the injuries on middle side of the left arm caused by firearm. For applicability of Section 34 of the I.P.C., the criminal act must be done in furtherance of common intention of all accused persons. Mere participation in a criminal act does not automatically equate to shared culpability unless there is clear evidence of a unified intent but so far specific overt act in respect of other accused persons, the learned Trial Court whispered nothing in the entire discussion and even the informant has stated nothing against the present appellant.
12. In view of above discussion and reasons, I find that the conviction and sentence of the appellant Karu Majhi suffers from serious error of law, which is, hereby, set aside.
13. Accordingly, this appeal is **allowed**.
14. It appears that the appellant was granted provisional bail which was confirmed by a co-ordinate bench of this Court vide order dated 02.07.2008. Therefore, he is discharged from the liability of bail bond and surety is also discharged.
15. Pending I.A(s), if any, is also disposed of accordingly.
16. Let a copy of this judgment along with Trial Court Record be sent back immediately to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

16.04.2026

Rahul

Uploaded on 24/04/2026