

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 400 of 2008

1(a). Pushpa Devi, aged about 50 years, W/o Late Subhash Singh, R/o Amlo Basti (Ward No. 8), P.O. Amlo, P.S.-Bermo, Dist.-Bokaro
1(b). Avinash Singh, aged about 30 years, S/o Late Subhash Singh, R/o 607, Subhash Nagar,Almo, near Shiv Mandir, P.O. Amlo, P.S.-Bermo, Dist.-Bokaro
1(c). Sohan Singh, aged about 26 years, S/o Late Subhash Singh, R/o Old Subhash Nagar, Near Shiv Mandir, P.O. Amlo, P.S. Bermo, Dist.-Bokaro
Representing original appellant Subhash Singh (since deceased), Son of Late Tribhuwan Singh.

... .. **Appellants**

Versus

The State of Jharkhand **Respondent**

WITH

Cr. Revision No. 350 of 2008

Kedar Nath Pandey, Son of Late Banshnarayan Pandey , R/o-Village Jaipur, P.S.-Mali, Dist.-Aurangabad, Bihar. Present Address - Qr. No. M.Q.221 Old Subhash Nagar, P.S. Bermo, Dist. Bokaro, Jharkhand

... .. **Petitioner**

Versus

The State of Jharkhand **Opposite Party**

For the Appellants : Mr. Indrajit Sinha, Advocate
Mr. Akhouri Awinash Kumar, Advocate
Mr. Souma Ranjan Mukherjee, Advocate
Mr. Kaushik Chakraborty, Advocate

For the Petitioner : Mr. Vijay Kumar Sharma, Advocate

For the Resp. State : Mr. V.S. Sahay, A.P.P.
[Cr. Ap. (SJ) No. 400 of 2008]
Mr. Azeemuddin, A.P.P.
[Cr. Revision No. 350 of 2008]

PRESENT
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

CAV On 14/07/2026

Pronounced On 14/08/2026

Per- Pradeep Kumar Srivastava, J.

1. The instant criminal appeal and revision is directed against the judgment of conviction dated 07th March, 2008 and order of sentence dated 14th March, 2008 passed by the learned Addl. Sessions Judge, Fast Track Court No. 1, Bermo at Tenughat in S.T. No. 202 of 2006 whereby and whereunder the appellant Subhash Singh (since deceased) represented through Lrs. has been held guilty for the offence under Sections 304 Part-II and 308 of the IPC and sentenced to undergo R.I. for 5 years along with a fine of Rs. 5000/- under Section 304 Part-II of the IPC with default stipulation and further R.I. for 3 years along with a fine of Rs. 2000/- under Section 308 of the IPC with default stipulation.
2. I have heard the arguments of learned counsel for the appellants and petitioner as well as learned APPs for the State.

Factual Matrix:-

3. The factual matrix giving rise to this appeal is that on 25.12.2005, the Police heard that an incident of fighting and shooting between two groups has taken place at old Subhash Nagar. The Officer-in-charge of police station recorded Sanha No. 833 and proceeded to verify the said incident but in the meantime, he came to know that Kedar Nath Pandey-informant (petitioner in criminal revision), Girijesh Pandey

and a lady have sustained injuries and were referred to Regional Hospital, the officer-in-charge went to Hospital and recorded the fardbeyan of Kedar Nath Pandey who stated that at about 2:00PM, an altercation took place between the girl of informant and wife of accused Subhash Singh. Upon this, Subhash Singh entered the house of informant and shot fire upon the son of informant namely Girijesh Kumar Pandey hitting Stomach and when the informant tried to rescue his son, the accused also fired upon the informant hitting left leg. Thereafter, the accused fired indiscriminately which hit against wife of Bharat Singh who also sustained injury upon her leg and fell down. Hearing the sound of bullet fire, the nearby villagers scattered here and there and the accused Subhash Singh fled away. The villagers brought the injured informant, Girijesh Pandey and Meena Devi to hospital and the condition of Girijesh Pandey being serious, he was referred to Bokaro.

On the basis of above fardbeyan, F.I.R. was registered as Bermo P.S. Case No. 156 of 2005 under Sections 307/324/34 of the IPC and later on Section 302 of the IPC was also added after the death of Girijesh Pandey during treatment against the accused persons.

After completion of investigation, the charge-sheet was submitted against the accused persons under Sections 302/307/324/34 the IPC and under Section 27 of the Arms Act and after taking cognizance, the case was committed to the Court of

Sessions, where S.T. No. 202 of 2006 was registered. The accused persons pleaded not guilty and claimed to be tried.

