

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 998 of 2017

1. Upendra Prasad, S/o Late Kedar Prasad
2. Shishupal Kumar, S/o Sri Upendra Prasad
3. Satish Prasad, S/o Late Kedar Prasad

All R/o Village-Ratanpura, P.O. & P.S.-Govindpur, District-Dhanbad, Jharkhand

... .. **Petitioners**

Versus

1. The State of Jharkhand
2. Sobha Devi, W/o Raju Kumar, R/o Village-Ratanpura, P.O. & P.S.-Govindpur, District-Dhanbad, Jharkhand

... .. **Opp. Parties**

PRESENT

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Petitioners	: Mr. Mahesh Tewari, Advocate Mr. Shwetang Kumar Tiwari, Advocate Mr. Sanjay Kumar Saw, Advocate
For the State	: Mrs. Mahua Palit, A.P.P.
For the O.P. No.2	: Mr. Deepak Kumar, Advocate

ORDER

Order No. 08/ Dated: 09th June, 2026

1. Instant criminal revision is directed against the judgment dated 17.06.2017 passed in Cr. Appeal No. 57 of 2013 by learned Additional Sessions Judge-VII, Dhanbad whereby and whereunder learned Appellate Court has dismissed the appeal with modification in sentence which was filed against judgment of conviction and sentence dated 24.01.2013 passed by learned Assistant Sessions Judge, Dhanbad in S.T. Case No. 480 of 2008, arising out of Govindpur P.S. Case No. 105 of 2007 (G.R. Case No.1233 of 2007) whereby and whereunder all the four accused persons were held guilty under Section 307/34 of the I.P.C. and petitioner Nos.1 & 3 were sentenced to undergo R.I. for 5 years along with fine of Rs.4,000/- with default stipulation and petitioner No.2 was sentenced to undergo R.I. for 6 years along with fine of Rs.5000/- with default stipulation.

Factual Matrix

2. Factual matrix giving rise to this revision is that on 22.04.2007, Raju Lal Sao, the husband of informant was present in his sweet shop situated at Ratanpur. At about 10:00 P.M., in the night Ranjit Saw came and took Raju Lal Sao with him and after some time, informant heard *hulla* upon which she came out from her house and saw accused Upendra Prasad, Satish Prasad and Shishupal, armed with *lathi* and rod were assaulting to her husband with *lathi* and rod with intention to kill her husband. In the meantime, they took away Rs.2300/- from the pocket of Raju Lal Sao and the accused persons threatened to kill him. As a result of the assault, blood was oozing from the mouth and nose of Raju Lal Sao. On hearing *hulla* Abinash Kumar and Anant Kumar also reached on the place of occurrence and somehow managed to bring injured to his home. Thereafter, the treatment of the said injured was done by local doctors but the condition of injured remained deteriorating so injured Raju Lal Sao was brought to Jalan Hospital, Dhanbad where he was kept in ICU on ventilator support and oxygen. It has further been alleged by informant Sobha Devi that accused Upendra Prasad is a man of criminal mentality and prior to this occurrence he also assaulted so many persons for which case is pending in the court. The informant Sobha Devi gave information about this occurrence through her written report on 23.04.2007 to the Officer-in-charge of Govindpur P.S., thereafter, Govindpur P.S. Case No. 105 of 2007 was registered under Sections 341/323/324/307/379/34 of the I.P.C. against Ranjit Saw, Upendra Prasad, Satish Prasad

and Shishupal.

3. After completion of investigation, the Investigating Officer submitted charge-sheet against the accused persons for the aforesaid offences and charges were framed under Sections 341, 379 & 307/34 of the I.P.C. The accused persons denied from the charges and claimed to be tried. The case of defence is denial from allegations and false implication in the instant case.

4. In the course of trial, altogether ten witnesses were examined by prosecution.

P.W.-1 Chunni Majumdar

P.W.-2-Simant Mandal

P.W.-3-Lal Mohan Mahato

P.W.-4-Abinash Kumar

P.W.-5-Sobha Devi (informant)

P.W.-6-Raju Lal Prasad (injured and husband of the informant)

P.W.-7-S.K. Gupta (First I.O. of this case)

P.W.-8-Anant Kumar

P.W.-9-Sadanand Hembram (Second I.O. of this case)

P.W.-10-Dr. S.K. Pathak

5. Apart from the oral evidence, following documentary evidence has been adduced by the prosecution:-

Exhibit-1-Written report of informant

Exhibit-2-Formal FIR

Exhibit-3-Injury report of injured

Exhibit-4-Carbon copy of information given by CMRI, Kolkata

to Alipur P.S. vide GDE No. 2520 dated 25.04.2007 with regard to admission and treatment of injured Raju Lal Prasad at CMRI, Kolkata.

