

FORM – A

In the Court of Principal Sessions Judge, Begusarai. Present–Rishi Kant Date of Judgment-13.07.2026 S.T. Case No.-25 of 2020, C.I.S. No.-20 of 2020 <u>(Details of FIR/Crime and Police Station</u> Bakhri P.S. Case No. 246/2018	
Informant	Rinku Devi
Represented by	Sri Santosh Kumar, Ld. I/c P.P.
Accused persons	Kapildeo Mahto & Sabita Devi.
Represented by	Sri Syed Fozail Imam, Ld. Advocate.

FORM – B

Date of offence	23.08.2018
Date of FIR	24.08.2018
Date of Charge-Sheet	28.09.2018
Date of Framing of Charge	12.03.2020
Date of Commencement of Evidence	16.04.2020
Date on which Judgment is reserved	29.06.2026
Date of Judgment	13.07.2026
Date of sentencing Order, if any	13.07.2026

Accused Persons Details

Rank of Accused	Name of Accused	Date of Arrest	Offence charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention undergone during Trial for purpose of Section 468 of B.N.S.S.
A1	Kapildeo Mahto, S/o Lalo Mahto, R/o vill. Imadpur, P.S. Bakhri, Distt. Begusarai	15.11.19	U/s- 308/34,341/34,323 /34 of IPC.	Convicted	As per sentencing order.	10 days.
A2	Sabita Devi, W/o Kapildeo Mahto, R/o Imadpur, P.S. Bakhri, Distt. Begusarai	Surrendered and bail.	U/s- 308/34,341/34,323 /34 of IPC.	Convicted	As per sentencing order.	0 days.

J U D G E M E N T

1. The above-named accused namely, Kapildeo Mahto & Sabita Devi stand charge for committing offence punishable under Section 308/34,341/34 & 323/34 of IPC.

CASE OF THE PROSECUTION

2. The prosecution's case is based on the written application of one Rinku Devi (the informant). In brief, it is stated that on 23.08.2018 at about 8 A.M. Kapildeo Mahto, Sabita Devi, Soni Devi, Shikha Kumari, Shilpi Kumari were obstructing the way of the informant. On asking them, why they were obstructing her way, then all accused persons abused her. On raising objection, they assaulted her by legs and fats. On hearing noise, her mother in law namely, Draupadi Devi came to save her, then she was also assaulted by Kapildeo Mahto on her head due to which blood was oozing out from her head. Again Kapildeo pushed her on the ground. On raising alarm, accused persons fled away. Thereafter, this case has been registered.

PROCEDURAL HISTORY

3. On the basis of written information report of the informant namely, Rinku Devi, the police registered Bakhri P.S Case no. 246/2018 dated 24.08.2018 against the accused persons including above named accused persons for the offences punishable U/s- 341/323/308/34 of I.P.C. After investigation, the police had submitted charge sheet no. 219/2018 dated 28.09.2018 before the court of ACJM-V, Begusarai against the accused persons namely, Kapildeo Mahto & Sabita Devi for the offences punishable under section 341/323/308/34 of IPC.

4. The learned ACJM-V, Begusarai, vide order dated 12.12.2018 took cognizance of the offence u/s 341,323,308/34 of IPC against charge-sheeted accused persons, and after complying the section of 207 Cr.PC. the case was committed to the Court of Sessions. Thereafter, trial was commenced.

CHARGE

5. After appearance of accused persons namely, Kapildeo Mahto & Sabita Devi and hearing the Public Prosecutor for the State and Ld. Advocate for the accused, the charges u/s- 308/34, 341/34 & 323/34 of IPC were framed, and read over, and explained to them in Hindi on 12.03.2020 to which the accused persons specifically denied the allegation and claimed to be tried. The defence of accused persons are simple denial of charge leveled against them, and false implication in this case.

POINT FOR DETERMINATION

6. Now, the point for determination by this court is that whether prosecution has been able to prove its case including the charged framed u/s- 308/34, 341/34 & 323/34 of IPC against the accused persons namely, Kapildeo Mahto & Sabita Devi beyond the shadow of all reasonable doubts or not ?

EVIDENCE ADDUCED BY THE PARTIES

7. In order to prove its case, the prosecution has examined altogether seven witnesses. They are –

Prosecution Witness No.	Name of witness	Description
1	Nutan Devi	Other witness.
2	Nitu Kumari	Other witness.
3	Yogendra Kumar Mahto	Other witness.
4	Rinku Devi	Informant/injured.
5	Dr. Deepak Kumar Singh	Medical witness.
6	Sohan Ram	Police witness.
7	Draupadi Devi	Another injured.

