

## Chandrika Bhuiya Vs State Of Jharkhand

**Court:** Jharkhand High Court

**Date of Decision:** Feb. 12, 2025

**Acts Referred:** Code of Criminal Procedure, 1973 " Section 313  
Indian Penal Code, 1860 " Section 307, 324

**Hon'ble Judges:** Pradeep Kumar Srivastava, J

**Bench:** Single Bench

**Advocate:** Binod Kumar Jha, Shweta Singh

**Final Decision:** Partly Allowed

### Judgement

Pradeep Kumar Srivastava, J,

1. Heard learned counsel for the parties.

2. Present criminal appeal is directed against the judgment of conviction and order of sentence dated 26.09.2006 passed by learned VIth Additional

Sessions Judge, (F.T.C.), Dhanbad in Sessions Trial No. 148 of 1994 / 241 of 2003, whereby and whereunder, the appellant has been held guilty and

convicted for the offence under Section 307 of the I.P.C. and sentenced to undergo R.I. of five years along with fine of Rs. 200/- with default

stipulation.

#### FACTUAL MATRIX

3. The factual matrix giving rise to this appeal is that on 02.10.1992 at about 8:00 P.M., the present appellant came to the house of the informant under

drunken state in search of his wife and brother, who have taken shelter at the house of informant due to fear of the appellant. It is further alleged that

the appellant started quarreling with informant's husband and also gave a knife blow on his chest with intention to kill him. The injured was

brought to Central Hospital, Titatanr for treatment and thereafter, he was referred to Central Hospital, Dhanbad for better treatment, where fardbeyan

of informant Sundarwa Devi was recorded by S.I. of Katras Police Station and a formal FIR being Katras P.S. Case No. 418/1992 was registered for

the offence under Section 307 of the I.P.C.

4. The case was investigated and after submission of charge sheet, cognizance was taken. Thereafter, the case was committed to the court of

Sessions for trial. After conclusion of trial, the appellant has been held guilty and sentenced as stated above.

5. Learned counsel for the appellant assailing the impugned judgment of conviction and order of sentence has submitted that the appellant has falsely

been implicated in this case due to grudge and enmity. The witnesses examined by prosecution clearly depicted that the occurrence took place when

the appellant, under drunken state was searching of his wife and brother, who were not found at house, but were present at the house of the

informant. It is also apparent that scuffle took place in a sudden manner without any pre-meditation and the injury sustained by the informant

husband was not sufficient to cause death in ordinary course of nature. Therefore, the ingredients of Section 307 of the I.P.C. regarding intention and

knowledge is absolutely lacking in this case.

6. It is further submitted that P.W.-7 Dr. Anjan Kumar Dey has found two cut incised injuries; one of the left side of chest on anterior axillary line

x 1½" and another over middle of sternum slightly to the right 1½" x 1½". Although, injuries are opined to be grievous in nature,

but no opinion has been specifically given as to how the injuries were grievous in nature. Admittedly, there was no operation of the injuries, rather

after treatment about 15 days in the Hospital, the injured was discharged. This fact was admitted by P.W.-1 injured Sukhdev Bhuiya. Therefore, at

best, offence under Section 324 of the I.P.C. is attracted in this case, for which, the appellant has remained in custody for about 09 months.

7. It is further submitted that the occurrence as alleged, has happened in the year 1992 and more than three decades have been elapsed, as such, the

appellant has sustained the rigor of trial for about three decades and has sufficiently been punished for his guilt. Hence, the impugned judgment of

conviction and order of sentence of the appellant is liable to be set aside.

8. Per contra, learned APP appearing for the State has controverted the aforesaid contentions raised on behalf

of the appellant and defended the impugned judgment of conviction and order of sentence of the appellant and has submitted that the appellant has

given twice knife blow on vital part of the body to the injured, showing his intention / knowledge that the injury caused by such act is likely to cause

death. The injuries are also opined to be grievous in nature by the conducting Doctor, therefore, this appeal has no merits, which is fit to be dismissed.

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

10. It appears that most important witnesses of this case is that the injured P.W.-1, who has categorically deposed that for a trivial issue, when the

accused was scuffling with his wife, bhawo (wife of younger brother) and his younger brother, who were present at the house of this witness, the

same was intervened and twice knife blow, in quick succession were inflicted by the appellant. Thereafter, he was admitted in the Hospital and in

course of treatment, he has remained in the Hospital for 15 days and thereafter, he was discharged. Testimony of P.W.-1 also finds corroboration

from deposition of P.W.-7 Dr. Anjan Kumar Dey, who has proved the injury report. The informant (P.W.-4) is none else but the wife of the injured,

who is eye-witness of the occurrence and proved the contents of her fardbeyan.

11. P.W.-2 Prakash Bhuiya has deposed that he has seen the injured just after occurrence and came to know about the incident from the wife of

injured.

12. P.W.-3 Krishana Bhuiya is also hearsay witness. He went to the place of occurrence immediately and saw the injured.

13. P.W.-5 Mathura Bhuiya has also testified that hearing hulla, he went to the house of informant and saw Sukhdeo is there lying on earth on injured

condition.

14. P.W.-6 Sagwati Devi is bhawo of the appellant. She has also supported the prosecution story.

15. P.W.-7 is the Doctor, who has proved the injury report of the injured Sukhdeo Bhuiya.

16. From oral testimony of the witnesses, the occurrence is well-proved against the appellant, but so far nature of injury sustained by the injured in

concerned, there is no specific opinion of P.W.-7 and no reason has been recorded as to how he has opined the injuries to be grievous in nature. It is

also not mentioned that the injuries sustained by the P.W.-1 was dangerous to life or sufficient to cause death in ordinary course of nature, if the

attempt might have been successful. Therefore, the essential ingredients regarding intention and knowledge as required to constitute offence under

Section 307 of the I.P.C. is absolutely lacking in this case. At best, the case falls under Section 324 of the I.P.C.

17. In view of aforesaid discussions and reasons the conviction of the appellant for the offence under Section 307 of the I.P.C. is altered and modified

to Section 324 of the I.P.C.

18. So far sentence of appellant is concerned, in the facts and circumstances of the case, the imprisonment already undergone by him appears to be

sufficient punishment for his guilt. Accordingly, the appellant is sentenced for the period undergone for the offence punishable under Section 324 of

the I.P.C., for which he is held guilty.

19. In the light of above discussions and reasons, this appeal is partly allowed, modifying the conviction and sentence of the appellant as stated above.

20. The appellant is on bail, as such, he is discharged from the liability of bail bond and sureties is also discharged.

21. Pending I.A., if any, stand disposed of.

22. Let a copy of this judgment along with trial court record be sent back to the court concerned for information and needful.