

**IN THE HIGH COURT OF JHARKHAND AT RANCHI  
Criminal Appeal (S.J.) No. 1384 of 2007**

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*[Against the Judgment of conviction dated 27.09.2007 and Order of sentence dated 01.10.2007, passed by learned Additional Sessions Judge, F.T.C. No.1, Palamu in Sessions Trial No.73 of 2002]*

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1. Allauddin Ansari son of Late Salamat Mian
2. Nazabuddin Ansari son of Late Bahdali Mian
3. Rashid Mian son of Nazabuddin Mian
4. Rafique Mian son of Nazabuddin Mian
5. Tawajuddin Ansari son of Allauddin Ansari
6. Mumtaz Ansari son of Late Kamalluddin Ansari
7. Mustaque Ansari son of Late Kamaluddin Ansari
8. Kasim Mian son of Nazabuddin Ansari
9. Jalil Ansari son of Hanif Mian

All are residents of village-Bori, police station:- Chainpur,  
District-Palamau

... **Appellants**

Versus

The State of Jharkhand

... **Respondent**

.....

For the Appellants : Mr. A.K. Chaturvedi, Adv.  
For the State : Mrs. Priya Shrestha, Spl. P.P.

.....

**P R E S E N T**

**HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA**

.....

**J U D G M E N T**

**C.A.V. on 09.04.2026**

**Pronounced on 13.05.2026**

1. I have already heard the arguments advanced by Mr. A.K. Chaturvedi, learned counsel for the appellants as well as Mrs. Priya Shrestha, learned Spl. P.P. appearing for the State.

2. Instant criminal appeal is directed against the judgment of conviction dated 27.09.2007 and order of sentence dated 01.10.2007 passed by learned Additional Sessions Judge, F.T.C. No.1, Palamu in Sessions Trial No.73 of 2002, whereby and whereunder all the appellants have been held guilty for the offences under Sections 147, 148, 395, 307/149 of the Indian Penal Code and sentenced to undergo rigorous imprisonment (R.I.) for six years along with fine of Rs.3,000/- with default stipulation for the offence punishable under Section 307/149 of the I.P.C., R.I. for five years along with fine of Rs.3,000/- with default stipulation for the offence punishable under Section 395 of the I.P.C. and R.I. for two years for the offence punishable under Section 148 of the I.P.C. It was observed that there is no need to award any separate sentence for the offence under Section 147 of the I.P.C. Convict Allauddin Ansari is further sentenced to undergo R.I. for four years along with fine of Rs.1,000/- with default stipulation for the offence under Section 27 of the Arms Act. Convict Tawajuddin Ansari and Kasim Mian are further sentenced to undergo R.I. for three years along with fine of Rs.1,000/- with default stipulation for the offence

under Section 25(1)(a) of the Arms Act. All the sentences were directed to run concurrently.

3. Factual matrix giving rise to this appeal is that on 10.10.1992 at about 11:00 a.m., accused Allauddin Ansari armed single barrel gun and string of cartridges, Kamaluddin Mian armed with lathi, Tawajuddin Asnari armed with country made pistol, Mustaque Ansari armed with gadasa, Mumtaz Ansari armed with lathi, Nazbuddin Mian armed with lathi, Kasim Mian armed with country made pistol, Rafique Mian armed with bhala, Rashid Mian armed with gadasa and Jalil armed with lathi forming an unlawful assembly, abused the informant Sattar Ansari (P.W.1) and took away 16 bundles of paddy crops from his khalihan. It is alleged that informant was seeing the occurrence peeping from the window of his house and raised alarm then accused Allauddin Ansari fired once at the window and the second fire was made by him in the air. The neighbours did not approach at the place of occurrence due to fear. It is alleged that when the accused persons went away then neighbours assembled and the informant opened his gate and told about the occurrence to the villagers. The village Chaukidar was

also informed. The village Chaukidar told that there was no means of transport to go at police station and suggested the informant to go in the next day morning for lodging the case.

On the basis of above information, Chainpur P.S. Case No. 139 of 1992 dated 12.10.1992 was registered for the offences under Sections 147, 148, 149, 307, 379 of the I.P.C. and Section 27 of the Arms Act against ten accused persons.

4. After completion of investigation, charge-sheet was submitted against ten accused persons. The case was committed to the Court of Sessions where Sessions Trial No.73 of 2002 was registered. The accused persons denied from the charges and claimed to be tried. During the course of trial accused Kamaluddin Ansari died.