8. Apart from oral evidences, prosecution has adduced seven documentary evidences which are –

Exhibit No.	Description of the Exhibit	Proved by/Attested by
1	Signature of informant and writing of Shambhu Mahto on Written application.	PW-4
2	Injury report of injured Draupadi Devi	PW-5
3	Formal FIR	PW-6
3/1	Endorsement	PW-6
4	Police requisition for injury report.	PW-6

9. After completion of the prosecution evidence, statements of accused persons under sec. 351 of B.N.S.S. were recorded on 02.04.2026 to afford them an opportunity

to explain the incriminating circumstances appearing against them in evidence. They denied the allegations and pleaded false implication.

10. One oral evidence has been adduced on behalf of defence to rebut the charges levelled against them by the prosecution which is ---

Defence Witness No.	Name of witness	Description
1	Ramchandra Mahto	Other witness.

11. No documentary evidence has been adduced on behalf of the accused persons in this case to rebut the charges leveled against them by the prosecution.

STATEMENT OF WITNESSES

12. **P.W.-1 is Nutan Devi.** In her examination-in-chief, she stated that the incident had occurred about five and a half years earlier at around 8:00 A.M and at time she was present at the place of occurrence. She further stated that Rinku Devi was her sister-in-law and Draupadi Devi was her mother. She further stated that , Kapildev Mahto and Rinku Devi shared a common courtyard. When a child attempted to pass through the upper side of the courtyard, Kapildev Mahto stopped the child. Thereafter, Kapildev Mahto, Savita Devi, Soni Kumari, Shikha Kumari and Shilpi Kumari arrived and assaulted Rinku Devi and Draupadi Devi with sticks. She deposed that all the accused assaulted them together, causing injuries to the backs and legs of both Draupadi Devi and Rinku Devi, and that Draupadi Devi also sustained a head injury. She further stated that she had personally witnessed the occurrence. She further deposed that Kapildev Mahto had torn Draupadi Devi's clothes. She knew all the accused persons and identified them before the Court. She also stated that Draupadi Devi was treated at Sakarpura Sadar Hospital.

During her cross-examination, she stated that Rinku Devi was her neighbour. She further stated that the accused persons were her cousins and that Kapildev Mahto was her paternal uncle. She also stated that her grandfather's name was Ram Prasad Mahto. She further stated that the residential houses of both parties stood on the disputed land, which had originally been constructed by her grandfather, Ram Prasad Mahto. She further stated that Ram Prasad Mahto had three sons, namely Rampojan Mahto, Nageshwar Mahto and Vishwanath Mahto. She deposed that her uncle Nageshwar Mahto had three sons, namely Pawan Mahto, Shambhu Mahto and Bandhu Kumar, while Vishwanath Mahto had two sons, the late Ramesh Mahto and Ganesh Mahto. She further stated that the ancestral property had already been partitioned among the Gotias. She denied the suggestion that no partition of the ancestral property had taken place among the agnates. She further stated that the quarrel arose because a child was prevented from passing through the common courtyard shared by both parties. She further stated that none of the women had fallen during the occurrence; rather, they were assaulted by the accused persons while being abused. She also stated that the verbal abuse continued even after the assault and that many people had gathered at the place of occurrence. She denied the suggestion that no one was present after the incident. She reiterated that Rinku Devi was her sister-in-law. She further stated that Kapildev Mahto resided to the east of the place of occurrence, Deepak Kumar to the west, Ram Bahadur Mahto to the north and Sitaram Mahto to the south. She reiterated that she was present at the place of occurrence. She denied the suggestion that she was deposing falsely because Rinku Devi was her sister-in-law. She also denied the suggestion that the dispute had occurred only between the children and that Draupadi Devi had sustained injuries merely because she fell while intervening. She further denied that the incident had not

occurred in the manner deposed to by her before the Court.

13. P.W.-2 is Nitu Kumari. In her examination-in-chief, she stated that the incident had occurred at about 5:00 a.m. on 23.08.2018. She stated that she was standing at the doorstep of her house at the relevant time and that the dispute arose over the right of passage. She further stated that the informant, Rinku Devi, was her elder sister-in-law. She deposed that Kapildev Mahto, Savita Devi, Soni Devi, Shikha Kumari and Shilpi Kumari assaulted Draupadi Devi and Rinku Devi with sticks. She stated that Kapildev Mahto was carrying a stick and struck Draupadi Devi on the head, causing a bleeding head injury and rendering her unconscious. She further stated that he also struck Draupadi Devi on other parts of her body with the stick. Thereafter, when she and Rinku Devi attempted to rescue Draupadi Devi, Kapildev Mahto and Savita Devi caught hold of Rinku Devi, while Soni Devi, Shikha Kumari and Shilpi Kumari assaulted her with kicks and fists. She stated that she had personally witnessed the occurrence because her house was situated adjacent to the place of occurrence. She further stated that, had they not intervened, the accused persons would have killed both the injured women. She deposed that the Investigating Officer first came to the village, where she narrated the entire incident to him. She knew all the accused persons and identified them before the Court.

