IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No. 421 of 2009

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1. Ishwar Mahto, son of Bahadur Mahto
2. Dilip Mahto, son of Suresh Mahto

Both resident of Village-Manjura, P.S.-Kasmar, District-Bokaro

... ... **Appellants**

Versus

The State of Jharkhand … … **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants : Mr. Atanu Banerjee, Advocate
Mr. Aditya Banerjee, Advocate
For the State : Mr. Bishwambhar Shastri, A.P.P.

JUDGMENT

Dated: 02nd September, 2026

By Court: Heard Mr. Atanu Banerjee, learned counsel for the appellants and Mr. Bishambhar Shastri, learned A.P.P. for the State.

2. Originally, this appeal was filed by three appellants out of them one appellant, namely Naresh Mahto has died during the pendency of this appeal and his appeal was abated vide order dated 29.07.2026. The rest of the surviving appellants have been renumbered.

3. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 18.04.2009, passed by learned 1st Additional Sessions Judge, Bermo at Tenughat, in Sessions Trial No. 10 of 2005 (arising out of Kasmar P.S. Case No. 15 of 20003 corresponding to G.R. Case No. 216 of 2003), whereby and whereunder the appellants have been held guilty for the offence under Section 324/34 of the I.P.C. and sentenced to undergo R.I. for three years.

Factual Matrix

4. The factual matrix giving rise to this appeal, as per written report of the informant, Satish Kumar (P.W.3), is that on 29.03.2003, at about 01:00 P.M., while the informant came out from his house to urinate, in the meantime, accused Naresh Mahto and Ishwar Mahto of his village suddenly came and caught him from behind and forcibly put him on the ground. In the meantime, the third accused, Dilip Mahto of his village came and struck him on the head with a pointed rod, with intention to kill him. As a result, he sustained bleeding injury to his head and became unconscious after raising an alarm. On hearing of his cry, his mother, Savitri Devi (P.W.-1) arrived and thereafter, the accused persons fled away. It is further alleged that if his mother had not arrived, they would have killed him. The motive behind the occurrence, as stated in the F.I.R., is that the accused persons have committed the offence due to rivalry over the contractorship of road.

On the basis of above written report, Kasmar P.S. Case No. 15 of 2003 dated 29.03.2003 was registered for the offences under Sections 341, 324 and 307 of the I.P.C.

5. After completion of investigation, charge-sheet was submitted against the accused persons for the offences under Sections 447, 341, 326 & 307 of the I.P.C. and after taking cognizance the case was committed to the Court of Sessions, where Sessions Trial No. 10 of 2005 was registered. The charges were read over and explained to the accused persons to which they pleaded not guilty and claimed to

be tried.

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

7. On the other hand, no oral evidence has been adduced by defence. However, the defence has also adduced two documentary evidences.

8. The case of defence is denial from occurrence and false implication.

9. After conclusion of trial, the appellants were held guilty for the offence under Section 324/34 of the I.P.C. and sentenced as stated above which has been assailed in this appeal.

Submissions on behalf of the appellants:-

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. The appellants have been convicted and sentenced for the offence under Sections 324/34 of I.P.C. and maximum sentence awarded to them is R.I. for three years. It is submitted that the appellants have been granted provisional bail by the learned Trial Court which was confirmed by the Co-ordinate Bench of this Court vide order dated 12.05.2009. It is also submitted that the learned Trial Court without recording any special reasons has declined to extend the benefit of Section 4 of the Probation of Offenders Act to the appellants. It is further submitted that this court has already called for from the report of Probation Officer vide order

dated 29.07.2026, wherein it has been mentioned that appellants are leading their normal life and are not involved in any criminal activities. The occurrence took place in the year 2003 and even after conviction, the appellants have maintained peace and good conduct. Hence, the appellants may be granted the benefit of Section 4 of the Probation of Offenders Act instead of directing for substantive sentence of imprisonment as awarded by the learned Trial Court.

Submissions on behalf of the State:-

11. On the other hand, learned A.P.P. has defended the impugned judgment on merits but so far as the plea for extension of benefit of Section 4 of the Probation of Offenders Act is concerned, no serious objection has been raised.

Analysis, discussions and reasons:-

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. From perusal of the records, it appears that in order to substantiate the charges, the prosecution has examined altogether four witnesses, out of which P.W.-1, Savitri Devi (mother of the informant) and P.W.3, Satish Kumar (informant-cum-injured witness) have proved the allegation. The evidence of doctor, namely Krishna Kumar Jha (P.W.4), who has medically examined P.W.3, Satish Kumar, has also proved the injury sustained by the informant. Hence, the conviction of the appellants for the offence punishable under Section 324/34 of the I.P.C. is affirmed.

14. It appears that plea of first offence and no other previous conviction has been taken by appellants at the time of hearing on quantum of sentence, but has been rejected by learned Trial Court without recording any special reasons. It is also a fact that the appellants have never been previously convicted for any other offence. The incident is of the year 2003 and more than two decades has been elapsed 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.

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, for which the appellants appear to be entitled, instead of awarding substantive sentence of imprisonment.

16. 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 are hereby directed to be released **on furnishing bond of Rs.5,000/- (Rupees Five Thousand) each** with one surety of like amount each 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(s), if any, stands disposed of.

20. 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.)

02.09.2026
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