

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 1288 of 2005

[Against the Judgment of conviction and Order of sentence dated 26.09.2005, passed by learned 2nd Additional Sessions Judge, Garhwa, in Sessions Trial No. 161 of 1988].

1. Manik Singh, son of Gora Prasad Singh, Resident of Village – Pachpokhari, Police Station - Haider Nagar, District - Palamau.
2. Surendra Singh, son of Late Harihar Singh, resident of Village – Ranpura, Police Station – Ranka, District – Garhwa.
3. Nagendra Singh, son of Brij Nandan Singh, resident of Village – Karui, Police Station – Majhiaon, District – Garhwa.

	...	...	Appellants
	Versus		
The State of Jharkhand	...	...	Respondent

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For the Appellants : Mr. Ashish Kumar Sinha, Advocate.
 For the Respondent : Mr. Bishambhar Shastri, A.P.P.

.....
P R E S E N T
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
JUDGMENT

C.A.V. on 20.07.2026 Pronounced on 27.08.2026

1. Heard learned counsel for the parties.
2. The instant Criminal Appeal is directed against the judgment of conviction and order of sentence dated 26.09.2005 passed by learned 2nd Additional Sessions Judge, Garhwa in Sessions Trial No. 161 of 1988, whereby and whereunder, the appellants have been held guilty for the offence under Section 307 of the I.P.C. and Section 27 of the Arms Act and sentenced to undergo R.I. for five years along for the offence under Section 307 of I.P.C. and R.I. for three years for

the offence under Section 27 of the Arms Act. Both the sentences were directed to run concurrently.

FACTUAL MATRIX

3. The factual matrix giving rise to this appeal is that on 15.11.85 the informant namely, Gamhar Singh submitted the written report before the Officer-in-charge, Ranka P.S., alleging therein that he along with Mahabir Singh and Mundar Singh were going to Ranka Block for filing nomination of election for Panchayat mukhiya. When the informant reached near Chhatia then he was informed by one Gulab Chand Mahto that the co-accused persons, 13 in numbers, were planning to harvest the paddy crops of the informant. On such information, the informant returned to home and went to the field, where he saw that accused Surendra Singh and his two brother-in-laws namely, Baldeo Singh and Tapeswar Singh, Jagarnath Sao, Khelawan Prahiya, Basudeo Prahiya, Charitra Prahiya, Bhukhan Prahiya, Nathu Singh, Sona Singh, Prem Chand Prasad are present in the field. The informant also saw that Surendra Singh and his two brothers-in-law were armed with gun and rests were armed with garasa, bhala and lathi. About 30 labourers were found harvesting the green paddy in field. The informant asked Surendra Singh as to why he was doing such type of mischief then

Surendra Singh told him that the crops was grown by him, as such he was cutting the same with the help of labourers, which led exchange of hot words. Surendra Singh and his two brothers-in-law opened fire, due to which, the informant and other persons received injuries. The other accused persons assaulted Rameshwar Singh and others by lathi and took away the paddy crops.

4. On the basis of above information, FIR being Ranka P.S. Case No. 75 of 1985 was registered against the 13 accused persons including the appellants for the offence under Sections 147, 148, 149, 323, 307, 379 of the I.P.C. and Section 27 of the Arms Act against all the 13 accused persons.
5. After completion of investigation, charge sheet was submitted against all the 13 accused persons. After taking cognizance of the offence, the learned Magistrate committed the case to the Court of Sessions. The charges were framed for the offence under Sections 148, 379, 323, 307/149 of I.P.C. and Section 27 of the Arms Act and the same was read over and explained to the accused persons, to which they denied from the charges and claimed to be tried. Later on, co-accused Tapeswar Singh and Sona Singh have died and their names have been expunged from the trial.