5. After conclusion of trial, impugned judgment and order has been passed which has been assailed in this appeal.

6. Learned counsel for the appellants has strenuously argued that there was bonafide land dispute between the parties. The disputed land from which paddy crops were harvested belongs to the appellants. It was the informant who cut the paddy crops grown by the appellants, therefore, dispute arose. In this regard, the appellants have also

examined defence witnesses. It is further submitted that litigations were also going on between the parties in respect of disputed land. It is further submitted that out of 12 witnesses examined by prosecution, P.W.2, P.W.3 and P.W.8 have not supported the prosecution case at all which caused doubt about veracity of the prosecution case. There was two days' unexplained delay in lodging the F.I.R. which also suggests a concocted story put forward for initiation of the case. The learned Trial Court has also ignored the material contradictions and discrepancies appearing in the evidence of material witnesses who are close relatives of the informant. P.W.5 and P.W.6 have disclosed only two persons being armed with weapons and no specific overt act was attributed against any other accused persons. Similarly, P.W.5, P.W.6, P.W.7, P.W.9 and P.W.10 have categorically stated that they are giving first time evidence before the Court and police never interrogated with them about the occurrence. Therefore, they have also projected to be an eye witness of the occurrence during trial of the case. Since, it was a case of land dispute between the parties and theft of paddy crops, therefore, non-examination of the Investigating Officer to

prove the place of occurrence and to what extent the paddy crops were cut and harvested, has not been proved, which has seriously prejudiced the defence. It is further submitted that the use of licence single barrel gun by Allauddin is also doubtful in view of the fact that Ext.G filed by defence clearly shows that the gun was deposited at the police station on the relevant date and time of occurrence. It is further submitted that the manner of use of firearm at the window of the informant as well as in the air, does not invoke the ingredients of offence under Section 307 of the I.P.C. There is no evidence that any person was aimed at for firing upon informant and anyhow he saved himself. Therefore, firing in the air has been wrongly construed by the learned Trial Court. Similarly, no country made firearm were recovered from any of the appellants' conscious possession. Therefore, conviction under Section 25(1)(a) and Section 27 of the Arms Act is also not justified under law. The learned Trial Court has further failed to consider the defence evidence given by D.W.1 and D.W.2. Since, there was bonafide land dispute between the parties, therefore, no offence under Section 395 of the I.P.C. is attracted. In view of above statements, learned

counsel for the appellants submits that the impugned judgment passed by learned Trial Court is absolutely suffers from serious error of law and based upon beyond the weight of evidence available on record and vital facts have been ignored from consideration which would go to the root of the prosecution case.

7. On the other hand, learned Spl. P.P. appearing for the State defending the legality of the impugned judgment has submitted that most of the witnesses of facts who happens to be eye witnesses have conclusively proved the occurrence and the specific overt act and participation in the alleged crime by each of the appellants. The learned Trial Court has very wisely appraised, scanned and analyzed the oral as well as documentary evidence led by respective parties during trial and arrived at right conclusion about guilt of the appellants. There is no illegality or infirmity in the impugned judgment and order of conviction and sentence of the appellants calling for any interference in this appeal which is devoid of merit and fit to be dismissed.

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

9. It appears that altogether 12 witnesses were examined by the prosecution to substantiate the charges levelled against accused appellants.

P.W.1 Sattar Ansari is Railway Chaukidar (Railway Guard) (informant). According to his evidence, the occurrence is of 10.10.1992 at about 11:00 a.m. The accused persons Allauddin Ansari, Tawajuddin Ansari, Kamaluddin Ansari, Mustaque Ansari, Mumtaz Ansari, Nazbuddin Ansari, Rafique Ansari, Rashid Ansari, Jalil Ansari and Kasim Mian took away paddy crops kept in his khalihan. It is further deposed that Allauddin was armed with single barrel gun, Tawajuddin with country made pistol, Kamaluddin with lathi, Mustaque with gadasa, Mumtaz with lathi, Nazbuddin with lathi, Kasim with country made pistol, Rafique with bhala, Rashid with gadasa and Jalil with lathi. All the above accused persons started abusing to this witness then due to fear he entered into his house and started peeping from his window, meanwhile, Allauddin fired upon

him by gun but he narrowly escaped and raised alarm. Then Allauddin made fire in air. Thereafter, villagers assembled and this witness opened his door and narrated about the incident to the villagers. He also informed to the village Chaukidar but on the same day, he did not go to police station due to fear and he again went to lodge F.I.R. on 12.10.1992. He has proved his written report scribed by Shamsar Ansari and signed by him which is marked as Ext.1.