4. In order to substantiate the aforesaid charges leveled against the accused persons, altogether 12 witnesses were examined by the prosecution:-

P.W.-1	Leela Dhari
P.W.-2	Sanat Kumar
P.W.-3	Ranjeet Kumar
P.W.-4	Dr. Ravindra Nath
P.W.-5	Nagendra Pandey
P.W.-6	Dr. Chandra Shekhar Prasad
P.W.-7	Shankar Prasad
P.W.-8	Kedar Nath Pandey (Informant-cum-injured)
P.W.-9	Dr. Suresh Kumar Singh
P.W.-10	Dr. R.K. Mishra
P.W.-11	Srishtidhar Mhato (I.O.)
P.W.-12	Meena Devi (Injured)

5. Apart from the oral testimony, the prosecution has also adduced following documentary evidence:-

Ext.-1	Injury Report of Kedar Nath Pandey
Ext.-1/1	Injury Report of Meena Devi
Ext. 2 and 2/1	Signature of Nagendra Pandey on CC of Inquest Report
Ext.-3	P.M. Report of Girijesh Pandey
Ext.-4	Medico Legal Report of Girijesh Pandey
Ext.-5	Registration Certificate of Girijesh Pandey about his admission in Surgery Unit B.G.H., Bokaro
Ext.-6	Operation Note by Surgeon of Girijesh Pandey
Ext. -7	X-ray Report Form of Girijesh Pandey

Ext.-8	Discharge Slip
Ext.-9	Formal F.I.R.
Ext.-10	Fardbeyan
Ext.-11	Carbon Copy of Inquest Report
Ext.-12	Paragraph 1 to 84 of C.D.
Ext.-13	Paragraph 85 to 116 of C.D.

6. On the other hand, one defence witness namely Smt. Pushpa Devi (D.W.-1) has been examined by the defence.
7. Apart from oral testimony, defence has also adduced some documentary evidence.

Ext.-A	Copy of F.I.R. of Bermo (Tenughat) P.S. Case No. 157/2005
Ext.-B	Fardbeyan of D.W.-1
Ext.-C	C.D. of Investigation

8. The learned trial Court after threadbare analysis of the ocular testimony of the witnesses led by the prosecution as well as defence and also taking into account the documentary evidence adduced by the prosecution, arrived at conclusion of guilt of the deceased appellant Subhash Singh for the offence and sentenced as stated above.

Submissions on behalf of appellants: -

9. Learned counsel for the appellants assailing the impugned judgment of conviction and sentence of the deceased appellant Subhash Singh, has strenuously argued that the learned trial Court has committed serious illegality in holding the deceased Subhash Singh guilty for the offence under Section 304Part-II and 308 of the IPC on the basis of the evidence of only interested witnesses and failed to consider the

contradictions in their statements. It is further submitted that the occurrence took place between two groups of the family and there was exchange of assault between two groups which has not been considered by the learned trial court and the learned trial Court has convicted only the deceased appellant Subhash Singh in this case. It has also been submitted that the alleged revolver which was used was a licensed weapon and when the revolver was tried to be snatched, the occurrence took place. It has also been submitted that deceased appellant and his wife had also sustained injuries in course of altercation which is evident from the evidence of P.W.-11 as well as P.W.-12 but the prosecution has failed to explain the above injury and the learned trial Court has not taken into consideration these facts to acquit the deceased appellant rather his conviction order has been passed. In view of the above grounds, the deceased appellant deserves acquittal and the impugned judgment passed by the learned trial Court deserves to be set aside and this appeal may be allowed.

Submissions on behalf of the petitioner:-

10. Learned counsel appearing for the informant/petitioner has submitted that the learned trial court has failed to consider the fact that there was consistent evidence of the prosecution witnesses that the accused (deceased appellant) has intentionally fired upon the injured to kill them and this fact has not rightly been considered by the learned trial Court and has not convicted and passed the sentence

under Section 302, 307, 324 and 34 of the IPC, rather, has been convicted and sentenced under Section 304 Part-II and 308 of the IPC.

Submissions on behalf of the State

11. On the other hand, learned A.P.Ps defending the judgment and order of conviction and sentence of the deceased appellant has submitted that the learned trial Court has very wisely and aptly considered all the materials available on record and rightly convicted the deceased appellant for the offence under Section 304 Part-II and 308 of the I.P.C. and has not committed any illegality or infirmity in passing the impugned judgment which does not call for any interference in this appeal and revision, which are devoid of merits and fit to be dismissed.
12. I have gone through the record along with the impugned judgment in the light of rival contentions raised on behalf of both the parties.
13. The sole question emerges for consideration in this appeal and revision is as to “whether the conviction and sentence of the deceased appellant suffers from any error of law, calling for any interference in this appeal and revision?

