
(2022) 06 MP CK 0002

Madhya Pradesh High Court

Case No: Criminal Appeal No. 2022 Of 1997

Sukhcharan And Others

APPELLANT

Vs

State Of M.P

RESPONDENT

Date of Decision: June 2, 2022

Acts Referred:

- Indian Penal Code, 1860 - Section 34, 307, 319, 320, 325, 357, 374(2)

Hon'ble Judges: Dinesh Kumar Paliwal, J

Bench: Single Bench

Advocate: Shivam Singh, A. N. Gupta

Final Decision: Disposed Of

Judgement

Dinesh Kumar Paliwal, J

1. This criminal appeal under Section 374(2) of the Code of Criminal Procedure has been filed by the appellants against the judgment of conviction and

order of sentence dated 6.9.1997 passed in S.T. No.248/1996 (State of M.P. Vs. Sukhcharan and another), whereby they have been convicted for

commission of offence under Section 307 of IPC and have been sentenced to 7-7 years R.I. by Sessions Judge, Balaghat.

2. The facts of the case, briefly stated, are as under :-

The case of the complainant Mahadas, as recorded in the FIR, is that on 21.3.1996 at around 9.30 a.m. when he was returning to his home from the

fields; on the way to his home, Sukhcharan armed with spear and his son Rajendra armed with bamboo stick (lathi) met and on account of old enmity

started to abuse him and told that they will kill him today. Sukhcharan gave a spear below his head near left eye, he gave another blow in the left leg

below knee. Blood started to ooze. Rajendra Lodhi gave club blows over his head and back. As there was previous enmity between them, the

appellant Sukhcharan, along with his son Rajendra with an intention to kill, caused multiple injuries to the complainant/ injured Mahadas. Incident of

â€œmarpeetâ€™ by Sukhcharan and Rajendra was witnessed by Sushila Bai, Kastura Bai and Ratan Lodhi who were working there. They had

pacified the incident. As per the narration given by Mahadas Lodhi (P.W.13), an FIR was registered at Crime No.15/96 of P.S. Bahela, District

Balaghat for commission of offence under Section 307/34 of IPC. Injured Mahadas was sent to Primary Health Centre, Bahela, in Public Health

Centre, he was medically examined by Dr. B. L. Yadav (P.W.1). Dr. B. L. Yadav referred him to District Hospital and advised x-ray of injury No.3

and 6 of injured Mahadas. In District Hospital, Balaghat, x-ray of left foot of Mahadas was taken and in x-ray tibia and fibula of his left leg were

found broken. X-ray of left hand was also taken. Dr. G. C. Sharma (P.W.2) noted compound fracture in the tibia and fibula of left leg and fracture in

the base of second metacarpal bone of the left hand of Mahadas.

3. In the course of investigation Head Constable Nimar Chand (P.W.16) visited the place of occurrence and prepared site map Exhibit P/19. He

seized blood stained cloth and prepared seizure memo Exhibit P/6. On 29.8.96 S.I. T. R. Sahu (P.W.12) seized bamboo stick from accused Rajendra

and prepared seizure memo Exhibit P/7. He seized a spear from accused Sukhcharan and prepared seizure memo Exhibit P/16. He arrested both the

accused persons and prepared arrest memo Exhibit P/17 and P/18. Seized bamboo wood and spear were sent to doctor for getting their opinion.

Seized blood stained earth, from the plain earth, cloth, lathi and spear along with Exhibit P/20 memo were sent for chemical examination to F.S.L.,

Sagar. Exhibit P/1 F.S.L. report was received from Sagar. After completion of investigation, Police Bahela, District Balaghat filed charge sheet

against the appellants/ accused before JMFC, Balaghat who in turn, committed the case to the Court of Sessions.

4. Accused persons were charged for commission of offence under Section 307 of IPC. They abjured their guilt and claimed to be tried.

5. Learned Sessions Judge after recording prosecution and defense witness and after hearing the parties, convicted the appellants/ accused for commission of offence under Section 307 of IPC and sentenced them as mentioned herein above.