In his cross-examination, he described the disputed land of pertaining to Khata No.61 Plot No.400 area 34 decimal belongs to Allauddin which is paddy land. He also admits that this witness convened a Panchayat claiming above land to be of his own on the basis of documents. He also admits that there are 50 houses of his neighbours around his house but none came at the time of occurrence. He also says that due to firing by accused, the window frame and wall were damaged about 50 places lead fire from the gun were found but he or any other family members have sustained no injury. He has denied the suggestion of defence that he has lodged absolutely a false case. He also admits that he cannot tell the plot number of his khalihan which pertains to Khata No.89

and total area is 9 gata. He has further admitted that the paddy crop taken from his khalihan was not shown to the police during investigation. He also admits that police has also taken fire leads from the wall of the window. He has denied the suggestion of defence that 15 decimal land was given to his sisters and she was in its possession and in order to dispossess her, he has lodged false case against her husband.

P.W.2 Umesh Chandra Yadav had gone at flour mill from where he saw that family members of accused Allauddin were harvesting paddy crops from their own land which was protested by Sattar Mian, Jamun Mian, son, daughter and wife of Sattar Mian. Due to dispute, the harvested paddy crops were taken away by the family members of Allauddin.

In his cross-examination also, he has admitted that the paddy crops were harvested by Allauddin Mian from his own land. He has not seen any occurrence of abuse or assault between the parties or sound of any firing.

This witness has not been declared hostile by the prosecution.

P.W.3 Razaque Mian has been declared hostile and not supported the prosecution case.

P.W.4 Sairun Bibi is the wife of informant. She has stated that after harvesting the paddy crops, she kept in the khalihan, in the meantime, at about 11:00 a.m., all the accused persons (present appellants) took away her paddy crops showing overpowering and threatening by pistol, gadasa, bhala, lathi, etc. Allauddin also fired from gun which hit on the window of her house. She also admits that there was land dispute with the accused persons.

In her cross-examination also, she admits that the land dispute is going on between her husband and the accused persons since 10 years. She has not seen the accused persons while taking away paddy crops from khalihan. She also admits that the paddy crops were harvested by Allauddin claiming his own right over the land and a Panchayati was also held at Anjuman Committee but she does not know about the result of the Panchayat. She also admits that one case is still going on between the parties.

P.W.5 Yasin Ansari @ Mian has given a different story that on 10.10.1992 at about 11:00 a.m., he heard Sattar was

raising alarm saying chor-chor, he came out from the house and saw that Allauddin was armed with single barrel gun, Tawajuddin with pistol. Allauddin fired through the window in the house of Sattar Mian, thereafter, he also fired in air. Ten others persons were also with Allauddin Mian to whom he did not identify. He also states that paddy crops were taken away by the accused persons. This witness is nephew of informant.

In his cross-examination, he admits that he heard that Allauddin had a licensee gun and at a distance of 50 ft., he fired. He further admits that Sattar Mian had not disclosed him the name of all accused persons. Hence, he has disclosed the name of only two accused persons. This witness further states that the brother of Sattar Mian has also filed a case under Section 379 of the I.P.C. for harvesting paddy crops in which he is also accused. He also admits that in the year 1989, Allauddin has taken sale deed of the disputed land and crops were also grown by him. He further states that Sattar Mian has also got sale deed later on. He is deposing before the Court for the first time after the occurrence.

**P.W.6 Sadina Bibi** has disclosed a completely different story and testified that about 14 years ago at about 11:00 a.m., she saw that Allauddin having a single barrel gun and pellet of cartridges along with his son Tawajuddin armed with pistol then this witness brought Sattar Mian inside the house and locked the door from inside. Thereafter, Sattar Mian started raising alarm through window then a fire was shot at the window due to which window was damaged. When the accused persons went away and door was opened several villagers assembled and it was detected that accused persons have taken away 16 bundles of paddy crops.

In her cross-examination, she admits that accused Allauddin is her son-in-law and since, 14 years land dispute is going on. She also admits that her statement was not recorded by police. She also states that when police arrived, it was found that there was no mark of firing on the window.

**P.W.7 Morsalim Ansari** was also present at his home and came out hearing hallah and sound of firing. There were 10 other accused persons along with Allauddin to whom it is unknown. They have taken away paddy crops of the informant.

In his cross-examination, this witness admits that his statement was not recorded by police. He also admits that this case has been lodged due to land dispute which is going on since 1992. He also admits that in respect of harvesting paddy crops a case under Section 379 of the I.P.C. was also filed earlier to this occurrence by brother of Sattar Mian in which he is accused.

**P.W.8 Lal Mohammad** has been declared hostile by the prosecution and expressed no knowledge about the occurrence.

**P.W.9 Farooque Ansari** also came out from his house after hearing sound of firing. He also saw that Allauddin and his family members were taking away paddy crops. Allauddin was bearing a gun. He came to know from Sattar Mian (informant) that fire was shot at the window of his house. Therefore, this witness is also hear say witness of the occurrence.

