

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No.113 of 2008**

Panchu Turi @ Panchu Ram, Son of Late Rauila Turi, Resident of
Village Kana Toli, Dewaki, P.S. Ghaghra, District Gumla
... Appellant

Versus

The State of Jharkhand
... Respondent

For the Appellant : Mr. Shekhar Siddharth, Adv., J.C. to
A.K. Chaturvedi, Adv.
For the State : Mr. Sardhu Mahto, A.P.P.

P R E S E N T

Coram: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

Dated- 06.12.2024

By Court:- Heard Mr. Shekhar Siddharth, learned counsel appearing for the appellant as well as Mr. Sardhu Mahto, learned Addl. P.P. appearing for the State.

2. The present appeal has been preferred by the appellant challenging the judgment of conviction and order of sentence dated 24.01.2008 and 25.01.2008 passed by learned Sessions Judge, Gumla in Sessions Trial No.162 of 2005, whereby and whereunder appellant has been convicted for the offences under Sections 324 and 452 of the Indian Penal Code and was sentenced to undergo rigorous imprisonment (R.I.) for seven

years for the offence punishable under Section 452 of the I.P.C. and R.I. for three years for the offence punishable under Section 324 of the I.P.C and further sentenced to pay a fine of Rs.1,000/- with default stipulation.

3. Factual matrix giving rise to this appeal is that on 27.03.2005 at about 01:00 PM, the informant was milking his buffalo at his cattle shed. Suddenly, the accused appellant viz. Panchu Turi armed with a sword arrived at the spot and inflicted a sword blow from behind, on his head, resulting in deep cut injury. The accused then continued his assault, delivering sword blows to his right and left shoulders, causing additional cut injuries and bleeding. At the time of the attack, informant's daughter, Seema, witnessed the incident and Bandhanu Oraon, who was on his way to his house, also saw the occurrence. Both of them raised alarm, then Chaita Bhagat and other villagers also assembled and rescued the informant from further assault. It is further alleged that due to previous enmity the accused has assaulted him with intention to kill.

On the basis of above fardbeyan of the informant, the case was instituted as Ghaghra P.S. Case No.16 of 2005 for the

offences under Sections 448, 324 and 307 of the I.P.C.

4. After completion of the investigation, charge-sheet was submitted against the appellant for the aforesaid offences. Accordingly, cognizance was taken and the case was committed to the Court of Sessions, where Sessions Trial No.162 of 2005 was registered. Charges were framed under Sections 452, 324 and 307 of the I.P.C. against the accused which was read over and explained to him, to which he pleaded not guilty and claimed to be tried.

5. In the course of trial, altogether nine witnesses were examined by the prosecution and following documentary evidence were also adduced:

Exhibit 1 : Copy of Injury reports

Exhibit 2 : Formal F.I.R.

6. After conclusion of trial, the appellant was held guilty for the offences under Sections 324 and 452 of the I.P.C. and sentenced as stated above which has been assailed in this appeal.

7. Learned counsel for the appellant without touching the merits of the judgment has confined himself towards the point of non-extending the benefit of Section 4 of the

Probation of Offenders Act, 1958 (hereinafter referred to as 'The Act of 1958') to the appellant to which he deserves. It is submitted that learned trial court has failed to record any special reasons as required under law for declining the said benefit. It is further submitted that admittedly, it was first offence of the appellant and he has never been previously convicted for any offence and after conviction in this case also appellant has not indulged in any criminal activities. It is further argued that the occurrence took place due to previous enmity between the parties. The incident is of the year 2005 and maximum sentence awarded by learned trial court is seven years. The learned trial court has rightly held that injuries are also simple in nature. Hence, appellant deserve benefit of Section 4 of the Act of 1958 instead of awarding substantive sentence of imprisonment as granted by the learned trial court and this appeal may be allowed.

8. On the other hand, learned A.P.P. appearing for the State has not raised any serious objection against the arguments of the appellant rather he has defended the impugned judgment and order on merits.

9. I have given anxious consideration to the aforesaid contentions raised on behalf of both sides and also perused the impugned judgment and order along with materials available on record.

It appears that the learned trial court has exonerated the appellants from the charge under Section 307 of the I.P.C. Therefore, so far merits of the case are concerned, the prosecution has been able to prove the commission of offences under Sections 324 and 452 of the I.P.C. against the appellant. It is also a fact that it was the first offence of the appellant and he has never been convicted for any offence and it is pleaded that since the occurrence is of the year 2005 and appellant in the aforesaid period has also maintained peace and harmony and has never been involved in any other criminal activities and the learned trial court without recording any special reasons has declined to extend the benefit of Section 4 of the Act of 1958 to the appellant.

10. Considering the overall factual background, genesis, manner of occurrence and the nature of injury sustained by the informant and others and the offence committed by the appellant, his age, character and antecedent, it appears

expedient in the ends of justice to extend the benefit of Section 4 of the Act of 1958 instead of awarding substantive sentence of imprisonment immediately as inflicted by the learned trial court. In this view of the matter, appellant is directed to appear before the concerned trial court **within three months from the date of this judgment** and the learned trial court is also directed to release the appellant giving the benefit of Section 4 of the Probation of Offenders Act, 1958 **upon furnishing bond of Rs.5000/- with one surety** of like amount each to the satisfaction of concerned Trial Court with condition to maintain peace and be of good behaviour **for a period of one year from the date of furnishing the bond.** The learned trial court may also call for a report from the concerned District Probation Officer, if so desired and release the appellant on furnishing the aforesaid bond. In case of violation of the terms and conditions of the bond, the appellant shall be called upon by the concerned trial court to appear and receive the substantive sentence of imprisonment already awarded to him by the learned trial court.

11. In view of above discussions and observations, this

appeal is dismissed on merits with modification in sentence to the extent as stated above.

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

13. Pending I.A., if any, stands disposed of.

(Pradeep Kumar Srivastava, J.)

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