

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No.793 of 2008

.....

[Against the Judgment and Order of conviction and sentence dated 19.06.2008, passed by learned 5th Additional Sessions Judge (F.T.C.), Jamtara in Sessions Trial No.45 of 2004/40 of 2005]

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1. Pawan Singh, S/o – Late Kishori Singh
2. Jitendra Singh
3. Pratap Singh
4. Uday Singh

Petitioner No. 2 to 4 sons of – Late Jai Narayan Singh, all residence of Bangoi, Patel Nagar, P.S. Mihijam, District – Jamtara
... **Appellants**

Versus

The State of Jharkhand

... **Respondent**

For the Appellant	: Mr. Ashwini Kr. Upadhyay, Adv.
For the State	: Mrs. Vandana Bharti, A.P.P.
For the Informant	: Mrs. J. Mazumdar, Adv.
	Ms. Anushka Sharma, Adv.
	Mr. Vikram Singh, Adv.
	Mr. Naveen Kumar, Adv.

P R E S E N T

Coram: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

Dated - 16.04.2026

By Court:- Heard Mr. Ashwini Kr. Upadhyay, learned counsel appearing for the appellants as well as Mrs. Vandana Bharti, learned Addl. P.P. appearing for the State assisted by Mrs. J. Mazumdar, learned counsel appearing for the informant.

2. Instant criminal appeal has been preferred by the appellants challenging the judgment and order of conviction and sentence dated 19.06.2008 passed by learned 5th Additional Sessions Judge, F.T.C., Jamtara in Sessions Trial No.45 of 2004/40 of 2005 arising out of Jamtara (Mihijam) P.S. Case No.171 of 2003, whereby and whereunder the appellants have been held guilty for the offences under Sections 323/34, 325/34 and 448 of the Indian Penal Code and sentenced to undergo rigorous imprisonment (R.I.) for three years along with fine of Rs.3,000/- each for the offence punishable under Section 325 of the I.P.C. However, no separate sentence under Sections 323 and 448 of the I.P.C. has been passed.

3. Factual matrix giving rise to this appeal is that on 25.10.2003 at about 07:00 p.m., the accused persons, namely Pawan Kumar Singh, Jitendra Singh, Pratap Singh and Uday Singh, were bursting crackers in a negligent manner, whereupon one live cracker entered the house of the informant, Bhikhari Modi. On being objected to by the informant, the accused persons allegedly abused him and upon exhortation by co-accused Jay Narayan Singh (since deceased), they forcibly entered the informant's house. It is

alleged that Pratap Singh assaulted the informant with a lathi on his left arm causing fracture and when the informant's wife intervened, she was also assaulted by the other accused persons with lathi and fists, resulting in injuries to her hand and teeth. Upon alarm being raised, local residents assembled and rescued the informant from further assault, following which a written report was promptly lodged before the Officer-In-Charge of Mihijam Police Station on the same day.

On the basis of above information, Jamtara (Mihijam) P.S. Case No.171 of 2003 was registered for the offences under Sections 341/323/448/325/34 of the I.P.C.

4. After completion of the investigation, charge-sheet was submitted against the appellants for the offences under Sections 448/341/323/325/307/504/34 of the I.P.C. Accordingly, cognizance was taken and subsequently, the case was committed to the Court of Sessions. Charges were framed under Sections 448/325/307/34 and 504 of the I.P.C. against the appellants which they pleaded not guilty and claimed to be tried.

5. In the course of trial, altogether six witnesses were examined and several documentary evidences were also adduced by the prosecution.

6. After conclusion of trial, impugned judgment and order has been passed which has been assailed in this appeal.

7. 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. Admittedly, it was first offence of the appellants and undisputedly, they have never been convicted for any offence. It is further 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, 1958 to the appellants to which they deserve. The incident has happened in the year 2003 and now more than two decades have been lapsed and maximum sentence awarded by learned trial court is three years. Hence, appellants deserve benefit of Section 4 of the Probation of Offenders Act, 1958 instead of awarding substantive sentence of imprisonment as awarded by the learned trial court.

8. On the other hand, learned A.P.P. appearing for the State 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 objection has been raised regarding first offence of appellants.

9. I have given anxious consideration to the aforesaid contentions raised on behalf of both side and also perused the impugned judgment along with materials available on record.

10. It appears that plea of first offence taken by appellants at the time of hearing on quantum of sentence, has been rejected by learned trial court only on the ground of seriousness of offence. No substantial special reasons have been recorded by learned trial court. Therefore, impugned judgment is devoid of any special reason as mandated under the provision of Probation of Offenders Act to be recorded in writing for not granting benefit of this Act. I find that the appellants deserve the benefit of Section 4 of the Probation of Offenders Act, 1958.

11. In the peculiar facts and circumstances of this case, there is no requirement of calling for any report from the

Probation Officer due to lapse of considerable time from the alleged occurrence.

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

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 appellants by learned trial court, the appellants are hereby directed to be released on furnishing bond of Rs.10,000/- (Rupees Ten 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 appellants to secure their attendance for furnishing the bond.

15. 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.

16. Pending I.A., if any, stands disposed of.

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

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi

Dated: 16/04/2026

Sachin / **NAFR**

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