

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 454 of 2009

1. Shiro Mani Mahto, Son of Late Bhuneshwar Mahto
2. Bhuleshwar @ Muleshwar Mahto, Son of Bhola Mahto,
3. Feku Mahto, Son of Siromani Mahto,
4. Triloki Mahto, Son of Late Pano Mahto,
5. Chhabu @ Chabilal Mahto, Son of Late Babulal Mahto,
6. Deepak Mahto, Son of Satto Mahto,

Appellant Nos. 1 to 3 are resident of Jangalpur, Appellant No. 4 is resident of Village Taran, Appellant No. 5 is resident of Village Katariya, Police Station of Appellant Nos. 1 to 5 is Taljhari, Appellant No. 6 is resident of Village Sharmara, P.S.-Saraiyahat and district of all appellants is Dumka, Jharkhand... .. **Appellants**

Versus

The State of Jharkhand

..... **Respondent**

For the Appellants

:Mr. Lalit Yadav, Advocate

For the State

:Mr. Manoj Kumar Mishra, A.P.P.

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

J U D G M E N T

C.A.V. on 13.07.2026

Pronounced on 11/08/2026

1. It is pertinent to mention, at the very outset, that appeal preferred by Bhola Mahto @ Bhola Yadav and Chetu Mahto @ Chhetlal Mahto @ Chandra Kant Yadav has stood abated vide order dated 13th July, 2026 passed by this Court.
2. Heard Mr. Lalit Yadav, learned counsel for the appellants and Mr. Manoj Kumar Mishra, learned APP for the State.
3. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 27th April, 2009 passed in Sessions Case No. 82 of 2007/69 of 2008 by the learned 2nd Addl. Dist. & Sessions Judge, Dumka, whereby and whereunder, the appellants have been convicted for the offences under Sections 148,341,323/149,325/149 of the IPC and sentenced each of them to undergo R.I. for two years for the offence under Section 148 of the

IPC and further R.I. for one year for the offence under Sections 323/149 of the IPC, further R.I. for one month for the offence under Sections 341/149 of the IPC and R.I. for three years for the offence under Section 325/149 of the IPC. All the sentences were directed to run concurrently.

Factual Matrix

4. The factual matrix giving rise to this appeal is that on 22.03.2005 at about 6:00 PM, when the informant along with other persons were returning from Basberwa Hatia, he saw that there were hot exchange of words between Triloki Mahto (appellant No.4) and his brother Shankar Mahto and Triloki Mahto was defaming the name of Ayodhi Mahto and Shankar Mahto by saying them “Thief” and “Gunda”, respectively and after some time, the scuffle got pacified. It is further alleged that at about 8:30 PM, when his brother Shankar Mahto was going to the house of Baldeo Mahto and reached near Handpump, in the meantime, 8 to 10 persons started assaulting his brother Shankar Mahto with Lathi and Spear. Thereafter, the informant immediately raised alarm and run away to the place of occurrence to rescue his brother and saw all the accused persons namely Bhola Mahto (since deceased), Cheto Mahto, Shirmoni Mahto, Muleshwar Mahto, Feku Mahto, Triloki Mahto, Deepak Mahto, Rugdeo Mahto, Chhabu Mahto and Sukhdeo Mahto were assaulting Shankar Mahto with intention to kill him who became unconscious. It is alleged that during course of saving his brother, the informant was also assaulted by

Muleshwar Mahto with blunt portion of the Spear along with other accused persons due to which he sustained injury on the head and other parts of the body.

5. On the basis of fardbeyan of Ramdeo Mahto, Jarmundi (Taljhari) P.S. Case No. 54 of 2005 was registered for the offence under Sections 147, 148, 149, 341, 323, 324, 325, 307 of the IPC.

After completion of investigation, the charge-sheet was submitted against the accused persons for the offence under Sections 147, 148, 149, 341, 323, 325, 307 of the IPC and after taking cognizance, the case was committed to the court of Sessions, where Sessions Case No. 82 of 2007/69 of 2008 was registered. The contents of the charges were read over and explained to the accused persons in Hindi to which, they pleaded not guilty and claimed to be tried.

6. In course of trial, altogether 12 witnesses were examined by the prosecution apart from documentary evidence.
7. On the other hand, defence has also examined two witnesses apart from documentary evidence.

Submissions on behalf of the appellants:-

8. Learned counsel for the appellants assailing the impugned judgment has submitted that the learned trial Court has totally failed to consider the contradictory evidence of the prosecution witnesses and wrongly convicted the appellants. It is further submitted that the learned trial Court has also failed to take into consideration that there was previous enmity between the parties

and the appellants have falsely been implicated in this case. He has also submitted that appellants are entitled to be released under Section 4 of Probation of Offenders Act being the first offenders. The learned trial Court has not recorded any specific reason as to why the appellants are not entitled to get the benefit of Probation of Offenders Act. Therefore, the present appellants deserve benefit of Section 4 of Probation of Offenders Act. Therefore, the appellants may be extended the benefit of Section 4 of Probation of Offenders Act.

Submissions on behalf of the State

9. Learned APP has defended the judgment of learned trial Court on merits but so far as extension of benefit of Probation of Offenders Act is concerned, it is fairly admitted that it was the first offence of the appellants, hence no objection has been raised.

Analysis, reasons and decision

10. I have gone through the record of the case along with the impugned judgment and order of conviction and sentence in the light of the contentions raised on behalf of both side.
11. It appears that the learned trial court has held the appellants guilty for the offences under Sections 148, 341, 323/149, 325/149 of the IPC and from perusal of evidence of prosecution witnesses including the injured witnesses i.e. informant (P.W.-11) namely Ramdeo Mahto and his brother Shankar Mahto (P.W.-12) who are also the eye witnesses of the occurrence along with their injury reports which were prepared by Dr. Pankaj Kumar Singh (P.W.-

10), it appears that all the accused persons assaulted the brother of the informant Shankar Mahto and when the informant went to rescue his brother, he was also assaulted by the accused persons who were armed with Spear and Lathi.

12.Considering the overall factual background, genesis, manner and nature of offence committed by the appellants who are the first offenders having no criminal antecedents and their older age who have now settled in mainstream of life forgetting the previous enmity, 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.

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 learned Trial Court for the offence under Sections 148,341,323/149,325/149 of the I.P.C., the appellants are hereby directed to be released on furnishing bond of Rs.5,000/- (Rupees Five 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 the terms and conditions of the bond, the appellants shall be called upon to receive the sentence of imprisonment already awarded to them by the learned trial Court.
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 to the court concerned immediately for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi

Dated: 11/08/2026

Basant / **NAFR**

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