IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 1253 of 2008

[*Against the Judgment of conviction and Order of sentence dated 30.09.2008, passed by learned Additional Sessions Judge, Fast Track Court No. 1, Garhwa in Sessions Trial No. 485 of 2000*]

Lalan Dubey, son of Sri Rama Dubey, resident of Village – Garhakhut, P.S.-Majhiaon, P.S. – Sundipur, District – Garhwa.

... ... **Appellant**

Versus

The State of Jharkhand ... ... **Respondent**

.....

For the Appellant : Mr. Venkatesh Kumar, Advocate.
Mr. Jai Shankar Tripathi, Advocate.
For the Respondent : Mr. Satish Kumar Keshri, A.P.P.

.....

P R E S E N T

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

Dated: 30th April, 2026

By Court:- A counter affidavit has been filed on behalf of the State. Let it be kept on record.

2. From perusal of the counter affidavit, it appears that appellant Santu Dubey has died during pendency of this appeal and death certificate has also been filed.

3. In view of the above, the appeal preferred on behalf of appellant – Santu Dubey stands abated.

4. This appeal was originally filed on behalf of three appellants namely, Rama Dubey, Santu Dubey and Lalan Dubey, out of whom, Rama Dubey and Santu Dubey have died and the appeal on their behalf is abated and now this appeal is being heard only against the surviving appellant – Lalan Dubey.

5. Heard Mr. Venkatesh Kumar, learned counsel for the appellant – Lalan Dubey as well as Mr. Satish Kumar Keshri, learned A.P.P. for the State.

6. The present Criminal Appeal is directed against the judgment of conviction and order of sentence dated 30.09.2008 passed by learned Additional Sessions Judge, (F.T.C. 1), Garhwa in Sessions Trial No. 485 of 2000, whereby and whereunder, the appellant has been held guilty for the offence under Sections 323, 324 and 326 of the I.P.C. and sentenced to undergo R.I. of three years along with fine of Rs. 2,000/- under Section 326 read with Section 34 of I.P.C. with default stipulation. No separate sentence under Sections 323 and 324 read with Section 34 of the I.P.C. has been passed against the appellant.

FACTUAL MATRIX

7. The factual matrix giving rise to this appeal is that on 31.10.1998 at 11:30 A.M. the co-villager, Santu Dubey (deceased appellant) was grazing his buffalo in the Rahar field to which elder brother of the informant Rabi Bhusan objected, upon which, Santu Dubey used bad words. Thereafter, Lalan Dubey and Rama Dubey (deceased appellant) came near the door of the house of informant and started abusing. It is further alleged that on instigation of Rama Dubey, Lalan

Dubey brought a garasa and Santu Dubey brought stick and assaulted informant and his brother Rabi Bhusan and also to his mother, due to which, Rabi Bhusan fell down after sustaining head injury.

8. On the basis of above fardbeyan, FIR being Majhiaon P.S. Case No. 73 of 1998 was registered against the accused persons for the offence under Sections 341, 323, 324 and 307 of the I.P.C. and after investigation, charge sheet was submitted under Sections 341, 323, 324 and 307 of the I.P.C. against the accused persons. After taking cognizance of the offence, the learned Magistrate committed the case to the Court of Sessions; where S.T. No. 485 of 2000 was registered. The charge for the offence under Sections 323, 324, 341 and 307 of the I.P.C. were framed against accused persons and read over and explained to them, to which, they pleaded not guilty and claimed to be tried.

9. In course of trial, the prosecution has examined altogether 05 witnesses and also adduced following documentary evidence:-

Exhibit-1	:	Signature of Pankaj Kumar Dubey on fardbeyan.
Exhibit- 2 to 2/1	:	Original and supplementary Injury Report of Rabi Bhusan Dubey.

Exhibit-2/2 to 2/3	:	Injury Report of Pankaj Dubey and Suniti Devi.
Exhibit-3	:	Formal F.I.R.
Exhibit-4	:	Endorsement on fardbeyan.
Exhibit-5	:	Fardbeyan.

10. On the other hand, defence has examined 01 defence witness and also adduced following documentary evidence:

Exhibit-A	:	Attendance register, signature of Inspector Ram Nath (with objection).
Exhibit-A/1	:	Signature of Lalan Dubey in attendance register (with objection).

11. After conclusion of trial, the learned trial court, after considering the oral as well as documentary evidence available on record, has convicted and sentenced the appellant, as stated above, which is assailed in this appeal.

12. Learned counsel for the appellant, without touching the merits of the case, has confined himself on the point of extension of benefit of Section 4 of the Probation of Offenders Act, 1958 to the appellant. He has submitted that it was first offence of the appellant and he has never been convicted in any other case.

13. On the other hand, learned APP appearing for the State has opposed the contentions raised on behalf of the appellant and defended the impugned judgment and order on merits. So far extension of benefit of Section 4 of Probation of Offenders Act, 1958 is concerned, it is fairly submitted that it was first offence of the appellant.

14. I have given anxious consideration to the genesis, manner and place of occurrence. It appears that the injuries on the Rabi Bhushan Dubey were found to be grievous in nature by sharp cutting weapon and the appellant has been convicted under Section 326 of the I.P.C. The occurrence is of the year 1998 and more than two decades have passed and appellant has sufficiently been punished for his guilt. It was first offence of the appellant. The appellant has been denied the benefit of Section 4 of Probation of Offenders Act, 1958 without recording any special reasons by the trial court, to which the appellant is entitled.

15. Considering the facts and circumstances of the case, the nature of offence committed by the appellant, the genesis and manner of occurrence, age, antecedent and character of the appellant, it is expedient in the ends of justice to extend the benefit of Section 4 of the

Probation of Offenders Act, 1958 to the appellant, for which the appellant appears 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 appellant by learned Trial Court, the appellant is 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 appellant to secure his attendance for furnishing the bond.

18. In case of violation of terms and conditions of the bond, the appellant shall be called upon to receive the sentence already awarded to him.

19. Pending I.A. if any stands disposed of.

20. Let a copy of this judgment along with trial court record be sent back to the court concerned immediately for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court at Ranchi.
Dated: 30th April, 2026.
Sunil/-**NAFR**
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