

FORM- A

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-IV, AURANGABAD Present: Divya Vashistha, District & Additional Sessions Judge-IV, Aurangabad Date of Judgment: 30.04.2026 FIR No.- 100/2018 PS- Muffasil, Aurangabad U/Sec. 147, 148, 149, 323, 307 and 302 of the IPC	
Complainant	State of Bihar
Represented by	Sri Surajmal Sharma, APP and Sri Kamla Yadav, Advocate
Accused	<ol style="list-style-type: none">1. Ramdahin Paswan, (A1) S/O Late Suresh Paswan (Aged about 44 Years)2. Bholu Paswan @ Chandrashekhar Paswan, (A2) S/O Bharat Paswan (Aged about 32 Years)3. Krishna Paswan (A3), S/O Late Jagmohan Paswan (Aged about 54 Years)4. Lutan Paswan (A4), S/O Naresh Paswan (Aged about 34 Years)5. Bharat Paswan (A5), S/O Late Yadunandan Paswan (Aged about 59 Years)6. Vinay Paswan (A6), S/O Late Suresh Paswan (Aged about 39 Years)7. Ajay Paswan (A7), S/O Ramdas Paswan, (Aged about 53 Years)8. Satendra Paswan (A8), S/O Jayram Paswan, (Aged about 49 Years)9. Naresh Paswan (A9), S/O Late Ramratan Paswan (Aged about 62 Years)10. Santosh Paswan (A10), S/O Late Jagmohan Paswan (Aged about 47 Years) All R/O village-Pahrama, PS- Muffasil, District- Aurangabad
Represented by	Sri Chandreshwar Paswan, Sri Parshuram Sharma

FORM- B

Date of Offence	09.06.2018
Date of FIR	09.06.2018
Date of Chargesheet and supplementary chargesheet	31.08.2018 and 31.09.2018
Date of Commitment	20.11.2018
Date of Framing of Charges	22.07.2019
Date of commencement of evidence	07.08.2019
Date on which judgment is reserved	18.04.2026
Date of Judgment	30.04.2026
Date of Sentencing Order, If any	05.05.2026

**CNR- BRAU01-006171-2018 SESSIONS TRIAL No.- 508/2018/730/2024 C.I.S. No.
508/2018**

Accused Details :

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences Charged With	Whether Acquitted or Convicted	Sentence imposed	Period of Detention undergone during trial for purpose of Section 428, Cr.P.C.
1.	Ramdahin Paswan	10.06.2018	30.11.2018	Charge was framed under S. 147, 148, 149, 323, 307, 302	Convicted	For S. 302 of the IPC RI for life & fine of Rs. 5000/- in default of payment of fine Simple Imprisonment of 3 months. For S. 147, 149 of the IPC Simple Imprisonment of 1 year and fine of Rs. 1000/- and in default of payment of fine Simple Imprisonment of 3 months. For S. 148 & 149 of the IPC Simple Imprisonment of 2 years and to pay fine of Rs. 1000/- and in default of payment of fine Simple Imprisonment of 3 months	05 Months 20 Days
2.	Bhola Paswan @Chandrashekhar Paswan	31.08.2018	20.10.2018		Convicted	For S. 302 of the IPC RI for life & fine of Rs. 5000/- in default of payment of fine SI of 3 months. For S. 147, 149 of the IPC Simple Imprisonment of 1 year and fine of Rs. 1000/- and in default of payment of fine Simple Imprisonment of 3 months. For S. 148 & 149 of the IPC Simple Imprisonment of 2 years and to pay fine of Rs. 1000/- and in default of payment of fine Simple Imprisonment of 3 months For S. 323 of the IPC SI of 6 months and fine of Rs. 500/- and in default of payment of fine Simple Imprisonment of 3 months.	01 Month 20 Days
3.	Krishna Paswan	10.06.2018	25.09.2018		Convicted	For S. 302 of the IPC Rigorous Imprisonment for life & fine of Rs. 5000/- in default of payment of fine Simple Imprisonment of 3 months.	03 Months 15 Days
4.	LutanPaswan	10.06.2018	30.11.2018		Convicted		05 Months 20 Days

**CNR- BRAU01-006171-2018 SESSIONS TRIAL No.- 508/2018/730/2024 C.I.S. No.
508/2018**

5.	Bharat Paswan	31.08.2018	20.10.2018	Convicted	For S. 147, 149 of the IPC Simple Imprisonment of 1 year and fine of Rs. 1000/- and in default of payment of fine Simple Imprisonment of 3 months.	01 Month 20 Days
6.	Vinay Paswan	01.09.2018	20.12.2018	Convicted		03 Months 19 Days
7.	Ajay Paswan	NIL	NIL	Convicted	For S. 148 & 149 of the IPC Simple Imprisonment of 2 years and to pay fine of Rs. 1000/- and in default of payment of fine Simple Imprisonment of 3 month	NIL
8.	Satendra Paswan	05.09.2018	20.12.2018	Convicted		03 Months 15 Days
9.	Naresh Paswan	05.09.2018	20.12.2018	Convicted	For S. 302 of the IPC Rigorous Imprisonment for life & fine of Rs. 5000/-. In default of payment of fine Simple imprisonment of 3 months. For S. 147, 149 of the IPC Simple Imprisonment of 1 year and fine of Rs. 1000/- and in default of payment of fine Simple Imprisonment of 3 months. For S. 148 & 149 of the IPC SI of 2 years and to pay fine of Rs. 1000/- and in default of payment of fine Simple imprisonment of 3 month	03 Months 15 Days
10	Santosh Paswan	01.09.2018	30.04.2026	Convicted		07 Years 07 Months 29 Days

FORM- C

LIST OF PROSECUTION/DEFENCE /COURT WITNESS

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE
PW-1	Rampravesh Yadav	(Eye witness)
PW-2	Shatrudhan Paswan	(Adverse witness)
PW-3	Lalan Singh	(Adverse witness)
PW-4	Arvind Singh	(Adverse witness)
PW-5	Vijay Yadav	(Eye witness)
PW-6	Mithlesh Yadav	(Eye witness)
PW-7	Arun Yadav	(Eye witness)
PW-8	Binesh Yadav	(Informant/Eye witness)
PW-9	Rakesh Kumar	(Injured)
PW-10	Dr. Sunil Kumar	(Medical Officer who examined PW-9)
PW-11	Dr. Ashok Kumar	(Medical Officer who did postmortem of the deceased
PW-12	Satendra Prajapati	(Formal Witness)

B. Defence Witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE
NIL	NIL	NIL

C. Court Witness, if any:

RANK	NAME	NATURE OF EVIDENCE
NIL	NIL	NIL

LIST OF PROSECUTION/DEFENCE /COURT EXHIBITS

A. Prosecution:

Sr. No	Exhibit Number	Description
1	Exhibit-1	Signature of PW-1 and Rajeev Kumar Singh on the fardbeyan
2	Exhibit-P1	Signature of PW-8 on the fardbeyan
3	Exhibit-P02	Postmortem report of deceased Suryadev Yadav
4	Exhibit-P03	Fardbeyan recorded by SI Rajkumar Pandey, PS-Muffasil, District-Aurangabad
5	Exhibit-P04	Endorsement over the fardbeyan in the handwriting and signature of Krishnandan Kumar, SHO Muffasil, Aurangabad
6	Exhibit-P05	Formal FIR
7	Marked X for identification	Photocopy of the Inquest report of the deceased Suryadev Yadav
8	Marked Y for identification	Photocopy of the Injury report of PW-09

Material exhibit produced on behalf of the prosecution

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

B. Defence:

Sr. No	Exhibit Number	Description
1	Exhibit-A	Certified copy of Formal FIR of Muffasil PS Case no. 101/2018
2	Exhibit-B	Certified copy of Charge-sheet of Muffasil PS Case no. 101/2018
3	Exhibit-C	Certified copy of Cognizance of Muffasil PS Case no. 101/2018

C. Court Exhibits

Sr. No	Exhibit Number	Description
NIL	NIL	NIL

D. Material Objects:

Sr. No	Material Object Number	Description
NIL	NIL	NIL

(Divya Vashistha)