- 6.** In course of trial, the prosecution has examined altogether 16 witnesses and also adduced following documentary evidence:-

- Exhibit-1 : Signature of Alauddin Warsi on production list.
- Exhibit-1/1 : Signature of Alauddin Warsi on seizure list.
- Exhibit-2 : Signature of Aziz Mian on production list.
- Exhibit-2/1 : Signature of Aziz Mian on seizure list.
- Exhibit-3 : Signature of informant Gamhar Singh on written report.
- Exhibit-4 to 4/8 : Injury Reports of Injured.
- Exhibit-5 : Written Report.
- Exhibit-6 : Report of Sargent Major dated 21.11.1985.

- 7.** However, defence has examined one formal witness and also adduced following documentary evidences:

- Exhibit-A : Revenue records of Village – Harigawan.
- Exhibit-A/1 : Fardbeyan of G.R. Case No. 735/1985.
- Exhibit-A/2 : C.C. of Judgment of S.T. No. 163/1988.
- Exhibit-B : Government rent receipts.
- Exhibit-C : Settlement paper of Jamabandi.

- 8.** The learned trial court, after considering the oral as well as documentary evidence available on record,

acquitted the appellants for the offence under Sections 148 & 379 of the I.P.C., rather found guilty for the offence under Sections 307 of the I.P.C. and Section 27 of the Arms act and sentenced them, as stated above and also acquitted other eight co-accused persons.

Arguments advanced on behalf of Appellants.

9. Learned counsel for the appellants assailing the impugned judgment has submitted that the appellants have been falsely implicated in this case due to land dispute. There was case and counter case between the parties, i.e. Ranka P.S. Case No. 76 of 1985 and Ranka P.S. Case No. 75 of 1985 and in the counter case the informant party have already been convicted.
10. It is further submitted that to prove an offence under Section 307 IPC, the court has to see if the act was done with the intention or knowledge so as to cause death and since the facts do not prove such intention or knowledge on part of the accused-appellants, there cannot be an offence for attempt to murder under Section 307 IPC. It also observed that the intention has to be gathered from the entire circumstances of the case such as nature of the weapon used, the manner in which it was used, severity of the blow or hurt, the part of the body where the injury was

inflicted and so on and not merely from the end result.

- 11.** It is further submitted that even if the entire evidence of injured persons in the light of their injury reports (Exhibit-4 to 4/8) is taken to be true on its face value, no offence under Section 307 of I.P.C. is constituted. From perusal of injury reports (Exhibit-4 to 4/8), it appears that the injuries caused by the injured persons are simple in nature.
- 12.** It is further submitted that although there was allegation against the appellants for causing firearm injury upon the injured namely, Mundar Singh, Sundar Singh and Gamhar Singh (informant), but as per the Doctor, no entry or exit wound were found on the body of the injured and as per prosecution case, it is close range fire arm injury caused to the injured, but charring, blackening and tattooing were not present upon the body of the injured, which has not been proved by any Medical Officer.
- 13.** It is further submitted that the conviction for the offence under section 27 Arms Act is totally bad in law in absence of any proved fact with respect to either contravention of section 5 or section 7 of the Arms Act in order to constitute the offence punishable either u/s 27(1) or 27(2) or 27(3).

- 14.** It is further submitted that Investigating Officer of this case has not been examined and, therefore, the place of occurrence, the manner and mode of occurrence, non-production of any arms or ammunition remained unproved and the learned trial Court did not apply the appropriate judicious mind while upholding the conviction under section 27 of the Arms Act which is bad in law.

Argument advanced on behalf of State.

- 15.** On the other hand, learned APP appearing for the State has opposed the contentions raised on behalf of the appellants and defended the impugned judgment and order on merits. Further, learned APP has submitted that the conviction of the appellants under section 27 of the Arms Act along with section 307 of IPC is fully sustainable as injured have sustained gun-shot injuries which have also been proved by the medical evidence.

Analysis, Discussions and Reasons.

- 16.** I have gone through the record the case along with impugned judgment in the light of contentions raised on behalf of both side.
- 17.** Before imparting my judgment, it would be apposite to take brief resume of prosecution evidence.

