

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**Criminal Appeal (S.J) No. 51 of 2009**

*[Against the judgment of conviction dated 17.12.2008 and sentence dated 18.12.2008 passed in Sessions Case No. 96/08 by the learned 5th Additional Sessions Judge, (FTC), Dumka]*

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1. Ganesh Sharma, S/o Late Kishan Sharma.
  2. Pyarelal Sharma, S/o Late Kishan Sharma.
  3. Sonalal Sharma, S/o Pyarelal Sharma.

All residents of village Naya Lomarwa, P.S.- Saraiyahaat District- Dumka.

... Appellants

**Versus**

The State of Jharkhand

.... Respondent

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For the Appellants : Mr. Rajeev Ranjan Mishra, *Amicus Curiae*  
 For the State : Mr. Santosh Kumar Sukla, A.P.P.

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 PRESENT

**CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA**  
**JUDGEMENT**

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**Dated: 21<sup>st</sup> April, 2026**

1. Heard learned counsel for the parties.
2. The instant criminal appeal is directed against the judgment of conviction dated 17.12.2008 and sentence dated 18.12.2008 passed in Sessions Case No. 96/08 by the learned 5<sup>th</sup> Additional Sessions Judge, (FTC), Dumka, whereby and whereunder the learned Court has convicted the appellants under Section 324/34 IPC and sentenced them to undergo R.I for 2 years under Section 324/34 IPC.

**Factual Matrix**

3. The factual matrix giving rise to this appeal is that on 05.08.2007 at about 8:00AM, his she-goat went in the paddy field of Pyarelal Sharma which is situated besides his house and was grazing the saplings of paddy. Meanwhile, Sonalal Sharma chased the goat which entered in his house. Then, all the accused came to his house. Sonalal Sharma caught the she-goat and started taking it away and when the informant objected, Sonalal gave rod blow on his back, thigh and head. The accused/appellants also assaulted his mother Jiya Devi (P.W.-1)

- and father Tahdi Sharma (P.W.-3) causing injury to their left hand and head.
4. On the basis of written information of the informant, Saraiyahat P.S. Case No. 115/2007 for the offence under Sections 447, 448, 341, 323, 34 of the I.P.C. was registered and the case was given to Sub-Inspector Biren Minj for investigation.
  5. After completion of investigation, the charge-sheet was submitted against the accused persons under Sections 447, 448, 341, 323, 324, 307/34 of the IPC. Accordingly, cognizance was taken and after commitment, to the court of Sessions, Sessions Case No.96/08 was registered. The appellants have denied the charges levelled against them and claimed to be tried.
  6. It appears that altogether ten witnesses have been examined by the prosecution:-

|         |                               |
|---------|-------------------------------|
| P.W.-1  | Jiya Devi                     |
| P.W.-2  | Biharilal Sharma              |
| P.W.-3  | Tahdi Sharma                  |
| P.W.-4  | Guria Devi                    |
| P.W.-5  | Rajesh Sharma                 |
| P.W.-6  | Narayan Sharma                |
| P.W.-7  | Bhudeo Sharma                 |
| P.W.-8  | Ashish Sharma                 |
| P.W.-9  | Biren Minj                    |
| P.W.-10 | Dr. Choudhary Chandra Shekhar |

7. Apart from the oral evidence, following documentary evidences has also been adduced on behalf of prosecution.

**Ext.-1** Signature of Biharilal Sharma on written application.

**Ext.-1/1** Endorsement on written application.

**Ext.-2** Formal F.I.R.

**Ext.3** Injury report of Tahdi Sharma.

**Ext. 3/1** Injury report of Biharilal Sharma

**Ext. 3/2 Injury report of Jiya Sharma**

On the other hand, no oral or documentary evidence has been adduced on behalf of the defence.

**Submissions on behalf of the appellants**

8. Learned counsel for the appellants without going to the merit of the judgement has confined himself on the point of non-extension of benefit of Section 4 of the Probation of Offenders Act to the appellants. It is submitted that the learned Trial Court has not disputed that it was first offence of the appellants and without recording any special reasons, learned Trial Court has declined the extension of the benefit of Section 4 of the Probation of Offenders Act to the appellants. It is further submitted that there is dispute between the parties due to the grazing of the sapling of paddy by goat of the informant. On protest, the occurrence of assault took place. Admittedly, the injuries were caused to the injured person by iron rod and sticks. The learned Trial Court, after evaluating the offence, has acquitted the appellants for the offence under Section 307 of the IPC. Since the injuries were found simple in nature and one of the injuries was opined to be incised wound simple in nature. Hence, the appellants were convicted for the offence under Section 324/34 of the IPC. Considering the first offence of the appellants, they deserve to be released on probation bond under Section 4 of Probation of Offenders Act.

**Submission on behalf of the State**

9. On the other hand, learned A.P.P. has defended the impugned judgment on merits and submitted that P.W-1, P.W.-2 and P.W.-3 are injured witnesses who have categorically stated that all the three appellants had assaulted them due to the scuffle between the parties. The evidence of the injured witnesses also finds corroboration from their respective injury report as examined by Dr., P.W-10.

Although he has admitted that it was first offence of the appellants, but the learned Trial Court on its own way has not granted the benefit of the provision of Probation of Offenders Act.

**Analysis, discussions and reasons:-**

10. On the basis of the evidence available on record, I don't find any reason to take a different view from the learned trial court so far the case is concerned and conviction of the appellants under Section 324 of the IPC is absolutely justified.
11. So far question of the sentence awarded to the appellants and so far non-extension of the benefits of Section 4 of the Probation of the Offenders Act is concerned, it appears from the impugned judgment that the learned Trial Court has escaped upon the facts that there are three injured persons, hence it is not a fit case to grant the benefit of the Probation of Offenders Act. Such type of reason cannot be categorized as special reason to be recorded in writing the judgment. Therefore, I find that the learned Trial Court has committed error in not extending the benefit of Section 4 of the Probation of Offenders Act to the appellants.
12. Having regard to the facts and circumstances of the case, the nature of the offence committed by the appellants, the genesis and manner of occurrence, age, antecedent 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 each 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.(s), if any, also disposed of accordingly.
  17. I take this opportunity to appreciate the assistance rendered by Mr. Rajeev Ranjan Mishra, learned *Amicus Curiae* and direct the Member Secretary, High Court Legal Services Committee to extend the stipulated fees as per notification of High Court Legal Services Committee to Mr. Rajeev Ranjan Mishra, within a period of four weeks from the date of receipt/production of a copy of this order.
  18. Office is directed to ensure that a copy of this order is served upon Member Secretary, High Court Legal Services Committee.
  19. Let a copy of this judgment along with Trial Court record be sent back to the concerned court immediately for information and needful.

**(Pradeep Kumar Srivastava, J.)**

**Jharkhand High Court, Ranchi**

**Dated, 21<sup>st</sup> April, 2026.**

**Suman /N.A.F.R.**

**Uploaded On 22/04/2026**