

IN THE HIGH COURT OF JHARKHAND AT RANCHI**Cr. Revision No. 220 of 2015**

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1. Tika Ram Mahto, S/o-Chowhan Mahto
 2. Tula Ram Mahto, S/o-Hari Mahto
 3. Jagdish Mahto, S/o-Hari Mahto
 4. Khetu Mahto, S/o-Hari Mahto
 5. Chetlal Mahto, S/o-Hari Mahto
 6. Hari Mahto, S/o-Pitamber Mahto
 7. Mukesh Mahto @ Mukesh Kumar, S/o-Ganesh Mahto
 8. Charkhu Mahto, S/o-Gurudayal Mahto
 9. Bhuneshwar Mahto, S/o-Tulsi Mahto
 10. Basudeo Mahto, S/o-Tulsi Mahto
 11. Bhairav Mahto, S/o-Sukhlal Mahto
 12. Paltu Mahto, S/o-Late Bani Mahto

All residents of Nero Tola Gadidih, P.S.-Topchanchi, P.O.-
Brahmandiha, Dist.-Dhanbad

... .. Petitioners

Versus

1. The State of Jharkhand
2. Bhulia Devi, W/o-Sri Khirodhar Mahto, R/o-Vill-Neo Tola Gadidih, P.S.-
Topchanchi, P.S.-Brahmandiha, Dist.-Dhanbad

.... Opp. Parties

For the Petitioners	: Mrs. Rajni Singh, <i>Amicus Curiae</i>
For the State	: Mrs. Nehala Sharmin, Spl.P.P.

PRESENT

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
ORDERS

Dated: 20th April, 2026

Pronounced on 09/06 /2026

1. Heard Mrs. Rajni Singh, learned *Amicus Curiae* for the petitioners and
learned Spl.P.P.
2. It is to be mentioned at the very outset that the present revision was filed
by 14 accused persons, out of them, petitioner No.2, Gurudyal Mahto
and P.W.8-Ganesh Mahto have died and their revision was abated vide

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order dated 16.12.2022. The names of above surviving petitioners, Tika Ram Mahto, Tula Ram Mahto, Jagdish Mahto, Khetu Mahto, Chetlal Mahto, Hari Mahto, Mukesh Mahto @ Mukesh Kumar, Charkha Mahto, Bhuneshwar Mahto, Basudeo Mahto, Bhairav Mahto and Paltu Mahto have been renumbered and this revision is heard on behalf of the aforesaid alive petitioners.

3. The instant criminal revision is directed against the conviction and sentence of the petitioners for the offence under sections 147/149, 323/149, 341/149, 447/149 and 506 of IPC and sections 3, 4, 5 and 6 of Prevention of Witch (Daain) Practices Act passed by learned Judicial Magistrate First Class, Dhanbad in G.R. Case No.2837 of 2001/T.R. No.374 of 2008 dated 11.01.2008 whereby and whereunder the petitioners have been directed to undergo R.I. for 2 years each for the offence under sections 147/149 and 506 of IPC, R.I. for 1 years for the offence under sections 323/149 of IPC, S.I. for 1 month for the offence under section 341/149 of IPC, S.I. for 3 months for the offence under section 447/149 of IPC, S.I. for 3 months for the offence under sections 3 and 5 of Prevention of Witch (Daain) Practices Act, S.I. for 6 months for the offence under section 4 of Prevention of Witch (Daain) Practices Act and S.I. for 1 years for the offence under section 6 of Prevention of Witch (Daain) Practices Act. All the sentences were directed to run concurrently. The petitioners filed criminal appeal No.15 of 2008,

which has been dismissed by the learned Sessions Judge, Dhanbad vide order dated 17.12.2014, whereby the impugned judgment was upheld and the appeal was dismissed.

