

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 536 of 2007

[Against the judgment of conviction and sentence dated 25.04.2007, passed in Sessions Trial No. 497 of 2003 by the learned Addl. Sessions Judge-XIII, Dhanbad]

1. Rameshwar Rai, S/o. Late Uma Shankar Rai;

2. Mukund Rai, S/o. Sri Rameshwar Rai.

Both are R/o. Project Colony Golakdih, P.O. Jharia, P.S. Tishra,
District-Dhanbad

... .. **Appellants**

Versus

The State of Jharkhand

..... **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants : Mr. Ashutosh Kumar Sinha, Advocate

: Mr. Birat Kumar, Advocate

: Mr. Abhinav Raj, Advocate

For the State : Mrs. Vandana Bharti, A.P.P.

J U D G M E N T

Dated: 8th May, 2026

1. Heard Mr. Ashutosh Kumar Sinha, learned counsel for the appellants and Mrs. Vandana Bharti, learned AP.P.
2. This criminal appeal is directed against the judgment of conviction and sentence dated 25.04.2007, passed in Sessions Trial No. 497 of 2003 by the learned Addl. Sessions Judge-XIII, Dhanbad, whereby and whereunder the appellant no.1 has been convicted for the offences under Section 341, 323 and 325 of the I.P.C. and the appellant no. 2 has been convicted for the offences under Section 323 & 325 of the I.P.C. and sentenced the appellant no.1 to undergo imprisonment of R.I. for 3 months for the offence under Section 323 of the I.P.C.; R.I. for one month for the offence under Section 341 of the I.P.C. and R.I. for three

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years for the offence under Section 325 of the I.P.C. with fine of Rs. 500/- with default stipulation and the appellant no. 2 was sentenced to undergo R.I. for 3 months for the offence under Section 323 of the I.P.C. and R.I. for 3 years for the offence under Section 325 of the I.P.C. with fine of Rs. 500/- with default stipulation. All the sentences were directed to run concurrently.

Factual Matrix:-

3. The factual matrix giving rise to this appeal is the prosecution case as alleged, in brief, is that one Subodh Kumar Nandi gave fardbeyan before the Tishra Police Station on 30.07.2003 at about 01:30 P.M., stating therein that he worked in Golakdih colliery as a weldar and on 29.07.2003 at night 9:00 P.M., stone was thrown by Mukund Rai, a son of his neighbour namely Rameshwar Rai. He forbade him to do so, but his neighbour's son started talking nonsense. Thereafter, informant entered in his house. Next day, in the morning, informant's son namely Kanti Ram Nandi was washing his teeth, in the meantime, his neighbor namely Rameshwar Rai has come there and took away his son after holding his hand towards his house, and his son namely Mukund Rai also came there and both Rameshwar Rai (Appellant No. 1) and his son, Mukund Rai (Appellant No. 2) assaulted informant's son brutally with lathi, kick and fist. Due to this informant's son became senseless and when informant tried to save his son, they also assaulted him brutally. He further alleged that in earlier occasion they have done the same activity with the informant.
4. On the basis of above information, F.I.R. being Jharia (Tishra) P.S.

Case No. 237 of 2003, G.R. Case No. 2088 of 2003 was registered for the offences under Section 341/ 323/ 325/ 307/34 of the I.P.C.

5. After completion of investigation, the charge-sheet was submitted against the appellants for the offences under Sections 341/ 323/ 325/ 307/34 of I.P.C and after taking cognizance, the case was committed to the court of Sessions, where Sessions Trial No. 497 of 2003 was registered. The appellants denied the charges levelled against them and claimed to be tried. After conclusion of trial, the impugned judgment of conviction and sentence has been passed, which has been assailed in this appeal.

Submissions on behalf of the appellants:-

6. Learned counsel for the appellants without touching the merits of the judgment has confined himself towards the non-extension of the benefit of provision of Section 4 of Probation of Officers Act. It is submitted that in the impugned judgment itself, observation has been recorded by the learned Trial Court that there is no materials showing any previous conviction of the accused persons and it is the first offence of the appellants, in spite of that, considering the injury grievous in nature to one of the injured persons, the learned Trial Court has declined to extend the benefit of Section 4 of the Probation of Offenders Act, 1958 without specifying any other special reasons which is mandated in the law. It is further submitted that in the previous night of occurrence, some dispute and scuffle took place between the son of the informant and the family members of these appellants due to pelting of stones by him from the roof of appellants. In the next day morning, again, due to

that reason scuffle took place and there was an assault which was not intentional, but happened at the spur of the moment. The appellants are not habitual offenders, the occurrence is of the year 2003 and the appellants have undergone the agony of trial for such a long period. Therefore, appellants deserve to be extended the benefit of Section 4 of the Probation of Offenders Act.

