

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (SJ) No. 721 of 2007

[Against the judgment of conviction and order of sentence dated 28.05.2007 and 30.05.2007, respectively passed by learned Additional Sessions Judge, Fast Track Court-III, Chatra, in S.T. No. 121 of 2005]

Mukesh Turi @ Turim, son of Sri Fagu Turi, resident of Village-Meral,
P.S.-Simariya, District-Chatra

... .. **Appellant**

Versus

The State of Jharkhand

... .. **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant : Mr. A.K. Chaturvedy, Advocate
For the State : Mr. V.S. Sahay, A.P.P.

JUDGMENT

Dated: 07th May, 2026

1. Heard A.K. Chaturvedy, learned counsel for the appellant and learned A.P.P.
2. The instant criminal appeal is directed against the judgment of conviction and order of sentence dated 28.05.2007 and 30.05.2007, respectively, passed by the learned Additional Sessions Judge, Fast Track Court-III, Chatra, in S.T. No. 121 of 2005 whereby and whereunder the appellant has been convicted for the offences under Sections 148, 307/149 & 353/149 of the I.P.C. and Section 17(i) of the C.L.A. Act, and has been sentenced to undergo rigorous imprisonment for one year under Section 148 of the I.P.C.; R.I. for seven years under Section 307/149 of the I.P.C.; R.I. for two years under Section 353/149 of the I.P.C. and two years under Section 17(i) of the C.L.A. Act. All the sentences were directed to run concurrently.

Factual Matrix

3. The prosecution case was initiated on the basis of self statement of the then Officer-in-charge P.S. Simariya. The prosecution case in brief is that on some tip, the local police and C.R.P.F. personnel under the

leadership of the then A.S.P., Chatra and S.D.P.O., Chatra, reached Meramgadha Forest, where they received information that 35-40 M.C.C. extremists were camping in Meramgadha Forest near the house of Fagu Munda. When the police party reached there, the said M.C.C. extremists started gun fire on the police. The police retaliated and thereafter the said extremists retreated leaving behind rifle, gun, country made pistol, number of cartridges, tape recorder, cassettes, pithus and several other articles.

4. Although, the case was registered against several named and unknown persons but only the present appellant was arrested during investigation and the case started against him.

5. After due investigation, charge-sheet was submitted against the accused under Sections 147, 148, 149, 353, 307, 414 & 124-A of the I.P.C., Sections 25(1-B)a, 26, 27, 35 of the Arms Act and 17 (i) and (ii) of the C.L.A. Act. After taking cognizance, the case was committed to the Court of Sessions, where S.T. No. 121 of 2005 was registered.

6. The statement of accused was recorded under Section 313 of the Cr.P.C. The case of accused is denial from allegations and false implication.

7. After conclusion of the trial, the impugned judgment was passed which has been assailed in this appeal.

8. Learned counsel for the appellant submits that the appellant is absolutely innocent and the learned Trial Court without considering the evidence available on record has recorded the findings about guilt of the appellant. It is further submitted that altogether 9 witnesses were examined in this case, but none of them has been able to identify the

appellant in assaulting any police personnel or deterring them from discharging their duties. It is also not proved that the appellant was member of any extremist group and as such involved in any unlawful activities. The appellant was allegedly named in the F.I.R. on the basis of disclosure made by villagers but not a single witness was examined by prosecution to identify the appellant as perpetrator in the alleged crime. It is further argued that **P.W.-1-Baldeo Munda** was tendered witness, **P.W.-2-Kishun Lohar** is seizure witness has not supported the prosecution story. **P.W.-3-Vijay Munda**, **P.W.-4-Jagar Nath Lohar**, **P.W.-5-Kisun Munda** and **P.W.-6-Birsa Munda** have also not supported the prosecution story and declared hostile.

P.W.-7-Jagdish Prasad Yadav was a member of raiding party who has simply proved the sanction order under signature of the District Magistrate, Chatra. He further stated that when the mob dispersed, then firearms and other ammunitions were seized from the place of occurrence, but nothing has been recovered from the conscious possession of the appellant. The appellant has been acquitted of the charges under Sections 25, 26, 27 and 35 of the Arms Act.

Similarly, **P.W.-8, Shankar Kamty** is also member of raiding party and I.O. of the case but failed to state any overt act of the appellant.

P.W.-9-Awadhesh Kumar Singh is the informant-cum-member of raiding party. He has stated that the present appellant was seen fleeing away from the place of occurrence as such named in the F.I.R. but it is quite surprising that when he was not acquainted with the appellant prior to the occurrence how he has mentioned the name, parentage and address of the appellant. It is further submitted that admittedly, it is claimed by the

raiding party that about 35-40 unknown miscreants were involved in the alleged occurrence and only three miscreants including the present appellant were named in the F.I.R. and the appellant alone has faced the trial and held guilty without any evidence. Therefore, impugned judgment and order of conviction and sentence of appellant is liable to be set aside and this appeal may be allowed.

9. On the other hand, learned A.P.P. has opposed the aforesaid contentions and submitted that huge quantity of arms and ammunitions which were used during the occurrence have been seized and the present appellant was seen at the place of occurrence. There is clear cut evidence of P.W.-9 and other witnesses who were member of raiding party that the appellant was involved in firing against the police personnel indiscriminately which might have caused their death. Therefore, there is no merit in this appeal, which is fit to be dismissed.

10. I have gone through the record of the case in the light of contentions raised on behalf of both side along with impugned judgment. It appears that despite firing from police party as well as the extremist no injury has been sustained by anyone and no injury report has been proved by the prosecution. It further appears that the learned Trial Court has simply reiterated the evidence of prosecution witnesses translating from Hindi to English language and straightforward recorded findings at para 10 that on the basis of discussions and perusal of materials on record prosecution has been able to prove the charges under Sections 148, 307/149 and 353/149 of the I.P.C. and 17 (i) of the C.L.A. Act against the appellant beyond reasonable doubt.

11. It is quite obvious that the learned Trial Court has not appreciated

the evidence of any of the witnesses in the light of charges leveled against the appellant, there is no reason at all in the impugned judgment as to how the aforesaid charges has been proved.

12. In view of above discussions and reasons, I find that the impugned judgment and order of conviction and sentence is absolutely illegal, perverse and without any application of judicial mind. Therefore, the conviction and sentence of the appellant is hereby set aside and this appeal is **allowed**.

13. Appellant is on bail, as such he is discharged from the liability of bail bond and sureties are also discharged.

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

15. 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.)

07.05.2026

Arpit

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