District &Additional Sessions Judge IV,

Aurangabad

30.04.2026

Dictated& corrected by me

(Divya Vashistha)

District &Additional Sessions Judge IV,

Aurangabad

30.04.2026

In The Matter of: -

State (Through the informant Binesh Yadav informant) Prosecution

Versus

1. Ramdahin Paswan, S/O Late Suresh Paswan (Aged about 44 Years)
2. Bhola @ Chandrashekhar Paswan, S/O Bharat Paswan (Aged about 32 Years)
3. Krishna Paswan , S/O Late Jagmohan Paswan (Aged about 54 Years)
4. Lutan Paswan, S/O Naresh Paswan (Aged about 34 Years)
5. Bharat Paswan, S/O Late Yadunandan Paswan (Aged about 59 Years)
6. Vinay Paswan, S/O Late Suresh Paswan (Aged about 39 Years)
7. Ajay Paswan, S/O Ramdas Paswan, (Aged about 53 Years)
8. Satendra Paswan, S/O Jayram Paswan, (Aged about 49 Years)
9. Naresh Paswan, S/O Late Ramratan Paswan (Aged about 62 Years)
10. Santosh Paswan, S/O Late Jagmohan Paswan (Aged about 47 Years)

All R/O village-Pahrama, PS- Muffasil, District- Aurangabad

.....Accused Persons

P.S. – Muffasil, Aurangabad

F.I.R. No. - 100/2018

U/Section 147, 148, 149, 323, 307 and 302 of the IPC

[Cognizance U/Section 147, 148, 149, 323, 307 and 302 of the IPC

District- Aurangabad

Ld. Counsel for Prosecution: - Sri Surajmal Sharma, APP
Sri Kamla Yadav, Advocate

Ld. Counsel for Defence : - Sri Chandreshwar Paswan,
Sri Parshuram Sharma

Date of Judgement: 30.04.2026

Present: Divya Vashistha,
District & Additional Sessions Judge IV,
Aurangabad, Bihar

JUDGMENT

1. A mundane evening in a village where a quarrel started over a cricket game, culminated in a collective violence, leading to fatal consequence. This Court must now determine whether this violence was merely a spontaneous outburst or a concerted act of an unlawful assembly carrying a common object that resulted in the death of a man. The answer depends not on conjecture, but on a careful evaluation of evidence-ocular and medical, tested against settled principles of criminal law.

2. The fardbeyan of the informant, Binesh Yadav (PW8), was recorded by SI Rajkumar Pandey of PS Muffasil, Aurangabad, at Sadar Hospital, Aurangabad, on 09.06.2018 at 9:15 PM.

The prosecution case, in brief, as stated in the fardbeyan, is as follows. On 09.06.2018 at about 5:00 PM, Rakesh Yadav (PW9), the younger brother of the informant, was playing cricket in a field near the orchard of one Panditji, along with other village boys, including Ravindra Yadav and Guddu Yadav. At that time, Bhola @ Chandrashekhar Paswan, Rohit Paswan @ Kallu, Sarbajit Paswan, and Vikas Paswan arrived there and asked Rakesh and the others to stop playing, saying it was their turn. This led to an altercation between the two sides. During the altercation, Bhola @ Chandrashekhar Paswan struck Rakesh with a bat, causing injuries on his head and other parts of his body. Thereafter, Bhola @ Chandrashekhar Paswan and the boys accompanying him left the place.

Thereafter, to resolve the dispute, the informant (PW8), along with his cousin Suryadev Yadav (deceased), Rampravesh Yadav (PW1), and Vijay Yadav (PW5), proceeded towards the house of Bharat Paswan and Santosh Paswan. However, when they reached near the house of Devnandan Yadav, they encountered the following persons coming from the northern side of the village: (1) Bharat Paswan, (2) Santosh Paswan, (3) Bhola @ Chandrashekhar Paswan, (4) Vinay Paswan, (5) Vikas Paswan, (6) Rohit Paswan, (7) Naresh Paswan, (8) Ramdahin Paswan, (9) Krishna Paswan, (10) Lutan Paswan, (11) Ajay Paswan, (12) Dilip Paswan, and (13) Satyendra Paswan. They were armed with lathis and a gadasa.

On seeing them, Suryadev Yadav questioned them about the assault on PW9. Upon this, Bharat Paswan allegedly directed the others to kill them. Thereafter, Santosh Paswan struck Suryadev Yadav on the head with a lathi, causing him to fall to the ground. The other accused persons then assaulted him with lathis, as a result of which he lost consciousness. The informant, Rampravesh Yadav, and Vijay Yadav tried to intervene. However, when the accused persons chased them, they retreated and saved themselves. In the meantime, several villagers gathered at the place of occurrence. Suryadev Yadav was then taken to Sadar Hospital, Aurangabad, by auto-rickshaw, where the doctor declared him brought dead.

3. The FIR was registered under Section 147, 148, 149, 323, 307 and 302 of the IPC against (1) Bharat Paswan, (2) Santosh Paswan, (3) Bhola @ Chandrashekhar Paswan, (4) Vinay Paswan, (5) Vikas Paswan, (6) Rohit Paswan, (7) Naresh

Paswan, (8) Ramdahin Paswan, (9) Krishna Paswan (10) Lutan Paswan (11) Ajay Paswan (12) Dilip Paswan and (13) Satyendra Paswan.

4. The charge-sheet in the given case was submitted under Section 147, 148, 149, 323, 307 and 302 of the IPC against (1) Ajay Paswan, (2) Lutan Paswan, (3) Krishna Paswan, (4) Bharat Paswan, (5) Vinay Paswan, (6) Satendra Paswan, (7) Naresh Paswan, (8) Santosh Paswan, (9) Ramdahin Paswan and (10) Bhola @ Chandrashekhar Paswan

The case record of Vikas Paswan and Rohit Paswan was sent to Juvenile Justice Board, Aurangabad.

Accused Dilip Paswan is facing separate trial.

5. The Cognizance in the given case was taken under Section 147, 148, 149, 323, 307 and 302 of the IPC against- (1) Ajay Paswan, (2) Lutan Paswan, (3) Krishna Paswan, (4) Bharat Paswan, (5) Vinay Paswan, (6) Satendra Paswan, (7) Naresh Paswan, (8) Santosh Paswan, (9) Ramdahin Paswan and (10) Bhola @ Chandrashekhar Paswan.

6. The case against (1) Ajay Paswan, (2) Lutan Paswan, (3) Krishna Paswan, (4) Bharat Paswan, (5) Vinay Paswan, (6) Satendra Paswan, (7) Naresh Paswan, (8) Santosh Paswan, (9) Ramdahin Paswan and (10) Bhola @ Chandrashekhar Paswan was committed to the Court of Sessions on 20.11.2018.

7. The Charge against the accused (1) Ajay Paswan, (2) Lutan Paswan, (3) Krishna Paswan, (4) Bharat Paswan, (5) Vinay Paswan, (6) Satendra Paswan, (7) Naresh Paswan, (8) Santosh Paswan, (9) Ramdahin Paswan and (10) Bhola @ Chandrashekhar Paswan was framed under Section 147, 148, 149, 307 and 302 of the IPC and under Section 323 of the IPC against (1) Santosh Paswan, (2) Vinay Paswan, (3) Ajay Paswan, (4) Satendra Paswan, (5) Naresh Paswan and (6) Bhola @ Chandrashekhar Paswan. The charges were read over and explained to above mentioned accused persons in Hindi but they abjured their guilt and claimed trial.

8. In their respective statements under Section 313 of the CrPC all the above mentioned accused persons took the defence of innocence.