Analysis, reasons and decision:

14. Before advertng to adjudicate upon the above point, I have to take brief resume of oral as well as documentary evidence adduced in this case during trial.

PW-1 Leela Dhari Prasad Gupta deposed that on 25-12-05, at about 2:00 P.M., he was at his house and having heard hulla went to place of occurrence and saw exchange of abuses between the family of

Subhash Singh and Chandreshwar Singh and family of Kedar Nath Pandey. When he tried to pacify them meanwhile Subhash Singh and Chandreshwar Singh threatened to shoot and suddenly Subhash Singh brought out the revolver and shot two fires on stomach of Girijesh Pandey who sustaining bullet injuries fell down and become unconscious. Thereafter, again Subhash Singh indiscriminately shot fire and bullet injury was sustained by Kedar Nath Pandey and by Meena Devi on left leg and on right thigh, respectively. Then, they took the injured to Dhorri hospital and all the three injured were given treatment there but as condition of Girijesh Pandey was serious so he was sent to B.G.H, Bokaro and was given treatment at B.G.H, Bokaro and he later was taken to C.C.L. hospital Gandhi Nagar, Ranchi but again hospital referred to APPOLO hospital, Ranchi, and they took Girijesh Pandey again to C.C.L hospital Gandhi Nagar where he died. He further deposed that the reason behind the occurrence is vacant land of C.C.L situated at between the quarter of Mani Shankar Pandey and Chandreshwar Singh and for the last 30-40 years Mani Shankar Pandey was using that land to tether his cattle but for the last two years Chandreshwar Singh and Subhash Singh were raising objection stating that the land is belonging to them. He categorically deposed that Kedar Nath Pandey and others were assaulted by Subhash Singh.

In cross-examination, he stated that this witness with injured went to Regional hospital, Dhorri, to B.G.H, Bokaro, to C.C.L hospital Ranchi and also to APPOLO hospital Ranchi and finally injured were taken to

Gandhi Nagar after 15-20 days of the occurrence. He has further stated that he visited APPOLO hospital twice, firstly after four days and secondly after one week of first visit. He has further stated about the occurrence and there is nothing else in his cross-examination to disbelieve the above testimony.

PW-2 Sanat Kumar deposed that on 25-12-05 2:00 PM, this witness on hearing hulla came out of his house, saw a crowd gathered near the house of Kedar Nath Pandey and on reaching there saw Subhash Singh, wife of Subhash Singh, Chandreshwar Singh and their other family members standing at the door of house of Kedar Nath Pandey and abusing them. He requested them not to abuse but suddenly Chandreshwar Singh exhorted to shoot fire and Subhash Singh entered into his quarter came back with a revolver and shot the fire on Girijesh Pandey who sustained bullet injury in stomach and after sustaining first bullet injury he was felling down till then second fire was shot and this bullet also hit against the stomach of Girijesh Pandey who fell down. Subhash Singh shot fire indiscriminately which caused injuries to Kedar Nath Pandey on left leg and Meena Devi on right thigh who were taken to Dhorri hospital and were referred to B.G.H, Bokaro. In B.G.H, Bokaro one bullet after operation was removed from the body and was taken to Gandhi Nagar hospital. After 2-3 days of treatment in Gandhi Nagar hospital, further treatment was taken at APPOLO, Ranchi. After 35-36 days he was again referred to Gandhi Nagar hospital and where he died. He

further deposed that the reason behind the occurrence is vacant land as stated by P.W.-1.

In cross-examination, he deposed that this witness did not went to every hospital where the injured were admitted and he accompanied Girijesh Pandey to B.G.H, Bokaro hospital, Girijesh Pandey remained admitted in B.G.H, Bokaro for 10-11 days and he did not had any opportunity to speak to Girijesh Pandey at B.G.H, Bokaro. He has further stated that he never saw Subhash Singh and Chandreshwar Singh in injured condition and he is having no knowledge that they sustained injuries and were brought to hospital on that very day. He has also denied the suggestion of the defence that on the day of incident Kedar Nath Pandey, Girijesh Pandey and their 15-16 other associates gave merciless beating to Subhash Singh and Chandreshwar Singh, robbed their belongings as well as licensee revolver and while shooting fire run away. He has admitted that prior to present incident Kedar Nath Pandey's daughter instituted a case against Subhash Singh, Subhash's wife and sons of Chandreshwar Singh and the said case was of assault and not of outraging of modesty. He has denied that he was deposing falsely.

