

Chandrika Singh @ Kailu Singh Vs State Of Jharkhand

Court: Jharkhand High Court

Date of Decision: Jan. 28, 2025

Acts Referred: Indian Penal Code, 1860 " Section 147, 148, 149, 307, 323, 324, 326, 427, 447
 Probation of Offenders Act, 1958 " Section 4

Hon'ble Judges: Pradeep Kumar Srivastava, J

Bench: Single Bench

Advocate: A.K. Kashyap, Jitendra Pandey

Final Decision: Dismissed

Judgement

Pradeep Kumar Srivastava, J

1. Heard learned counsel for the parties.

2. The present Criminal Appeal is directed against the judgment of conviction and order of sentence dated 21.11.2006 passed by learned Additional

Sessions Judge, F.T.C. No. 1, Palamau at Daltonganj in Sessions Trial No. 310 of 2003 (arising out of Sadar P.S. Case No. 339 of 2001),whereby and

whereunder, the appellants have been held guilty for the offence under Section 148, 323 and 324/149 of the I.P.C. and sentenced to undergo R.I. of

two years along with fine of Rs. 3,000/- each for the offence under Section 148 of the I.P.C., S.I. of one year for the offence under Section 323 and

R.I. of two years along with fine of Rs. 3,000/- each for the offence under Section 324 of the I.P.C. with default stipulation. All the sentences were

directed to run concurrently.

FACTUAL MATRIX

3. The factual matrix giving rise to this appeal is that on 20.10.2001 at about 8:30 P.M. informant Shobhi Yadav was pegging his buffalo in his land

situated near the road, meanwhile, above appellants and 3 to 4 others unknown persons went towards Bhandar grih of informant and started searching

his son Rajendra Yadav and before the informant could understood the matter, the accused persons started attacking with sword, gadasa and lathi

blow on him. The informant's wife Sidho Devi rushed to rescue him, then she was also assaulted and when the informant became unconscious,

the accused persons assuming that he has been died, they fled away. The injured persons were brought to Hospital for treatment. The informant has

claimed that the motive behind the occurrence was slight exchange of words between son of the informant namely, Rajendra Yadav and accused

Dharamdeo Ram at about 7:00 P.M. Thereafter, the accused persons ultimately assembled with intention to kill the informant's son and have

attacked on them.

4. On the basis of above information, FIR being Sadar P.S. Case No. 339 of 2001 dated 21.10.2001 was registered against the appellants and after

investigation, charge sheet was submitted against the aforesaid appellants for the offence under Sections 147, 148, 149, 447, 341, 323, 324, 307, 326

and 427 of the I.P.C.

5. After taking cognizance of the offence, the learned Magistrate committed the case to the Court of Sessions; where S.T. No. 310 of 2003 was

registered. The charge for the offence under Sections 148, 307/149, 323 and 427 of the I.P.C. were framed against nine accused persons and read

over and explained to them, to which, they pleaded not guilty and claimed to be tried.

6. In course of trial, the prosecution has examined altogether 09 witnesses and also adduced following documentary evidence:-

Exhibit-1 : Injury Report.

Exhibit-2 & 2/1 : Formal FIR and fardbeyan.

7. The case of defence is that appellants are innocent persons and have committed no offence at all. They have been falsely implicated in this case.

However, defence has examined D.W.-1 Baban Singh in his favour.

8. After conclusion of trial, the learned trial court, after considering the oral as well as documentary evidence available on record, has convicted and

sentenced the appellants as stated above, which is assailed in this appeal.

9. Learned counsel for the appellants has submitted that initially nine appellants have moved before this Hon'ble Court, but during pendency of this

appeal, one of the appellants namely, Dharamdeo Ram has died and in terms of order dated 4th November, 2022, the appeal against appellant

Dharmadeo Ram was abated and his name was deleted from the cause title and the appeal shall be heard with respect to the rest of the appellants.

10. Learned counsel for the appellants without touching the merits of the case confined himself to the extension of benefit of Section 4 of the

Probation of Offenders Act, 1958 to the appellants.

11. Learned counsel for the appellants has submitted that for a very trivial matter, there was hot exchange of words between the parties and the

occurrence took place in sudden manner. Both party members were injured in the said occurrence.

12. It is further submitted that P.W. No. 8 Dr. Kishor Kullu had examined the injured Sobhi Yadav and found three incised wounds:

(i) Incised wound 2 1/2" x 1" skin deep on right side of the chest below the axilla;

(ii) Incised wound on right arm medial side 1 1/2" x 1" skin deep;

(iii) Incised wound 1 1/2" x 1/4" skin deep over right elbow lateral side.

All the injuries were caused by sharp cutting weapon and only skin deep, opined to be simple in nature. The injured witnesses including the informant

have corroborated the prosecution story. The learned trial court has been pleased to acquit the appellants from the offence under Section 307 / 149 of

the I.P.C. It was first offence of the convicts and they have never been convicted for any other offence at all. This fact was also pleaded before the

learned Trial Court, but the same has not been taken into consideration by the learned Trial Court, though without recording any special reasons as

required under law. The occurrence took place in the year 2001 and on a trivial issue, the dispute arose between the parties in a sudden manner and

the injured as caused simple injuries and also more than two decades have been elapsed.

And,

Hence, the appellants deserve the benefit of Section 4 of the Probation of Offenders Act, 1958.

13. On the other hand, learned APP appearing for the State has opposed the contentions raised on behalf of the appellants and defended the impugned

judgment and order on merits. So far extension of benefit of Section 4 of Probation of Offenders Act, 1958, it is fairly submitted that it was first

offence of the appellants.

14. I have given anxious consideration to the genesis, manner and place of occurrence, which is obviously started in a sudden manner due to hot

exchange of words between the parties in a very trivial matter. None of the injuries opined to be very serious in nature and even likely to cause death

of any of the injured persons.

15. From perusal of impugned judgment and order, it appears that plea of first offender was taken by the appellants, but extension of benefit of Section

4 of Probation of Offenders Act, 1958 has been declined without recording any special reasons by the trial court.

16. Considering the facts and circumstances of the case, the nature of offence committed by the appellants, the genesis and manner of occurrence,

age, antecedent and character of the appellants, it is expedient in the ends of justice to extent the benefit of Section 4 of the Probation of Offenders

Act, 1958 to the appellants also, for which the appellants appear to be entitled, instead of awarding substantive sentence of imprisonment.

17. In view of above discussions and reasons, this appeal is dismissed on merits with modification in sentence to the extent that the appellants are

directed to be released under Section 4 of the Probation of Offenders Act, 1958 on furnishing bond of Rs. 5,000/- with one surety instead of

undergoing substantive sentence of imprisonment passed by the concerned trial court, with condition that they shall be of good behavior and shall

maintain peace for a period of one year from the date of furnishing bond. The learned trial court may call for report from District Probation Officer, if

so required.

18. Appellants are further directed to appear before the concerned trial court within three months from the date of this order and furnish the bond as

per direction of this Court.

19. In case of violation of terms and conditions of the bond, the appellants shall be called upon to receive the sentence already awarded to him.

20. Accordingly, this appeal is dismissed on merits with modification in sentence, as stated above.

21. Appellants are on bail, as such they are discharged from the liability of bail bond. Sureties are also discharged.

22. Pending I.A. if any stands disposed of.

23. Let a copy of this judgment along with trial court record be sent back to the court concerned for information and needful.