2026:JHHC:12862

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No.757 of 2009
……

1. Ismail Soren S/o Late Bhola Soren
2. Dhatir Soren S/o Late Madan Soren
3. Rajesh Marandi S/o Late Ragda Marandi
   All resident of Village Bishunpur, P.O. & P.S. Jama, Distt. Dumka

… Appellants

Versus

The State of Jharkhand **… Respondent**

WITH
Cr. Appeal (SJ) No.770 of 2009
……

Babusal Soren, Son of Late Dhukhia Soren, Resident of Village-Bisunpur, Police Station-Jama, District – Dumka

… Appellants

Versus

The State of Jharkhand **… Respondent**

For the Appellants : Mr. Bhupal Krishna Prasad, Adv.
For the State : Mr. Bishwambhar Shastri, A.P.P.

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

JUDGMENT

Dated - 30.04.2026

By Court:- Heard Mr. Bhupal Krishna Prasad, learned counsel appearing for the appellants as well as Mr. Bishwambhar Shastri, learned A.P.P. appearing for the State.

2. Criminal Appeal (S.J.) No. 757 of 2009 has been preferred by the appellants against the judgment of

conviction dated 25.05.2009 and order of sentence dated 26.05.2009 passed by learned 5th Additional Sessions Judge (F.T.C.), Dumka in Sessions Case No.197 of 2006 arising out of Jama P.S. Case No. 02 of 2006, whereby and whereunder the appellants have been held guilty for the offences under Sections 324/149/147/342/452 of the Indian Penal Code and Section 3 and 4 of the Prevention of Witch (Daain) Practices Act and sentenced to undergo rigorous imprisonment (R.I.) for two years each for the offence punishable under Sections 324 and 149 of the I.P.C.; R.I. for one year each for the offence punishable under Section 147 of the I.P.C.; R.I. for six months each for the offence punishable under Section 342 of the I.P.C.; R.I. for three years each for the offence punishable under Section 452 of the I.P.C. and further sentenced to undergo R.I. for three months each for the offence punishable under Sections 3 and 4 of the Prevention of Witch (Daain) Practices Act. They were also sentenced to pay a fine of Rs.1000/- with default stipulation. All the sentences directed to run concurrently.

3. On the other hand, Criminal Appeal (S.J.) No.770 of 2009 has been preferred by the appellant against the judgment of conviction dated 23.06.2009 and order of

sentence dated 24.06.2009 passed by learned 5th Additional Sessions Judge (F.T.C.), Dumka in Sessions Case No.197 of 2006(s) arising out of Jama P.S. Case No. 02 of 2006, whereby and whereunder the appellant has been held guilty for the offences under Sections 324/149/147/142/452 of the Indian Penal Code and Section 3 and 4 of the Prevention of Witch (Daain) Practices Act and sentenced to undergo rigorous imprisonment (R.I.) for two years for the offence punishable under Sections 324 and 149 of the Indian Penal Code; R.I. for one year for the offence punishable under Section 147 of the I.P.C.; R.I. for six months for the offence punishable under Section 142 of the I.P.C.; R.I. for three months for the offence punishable under Section 452 of the I.P.C. and R.I. for three months for the offence punishable under Sections 3 and 4 of the Prevention of Witch (Daain) Practices Act. They were also sentenced to pay a fine of Rs.1000/- with default stipulation. All the sentences directed to run concurrently.

4. Since both the criminal appeals arise out of same F.I.R. being Jama P.S. Case No. 02 of 2006, therefore, being taken together for hearing.

5. Factual matrix giving rise to this appeal, as emerging from the fardbeyan (Ext. 2) of the informant Sonalal Soren

(P.W.8), recorded on 03.01.2006 at about 04:00 p.m. at Village Bisunpur by the Sub-Inspector of Jama P.S., is that on the intervening night of 02.01.2006 at about 11:00 p.m., several accused persons came to his house and started knocking at the door by alleging him and his wife as 'Daain' (witch) and out of fear, the informant and his wife refused to open the door, thereafter, the accused persons forcibly broke open the door, dragged them towards the courtyard started assaulting them. The miscreants were Babusal Soren, Buka Chore, Lukhi Hembrom, Rajesh Marandi, Ismail Soren and Dhatir Soren. It is alleged that the accused persons were armed with lathi, rod and knife, took them near the house of the village Pradhan, where the wife of the informant was brutally inflicted with burn injuries on her cheeks and legs by means of a heated iron rod and further, Dhatir Soren assaulted with a knife on the head of the informant's wife, before being tied with a rope. The accused persons thereafter allegedly caused extensive damage to property, including cutting of trees and setting fire to the bamboo boundary along with a cow. The victims remained restrained until the arrival of the police, whereupon the accused fled away. Thereafter, the injured were sent for treatment and statements of witnesses were

recorded in due course.

On the basis of the fardbeyan, Jama P.S. Case No. 02 of 2006 was registered for the offences under Sections 147/148/149/452/307/323/324/427/342 of the I.P.C and Sections 3 and 4 of the Prevention of Witch (Daain) Practices Act.

6. After completion of the investigation, charge-sheet was submitted against the appellants for the aforesaid offences and accordingly, cognizance was taken and subsequently, the case was committed to the Court of Sessions. Charges were framed under Sections 147, 149, 452, 307, 342, 427 of the I.P.C. and Sections 3/4 of the Prevention of Witch (Daain) Practices Act against the appellants 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 eight witnesses were examined and several documentary evidences 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 have been assailed in these appeals.

10. Learned counsel for the appellants 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 to which they deserve. It is further submitted that the appellants have been held guilty for the offence under Sections 324 read with 149 and 147, 342 of the I.P.C. The maximum sentence imposed upon the appellants in Criminal Appeal (S.J.) No. 757 of 2009 is R.I. for three years for the offence under Section 452 of the I.P.C. while the maximum sentence imposed upon the appellant in Criminal Appeal (S.J.) No. 770 of 2009 is R.I. for two years for the offences under Sections 324/149 of the I.P.C. It is mentioned in the judgment itself that the appellants have clean criminal antecedents and they were never convicted for any offence and it was their first offence in spite of that without recording any special reasons as mandated under law, the learned Trial Court has declined to extend the benefit of Section 4 of the Probation of Offenders Act to which the appellants deserve.

11. On the other hand, learned A.P.P. appearing for the State has opposed and 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 is first offence of convicts as appears from the impugned judgment, 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 taken by appellants at the time of hearing on quantum of sentence, has been rejected by learned Trial Court only on the ground of seriousness of offence. It is also fact that the appellants have never been previously convicted for any offence. The incident was of the year 2006 and about two decades have been passed since the date of commission of offence. 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 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 also, for which the appellants appear to be entitled, instead of awarding substantive sentence of imprisonment.

16. In view of the above, these appeals are **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) 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.

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: 30/04/2026
Sachin / **NAFR**
Uploaded On: 05/05/2026