PW-3 Ranjit Kumar Turi deposed that on the date of occurrence, he was sitting near the house of his maternal uncle Ramnath Ram nearest to the place of occurrence and went to the place of occurrence and saw that Subhash Singh took out a pistol from his house and shot two fires on stomach of Girijeshi Pandey who fell down and thereafter Kedar

Pandey sustained bullet injury underneath left knee and Meena Devi sustained bullet injury on right thigh. The injured Girijesh Pandey, Kedar Pandey and Meena Devi were taken to Regional hospital, Dhori and Girijesh was referred to Bokaro and from Bokaro, he was taken to Ranchi who died due to bullet injury during treatment at Ranchi inflicted by Subhash. Same reason has also been stated behind the occurrence as stated by above two witnesses.

In cross-examination, he stated that his statement was recorded by police at the house of Kedar Nath Pandey on the next day of occurrence. He has further stated that he did not see Subhash Singh, Chandreshwar Singh and wife of Subhash Singh in injured condition. This witness has been cross-examined at length but nothing has been elicited to disbelieve the above testimony.

PW-4 Dr. Ravindra Nath Singh deposed that on 29-12-05 he was posted at Regional hospital, Dhori and examined injured Kedar Pandey and Meena Devi and on examination of Kedar Pandey, he found a gunshot injury on lateral side of middle of his left leg, entry and exit holes were there on the leg with fresh bleeding, X-ray was done but no bullet was seen inside the muddier bone of the leg. The injury was grievous in nature.

On examination of Meena Devi, he found a circular hole measuring 4" x 4" in diameter with fresh bleeding on the posterior surface of mid of right thigh, X-ray was done and bullet was seen lodged in the thigh muscle. The injury was grievous and was caused

by gun shot. He prepared the examination report of aforesaid injured and exhibited his signature on report of Kedar Nath Pandey as Ext-1 and on report of Meena Devi as Ext-1/1.

In cross- examination, he clarified that from his personal knowledge he mentioned the time of occurrence in the report and the place of occurrence was told by the patient. He has further stated that Kedar Nath Pandey was indoor patient but he is not remembering his bed head ticket number or about the length of tenure during which he remained admitted in the hospital.

PW-5 Nagendra Pandey deposed that Girijesh Pandey was his nephew and he died due to bullet injuries at the time of treatment. After his death, the police prepared inquest report and this witness and Nand Kishore signed on the inquest report. He identified their signatures as Ext-2 and Ext-2/1.

In his cross-examination also, there is nothing to disbelieve the testimony of this witness.

PW-6 Dr. Chandra Shekhar Prasad is the Autopsy Surgeon posted at RIMS, Ranchi and conducted autopsy of the dead body of Girijesh Pandey and found ante-mortem infected stitched wounds of one of size 9cm x 4cm on abdomen lower part mid-line and another of size 4cm x 2cm on front of abdomen upper part midline and one another of size 1/2cm x 1/2cm on left iliac phossa. In addition to above ante-mortem infected stitched wounds, he found healed wounds on the person of the deceased one of size 2cm x 2cm on left chest lateral side

lower part, another of size 1/2cm x 1/2cm on left chest above from middle part and multiple small healed wounds of Pea size on front of abdomen. In internal examination, he found small intestine repaired at two places and large intestine also repaired at two places. There was presence of pus in peritoneal cavity. The coils of intestine are cemented evidence of peritonitis. He opined that the aforesaid injuries were anti- mortem in nature but opinion regarding original nature of wounds can be had from the Surgeon concern. Regarding cause of death,, he opined that the death was due to peritonitis as a result of above injuries and time since death was in between 6 hours to 24 hours preceding autopsy. He exhibited his signature on Post-mortem report as Ext-3.

In cross- examination, he stated that abdomen was not distended, bed sores were found over sectoral region. He deposed that peritonitis and bad sores cannot occur due to negligence in treatment but bed sores occurs due to long standing lying in a position and in-spite of all precaution bed sores may appear and watch bed is one of the precautionary measures to avoid bed sores but the Surgeon may tell the best precautionary measure for bed sores. He also deposed that on Set the medical treatment given by the Surgeon concern infection caused and the stitched wound was infected and such infection does not cause due to negligence in treatment. Regarding question as to whether such infection can be there due to removal from one hospital to another or due to taking of the patient to home, he replied that

Surgeon may answer this. In response to further questions, he replied that rigor mortis was present all over the body, there was no post-mortem lividity, that he is having no report of the concerned Surgeon but despite that he can say about cause of death. That he found infected stitched wounds, recently healed wounds and repaired intestine and in this regard it is only the surgeon who can speak as to in what condition abdomen was opened and repair of the intestine was needed and these are the reasons why he opined that nature of the original injuries can be obtained from the Surgeon concern and he is not in a position to opine about the original nature of injuries.