- 18.** It appears that altogether 16 witnesses have been examined in this case, out of which **P.W.-7 Pacchu Singh** is the tender witness, **P.W.-10 Alauddin Bрами** and **P.W.-11 Asiz Mian**, both are seizure list witness, **P.W.-15 Ramesh Pal** is a formal witness, who has proved the injury reports of Dr. U.S. Madhu, which are marked as Exhibit-4 to 4/8 and **P.W.-16 Rajendra Prasad** is also formal witness, who has proved the formal F.I.R. and the fardbeyan, which are marked as Exhibit-5 and 6.
- 19.** The main allegation attributed against the appellants is of giving firearm injuries upon the injured, so the evidence of injured Mundar Singh (P.W.-1), Sundar Singh (P.W.-2) and Gamhar Singh (P.W.-12) (informant) are important to decide the case.
- 20. P.W.-1 Mundar Singh.** He has deposed that on the date and time of occurrence, he was working in his field. On alarm of Gamhar Singh, he reached at his field, where he saw that the accused Surendra Singh and his two brothers along with Baldeo Singh, Tapeswar Singh, Charitra Parahiya and 40-50 other persons were present at the place of occurrence. The accused Surendra Singh and his two brothers were armed with gun and the rest accused persons were armed with lathi and garasa. The ladies were armed with hasua. Informant Gamhar Singh asked them not

to cut his paddy crops. On this, accused Surendra Singh and his two brothers opened fire in which Gamhar Singh, Sundar Singh and this witness have received firearm injuries on their person. This witness has further stated that informant Gamhar Singh had grown the paddy crops in his field but the accused persons cut away the paddy crops and kept it in the house of Sona Singh of Village Tuti Munda.

In his cross-examination, this witness has stated that as soon as he arrived, he was shot. Surendra Singh had fired a single shot at him and the pellets struck his chest and the palm of his left hand. This witness has further stated that he was 25 yards away from scene of the incident, when he was shot. Surendra Singh had shot at him with a small gun.

21. P.W.-2 Sundar Singh. He has also stated the same fact in his evidence as that of P.W.-1. He has stated that Nagendra Singh shot him on the chest with gun.

22. P.W.-12 Gamhar Singh is the informant of this case. He has stated in his evidence that on the date and time of occurrence, when he reached at his field, he saw that some labourers under the direction of accused Surendra, Manik and Nagendra Singh were cutting his paddy crops. The other accused persons were also present there. The accused Surendra Singh,

Manik and Surendra Parahiya were armed with gun and pistol. When he asked the accused persons not to cut his paddy crops, then the accused Surendra, Manik Singh opened fire, in which, this witness, Mundar and Sundar Singh received injury of firearms and the rest accused persons assaulted Mahabir Singh and others by lathi. The accused persons cut away his 50 bundles of paddy crops. This witness has further stated that later on he reported the matter to the police and got his treatment at Government Hospital, Garhwa. He has proved his signature on the FIR, which was marked as Exhibit-3 on behalf of prosecution.

23. Rest witnesses i.e. **P.W.-3 Bhami Singh, P.W.-4 Ramchandra Singh, P.W.-5 Sohrai Bhuian, P.W.-6 Rambriksha Singh, P.W.-8 Bhandari Singh, P.W.-9 Kamleshwar Singh, P.W.-13 Ramdhari Singh and P.W.-14 Bacchu Singh** have claimed themselves to be eye-witnesses of the case and deposed in the same line as of the injured.

24. In order to substantiate the offence under Section 307 of the I.P.C. and Section 27 of the Arms Act, the injury reports of the injured persons are necessary to be re-produced hereinbelow:-

Injury Report of Injured – Mundar Singh (Exhibit-4/3):-

- (i) A lacerated wound 1 cm in diameter & skin deep on the outer side of left hand.
- (ii) A lacerated wound 1 cm in diameter & skin deep on lower part of the left side of chest.

All the injuries of injured - Mundar Singh are opined to be simple in nature caused by firearm.

Although injury report of injured Mundar Singh (Exhibit-4/3) is opined to be caused by firearm, but no charring, blackening, no exit or entry point or any other sign of firearm injury has been specifically mentioned in the injury report.