6. Learned counsel for the appellants assailed the judgment of conviction recorded by the learned Trial Court and has submitted that learned Trial

Court has not properly appreciated the evidence of prosecution witnesses. Learned Trial Court has discarded the evidence of defense witnesses

whereas, it was required to give same weight to the evidence of defence witnesses. Injured Mahadas in his evidence has admitted that he had enmity

with appellants/ accused and over that enmity he had falsely implicated the appellants/ accused. Learned trial Court ought not to believe his evidence.

Learned trial Court has misread and mis- appreciated the evidence. Therefore, it has been prayed that appeal may be allowed and appellants/ accused

may be acquitted of commission of offence under Section 307 of IPC by setting aside the impugned judgment of conviction and order of sentence.

7. On the other hand, learned Government Advocate has supported the impugned judgment and findings recorded by the learned trial Court. He has

submitted that there is ample evidence on record against the appellants/ accused for causing grievous injuries to the injured Mahadas with an intention

to kill him. Learned trial Court after properly appreciating the evidence of witnesses has committed no error in convicting the appellants/ accused.

Appeal has been filed without any merit by the appellants. There is nothing on record to interfere with the well recorded findings recorded by the

Sessions Judge. Thus, it has been prayed that appeal be dismissed.

8. I have heard rival submissions of the learned counsel for the parties and perused the trial Court record.

9. It has to be noted that on 21.3.96, immediately after the assault, the complainant Mahadas (P.W.13) was sent for medical examination to

Government Hospital, Bahela. Dr. B. L. Yadav (P.W.1) conducted medical examination of complainant Mahadas and he recorded the following :-

â€œMI â€" 1. Mal over right costal margin Ant. Asadin

2. Mal Lt. Lumbar region

O/E " Fully conscious, well oriented with time, place, person P.100/mt BP 70/40, sweating present in body. Tongue dry, pale, ?? shocked, patient.

(1) Injury No.1 2cm x ½ cm incised wound over left forehead, margin clear covered clotted blood directed,

(2) Injury No.2- 3 ½ cm x ½ cm incised wound over right eyebrow extending upto right eye Lat. Angle covered with clotted blood, margin clear, regular.

(3) Injury No.3 " contusion deforming sweating around 5 cm x 4 cm abrasion, overlying skin, over Anterolateral aspect of distal 1/3 upper arm Lt.

Movement at Lt. Elbow within normal limit.

(4) Injury No.4 " Abrasion " 3cm x 1 ½ cm over Rt. Tibial Tuberosity Rt. Leg directed lat. to medial side

(5) Injury No.5 " Abrasion " 2cm x ½ cm Skin Rt. Tibia middle 1/3 directed lat. to medial

(6) Lacerated wound " 4cm x 3 cm " over upper part middle 4cm x 3 cm Ant. Aspect.

1/3 Lt. Leg wound bleeding profusely, fresh blood coming upper end of broken bone composit.

All wound cleared, dressed, Injury No.1, 2 stiched, rest of injury cleaned and dressed. Patient managin c iv fluid, Antibodies, Analgesic, Antispectic

supplitives.

(7) Injury No.7 " Two parallel contusion over back of chest " 18 cm x 6 cm elongated colour redish directed left to right.

As per Dr.B. L. Yadav (P.W.1), Injury No.1 & 2 both were caused by sharp cutting object and Age of injury was within 3-6 hrs. To know, the extent

and nature, case is being referred to District Hospital, Balaghat for x-ray skull- Ap & Lat view, both wound stiched, cleaned and dressed.

Injury No.3 is caused by hard and blunt object, simple in nature, heals within 10-15 days, if complication do not develop, age of injury 3-6 hrs overlying

abraded skin is may be because of hard and rough object, wound cleaned and dressed.

Injury No.4 and 5 caused by hard, rough object, simple in nature, heals within 10-15 days if complications do not develop, age of injury 3-6 hrs.