PW-7 Shankar Prasad has also deposed the same as stated by P.W.-1, 2 and 3.

In cross-examination, he clarified that his own house is at a distance of 20-25 yards from the house of Subhash Singh and he has further remained intact in his testimony.

PW-8 Kedar Nath Pandey is the informant/injured of this case and father of deceased Girijesh Pandey. He deposed that on 25-12-2005 at 2:00 P.M, this witness and Girijesh Pandey, on hearing exchange of abusive language between his wife and wife of Chandreshwar Singh and Subhash Singh came out from the house and saw Subhash and Chandreshwar present at stair of his house. Chandreshwar exhorted to shoot the Brahman and, upon this Subhash came running and shot two fires, on left side and right side of stomach of his son, his son fell down and when he was lifting his son, Subhash Singh shot

underneath his left knee. He deposed further that the subsequent bullet fired hit the thigh of Meena Devi, then 30- 35 persons gathered there and Subhash Singh while shooting fire fled away. All the injured, in a Tempo were taken to Regional hospital, Dhori but his son, from there was referred to Bokaro and this witness and Meena Devi were admitted in the Regional hospital. Police came to the hospital and recorded his statement and this witness put his signature thereon. He identified his signature and further deposed that he took treatment there for 21 days and his son, after treatment at Bokaro was referred to Gandhi Nagar, Ranchi and when his condition deteriorated he was sent to APPOLO hospital, Ranchi where they were told that his life was of 2-4 days only and they were asked to leave the hospital so they again brought him to Gandhi Nagar and on 9th March his son died. He also deposed that a ten feet long plain land is in between the house of Mani Sankar Pandey and Chandreshwar Singh and his brother Mani Shankar used to tether his cow there for the last 40 years but Chandreshwar was demanding that land to tether his cow and dispute about this land was there for the last one month.

In cross- examination, he stated that he did not tell the police that there was exchange of abusive words between his daughter and wife of Subhash Singh rather stated that on hearing voices of ladies he and Girijesh Pandey came out of the house. His son was serious at the time when he made statement to the police. He denied that he has stated to police that when he was sitting at his house at that time Subhash

Singh entered their house and shot fire on his son. He stated that Mani Shankar Pandey is residing in a separate house and on the day of incident Mani Shankar was on duty. He denied of having knowledge that on the day of the incident, in addition to Meena Devi and Girijesh Pandey, Subhash Singh and wife of Subhash Singh, in injured condition were admitted in the hospital. Two months before the incident, he had made complaint to the S.P. and to the police station against Subhash Singh and Chandreshwar for giving threat of shooting and said complaint was having signature of 150 persons. He did not obtain receipt of the complaint given at police station but receipt of complaint given to the S.P was supplied to his nephew Satish Kumar Pandey. His son was operated upon by Dr. Ali Saheb of APPOLO but he is not knowing the name of Surgeon who operated his son at Bokaro. His son, after stay of 49 days in APPOLO hospital was taken to Gandhi Nagar because they were suggested at APPOLO that chances of his survival is no more and it was asked to take him to Vellore or to Delhi. The intestine of his son continues to sore. On 49th day of his son's admission in APPOLO they were told to take him to Vellore, they were preparing to go to Vellore but meanwhile his son died. He claimed ignorance as to whether his son was treated properly or not at B.G.H, Bokaro. He admitted that wife of accused instituted a case of assault against them, they took bail in that case and that in said case, they were arrested. He denied that after their arrest, on his instigation the house of the accused was attacked and beating was

given. He clarified that at that time he was at Tenughat and he is having no knowledge about that case. In further cross-examination by defence, he stated that altercation and abuses continued for 10-15 minutes and during that Sanat Singh, Girdhari Pd., Shankar Paswan etc. come. Firstly his son sustained bullet injury, then he sustained bullet injury and thereafter wife of Bharat Singh sustained bullet injury. Prior to present incident he did not see revolver of Subhash Singh but he had heard that it was six round revolver. He claimed ignorance that for better treatment Subhash Singh and wife of Subhash Singh, who were having wound were referred to C.C.L. hospital Gandhi Nagar. He also deposed that they, at the time of their arrest came to know that a case of causing serious injury has been instituted against them. He claimed ignorance as to whether police made enquiry from his son Girijesh Pandey. He admitted that on 27-11-05 his daughter instituted a case against the accused persons. He denied that on 25-12-05 at 2:00 PM he, Mani Shankar Pandey, Dilip Pandey, Nand Kishore Pandey, Udit Pandey, Girijesh Pandey, Nirej Pandey, Dhiraj Pandey etc. entered in the house of Subhash Singh, gave severe beating to Subhash Singh and to wife of Subhash Singh or obtained key of Almirah after rebuking Sohan Singh son of Subhash Singh or that Ajay Yadav and Akshay Pandey took out the licensee revolver of Subhash Singh and everyone of them indulged in snatching to take the possession of revolver or that Puspa Devi asked them to desist as the revolver was loaded but they did not pay

adherence and in the process of snatching of revolver trigger of revolver was pressed and they sustained bullet injury. He also denied that they removed Rs.15,000/- cash and 30 tola gold and revolver from the house of Subhash. He denied that he has suppressed the real facts or that his son was never injured by the accused persons.

