2026:JHHC:27002

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J.) No. 1005 of 2005

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1. Mihilal Marandi, S/o-Late Shiban Marandi
2. Gabrial Das S/o-Late Paul Das
3. Sett Das, S/o-Late John Das
4. Laltu Das, S/o-Late Michal Das

All resident of Budhudih Mission, P.O. & P.S-Jamtara, District-Jamtara … … Appellants

Versus

The State of Jharkhand …. Respondent

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants : Mr. Manish Singh, Advocate
For the Resp.-State : Mrs. Vandana Bharti, A.P.P.

Dated: 08th September, 2026

1. Heard learned counsel for the respective parties.
2. The instant appeal is directed against the judgment and order of conviction and sentence dated 30.06.2005 passed by the learned Additional Sessions Judge-IV (Fast Track Court), Jamtara in S.C. No.82 of 2003 arising out of Jamtara P.S. Case No.43 of 2003 corresponding to G.R. Case No.97 of 2003, whereby and whereunder the appellants have been held guilty for the offences under sections 323 Indian Penal Code and appellant Nos.2 to 4 have been ordered to furnish probation bond of Rs.1,000/- with two sureties each to serve the sentence when called upon a period of six months and in the meantime to maintain peace and be of good behavior while the appellant No.1 has been sentenced to undergone three months simple imprisonment for the offence under section 323 of IPC.

Factual Matrix:-

3. Factual matrix giving rise to this appeal is that on 29.03.2003, while the informant's elder brother was cutting bamboo, the accused Gabrial Das, Mihilal Marandi, Swet Das, Prohlad Das, Laltu Das and Vidyut Das came there and engaged in altercation with his brother. It is further alleged that on the same day in the night at about 8:00 pm, while the informant was in his house, Gabrial Das called out him, then his nephew, namely, Abhijit came out. Shortly afterward, the informant heard the sound of cry of his nephew, then he along with his elder brother and nephew stepped out from the house and found the accused causing hurt to his nephew, Abhijit, who was lying on earth and blood was oozing from his head. It is further alleged that the informant and others stepped in to rescue his nephew, but they were also assaulted. Furthermore, the accused threatened to kill the informant and his family members.
4. On the basis of written report of the informant, Jamtara P.S. Case No.43 of 2003 was registered for the offences under Sections 147, 148, 149, 341, 323/307 of IPC against the accused persons.
5. After completion of investigation, the charge-sheet was submitted against the appellants and after taking cognizance, the case was committed to the court of Sessions, where S.C No.82 of 2003 was registered. The appellants have denied the charges leveled against them and claimed to be tried.

6. In course of trial altogether, 8 witnesses have been examined by the prosecution namely:-

P.W.1-Abhijit Murmu (Injured victim)
P.W.2-Ausim Murmu
P.W.3-Anita Murmu
P.W.4-Ruth Kisku
P.W.5-Samir Murmu(Informant)
P.W.6-Subal Mandal
P.W.7-Ramasisi Singh
P.W.8-Ram Pratap Singh

7. Apart from oral evidence, the prosecution has also adduced the following documentary evidence;

Ext.1 -Signature of informant on *Fardebeyan*
Ext.2-Signature of Police Officer-in-Charge on Fardbeyan
Ext.3-Endorsement on fardbayan under the handwriting of Officer-in-Charge Suryabhushan Sharma
Ext.4-Requisition for medical examination of injured, Samir Murmu
Ext.4/1-Requisition for medical examination of injured, Abhijit Murmu
Ext.4/2-Requisitoin for medical examination of injured, Anisim Murmu
Ext.5-Injury report of Samir Murmu
Ext.5/1-Injury report of Abhijit Murmu
Ext.5/2-Injury report of Anisim Murmu

8. On the other hand, the defence has examined one witness, Dr. **Sudarshan Kumar Gutgutia** as **D.W.1**, who runs a nursing home and stated that the appellant No.1 is his staff and on the relevant period, he was on duty.