6. On the other hand, no oral or documentary evidence has been adduced by defence.

Submissions on behalf of petitioners: -

7. Learned counsel for the petitioners submits that the petitioners have been held guilty for the offence under Section 307/34 of the I.P.C. which is absolutely illegal and beyond the weight of evidence available on record. There is no injury report of higher centre as opined by P.W.-10, Dr. S.K. Pathak who has first examined the injured Raju Lal Prasad and found the injury on chest which was grievous in nature caused by hard blunt substance. No further treatment record has been brought on record by the prosecution. At best the case was proved under Section 325 of the I.P.C. The petitioners during pendency of their criminal appeal being Criminal Appeal No. 57 of 2013 entered into a compromise with the injured and the informant. A joint compromise petition was also filed which has not been considered by the learned Appellate Court and not a single line has been whispered even scribing opinion that the offence was not compoundable hence, compromise is not accepted. The learned Trial Court as well as the learned Appellate Court arrived at wrong conclusion in holding the petitioners guilty for the offence under Section 307 of the I.P.C. The required intention and knowledge for constituting the offence under Section 307 of the I.P.C. is absolutely

lacking in this case. Since, the case falls under Section 325 of the I.P.C. which is compoundable in nature and joint compromise petition has already been filed by the parties and available in the record of Appellate Court and also filed as Annexure No.1 along with the memo of revision. Therefore, compromise entered into between the parties may be allowed and the petitioners may be acquitted from the offence under Section 325 of the I.P.C.

Submissions on behalf of State: -

8. On the other hand, learned counsel for the opposite No.2 assisted by learned A.P.P. has appeared and also admitted that compromise has been entered between the parties and which was filed before the Appellate Court, therefore, appropriate order may be passed.

Analysis, discussions and reasons:-

9. I have perused the case record along with impugned judgment in the light of contentions raised on behalf of both side.

10. From the perusal of record, it appears that **P.W.-6, Raju Lal Prasad** the sole injured, has stated that Shishupal was armed with rod and Upendra and Satish were armed with *lathi* and when he reached there, Shishupal started to assault him with rod on his chest and head. Upendra and Satish also assaulted him and due to assault, he became unconscious. While the **P.W.-10, Dr. S.K. Pathak**, who examined the injured has stated that no external injury were found but from chest X-ray zone of consolidation was found over left side of chest.

During cross-examination, he has deposed that he has not

mentioned the marks of identification of injured, probable time of injury and time of examination. As per the report the patient, he has complainant breathing difficulty and on the day of examination, he did not find any external injury on his person. He had not referred to C.T. Scan, other doctors also attended the patient but ultimately he was handed over to him. He also admitted that he was not the first treated doctor and also admitted that patient was not sent to him by any police officer. He further deposed that due to breathing problem the patient was referred by him to higher centre.

11. It has been held by the Hon'ble Apex Court in the case of ***Hari Singh versus Sukhbir Singh & Others*** as reported in ***(1988) 4 SCC 551***, at para-7 that:-

“7.Under Section 307 IPC what the court has to see is, whether the act irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in that section. The intention or knowledge of the accused must be such as is necessary to constitute murder. Without this ingredient being established, there can be no offence of “attempt to murder”. Under Section 307 the intention precedes the act attributed to accused. Therefore, the intention is to be gathered from all circumstances, and not merely from the consequences that ensue. The nature of the weapon used, manner in which it is used, motive for the crime, severity of the blow, the part of the body where the injury is inflicted are some of the factors that may be taken into consideration to determine

the intention.”

12. It is clear that injured was assaulted on chest but there was no such force to attract the intention or knowledge of the petitioners to cause death of the injured. Therefore, in the instant case the ingredients of offence under Section 307 of the I.P.C. are not fulfilled. But in view of the evidence available on record, the case falls under Section 325 of I.P.C. Therefore, the conviction and sentence of the petitioners for the offence under Section 307 of the I.P.C. is hereby set aside, while the petitioners are held guilty for the offence under Section 325 of the I.P.C.

13. So far sentence is concerned, it appears that both the parties have entered into compromise.

14. This Court upon perusal of the lower court record of Criminal Appeal No. 57 of 2013, has found that a joint compromise petition was also filed by the petitioners in which it was mentioned that the informant as well as the petitioners have amicably compromise the case outside the Court and there is no apprehension of breach of peace among the informant party and the petitioners and both the parties are living in a peaceful manner. It was further mentioned in the compromise petition that the informant does not want to proceed with the present case and a further request was made that the necessary order may be passed by the learned court in view of the compromise entered between the parties. This Court is surprised to take note of the fact that the compromise petition which forms a part of the lower court record has not been considered by the learned appellate court and not a single

line was whispered about the said petition by the learned appellate court in its impugned judgment. It is a settled proposition of law that an offence under Section 325 of the I.P.C. is compoundable in nature with permission/leave of the court. Since, the informant party as well as the petitioners have amicably settled the dispute outside the court and have jointly executed a joint compromise petition dated 19.12.2017. This Court has no hesitation in granting permission to the contesting party to compound their offence and accordingly permission is granted and the joint compromise petition filed on behalf of the informant party and the petitioners is hereby accepted and petitioners are set at liberty.

15. Accordingly, Criminal Revision No. 998 of 2017 is hereby **allowed.**

16. The petitioners are on bail, as such they are discharged from the liability of bail bonds and sureties are also discharged.

17. Pending I.A(s), if any, is also disposed of accordingly.

18. Let a copy of this order be sent to the concerned Trial Court for information and needful.

(Pradeep Kumar Srivastava, J.)

09.06.2026

Arpit

Uploaded on 19/06/2026