

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 305 of 2009

[Against the Judgment of conviction and Order of sentence dated 05.03.2009, passed by learned 2nd Additional Sessions Judge, Hazaribagh, in Sessions Trial No. 340 of 2006]

1. Bhola Kumar Prajapati @ Bhola Prajapati, son of Sri Kishore Prajapati.
2. Amresh Prajapati @ Umesh, son of Sri Sheo Nandan Prajapati.
3. Pran Tiwari @ Pran Tiwary, son of Late Manager Tiwary.
4. Rajesh Kumar, son of Sri Bhuneshwar Ram.
5. Sikandar Prajapati, son of Sri Sheo Nandan Prajapati.
6. Tanna Prajapati, son of Sri Mahesh Prajapati.

All resident of Parnala, Kumhartoli, P.S. –
Sadar, District - Hazaribagh.

... .. **Appellants**

Versus

The State of Jharkhand **Respondent**

.....

For the Appellants : Mr. Mayank Mridul, Advocate.

For the Respondent : Mr. Azeemuddin, A.P.P.

.....

P R E S E N T

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
JUDGMENT

Dated: 13th April, 2026

By Court:- Heard learned counsel for the parties.

1. The present Criminal Appeal is directed against the judgment of conviction and order of sentence dated 05.03.2009 passed by learned 2nd Additional Sessions Judge, Hazaribagh in Sessions Trial No. 340 of 2006, whereby and whereunder, the appellants have been held guilty for the offence under Sections 147, 323/149 and 325/149 of the I.P.C. and sentenced them to undergo R.I. of one month each under Section 147 of I.P.C., further sentenced them to undergo R.I.

for six months each under Sections 323/149 of the I.P.C. and the appellants are also directed to undergo rigorous imprisonment for three years each under Sections 325/149 of the I.P.C. All the sentences were directed to run concurrently.

FACTUAL MATRIX

2. The factual matrix giving rise to this appeal is that on 01.08.2005 at about 8:30 P.M., the son of the informant Prakash Prajapati (P.W.-3) and his friend Rakesh Kumar @ Chhotu (P.W.-7) were returning from the market and when they reached near his house, they saw that the accused persons were present there from before having iron rod and lathi in their hands. Accused Sikandar Prajapati was having iron rod in his hand, accused Tanna Prajapati was having bhujali in his hand and other accused persons were having lathi and danda in their hands. As soon as son of informant and Rakesh Kumar @ Chhotu reached the place of occurrence, all the accused persons surrounded them and with a view to kill them, inflicted injuries upon their persons and fled away. In the meantime, some people of the locality reached there and brought the injured to the house of the informant and thereafter, they were taken to Sadar Hospital, Hazaribagh, where son of the informant regained his senses and narrated the entire

story to the informant. On the next day i.e. on 02.08.2005, a written report was lodged by the informant.

3. On the basis of above written report, FIR being Sadar P.S. Case No. 354 of 2005 dated 02.08.2005 was registered against the appellants for the offence under Sections 147, 148, 149, 323, 324, 307 of the I.P.C. and after investigation, charge sheet was submitted against the aforesaid appellants under the aforesaid offence. After taking cognizance of the offence, the learned Magistrate committed the case to the Court of Sessions; where S.T. No. 340 of 2006 was registered. The charge for the offence under Sections 147, 148, 323/149, 324/149 and 307/149 of the I.P.C. were framed against accused persons and read over and explained to them, to which, they pleaded not guilty and claimed to be tried.

4. In course of trial, the prosecution has examined altogether 08 witnesses and also adduced following documentary evidence:-

Exhibit-1 : Written Report.

Exhibit-2 & 2/1 : Injury Reports.

Exhibit-3 : Summon issued against the
Prakash Prajapati by
Magisterial Court.

Exhibit-4 : Judgment passed by Sri.
S.K. Dubey, J.M., in C. Case-
78/05.

5. On the other hand, no oral or documentary evidence has been adduced by the defence. The case of defence is that appellants are innocent persons and they have denied the occurrence.
6. After conclusion of trial, the learned trial court, after considering the oral as well as documentary evidence available on record, has convicted and sentenced the appellants as stated above, which is assailed in this appeal.
7. Learned counsel for the appellants has submitted that the accused persons have been falsely implicated in this case due to previous enmity.
8. It is further submitted that P.W. – 8 Dr. Suresh Kumar had examined the injured Rakesh Kumar and Prakash Prajapati and found that the injury found on the person of Rakesh Kumar was simple in nature caused by hard and blunt substance and the injury found on the person of Prakash Prajapati was simple in nature as well as one injury was grievous in nature caused by hard and blunt substance. The injured witnesses have corroborated the prosecution story. The learned trial court has been pleased to acquit the

appellants from the offence under Sections 148, 324, 307/149 of the I.P.C. It was first offence of the convicts and they have never been convicted for any offence.

- 9.** Learned counsel for the appellants, without touching the merits of the case has confined himself on the point of extension of benefit of Section 4 of the Probation of Offenders Act, 1958 to the appellants.
- 10.** On the other hand, learned APP appearing for the State has opposed the contentions raised on behalf of the appellants and defended the impugned judgment and order on merits. So far extension of benefit of Section 4 of Probation of Offenders Act, 1958 is concerned, it is fairly submitted that it was first offence of the appellants.
- 11.** I have given anxious consideration to the genesis, manner and place of occurrence, it appears that admittedly there was previous enmity between the parties. None of the injuries opined to be very serious in nature except one injury, which is not on the vital and even likely to cause death of any of the injured persons.
- 12.** From perusal of impugned judgment and order, it appears that plea of first offender and extension of benefit of Section 4 of Probation of Offenders Act,

1958 has been declined without recording any special reasons by the trial court.

13. 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.

14. In view of the above, this appeal is **dismissed** on merits with modification in sentence to the extent that instead of immediately undergoing substantive sentence of imprisonment awarded to the appellants by learned Trial Court, the appellants are directed to be released on furnishing bond of Rs.10,000/- (Rupees Ten Thousand) 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.

15. 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.

16. In case of violation of terms and conditions of the bond, the appellants shall be called upon to receive the sentence already awarded to him.

17. Pending I.A. if any stands disposed of.

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

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court at Ranchi.

Dated: 13th April, 2026.

Sunil/-NAFR

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