Submissions on behalf of the State:-

7. On the other hand, learned A.P.P. has defended the impugned judgment on merits and submitted that there are two injured persons in this case, namely, PW-5 Subodh Kumar Nandi (Informant) and PW-2 Kanti Ram Nandi (Son of the informant). The Injury reports of the injured persons have been proved by the conducting Doctor (P.W. 8 Dr. Shree Krishan Ranjan). One of the injured had sustained grievous injuries and his ribs were found fractured. Therefore, the learned Trial Court has rightly declined to extend the benefit of Section 4 of the Probation of Offenders Act. Hence, this appeal is being devoid of merit is fit to be dismissed.

Analysis, discussion and reasons:-

8. It appears that in order to prove the charges label against the appellants, altogether nine witnesses have been examined by the prosecution: -

P.W.-1	Setu Nandi
P.W.-2	Kanti Ram Nandi
P.W.-3	Kali Charan Mahto
P.W.-4	Ram Lakhon Yadav

- P.W.-5 Subodh Kumar Nandi (Informant)
- P.W.-6 Dr. Q. Islam
- P.W.-7 Alxux Lakra (Investigating Officer)
- P.W.-8 Dr. Shree Krishan Ranjan
- P.W.-9 Dr. Devabrat Mitra

Apart from oral evidence, following documentary evidences have been adduced by the prosecution:-

- I. Exhibit-1 written report
- II. Exhibit -1/1 Signature of PW-5 Subodh Kumar Nandi on written report
- III. Exhibit- 1/2 Endorsement of Jitendra Singh O/c Tishra P.S. on Written report.
- IV. Exhibit- 1/3 Signature of Ram Binay Singh on Formal F.I.R.
- V. Exhibit- 2 Injury report of Kanki Ram Nandi
- VI. Exhibit-2/1 Injury report of Subodh Kumar Nandi
- VII. Exhibit- 2/2 Injury report of Subodh Kumar Nandi
- VIII. Exhibit- 2/3 Injury report of Kanki Ram Nandi
- IX. Exhibit-3 Cheque Sheet
- X. Exhibit-4 Endorsement on medical prescription
- XI. Exhibit-5 Discharge slip
- XII. Exhibit-6 X-ray report of Dr. D. Mitra

9. On the other hand, no oral or documentary evidence has been examined on behalf of defence.

10. Perused the record of the case alongwith the impugned judgment in the light of contentions raised on behalf of both the parties, it appears

that in this case the genesis of the occurrence and dispute is due to pelting stone from the roof of present appellants and in the next morning again scuffle took place, wherein PW-5 Informant Subodh Kumar Nandi and his son- Kanti Ram Nandi P.W. 2 were injured and injury of one of the injured was found in the chart which was grievous in nature. The injury reports of the injured person have also been proved. Therefore, the evidence of injured witnesses finds corroboration from the injury reports. As such, I don't find any illegality or infirmity in the conviction of the appellants for the offence under Sections 341, 323 and 325 of the I.P.C which is hereby upheld.

11. So far non-extension of the benefit of Section 4 of the Probation Officers Act, 1958 is concerned, it appears from the record that it was the first offence of the appellants and there were no materials showing their previous conviction for any offence. The learned Trial Court considering the gravity of the offence has declined to extend the benefit of Section 4 of the Probation of Offenders Act, 1958.
12. Considering the facts and circumstances of the case, genesis and manner of occurrence and also the fact that it was the first offence of the appellants, their age, antecedents and character, the appellants deserve the benefit of Section 4 of the Probation of Offenders Act, 1958.
13. 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 the learned Trial Court, the appellants are hereby directed to be released on

furnishing bonds 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.

14. 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.
15. 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
16. Pending I.A(s), if any, is also disposed of accordingly.
17. Let a copy of this judgment along with Trial Court Record be sent back immediately to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court
Dated: 08.05.2026
Nandini/-
Uploaded on- 15/05/2026