During her cross-examination, she stated that the accused persons were her Gotias and that both families resided in the same common courtyard. She further stated that her matrimonial home was at Imadpur. She stated that there was only one common passage and that the courtyard was jointly owned by both parties. She further stated that everyone used the common courtyard jointly. She deposed that no partition had been effected through the village Panchayat to resolve the dispute regarding the passage because the accused persons did not accept the Panchayat's decision. She further stated that she had informed the police about this fact. According to her, the accused persons did not allow them to use the front passage, and disputes frequently arose on that account. She further stated that she had informed the police that because of this dispute, there was always a possibility of abuses and assaults between the parties. She denied having stated before the police that both parties used to sustain injuries during such altercations. She further stated that she had not told the police that about three months before the occurrence, Kapildev Mahto had sustained injuries and that the matter had been settled by the village Panchayat. She also stated that she had not informed the police that both parties repeatedly quarrelled because they did not abide by the Panchayat's decision. She further stated that Rinku Devi was treated at the Government Hospital, Barauni. She noticed swelling on Rinku Devi's back, legs and hands but did not observe any bleeding injury. She stated that she reached the place of occurrence immediately after hearing the alarm and that the assault took place thereafter while she was present. She further stated that Draupadi Devi was her mother-in-law. According to her, when Draupadi Devi intervened, she was standing towards the east, whereas Kapildev Mahto was standing towards the west. She stated that Kapildev Mahto struck Draupadi Devi on the front of her head, causing injuries to her head, neck and back. She remained present throughout the assault and witnessed the occurrence. She further stated that all the persons present were requesting the accused persons to stop the assault. According to her, the assault continued for about half an hour. She also stated that about ten to twelve neighbouring persons arrived during the occurrence and witnessed the incident. She further stated that Draupadi Devi was treated at the Government Hospital,

Barauni. She denied the suggestion that Rinku Devi and Draupadi Devi were attempting to take possession of the accused persons' share of the land, that a scuffle took place during which Draupadi Devi accidentally fell and sustained a head injury, or that the incident had not occurred in the manner deposed to by her before the Court. She further denied that she was giving false evidence before the Court.

14. P.W.-3 is Yogendra Kumar Mahto. In his examination-in-chief, he stated that the incident had occurred about five to six years earlier at around 8:00 a.m. He stated that he was sitting at the entrance of his house at that time. Upon hearing an alarm from the courtyard where a quarrel was taking place, he reached the spot after about five minutes. He stated that he saw only women quarrelling. He further stated that Kapildev Mahto's wife and his three daughters were quarrelling with Pawan Mahto's mother, Draupadi Devi, and Pawan Mahto's wife, Rinku Devi. When he reached the place of occurrence, he noticed that Draupadi Devi's clothes were torn and that the quarrel was still continuing. He stated that Draupadi Devi told him that she had sustained a head injury caused by a brick, although she did not disclose who had assaulted her. He further stated that he intervened, separated both sides and took Draupadi Devi to the hospital for treatment. According to him, Draupadi Devi was unconscious when she was taken to the hospital. He identified accused Kapildev Mahto before the Court. He further stated that Savitri Devi, Soni Devi and Shilpi Kumari were represented through counsel on the basis of a representation petition and that he knew and identified all the accused persons

During his cross-examination, he stated that his statement had not been recorded by the police because he was away from the village. He further stated that the disputed courtyard was jointly owned by Kapildev Mahto, Nageshwar Mahto, Sitaram Mahto, Ranjit Mahto, Rameshwaran Mahto and Ram Bahadur Mahto. According to him, the dispute related to the partition of the land. He further stated that Kapildev Mahto worked as a vegetable vendor and that on the date of the alleged occurrence he had gone to the Arahath (vegetable market). He stated that Jagdish Mahto arrived after him and that about 10 to 20 persons had witnessed the occurrence. He further stated that only women were present at the time of the occurrence and that no men were present. He remained at the place of occurrence for about 10 to 15 minutes before returning home. He further stated that he had no knowledge of what transpired after he left. He also stated that both parties were Gotias and that the dispute had arisen between the women of the two families over a land dispute. He denied the suggestion that the incident had not occurred in the manner deposed to by him and maintained that the occurrence had taken place as stated by him. He also denied that he was giving false evidence before the Court.