Under such circumstances, non-examination of Doctor, who conducted medical examination, such type of injuries, could not be considered caused by any firearm.

Injury Report of Injured – Gamhar Singh (Exhibit-4/4):-

- (i) Five lacerated wounds (rounded) 1 cm diameter & skin deep on the front of chest.
- (ii) One lacerated wound 1 cm diameter & skin deep on the :-
 - (a) Deltoid region;
 - (b) Right index finger.
- (iii) Three lacerated wound 1 cm diameter and skin

deep on the front of left thigh.

All injuries of Gamhar Singh are also opined to be simple in nature caused by firearm.

Injury Report of Injured – Sundar Singh (Exhibit-4/5):-

- (i) A lacerated wound 1 cm diameter & skin deep on the (a) left side of chest (b) lower and middle of the chest (c) on the front of left thigh.

All injuries of Sundar Singh are also opined to be simple in nature caused by firearm.

- 25.** Before imparting my judgment, it is pertinent to mention the relevant provisions of law:-

307. Attempt to murder.—

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

Attempts by life convicts.— When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.

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

"7.Under Section 307 I.P.C. 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 consequence 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."

27. It has also been held by the Hon'ble Apex Court in the case of ***Jage Ram & Others Vs. State of Haryana***, as reported in ***(2015) 11 SCC 366***, at para-12 that:-

"12. For the purpose of conviction under Section 307 IPC, prosecution has to establish (i) the intention to commit murder and (ii) the act done by the accused. The burden is on the prosecution that accused had attempted to commit the murder of the prosecution witness. Whether the accused person intended to commit murder of another person would depend upon the facts and circumstances of each case. To justify a conviction under Section 307 IPC, it is not essential that fatal injury capable of causing death should have been caused. Although the nature of injury actually caused may be of assistance in coming to a finding as to the

intention of the accused, such intention may also be adduced from other circumstances. The intention of the accused is to be gathered from the circumstances like the nature of the weapon used, words used by the accused at the time of the incident, motive of the accused, parts of the body where the injury was caused and the nature of injury and severity of the blows given etc."

28. From recapitulating the entire evidences available on record, it appears that the Doctor, who has treated the injured was not examined, therefore, there is no opinion of the conducting Doctor that above injuries were likely to cause death or dangerous to life. It appears that although the charge were framed for the offence under Sections 148, 379, 323, 307/149 of the I.P.C. and Section 27 of the Arms Act, but the learned trial court considering the gravity of offence wrongly assumed that the said gunshot injuries were given with intention to kill the injured persons or to knowledge that such injury in all probability may cause death of the injured persons and therefore the trial court has wrongly convicted the appellants under Sections 307 of the I.P.C.

29. For constituting the offence under Section 307 of the I.P.C., the Court has to see, whether the act irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the Section 300 of the I.P.C.

- 30.** In the instance case, the injuries sustained by injured persons are found on the vital part of the body, but simple in nature and the injuries caused to the injured persons appear to be happened in sudden manner without any intention to kill the injured persons or the knowledge as required to constitute offence of murder under Section 300 of the I.P.C. It is also trite that the intention of the accused can be ascertained from the actual injury, if any, as well as from surrounding circumstances. Among other things, the nature of the weapon used and the severity of the blows inflicted can be considered to infer intention.
- 31.** There were thirteen accused persons executed the commission of offence allegedly armed with various lethal weapons, but only simple injuries were inflicted upon the injured persons. If the accused persons had intention to commit murder of the injured persons, there was no intervening circumstance to prevent them from causing murder even assaulting on vital part of body like head etc., but the same has not been done by the appellants.
- 32.** Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, I am of the considered view that **conviction and sentence of the appellants for the offence**

under Section 307 of the I.P.C. is not sustainable and justified under law, which **is hereby set aside.** **However, from the facts of the case, the offence under Section 324 of the I.P.C. is made out.**

33. The relevant provision of Section 324 of the I.P.C. reads as under:-

324. Voluntarily causing hurt by dangerous weapons or means.—

Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

34. This Court in the background of the evidence available in this case, finds the offences under Section 324 of the I.P.C. is constituted against the appellants, as there is direct allegation against the appellants to

cause simple injuries upon the injured persons.

