

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Criminal Appeal (S.J) No. 352 of 2009

[Against the judgment of conviction and sentence dated 05.05.2008 passed in Sessions Trial No. 122/1999 by the learned Additional Sessions Judge, Fast Track Court No. IV, Dhanbad]

Bhai Vikram Bhai, aged about 44 years, son of Shree Shiva Bhoi, resident of village & P.O. Saradia, P.S. Birpur, District- Kheda, Gujarat.

...Appellant

Versus

The State of Jharkhand.

.... Respondent

For the Appellant

: Mr. Shailendra Kr. Singh, Advocate

For the State

: Mr. Tarun Kumar, A.P.P.

PRESENT

**CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
JUDGEMENT**

Dated:21st April, 2026

1. Heard learned counsel for the appellant as well as learned A.P.P. for the State.
2. Instant criminal appeal is directed against the judgment and order dated 05.05.2008 passed by Additional Sessions Judge, Fast Track Court No.- IV, Dhanbad in S.T. Case No. 122 of 1999, whereby and whereunder the appellant has been held guilty for the offence under Section 324 I.P.C. and in view of first offence of the appellant, the learned Trial Court instead of awarding substantive sentence of imprisonment, has released the appellant after due admonition extending the benefit of Section 3 of the Probation of Offenders Act.

Factual Matrix:-

3. The factual matrix giving rise to this appeal in a narrow campus is that the appellant was posted as Constable at C.I.S.F., Mahuda, Dhanbad. It is alleged by the informant, Baldeo Oraon, Inspector C.I.S.F., Mahuda that on 27.10.1994, the appellant returned from his home, after lapse of his leave and was seeking permission of joining. The appellant has over stayed at his home against the sanctioned leave, therefore, the

informant asked him to appear before the Commandant, because he has over stayed and should take permission from Commandant. Upon this, the appellant got enraged and on the next day evening i.e., on 28.10.1994, while informant was going to his residence after completing his work and reached near his house, the appellant assaulted him by *Bhujali* on his neck. The informant fell down then repeated blow was given by the appellant on other parts of the body.

4. On the basis of above information, F.I.R. being Mahuda P.S. case No. 361/1994 was registered for the offence under Sections 341, 324, 325, 326 and 307 of the IPC. After completion of investigation, charge sheet was submitted against the accused. After taking cognizance, the case was committed to the Court of Sessions, where S.T. No. 122 of 1999 was registered. The learned Trial Court after evaluating the evidence of the witnesses examined during the trial held the appellant guilty for the offence under Section 324 IPC and instead of awarding substantive sentence of imprisonment released after due admonition.

Submissions on behalf of the appellant:-

5. The learned counsel for the appellant assailing the impugned judgment on merits has submitted that there was no occurrence of assault committed by the appellant against the informant and he has been falsely implicated in this case due to ulterior motive of the informant. There was no corroborative evidence except the informant himself to prove the prosecution case. The appellant was also dismissed from the service during the pendency of this case without any reason. The conviction and sentence of the appellant itself is not justified under law which is fit to be set aside.

Submissions on behalf of the State:-

6. On the other hand, learned A.P.P. for the State has opposed the aforesaid contentions on behalf of the appellant and submitted that the informant-cum-sole injured has categorically proved the earliest versions contained in the F.I.R. The injury sustained by the informant, P.W.-1 also finds corroboration from the evidence of P.W.-7, Dr. M.

Narayan who has found five incised wounds on the parts of body of the informant caused by sharp cutting weapon and another injury was lower jaw bone totally exposed caused by hard and blunt substance, opined to be grievous in nature. Therefore, there is no illegality and infirmity in the impugned judgment calling for any interference by way of this appeal which is devoid of merits and fit to be dismissed.

Analysis, discussion and reasons:-

7. I have gone through the record of the case along with the impugned judgment in the light of contentions raised on behalf of the both side.
8. It appears that altogether 07 witnesses were examined in this case by the prosecution:-
 - 1) PW-1 Baldeo Oraon (Informant)
 - 2) PW-2 Rajesh Kumar Mishra
 - 3) PW-3 Mangla Prasad Mishra,
 - 4) PW-4 Birendra Kumar Patel
 - 5) PW-5 Arun Patil
 - 6) PW-6 Dr. A. K. Chaurasia
 - 7) PW-7 Dr. M. Narayan.
9. Apart from the oral testimony of the above witnesses, following documentary evidence has also been adduced by the prosecution:-
 - I. Exhibit-1 Fardbeyan
 - II. Exhibit-2 Injury report of Baldeo Oraon.
10. From the testimony of witnesses, it appears that the injured-cum-informant has consistently proved his plea that he was assaulted by the appellant by means of *Bhujali* and the grievous injury (injury no.vi) sustained by the informant was not caused by use of the weapon attributed to the appellant. Therefore, the learned Trial Court has rightly convicted the appellant for the offence under Section 324 I.P.C.
11. I further find that the learned Trial Court after considering the over all aspects of the case and the nature of offence committed by the appellant as well as in view of the fact that it was first offence of the appellant, the learned Trial Court has taken a lenient view while

extending the benefit of Section 3 of Probation of Offenders Act. Therefore, I don't find any illegality or infirmity calling for any interference in this appeal. Accordingly, this appeal is **dismissed**.

12. Pending I.A.(s), if any, is also disposed of accordingly.
13. 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.)

Jharkhand High Court, Ranchi
Dated, 21st April, 2026.
Suman /N.A.F.R.
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