Injury No.6 caused by hard and blunt object, age of injury 3-6 hrs. To know extent and nature of injury case is being referred to District Hospital,

Balaghat for x-ray Lt. Leg Ap & Lat view, wound cleaned and dressed.

Injury No.7 " caused by hard elongated object, simple in nature, caused by hard, elongated (like lathi- ubhasi) heals within 10-15 days if complication

do not develop, age of injury 3-6 hrs."

10. Injured was referred to District Hospital, Balaghat for x-ray of left leg and fracture treatment. In District Hospital, Balaghat, Dr. G. C. Sharma

(P.W.2) examined injured Mahadas and found following injuries :-

(1) compound fracture in tibia and fibula of left leg.

On 25.3.96, nailing of his left leg was done by Dr. G. C. Sharma. On 27.3.96 x-ray of his left hand was advised by Dr. G. C. Sharma and in x-ray

fracture was found on the base of metacarpal of the left hand. Injured Mahadas remained admitted in District Hospital, Balaghat from 21.3.96 to

4.4.96. His Discharge Ticket Exhibit P/4 has been proved by Dr. G. C. Sharma.

11. Dr. Sanjay Shukla (P.W.8) was posted as Assistant Surgeon in District Hospital, Balaghat. Injured Mahadas's left leg X-ray was taken, in x-

ray Dr. Sanjay Shukla (P.W.8) found his tibia and fibula of left leg broken. He gave x-ray report Exhibit P/14. Mahadas was also taken in x-ray

department.

12. Seized bamboo club Article "B" and spear Article "A" were sent to the Doctor for his opinion. Dr. G. C. Sharma (P.W.2) after

examining the seized articles found some suspicious blood strains present on bamboo club and some suspicious blood stains on article "A" spear

and advised for the chemical examination of same. According to Dr. G. C. Sharma, injuries found on the person of Mahadas may be caused by the

seized bamboo club and spear.

13. According to Dr. B. L. Yadav (P.W.1), injury No.1 and 2 were caused by some sharp edged weapon. Rest of the injuries were caused by some

hard and blunt object within 3 to 6 hours of the medical examination by him. According to Doctor injury No.1 and 2 found on the person of Mahadas

may be inflicted by article "A" spear and injury Nos.3, 4,5, 6 and 7 found on the person of Mahadas may be inflicted by article "B"

bamboo club. He has denied the suggestion offered by the defense that injury found on the person of Mahadas cannot be caused by seized spear

(article 302A). According to Dr. G. C. Sharma (P.W.2) injury No.1 and 2 found on the person of Mahadas were simple in nature.

14. As per medical evidence by Dr. B. L. Yadav (P.W.1), Dr. G. C. Sharma (P.W.2) and Dr. Sanjay Shukla (P.W.8), it is apparent that in total 7

injuries were found on the person of Mahadas. Dr. B. L. Yadav (P.W.1) has made it clear that at the time of examination, general condition of the

injured Mahadas was not good as his blood pressure was 70/40, tongue was dry and he was in a state of shock. If he was not treated well in time, he

could have died. There are no reasons to disbelieve the medical evidence of Dr. B. L. Yadav (P.W.1), Dr. G. C. Sharma (P.W.2) and Dr. Sanjay

Shukla (P.W.8). As per the evidence of Dr. B. L. Yadav (P.W.1) it can be inferred that when injured was brought to the Bahela Hospital, his general

condition was not good and the injuries found on his person were sufficient to cause his death in ordinary course of nature as same could have been

fatal, if he was not treated well in time.