15. P.W.-4 is Rinku Devi, the informant in the present case. In her examination-in-chief, she stated that the incident had occurred about six years earlier during the summer season at around 8:00 a.m. She stated that she was preparing food in her courtyard when Kapildev Mahto, Savita Devi, Soni Kumari, Shikha Kumari and Shilpi Kumari obstructed the common passage and prevented people from using it. She further stated that when she objected to the obstruction, all the accused persons abused her, assaulted her, caught hold of her hair and threw her to the ground. She stated that when her mother-in-law, Draupadi Devi, came to rescue her, Kapildev Mahto struck Draupadi Devi on the head with a brick, causing a bleeding head injury. Thereafter, all the accused persons assaulted Draupadi Devi with small bamboo sticks. She further stated that her mother-in-law survived after receiving medical treatment. She also deposed that Shikha Kumari and Shilpi Kumari, daughters of Kapildev Mahto, snatched her half-tola gold

earring from her ear. She stated that she had submitted a written complaint at the police station, which had been drafted by her brother-in-law, Shambhu Mahto. After hearing and understanding its contents, she signed the complaint. She identified the written complaint as being in the handwriting of her brother-in-law, Shambhu Mahto, and identified her signature thereon, which was marked as Exhibit PW/1. She identified accused Kapildev Mahto before the Court. She further stated that she had narrated all these facts to the Investigating Officer during the course of investigation.

During her cross-examination, she stated that the present case had been instituted two days after the occurrence. She further stated that the accused persons were her Gotias and that all of them resided in the same courtyard. She also stated that there were four Gotias and that the courtyard had been partitioned into separate portions. She further stated that Kapildev Mahto cultivated vegetables and that both he and his son used to supply vegetables to the market. According to her, Kapildev Mahto was sometimes at home and sometimes away. She further stated that each co-sharer had a separate portion in the courtyard. She deposed that the accused persons prevented them from using the portion of land belonging to them and that Kapildev Mahto had planted flowering plants in the courtyard. She stated that Kapildev Mahto first assaulted her, after which all the female accused also assaulted her. She further stated that she became unconscious due to the assault and remained unconscious for about two hours. She was treated by a doctor in the village, but the medical prescription relating to her treatment had subsequently been lost. She admitted that there had been pushing and scuffling from both sides. She further stated that during the scuffle, both she and her mother-in-law fell to the ground, after which they were assaulted. According to her, her mother-in-law also became unconscious and remained so throughout the day. She further stated that her statement was recorded by the police two to three days after the occurrence. She admitted that she had not stated before the police that, when she questioned the accused persons regarding the obstruction of the passage, they caught hold of her hair, threw her to the ground and assaulted her with small bamboo sticks. She denied the suggestion that she had neither stated before the police nor mentioned in the FIR that Shikha Kumari and Shilpi Kumari had snatched her half-tola gold earring or that her mother-in-law had received three stitches on her head. She further denied the suggestion that Kapildev Mahto had merely restrained her and her mother-in-law from passing through his portion of land, that they had accidentally fallen during the altercation causing Draupadi Devi's head injury, or that the occurrence had not taken place in the manner deposed to by her before the Court.

16. P.W.-5 is Dr. Deepak Kumar Singh, who is Medical Officer of this case. In his examination-in-chief, he stated that on 23.08.2018 at 01.35 P.M., he was posted as medical officer at P.H.C., Bakhri and on the same day and same time, he examined Draupadi Devi aged about 55 years, W/o Nageshwar Mahto, At Vill.-Imadpur, P.S. Bakhari, Dist.-Begusarai and found following injuries on her body.

Lacerated wound back of scalp ½" X ¼".

2. Mark of Identification :- Til mark right side chin.

3. Age of injuries:- Within Six hours of examination.

4. Cause and nature of injury – Simple in nature and caused by hard and blunt object.

This injury report is written by him and bears his signature and he identifies it and marked it **Exhibit No. P/2.**

During cross-examination, he stated that such type injuries may be possible due to fall on hard surface.

Here is the corrected and professionally drafted version of your text with improved grammar, sentence structure, and legal language while preserving the substance of the evidence.

