

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 2065 of 2004

1. Mantu Mahto @ Mukesh Mahto, Son of Ganesh Mahto,
2. Jhantu Mahto @ Naresh Mahto, Son of Ganesh Mahto,
All are residents of Jogidih Basti, P.O. –Tundu, P.S.-Baghmara
(Madhuban), Dist. Dhanbad **Appellants**

Versus

The State of Jharkhand **Respondent**

CORAM: HON’BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellants :Mr. Zaid Ahmad, Advocate
For the State :Mr. Shailesh Kumar Sinha, A.P.P.

J U D G M E N T

Dated: 04th August, 2026

By Court:-

1. It is pertinent to mention, at the very outset, that appeal preferred by Ganesh Mahto stood abated vide order dated 10.06.2024 passed by co-ordinate bench of this Court.
2. Heard learned counsel for the appellants and learned APP for the State.
3. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 13th December, 2004 passed in S.T. No. 130 of 1999 by the learned Addl. Sessions Judge, F.T.C. 7th, Dhanbad whereby and whereunder, both the appellants have been convicted and sentenced to undergo R.I. for 3 months for the offence under Section 323 of the IPC.

Factual Matrix

4. The factual matrix giving rise to this appeal is that on 22.08.1998, at about 4:30PM, a goat of informant was grazing at the ridge of paddy crops land of accused persons. Upon this, the accused Ganesh Mahto (since deceased) asked to the son of informant

namely Lakhinder Mahto that his goat has been grazing the paddy crop, then the son of the informant told that it is not true. Thereafter, Ganesh Mahto (since deceased) pressed the neck of the son of the informant and threw him on the earth and assaulted by legs and fists. The wife of the informant came to rescue her son, then, the accused Ganesh Mahto also assaulted her and on alarm, the informant himself reached the place of occurrence and he asked the accused Ganesh Mahto about the occurrence, thereupon, Ganesh Mahto threatened the informant and went his house and returned armed with Sword along with his two sons and gave a sword blow on the head of the informant resulting injuries on his head and both the appellants gave iron rod blow and stick blow fitted with an axe. After sustaining injuries, the informant became unconscious. Thereafter, the co-villagers assembled at the place of occurrence and took the informant to his house and the matter was reported to police and F.I.R. was lodged against the accused persons.

5. On the basis of written report of the informant, Baghmara (Madhuban) P.S. Case No. 221 of 1998 was registered for the offences under Sections 341, 323, 326, 307 and 34 of the IPC. After completion of investigation, the charge-sheet was submitted against the accused persons for the offence under Sections 341, 323, 324, 307 and 34 of the IPC and after taking cognizance, the case was committed to the court of Sessions, where S.T. No.130 of 1999 was registered where charges under Section 323, 307 read

with 34 of the IPC was framed against the accused persons which was read over and explained in Hindi to which accused persons pleaded not guilty and claimed to be tried.

6. In course of trial, altogether 7 witnesses were examined by the prosecution, apart from documentary evidence.
7. On the other hand, altogether 2 defence witnesses were also examined by the prosecution, 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 failed to take into consideration the vital contradiction in the evidence of the witnesses and benefit of doubt should have been given to the appellants. It has further been submitted that the investigating officer has also not been examined to prove the place of occurrence which was necessary in the facts and circumstances of the case which caused great prejudice to the appellants. It has also been submitted that there was a long standing land dispute between the parties which has come in the evidence of prosecution witnesses, which was not taken into consideration by the learned trial Court and the learned trial Court has wrongly convicted the appellants.

In the alternative, learned counsel for the appellants submits that the plea of first offence of convicts and no previous conviction was taken and prayed before the learned trial Court to give benefit of Section 3 or 4 of Probation of Offenders Act but learned trial Court without recording any special reasons has declined to release

them under Probation of Offenders Act. The occurrence is of the year 1998 and they have sufficiently been punished for their guilt, hence, they may be released by giving benefit of Section 3 or 4 of Probation of Offenders Act.

Submissions on behalf of the State

9. Learned APP has opposed the contentions raised on behalf of the appellants and submitted that the learned trial Court has very categorically and minutely examined the evidence available on record and finding sufficient evidence has rightly convicted the appellants. There is no merit in this appeal, which is fit to be dismissed.

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.From the anxious consideration of the evidence of the prosecution witnesses as well as defence witnesses, it appears that P.W.-5 Nirashi Devi, P.W.-4 Lakhinder Mahto and P.W.-7 Rasu Mahto (informant) has stated that appellants have assaulted them which also finds corroboration from the evidence of other witnesses and medical report of injured, therefore, the learned trial Court has rightly convicted the appellants.
- 12.In view of the above discussions and reasons, the conviction of the appellants under Section 323 of the IPC is affirmed and considering the overall factual background, genesis, manner, place

and nature of offence committed by the appellants, their age, character and antecedent, it appears expedient in the ends of justice to extend the benefit of Section 3 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 323 of the IPC, the appellants are hereby directed to be released after **due admonition** under Section 3 of the Probation of Offenders Act subject to condition that the appellants shall deposit Rs. 5,000/- each as “Victim Compensation” which shall be deposited at the time of appearing before the learned trial Court for the purpose of “due admonition” and the same compensation amount shall be paid to the victim of this case after proper identification.

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

15. 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.)

04.08.2026

Basant/

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