IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 727 of 2009

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1. Shambhu Hembram, Son of Late Ganesh Hembram,
2. Ravindra Nath Hembram @ Ravidra Nath Hembram, Son of Late Sonwa Hembram,
3. Ravishar Hembram @ Ravishwar Hembram, Son of Chhotka Hembram,
4. Deo Nath Hembram, Son of Late Jogeshwar Hembram
5. Kamal Kumar Hembram @ Kamal Hembram, Son of Sambhu Hembram,

All residents of village Kanadih, P.O. Salukchapra, P.S. Nirsa, Dist. Dhanbad, Jharkhand ... ... **Appellants**

Versus

The State of Jharkhand …… **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant :Mr. Mahesh Tewari, Advocate
For the State :Mrs. Lily Sahay, A.P.P.

J UDGMENT

Dated: 01st July, 2026

1. It is pertinent to mention, at the very outset, that appeal preferred by Jogeshwar Hembram, Sunil Hembram and Sanatan Hembram stood abated vide order dated 07th May, 2026 passed by this Court.

2. Heard Mr. Mahesh Tewari, learned counsel for the appellants and Mrs. Lily Sahay, learned APP for the State.

3. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 17th July, 2009 passed in S.T. No. 62 of 2004 by the learned 6th Addl. Sessions Judge, Dhanbad, whereby and whereunder, the appellants have been convicted for the offences under Sections 148 & 323/149 of the IPC and sentenced to undergo R.I. for two years each for the offence under Section 148 of the IPC and further R.I. for one year each for the offence under Sections 323/149 of the IPC. Both the sentences were directed to run concurrently after setting off the

period of sentence already undergone during investigation and trial.

Factual Matrix

4. The factual matrix giving rise to this appeal is that on 21.01.2001, informant/complainant along with other witnesses were called by the villagers of Kanadih for "amicable settlement of dispute" by way of Panchayat for assaulting one Mangal Kisku by the accused persons on 13.01.2001 and 14.01.2001. Accordingly, informant/complainant along with other witnesses attended the Panchayati and they were advised to go and call the accused persons. As per instruction of Panchayat, they went to call the accused persons and after informing, they were waiting, in the meantime, the accused persons namely Jogeshwar Hembram, Sambhu Hembram, Sunil Hembram, Rabidra Nath Hembram, Raviswar Hembram, Kamal Hembram, Sanatan Hembram and Deven Hembram armed with deadly weapon like Lathi, Sabbal, etc. with intention to kill, assaulted the complainant/informant by sharpened Sabbal on his head, similarly, Rupal was assaulted and sustained injury upon right parietal of the head. On Halla, witnesses and other villagers, who were sitting on Panchayati ran towards the place of occurrence, then, accused persons fled away. The occurrence was reported to Police immediately and the Police referred the injured for treatment.

5. On the basis of complaint petition, Nirsa P.S. Case No. 91 of 2001 was registered for the offence under Section 147, 148, 149, 323,

325,307, 506/34 and 120B of the IPC. After completion of investigation, the charge-sheet was submitted against the accused persons and after taking cognizance, the case was committed to the court of Sessions, where S.T. No.62 of 2004 was registered. The accused persons pleaded not guilty and claimed to be tried.

6. In course of trial, altogether four witnesses were examined by the prosecution apart from documentary evidence.

7. On the other hand, no oral or documentary evidence has been adduced by the defence. The case of the defence is complete denial from the occurrence and false implication.

Submissions on behalf of the appellants:-

8. Learned counsel for the appellants without touching the merits of this judgment has confined his argument towards not extending the benefit of Section 4 of Probation of Offenders Act to the appellants. He has 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. Moreover, the alleged occurrence is of the year 2001 and the appellants have maintained peace and settled in their life, hence, 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 she has no objection.

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 & 323/149 of the I.P.C. and from perusal of evidence of prosecution witnesses including the injured witness i.e. P.W.-1 namely Rupal Hembram, P.W.-2 Ravisar Hembram (informant) and P.W.-3 namely Abinath Hembram along with their injury report which was prepared by Dr. U.N. Prasad proved by formal witness. It appears that the oral evidence has been proved by the medical evidence and all prosecution witnesses are consistent in their testimony in the commission of the offence by the accused persons and have supported the prosecution story.

12. Considering the overall factual background, genesis, manner, place and nature of offence committed by the appellants, age, character and antecedent, 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 Section 148 & 323/149 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.)

01.07.2026
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