2026:JHHC:26441

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 479 of 2008

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1. Sudarshan Yadav, S/o Sattu Yadav,
2. Birbal Yadav, S/o Surat Yadav,

Both resident of village-Narayanpur, P.S.-Ramgarh, Dist.-Dumka

... ... **Appellants**

Versus

The State of Jharkhand …… **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants :Mrs. Shail Lakra, Amicus Curiae
For the State :Mr. Bhola Nath Ojha, Spl.P.P.

J UDGMENT

Dated: 02nd September, 2026

1. Heard learned *Amicus Curiae* for the appellants and learned Spl.P.P. for the State.

2. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 18th March, 2008 passed in Sessions Case No. 70 of 2004 by the learned 5th Addl. Sessions Judge (F.T.C.), Dumka, whereby and whereunder, the appellants have been convicted for the offence under Sections 324 and 448 of the IPC and sentenced them to undergo R.I. for one and half years for the offence under Section 324 of the IPC and further R.I. for six months for the offence under Sections 448 of the IPC. Both the sentences were directed to run concurrently.

Factual Matrix

3. The factual matrix giving rise to this appeal is that on 01.01.2003, at about 09:00 AM, the informant had gone to Gardi Village to sell sweet bread and returned at about 4:00 PM. Thereafter, one of the accused persons namely Birbal called the informant and the informant went to sit there where Birbal was sitting under the tree.

Meanwhile, another accused Sudarshan who was already standing there asked the informant as to why he assaulted the accused Birbal and all of sudden, Sudarshan started to slap the informant. The informant fled towards his house due to fear of assault of Sudarshan, then, the accused persons followed the informant and dragged the informant out from his house and assaulted with Sabbal (Sharpened Iron Rod) and Lathi with intention to kill him due to which, the informant sustained injury on forehead, feet and back of the body. Hearing alarm, the co-villagers came and rescued the informant who was brought to police station where F.I.R. was lodged.

4. On the basis of written information of the informant, Ramgarh P.S. Case No. 01 of 2003 was registered for the offence under Sections 341, 323, 324, 452, 307/34 of the IPC. After completion of investigation, the charge-sheet was submitted against the accused persons under the aforesaid sections and after taking cognizance, the case was committed to the court of Sessions, where Sessions Case No. 70 of 2004 was registered. The accused persons pleaded not guilty and claimed to be tried.

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

6. On the other hand, no oral or documentary evidence has been adduced by the defence. The case of the defence is complete denial from the occurrence and pleaded they have committed no offence.

Submissions on behalf of the appellants:-

7. Learned counsel for the appellants without touching the merits of the judgment has confined his argument towards not extending the benefit of Section 4 of Probation of Offenders Act to the appellants. He has submitted that appellants are entitled to be released under Section 4 of Probation of Offenders Act being the first offenders. The learned trial Court has not recorded any specific reason as to why the appellants are not entitled to get the benefit of Probation of Offenders Act. Therefore, the present appellants deserve benefit of Section 4 of Probation of Offenders Act. Moreover, the alleged occurrence is of the year 2003 and the appellants have maintained peace and have settled in their life leading a normal life, hence, the appellants may be extended the benefit of Section 4 of Probation of Offenders Act.

Submissions on behalf of the State

8. Learned Spl.P.P. has defended the judgment of learned trial Court on merits but so far as extension of benefit of Probation of Offenders Act is concerned, it is fairly admitted that it was the first offence of the appellants, hence, appropriate order may be passed.

Analysis, reasons and decision

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

10. It appears that the learned trial court has held the appellants guilty for the offence under Sections 324 and 448 of the I.P.C. From

perusal of evidence of prosecution witnesses including the injured witness i.e. P.W.-5 informant along with his injury report which was prepared by the Doctor (P.W.-8), it appears that the learned trial Court has meticulously considered the evidences and has rightly convicted the appellants which warrants no interference in this appeal which is hereby affirmed on merits.

11. Considering the overall factual background, genesis, manner, place and nature of offence committed by the appellants, their age, character and antecedent, it appears expedient in the ends of justice to extend the benefit of Section 4 of the Probation of Offenders Act of 1958, instead of awarding substantive sentence of imprisonment as awarded by the learned trial court.

12. 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 for the offence under Section 324 and 448 of the I.P.C., the appellants are 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.

13. 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.

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

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

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

17. I take this opportunity to appreciate the assistance rendered by Mrs. Shail Lakra, learned Amicus Curiae and direct the Member Secretary, High Court Legal Services Committee to extend the stipulated fee as per notification of High Court Legal Services Committee to learned Amicus Curiae, within a period of four weeks from the date of receipt/production of a copy of this order.

18. Office is directed to ensure that a copy of this order is served upon Member Secretary, High Court Legal Services Committee.

(Pradeep Kumar Srivastava, J.)

02.09.2026
Basant/
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