**P.W.10 Hasumul Haque Ansari** has also claimed to come out after hearing sound of firing which hit on the window of Sattar Mian. He also saw accused persons were taking away paddy crops.

In his cross-examination, he admits that he came out from his house after ten minutes of hearing the sound of firing. As such, the claim of this witness that he saw paddy crops were being taken by the accused persons stoutly not believable.

**P.W.11 Mathura Singh** is Advocate Clerk who has proved formal F.I.R. as Ext.2.

**P.W.12 Ram Lakhan Mahto** is also Advocate Clerk who has proved the sale deed No.3964 dated 26.03.1971 as Ext.3 and three rent receipts marked as Exts.4 to 4/2.

10. On the other hand, defence has also examined two witnesses. **D.W.1 Ramnath Manjhi** has deposed that he was also interrogated in this case by police. He is neighbour of Allauddin and Sattar. He has stated that on the date of occurrence, Sattar Mian was harvesting the paddy crops from the field of Allauddin Mian. There was no firing in the entire scuffle between the parties which is false and concocted story. He has denied the suggestion of prosecution that he is under inimical terms with the informant and litigation is also pending before them, hence, he has given false evidence in this case.

**D.W.2 Rahamatullah Ansari** has also deposed that the paddy crops were grown in the disputed land by brother of Allauddin Ansari namely Ishak Mian. The paddy crops were harvested by Sattar Mian (informant), hence, dispute and scuffle took place between the parties but there was no use of firearm.

In his cross-examination by informant party, he admits that litigation was going on between Allauddin and Sattar Mian. Both parties are claiming over the disputed land on the basis of sale deed.

11. Apart from oral testimony of witnesses, following documentary evidence have been adduced by the defence.

**Exhibit A** : Original sale deed No.4754 exhibited by Bandhu Mahto in the name of Allauddin Ansari of pertaining to Khata No.61/Plot No.400 Area 19 decimal dated 22.04.1989.

**Exhibit B** : Original sale deed No.9742 exhibit by Bandhu Mahto in favour of Allauddin Ansari and others in respect of lands of pertaining to Khata No.61 Plot No.400/01 Area 15 decimal dated 24.08.1990.

**Exhibit C** : Rent receipts

**Exhibit D** : Rent receipts

**Exhibit E** : Carbon Copy of order passed by Assistant Settlement Officer dated 02.07.1991.

**Exhibit F** : Entire petition of Allauddin Ansari addressed to Officer-In-Charge to deposit his gun.

**Exhibit G** : Certificate regarding gun.

12. From the aforesaid discussion of evidence made by prosecution, it is crystal clear that the informant has not been able to prove his prima facie possession over the disputed land from where the paddy crops were harvested rather defence has absolutely proved through documentary as well as oral evidence and as admission of the informant and his witnesses that the paddy crops were harvested from the field of accused persons. The prosecution witness (P.W.2) himself has corroborated this fact, who has not been declared hostile. He has stated that the paddy crops were stealthy harvested and taken away by the informant himself from the lands of accused persons Allauddin and others. The Investigating Officer of this case has not been examined to prove the place of occurrence and the verification of the statement of firing on the window of the informant's house which was damaged.

Admittedly, there is no firearm injury to any person and most of the villagers have not seen the accused while firing. It also appears that except possession of gun by Allauddin Ansari, none of the witnesses have been able to show that any other accused persons were having country made pistol with them which was also used for firing against the informant or any other person. The trend of evidence adduced by the parties clearly goes to show that there is land dispute between the parties since long and both parties are under litigating terms. Under such circumstances, it cannot be held that the accused persons have formed any unlawful assembly having any of the objects as defined under Section 141 of the I.P.C. In case of bonafide land dispute, no party can be blamed of commission of theft of crops. The whole spectrum of factual aspects brought on record discloses commission of no offence at all by the accused appellants. The learned Trial Court appears to have miserably failed to properly appreciate the oral as well as documentary evidence adduced by the parties in the perspective and background of the case. Therefore, arrived at wrong conclusion about guilt of the appellants.

13. In view of aforesaid discussion and reasons, I am of the

firm view that the judgment and order of conviction and sentence passed by learned Trial Court suffers from serious error of law, which is hereby set aside and this appeal is **Allowed**. The appellants are acquitted from the charges levelled against them.

14. The appellants are on bail, they are discharged from liability of bail bonds and sureties are also discharged.

15. Pending I.A., if any, stands disposed of.

16. Let a copy of this judgment along with Trial Court record be sent back to the concerned Trial Court for information and needful.

**(Pradeep Kumar Srivastava, J.)**

Jharkhand High Court, Ranchi

Dated: 13/05/2026

Sachin / **NAFR**

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