IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 1427 of 2005

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[Against the Judgment of conviction dated 13.09.2005 and Order of sentence dated 15.09.2005, passed by learned Additional Sessions Judge, Fast Track Court-IInd, Bokaro in Sessions Trial No.344 of 2002/83 of 2003]

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1. Haru Dhibar, son of Kali Dhibar
2. Lilu Dhibar, son of Doman Dhibar
3. Ganga Dhibar, son of Kali Dhibar
4. Kamdev Dhibar, son of Kashidev Dhibar
5. Manbhul Dhibar, son of Murli Dhibar
6. Raj Kumar Dhibar @ Raju Dhibar, son of Late Nimai Dhibar
7. Murli Dhibar, son of Late Mahi Dhibar
8. Subhas Dhibar, son of Kamdeb Dhibar

All are residents of Kabar Para, P.S. – Chas, District - Bokaro

… Appellants

Versus

1. The State of Jharkhand
2. Vishwanth Dibar, Village – Kebat Para, Chas, P.O. & P.S. Chas, Dist. Bokaro. **… Respondents**

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For the Appellants : Mr. A.K. Sahani, Adv.
For the State : Mrs. Nehala Sharmin, Spl. P.P.
For the Resp. No.2 : Mr. Baibhaw Gahlaut, Adv.

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

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JUDGMENT

Dated - 20.07.2026

By Court:- It appears from the service report of notice dated 30.04.2022 sent by District and Additional Sessions Judge F.T.C.-II, Bokaro that appellant No.5 namely Kalipad Dhibar

has died on 10.02.2020. Death certificate has also been annexed with the said report.

2. In view of the above, due to death of the appellant No.5, the appeal on behalf of appellant No.5 namely Kalipad Dhibar stands abated and disposed of. Rest of the serving appellants have been renumbered.

3. Heard Mr. A.K. Sahani, learned counsel appearing for the appellants as well as Mrs. Nehala Sharmin, learned Spl. P.P. for the State assisted by Mr. Baibhaw Gahlaut, learned counsel appearing for the respondent No.2.

4. Instant criminal appeal is directed against the judgment of conviction dated 13.09.2005 and order of sentence dated 15.09.2005 passed by learned Additional Sessions Judge, Fast Track Court-IInd, Bokaro in Sessions Trial No. 344 of 2002/83 of 2003, whereby and whereunder the appellants have been held guilty for the offences under Sections 148, 325, 323 and 34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment (R.I.) for three years for the offence under Section 325 read with Section 34 of the I.P.C., R.I. for one year for the offence under Section 323 of the I.P.C. and

R.I. for one year for the offence under Section 148 of the I.P.C. along with fine of Rs.500/- each with default stipulation.

5. Factual matrix giving rise to this appeal is that P.W.6, Vishwanath Dhibar (informant) on 11.07.2002 at about 10:00 p.m., while he was talking with his brother Babu Dhibar outside their house at Kewatpara, P.S. Chas, District Bokaro, accused Murli, Manbhul, Kali, Kamdeo, Subhash and Raju Dhibar came there and demanded donation for Mansa Puja. The informant offered Rs. 51/- but Murli Dhibar threw away the money and demanded Rs. 551/-. Upon refusal, the accused persons abused and threatened to kill him. It is further alleged that after about 10–15 minutes, the accused persons returned, armed with bhujali, knife, iron rod and lathis. At that time, Ganga Dhibar, Haru Dhibar and Lilu Dhibar also arrived. When the informant and his companions tried to escape, they were intercepted by the accused. Manbhul Dhibar allegedly assaulted Anil Dhibar on the head with a bhujali, causing a bleeding injury, while Ganga and Haru assaulted him with iron rods. When Babu Dhibar intervened to rescue Anil then Raju and Murli assaulted Babu on the head with an iron rod and lathi, rendering him

unconscious. Thereafter, when the informant and his brother Dilip attempted to save Babu then Murli instigated the other accused, whereupon Lilu and Haru assaulted Dilip with an iron rod and lathi. It is further alleged that when Pushpa Bala Dasi, the mother of Babu Dhibar, reached the place of occurrence, the accused persons slapped her and snatched away her gold chain worth about Rs. 6,000/-. Thereafter, the informant somehow managed to escape from the place of occurrence.

On the basis of above written information, Chas P.S. Case No. 92 of 2002 was registered for the offences under Sections 147/148/149/323/324/307/385 and 379 of the Indian Penal Code against the accused persons.