17. P.W.-6 is Sohan Ram. In his examination-in-chief, he stated that on 24.08.2018, he was posted as an Assistant Sub-Inspector at Barauni Police Station. He further stated that, on the instructions of the then Station House Officer, Police Inspector Sanjay Kumar, he took over the investigation of Barauni P.S. Case No. 246 of 2018. After assuming charge of the investigation, he examined the written complaint submitted by the informant, Rinku Devi, and re-examined her. He stated that the informant's mother-in-law had also sustained injuries in the occurrence and that he prepared the requisition for her medical examination and injury report. Thereafter, he inspected the place of occurrence as pointed out by the informant. He further stated that the place of occurrence was the joint courtyard of the informant and the accused persons. He described the boundaries of the place of occurrence by stating that to the north was the tiled house of Bahadur Mahto, to the south was the house of Sitaram Mahto, to the east was the tiled house of Kapildev Mahto, and to the west was the tiled house of Deepak Kumar. During the course of investigation, he recorded the statements of witnesses Ranjit Mahto, Yogendra Mahto, Nutan Devi and Neetu Kumari, all of whom supported the prosecution case. He further stated that he received and examined the injury report, which disclosed that the injured had sustained a head injury. Thereafter, he obtained the supervision note. Upon completion of the investigation, having found the allegations to be true against accused Kapildev Mahto and Savita Devi, he submitted Charge-sheet No. 219 of 2018 against them under Sections 341, 323, 308 and 34 of the Indian Penal Code. He further stated that the formal FIR had been prepared by Munshi Abhimanyu. He identified the signature of the then Station House Officer, Sanjay Kumar, appearing on the formal FIR, which was marked as Exhibit P/3. He also identified the endorsement on the formal FIR as being in the handwriting of and bearing the signature of Station House Officer Sanjay Kumar, whereupon it was marked as Exhibit P/3-1. He further stated that the requisition submitted for the medical examination of the injured was in his handwriting and bore his signature. He identified the said document, which was marked as **Exhibit P/4**.

During his cross-examination, he stated that after taking over the investigation, he recorded the statement of the informant at the police station. He further stated that he did not record the statements of the neighbouring residents because they were not present at the place of occurrence at the relevant time. During the course of investigation, he met the injured, Draupadi Devi. However, he did not record her statement. He further stated that he did not find any bloodstains at the place of occurrence. He stated that he had recorded the statement of witness Yogendra Mahto, who had stated that when the persons present failed to intervene, the family members of Kapildev Mahto assaulted Draupadi Devi on her head, causing injuries. He further admitted that he did not personally examine the injuries sustained by Draupadi Devi. He stated that, during the investigation, he received directions from his superior officer and, in compliance with those directions, submitted the charge-sheet. He further admitted that he did not record the statements of the accused persons during the investigation. He denied the suggestion that the investigation was defective or improper.

18. P.W.-7 is Draupadi Devi, the injured witness in the present case. In her examination-in-chief, she stated that the incident had occurred about seven and a half years earlier at around 8:00 a.m. She stated that she was at her house with her daughter-in-law at the relevant time. She further stated that Rinku Devi was her daughter-in-law and that her grandson and granddaughter were playing in the courtyard. According to her, when the children entered the courtyard of Kapildev Mahto, Kapildev Mahto, Savita Devi, Soni Kumari, Shikha Kumari and Shilpi Kumari jointly assaulted her and Rinku Devi with fists, kicks and sticks. She further stated that Kapildev Mahto struck her on the head with a brick, causing a bleeding head injury. She deposed that Kapildev Mahto caught hold of her arm, threw her to the ground and again assaulted her with a brick. She also stated that her daughter-in-law was assaulted with fists, kicks and sticks on her thighs, back and hands. She further stated that the villagers took her to the Government Hospital for treatment, where she was administered medicines and her injuries were dressed with bandages. She also stated that her daughter-in-law received treatment at the same hospital. She knew all the accused persons. She further stated that accused Savita Devi was present in Court and identified her.

During her cross-examination, she stated that the police had come to her house and recorded her statement. She further stated that the statement she had given before the Court was the same as the one she had given to the police. She stated that her statement had been reduced into writing by the police and that she had signed it. She further stated that Kapildev Mahto was her agnate (Gotia). According to her, both families shared a common courtyard, which was jointly used by four agnate families, and the courtyard had not been partitioned. She also stated that Kapildev Mahto cultivated vegetables and supplied them to the wholesale vegetable market. According to her, on the date of the occurrence, Kapildev Mahto went to the wholesale vegetable market to deliver vegetables after the assault had taken place. She further stated that she did not become unconscious as a result of the assault. She stated that she had been struck on the head with a brick, causing her to fall, and that she was not assaulted thereafter. She further stated that her daughter-in-law was assaulted with sticks by Shikha Kumari, Soni Kumari and the other accused, although she could not specify the exact number of blows inflicted. She stated that persons from the neighbourhood, including Nitish, Devendra and others, all of whom were her relatives, came to intervene and separate the parties. According to her, the assault lasted for about ten minutes, after which everyone dispersed. She further stated that the dispute had arisen over a land dispute and the use of the common pathway. According to her, Kapildev Mahto did not want to permit them to use the pathway. She denied the suggestion that nobody had assaulted her and that she had sustained injuries merely by accidentally falling on bricks. She maintained that the suggestion was false.

