

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No.364 of 2009

.....

[Against the Judgment of conviction dated 08.04.2009 and Order of sentence dated 09.04.2009, passed by learned 1st Additional Sessions Judge, Hazaribagh in Sessions Trial No.259 of 2005]

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1. Mahabir Mahto @ Mahabir Pd. Mehta S/o Late Sobran Mahto
2. Upendra Mahto son of Sheo Shankar Pd. Mehta
3. Mahendra Mahto son of Sheo Shankar Prasad Mehta
4. Umesh Kumar Mahto @ umesh Mahto son of Mahabir Mahto
5. Deglal Mahto @ Deglal Pd. Mehta s/o Ruplal Mahto
6. Ganesh Mahto son of Late Sobran Mahto
7. Suresh Mahto son of Late Laxman Mahto
8. Naresh Prasad Mehta son of Late Laxman Mahto

All resident of Village : Chandwara, P.S. : Ichak, District :
Hazaribagh ... **Appellants**

Versus

The State of Jharkhand ... **Respondent**

For the Appellants : Mr. Binod Kumar Dubey, Adv.
For the State : Mrs. Nehala Sharmin, Spl. P.P.

P R E S E N T

Coram: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

Dated - 20.04.2026

By Court:- Heard Mr. Binod Kumar Dubey, learned counsel
appearing for the appellants as well as Mrs. Nehala Sharmin,
learned Spl. P.P. appearing for the State.

2. Instant criminal appeal has been preferred by the

appellants against the judgment of conviction dated 08.04.2009 and order of sentence dated 09.04.2009 passed by learned 1st Additional Sessions Judge, Hazaribagh in Sessions Trial No.259 of 2005 arising out of Ichak P.S. Case No.151 of 2003, whereby and whereunder the appellants have been held guilty for the offences under Sections 147, 148, 323/149, 324/149 of the Indian Penal Code and sentenced to undergo rigorous imprisonment (R.I.) for six months each for the offence punishable under Sections 147, 148 and 323 of the I.P.C. further they are sentenced to undergo R.I. for one year for the offence punishable under Section 324 of the I.P.C.

3. Factual matrix giving rise to this appeal is that on 08.11.2003 at about 9:00 A.M., while the informant, Deglal Mahto, was ploughing his field along with his family members including his wife, sons Binod Kumar and Khudlal, daughter-in-law Uma Devi and nephew Raju, the accused persons armed with deadly weapons like farsa, sword, gun and lathi, formed an unlawful assembly and arrived at the place of occurrence abusing the informant's party. It is alleged that the accused persons indiscriminately assaulted the informant and his men, during which Mahabir Mahto

inflicted a farsa blow on the head of Payas Mahto and another accused dealt sword blows to Raju causing injuries on his hand and leg, while others also caused multiple injuries to Khudlal and other members of the informant's side. It is further alleged that the occurrence is stated to have arisen out of a pre-existing land dispute between the parties.

On the basis of above written report, Ichak P.S. Case No.151 of 2003 was registered for the offences under Sections 147/148/149/323/324/307 of the I.P.C.

4. After completion of the investigation, charge-sheet was submitted against the appellants for the offences under Sections 147/148/149/323/324/325/307 of the I.P.C. and accordingly, cognizance was taken and subsequently, the case was committed to the Court of Sessions. Charges were framed under Sections 147, 148, 323/149, 324/149 and 307/149 of the I.P.C. against the appellants which were read over and explained to them for which they pleaded not guilty and claimed to be tried.

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

6. On the other hand, no oral evidence has been adduced by the defence.

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

8. 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. It is further submitted that there was land dispute between the parties and there was case and counter case. The maximum sentence imposed upon the appellants for the offence under Section 324 of the I.P.C. is R.I. for one year. The incident has happened in the year 2003 and now more than two decades have been lapsed. Hence, appellants deserve benefit of Section 4 of the Probation of Offenders Act, 1958 instead of awarding substantive sentence of imprisonment as granted by the learned Trial Court.

9. On the other hand, learned Spl. P.P. appearing for the State has defended the impugned judgment on merits but so far giving the benefit of Section 4 of the Probation of Offenders Act is concerned, she has fairly admitted that it is

first offence of convicts as appears from the impugned judgment, therefore, appropriate order may be passed.

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

11. 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. It is also a fact that the appellant has never been previously convicted for any other offence. The incident was of the year 2003 and more than two decades have been passed since the date of commission of offence. It is also pleaded that the appellant in the aforesaid period has also maintained peace and harmony and has never been involved in any other criminal activities. I find that the appellants deserve the benefit of Section 4 of the Probation of Offenders Act, 1958.

12. 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.

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 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.5,000/-** (Rupees Five 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.

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 learned Trial Court shall call upon the appellants to serve the substantive sentence of imprisonment awarded to them.

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 concerned Trial Court for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi

Dated: 20/04/2026

Sachin / **NAFR**

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