Therefore, the appellants are held guilty for the offence under Section 324 of I.P.C. only

35. It has been held by the Hon'ble Supreme Court in the case of **“Surinder Singh v. State (Union Territory of Chandigarh)”** reported in **(2021) 20 SCC 24**, which read as under:

“29. Adverting to the conviction of the appellant under Section 27 of the Arms Act, it appears to us that the trial court has erred in arriving at his culpability. There is no gainsay that in order to prove a charge under Section 27 of the Arms Act, the prosecution must necessarily demonstrate contravention of either Section 5 or 7 of the Act. In the instant case, although not explicitly stated, it appears that the trial court has held it to be a case of breach of Section 5 of the Arms Act, which stipulates that no person shall use, possess, manufacture, etc. any firearms, unless such person holds a licence in this behalf, and prescribes a minimum punishment of 3 years of imprisonment.

30. *The relevant extracts of unamended Sections 5 and 27 of the Arms Act which were in force at the relevant time, read as follows:*

"5. Licence for manufacture, sale, etc., of arms and ammunition- (1) No person shall- (a) use, manufacture, sell, transfer, convert, repair, test or prove, or (b) expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof, any firearm or any other arms of such class or description as

may be prescribed or any ammunition, unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder.

27. Punishment for using arms, etc.-(1)

Whoever uses any arms or ammunition in contravention of Section 5 shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine. (2)

Whoever uses any prohibited arms or prohibited ammunition in contravention of Section 7 shall be punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and shall also be liable to fine. (3)

Whoever uses any prohibited arms or prohibited ammunition or does any act in contravention of Section 7 and such use or act results in the death of any other person, shall be punishable with death."

- 36.** It further appears that the conviction of the appellants under section 27 of the Arms Act is bad in law as the learned trial court did not discuss under which subsection of section 27 of Arms Act, appellants were found guilty. Further it is also found that I.O. in this case has not been examined and hence the manner, mode and place of occurrence could not be proved formally and also it is fatal for the prosecution as it could not be determined as to under which clause of section 27 of Arms Act, the appellant has been held guilty so far as it relates to the arm used by the appellant in causing injury to the victim was in

contravention of section 5 or in contravention of section 7 of the Arms Act to fasten guilt of appellant either under section 27(1) or 27(2) or 27(3) of the Arms Act. Moreover, the Doctor, who has examined the injured persons has not been examined to explain as to how the injuries were opined to be caused by use of firearm.

- 37.** Therefore, this Court set-aside the conviction and sentence of the appellant dated 26.09.2005 passed by the learned 2nd Additional Sessions Judge, Garhwa in Sessions Trial No. 161 of 1988 for the offence under section 27 of the Arms Act and the appellants are acquitted from the charge levelled against him for the offence punishable under section 27 of the Arms Act.
- 38.** So far sentence of the appellants for the offence under Section 324 of the I.P.C. is concerned, it appears that the occurrence is of the year 1985 and more than four decades have elapsed and the appellants have also remained in custody for two months. Therefore, further custodial sentence of the appellants is not required at this stage as no useful purpose would be served to send the appellants again in jail. 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.

- 39.** In view of aforesaid discussion and reasons, the sentence awarded to the appellants by the learned trial court is hereby modified and reduced to imprisonment already undergone for the offence under Section 324 of I.P.C.
- 40.** Accordingly, this appeal is **dismissed on merits with modification in conviction and sentence**, as stated above.
- 41.** The appellants are on bail. As such, they are discharged from the liability of bail bonds and sureties shall also discharged.
- 42.** Pending I.A., if any, stand disposed of.
- 43.** 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, the 27th August, 2026.

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

Uploaded on 28/08/2026