IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J) No. 756 of 2026

[*Against the judgment of conviction dated 21.07.2026 and order of sentence dated 24.07.2026 passed in Sessions Trial No. 56 of 2019 arising out of Thakurgangti P.S. Case No. 29 of 2018 corresponding to G.R. No. 957 of 2018 by the learned Sessions Judge, Godda*.]

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1. Birendra Kumar Yadav @ Birendra Yadav @ Pappu Yadav, aged about 42 years, S/O Sri Ramdeo Yadav;
2. Sunil Kumar Yadav @ Sunil Yadav @ Sunil Kumar, aged about 45 years, son of Sri Ramdeo Yadav;
3. Shila Devi, aged about 33 years, wife of Sunil Kumar Yadav @ Sunil Yadav @ Sunil Kumar.

All resident of village & P.O.- Chapri, P.S.- Thakurgangti, District- Godda. …… **Appellants**

Versus

1. The State of Jharkhand
2. Sushila Devi, W/o Sikandra Yadav, R/o village- Chapri, P.O. & P.S. Thakurgangti, District Godda. …… **Respondents**

Present
HON'BLE MR. JUSTICE RAJESH KUMAR

For the Appellants : Mr. Jitendra S. Singh, Sr. Advocate
Ms. Pragati Prasad, Advocate
For the State : Mr. Shree Prakash Jha, A.P.P.
For the Victim : Ms. Kavita Kumari, Advocate

By Court

1. Heard Mr. Jitendra S. Singh, learned Senior Counsel for the appellants; Mr. Shree Prakash Jha, learned A.P.P. and Ms. Kavita, learned counsel for the victim.

2. The present appeal is directed against the judgment of conviction dated 21.07.2026 and order of sentence dated 24.07.2026 passed in Sessions Trial No. 56 of 2019 arising out of Thakurgangti P.S. Case No. 29 of 2018 corresponding to G.R. No. 957 of 2018 by the learned Sessions Judge, Godda, whereby and whereunder the appellants have been convicted for the offence under Sections 323/34, 324/34, 325/34, 506/34 & 341/34 of the I.P.C. and accordingly sentenced to undergo R.I. for 7 years along with a fine of Rs. 1000/- each for the offence under Section 325/34 of I.P.C. and in default of payment of fine S.I. for 3 months; R.I.

for one year along with a fine of Rs. 500/- each for the offence under Section 323/34 of I.P.C and in default of payment of fine further S.I. for 7 days; S.I. for 1 month along with a fine of Rs. 500/- each for the offence under Section 341/34 of I.P.C. with default sentence of S.I. for seven days ; R.I. for 5 years along with a fine of Rs. 1000/- for the offence under Section 506/34 of I.P.C. and in default S.I. for 3 months and R.I. for 3 years along with a fine of Rs. 1000/- for the offence under Section 324/34 of I.P.C. and in default further S.I. for 1 month. All the sentences were directed to run concurrently.

3. The prosecution story in brief is that, the informant, namely, Sushila Devi on 19/06/2018 at about 2:00P.M., had come to her field for weeding out the grass and about 03:45 P.M, accused, Birendra Yadav and his brother, Sunil Yadav having *"Sabbal"* and *"Kachiya"* in their hands came there and stated that why she had come there as this land belongs to them. She replied that the land belongs to her and she is cleaning grass. Meanwhile both of them started abusing, and assaulted her with intention to kill her, then she fell down on land. On *hulla* her husband and daughter came to rescue her. Accused Birendra Yadav took *sabbal* in his hand and assaulted her husband on his leg. When her daughter tried to save him, then Sunil Yadav by *kachiya* assaulted her daughter with intention to kill her to which she sustained injury on her hand. Sila Devi came there and assaulted by a stick *"Paina"* to them. In the meantime, villagers came there and by seeing them all the accused, fled away from there and came to the police station and thereafter she referred to hospital for treatment.

4. On the basis of written statement of the informant Thakurgangti P.S. Case No- 29/2018 dated 20.06.2018 under Sections- 341, 323, 324, 307, 504 & 506/34 of IPC has been registered against the against the accused persons namely, (1) Birendra Yadav (2) Sunil Yadav & (3) Shila Devi and after completion of investigation, the Investigating Officer has submitted the charge-sheet for the offence u/ss.- 341, 323, 324, 325, 307, 504 & 506/34 of IPC against the accused persons namely (1) Birendra Yadav @ Pappu Yadav (2) Sunil Yadav @ Sunil Kumar & (3) Shila Devi. Thereafter the cognizance has been taken on 17.11.2018, against the

accused persons. The case was committed to the Court of Sessions. The charge has been framed under Sections: - 341/34, 323/34, 324/34, 325/34, 307/34 & 506/34 of IPC against the accused persons on 12.03.2019 namely, (1) Birendra Yadav @Pappu Yadav (2) Sunil Yadav@ Sunil Kumar Yadav & (3) Shila Devi and the same was read over and explained to them, to which they pleaded not guilty and claimed to be tried.

