

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No. 1056 of 2005

Baldev Mondal, S/o Daso Mondal, resident of village-Samuk Pokhar,
P.S.-Jamtara, District-Jamtara

... ... **Appellant**

Versus

1. The State of Jharkhand
2. Shashi Bhusan Gorain, S/o Nalin Gorain, R/o Samuk Pokhar, P.O. & P.S.-Jamtara, District-Jamtara

... ... **Respondents**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant : Mr. Ashutosh Kumar Sinha, *Amicus Curiae*
For the State : Mr. Vineet Kumar Vashistha, Spl.P.P.

JUDGMENT

Dated: 13th April, 2026

1. Heard Mr. Ashutosh Kumar Sinha, learned *Amicus Curiae* for the appellant and learned Spl.P.P. for the State.
2. The appellant No. 2, namely, Thakur Mondal has been died during the pendency of this appeal. Therefore, his appeal has been abated vide order dated 30.06.2022.
3. The instant criminal appeal is directed against the judgment of conviction and order of sentence, both dated 04.08.2005, passed by learned 2nd Additional District & Sessions Judge, Jamtara, whereby and whereunder the appellants have been held guilty under Section 323 of the I.P.C. and sentenced to undergo R.I. for 1 year ; R.I. for 6 months for the offence under Section 504 of I.P.C; S.I. for 1 month for the offence under Section 341 of I.P.C. and further appellant has been sentenced to undergo R.I. for 2 years under Section 324 of the I.P.C. All the sentences were directed to run concurrently.

Factual Matrix

4. The factual matrix giving rise to this appeal is that the land at Saherbora (Plot No. 820) had been settled in favour of informant's uncle

Paresh Gorain and others. On 20.07.1998 at about 8:30 a.m., the accused Baldev Mondal and Thakur Mondal came to the said land with *farsa*, bows and arrows while the informant along with Kailash Gorain, Raj Kumar Gorain, Babala Gorain and Paresh Gorain were ploughing the land and uprooting paddy seedlings. It is alleged that with intention to kill the informant, Baldev Mondal gave a *farsa* blow on his head. Thakur Mondal (present appellant) assaulted by *lathi*. When the informant tried to stop the *lathi* by his hand, he sustained injuries and suffered a fracture injury on his left hand. It is further alleged that informant's uncle Paresh Gorain and cousin brother arrived, then Baldev Mondal and Thakur Mondal assaulted them with arrows. Raj Kumar Mondal also sustained arrow injuries. On *hulla*, Maru Mondal, Nirmal Mondal and Atwari Mondal came and witnessed the occurrence.

5. On the basis of written report of informant, Jamtara P.S. Case No. 136 of 1998 was registered and investigation commenced. After completion of investigation, charge-sheet has been submitted. After taking cognizance the case was committed to the Court of Sessions. Charges under Section 307, 341, 323, 324, 325 & 504 of the I.P.C. were framed against the accused persons to which they pleaded not guilty and claimed to be tried.

6. The case of defence is total denial from the occurrence and false implication due to land dispute. It is further defence of appellant that the land of Plot No.820 belongs to him and Baldev Mondal had also lodged an F.I.R. being Jamtara P.S. Case No. 137 of 1998 against Raj Kumar Gorain and others for the alleged occurrence.

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

Submissions on behalf of the appellant

8. Learned *Amicus Curiae* for the appellant without touching the merits of the judgment, has confined his argument to the question of non-extension of benefit of the provisions of the Probation of Offenders Act, 1958. The appellant has been convicted and sentenced for the offence under Sections 341, 323, 504 & 324 of I.P.C. and maximum sentence awarded to him is 2 years R.I.

9. It is submitted that admittedly there was land dispute between the parties and the occurrence took place suddenly in the heat of the moment resulting in exchange of assault from both side. It was the first offence of the appellant but without recording any special reasons the learned Trial Court has denied the benefit of Section 4 of the Probation of Offenders Act to which the appellant deserves.

Submissions on behalf of the State

10. Learned Spl.P.P. 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 serious objection has been raised.

11. It appears that the injured (P.W.-7) has consistently corroborated his earliest version regarding assault inflicted to him by appellant which also finds corroboration from the injury report. Therefore, there is no valid reason calling for any interference in the impugned judgment on merits.

12. It appears that plea of first offence taken by appellant 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 has 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 appellant deserves the benefit of Section 4 of the Probation of Offenders Act, 1958.

13. 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.

14. Considering the facts and circumstances of the case, the nature of offence committed by the appellant, the genesis and manner of occurrence, age, antecedent and character of the appellant, it is expedient in the ends of justice to extent the benefit of Section 4 of the Probation of Offenders Act, 1958 to the appellant also, for which the appellant appear to be entitled, instead of awarding substantive sentence of imprisonment.

15. 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 learned Trial Court, the appellant is 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.

16. 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.

17. In case of violation of terms and conditions of the bond, the learned Trial Court shall call upon the appellant to serve the substantive sentence of imprisonment awarded to him.

18. Pending I.A.(s), if any, stands disposed of.

19. I take this opportunity to appreciate the assistance rendered by Mr. Ashutosh Kumar Sinha, 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. Ashutosh Kumar Sinha, within a period of four weeks from the date of receipt/production of a copy of this order.

20. Office is directed to ensure that a copy of this order is served upon Member Secretary, High Court Legal Services Committee.

21. 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.)

13.04.2026

Arpit

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