Defence Witness

19. D.W.-1 is Ramchandra Mahto. In his examination-in-chief, he stated that he knew both the informant, Rinku Devi, and the accused, Kapildev Mahto, as they were his agnates (Gotias). He further stated that Rinku Devi had instituted the present case about three years earlier. According to him, a quarrel had taken place between Rinku Devi and the wife of Kapildev Mahto. Upon hearing the commotion, he went to the place of occurrence. He stated that both sides were abusing each other and that Draupadi Devi sustained a head injury after falling down while attempting to intervene in the quarrel. He further stated that when he reached the place of occurrence, he pacified both

parties and brought the dispute to an end. According to him, Kapildev Mahto was not present at the place of occurrence at the relevant time. He further stated that the dispute had arisen over the use of a common pathway in the courtyard. He also stated that Sahadev Mahto, Joginder Mahto, Maheshwar Mahto and several other villagers had also reached the place of occurrence to intervene. According to him, Kapildev Mahto arrived about half an hour after the quarrel had ended. He maintained that Kapildev Mahto had not been present during the occurrence and had been falsely implicated in the case.

During his cross-examination, he stated that at the time of the occurrence, he was present at his house and heard a commotion at about 8:00 a.m. He further stated that there were several houses between his residence and the place of occurrence, as it was a densely populated village. Upon hearing the villagers raising an alarm that a fight had broken out, he proceeded to the place of occurrence. He stated that Rinku Devi and Draupadi Devi were crying and shouting that they had been assaulted and pushed to the ground and were calling upon the villagers to rescue them. He further stated that although four members of his family were present in his house at that time, he did not inform them that Rinku Devi and Draupadi Devi were crying for help. According to him, when he reached the place of occurrence, about ten persons had already gathered there. He further stated that the first person he noticed was Draupadi Devi. Although he could not recall from which part of her body blood was oozing, he stated that she had fallen after being assaulted. He admitted that Kapildev Mahto belonged to his family and that he shared cordial relations with him. However, he clarified that no one had compelled him to appear before the Court and that he had not received any summons from the Court. Finally, he denied the suggestion that he had deposed falsely in order to save Kapildev Mahto because of their close relationship.

Arguments on behalf of the Parties

20. Learned counsel appearing on behalf of the accused persons submitted that the prosecution has failed to establish the charges beyond reasonable doubt. It was contended that both parties are close agnates (Gotias) and have been embroiled in a long-standing dispute relating to the common courtyard and passage. Owing to the said enmity, the accused have been falsely implicated. It was further argued that the prosecution witnesses are closely related and interested witnesses, whose evidence suffers from material contradictions regarding the weapon of assault, the presence of accused Kapildev Mahto, the manner in which Draupadi Devi sustained injuries and the sequence of events. It was also submitted that the medical evidence does not fully support the ocular version, the Investigating Officer failed to examine independent witnesses and even omitted to record the statement of the injured Draupadi Devi. According to the defence, the evidence on record probabilises that the injury was sustained due to an accidental fall during the altercation and, therefore, the accused are entitled to benefit of doubt.

21. Per contra, learned P.P.-In-charge submitted that the prosecution case stands firmly established by the cogent and trustworthy testimony of the two injured witnesses, namely P.W.-4 Rinku Devi and P.W.-7 Draupadi Devi, whose presence at the place of occurrence cannot be doubted. It was argued that their evidence finds substantial corroboration from P.W.-1 Nutan Devi, P.W.-2 Nitu Kumari and the medical evidence. According to the learned P.P.-In-charge, the contradictions pointed out by the defence are only minor discrepancies arising from lapse of time and do not affect the core of the prosecution case. It was, therefore, submitted that the prosecution has succeeded in

proving the charges against the accused beyond reasonable doubt and they are liable to be convicted in accordance with law.

APPRECIATION OF EVIDENCE AND FINDINGS

22. I have heard the learned P.P.-In-charge for the State and the learned counsel appearing on behalf of the accused persons at length. I have also carefully gone through the oral and documentary evidence adduced by both sides. The prosecution alleges that on 23.08.2018, on account of a dispute relating to the use of the common passage in the ancestral courtyard, accused Kapildev Mahto and Savita Devi, acting in furtherance of their common intention, wrongfully restrained the informant and voluntarily caused injuries to Rinku Devi and Draupadi Devi. The defence has denied the allegations in toto. It has been contended that the parties are close agnates embroiled in a long-standing land dispute, that accused Kapildev Mahto has been falsely implicated on account of previous enmity, and that Draupadi Devi sustained the head injury after accidentally falling during the altercation and not due to any assault by the accused. In the light of the rival contentions, the principal question which falls for determination is whether the prosecution has succeeded in proving, by reliable and convincing evidence, that accused Kapildev Mahto and Savita Devi, in furtherance of their common intention, committed the offences with which they stand charged. The answer to this question necessarily depends upon a careful appreciation of the entire evidence on record, both oral and documentary.

