

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 492 of 2009

[Against the Judgment of conviction and Order of sentence dated 08.05.2009, passed by learned Additional Sessions Judge, Fast Track Court No. 2, East Singhbhum at Jamshedpur, in Sessions Trial No. 162 of 2008]

Mohmmad Quayum @ Mohmmad Kayum, son of Late Md. Rafique, resident of 79-A Block, Dhatkidih, P.O. & P.S.- Bistupur, Town Jamshedpur, District – East Singhbhum.

... ... **Appellant**

Versus

The State of Jharkhand **Respondent**

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For the Appellant : Mr. Indrajit Sinha, Advocate.

Mr. Akhouri Awinash Kumar, Advocate.

Mr. Kaushik Chakraborty, Advocate.

For the State : Mr. Azeemuddin, A.P.P.

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P R E S E N T

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA
JUDGMENT

Dated 7th July, 2026

By Court: Heard learned counsel for the parties.

2. The instant criminal appeal is directed against the judgment of conviction and order of sentence dated 08.05.2009 passed by learned Additional Sessions Judge, Fast Track Court No. 2, East Singhbhum at Jamshedpur in Sessions Trial No. 162 of 2008, whereby and whereunder, the appellant has been held guilty for the offence under Sections 323 and 332 of the I.P.C. and sentenced to undergo R.I. for three months for the offence under Section 323 of I.P.C. and R.I. for six months for the offence under Section 332 of I.P.C. Both the sentences were directed to run concurrently.

FACTUAL MATRIX

3. The factual matrix giving rise to this appeal is that on 02.06.2007 at about 4:30 P.M., in the evening the informant of the case S.I. Kirti Narayan Mishra, the Group Officer, Special Branch, Jamshedpur East reached near the house of Shamshad Alam, resident of Holding No. 10/B, A Block, Line No. 1, Dhatkidih, P.S. – Bistupur, Jamshedpur by his Car bearing registration No. JH-05Q-7000 for verification of the application of Passport of Shamshad Alam and after parking his car at the next side of road near Cement Shop in front of the house of Shamshad Alam, he moved towards the house of Shamshad Alam. Thereafter, the accused, who was the owner of the Cement Shop, came there and asked the informant not to park his car there. Thereupon, the informant moved his car forward at some distance and again parked his car there, but the accused asked the informant that he could not park his car there. Thereupon the informant disclosed his identity and said that he is going to verify the application of the Passport of Shamshad Alam and he will return soon. But the accused abused the informant and threw the informant on earth and assaulted him by means of fist and slaps. The accused also pressed the neck of the informant with an intention to commit murder of the informant. The accused also dishonestly took out Rs. 550/- from of the possession of the informant.

4. On the basis of fardbeyan of informant, Bistupur P.S. Case No. 169 of 2007 was instituted for the offence under Sections 341, 323, 332, 379 and 506 of the I.P.C.
5. After completion of investigation, charge sheet was submitted against the above-named sole accused. Thereafter, the learned C.J.M. took cognizance of the offences and committed to the court of Sessions, where S.T. No. 162 of 2008 was registered. On 02.08.2008, charge under Sections 323, 307, 332 and 379 of the I.P.C. was framed against the appellant, to which he pleaded not guilty and claimed to be tried.
6. After conclusion of trial, the appellant was acquitted for the charges under Sections 307 and 379 of the I.P.C. and held guilty for the offence under Sections 323 and 332 of the I.P.C. and sentenced, as stated above.
7. Learned counsel for the appellant without touching the merits of the case has confined himself towards non-extending the benefit of Section 3 of the Probation of Offenders Act, 1958 to the appellant to which he deserves. It is further submitted that it was the first offence of the appellant and he was never convicted earlier and the learned trial court without recording any special reasons required under law has declined to extend the benefit of Section 3 or 4 of the Probation of Offenders Act and sentenced the appellant for three months R.I. and six months R.I. for the offence under

Sections 323 and 332 of the I.P.C. respectively. The occurrence is of the year 2007 and almost 19 years has elapsed. Hence, the sentence of the appellant requires modification and appellant may be awarded benefit of Section 3 of the Probation of Offenders Act, 1958.

- 8.** On the other hand, learned APP appearing for the State has defended the impugned judgment on merits, but has fairly admitted that it was the first offence of the appellant.
- 9.** It appears that it was first offence of the appellant and he has never been convicted for any other offence and has no criminal background and the learned trial court inspite of mentioning the above fact in the judgment, without recording any special reasons, has declined to extend the benefit of Section 3 of the Probation of Offenders Act, for which the appellant is entitled.
- 10.** In view of the above discussions and reasons, the conviction of the appellant is hereby upheld, but so far as sentence awarded to the appellant is concerned, considering the facts and circumstances of the case, the nature of offence committed by the appellant, the genesis and manner of occurrence, age, antecedent and character of the appellant, appellant is directed to be released within two months from the date of this judgment after due admonition under Section 3 of the Probation of Offenders Act, 1958 instead of

undergoing substantive sentence of imprisonment passed by the concerned trial court.

- 11.** If the appellant does not appear or fails to appear within stipulated time, the learned Trial Court shall issue notice upon the appellant to secure his attendance for admonition.
- 12.** If the appellant, upon notice, does not appear, he shall serve the sentence already awarded to him.
- 13.** Accordingly, **this appeal is dismissed on merits with modification in sentence,** as stated above.
- 14.** Pending I.A., if any, stand disposed of.
- 15.** 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, Ranchi

Dated, the 7th July, 2026.

Sunil / **N.A.F.R.**

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