9. Apart from oral testimony, following documentary evidence has been adduced by the defence:

Ext.A-Certified Copy of Formal FIR in the case of State vs. Kajal Murmu in G.R. No.98 of 2003

Ext. B-Certified copy of charge-sheet in the case of State vs. Kajal Murmu in G.R. No.98 of 2003

Marx-X-Xerox copy of CD 486557

Ext.C-Certified copy of death certificate of Susanta Das

Ext.D-Certified copy of order dated 24.04.2002 of S.D.O. of Cr. Misc. 96 of 2002

Ext.E-Certificate of accused Mimilal Marandi issued dated 03.03.2003 by Dr. S.K. Gutgutia.

10. The case of defence is completely denial form the occurrence and false implication.

Submission on behalf of appellants:-

11. Learned counsel for the appellants has submitted that there was land dispute between the parties and as such, this false case has been lodged against the appellants only with a view to harass and grab the land. Admittedly, the witnesses i.e. P.Ws. 1 to 5 are close relative of the informant and interested witnesses and one independent witness, who claimed to be an eye-witness to the occurrence, has been declared hostile. It is further submitted that appellant Nos.2 to 4 against whom, there is similar allegation of voluntarily causing simple injuries to the injured has been held guilty for the offence under section 323 of IPC,

but they have been extended benefit of section 4 of Probation of Offenders Act on furnishing probation bond of Rs.1,000/- each. But the appellant No.1 has not been extended the benefit of Probation of Offenders Act by learned trial court without recording any special reason rather it is simply stated that the appellant No.1 has caused head injury, which was found to be simple in nature. Hence, impugned judgment and order of conviction and sentence of the appellants is absolutely illegal and liable to be set aside and this appeal may be allowed.

In the alternative, it is argued that during investigation and trial, the appellant No.1 has remained in custody for about 35 days. The occurrence is of the year 2003. The appellant No.1 has undergone agony of trial for more than two decades and has sufficiently been punished for his guilt, therefore, again sending the appellant to jail custody for remaining period of sentence would not meet the ends of justice and disproportionate to the offence committed by him. Hence, the sentence awarded to the appellant No.1 may be reduced to the imprisonment already undergone by him.

Submission on behalf of State:-

12. On the other hand, learned A.P.P. has defended the judgment of conviction passed by learned trial court on merits and submitted that learned trial court has already extended the benefit of the probation of offenders Act to the appellant Nos.2-4 except the appellant No.1. So far as the quantum of sentence is concerned, she has fairly submitted that

this case is stale one of the year 2003 and the appellant No.1 has sustained custody for about 35 days, out of total sentence of 3 months simple imprisonment awarded to him by learned trial court, hence, appropriate order may be passed in the ends of justice.

Analysis, Reasons and Decision:-

13. I have considered the submission of the respective parties and also perused the impugned judgment. It appears that on the date of occurrence, the dispute begins with the cutting of bamboo and afterwards, on the same day at night, all the accused assembled at the door of the informant and assaulted the informant's nephew as a result of which, he sustained head injuries, which is vital part of the body. Considering the nature of offence and direct involvement of the appellants in the alleged offence, which was corroborated by the injury report, I find that there is no error in the judgment and order of conviction of the appellants. Hence, the conviction of the appellants for the offence under section 323 is upheld. Since, the appellant Nos.2 to 4 were already released on probation by entering a bond of Rs.1,000/- each with two sureties to maintain peace and be of good behavior for a period of six months and that period has already been expired. Therefore, there is no need to interfere in the sentence of the appellant Nos.2 to 4.

14. So far as the sentence of the appellant No.1, Mihilal Marandi is concerned, it appears that the occurrence is of the year 2003 and since then, more than two decades have expired, the appellant No.1 has

suffered long agony of the trial and he has remained in custody for about 35 days out of the total period of imprisonment as awarded to him, therefore, no useful purpose would be served by sending him, again in jail, for sustaining the rest of the imprisonment. Hence, it appears expedient, in the ends of justice to modify/alter the sentence of the appellant No.1.

15. Accordingly, the sentence of the appellant No.1 is modified to the extent of period already undergone by him.

16. Consequently, this appeal is **dismissed** on merits with modification in sentence as stated above.

17. Appellant No.1 Mihilal Marandi is on bail, hence, he is discharged from the liabilities of bail bonds. The sureties are also discharged.

18. Pending I.A(s), if any, is also disposed of, accordingly.

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

(Pradeep Kumar Srivastava, J.)

High Court of Jharkhand, Ranchi

Dated:-08/09/2026

Pappu/-N.A.F.R.

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