15. Injured Mahadas (P.W.13) in his evidence has deposed that accused Rajendra and Sukhcharan are resident of his own village. On 21.3.96, at

around 8 a.m. he had gone to his field. At around 9 a.m. when he was returning to his home from field, accused persons who are father and son and

whose house is adjacent to road, intercepted his way and got stood before his bicycle. Sukhcharan armed with spear and Rajendra armed with

bamboo club (lathi) started to beat him. Sukhcharan gave spear blows on his head causing injuries above left and right eye. Rajendra gave bamboo

club blow over his head. Sukhcharan gave repeated spear blows on knee of his left leg, due to which his left leg bone got broken and he fell down

from the cycle. He with the help of one leg and hands went into Harichand's house, as soon as he reached Harichand's courtyard, Rajendra

gave a club blow on his forearm. Thereafter, accused persons gave repeated blows on his person. Rajendra twisted his left leg. They both left him

only when they got convinced that he is dead. Incident was witnessed by Sushila Bai, Tekdas and Ratan. They tried to save him but they could not do

anything due to fear of accused persons. He was taken to the police station Bahela through bullock cart, where he had lodged FIR (Exhibit P/15). Sub

Inspector M. S. Dhurve (P.W.11) scribe of FIR has supported the factum of registration of FIR on the basis of information given by injured Mahadas

(P.W.13). Mahadas further deposed that he was referred to Balaghat Hospital, where he remained admitted around one and half months.

16. The evidence of Mahadas (P.W.13) finds full corroboration from the evidence of Ratan Lal (P.W.14) and Tekdas (P.W.15). Mahadas (P.W.13)

was cross examined at length, in his cross examination he has been firm and consistent and nothing could be elucidated in his cross examination. In

para 10 of his cross examination, he has clearly stated that accused persons are facing criminal cases on the basis of report lodged by Ramlal. He has

stated that 30-35 reports have been lodged against the appellants/ accused so far. He has stated that Tekdas and Ratanlal were returning from their

field and were behind him. He has specifically stated that accused persons had intercepted him before their house and had beaten him. He has stated

that Tekdas and Ratanlal had come to rescue him. He has stated that accused persons had caused multiple injuries on his person and had beaten him

mercilessly. Eye witness Ratanlal (P.W.14) too has been firm and consistent in his cross examination. Ratanlal (P.W.14) who is the eye witness of

the incident has supported the evidence of Mahadas (P.W.13) and has deposed that when he was returning from his field, he had seen Sukhcharan

and Rajendra beating Mahadas by means of spear and bamboo club. He stated that when Mahadas went towards Harishchandra's court yard

accused persons inflicted injuries on his person there also and when he proceeded to rescue Mahadas, accused persons threaten him to kill. He had

raised alarm and had informed Mahadas's family about the marpeet of Mahadas by the accused persons. He has deposed that at the time of

incident, Tekdas, Sushila and Kasturi Bai were also present there. In cross examination, Ratanlal (P.W.14) has admitted that over tap water dispute

had taken place and accused persons had beaten his father. He has further admitted that accused persons are facing trial on the basis of FIR lodged

by his father. He has been firm and consistent in his evidence. In his cross examination he has specifically stated that accused persons had inflicted

injuries on the person of Mahadas in front of their house adjacent to road. Nothing has been brought in the cross examination of Ratanlal (P.W.14) to discredit his evidence.

17. Tekdas (P.W.15) is another eye witness. He has deposed that on 21.3.96 at around 10 a.m. when he was returning from his field and was going towards his house, Mahadas (P.W.13) was going ahead of him. Accused Rajendra and Sukhcharan were standing on the road. As soon as Mahadas reached there, Rajendra gave bamboo club blow on Mahadas's head, due to which Mahadas fell down from his cycle and thereafter, Sukhcharan gave repeated spear blows on the person of Mahadas. When he tried to save Mahadas, Sukhcharan threatened him to go away otherwise, he will kill him. He further stated that he had raised alarm and had also informed to the family members of Mahadas about the incident. He had seen injuries and bleeding leg, head and back of Mahadas. Mahadas clothes were soaked with blood. Mahadas was taken to Bahela Police Station by his family members in the bullock cart. He was treated in Bahela Hospital and thereafter, he was referred to District Hospital, Balaghat.