FINDINGS

9. In this case the following oral evidence were adduced on behalf of the prosecution-

PW-1 Rampravesh Yadav

(Eye witness)

PW-2 Shatrudhan Paswan

(Adverse witness)

PW-3 Lalan Singh	(Adverse witness)
PW-4 Arvind Singh	(Adverse witness)
PW-5 Vijay Yadav	(Eye witness)
PW-6 Mithlesh Yadav	(Eye witness)
PW-7 Arun Yadav	(Eye witness)
PW-8 Binesh Yadav	(Informant/ Eye witness)
PW-9 Rakesh Kumar	(Injured)
PW-10 Dr. Sunil Kumar	(Medical Officer who examined) PW-9)
PW-11 Dr. Ashok Kumar	(Medical Officer who did postmortem of the deceased)
PW-12 Satendra Prajapati	(Formal Witness)

Documentary evidence furnished on behalf of the prosecution-

Exhibit-1	Signature of PW-1 and Rajeev Kumar Singh on the Fardbeyan.
Exhibit-P1	Signature of PW-8 on the Fardbeyan.
Exhibit-P02	Postmortem report of deceased Suryadev Yadav
Exhibit-P03	Fardbeyan recorded by SI Rajkumar Pandey, PS Muffasil, District- Aurangabad
Exhibit-P04	Endorsement over the fardbeyan in the handwriting and signature of Krishnandan Kumar, SHO Muffasil, Aurangabad
Exhibit-P05	Formal FIR

Marked X for identification- Photocopy of Inquest report of the deceased Suryadev Yadav.

Marked Y for identification- Photocopy of injury report of PW-09.

9. No oral evidence was given on behalf of the defence.

Documentary evidence adduced on behalf of the defence

Exhibit-A	Certified copy of Formal FIR of the Muffasil PS Case no. 101/2018.
Exhibit-B	Certified copy of Chargesheet of the Muffasil PS Case no. 101/2018.
Exhibit-C	Certified copy of Cognizance order in the Muffasil PS Case no. 101/2018.

Argument on behalf of the Prosecution

- The genesis of the occurrence is proved by the counter case instituted by the defence.
- Presence of the informant and accused persons on spot is also proven by the counter case instituted by the defence.
- Place of occurrence is also established on the basis of the counter case instituted by the defence.
- The prosecution proved the case against the accused persons beyond all reasonable doubt and the defence did not lead any evidence to shake prosecution story.

Argument on behalf of the defence

- Informant is not a family member of the deceased but a co-villager nor any close family member like wife, children, parents have been testified by the prosecution to put forward the story of death of the deceased.
- Place of occurrence not established as the Investigating Officer (in short, IO) has not been examined.
- According to the prosecution story the deceased was attacked by all accused with lathi and gadasa but only one head injury found on the person of the deceased which makes the prosecution story doubtful.
- The prosecution failed to establish the genesis of the occurrence.
- The prosecution witnesses were interested witnesses and have given contradictory evidence from the case diary.
- Oral testimony of PW-2, PW-3 and PW-4 indicate that accused Krishna Paswan was not present on spot at the time of second occurrence.

Point of Determination

- Whether the accused persons murdered Suryadev Yadav by assaulting him with lathi and gadasa in furtherance of common object ?
- Whether the accused persons in furtherance of common object cause hurt to the deceased Suryadev Yadav and PW9 with such intention and knowledge that such act may cause death of the deceased ?
- Whether accused Santosh Paswan, Vinay Paswan, Ajay Paswan, Satendra Paswan, Naresh Paswan and Chandrashekhar Paswan @ Bhola Paswan voluntarily caused simple hurt to the deceased Suryadev Yadav and PW-09?
- Whether the accused persons in furtherance of common object committed the offence of rioting?
- Whether the accused persons armed with deadly weapons like lathi and gadasa committed the offence of rioting in furtherance of common object?

Oral testimony of Prosecution Witnesses

PW-1 Rampravesh Yadav stated in his examination-in-chief that the occurrence took place on 09.06.2018 at 05:00 PM. When he was at his home an altercation took place between Chandrashekhar Paswan @ Bhola, Vikas Paswan, Rohit Paswan, Ravindra Yadav and PW-9. Chandrashekhar Paswan @ Bhola, Rohit and Vikas hit and injured PW-9. To inquire the matter he, PW-8 and Suryadev Yadav (deceased) moved towards the house of accused persons but met the following persons near the house of Devnandan - (1) Bharat Paswan, (2) Santosh Paswan, (3) Bhola @ Chandrashekhar Paswan, (4) Vinay Paswan, (5) Vikas Paswan, (6) Rohit Paswan, (7) Naresh Paswan, (8) Ramdahin Paswan, (9) Krishna Paswan (10) Lutan Paswan (11) Ajay Paswan (12) Dilip Paswan and (13) Satyendra Paswan who were armed with lathi and gadasa. When Suryadev Yadav queried about the occurrence Bharat Paswan directed above mentioned accused persons to kill him. Santosh Paswan gave a lathi blow on the left side of the head of Sryadev Yadav (deceased) and Vinay Paswan hit on the left leg of the deceased with a gadasa. When he (PW-1) and PW-8 moved forward to liberate the deceased Bharat Paswan ordered the accused persons to hit them. Hence, they got scared and moved back. Hearing the uproar, people from village gathered due to which above mentioned accused persons left the spot. Suryadev Yadav was taken to Sadar Hospital, Aurangabad where he was declared dead by the doctor. The inquest report of the deceased was prepared at the hospital on which he (PW-1) made his signature. The fardbeyan of PW-8 (Informant) was recorded by a police officer after understanding which and finding it to be correct PW-8, he and one Raju made their respective signatures (Exhibit-2, 2/a and 2/b).

In his **cross-examination** PW-1 stated that although he was a teacher in a school in Obra but on the date of occurrence the school was closed due to summer vacation. He was not present where the fight with relation to cricket took place. After the mentioned incident the player of the cricket match belonging to Yadav community approached him to complain at around 05:15 PM. The deceased, PW-8 and PW-5 were also present there. The second PO was about 300 to 350 feet away from his residence. Four people left for the accused house and the deceased Suryadev Yadav was in front while they were moving behind him. The second incidence took place in a passage. At the second PO the deceased was attacked by 13 accused persons and only deceased was injured while they did not sustain any injury. Deceased had injuries on his head and leg. The entire incidence took place for six (6) minutes. Due to the assault to the deceased there was hue and cry listening which PW-6 and PW-7 reached the spot.

PW-2 Shatrudhan Paswan stated in his examination-in-chief that the incidence took place on 09.06.2018 but he had no idea about the time of the occurrence. Accused Krishna Paswan met him at his residence situated in Rajoi at 06:00 PM. He offered Krishna Paswan to stay overnight but he refused. Krishna Paswan left his residence at 06:30 PM after having refreshment. The next day he got to know that accused Krishna Paswan had taken the injured for treatment but got arrested.

In **his cross-examination** PW-2 asserted that he came to know about the incidence on 09.06.2018 through reading newspaper. His son was married to the daughter of Krishna Paswan. He had no idea about the occurrence.

PW-3 Lalan Singh in his examination-in-chief mentioned that the occurrence took place in the sixth month of 2019 but he was unaware about the occurrence. Accused Krishna Paswan was working in Vaishnavi Tractors and he had given Rs. 35,000 to him. Apart from Krishan Paswan he did not identify any of the accused.

In **his cross-examination** PW-3 submitted that he was given his evidence voluntarily.

PW-4 Arvind Singh specified in his examination-in-chief that accused Krishna approached him to purchase tractor on 09.06.2018 at 06:00 PM after which Krishna left for his residence.

In **his cross-examination** PW-4 stated that he had no knowledge about the occurrence and he was acquainted with accused Krishna because of professional relationship.

