

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 282 of 2009

[Against the judgment of conviction dated 25.02.2009 and order of sentence dated 26.02.2009 passed by learned 5th Additional Sessions Judge, (F.T.C.), Dumka in Sessions Case No. 166 of 2007]

Srimat Murmu, son of Late Soban Murmu, Resident of Village – Lathedha, Post Office and Police Station – Shikaripara, District – Dumka.

..... Appellant

Versus

The State of Jharkhand Respondent

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For the Appellant : Mr. Rajiv Sinha, Advocate.
Mr. B.K. Prasad, Advocate.

For the Respondent : Mr. Fahad Allam, A.P.P.

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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.

2. The instant criminal appeal has been preferred by the appellant challenging the judgment of conviction dated 25.02.2009 and order of sentence dated 26.02.2009 passed by learned 5th Additional Sessions Judge, (F.T.C.), Dumka in Sessions Case No. 166 of 2007, whereby and whereunder, the appellant has been held guilty and convicted for the offence under Section 324 of the Indian Penal Code and sentenced to undergo R.I. of two years and fine of Rs.1,000/- each with default stipulation.

FACTUAL MATRIX

3. Factual matrix giving rise to this appeal in a narrow

compass is that on 25.09.2004 at about 7 P.M., the son of the informant namely, Alma Soren (P.W.-1) was fixing the bushes on its place. At about 7:30 P.M., her neighbours Srimat, Bilu Kisku, Kerap Murmu, Ander Murmu, Kaha Soren and Suban Kisku holding axe came there and started abusing. They started removing the bushes and the informant's son tried to stop them. Kerap and Ander caught her and Srimat Murmu gave axe blow on her head causing excessive bleeding injury. They also chased Alma Soren, but he fled away. Bilu Kisku took away her silver chain worth Rs. 900/-.

4. On the basis of above information, FIR was registered as Shikaripara P.S. Case No. 62 of 2004 against the accused persons for the offences under Sections 143, 341, 323, 379, 307 of the I.P.C.
5. After completion of investigation, the Investigating Officer of the case has submitted charge sheet against accused persons under the aforesaid offences. After taking cognizance of offence, the case was committed for the trial thereafter, the charges were framed for the offences under Sections 143, 341, 324, 307 of the I.P.C., which they denied and claimed to be tried.
6. In order to substantiate the charges levelled against the accused persons altogether ten witnesses were examined by

the prosecution.

P.W.-1 : Alma Soren

P.W.-2 : Som Soren @ Kundha Soren.

P.W.-3 : Shivdhan Soren.

P.W.-4 : Narayan Soren.

P.W.-5 : Matal Soren.

P.W.-6 : Jamshed Mian.

P.W.-7 : Nizamuddin Ansari.

P.W.-8 : Maklu Murmu.

P.W.-9 : Dr. Pradeep Imanual Soren.

P.W.-10 : Pram Hans Singh, Sub-Inspector of Police.

7. Apart from oral evidence, following documentary evidences were also adduced.

Exhibit-1 : Injury Report.

Exhibit-2 : Fardbeyan.

Exhibit-3 : Formal F.I.R.

8. After conclusion of trial, impugned judgment and order has been passed, which has been assailed in this appeal.
9. Learned counsel for the appellant, instead of challenging the impugned judgment on merits, has confined his argument on the point of extending the benefit of provision

of Probation of Offenders Act, 1958 and has submitted that there was land dispute between the parties and due to fixing of bushes on the boundary, the incident happened in a sudden manner.

10. It is further submitted that it is appellant's first offence as he has never been convicted earlier for any other offence and has no criminal antecedent. The learned trial court has not considered the said aspect of the matter and sentenced the appellant with Rigorous Imprisonment of three years. The plea for extending the benefit of Probation of the Offenders Act, 1958 has been denied by the learned trial court without recording any special reasons. Hence, the appellant deserves the benefit of Section 4 of the Probation of Offenders Act, 1958 instead of awarding of substantive sentence of imprisonment as imposed by the learned trial court.
11. Per contra, learned A.P.P. appearing for the State has opposed the aforesaid contentions and defended the impugned judgment on merits, but so far extending the benefit of Probation of the Offenders Act, 1958 is concerned, he has not brought any adverse materials.
12. I have gone through the record of the case along with the impugned judgment and order in the light of the contentions raised on behalf of both side.

13. It appears that the learned trial court has held the appellant guilty for the offence under Section 324 of the I.P.C. and from perusal of evidence of injured witness, namely, P.W.-8 Maklu Murmu and his injury report proved by the P.W.-9, Dr. Pradeep Imanual Soren, it appears that the doctor has found cut injury on the upper forehead vertical in middle part 6 Cm. long and 1 Cm. depth.

The doctor (P.W.-9) has opined that the injury was simple in nature caused by sharp weapon within 24 hours.

14. Considering the overall factual background, genesis and manner of occurrence and the nature of offence committed, age, character and antecedent of appellant, it appears expedient in the ends of justice to extend the benefit of Section 4 of the Probation of Offenders Act of 1958, instead of awarding substantive sentence of imprisonment as awarded by the learned trial court.

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 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 the terms and conditions of the bond, the appellant shall be called upon by the concerned trial court to appear and receive the sentence already awarded to him.
18. Pending I.A, if any, is disposed of.
19. 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

Uploaded On 07/05/2026