IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 100 of 2005

[*Against the judgment of conviction and sentence dated 11.01.2005, passed in Sessions Case No. 135 of 1999 / 18 of 2004 by the learned 1st Addl. Sessions Judge, Deoghar.****]***

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1. Gopal Mahto, S/o. Jageshwar Mahato;
2. Bhudeo Mahato, S/o. Suraj Mahato.
3. Mangru Mahato, S/o. Shri Dhaneshwar Mahato.

All are R/o. Gariyari, P.S.- Mohanpur, Dist.- Deoghar. ... **Appellants**

Versus

The State of Jharkhand …… **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants : Mrs. Vani Kumari, Advocate

For the State : Mr. Pankaj Kumar, P.P.

J U D G M E N T

Dated: 8th September, 2026

By Court:-

1. Heard learned counsel for the appellants as well as learned P.P.

2. Instant criminal appeal is directed against the judgment of conviction and sentence dated 11.01.2005, passed in Sessions Case No. 135 of 1999 / 18 of 2004 by the learned 1st Addl. Sessions Judge, Deoghar, whereby and whereunder, the appellant no. 1 Gopal Mahato has been convicted under section 307 I.P.C. and sentenced to undergo R.I. for 7 years alongwith the fine of Rs. 1000/- with default stipulation; the appellant no.2 Bhudeo Mahato and deceased appellant Ganesh Mahato have been convicted under Section 323 I.P.C. and released on probation bond by furnishing bond of Rs. 2,000/- each for maintaining peace for a period one year with two sureties and the appellant no. 3 Mangru Mahato has been convicted for the offence under Sections 323 & 325 I.P.C. and sentenced to undergo R.I. for two years alongwith the fine of

Rs. 1,000/- for the offence under Section 325 of the I.P.C. and further sentenced to undergo R.I. for six months alongwith the fine of Rs. 500/- with default stipulation for the offence under Section 323 of the I.P.C.

Factual Matrix:-

3. The factual matrix giving rise to this appeal arose out on the basis of *written report* of informant stating therein that on 26.06.1998 at about 2:30 P.M., the goat of Jageshwar Mahato had grazed his paddy seedling and when wife of the informant went to the house of the Jageshwar Mahato by taking the said goat for giving warning, then Jageshwar Mahato abused her and threatened that whole seedling would be grazed. Stones were pelted upon her. Thereafter, she came to her house. In the meantime, Jageshwar Mahato, Sarju Mahato, Gopal Mahato (appellant no. 1), Baldeo Mahato, Muso Mahato, Govind Mahato, Jay Kumar Mahato, Ganesh Mahato (now deceased), Dhaneshwar Mahato, Mangru Mahato (appellant no. 3), armed with danda, lathi and rod came to his house and started beating to his family members. Ganesh Mahato assaulted Suresh Yadav and Bhukhlal Mahato was assaulted by Mangru Mahato (appellant no. 3) and Bhudeo Mahato (appellant no. 2) with lathi. The accused Gopal Mahato (appellant no. 1) assaulted Pramila Devi, wife of the informant with iron rod on her head. She sustained injury and became unconscious and Jageshwar Mahato snatched silver chain from her neck. Mangru Mahato also assaulted Bina Devi with lathi on her right hand.

4. On the basis of above information, F.I.R. being Mohanpur P.S. Case No. 137 of 1998 was registered for the offences under Section 147, 148,

149, 447, 341, 323, 337, 307 & 379 of the I.P.C against the accused persons.

5. After completion of investigation, the charge-sheet was submitted against the above appellants and other co-accused persons and after taking cognizance, the case was committed to the court of Sessions, where Sessions Case No. 135 of 1999 / 18 of 2004 was registered and charges were framed under Sections 323, 341, 147, &149 of the I.P.C. against the accused persons including the appellants an specific charge under Section 307 I.P.C. was framed against the appellant no. 1 Gopal Mahato and charge under Section 379 I.P.C. was framed against the accused Jageshwar Mahto.

6. The appellants and co-accused persons denied the charges levelled against them and claimed to be tried.

7. The learned Trial Court after scrutinizing the evidence oral as well as documentary led by the respective parties, arrived at definite conclusion about the guilt of the appellant Gopal Mahato (appellant no. 1) for the offences under Sections 307 I.P.C., Bhudeo Mahato (appellant no.2) and Ganesh Mahato (now deceased) for the offence under Section 323 I.P.C. and Mangru Mahato (appellant no. 3) for the offence under Sections 323 & 325 of the I.P.C. Accordingly, the learned Trial Court convicted the appellants and sentenced to appellant nos. 1 & 3, while extended the benefit of Section 4 of the Probation of Offenders Act to the appellant no. 2 Bhudeo Mahato and deceased appellant Ganesh Mahato, which has been assailed in this appeal.

Submissions on behalf of the appellants:-

8. Assailing the impugned judgment, learned counsel for the appellants has submitted that there was trivial dispute between the parties over grazing of seedling by goat. The quarrel and abused were hurled between women of both the parties, which is evident from the testimony of PW-6. Admittedly, PW-7 Rajeshwar Mahato has turned hosilte. It is further submitted that appellant Nos. 2 and accused Ganesh Mahato (now deceased) 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 I.P.C., but they have been extended benefit of section 4 of Probation of Offenders Act on furnishing probation bond of Rs. 1,000/- each. The appellant Nos.1 & 3 have not been extended the benefit of Probation of Offenders Act by learned trial court without recording any special reason rather, the appellant No.1 Gopal Mahato has caused injury to Pramila Devi on her head which has been opined to be simple in nature by the doctor and the appellant no. 3 Mangru Mahato has caused injury to Bina Devi, who sustained injury on her hand. 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 also argued that the occurrence is of the year 1998. The appellant Nos. 1 & 3 have undergone agony of trial for more than two decades and have sufficiently been punished for their guilt, therefore, again sending the appellants 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 & 3 may be reduced to the imprisonment already undergone by him.

