

**Criminal Appeal No. 278 of 2000 (R)**

*Against the judgment of conviction and order of sentence dated 12.05.2000 passed by the 1st Additional Sessions Judge, Giridih in connection with T.R. No. 39 of 2000 corresponding to G.R.No.808 of 1993)*

1. Kripa Mahto  
2. Lacho Mahto  
3. Mohan Mahto ..... ..... ..... Appellants  
--Versus--  
The State of Bihar ..... ..... ..... Respondent

For the Appellant : M/s. S.N. Roy & M. K. Roy, Advocates.  
For the Respondent: Mr. S.N. Rajgarhia, A.P.P.

**PRESENT**  
**HON'BLE MRS. JUSTICE JAYA ROY**

**JUDGMENT**

**Jaya Roy, J** Heard the learned counsel for the appellants and the learned counsel for the State.

2. The appellants have filed the instant appeal against Judgment dated 12.05.2000 passed by Sri D.N. Upadhyay, 1<sup>st</sup> Additional Sessions Judge, Giridih in connection with T.R. No. 39 of 2000 corresponding to G.R. No. 808 of 1993 whereby the trial Court has convicted all the three appellants under Sections 323 and 324 of the I.P.C. and directed them to be released on furnishing security bond of Rs.5000/- with two sureties of the like amount each under Section 4 of the Probation of the Offenders Act to maintain peace and to keep good behaviour for two years from the date of the judgment and if the condition of the bond is not complied with, the convict shall be called upon to serve out the sentence.

3. The learned counsel of the appellants, has confined his argument only on the question of sentence. It is submitted that at the time of admission of the appeal order has been passed that the execution of the bond by the appellants as directed by the Special Judge, Giridih shall be subject to the result of the appeal.

4. The brief fact of the case is that all the three appellants are charged under Sections 342/323//324/506 of the Indian Penal Code for having been wrongfully confined Akli Devi, Jharia Devi and Reshmi Devi on 28<sup>th</sup> May, 1993 at village Charghara (Lohariapahari), P.S. Birni, District-Giridih and further causing hurt to the above three injured. The

appellants alleged to have threatened the informant and others. All the three appellants were also charged under Sections 3(i)(ii)(iv)&(v) of the S.C. & S.T. (P.O.A.) Act, 1989 for having caused hurt to the informant and her companion who were the members belonging to the Schedule Tribes.

5. The trial Court after considering the evidence of the prosecution witnesses and also the evidence adduced by the three witnesses examining on behalf of the appellants and the materials on record, convicted all the three appellants under Sections 323 and 324 of the Indian Penal Code only and has not found them guilty for any other offence as they were charged. Admittedly, all the three appellants are aged about 55 years at the time of the judgment and as no previous conviction has been brought on record against any of them by the prosecution, the trial Court directed them to be released on furnishing surety bond of the like amount each under Section 4 of the Probation of Offenders Act to maintain peace and to keep good behaviour for two years from the date of the judgment and if the condition of the bond is not complied with, the appellants shall be called upon to serve out the sentence.

6. From the record, I find all the three appellants are now aged above 64 years and all of them were in the custody for sufficient period during the trial. Therefore, I confirm the conviction and modify the sentence to the period already undergone and the appellants are not required to execute any bond under Section 4 of the Probation of the Offenders Act. Accordingly, the appeal is partly allowed with the aforesaid modification.

*(Jaya Roy, J.)*

***Jharkhand High Court, Ranchi,  
Dated 21<sup>st</sup> May, 2009  
N.A.F.R./Anit***