

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (SJ) No. 816 of 2005

[Against the judgment of conviction and order of sentence dated 28.06.2005, passed by learned 2nd Additional Sessions Judge, Jamtara, in Sessions Case No.181 of 1996/54 of 2002]

1. Shambu Mahto, son of Late Narayan Mahto
2. Sadhu Mahatain, wife of Shambu Mahto
Both resident of village-Kudal Khushu, P.O., P.S. & District-Jamtara
... .. **Appellants**

Versus

The State of Jharkhand **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants : Mrs. Vani Kumari, *Amicus Curiae*
For the State : Mr. Vineet Kumar Vashistha, Spl.P.P.

JUDGMENT

Dated: 13th April, 2026

1. Heard Mrs. Vani Kumari, learned *Amicus Curiae* for the appellants and learned Spl.P.P. for the State.
2. The instant criminal appeal is directed against the judgment of conviction and order of sentence, both dated 28.06.2005, passed by learned 2nd Additional Sessions Judge, Jamtara, in Sessions Case No.181 of 1996/54 of 2002 whereby and whereunder the appellant No.1 has been convicted under Section 326 of the I.P.C. and sentenced to undergo R.I. for 5 years & appellant No.2 has been convicted under Section 323 of the I.P.C. and sentenced to undergo R.I. for 6 months.

Factual Matrix

3. The factual matrix giving rise to this appeal is that on 01.04.1996 at about 11:00 A.M., informant's son Mahabir Mahato forbade the accused Sambhu Mahato, from planting on his land. Upon this, Sambhu Mahato along with his two sons Binda Mahato and Manoj Mahato, started quarreling with her son Mahabir Mahato. It is alleged that Sambhu Mahato whipped out a sword and Binda Mahato, Manoj

Mahato and their mother Sadhu Mahatain all armed with lathi started assaulting her son Mahabir Mahato. In the course of assault, accused Sambhu Mahato hurled sword blow on the right eye of her son Mahabir Mahato, due to which he became unconscious. On alarm being raised, villagers namely Arun Kumar Rajak and others reached the spot, upon which the accused persons fled away. The injured was brought to the hospital for treatment.

4. On the basis of *fardbeyan* of informant Kalyani Mahatain, Jamtara P.S. Case No. 81 of 1996 was registered for the offence under Sections 323, 324, 307/34 of I.P.C. After completion of investigation, charge-sheet was submitted. After taking cognizance the case was committed to the Court of Sessions where S.T. No. 181 of 1996 was registered.

5. The accused persons denied from charges and claimed to be tried.

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

7. Learned *Amicus Curiae* for the appellants without touching the merits of the judgment, has confined herself to the quantum of sentence awarded to the appellants. It is submitted that the appellant No.1, Shambu Mahto, was found guilty for the offence under Section 326 of the I.P.C. and sentenced to undergo R.I. for 5 years and the appellant No.2, Sadhu Mahatain, was found guilty for the offence under Section 323 of the I.P.C. and directed to undergo R.I. for 6 months.

8. The occurrence is of the year 1996, the appellant No.1 has already undergone substantial period of sentence i.e., about 2 years and 3 months and the appellant No.2 has undergone 16 days of imprisonment during the pendency of the trial. It was the first offence of both the appellants but no

benefit under the provisions of the Probation of Offenders Act was extended to them.

9. It is contended that the appellants have faced the agony of trial for more than three decades and have sufficiently been punished. Therefore, the sentence may be altered/modified to the extent of the period of imprisonment already undergone.

10. Learned Spl.P.P. has defended the judgment of the learned Trial Court on merits and also contended that adequate sentence has been awarded to the appellants, which requires no interference.

11. Considering the overall facts and circumstances of the case, nature of offence committed by the appellants and their period of custody and long sufferance of agony of trial, it appears expedient, in the ends of justice, to alter/modify the sentence of the appellants. Accordingly, the appellants are awarded sentence of imprisonment already undergone as against the sentence awarded by the learned Trial Court.

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

13. Appellants are on bail, as such they are discharged from their liabilities of bail bonds and the sureties are also discharged.

14. Pending I.A.(s), if any, is also disposed of.

15. I take this opportunity to appreciate the assistance rendered by Mrs. Vani Kumari, 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 Mrs. Vani Kumari, within a period of four weeks from the date of receipt/production of a copy of this order.

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

17. 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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