

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 710 of 2009

[Against the judgment of conviction and sentence dated 03.07.2009, passed in Sessions Case No. 70 of 2009 by the learned 5th Addl. Sessions Judge (F.T.C.), Dumka.]

Baliya Turi @ Bali Turi, S/o. Late Sudin Turi, R/o. Dangalpara, P.O.-
Dumka, P.S.- Dumka(T), Dist.- Dumka.

... .. **Appellant**

Versus

The State of Jharkhand

..... **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant : Mr. Ashish Verma, Advocate

: Mr. Abhilekh Verma, Advocate

For the State : Mr. Fahad Allam, A.P.P.

J U D G M E N T

Dated: 7th May, 2026

1. Heard Mr. Ashish Verma, learned counsel for the appellant and Mr. Fahad Allam, learned APP.
2. This criminal appeal is directed against the judgment of conviction and sentence dated 03.07.2009, passed in Sessions Case No. 70 of 2009 by the learned 5th Addl. Sessions Judge (F.T.C.), Dumka, whereby and whereunder the appellant has been convicted for the offence under Section 325 of the I.P.C. and has been sentenced to undergo R.I. for 3 years.

Factual Matrix:-

3. The factual matrix giving rise to this appeal on the basis of *fardbeyan* of one Soni Devi stating therein that on 05.08.2008 at about 11:00 A.M., one Tanu Kumari, who was residing in the house of Balia Turi, was talking in obscene language with Soni Kumari. Her mother Savitri

Devi stopped Tanu Kumari from talking such type of language with Soni Kumari. It is alleged that thereafter, Doctor Turi, Bali Turi, Nemua Devi and Tanu Kumari started abusing her and her mother Savitri Devi. It is further alleged that appellant Bali Turi with a *danda* assaulted her mother on head several times. It is also alleged that Doctor Turi and Nemua Devi have assaulted the informant with *lathi* causing bleeding head injury at several places and she fell down. It is also alleged that when Soni Devi informant went to save Savitri Devi, accused Tanu Devi gave *garasa* blow on her head causing bleeding on head and thereafter, the accused persons assaulted them with fist and blow and on *halla*, the accused persons fled away.

4. On the basis of above information, F.I.R. being Dumka (T) P.S. Case No. 231 of 2008 corresponding to G.R. Case No. 1180 of 2008 was registered for the offences under Section 341, 323, 307, 504/34 of the I.P.C.
5. After completion of investigation, the charge-sheet was submitted against the appellant and co-accused persons for the offences under Sections 341, 325, 307, 504/34 of the I.P.C and after taking cognizance, the case was committed to the court of Sessions, where Sessions Case No. 70 of 2009 was registered. The appellant and co-accused persons denied the charges levelled against them and claimed to be tried. After conclusion of trial, the impugned judgment of conviction and sentence has been passed, which has been assailed in this appeal.

Submissions on behalf of the appellant:-

6. Learned counsel for the appellant without touching the merits of the

judgment has confined himself towards the non-extension of the benefit of provision of Section 4 of Probation of Officers Act, 1958. It is submitted that in the impugned judgment itself, observation has been recorded by the learned Trial Court that there is no materials showing any previous conviction of the appellant and it is the first offence of the appellant, in spite of that considering the injuries found on the injured persons, the learned Trial Court has declined to extend the benefit of Section 4 of the Probation of Offenders Act, 1958 without specifying any special reasons as mandated in the law. It is further submitted that scuffle took place between the informant and accused persons due to filthy language being taugt to one Soni Kumari. It is further submitted that no place of occurrence was stated by any of the witness. It is further submitted that police also did not collected any blood stained soil. The scuffle which was not intentional, but happened at the spur of the moment. The appellant is not habitual offender and he involved in the scuffle just to pacify the occurrence. The occurrence is of the year 2008. It is further submitted that the appellant was on bail before his conviction. In the impugned order itself, it is clear that he is a man of good character which finds corroboration from the report of Principle Probation Officer vide Memo No. 172 dated 13.05.2009. Therefore, appellant deserve to be extended the benefit of Section 4 of the Probation of Offenders Act.

Submissions on behalf of the State:-

7. On the other hand, learned A.P.P. has defended the impugned judgment on merits and submitted that there are two injured persons in this case,

namely, PW-6 Soni Devi (Informant) and PW-3 Savitri Devi (Mother of the informant). The Injury report of the injured persons has been proved by P.W.- 2 Dr. Anand Mohan Soren (Dr. A.M. Soren). Therefore, the learned Trial Court has rightly declined to extend the benefit of Section 4 of the Probation of Offenders Act, 1958. Hence, this appeal is devoid of merit and fit to be dismissed.

Analysis, discussion and reasons:-

8. It appears that altogether eight witnesses have been examined by the prosecution: -

P.W.-1	Ganesh Turi
P.W.-2	Dr. Anand Mohan Soren (Dr. A.M. Soren)
P.W.-3	Savitri Devi (Mother of the informant-cum-injured)
P.W.-4	Soni Kumari
P.W.-5	Alpana Devi
P.W.-6	Soni Devi (Informant-cum-injured)
P.W.-7	Tara Domin
P.W.-8	Parsuram Prasad (Investigating Officer)

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

- I. Exhibit-1 & 1/1 Injury Report of injured Soni Devi
- II. Exhibit -1/2 & 1/3 Injury Report of injured Savitri Devi
- III. Exhibit- 2 Signature of informant Soni Devi on Fardbeyan.
- IV. Exhibit- 2/1 Fardbeyan
- V. Exhibit- 3 Formal F.I.R.

9. On the other hand, no oral or documentary evidence has been adduced on behalf of defence.
10. Perused the record of the case alongwith the impugned judgment in the light of contentions raised on behalf of both the parties, it appears that the genesis of the occurrence and dispute is due to talking in obscene topics in between Soni Kumari and Tanu Kumari, who used to live in the house of the present appellant due to separation from her husband. The occurrence of scuffle took place between the informant and accused persons due to hot talk among these female members. The appellant also involved in the said occurrence and informant Soni Devi (PW-6) and her mother, Savitri Devi (PW-3) sustained injuries which finds corroboration from the injury reports proved by PW-2 Dr. A. M. Soren marked as Exhibit Nos. - 1, 1/1, 1/2 & 1/3. As such, I don't find any illegality or infirmity in the conviction of the appellant for the offence under Section 325 of the I.P.C which is hereby upheld.
11. So far non-extension of the benefit of Section 4 of the Probation Officers Act is concerned, it appears from the record that a report was submitted by the Principle Probation Officer, Dumka and vide Memo No. 172 dated 13.05.2009, the appellant was found to be a man of good character and there were no materials showing his previous conviction for any offence. The learned Trial Court considering the gravity of the offence has declined to extend the benefit of Section 4 of the Probation of Offenders Act.
12. Considering the facts and circumstances of the case, genesis and manner of occurrence and also considering that it was the first offence

of the appellant, his age, antecedents and character, the appellant deserve the benefit of Section 4 of the Probation of Offenders Act.

13. 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 the 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.
14. 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.
15. 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.
16. Pending I.A(s), if any, is also disposed of accordingly.
17. 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.)

Jharkhand High Court
Dated: 07.05.2026
Rahul/NAFR-
Uploaded on 14/05/2026