Factual Matrix

4. Factual matrix giving rise to this revision is that on 11.10.2001 at about 9:00 pm, the informant, Bhulia Devi along with her husband and other family members were inside her house, meanwhile, a mob of about 50 persons started banging her door. The people of mob were abusing the informant and her family members calling her *daain*. It is further alleged that the informant's husband opened the door then she saw and identified Tikaram Mahto, Gurudayal Mahto (since deceased), Tularam Mahto, Nakul Mahto, Jagdish Mahto, Chetlall Mahto, Paltu Mahto, Mukehs Mahto, Charkhu Mahto, Bhuneshwar Mahto, Basudeo Mahto, Hari Mahto, Khetu Mahto, Ganesh Mahto(Since deceased) and Bhairav Mahto were armed with lathi and danda and all the above accused persons were calling her *daain* and when her husband resisted the mob, he was assaulted by them. It is specifically alleged that Gurudayal Mahto (since deceased) dragged the informant and her husband outside. Subsequently, Basudev Mahto and Gurudayal with the help of others caught hold of her and Khetu Mahto put human excreta in her mouth and she was forced to swallow it.

5. On the basis of above information, Topchanchi P.S. Case No.156 of 2001 was lodged for the offences under sections 143, 147, 149, 341, 323, 447, 504 and 506 of IPC and sections 3, 4, 5 and 6 of Prevention of Witch (Daain) Practices Act. After conclusion of the investigation, charge-sheet was submitted against altogether 15 accused persons, who denied the charges and claimed to be tried.
6. In the course of trial, no documentary evidence has been adduced. However, altogether 5 witnesses were examined by the prosecution, namely:-

P.W.1- Khirodhar Mahto

P.W.2- Mohini Kumari

P.W.3- Jai Prakash Mahto

P.W.4- Seedam Mahto

P.W.5- Budhiya Devi (Informant)

7. On the other hand, no oral or documentary evidence has been adduced by the defence. Admittedly, the case of the defence is denial for the occurrence and false implication due to village politics.
8. Learned trial court after scrutinizing the evidence of witnesses recorded the findings of guilt of the petitioners, which was also upheld in the appeal by learned Sessions Judge.

Submission on behalf of the petitioners:-

9. Learned counsel for the petitioners has submitted that both trial court as well as appellate court have failed to appreciate that all the witnesses examined in this case are family members of the informant and not a single independent witness has come forward to corroborate the prosecution story. The incident of administering human excreta to the informant is a concocted story to make the offence serious and inhuman. There may be some scuffle due to previous enmity and exchange of assault but the story of identifying the informant as a witch is absolutely false and fabricated and even not proved conclusively as to who has identified the informant to be a *daain* and what type of black magic, she ever performed due to which the petitioners were suspecting her to be a *daain* and acted in a concerted manner to take revenge. It is further submitted that learned trial court as well as learned appellate court have failed to consider the above vital aspects of the case, which has been made the very genesis of occurrence. Admittedly, there was a mob of more than 50 persons and only 15 persons have been made accused in this case. It is not claimed by the informant that others were outsiders or belonging to any other village. Therefore, conviction of the petitioners for the offence under section Prevention of Witch (Daain) Practices Act is absolutely unwarranted under law.
10. So far other offences are concerned, these appear to be very minor and no injury report either of the informant or her husband and other family

members were brought on record and it was the first offence of the petitioners. Learned trial court and appellate court must have extended the benefit of Probation of Offenders Act, instead of awarding any substantive sentence to the petitioners. Petitioners have been denied the benefit of section 4 of Probation of Offenders Act only on account of offence committed with a woman calling her witch, which has never been proved by the prosecution. Therefore, the petitioners are entitled to the benefit of section 4 of Probation of Offenders Act.

Submission on behalf of the State:-

11. On the other hand, learned A.P.P. defending the impugned judgment and order of conviction and sentence of the petitioners has submitted that there is no legal substance in the contentions raised on the behalf of the petitioners and the learned trial court as well as learned appellate court has very wisely and aptly scrutinized the evidence available on record. Therefore, this revision has no merits and no interference is required in the concurrent findings of the courts below and this revision is fit to be dismissed.

