

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr. Appeal (S.J.) No. 2031 of 2004**

Prabhu Gosain, S/o Late Barho Gosain, Village-Dibha, P.O.-Chatra, Dist.  
Chatra, Jharkhand

... .. **Appellant**

**Versus**

The State of Jharkhand

..... **Respondent**

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

For the Appellant

:Mr. Umesh Kumar Choubey, Advocate

For the State

:Mrs. Vandana Bharti, A.P.P.

**J U D G M E N T**

**Dated: 09<sup>th</sup> June, 2026**

1. Heard Mr. Umesh Kumar Choubey, learned counsel for the appellant and Mrs. Vandana Bharti, learned APP for the State.
2. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 18.10.2004 passed in S.T. No. 76 of 2002 by the learned Addl. Sessions Judge (F.T.C.-III), Chatra whereby and whereunder the appellant has been convicted under Section 324 of IPC and sentenced to undergo R.I. for three years along with a fine of Rs. 2000/- with default stipulation.

**Factual Matrix**

3. The factual matrix giving rise to this appeal is that on 15.10.1999 at about 7:45 pm, one Ranjeet Gosai, son of Banwari Gosai approached the informant and told him that there is some work, therefore, the informant went with him, when they reached near the house of Banwari Gosai, the informant saw that Prabhu Gosai (present appellant) armed with Gadasa, Sudama Gosai, Praveen Gosai and son-in-law of Manoj Gosai were already present there and started assaulting. Prabhu Gosai assaulted the informant with Gadasa on his head and back and others assaulted with their hands.

On raising alarm, Suresh Ram (informant's uncle) came there, who also got some injury. The motive behind the occurrence is previous enmity between the parties.

4. On the basis of fardbeyan, Sadar P.S. Case No. 125 of 1999 was registered for the offence under Section 307, 324, 323/34 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.76 of 2002 was registered.
5. It appears that altogether nine witnesses have been examined by the prosecution: -

P.W.-1	Urmila Devi (Mother of the informant)
P.W.-2	Gudia Kumari (Sister of the informant)
P.W.-3	Runa Devi (Aunt of the Informant)
P.W.-4	Suresh Ram (Uncle of the informant)
P.W.-5	Deepak Kumar (Informant)
P.W.-6	Dr. Shyam Nandan Singh
P.W.-7	Binda Paswan
P.W.-8	Nand Kishore Dangi
P.W.-9	Manoj Choudhary

6. Apart from oral evidence, several documentary evidences have also been adduced.
7. On the other hand, the defence has also examined two witnesses:-

D.W.-1	Surju Prajapati
D.W.-2	Mahadev Mahto

8. Apart from oral evidence, several documentary evidences have also been adduced on behalf of defence.

**Submissions on behalf of the appellant:-**

9. Learned counsel for the appellant without touching the merits of this judgment has confined himself towards the non-extension of benefit of Section 4 of Probation of Offenders Act to the appellant. He has submitted that appellant is entitled to be released under Section 4 of Probation of Offenders Act being the first offender. The learned trial Court has not recorded any special reason as to why the appellant is not entitled to get the benefit of Probation of Offenders Act. Therefore, the present appellant deserves benefit of Section 4 of Probation of Offenders Act. Moreover, the alleged occurrence is of the year 1999 and the appellant has maintained peace and settled in his life, hence, the appellant may be extended the benefit of Section 4 of Probation of Offenders Act.

**Submissions on behalf of the State**

10. 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 appellant, hence she has no objection.

**Analysis, reasons and decision**

11. I have gone through the record of the case along with the impugned judgment and order of sentence in the light of the contentions raised on behalf of both side.

12. It appears that the learned trial court has held the appellant guilty for the offence under Section 324 of the I.P.C. and from perusal of evidence of injured witness, namely, P.W.-5 Deepak Kumar along

with his injury report proved by the P.W.-6, Dr. Shyam Nandan Singh and it appears that the doctor has found following injuries:-

(I) Incised wound 5" x 1" bone deep transverse oozing blood on parietal region of skull.

(II) Incised wound 2" x ½ x 1" bone deep on left scapular region red in color.

The doctor has opined that the injuries may have been caused by sharp object.

13.I have given anxious consideration to the genesis, manner and place of occurrence, it appears that admittedly there was previous enmity between the parties. Considering the overall factual background, nature of offence committed by the appellant, 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.

14.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 appellant by learned Trial Court for the offence under Section 324 of the I.P.C., the appellant is hereby directed to be released on furnishing bond of Rs.5,000/- (Rupees Five Thousand) 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.

15. If the bond is not furnished within above stipulated time, the learned trial Court shall issue notice upon the appellant to secure his attendance for furnishing the bond.

16. In case of violation of the terms and conditions of the bond, the appellant shall be called upon to receive the sentence of imprisonment already awarded to him by the learned trial Court.

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

18. 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.)**

**09.06.2026**

*Basant*

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