PW-5 Vijay Yadav deposed in his examination-in-chief that on 09.06.2018 at 05:00 PM Bhola Paswan, Vikas Paswan, Rohit Paswan, PW-9 and Ravindra Yadav had heated argument with regard to cricket match. Bhola Yadav hit PW-9 with the cricket bat on his head. To resolve the given issue he, Suryadev Yadav, PW-1 and PW-8 left for the house of Bharat Paswan and Santosh Paswan but met (1) Bharat Paswan, (2) Santosh Paswan, (3) Bhola @ Chandrashekhar Paswan, (4) Vinay Paswan, (5) Vikas Paswan, (6) Rohit Paswan, (7) Naresh Paswan, (8) Ramdahin Paswan, (9) Krishna Paswan (10) Lutan Paswan (11) Ajay Paswan (12) Dilip Paswan and (13) Satyendra Paswan who were armed with lathi and gadasa near the house of Devnandan Yadav. When Suryadev Yadav asked why his brother (PW-9) was assaulted accused Bharat Paswan directed the other accused to kill him. Santosh Paswan hit on the right side of the head of the Suryadev with the lathi while Vinay Paswan gave gadasa blow on his left leg due to which he fell on the ground. The remaining accused started hitting him. He tried to rescue Suryadev Yadav but accused Bharat Paswan ordered to kill him hearing which PW-6, PW-7 and other villagers gathered due to which all the accused left the spot. Suryadev Yadav was taken to Sadar Hospital, Aurangabad on an auto rickshaw where the doctor declared him dead.

In his **cross-examination** PW-5 specified that the cricket was being played in the orchard of Panditji and he saw them playing and also saw the occurrence which took place at 05:00 PM and the second incidence took place at 05:30 PM. Accused Vinay Paswan was carrying gadasa while remaining accused were armed with lathi. Suryadev Yadav had four minor children and his wife and father were alive.

PW-6 Mithlesh Yadav specified in his examination-in-chief that occurrence took place on 09.06.2018 at 05:30 PM. The boys of Yadav community and Paswan community had heated argument with regard to cricket match near the orchard of Jainandan Mishra. Chandrashekhar Paswan hit on the head of PW-9 with a bat. To resolve the issue Suryadev Yadav, PW-1, PW-5, PW-8 were going towards the house of Bharat Paswan and Santosh Paswan but met (1) Bharat Paswan, (2) Santosh Paswan, (3) Bhola @ Chandrashekhar Paswan, (4) Vinay Paswan, (5) Vikas Paswan, (6) Rohit Paswan, (7) Naresh Paswan, (8) Ramdahin Paswan, (9) Krishna Paswan (10) Lutan Paswan (11) Ajay Paswan (12) Dilip Paswan and (13) Satyendra Paswan near the house of Jainandan Yadav. All the above mentioned accused were armed with lathi and gadasa surrounded Suryadev Yadav. Bharat Paswan directed to kill him hearing which PW-7 also reached the spot. Santosh Paswan gave lathi blow on the right side of the head of Suryadev Yadav due to which he fell on the ground. Vinay Paswan hit on his left leg with gadasa. Thereafter, all the accused started beating Suryadev Yadav with lathi and danda. When the villagers gathered all the accused ran away. Suryadev Yadav was taken to a doctor on an auto but the doctor declared him dead.

In his **cross-examination** PW-6 stated that when the cricket was being played he was at his home and co-villagers told him about the cricket incidence. When the second occurrence took place, he had gone to the grossery store of Shiv Prasad Yadav which was near the house of Jainandan Yadav. Only Vinay Paswan was carrying gadasa while the remaining accused were carrying the lathi. He did not go to the hospital with the deceased. PW-1, PW-5, PW-8 and Rajeev Kumar Singh joined Suryadev Yadav for the hospital. He was distant cousin of Suryadev Yadav. Lathi and gadasa were the weapons of assault which were used during the occurrence. Suryadev Yadav had one injury on right side of the head and one injury on the left side of the leg below the knee.

PW-7 Arun Yadav has deposed in his examination-in-chief that the occurrence took place on 09.06.2018 at 05:30 PM. He was doing some work at his home when he heard the sought of Bharat Paswan after which he reached the spot and saw that (1) Bharat Paswan, (2) Santosh Paswan, (3) Bhola @ Chandrashekhar Paswan, (4) Vinay Paswan, (5) Vikas Paswan, (6) Rohit Paswan, (7) Naresh Paswan, (8) Ramdahin Paswan, (9) Krishna Paswan (10) Lutan Paswan (11) Ajay Paswan (12) Dilip Paswan and (13) Satyendra Paswan had surrounded Suryadev Yadav. Santosh Paswan hit

Suryadev Yadav on his head with a lathi while Vinay Paswan gave gadasa blow on his leg. Thereafter, all the 13 accused attacked him. Meanwhile, people gathered and all the accused left the spot. Suryadev Yadav was taken to Sadar Hospital, Aurangabad where doctor declared him dead.

In his **cross-examination PW-7** mentioned that when he reached the spot he saw blood on the body of Suryadev Yadav and when he was brought back from the hospital he was dead. He saw injury on the left leg of Suryadev Yadav but he could not say which accused hit on which part of his body. The deceased was his distant uncle in relation. He did not go to the police station or the hospital with Suryadev Yadav.

PW-8 Binesh Yadav stated in his **examination-in-chief** that he was the informant of this case and the occurrence took place on 09.06.2018 at 05:00 PM. PW-9 who was his brother, Guddu Yadav, Rajendra Yadav and others were playing cricket on the western side of the village near the orchard of Panditji. Bhola @ Chandrashekhar Paswan, Vikas Paswan, Rohit Paswan, Sarabjeet Paswan tried to stop them as they wanted to play cricket. An altercation took place between both the sides and Bhola Paswan hit on the head of PW-9 with a cricket bat. Thereafter, he (PW-8) Suryadev Yadav, PW-1 and PW-5 were going towards the house of Bharat Paswan and Santosh Paswan to pacify the matter but they met all the accused coming from the North side on the way. (1) Bharat Paswan, (2) Santosh Paswan, (3) Bhola @ Chandrashekhar Paswan, (4) Vinay Paswan, (5) Vikas Paswan, (6) Rohit Paswan, (7) Naresh Paswan, (8) Ramdahin Paswan, (9) Krishna Paswan (10) Lutan Paswan (11) Ajay Paswan (12) Dilip Paswan and (13) Satyendra Paswan armed with lathi and gadasa surrounded Suryadev Yadav and on direction of Bhart Paswan, Santosh Paswan hit with a lathi on the head of Suryadev Yadav due to which he fell on the ground. Vinay Paswan gave gadasa blow on his left leg. After that all the accused started beating Suryadev Yadav. He (PW-8) tried to rescue Suryadev Yadav but accused persons chased him but he moved back. When villagers gathered accused persons left the spot. Suryadev Yadav was taken to hospital where doctor declared him dead. He proved his signature (Exhibit-P1) on the fardbeyan.

In his cross-examination PW-8 stated that PW-9 started playing cricket at 05:00 PM but he did not see him playing and the entire dispute regarding the cricket match was narrated to him by PW-9 at 05:15 PM. The second occurrence took place near the house of Devnandan Yadav. Due to the assault Suryadev Yadav fainted and never gained consciousness. The postmortem of the deceased Suryadev Yadav was done at night on the date of occurrence. At the time of the cremation of the deceased the father and wife of the deceased were alive.

PW-9 Rakesh Yadav stated in his examination-in-chief that the occurrence took place on 09.06.2018 at 05:00 PM. He was playing cricket along with Ravindra Yadav, Guddu Yadav and others in a field situated on the western side of the village near the orchard of Panditji. Chandrashekhar Paswan, Rohit Pawan, Vikas Paswan, Sarbajeet Paswan and others tried to stop them and when he opposed Chandrashekhar Paswan hit on his head with the bat. He complained to PW-9 and Suryadev Yadav about the above mentioned occurrence. PW-8 and Suryadev Yadav left for the house of Bharat Paswan and Santosh Paswan to resolved the issue and he goes behind them. When they reached near the house of Jainandan Yadav they met (1) Bharat Paswan, (2) Santosh Paswan, (3) Bhola @ Chandrashekhar Paswan, (4) Vinay Paswan, (5) Vikas Paswan, (6) Rohit Paswan, (7) Naresh Paswan, (8) Ramdahin Paswan, (9) Krishna Paswan (10) Lutan Paswan (11) Ajay Paswan (12) Dilip Paswan and (13) Satyendra Paswan coming from North side armed with lathi and gadasa. All the above stated accused surrounded Suryadev Yadav and Santosh Paswan hit with a lathi on the head of Suryadev Yadav due to which he fell on the ground. Vinay Paswan hit him with a gadasa on his leg. Thereafter, all the accused started beating him because of which Suryadev Yadav fainted. All the accused ran away when they saw the villagers gathering. Suryadev Yadav was taken to Sadar Hospital where he was declared dead by the doctor. He was also treated in the Sadar Hospital.