5. To substantiate the charges, the prosecution has examined altogether ten witnesses and their depositions, in short, are as follows:

(I) **P.W.1 Kedarnath Anand** is an independent witness and he has deposed that on 19.06.2018, at about 4:00–4:30 P.M., while returning from Barahat, he saw Birendra Yadav holding an iron rod and Sunil Yadav holding a stick, assaulting Sikandar Yadav, resulting in fracture of his leg. He further stated that Sunil's wife assaulted Sushila Devi with a knife when she came to rescue her husband. In cross-examination, he has admitted the existence of a land dispute between the parties and stated that more than 100 persons had gathered at the place of occurrence.

(II) **P.W. 2 Shrawan Oraon** is a hearsay witness.

(III) **P.W.3 Mukesh Sah** has been declared hostile.

(IV) **P.W.4 Munilal Mandal** is also a hearsay witness.

(V) **P.W.5 Sushila Devi** is the informant/ injured of this case and she has deposed that while cleaning her roadside land along with her husband, accused Birendra Yadav have objected to the same and assaulted her husband with a rod, causing fractures in his legs. When her daughter Sanju Devi came to rescue him, Sunil Yadav assaulted her with a spade, while Shila Devi assaulted Sushila Devi with a stick, causing injuries to her hand and leg. In cross-examination, she has stated that she and the other injured persons remained admitted in Godda Hospital for five days. She has also stated that they are Gotiyas to each other.

(VI) **P.W. 6 Chamari Yadav** is the I.O. of this case and he has investigated in the matter. He has proved the endorsement on the written report as Exhibit-1 and the formal FIR as Exhibit-2. He has stated that he recorded the informant's statement, inspected the place of occurrence, and submitted the charge-sheet against the accused persons. In cross-

examination, he has admitted the existence of a land dispute, his inability to identify the disputed land by plot number and the fact that a counter-case had been filed, which was not mentioned in the case diary.

(VII) **P.W.7 Dr. Dilip Kumar Choudhary** is the doctor who has treated the victims. He has deposed that he has examined Sikandar Yadav and found fractures of the left fibula and right tibia, both grievous in nature. He also examined Sushila Devi and Sanju Devi, whose X-rays report revealed no bony injury, and opined their injuries to be simple. He proved four X-ray plates as Prosecution Exhibit No. 04. In cross-examination, he has stated that Sikandar's injuries were grievous but not dangerous to life and could also be possible due to fall on a hard surface.

(VIII) **P.W.8 Sikandra Yadav** is an injured and also husband of the informant and he has deposed that the occurrence had taken place about 4–5 years ago, at around 3–4 P.M., when he along with his wife Sushila Devi and daughter Sanju Devi, had gone to sow seeds in their field. The accused persons opposed them and assaulted them, causing fracture of his leg and cut injuries to Sushila Devi and Sanju Devi with a *Hasua*. In his cross examination he has stated that there is a land dispute between the parties.

(IX) **P.W.9 Sanju Devi** is an injured and daughter of the informant and she has deposed that while she, her father and mother had gone to the field for sowing seeds, Birendra Yadav and Sunil Yadav assaulted her father with a sabbal, causing fracture of his leg. When she and her mother came to rescue him, the accused persons assaulted them with a kachiya, causing injuries to their hands. She further stated that all three injured persons were initially treated at Thakurgangti Hospital and thereafter referred to Godda Hospital for further treatment. In her cross examination she has stated that there is a counter case filed against them by accused Shila Devi. She has also admitted of land dispute between the parties.

(X) **P.W.10 Dr. Kumar Vivekanand** is a medical witness and he has deposed regarding the medical examination conducted by Dr. Chandra Shekhar Azad at Hari Devi Referral Hospital, Thakurgangti, on 19.06.2018. Sushila Devi was found to have a sharp-cutting injury over

her left arm, swelling over her left ankle and right side of her neck, along with pain all over her body. She was referred to Sadar Hospital, Godda, for further treatment and medical opinion.

6. Referring to the above evidence and other evidence brought on record, the learned Senior Counsel for the appellants has made the following submission: -

i) *P.W. 1- Kedarnath Anand* is not an eye witness to the incident and he has simply stated that there is a land dispute.

ii) *P.W. 2- Shrawan Oraon* is a hearsay witness and he has not disclosed that who has informed him regarding the incident and he has also stated that there is a partition dispute between the parties.

iii) *P.W. 3 Mukesh Sah* has been declared hostile.

iv) *P.W.4- Munilal Mandal* is also not an eye witness rather he has stated that there is a case and counter-case between the parties.

v) *P.W.5- Sushila Devi* is the wife of one of the victim and informant of the case. She has supported the incident and has stated that there is a property dispute and there is a case and counter-case between the parties. She has stated that both the leg of her husband has been broken. She has also stated regarding the use of sharp-cutting weapon upon her daughter.

vi) *P.W.6- Chamari Yadav* is the I.O. and only relevant statement made by him is with regard to the case and counter-case between the parties and further fact that the injury report has been obtained on 04.07.2018 while the incident is of 19.06.2018.