PW-9 Dr. Suresh Kumar Singh deposed that on 25-12-05 at 3:50 P.M, he examined Girijesh Pandey who was brought having history of physical assault by fire arm at about 2:50 P.M. at Subhash Nagar Bermo by known persons Subhash Singh S/O Tribhuwan Singh of Subhash Nagar Bermo as stated by the patient himself. As per paper given by attendant and attached with case the patient had taken initial treatment at Regional hospital, Dhori. He was admitted in Surgery in Dr. P.K. Sarkar unit having hospital no.65887/05. He found a lacerated wound on his left mid auxiliary line, 12 inches below oval, of size 1" x 1/4" with tattooing mark, long axis vertical extension, margin inverted with fresh bleeding, the wound of entry and another lacerated wound in right hypochondrium; oval shaped (3/4" x 1/2") long axis oblique position 3" below last rib and 4" way mid line, everted margin bright red color, wound of exit. X-ray of chest was done. He opined that the injuries were fire arm injuries; the age of injuries was less than 12 hours. Regarding opinion about nature of injuries, he deposed that same may be taken from Dr.R.K.Mishra Surgeon on duty. He exhibited his signature on injury report.

In cross-examination, he claimed ignorance about the number of

days during which the patient remained under treatment in hospital or about the person who brought him to hospital but clarified that the broughter told him the name of the patient and the patient himself also told his name to him. He denied that he prepared the report in collusion with the family of the injured or that his report is manufactured one but he admitted that digit 6 has been corrected as 5.

PW-10 Dr. R. K. Mishra is the Surgeon and he deposed that after initial admission in casualty, as a Surgeon on duty patient was examined by him. On clinical examination the patient was found having features of Haemoperitoneum. The peritoneal cavity was full of blood and fluid and there were two vents one to interior wall and one is posterior wall of stomach. There was lacerated wound of lower pole of spleen and tail of pancreas. There was vent in retroperitoneum and is haematoma. Blood was mopped vent of stomach and retroperitoneum was closed and splenectomy was done, Peritoneal lavage was given and abdomen was closed in layers with drain. On second post operative examination there was features of spinal shock. There was no sensation in both lower limbs and there are features of paraparesis and there which neuro surgical consultation was done. He further deposed that survey was done on 25-12-05 and the patient was discharged on 05-01-06 and was referred to higher centers for management of paraplegia. This witness further deposed that there was report of no contrast C.T. Scan of gunshot injury, fracture of vertebrae plus embedded fragment in canal. That this case

was also examined by neuro Surgeon Dr. N. K. Das and he has written evidence of bullet at vertebral body with bullet trace passing across the spinal column, quarry transaction of chord, possibility or recovery of limbs is negligible. He identified his signature on Admit Card and also on operation of and further deposed that the X-ray information report is in the writing of Senior Deputy Director of Radiology. Dr. Mrs. Kapoor. He also exhibited the report as being in the writing of the H.O.D. Neurosurgery Dr. N. K. Das and identified signature of Dr. Das thereon and deposed that he collected the reports for treatment.

In cross-examination, he clarified that he asked for the N.C.T. Scan report but same could be acquired after the operation. The operation was done on 25-12-05 and report was received on 31-12-05. On 02-01-06, he asked for the report of Neuro-Surgeon and said report received on 04-01-06 and before operation, no report of Neurosurgeon or report Anesthesia was received. He clarified that his successful surgery was reason for discharge on 05-01-06 and patient was discharged for treatment of paraplegia but it has not been mentioned in his note-sheet. He had brought bed head ticket. He clarified that N.C.C.T report is a neuro report. There was loss of senses below D-10 vertebra and during examination no bullet was recovered. He was of the view that patient had features of paraplegia, He clarified that he received no documents regarding the initial treatment of patient in Dhori Regional hospital. The reasons for bed-sores on the body of the patient was paraplegia, he had no sense on sore parts and the bed-sore was due to

this reason. By use of water beds, bed-sore can be avoided. There was no infection on the stitches given by him at the time of discharge. The stitches 9cm x 4cm in front of abdomen lower part mid-line has not done by him. Stitches 4.2cm in front of abdomen upper part mid-line was given by him. Stitches 1/2cm x 1/2cm on left illiaphosa was also not given by him. He further deposed that while conducting the surgery, he has not repaired the small intestine at two places and large intestine at two places. Both the intestines were not repaired by him. Pleritenisom is the infelamatia of paritonal cavity and it may be due to many reasons of blood, free blood in the paritonal cavity, the material leaked from viscera or bactual infection of the pleritonal. It is clinically diagnostic by pain, tenderness, blood like rigidity. He admitted that he is not a Radialogist or a Neuro-Surgeon.