In his cross-examination PW-9 specified that Suryadev Yadav was his cousin and he had two sons and he did not count how many lathi blows were given to Suryadev Yadav nor he did remember on which body part Suryadev Yadav sustained injury. The deceased had two minor boys and his father was alive.

PW-10 Dr. Sunil Kumar stated in his **examination-in-chief** that on 09.06.2018 he was posted as Medical Officer at Sadar Hospital, Aurangabad and on that day he examined Rakesh Kumar, Aged-41 years, S/O- Ramkeshwar Yadav at 08:30 PM and found the following injuries-

- i. Lacerated wound on head, red in colour, size 1.5”x ¼
- ii. Mark of Identification- A mole on back right side.
- iii. Type of Injury- Simple in nature caused by hard and blunt substance.

He deposed that the injury report was prepared by him and had his signature on it. The photostat copy of the injury report was marked Y for identification.

In his cross-examination PW-10 deposed that the injury might be possible due to falling on hard surface. He also stated that the injury was not dangerous for life.

PW-11 Dr. Ashok Kumar stated in his examination-in-chief that on 09.06.2018 he was posted as Medical Officer at Sadar Hospital, Aurangabad and on that date he examined the dead body of Suryadev Yadav, Aged about-45 years, S/O- Ramkrit Yadav

which was brought by police and relatives. On examination the following ante mortem injuries were found -

External- Bleeding from both nostrils, mouth and both ears. 2+1/2" x 1" lacerated wound on head on right side which was bone deep.

Internal- (i) Skull- right parietal bone fractured with severe bleeding below the skin. Extravasion of blood in cavinal cavity. Other cranial bones intact. Meninges intact and congested.

(ii) Neck- No abnormality detected,

(iii) Chest- Both lungs intact and congested. Heart both chamber left empty and right filled with blood.

(iv) Abdomen- Liver spleen and both kidney intact and congested. Stomach contents semi digested food particles. Small intestine contents juicy material. Large intestine contains fecal matter and gases. Urinary bladder contains about 50 ml of urine.

Cause of death- Due to above mentioned injuries there was brain hemorrhage, leading to hypovolemic shock, CR failure and ultimately death.

Time elapsed since death to postmortem done: within 24 hours.

He deposed that the postmortem report (Exhibit-P02) was in his handwriting and bears his signature.

In his cross-examination PW-11 has deposed that rigor mortis was not present in all four limbs of the deceased as the same starts after death and continues till 12 hours and then disappears. The postmortem report showed that the injury was caused to the deceased within 24 hours. The colour of the injury has not been mentioned. The weapon used to cause the mentioned injury has not been specified because it was not in the investigation. The dead body of the deceased was identified by the police and relatives.

PW-12 Satendra Prajapati is an Advocate Clerk bearing registration no. 94/2019. In his examination-in-chief he proved the following documents-

Exhibit-P03- Fardbeyan recorded by SI Rajkumar Pandey, PS Muffasil, District- Aurangabad

Exhibit-P04- Endorsement over the fardbeyan in the handwriting and signature of Krishnandan Kumar, SHO Muffasil, Aurangabad

Exhibit-P05- Formal FIR

In his cross-examination PW-12 mentioned that he had not worked with SI Rajkumar Pandey, SHO Muffasil Krishnandan Kumar nor fardbeyan was written in his presence.

Appreciation of Evidence

Offence under Section 302 of the IPC

Whether the accused persons murdered Suryadev Yadav by assaulting him with lathi and gadasa in furtherance of common object ?

To bring home offence of murder which has been described under Section 300 of the IPC the prosecution has to show that-

- I. The act by which the death was caused was done with the intention of causing death, or
- II. The act was done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or
- III. The act is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or
- IV. If the person committing the act knows that it is so imminently dangerous that it must in all probability cause death or such bodily injury as is likely to cause death and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

In the present case, PW-1, PW-5 and PW-8 who were the eye witnesses have deposed that they had left on the fateful day for the house of accused persons along with the deceased Suryadev Yadav, met (1) Bharat Paswan, (2) Santosh Paswan, (3) Bhola @ Chandrashekhar Paswan, (4) Vinay Paswan, (5) Vikas Paswan, (6) Rohit Paswan, (7) Naresh Paswan, (8) Ramdahin Paswan, (9) Krishna Paswan (10) Lutan Paswan (11) Ajay Paswan (12) Dilip Paswan and (13) Satyendra Paswan near the house of Jainandan Yadav. PW-1, PW-5 and PW-8 asserted that all the aforesaid persons were armed with lathi and gadasa and they surrounded Suryadev Yadav when he queried them about the cricket dispute which took earlier in the evening. Bharat Paswan ordered the above mentioned accused persons to kill Suryadev Yadav hearing which accused Santosh Paswan hit Suryadev Yadav with the lathi on his head and Vinay Paswan gave gadasa blow on his left leg due to which Suryadev Yadav fell on the ground. After that all the aforesaid persons started thrashing Suryadev Yadav with lathi due to which he fainted. PW-6 and PW-7 conceded that they reached the spot on hearing the shouts and saw the occurrence. Similarly, PW-9 also affirmed the above mentioned occurrence and went on to say that he was walking behind PW-1, PW-5, PW-8 and the deceased while they were going towards the house of accused persons. All the above mentioned eye witnesses invariably stated that due to the beating by lathi

the deceased fainted and was taken to hospital for treatment where he was declared dead.

Ocular evidence vis-a-vis Medical evidence

On going through the medical evidence it is depicted that PW-11 is the Medical Officer who conducted postmortem on the dead body of the deceased. He assessed the age of the deceased to be around 45 years and made the following observations -

External- Bleeding from both nostrils, mouth and both ears. 2+1/2” x 1” lacerated wound on head on right side which was bone deep.

Internal-

(I) Skull- Right parietal bone fractured severe bleeding below the skin.

Extravastion of blood in cavinal cavity. Other cranial bones intact.

Meninges intact and congested.

(ii) Neck- No abnormality detected .

(iii) Chest- Both lungs intact and congested. Heart both chamber left empty and right filled with blood.

(iv) Abdomen- Liver spleen and both kidney intact and congested. Stomach contents semi digested food particles. Small intestine contents juicy material. Large intestine contains fecal matter and gases. Urinary bladder contains about 50 ml of urine.

Cause of death- Due to above mentioned injuries there was brain hemorrhage, leading to hypovolemic shock, CR failure and ultimately death.

The above observation made by PW-11 is verified by the postmortem report (Exhibit-P02) of the deceased. On perusal of the postmortem report and after going through oral testimony of PW-11 it is depicted that the deceased had right parietal bone fractured on the skull with severe bleeding below the skin. His both nostrils, mouth and both ears were bleeding and he had a 2+1/2” x 1” lacerated wound on head on right side which was bone deep. According to the ocular evidence the first attack was on the head of the deceased with a lathi, the second attack was on his leg with a gadasa and the third one was the joint attack of 13 accused with lathi. PW-11 opined that due to above mentioned injuries there was brain hemorrhage, leading to hypovolemic shock, CR failure which ultimately caused death of the deceased.