23. Before advertent to the evidence of individual witnesses, it would be appropriate to examine certain facts which emerge as undisputed from the record. The evidence of almost all the prosecution witnesses as well as the defence witness leaves no room for doubt that the parties are close agnates (Gotias) and their residential houses are situated around a common ancestral courtyard. It has also come in evidence that disputes regarding the use of the common passage had been continuing even prior to the present occurrence. In fact, the defence itself has not disputed the existence of such dispute. The controversy, therefore, is not with regard to the genesis of the occurrence but with regard to the manner in which it took place and the participation of the accused persons therein.

24. The defence has sought to contend that owing to the admitted land dispute, the accused persons have been falsely implicated. It has further been argued that the evidence of the prosecution witnesses is inconsistent on material particulars, particularly with regard to the weapon of assault, the presence of accused Kapildev Mahto and the manner in which Draupadi Devi sustained injuries. It has also been argued that the investigation suffers from material lapses, as the Investigating Officer neither recorded the statement of the injured witness nor examined any independent witness, though several villagers had allegedly assembled at the place of occurrence.

25. The learned P.P.-In-charge, on the other hand, submitted that the prosecution case substantially rests upon the evidence of the two injured witnesses, namely Rinku Devi (P.W.-4) and Draupadi Devi (P.W.-7), whose presence at the place of occurrence cannot be doubted. It has been argued that their evidence receives due assurance from the testimony of P.W.-1 Nutan Devi and P.W.-2 Nitu Kumari, both of whom have consistently supported the prosecution case regarding the genesis of the occurrence and the participation of the accused persons. It has further been submitted that the medical evidence corroborates the injuries sustained by Draupadi Devi and that the discrepancies pointed out by the defence are only natural variations which do not affect the substratum of the prosecution case.

26. The rival submissions require careful consideration. It is true that the prosecution is under a legal obligation to prove its case beyond reasonable doubt. Equally, it is well recognised that while appreciating evidence, the Court is not expected to examine the testimony of witnesses with a view to discover contradictions alone. Evidence has to be appreciated in its entirety. Every omission or discrepancy does not necessarily render the prosecution case doubtful. The Court has to ascertain whether the inconsistencies pointed out are of such nature as would affect the core of the prosecution case or whether they are merely the result of normal errors of observation and memory.

27. Another aspect which deserves notice at this stage is that the present occurrence is alleged to have taken place in the common courtyard shared by the parties. In such circumstances, the presence of family members at the place of occurrence is not only probable but natural. The evidence of a related witness cannot be discarded solely on the ground of relationship. What is required is cautious scrutiny. Similarly, the evidence of an injured witness carries considerable evidentiary value, since the injury itself establishes his or her presence during the occurrence. Keeping these principles in view, the evidence of the prosecution witnesses is now taken up for appreciation.

28. P.W.-1 Nutan Devi claims to be an eyewitness to the occurrence. She has deposed that on the date of occurrence she was present at the place where the incident took place. According to her, the dispute arose when the child of the informant's family attempted to pass through the common courtyard and accused Kapildev Mahto prevented the child from doing so. It is thereafter that accused Kapildev Mahto, Savita Devi, Soni Kumari, Shikha Kumari and Shilpi Kumari came there and assaulted Rinku Devi and Draupadi Devi with lathis. She has specifically stated that both the injured sustained injuries on their backs and legs and that Draupadi Devi also received an injury on her head. She further deposed that during the course of occurrence Kapildev Mahto tore the clothes of Draupadi Devi. According to her, she had witnessed the entire occurrence and the injured Draupadi Devi was subsequently taken to Sadar Hospital for treatment.

29. The cross-examination of PW-1 has been carefully examined. She admitted that both parties are close agnates and that their residential houses stand over the ancestral property which had originally belonged to Ram Prasad Mahto. She has also admitted that the occurrence took place in the common courtyard over the dispute relating to the passage. The defence attempted to project that no partition had taken place and that the dispute had arisen only because of the children. However, the witness remained firm that the quarrel started when the child was prevented from using the common passage and that thereafter the accused persons assaulted the victims. She specifically denied the suggestion that Draupadi Devi sustained injuries after falling during the scuffle or that no assault had taken place.

30. Much emphasis was laid by the defence on the relationship of this witness with the informant. It is true that P.W.-1 is related to the informant. However, that circumstance alone does not make her testimony unacceptable. The occurrence admittedly took place in the common courtyard adjoining the houses of both parties. Her presence at the place of occurrence, therefore, cannot be said to be unnatural. Nothing has been elicited during her cross-examination to show that she was not present at the place of occurrence or that she had any reason to substitute the real assailants with innocent persons. Her evidence, therefore, cannot be discarded merely because of her relationship with the injured.