18. Tekdas (P.W.15) was subjected to lengthy cross examination but he too has been firm and consistent in his evidence. Nothing has been elucidated in his cross examination to disbelieve his evidence. In cross examination, he has clearly stated that Sukhcharan had given spear blow on the head of Mahadas. He has specifically stated that Rajendra has given blows by bamboo club. Thus, as far as the veracity of evidence of Mahadas (P.W.13) is concerned, his evidence finds full corroboration from the evidence of eye witnesses Ratanlal (P.W.14) and Tekdas (P.W.15). From the evidence of the witnesses it is manifestly clear that on 21.3.96 in morning at around 9-10 a.m., appellants/ accused persons armed with spear and bamboo lathi had voluntarily caused number of injuries on the person of complainant/ injured Mahadas. There are no reasons to disbelieve their evidence which finds further corroboration from the medical evidence and promptly lodged FIR. The evidence of Mahadas (P.W.13), Ratanlal (P.W.14) and Tekdas (P.W.15) is consistent with the version given in FIR. Therefore, there are no reasons to disbelieve their reliable and trustworthy evidence. In this case,

it cannot be overlooked that appellants/ accused who are the father and son were having inimical terms with injured Mahadas owing to which they had a motive to commit murder of injured Mahadas.

19. Accused persons have examined Smt. Hinda Bai (D.W.1), wife of accused Sukhcharan and mother of accused Rajendra and Bisendas (D.W.2).

20. Learned trial Court has disbelieved the evidence of Smt. Hinda Bai (D.W.1) and Bisendas (D.W.2) and has come to the conclusion that their

evidence is afterthought and manufactured. Hinda Bai (D.W.1) has deposed that on the date of incident, at around 10 â€" 11 a.m. when her son

Rajendra and husband Sukhcharan were having meals in the house, Mahadas, Ratan and Tekdas armed with wood sticks came and abused them.

When she asked them as to why they are abusing, Mahadas started to utter filthy words and gave a wood blow on her person due to which she fell

down. Thereafter, Mahadas, Ratan and Tekdas started to beat her. Hearing her screams, when Rajendra came, Mahadas gave a lathi blow on his

head. Her husband had snatched the lathi from Mahadasâ€™s hand. Thereafter, Mahadas took out â€"tangiyaâ€™ and they started to assault each

other. Hearing noice, Bisendas reached there and asked them as to why they came to quarrel in the house. Thereafter, Tekdas and Ratan fled away

from there. Mahadas was exerting them to put her house on fire. She further stated that when Mahadas fled through road side he fell down on the

stones and sustained injuries. After sometime, accused persons took Rs.300/- and half tola gold from her and went to Balaghat to lodge FIR.

21. The aforesaid evidence of Smt. Hinda Bai (D.W.1) is against the foundation of prosecution story as according to this witness, Mahadas and others

had come to her house for a fracas. The aforesaid evidence of witness Hinda Bai does not inspire confidence as neither nor her son Rajendra were

medically examined nor any FIR was lodged by them after incident. Thus, the defense story as put-forth by Hinda Bai (D.W.1) and Bisendas (D.W.2)

seems after thought and manufactured and appears to have been prepared only for the sake of defense. If Mahadas along with Ratan and Tekdas had

gone to the house of Sukhcharan and Rajendra and had caused injuries to Hinda Bai and Rajendra, why they did not lodge FIR against Mahadas and

witnesses Ratan and Tekdas then and there. They have not lodged any FIR against injured and witnesses Tekdas and Ratanlal. It cannot be

overlooked that after incident, Sukhcharan and his son Rajendra left the village and absconded. They could be arrested after five months of incident as

same is evident from the arrest memo Exhibit P/17 and P/18 and the evidence of S.I. T.R.Sahu (P.W.12). If appellant Rajendra and his mother Hinda

Bai had sustained any injury in the incident, they had no reason to abscond from village and not to lodge FIR. Thus, I am of the view that learned Trial

Court has rightly disbelieved the evidence of defense witnesses Hinda Bai and Bisendas. Learned trial Court after properly appreciating the evidence

of prosecution witnesses, Mahadas (P.W.13), Ratanlal (P.W.14) and Tekdas (P.W.15) has rightly believed their evidence as same stand corroborated

from the medical evidence and promptly lodged FIR.