vii) *P.W. 7 Dr. Dilip Kumar Choudhary* is a medical witness whose testimony shows that the female victims have suffered no bone injuries, and he has admitted that the male victim's fracture could have been caused by a simple fall on a hard surface.

viii) *P.W. 9 Sanju Devi* is an injured eyewitness who claims to have suffered an injury from a sharp-cutting weapon, and she has admitted that there is a long-standing land dispute between the parties.

ix) *P.W.10- Dr. Kumar Vivekanand* is the doctor who has also treated

the victims. Comparing his injury report with the P.W.7, the fracture occurred does not tally.

x) Further, it has been submitted that the initial report does not suggest any fracture rather the place of injury is also different. Even the date of X-ray Report has not been brought on record. Referring to the above discrepancy, it has been further submitted that there is an exaggeration in the injury and report as the injuries are simple in nature and the previous injury has not been proved.

xi) It is a family dispute with regard to land and there was free fight between the parties and both the parties are agnates. No dangerous weapon has been used and the injuries caused are not life threatening.

7. On the above basis, it has been submitted that the conviction under Sections 323/34, 324/34, 325/34, 506/34 & 341/34 of the I.P.C. is bad in law. Therefore, either the appellants should be acquitted or they should be given the benefit of provisions of Probation of Offenders Act, 1958 and to that effect I.A. No. 15629 of 2026 has been filed by the appellants praying therein for extending the benefit of Section 3 and 4 of the Probation of Offenders Act to them.

8. Learned counsel for the State has supported the judgment of conviction and submitted that there is fracture of bone and as such the injuries are grievous in nature and therefore, the appellant should not be extended the benefit of Probation of Offenders Act.

9. Section 4 of the Probation of Offenders Act reads as under:

> ***"4. Power of Court to release certain offenders on probation of good conduct***
> *. - (1) When any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the Court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the Court may, instead of sentencing him at once to any punishment direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the Court may direct, and*

in the meantime to keep the peace and be of good behaviour:

Provided that the Court shall not direct such release of an offender unless it is satisfied that the offender or his surety, if any, has a fixed place of abode or regular occupation in the place over which the Court exercises jurisdiction or in which the offender is likely to live during the period for which he enters into the bond.

(2) Before making any order under sub-section (1), the Court shall take into consideration the report, if any, of the probation officer concerned in relation to the case.

(3) When an order under sub-section (1) is made, the Court may, if it is of opinion that in the interests of the offender and of the public it is expedient so to do, in addition pass a supervision order directing that the offender shall remain under the supervision of a probation officer named in the order during such period, not being less than one year, as may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the offender.

(4) The Court making a supervision order under sub-section (3) shall require the offender, before he is released, to enter into a bond, with or without sureties, to observe the conditions specified in such order and such additional conditions with respect to residence, abstention from intoxicants or any other matter as the Court may, having regard to the particular circumstances, consider fit to impose for preventing a repetition of the same offence or a commission of other offences by the offender.

(5) The Court making a supervision order under sub-section (3) shall explain to the offender the terms and conditions of the order and shall forthwith furnish one copy of the supervision order to each of the offenders, the sureties, if any, and the probation officer concerned."

10. From the evaluation of the evidences available on record, this Court finds that there was a free fight between the parties. There is discrepancy, so far as fracture of bone is concerned, as not been shown by the earlier doctor, but what ever may be the fact, there was a free fight and both parties have sustained injuries.

11. Considering the above fact and the materials available on record, I am not inclined to interfere with the judgment of conviction dated 21.07.2026 passed in Sessions Trial No. 56 of 2019 arising out of Thakurgangti P.S. Case No. 29 of 2018 corresponding to G.R. No. 957 of 2018 by the learned Sessions Judge, Godda.

12. So far as sentencing part is concerned, the maximum punishment awarded to the appellant is R.I. for 7 years. The parties are agnates and there was a land dispute between the parties and further neither any

dangerous weapon has been used nor the injuries sustained are life threatening.

13. Considering the above fact and also the social investigation report, which has been produced by the learned A.P.P., this Court is of the view that the benefit of Section 4 of the Probation of the Offenders Act, 1958 shall be extended to the appellants. Accordingly, the benefit of Section 4 of the Probation of the Offenders Act is hereby extended to the appellants.

14. All the aforesaid appellants are directed to execute a bond for 6 months to maintain peace and good behavior and they should reside at the address as disclosed in the bond.

15. With the above benefit of the Probation of Offenders Act, 1958 being extended to the appellants, the present criminal appeal is hereby disposed of. Pending I.A.s are also disposed of.

16. The aforesaid appellants are directed to be released forthwith on execution of the bond, if not wanted in any other case. Needless to say, all the benefits as are applicable under the Probation of Offenders Act, 1958 shall be available to the appellants.

(Rajesh Kumar, J.)

Jharkhand High Court, Ranchi
Dated, the 5th November, 2026
A. Mohanty

Uploaded on ……/…. /2026