Intention of causing death

The pivotal question which arises for determination is whether the accused persons had intention to cause death of Suryadev Yadav. Determination of intention is to be necessarily gathered from the cumulative effect of the circumstances proved on record, including the nature of the weapon used the part of the body targeted, the manner of assault, the number of the injuries and the circumstances surrounding the occurrence because intention is a state of mind, as held by Hon’ble Supreme Court in **Pulicherla Nagaraju Vs. State of A.P., 13 (2006) 11 SCC 444.**

In the present case the deceased, PW-1, PW-5 and PW-8 were going towards the house of accused persons while the accused persons armed with lathi and gadasa were coming towards them from opposite direction and they met on the way. There is nothing on record to suggest that the weapons were picked up casually, instead the accused persons were armed with lathi prepared to launch the assault on the deceased, PW-1, PW-5 and PW-8. However, the accused persons assaulted only the deceased as PW-1, PW-5 and PW-8 moved back out of fear. The presence of accused persons in form of an unlawful assembly armed with lathi and the repeated blows inflicted upon the deceased leading to injuries on the head demonstrate that the assault was neither sudden nor an isolated act aimed at the deceased but rather was concerted intentional attack. Equally, there is no material on record to indicate that the assault was outcome of any grave and sudden provocation so as to attack any of the exceptions to Section 300 of the IPC. Thus, it is clear that the intention of accused persons was to assault the deceased with an intention of killing him. Moreover, the deceased had bone deep laceration causing fracture of right parietal bone of the skull leading to severe bleeding which resulted to brain hemorrhage which lead way to hypovolemic shock and CR failure which caused the demise of the deceased. The nature and magnitude of the injury coupled with the fact that the same was sustained on the head which is vital part of the body which was caused by an unlawful assembly of accused persons with common object to inflict such bodily injury to the deceased which was sufficient in the ordinary course of nature to cause death. Therefore, the present case squarely falls within Clause (3) of Section 300 of the IPC.

Hence, the ocular evidence and the medical evidence in the present case are in consonance with each other that shows that the assault was inflicted jointly by the accused persons with the intention of causing bodily injury to the deceased which in the ordinary course of nature caused his death.

Vicarious liability of accused persons under Section 149 of the IPC

Section 149 of the IPC embodies the principle of vicarious liability and renders every member of an unlawful assembly guilty of the offence committed in prosecution of the common object. The central question that arises for determination is whether the death of Suryadev Yadav was the result of a concerted act of the accused persons forming an unlawful assembly, acting in furtherance of their common object, and thereby attracting liability under Sections 302 read with 149 of the Indian Penal Code. The answer to this question must be gathered from a cumulative assessment of ocular testimony, medical evidence, and the surrounding circumstances in which the occurrence took place.

The prosecution case establishes that the incident was not an isolated or accidental act but arose out of a sequence of events beginning with an altercation over a cricket game, followed shortly thereafter by a second and more serious confrontation. The

evidence of PW-1, PW-5, PW-6, PW-7, PW-8 and PW-9 consistently indicates that when the deceased, accompanied by others, proceeded towards the house of the accused persons to question the earlier assault on PW-9, they encountered the accused persons assembled together, armed with lathi and gadasa. The presence of the accused in such huge number, armed with weapons, and approaching from the opposite direction, is a circumstance of much significance. It shows that the assembly was not casual but had gathered with a pre-existing purpose, which developed into a violent assault upon the deceased.

The eye witness account further reveals that upon confrontation, Bharat Paswan exhorted the others, whereafter Santosh Paswan inflicted a forceful blow on the head of the deceased, a vital part of the body, and Vinay Paswan dealt a blow on the leg with a gadasa. Thereafter, the remaining accused joined in the assault using lathis. The witnesses are consistent in asserting that the deceased was surrounded and subjected to a collective attack, and that the assault stopped only upon the arrival of villagers. These witnesses were subjected to thorough cross-examination, but no material contradiction or infirmity has been elicited so as to discredit their core version. Their presence at the place of occurrence is natural, and their testimony inspires confidence.

The medical evidence lends substantial corroboration to the ocular version. The postmortem report indicates a lacerated wound on the head, bone deep, accompanied by fracture of the right parietal bone and internal hemorrhage, leading to death. The nature of the injury, its location on a vital part of the body, and the cause of death as opined by the doctor: brain hemorrhage resulting in shock and cardio respiratory failure, clearly establish that the injury was sufficient in the ordinary course of nature to cause death. The fact that the principal fatal injury is singular does not, in the facts of the present case, detract from the prosecution case, as it is well settled that in a group assault, the precise attribution of each blow is neither possible nor necessary, particularly where the evidence shows that the accused acted in concert and the assault was directed towards achieving a common objective.

The argument advanced on behalf of the defence that the presence of only one major injury renders the prosecution version doubtful cannot be accepted in the facts of the present case. The evidence demonstrates that the initial blow on the head caused the deceased to fall, after which the assault continued. It is neither unusual nor improbable that a decisive injury inflicted on a vital part of the body would prove fatal, even if subsequent blows did not leave distinct marks or were not individually discernible in the postmortem. What is material is the cumulative conduct of the accused and the nature of the attack, not the mere count of injuries.

The existence of common object under Section 149 IPC is to be inferred from the conduct of the members of the assembly, the nature of the weapons carried, and the

manner in which the offence was committed. In the present case, the accused persons assembled in a group, armed with lathis and a gadasa, confronted the deceased, surrounded him, and collectively participated in the assault after an exhortation to kill. These circumstances clearly establish that the members of the assembly shared at least the knowledge that such an assault was likely to cause death, if not a specific intention to cause death. Once such common object is established, it is immaterial as to which accused inflicted the fatal blow, as every member of the unlawful assembly becomes vicariously liable for the offence committed in prosecution of that common object.

The contention regarding absence of prior enmity or the suggestion that the occurrence arose out of a sudden quarrel does not dilute the culpability of the accused in the present case. The sequence of events shows that after the initial altercation had subsided, the accused regrouped and confronted the deceased while being armed with weapons. **The manner in which the assault was carried out, i.e. targeting a vital part of the body with force sufficient to fracture the skull, negates the applicability of any exception to Section 300 IPC.** The act cannot be said to be a mere result of a sudden fight devoid of intention or knowledge; rather, it reflects a conscious and collective use of force likely to result in death.

Weapon of Assault

Although, the weapon of assault in the present case is lathi but eye witnesses assert that all the thirteen accused were carrying lathi and each accused attacked the deceased who was unarmed causing head injury due to which he lost consciousness on spot and doctor declared him brought dead.

Plea of Alibi

The defence has taken the plea of alibi for the accused Krishna Paswan on the ground that PW2, PW4 and PW5 deposed that the accused Krishna Paswan was with them at the date and time of occurrence but the given contention has no stand as PW2 was relative of Krishna Paswan while PW4 and PW5 had professional relationship with him. Hence, not much credit can be given to their testimony when eye witnesses have invariably supported the prosecution case.

Interested Witness

Similarly, the argument that the prosecution witnesses are interested witnesses does not merit acceptance. The evidence on record indicates that these witnesses are natural witnesses to the occurrence, and their presence at the scene is fully explained. It is well settled that merely because a witness is related or known to the deceased, his testimony cannot be discarded if it is otherwise credible and consistent.

Informant not a family member

The defence took the plea that the informant was not a family member of the deceased but a co- villager. Similarly, the wife, children or parents of the deceased have not been

testified to put forward the story of death of the deceased has no footing because it is settled principle of law that informant need not be the victim nor do they need to be related to the victim. Even a stranger , police or a passerby can be the informant in a case. Similary, the wife, children and parents of the informant are not eye witnesses in the present case, therefore, their examination was not necessary when the death of the deceased is verified by ocular and medical evidence.

Non-Examination of the Investigating Officer

As regards the defence plea concerning non-examination of the Investigating Officer, it is true that such non-examination may, in certain circumstances, affect the prosecution case. However, in the present matter, the core of the prosecution case rests upon reliable ocular testimony which stands corroborated by medical evidence. No specific prejudice has been demonstrated to have been caused to the accused on account of such non-examination, nor has any contradiction been shown which required elucidation through the Investigating Officer. Therefore, this omission does not go to the root of the prosecution case.

Upon a comprehensive evaluation of the evidence on record, this Court is satisfied that the prosecution has been able to establish beyond reasonable doubt that the accused persons formed an unlawful assembly and, in prosecution of their common object, committed the murder of Suryadev Yadav. The act of assault, particularly the infliction of a forceful blow on the head, a vital part of the body, resulting in injuries sufficient in the ordinary course of nature to cause death, **squarely brings the case within the ambit of Section 300, clause thirdly of the IPC.** Consequently, all the accused persons are rightly held liable under Section 302 read with Section 149 IPC.

