IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 1157 of 2008

[*Against the Judgment of conviction dated 12.08.2008 and Order of sentence dated 13.08.2008, passed by learned 1st Additional Sessions Judge, Garhwa in Sessions Trial No. 181 of 2004*]

1. Durben Sao, son of Dharamjeet Sao.
2. Boudhi Sao, son of Kesho Sao.
3. Awadh Sao.
4. Ashok Sao.
5. Ram Kumar Sao.

Appellant Nos. 3 to 5 are sons of Ram Khelawan Sao and all are resident of Village – Gangti, P.S. – Nagar Untari, District – Garhwa.

... ... **Appellants**

Versus

The State of Jharkhand ... ... **Respondent**

.....

For the Appellants : Mr. A.K. Kashyap, Sr. Advocate.
Mrs. Lina Shakti, Advocate.
For the Respondent : Mr. Jitendra Pandey, A.P.P.

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

Dated: 1st May, 2026

By Court:- Heard Mr. A.K. Kashyap, learned senior counsel for the appellants as well as Mr. Jitendra Pandey, learned A.P.P. for the State.

2. The present Criminal Appeal is directed against the judgment of conviction dated 12.08.2008 and order of sentence dated 13.08.2008 passed by learned 1st Additional Sessions Judge, Garhwa, in Sessions Trial No. 181 of 2004, whereby and whereunder, the appellants have been held guilty for the offence under Sections 147, 323 and 325 of the I.P.C. and sentenced

them to undergo R.I. of one year each under Sections 147 and 323 of I.P.C. and also sentenced to undergo R.I. for five years for the offence under Section 325 of I.P.C. All the sentences were directed to run concurrently.

FACTUAL MATRIX

3. The factual matrix giving rise to this appeal is that on 06.02.2003, the informant Guddu Patel @ Guddu Choudhary and his employer Umesh Prasad Chandravanshi and one Nanhku Yadav got down at Bindhamganj Railway Station at 7:30 pm. All of three started for their village from Railway Station and when they reached near Village – Gangti in front of the house of Ram Kumar Sao, then Ram Kumar Sao came and stopped them. Thereafter, Premsoti Sao, Prabhu Sao and their sons came there along with lathi and started beating them. Due to assault, Umesh Chandravanshi became seriously injured and fell down. Informant Guddu Choudhary and Nanhku Sao were also sustained some injuries. Thereafter, accused persons torn the pant and shirt of Umesh Prasad Chandravanshi. When the informant and his companion raised alarm, then neighbourers reached there. On seeing them, accused persons fled away. Thereafter, they brought the injured Umesh

Chandravanshi to their village and from there, they took the injured for treatment to Nagar Untari.

4. On the basis of written report of informant, FIR being Nagar Untari P.S. Case No. 23 of 2003 was registered against the accused persons for the offence under Sections 147, 148, 149, 323, 307, 379 & 504 of the I.P.C. and after investigation, charge sheet was submitted under Sections 147, 323, 325, 307 and 504 of the I.P.C. against the accused persons. After taking cognizance of the offence, the learned Magistrate committed the case to the Court of Sessions; where S.T. No. 181 of 2004 was registered. The charge for the offence under Sections 147, 323, 325, 307, 504 of the I.P.C. were framed against accused persons and read over and explained to them, to which, they pleaded not guilty and claimed to be tried.

5. In course of trial, the prosecution has examined altogether 04 witnesses and also adduced following documentary evidence:-

Exhibit-1	:	Fardbeyan.
Exhibit-2	:	Injury Report of victim Umesh Chandrabanshi.
Exhibit-3	:	Requisition by I.O. for medical examination.
Exhibit-4	:	Formal F.I.R.

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

7. After conclusion of trial, the learned trial court, after considering the oral as well as documentary evidence available on record, has convicted and sentenced the appellants, as stated above, which is assailed in this appeal.

8. Learned counsel for the appellants, without touching the merits of the case, has confined himself on the point of extension of benefit of Section 4 of the Probation of Offenders Act, 1958 to the appellants. It is submitted that it was first offence of the appellants and they have never been convicted in another case. The plea of first offence and extension of Probation of Offenders Act, 1958 was raised before the learned trial court, but the learned trial court without recording any special reason has declined the same. Hence, appellants deserve the benefit of extension of Section 4 of the Probation of Offenders Act, 1958.

9. On the other hand, learned APP appearing for the State has opposed the contentions raised on behalf of the appellants and defended the impugned judgment and order on merits. So far extension of benefit of Section 4 of Probation of Offenders Act, 1958 is concerned, it is fairly submitted that it was first offence of the appellants.

10. I have gone through the record of the case along with the impugned judgment of conviction and order of sentence in the light of contentions raised on behalf of the appellants.

11. It appears that I.O. and doctor have not been examined in this case, which has caused prejudice to the case of the defence. The occurrence is of the year 2003 and more than two decades have passed and the appellants have sufficiently been punished for their guilt. From perusal of impugned judgment and order, it appears that plea of first offender and extension of benefit of Probation of Offenders Act, 1958 has been declined by the learned trial court without recording any special reasons, to which the appellants are entitled.

12. 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 they appear to be entitled, instead of awarding substantive sentence of imprisonment.

13. 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 is hereby directed to be released on furnishing bond of Rs.5,000/- (Rupees Five Thousand) each with one surety of like amount 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.

14. 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.

15. In case of violation of terms and conditions of the bond, the appellants shall be called upon to receive the sentence already awarded to them.

16. Pending I.A. if any stands disposed of.

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

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court at Ranchi.
Dated: 1st May, 2026.
Sunil/-**NAFR**
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