PW-11 Srishtidhar Mahto is the I.O. of this case who deposed that on 25-12-05, when he was posted as S.I. at P.S. Bermo, he received an information by way of rumor that a fight had taken place between two groups in old Subhash Nagar and shooting of fire also took there. Then, he recorded Sanha no.833 and to verify the fact proceeded for there but on the way, he came to know that in firing, Kedar Nath Pandey, his son Girijesh Pandey and a lady sustained injuries and the trio has been referred to Regional hospital, Dhori. He went to said hospital, saw Kedar Nath Pandey in injured condition there and recorded Fardbeyan of Kedar Nath Pandey. He also recorded statement of injured Meena Devi and witnesses namely Yogendra Pd.

Singh, Ram Swarup Singh, Leela Dhari Pd. Gupta, Sanat Pd. Singh and Birendra Pd. Singh, issued the requisition for medical examination of injured and returned back to police station with Fardbeyan. Formal F.I.R., on the basis of Fardbeyan was recorded and it bears signature of Officer-in-charge Rajbali Choudhary. During investigation, he inspected the place of occurrence which is the quarter of informant Kedar Nath Pandey in old Subhash Nagar and it was stated to him that the injured at the time of incident were at the gate of said Quarter. Quarter of accused Subhash Singh is in front of Quarter of Kedar Pandey and the distance between the two Quarters is 10 yards, a Shiv temple is in north at a distance of 40 yards from place of incident. On 01-01-06, he collected injury report of Kedar Pandey and of Meena Devi and accused Subhash Singh and accused Chandreshwar Singh were arrested by him on 14-01-06 and on 26-12-05 respectively. This witness on 26-02-06 recorded statement of injured Girijesh Pandey and Girijesh Pandey stated to him that on 25-12-05 at 2:00 P.M, altercation took place between the ladies of his house and wife of Subhash Singh and Subhash and Chandreshwar Singh indulged in abusing, Chandreshwar Singh gave threat to kill him and Subhash Singh with his licensee revolver shot two fire upon him and he sustained shots on both side of stomach, his father and Meena Devi also sustained bullet injuries. Girijesh also stated that he is unable to sit as the bullet is still fastened in his back bone. The S.I. further deposed that he subsequently handed over the investigation to the

Officer-in- charge and it was assigned by him to S.I. Fransis Rajwar. He deposed that Para no.1 to 84 of case diary is in his writing.

In cross-examination, he categorically deposed that in hospital he saw accused Subhash Singh and Subhash Singh's wife Pushpa Devi in injured condition and he issued requisition for their medical examination. He clarified that on 25-12-05 at 7:30 P.M., he saw Subhash Singh at Dhori hospital in serious injured condition with his face bleeding and covered with bandage and tried to record his statement but doctor informed him that due to injuries he was unable to speak so on that day he recorded Fardbeyan of wife of Subhash Singh who was admitted in ladies ward. On the basis of her Fardbeyan F.I.R.no.157/05 was registered. On 29-12-05, he again went to hospital and met Subhash Singh who was having bandage at his face at that time also due to bleeding, he expressed difficulty in speaking and requested to defer his statement and doctor also told him that for better treatment Subhash would be referred to Ranchi. He admitted that on 27-11-05, Rina Kumari lodged F.I.R.no.149/05 against Chandreshwar Singh, Rakesh Singh and Subhash Singh and in said case, a recommendation for proceeding u/s 107 was made. During investigation, he demanded revolver and the license of the revolver from Pushpa Devi wife of Subhash but she informed that on the day of incident revolver was taken by Kedar Pandey. He conducted raid to recover the revolver but it could not be recovered.