It is important to mention here that out of the thirteen accused who committed the offence of murder, the case record of Vikas Paswan and Rohit Paswan was sent to Juvenile Justice Board, Aurangabad.

Accused Dilip Paswan is facing separate trial.

Only ten accused are facing trial in the present case and are held liable for commission of offence under section 302 and 149 of the IPC.

Offence under Section 147, 148 and 149 of the IPC

Whether the accused persons in furtherance of common object committed the offence of rioting?

Whether the accused persons armed with deadly weapons like lathi and gadasa committed the offence of rioting in furtherance of common object?

Section 147 and 148 of the IPC deals with the offence of rioting. According to Section 146 of the IPC rioting involves the following ingredients-

- There has to be an unlawful assembly of five or more persons as defined under Section 141 of the IPC.
- The unlawful assembly must use force or violence as defined under Section 349 of the IPC, and
- The force or violence used by an unlawful assembly or by any member thereof must be in prosecution of the common object of such assembly in which case every members of such assembly is guilty of the offence of rioting.
- S 148 of the IPC will be attracted if any deadly weapon is involved in using force or violence otherwise section 147 of the IPC will come into play.

In the instant case, it has already been observed by the present Court that all the 10 accused armed with lathi and gadasa attacked the deceased in furtherance of common object of murdering him due to the cricket dispute which took earlier. Thus, in the present case all the ingredients of rioting as defined under /Section 146 of the IPC has been established and proved by the prosecution. Hence, all the 10 accused are found guilty for commission of offence under /Section 147 , 148 and 149 of the IPC.

Offence under Section 307 of the IPC

Whether the accused persons caused hurt to the deceased Suryadev Yadav and PW9 with such intention and knowledge that such act may cause death of the deceased ?

While appreciating evidence under Section 307 IPC, we have to examine the totality of circumstances, including:

- (i) the weapon used,
- (ii) the part of the body targeted,
- (iii) the force and manner of assault, and
- (iv) the surrounding circumstances of the occurrence.

Based on the law as described above we will see whether the oral and documentary evidence prove the case or not.

According to the evidence led by the prosecution there are two incidences involved in the case. PW-9 is the injured of the first incidence. PW-9 deposed that on 09.06.2018 at 05:00 PM he was playing cricket in a field situated on the western side of the village near the orchard of Pandiji along with the other boys of the village. Accused Chandrashekhar Paswan along with Vikas Paswan, Sarbajeet Paswan and others tried to stop them and Chandrashekhar Paswan hit on the head of PW-9 with a cricket bat and PW-9 also sustained injury on the other parts of his body. PW-9 went home and narrated the incidence to deceased Suryadev Yadav, PW-8 and PW-1. The eye witness of the mentioned occurrence was PW-5 who said that he was not playing cricket but he saw the boys playing it. PW-5 also affirmed that Bhola Paswan gave a blow on the head of PW-9 with a cricket bat.

To attract the provisions of S. 307 of the IPC the prosecution has to establish that the act is done with such intention or knowledge and under such circumstances that the said act may cause death. In the present case the Medical Officer who examined PW-9 deposed that he found lacerated wound on the head of PW-9 of the size 1.5” x ¼” which was caused by hard and blunt substance. PW 10 further opined that the nature of injury sustained by PW9 was simple which was not dangerous to life. The original injury report was not available on the record and the photostat copy of the same was marked Y for identification. The weapon of assault used to hurt PW9 is a cricket bat according to the ocular evidence which comes under the category of hard and blunt substance. As the injury caused to PW9 was not dangerous to life, therefore, ingredients of S. 307 of the IPC are not attracted. Likewise, in the second incidence, the deceased Suryadev Yadav died due to the deadly assault by the accused persons which signify that instead of attempt he was actually murdered by accused persons. In light of given facts, the prosecution failed to establish charge under Section 307 of the IPC against all the accused.

Offence under Section 323 of the IPC

Whether accused Santosh Paswan, Vinay Paswan, Ajay Paswan, Satendra Paswan, Naresh Paswan and Chandrashekhar Paswan @ Bhola Paswan voluntarily caused simple hurt to the deceased Suryadev Yadav and PW-9 ?

According to the evidence led by the prosecution there are two incidences involved in the case. PW-9 is the injured of the first incidence. PW-9 deposed that on 09.06.2018 at 05:00 PM he was playing cricket in a field situated on the western side of the village near the orchard of Pandiji along with the other boys of the village. Accused Chandrashekhar Paswan along with Vikas Paswan, Sarbajeet Paswan and others tried to stop them and Chandrashekhar Paswan hit on the head of PW-9 with a cricket bat and PW-9 also sustained injury on the other parts of his body. PW-9 went home and narrated the incidence to deceased Suryadev Yadav, PW-8 and PW-1. The eye witness of the mentioned occurrence was PW-5 who said that he was not playing cricket but he saw the boys playing it. PW-5 also affirmed that Bhola Paswan gave a blow on the head of PW-9 with a cricket bat. Likewise, PW-1 and PW-8 conceded that PW-9 approached them after the cricket match complaining about the above mentioned incidence. Similarly, PW-6 claimed that he had heard from someone from village that altercation had taken place between the Yadav community and Paswan community in relation to cricket match. In the present case, the prosecution has made out the case that due to the above mentioned cricket dispute the second offence was caused.

To bring home offence under section 323 of the IPC the prosecution has to show that someone caused bodily pain, disease or infirmity to any person. Therefore, even causing bodily pain can be said to be within the ambit of voluntarily causing hurt. Hence, hitting on the head of the PW-9 with a bat Chandrashekhar Paswan @ Bhola

caused bodily pain to PW-9, therefore, his act will come under the purview of Section 323 of the IPC. However, while discussing the offence under s. 307 of the IPC the Court observed that the original injury report of PW-9 was not available on the record. However, production of an injury report for the offence under S. 323 of the IPC is not a sine qua non for establishing the case for the said offence as held by the Hon'ble Supreme Court in **Lakshman Singh vs State Of Bihar AIR 2021 Supreme Court 3552**. Further, PW-10, the Medical Officer who examined PW-9 opined that PW-9 had lacerated wound on his head which was caused by hard and blunt substance with nature of injury being simple which was not dangerous for life. On the other hand deceased Suryadeo Yadav had parietal bone fracture in skull with severe bleeding below the skin which does not come under the definition of simple hurt. In light of given facts, the Court is to the opinion that the accused Chandrashekhar @ Bhola caused simple hurt to PW-9.

Time, Date and Place of Occurrence.

According to the fardbeyan (Exhibit-P03) and the Formal FIR (Exhibit-P05) the first occurrence took place at 05:00 PM in the field situated in the western side of the village near the orchard of Panditji. The second occurrence followed the first occurrence on the same date and same evening near the house of Devnandan, situated in village- Pahlama, PS- Muffasil, District- Aurangabad.

PW-1, PW-5, PW-6, PW-7, PW-8 and PW-9 have invariably deposed that the first occurrence took place on 09.06.2018 roughly between 05:00 to 05:30 in the field near the orchard of Panditji. Thereafter, the second occurrence was committed soon after on the same date and same evening. Thus, the second incidence is in continuation of the first incidence. Thereafter, the information was given to the police station at 07:45 PM, Fardbeyan of PW-08 was recorded at 09:50 PM and the FIR was finally lodged at 10:30 PM. On close perusal of the fardbeyan (Exhibit-P03) and the formal FIR (Exhibit-P05). PW-10, the Medical Officer who examined PW-09 conceded that the examination was done at 08:30 PM on 09.06.2018. Likewise, PW-11, the Medical Officer who conducted the postmortem of the deceased specified that he did the postmortem of the deceased on 09.06.2018 while the postmortem report (Exhibit-P02) verified that the body was received at 10:45 PM and the postmortem commenced at 11:30 PM on the above mentioned date. Hence, the above discussion clearly depicts that initially the first incidence happened followed by the second incidence after which PW-09 went to Sadar Hospital, Aurangabad for his medical examination and the dead body the deceased was sent for postmortem. Further, the defence had relied upon Exhibits- A, B, C which are

certified copies of formal FIR, Chargesheet and Cognizance order of the Muffasil PS Case no. 101/2018 which they claim to be the counter case of the present case. Perusal of the documents furnished on behalf of defence which is the counter case of the present occurrence further verified that the chain of events started at 05:00 PM at 09.05.2018 in the field near the orchard of Panditji.