22. Learned counsel for the appellants has submitted that only left tibia and fibula of Mahadas (P.W.13) were found broken. In such situation, learned

trial Court was not justified in convicting the appellants/ accused for commission of offence under Section 307 of IPC. At the most their offence false

under Section 325 of IPC as injuries are grievous in nature.

23. In the case in hand, a perusal of facts and evidence on record clearly indicates that prosecution has proved beyond reasonable doubt that

appellants / accused Sukhcharan and Rajendra had inflicted 7 injuries on the complainant/ injured Mahadas by using spear a sharp weapon and

bamboo club. The oral testimonies of injured Mahadas (P.W.13), Ratanlal (P.W.14) and Tekdas (P.W.15) who are the eye witnesses stood

corroborated by the medical evidence. In this regard, the evidence of Ishwardas (P.W.3) is also worth mentioning. He has deposed that at around

9.30 a.m. after hearing noise, when he came out of his house, he saw Mahadas lying in the court yard of Harichand and blood was oozing from his

leg. In cross examination, he has clearly stated that Mahadas (P.W.13) was lying in injured condition in the court yard of Harichand. He has further

stated that accused persons house is in front of Harichand's house. Doctors have clearly opined that injuries found on the person of injured

Mahadas may be caused by seized spear and bamboo club. There are no reasons to disbelieve the evidence of injured Mahadas (P.W.13) which stand

corroborated by the evidence of eye witness Ratanlal (P.W.14) and Tekdas (P.W.15) and other evidence available on record.

24. Dr. B. L. Yadav (P.W.1) in his evidence has stated that injuries caused to the complainant/ injured Mahadas could have been dangerous to life, if not treated well in time as his general condition was poor.

25. It cannot be overlooked that in total, seven injuries have been caused on the person of complainant/ injured Mahadas. Out of them, two incised

wounds were caused on the head of injured. Head is the vital part of body. He was beaten mercilessly, tibia and fibula of his left leg and left

metacarpal was broken by the appellants/accused by giving repeated blows and when he was taken to the hospital, his injuries were bleeding. The

injuries inflicted on the complainant/ injured Mahadas (P.W.13) stands corroborated by medical evidence and medical reports of Dr. B. L. Yadav

(P.W.1), Dr. G. C. Sharma (P.W.2) and Dr. Sanjay Shukla (P.W.8). The act of causing injuries on the head of a person by a spear, which is a sharp

edged weapon, on vital organ, would ordinarily lead to the death of the victim. It cannot be overlooked that Dr. G. C. Sharma (P.W.2) has made it

clear that spear (article "A") which is a weapon of offence was having length of 16 cm and its base was 114 cm long and it was having

suspicious blood stains on it. Appellants/ accused have assaulted the complainant with the said spear and bamboo club and inflicted multiple injuries on

his head, left hand, right leg, left leg and back. The multiple blows inflicted by appellants/ accused would prove the intention of causing bodily injury

likely to cause the death of the injured. Causing multiple injuries on a person with weapon like spear and lathi on his vital organs and act of breaking of

his leg bone and left metacarpal would in most circumstances lead to the death of the victim, if not treated well in time, thereby falling squarely within

the meaning of Section 307 of IPC. Hon^{ble} Supreme Court in the case of State of M.P. Vs. Harjeet Singh -(2019) 20 SCC 524 held as under :-

"5.6 Section 307 uses the term "hurt" which has been explained in Section 319, I.P.C.; and not "grievous hurt" within the meaning of

Section 320 I.P.C.

5.6.1. If a person causes hurt with the intention or knowledge that he may cause death, it would attract Section 307.

5.6.2. This Court in *R. Prakash v. State of Karnataka*,¹ held that :

“The first blow was on a vital part, that is on the temporal region. Even though other blows were on non-vital parts, that does not take away the rigor of Section 307 IPC”.