PW-12 Meena Devi deposed that on 25-12- 05 at 2:00 P.M, she was

standing at the door of the house of Kedar Pandey and at that time an altercation was going on between the wife of Kedar Pandey, Mani Pandey and wife Subhash Singh and Chandreshwar Singh asked Subhash Singh to bring bullet and to kill then Subhash Singh shot two fire on Girijesh Pandey and Girijesh Pandey fell down. Thereafter Subhash fired another bullet which landed on the leg of Kedar Pandey and further bullet fired landed on her thigh on right portion. She sustained injury and blood started oozing, then, they were taken to Regional hospital Dhorri and from there, she was referred to Ranchi Gandhi Nagar hospital and bullet by operation was taken out. Girijesh Pandey died due to bullet injury. Reason behind the incident, she stated that the plain land of CCL in between the quarter of Subhash Singh and Mani Shankar was the root cause of occurrence.

In cross-examination, there is nothing to disbelieve her testimony and she has remained intact.

15. On the other hand, defence has also examined one witness i.e. **DW-1 Smt. Pushpa Devi** who deposed that on 25-12-05 her sons Sohan Kumar and Avinash went to village pond for taking bath and washing clothes as there was no water in house on that day. After sometime her son Sohan came running and informed that Avinash is being beaten by Udit Pandey, Neeraj Pandey and Dheeraj Pandey. Her husband was not in the house and she asked her son Sohan to see whether Panditjee is there at the house. Sohan replied that Mani Shankar Pandit is sitting at the gate of his house. She, from behind

curtain complained to Mani Shankar that his son is beating her son at the pond but meanwhile Kedar Pandey and Kedar Pandey's wife, while abusing passed from in front of her door and went to the gate of the house of Mani Shankar. She raised protest that they are not desisting their son, rather, she is abusing her but on that daughters of Kedar Pandey and daughter of Mani Shankar Pandey started abusing her. She further deposed that Mani Shankar Pandey and his wife, Dilip Pandey and his wife, Satish Pandey and his wife, Kedar Pandey and his wife, Nand Kishore Pandey, Udit, Sunaina, Rina Kumari entered her house, gave beating to her and damaged the belonging of her house. Kedar Pandey also asked her to give revolver and when she forbade to do so they gave beating to her with rod and lathi. Having seen her condition her son threw key of Almirah towards the assailants. Ajay Yadav opened the Almirah and Akshay Pandey took out the revolver and Akshay Pandey, while shooting fire run away. Assailants also took jewelry and cash from her house. The said incident is of 1:30 P.M. and her husband at that time was not in the house and was arriving back from duty and as soon as he reached at the gate of the house, he was given beating, at the gate by Kedar Pandey. They took treatment, firstly at Regional hospital and thereafter at C.C.L hospital. Her statement was recorded by the police in hospital and on her statement Bermo (Tenughat) P.S. Case No. 157 of 2005 was registered. She further deposed that her husband has falsely been implicated and their revolver could not yet be

recovered.

In cross- examination by learned A.P.P, she admitted that Kedar Nath Pandey, Meena Devi and Girijesh Pandey sustained injuries but she claimed ignorance as to who sustained gunshot injuries. She denied that was tutored and stated that whatever she has deposed is the reality, seen and faced by her. Revolver was in the name of her father-in-law, she handed over the license of the revolver to the police. She denied that in order to save her husband she instituted a false case or that she deposed falsely.

16. After going through the testimony of the witnesses examined in this case, it appears that root cause of the occurrence was dispute regarding vacant land in between the house of accused Subhash Singh and Mani Shankar. From the statement of injured witnesses Kedar Nath Pandey (P.W.-8) and Meena Devi (P.W.-12) and also from the statement of eye-witnesses P.W.-1 Leela Dhari Prasad Gupta, P.W.-2 Sanat Kumar and P.W.-3 Ranjit Kumar Turi, it is crystal clear that accused Subhash Singh shot upon injured persons and also upon deceased Girijesh Pandey, which finds corroboration from the medical evidence of Dr. Ravindra Nath Singh (P.W.-4), Dr. Chandra Shekhar Prasad (P.W.-6), Dr. Suresh Kumar Singh (P.W.-9) and Dr. R.K. Mishra (P.W.-10). The I.O. (P.W.-11) Srishtidhar Mahto has proved the place of occurrence and genesis of occurrence. He also proved that in course of altercation accused Subhash Singh and his wife Pushpa Devi also sustained injuries. In view of the above, I am of the considered view

that occurrence took place in the course of sudden quarrel and thus, the learned trial Court has rightly convicted the accused Subhash Singh under Section 304 Part-II of the IPC acquitting him from the other charges which warrants no interference in this appeal. There is no illegality or infirmity in the impugned judgment passed by the learned trial Court which is hereby affirmed.

17. In result, **the appeal preferred by the appellant as well as revision preferred by the informant both stands dismissed.**
18. Pending I.A(s), if any, is also disposed of, accordingly.
19. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned immediately for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, at Ranchi

Date: 14/08/2026

Basant/-N.A.F.R.

Uploaded on 14/08/2026