The defence during the course of argument pointed out that the prosecution failed to testify the IO due to which the date, time and place of occurrence is not established. In **Behari Prasad Vs. State of Bihar (1996) to SCC 317** the Apex Court has taken the view that non-examination of the investigating officer is not fatal to the prosecution case when no prejudice is likely to be suffered by the accused. From the facts and circumstances of the present case no lacuna is created due to non-examination of the investigating officer and the defence have not led any evidence to indicate any prejudice caused to them.

Thus, the prosecution has succeeded in establishing the time, date and place of occurrence which is further authenticated by the documents exhibited on behalf of the defence.

Motive of Occurrence

The prosecution story is that all the 10 accused committed the murder of the accused Suryadev Yadav due to altercation between PW-09 and his friends with accused Chandrashekar Paswan @ Bhola and other boys with regard to cricket match where Chandrashekar Paswan @ Bhola hit on the head of PW-09 with the cricket bat. PW-09 is the injured who was thrashed with the cricket bat which was seen by the eye witness. PW-01, PW-06, PW-07 and PW-08 conceded that PW-09 approached and narrated them the above incidence. Thereafter, PW-01, PW-06, PW-08 and the deceased left for the house of the accused persons but on the way the deceased was attacked and murdered. The given is further ratified by the documentary evidence (Exhibits- A, B, C) perusal of which indicate that the dispute related to the cricket match is the actual cause of occurrence. Hence the prosecution succeeded in establishing the genesis of the occurrence.

Identification of the victims

The main object of the fair trial is not only to punish the wrongdoer but also to identify the victim and assure them that they are not abandoned in the Criminal Justice System as they are the silent sufferer of the aftermath of the offence. Deceased Suryadev Yadav left behind a wife, four minor children and a father as

his dependants according to oral testimony of PW1, PW8 and PW9. Hence, the wife, the four minor children and the father of the deceased Suryadaev Yadav are the real victims in the present case. Although, the loss and pain of mentioned victims cannot be reduced but monetary compensation can definitely make their future secure and will rehabilitate them. Hence, the Court is to the conclusion that the wife, the four minor children and the father of the deceased Suryadaev Yadav are the victims of the present case. Hence, they are entitled for compensation under Victim Compensation Scheme as provided under Section 357-A of the CrPC.

ORDER

All the ten accused, namely- (1)Ramdahin Paswan, (2) Bhola Paswan @ Chandrashekhar Paswan (3)Krishna Paswan ,(4) Lutan Paswan, (5) Bharat Paswan, (6)Vinay Paswan, (7) Ajay Paswan, (8) Satendra Paswan, (9) Naresh Paswan, and (10) Santosh Paswan, are found guilty for commission of offence under section 302, 147, 148 and 149 of the IPC.

Accused Bhola Paswan @ Chandrashekhar Paswan is found guilty for commission of offence under section 323 of the IPC.

None of the accused is charged for commission of offence under section 307 of the IPC.

Bail – bond of accused (1)Ramdahin Paswan, (2) Bhola Paswan @ Chandrashekhar Paswan (3)Krishna Paswan ,(4) Lutan Paswan, (5) Bharat Paswan, (6)Vinay Paswan, (7) Ajay Paswan, (8) Satendra Paswan, (9) Naresh Paswan is hereby cancelled and they are taken into judicial custody. Accused Santosh Paswan is already in judicial custody.

Pronounced in the open Court.

(Divya Vashistha)
District &Additional Sessions Judge IV
Aurangabad
30.04.2026

Dictated& corrected by me

(Divya Vashistha)
District &Additional Sessions Judge IV,
Aurangabad
30.04.2026

Dated 05.05.2026

Quantum of Sentence

Heard the learned Counsel Shri Chandeshwar Paswan for the convicts on the point of sentence. Learned APP, Shri Surajmal Sharma for the State has also advanced his arguments. The convicts have prayed for leniency on the ground of passage of time and clean antecedents.

Sentencing is not a mechanical exercise. It requires the Court to keep just balance between the gravity of offence and the circumstances of the offender, keeping in mind the objects of punishment, deterrence, reformation and proportionality.

Before deciding the quantum of sentence, aggravating and mitigating factors of the requires to be taken into consideration.

Aggravating Circumstances

The following aggravating factor emerge from the evidence on record:

- The initial dispute was trivial in nature as it involved altercation with respect to a cricket match, yet it escalated into extreme violence, leading to death, reflecting gross disproportion and loss of self- control.
- The victim was unarmed but the accused thirteen in number were armed with lathi.
- The offence was committed in furtherance of common object with different accused playing distinct but complementary role.
- The deceased lost consciousness on spot due to the joint assault and declared brought dead by the Doctor.

Mitigating Circumstances

At the same time , following mitigating factors are also taken into consideration:

- Section 302 of the IPC leaves sentencing to judicial discretion, enabling the Court to individualise punishment.
- There is no material no record to show that the convicts had any previous criminal antecedent.
- Also, the convicts belong to a rural background and are stated to have family responsibilities.

Although, the nature of crime in the present case was serious and heinous but still did not come into rarest of rare category because the accused persons were not continuing threat to the society and the Prosecution has not produced any evidence to show that the accused persons were incapable of reform and rehabilitation.

Accordingly,

The ten convicts, namely

- 1) Ramdahin Paswan,
- 2) Bhola @ Chandrashekhar Paswan
- 3) Krishna Paswan ,
- 4) Lutan Paswan,
- 5) Bharat Paswan,
- 6) Vinay Paswan,
- 7) Ajay Paswan,
- 8) Satendra Paswan,
- 9) Naresh Paswan, and
- 10) Santosh Paswan

are hereby sentenced for the offence under Section 302 read with Section 149 of the IPC for which each convict to undergo Rigorous Imprisonment for life and fine of Rs. 5000/- (Five Thousand) to be paid by each convict. In case of default of payment of fine by any convict, the defaulter convict has to further undergo Simple Imprisonment of three (3) months.

For offence under S. 147 read with S. 149 of the IPC each convict to undergo simple imprisonment for one year and fine of Rs. 1000/-(one thousand only) to be paid by each convict. In case of default of payment of fine by any convict, the defaulter convict has to further undergo Simple Imprisonment of Three (3) months.

For offence under S. 148 read with S. 149 of the IPC each convict to undergo simple imprisonment for two years and fine of Rs. 1000/-(one thousand only) to be paid by each convict. In case of default of payment of fine by any convict, the defaulter convict has to further undergo Simple Imprisonment of Three (3) months.

Accused Chandrashekhar Paswan @ Bhola is hereby sentenced for the offence under Section 323 to undergo Simple Imprisonment of six (6) months and to pay fine of Rs. 500/-. In case of default of payment of fine by him, he has to further undergo Simple Imprisonment of three (3) months.

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508/2018**

All punishments to run concurrently.

The convicts shall be entitled to the benefit of Section 428 CrPC for the period already undergone in custody, if any.

Pronounced in the open Court.

Office is directed to send a copy of the judgment to the District Legal Services Authority, Aurangabad for awarding compensation to the victims as identified above.

**(Divya Vashistha)
District & Additional Sessions Judge IV,
Aurangabad
05.05.2026**

Dictated & corrected by me

**(Divya Vashistha)
District & Additional Sessions Judge IV,
Aurangabad
05.05.2026**

Date on which judgment is reserved	18.04.2026
Date of the Judgment	30.04.2024
Date reserved on point of sentence	05.05.2026
Judgment uploading date	06.05.2026
Judgment Uploaded by	Vikul Kumar Steno