IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 950 of 2017
---

1. Dukhan Mian, son of Late Ayush Mian
2. Bhutka @ Salamat Mian @ Salamat, son of Late Ayush Mian
3. Khadru Mian, son of Nasir Mian
   All residents of Village-Dhodhwa, P.O.-Dumaria, P.S.-Sonaraithari, District-Deoghar

... ... **Petitioners**

Versus

1. The State of Jharkhand
2. Siraul Mian, son of Asin Miyan, R/o Village-Dhodhwa, P.O.-Dumaria, P.S.-Sonaraithari, District-Deoghar

… … **Opp. Parties**

For the Petitioners : Mr. Arvind Kumar Choudhary, Advocate
For the State : Mrs. Priya Shrestha, Spl.P.P.
For the O.P. No.2 : Mr. Abhishek Sharan, Advocate

P R E S E N T

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

Dated: 09th September, 2026

By Court 1. Heard Mr. Arvind Kumar Choudhary, learned counsel for the petitioners, Mrs. Priya Shrestha, learned Spl.P.P. for the State and Mr. Abhishek Sharan, learned counsel appearing for the opposite party No.2.

2. The instant criminal revision has been preferred against the judgment dated 08.06.2017 passed in Criminal Appeal No. 56 of 2012 by learned 3rd Additional Sessions Judge, Deoghar, whereby and whereunder the learned appellate court has dismissed the appeal by affirming the impugned judgment of conviction and order of sentence both dated 08.06.2012, passed by learned Judicial Magistrate, 1st Class, Deoghar, in G.R. Case No. 838 of 2003 (T.R. No. 924 of 2012), whereby and whereunder the petitioners have been convicted for the

offence under Sections 341, 323 & 324/34 of the I.P.C. and further petitioner No.3 has also been convicted for the offence under Section 325 of the I.P.C. The petitioners have been sentenced to undergo S.I. for one month for the offence under Section 341 of the I.P.C.; S.I. for one year for the offence under Section 323 of the I.P.C.; S.I. for one year for the offence under Section 324 of the I.P.C. Petitioner No.3 has further been sentenced to undergo S.I. for two years for the offence under Section 325 of the I.P.C. All the sentences were directed to run concurrently.

Factual Matrix

3. Factual matrix giving rise to this revision as per *fardbeyan* of the informant, Siraul Mian, is that on 07.11.2003, at about 10:00 A.M., the informant's mother was cutting grass for preparing Khaliyan behind the house when the accused persons, namely, Dukhan Mian, Bhutka @ Salamat Mian and Khadru Mian, came there armed with sword and rod and forbade his mother from making the Khaliyan. When the informant's mother asked them why they are preventing her from doing so, accused Khadru Mian assaulted her with a rod, thereby fracturing her leg, while Dukhan Mian assaulted her hand with a sword. When the informant's father rushed to save her, accused Salamat Mian @ Bhutka Mian assaulted him on the head with a sword, while Dukhan Mian assaulted him on his hand, arms and leg with a sword and accused Khadru Mian assaulted him with a rod, causing injuries to both of them. When the informant tried to save his parents, the accused persons

chased him, but he somehow managed to save his life. When villager Khallu Mandal and others along with the informant's wife arrived all the accused persons fled away.

On the basis of above *fardbeyan*, Sarwan P.S. Case No. 110 of 2003 dated 07.11.2003 was registered for the offences under Sections 341/323/324/325/307/34 of the I.P.C.

4. After completion of investigation, charge sheet was submitted against the accused persons for the offences under Sections 341/323/324/325/34 of the I.P.C. and the then learned C.J.M, Deoghar took cognizance of the same. The charges were read over and explained to the accused persons to which they pleaded not guilty and claimed to be tried.

5. In the course of trial, altogether four witnesses were examined by prosecution apart from documentary evidences.

6. On the other hand, no witness has been examined by the defence. However, several documentary evidences have also been adduced by defence.

7. After conclusion of trial the petitioners were convicted and sentenced as stated above against which they filed appeal which was also dismissed by upholding the judgment and order of conviction and sentence.

8. Learned counsel for the petitioners 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 petitioners. It is submitted that the petitioners have been held guilty for the offence under Sections 341, 323 & 324 of the I.P.C. and further petitioner No.3 has also been held guilty for the offence under Section 325 of the I.P.C. 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 petitioners. It is further submitted that this court has already called for the report from the Probation Officer vide order dated 08.04.2026, wherein it has been mentioned that the petitioners are leading their normal life and are not involved in any criminal activities. The occurrence took place in the year 2003 and more than two decades have been elapsed and the petitioners have maintained peace and good conduct. Hence, the petitioners may be extended benefit of Section 4 of Probation of Offenders Act.

9. On the other hand, learned Spl.P.P. has defended the impugned judgment on merits but on the point of non-extension of the benefit of Probation of Offenders Act, it is fairly admitted that it was the first offence of the petitioners, hence, appropriate order may be passed after dismissing the revision petition.

10. I have gone through the impugned judgments of court below in the light of rival contentions of the respective parties.

11. It appears that P.W.3, the informant, has fully supported the prosecution case, which is also corroborated from the evidence of P.W.1 & P.W.2 and the doctor, P.W.4, has proved the injury sustained by

injured, therefore, the learned Trial Court has rightly convicted the petitioners on the basis of evidence available on record and learned Appellate Court has rightly upheld the judgment of conviction. Hence, the judgment of conviction of petitioners is hereby affirmed.

12. So far as sentence of the petitioners is concerned, considering the facts and circumstances of the case, the nature of offence committed by the petitioners, the genesis and manner of occurrence, age, antecedents and character of the petitioners and also considering that it was the first offence of the petitioners, it is expedient in the ends of justice to extend the benefit of Section 4 of the Probation of Offenders Act, 1958 to the petitioners instead of directing to undergo the substantive sentence of imprisonment as awarded by the learned trial Court and upheld by the appellate court.

13. In view of the above, the sentence awarded to the petitioners is modified and the trial court is directed to release the petitioners extending the benefit of Section 4 of Probation of Offenders Act, 1958, **upon furnishing bond of Rs.5,000/- (Rupees Five Thousand) each** with one surety of like amount to the satisfaction of learned trial Court, **within two months**, from the date of this order, with condition to maintain peace and good behavior **for one year** from the date of furnishing the bond.

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

15. In case of violation of the terms and conditions of the bond, the petitioners shall be called upon to receive the sentence of imprisonment already awarded to them by the concerned trial Court.

16. In view of above discussion and reasons, this revision is **dismissed on merits with modification in sentence** as stated above.

17. Pending I.A.(s), if any, stands disposed of.

18. Let a copy of this order along with Trial Court Record be sent back to the concerned court immediately for information and needful.

(Pradeep Kumar Srivastava, J.)

09.09.2026
Arpit
Uploaded on 10/09/2026