9. It is sufficient to justify a conviction under Section 307 if there is present an intent coupled with some overt act in execution thereof. It is not essential that bodily injury capable of causing death should have been inflicted. Although the nature of injury actually caused may often give considerable assistance in coming to a finding as to the intention of the accused, such intention may also be deduced from other circumstances, and may even, in some cases, be ascertained without any reference at all to actual wounds. The Sections makes a distinction between the act of the accused and its result, if any. 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. (emphasis supplied)

5.6.3.If the assailant acts with the intention or knowledge that such action might cause death, and hurt is caused, then the provisions of Section 307 I.P.C. would be applicable. There is no requirement for the injury to be on a “vital part” of the body, merely causing “hurt” is sufficient to attract S. 307 I.P.C.

5.6.4.This Court in *Jage Ram v. State of Haryana* held that:
(SCC p.370, para 12)

“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.â€

(emphasis supplied)

5.6.5. This Court in the recent decision of State of M.P. v. Kanha @ Omprakash held that:

â€œ13. The above judgments of this Court lead us to the conclusion that proof of grievous or life-threatening hurt is not a sine qua non for the offence

under Section 307 of the Penal Code. 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 intent.â€

5.7 In view of the above mentioned findings, it is evident that the ingredients of Section 307 have been made out, as the intention of the Accused

/Respondent No. 1 can be ascertained clearly from his conduct, and the circumstances surrounding the offence.â€

26. In the case of attempt to murder, when multiple injuries have been caused to the victim with an intention or knowledge of the accused could be

gathered from the nature of injuries and the part of body where the injuries were caused. In this case, injuries were caused on the head and other part

of body by the dangerous weapon like spears and repeated blows were given. Therefore, if injured Mahadas was not treated well in time, he would

have certainly died because when he was taken to the Bahela hospital, his general condition was poor. Intention of the appellants who are father and

son is visible. Thus, I am of the view that Sessions Judge has rightly convicted the appellants for commission of offence punishable under Section 307

of IPC.

27. In view of the above mentioned findings, it is evident that ingredients of Section 307 of IPC have been made out as the intention of the appellants/

accused can be ascertain clearly from their conduct and the circumstances concerning the offence. It is evident from the evidence adduced before the

Court and the circumstances concerning the case that prosecution has been able to prove the case against appellants/ accused beyond reasonable

doubt. Therefore, I find that prosecution has successfully proved that appellants/ accused have attempted to murder the complainant/ injured and requirement of Section 307 of IPC are made out from ocular evidence which is corroborated by medical evidence and promptly lodged FIR. Thus, the findings of conviction recorded by learned Sessions Judge, Balaghat, are confirmed.

28. Learned counsel for the appellants states that sentence awarded to the appellants is disproportionate and has prayed that it may be reduced to 5 years.

29. So far as the period of sentence is concerned, although the appellants/ accused previous conviction has not been proved by the prosecution before the trial Court, the incident has taken place 25 years back. Therefore, having considered all the facts and circumstances of the case, the sentence of 7 years appears to be disproportionate. Hence, sentence is modified and appellants instead of 7-7 years R.I. are sentenced to 5-5 years R.I. and fine of Rs.5000/-each for the offence under Section 307 of IPC and they are directed to deposit fine amount of Rs.10,000/-, out of which Rs.8000/- be paid to the injured Mahadas as compensation under Section 357 of Cr.P.C.

30. Appellants Sukhcharan and Rajendra are on bail. Therefore, their personal bond and bail bonds are hereby discharged. Appellants Sukhcharan and Rajendra are directed to surrender before the trial Court forthwith, so that they can be sent to custody for undergoing remaining jail sentence. Registry of this Court is directed to arrange for issuance of super-session warrant against appellants. In case appellants/ accused fails to surrender before the Trial Court, learned Trial Court shall take all necessary steps to commit them to jail for serving out the remaining jail sentence.

31. With the aforesaid modification, this criminal appeal No.2022/97 is disposed off. A copy of the judgment be sent to the trial Court along with record for information and compliance.