Analysis, Reasons and Decision:-

12. I have gone through the record of the case along with the impugned judgment and order passed by learned trial court as well as learned appellate court in the light of contentions raised on behalf of the both party.

13.It appears that **P.W.1-Khirodhar Mahto** is the husband of the informant, who has taken the name of 15 accused persons among the mob, who were calling his wife a *daain* and forced her to eat human excreta and both were taken towards the passage dragging out from the house but no villagers intervened in the matter.

P.W.2-Mohini Kumari is the daughter of the informant, who has also supported the above story and further stated that the accused, Gurudayal (since deceased) and Basudev have dragged her father and mother out from the house and only Khetu Mahto put human excreta on the mouth of her mother.

P.W.3-Jai Prakash Mahto, P.W.4-Sedam Mahto have been declared hostile by the prosecution and not supported the prosecution story.

P.W.5-Budhiya Devi is the informant. According to her evidence, the accused Gurudayal entered into her house and dragged the informant and her husband out from the house and Jagdish Mahto who swallowed human excreta and other accused persons were holding and assaulting her.

14.From the evidence of witnesses, who are none else but the informant (victim), her husband and her daughter and no other independent witnesses have been examined in this case. The reason for calling *daain* to the informant has not been stated in specific terms and who identified

her *daain* is also not proved. The main accused, who dragged the informant and her husband was Gurudayal Mahot, who has been died. No specific overt act has been attributed against other accused persons. So far administration of human excreta in the mouth of informant is concerned, there are different story put forward by P.W.1 and P.W.2. P.W.1, who is the husband of informant, has stated in general terms that accused persons forced his wife to eat human excreta whereas P.W.2, daughter of the informant has claimed that **Khetu Mahto** put human excreta on the mouth of her mother and P.W.5, the informant has stated that **Jagdish Mahto** forced her to swallow human excreta. Therefore, as regards claim of prosecution forcing the informant to swallow human excreta is concerned, different stories have been stated by so-called eye-witnesses and even the name of the different accused persons have been disclosed. Therefore, such type of story without any basis appears to be suspicious. It further appears that there may be some mob violence at the alleged time of occurrence with the informant party but the story of calling the informant witch does not inspire confidence. The overall, occurrence has been proved by the prosecution conclusively for the offences under sections 147/149, 323/149, 341/149, 447/149 and 506 of IPC.

15. So far the sentence of the petitioners is concerned, considering the facts and circumstances of the case, the nature of offence committed by the

petitioners, the genesis and manner of occurrence, age, antecedent and character of the petitioners, it is expedient in the ends of justice to extend the benefit of Section 4 of the Probation of Offenders Act, 1958 to the petitioners, for which the petitioners appear to be entitled, instead of awarding substantive sentence of imprisonment.

16. In view of the above, this revision is dismissed on merits with modification in sentence to the extent that instead of undergoing substantive sentence of imprisonment awarded to the petitioners by learned Trial Court, as upheld by the learned appellate court, the petitioners are hereby directed to be released on furnishing bond of Rs.10,000/- (Rupees ten Thousands) 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.

17. If the bond is not furnished within above stipulated time, the learned Trial Court shall issue notice upon the petitioners to secure their attendance for furnishing the bond.

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

19. In view of the above, this revision is **dismissed** on merits with modification in sentence to the extent as mentioned above.

20. Pending I.As, if any, is also disposed off accordingly.
21. Let a copy of this order along with Lower Court Records be sent back to the court concerned for information and needful.
22. I take this opportunity to appreciate the assistance rendered by Mrs. Rajni Singh, 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 Mrs. Rajni Singh, within a period of four weeks from the date of receipt/production of a copy of this order.
23. 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.)

High Court of Jharkhand, Ranchi

Date: 09 /06 /2026

Pappu/-

N.A.F.R.

Uploaded on 10 / 06 /2026