6. After completion of the investigation, charge-sheet was submitted against the accused persons for the aforesaid offences. Accordingly, cognizance was taken and subsequently, the case was committed to the Court of Sessions. Charges were framed under Sections 148, 149, 379, 385 and 307 of the I.P.C. against the accused persons which were read over and explained to them for which they pleaded not guilty and claimed to be tried.

7. In the course of trial, altogether ten witnesses were examined and several documentary evidence were also adduced by the prosecution.

8. On the other hand, no oral or documentary evidence has been adduced by the defence.

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

10. Learned counsel for the appellant without touching the merits of the judgment has confined himself towards the point of non-extension of the benefit of Section 4 of the Probation of Offenders Act, 1958 to the appellants. It is submitted that dispute arose on the point of making subscription for Mansa Puja, sudden scuffle took place when the accused appellants were asking Rs. 551/- and the informant has given Rs. 51/-. The appellants have been held guilty for the offences under Sections 148, 325, 323 read with 34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment (R.I.) for three years for the offence under Section 325 read with Section 34 of the I.P.C., R.I. for one year for the offence under Section 323 of the I.P.C. and R.I. for one year for the offence under Section 148 of the

I.P.C., the appellants have been granted provisional bail by the learned Trial Court which was confirmed by the Coordinate Bench of this Court vide order dated 20.12.2005. This was appellants' first offence and there was dispute between the parties on the point of demanding donation for Mansa Puja, on the basis of that names of the appellants have been implicated in this case. It is further submitted that the learned Trial Court without recording any special reasons has declined to extend the benefit of Section 4 of the Probation of Offenders Act to the appellants. It is further submitted that some of the appellants are more than 75 years of age. The prosecution has not been able to brought on record any criminal history or previous conviction of the appellants, therefore, the appellants are entitled for the benefit of Section 4 of the Probation of Offenders Act, 1958 instead of awarding substantive sentence of imprisonment as granted by the learned Trial Court.

11. On the other hand, learned Spl. P.P. appearing for the State has defended the impugned judgment on merits but so far giving the benefit of Section 4 of the Probation of Offenders Act is concerned, he has fairly admitted that it was

first offence of the appellants and there was no material on record to establish their previous conviction, therefore, appropriate order may be passed.

12. I have given anxious consideration to the aforesaid contentions raised on behalf of both side and also perused the impugned judgment and order along with materials available on record.

13. It appears that plea of first offence and no other previous conviction taken by appellants at the time of hearing on quantum of sentence, has been rejected by learned Trial Court without recording any special reasons. It is also a fact that the appellants have never been previously convicted for any other offence. The incident was of the year 2002 and more than two decades has been elapsed since the date of commission of offence and some of the appellants are more than 75 years of age. It is also pleaded that the appellants in the aforesaid period have also maintained peace and harmony and have never been involved in any other criminal activities. I find that the appellants also deserve the benefit of Section 4 of the Probation of Offenders Act, 1958.

14. In the peculiar facts and circumstances of this case, there is no requirement of calling for any report from the Probation Officer due to lapse of considerable time from the alleged occurrence.

15. Considering the facts and circumstances of the case, the nature of offence committed by the appellants, the genesis and manner of occurrence, age, antecedent and character of the appellants, it is expedient in the ends of justice to extend the benefit of Section 4 of the Probation of Offenders Act, 1958 to the appellants, for which the appellants appear to be entitled, instead of awarding substantive sentence of imprisonment.

16. In view of the above, this appeal is **dismissed on merits with modification in sentence** to the extent that instead of undergoing substantive sentence of imprisonment awarded to the appellants by learned Trial Court, the appellants are hereby directed to be released **on furnishing bond of Rs.5,000/- (Rupees Five Thousand) each** with one surety of like amount each to the satisfaction of learned Trial Court under Section 4 of the Probation of Offenders Act, 1958 **within two months** from the date of this order for

maintaining peace and be of good behavior **for one year** from the date of furnishing the bond.

17. If the bond is not furnished within above stipulated time, the learned Trial Court shall issue notice upon the appellants to secure their attendance for furnishing the bond.

18. In case of violation of terms and conditions of the bond, the learned Trial Court shall call upon the appellants to serve the substantive sentence of imprisonment awarded to them.

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

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

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated: 20/07/2026
Sachin / **NAFR**
Uploaded On: 25/07/2026