Submissions on behalf of the State:-

9. On the other hand, learned P.P. has defended the impugned judgment of conviction and sentence passed by learned Trial Court on merits and has submitted that learned Trial Court has already extended the benefit of the probation of offenders Act to the appellant Nos.2 and Ganesh Mahato (now deceased) except the appellant Nos.1 & 3. So far as the quantum of sentence is concerned, he has fairly submitted that this case is stale one of the year 1998, hence, appropriate order may be passed in the ends of justice.

Analysis, discussion and reasons:-

10. I have gone through the record of the case along with the impugned judgment in the light of contentions raised on behalf of both the sides.

11. It appears that altogether nine witnesses have been examined by the prosecution.

12. Apart from oral evidence, following documentary evidences have been adduced by the prosecution:-

I. Exhibit-1: Written report

II. Exhibit-1/1: Signature of the informant on written report

III. Exhibit -2 & 2/1: injury report of Suresh Mahato and signature on it.

IV. Exhibit- 3 & 3/1: Injury report of Bhukha Mahato and signature on it.

V. Exhibit-4 & 4/1: Injury report of Janardhan Mahato and her signature on it.

VI. Exhibit-5 & 5/1: Injury report of Pramila Devi and her signature on it.

VII. Exhibit-6 & 6/1: Injury report of Bina Devi and her signature on it.

VIII. Exhibit-7: X-ray report.

IX. Exhibit-8: formal F.I.R.

13. On the other hand, DW-1 Nunlal Prasad Yadav & DW-2 Thakur Mahato have been examined on behalf of defence.

14. It appears that appellant no. 1 Gopal Mahato has caused injury to injured Pramila Devi, who sustained lacerated wound 3" x ½" x ¼" on left side of scalp. The doctor has opined the injury to be simple in nature but was having severe bleeding. There is no opinion of the conducting doctor that above injury was likely to cause death or danger to life. It appears that the learned Trial Court considering the gravity of offence has wrongly assumed that the said injury was inflicted with intention to kill the injured or to knowledge that such injury in all probability may cause death of the injured and the Trial Court has convicted the appellant no.1 Gopal Mahato under Sections 307 of the I.P.C. It is also trite that the intention of the accused can be ascertained from the actual injury, if any, as well as from surrounding circumstances. Among other things, the nature of the weapon used and the severity of the blows inflected can be considered to infer intention. Therefore, conviction and sentence of the appellant no. 1 Gopal Mahato

for the offence under Section 307 of the I.P.C. is not sustainable and justified under law, which is hereby set aside. However, from the facts of the case, the offence under Section 325 of the I.P.C. is made out against the appellant no. 1 Gopal Mahato..

15. It further appears that the appellant no. 3 Mangru Mahato has caused grievous hurt to Bina with lathi and simple hurt to Khukhal with lathi. The learned Trial Court has rightly convicted the appellant no. 3 under Section 323 & 325 of the I.P.C., which is hereby upheld. The appellant no. 2 Bhudeo Mahato and Ganesh Mahato (now deceased) have been convicted under Section 323 of the I.P.C. causing hurt to Suresh Prasad, which are simple in nature as per opinion of doctor. As such, the the conviction of the appellant no. 2 Bhudeo Mahato for the offence under Section 323 I.P.C. and conviction of the appellant no. 3 for the offence under Sections 323 & 325 of the I.P.C. is upheld.

16. The learned Trial Court convicting the appellant no. 2 Bhudeo Mahato under Section 323 I.P.C. has rightly extended him the benefit of Section 4 of the Probation of Offenders Act.

17. So far non-extension of the benefit of Section 4 of the Probation of Offenders Act to the appellant no. 1 Gopal Mahato and appellant no. 3 Mangru Mahato is concerned, considering the facts and circumstances of the case, genesis and manner of occurrence and also considering that it was the first offence of the appellants, their age, antecedents and character, the appellant no. 1 Gopal Mahato and appellant no. 3 Mangru Mahato deserve the benefit of Section 4 of the Probation of Offenders Act**.**

18. In view of the above, this appeal is **dismissed on merits with modification in conviction and sentence** to the extent that instead of undergoing substantive sentence of imprisonment awarded to the appellants by the learned Trial Court, the appellant no. 1 Gopal Mahato and appellant no. 3 Mangru Mahato are hereby directed to be released on furnishing bonds 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.

19. If the bond is not furnished within above stipulated time, the learned Trial Court shall issue notice upon the appellant no. 1 Gopal Mahato and appellant no. 3 Mangru Mahato to secure their attendance for furnishing the bond.

20. In case of violation of terms and conditions of the bond, the appellants shall be called upon to receive the sentence already awarded to appellant no. 3 and the learned Trial Court will award the sentence to the appellant no. 1 Gopal Mahato for the offence under Section 325 of the I.P.C.

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

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

(Pradeep Kumar Srivastava, J.)

High Court of Jharkhand at Ranchi
Dated: 08.09.2026
Rahul/NAFR-
Uploaded on 14/09/2026