31. The testimony of P.W.-1 is significant for another reason. She has consistently spoken about the genesis of the occurrence, namely, obstruction of the common passage. This part of her evidence finds support not only from the evidence of the informant and the injured witness but also from the defence evidence, which admits the existence of a long-standing dispute regarding the common pathway. Thus, so far as the origin of the occurrence is concerned, there is no substantial divergence between the parties. The real controversy is confined to the manner of assault and the role played by the accused persons.

32. The defence has not been able to point out any material contradiction in the evidence of P.W.-1 affecting the substratum of the prosecution case. The discrepancies pointed out during arguments relate to subsidiary details and not to the occurrence itself. The evidence of this witness, read as a whole, appears to be natural, consistent and in conformity with the surrounding circumstances. I am, therefore, finds no reason to discard her testimony at the threshold. Her evidence shall, however, be tested in the light of the remaining evidence available on record.

33. P.W.-2 Nitu Kumari has also claimed herself to be an eyewitness to the occurrence. She deposed that on the date of occurrence she was standing at the entrance of her house when she noticed the dispute arising over the common passage. According to her, accused Kapildev Mahto, Savita Devi, Soni Devi, Shikha Kumari and Shilpi Kumari assaulted Draupadi Devi and Rinku Devi. She specifically attributed the head injury of Draupadi Devi to accused Kapildev Mahto by stating that he was armed with a lathi and struck a blow on her head, causing bleeding injuries. She further stated that when she and Rinku Devi rushed to rescue Draupadi Devi, accused Kapildev Mahto and Savita Devi caught hold of Rinku Devi while the remaining accused assaulted her by fists and kicks. According to this witness, had they not intervened, the accused persons would have caused even more serious injuries to both the victims.

34. The testimony of P.W.-2 also establishes that the occurrence did not arise all of a sudden without any background. She has consistently stated that disputes regarding the use of the common passage had been continuing for quite some time and that even the village Panchayat had attempted to resolve the issue, though without success. She further stated that the accused persons did not permit the informant's family to use the front passage and that similar quarrels had occurred earlier on the same issue. This part of her testimony assumes significance because it not only explains the immediate cause of the occurrence but also lends assurance to the prosecution case regarding the genesis of the incident.

35. During cross-examination, P.W.-2 admitted that the parties are close agnates and that the common courtyard was jointly used by the family members. She further admitted that no effective partition had taken place in respect of the disputed passage. The defence attempted to suggest that Draupadi Devi sustained injuries after falling during the altercation while trying to take forcible possession over the accused's share of land. The witness unequivocally denied the suggestion. She remained consistent that the injuries were the result of assault committed by the accused persons and not the consequence of an accidental fall.

36. The defence also sought to point out that P.W.-2 stated that Kapildev Mahto assaulted Draupadi Devi by means of a lathi, whereas P.W.-4 and P.W.-7 attributed the head injury to a brick. This discrepancy, in the opinion of the Court, is not of such magnitude as to demolish the prosecution case. The occurrence admittedly took place in

the course of a sudden quarrel in the common courtyard. Different witnesses observed the incident from different positions and narrated it after a considerable lapse of time. Minor variation regarding the precise weapon used is but natural. What is important is that all the material witnesses have consistently stated that Kapildev Mahto assaulted Draupadi Devi on her head, resulting in a bleeding injury. The substratum of the prosecution case thus remains unaffected.

37. The evidence of P.W.-2 also finds support from the surrounding circumstances. She has stated that several neighbouring persons gathered at the place of occurrence and attempted to intervene. Though the Investigating Officer has not examined those independent witnesses, such omission by itself cannot render the evidence of an otherwise reliable witness unacceptable. The law is well settled that defective investigation cannot be a ground to discard trustworthy ocular evidence, unless prejudice is shown to have been caused to the accused.

38. On a careful reading of the testimony of P.W.-2, I find that her evidence is consistent on the material particulars, namely, the existence of the dispute over the common passage, the presence of accused Kapildev Mahto and Savita Devi at the place of occurrence, the assault upon Rinku Devi and Draupadi Devi and the injuries sustained by the latter. The defence has not succeeded in eliciting any contradiction which goes to the root of the prosecution case. Her testimony, therefore, inspires confidence and materially corroborates the evidence of P.W.-1.

39. P.W.-3 Yogendra Kumar Mahto occupies a slightly different position from P.W.-1 and P.W.-2. He has not claimed that he witnessed the occurrence from its inception. According to him, while he was sitting at the door of his house, he heard an alarm emanating from the common courtyard and reached the place of occurrence after about five minutes. On reaching there, he found the womenfolk quarrelling. He saw that the clothes of Draupadi Devi had been torn and that she had sustained an injury on her head. He has further stated that Draupadi Devi informed him that she had received the head injury by a brick. Thereafter, he intervened, pacified the parties and shifted Draupadi Devi to the hospital for treatment. Thus, the evidence of this witness is relevant primarily to the immediate aftermath of the occurrence and not to the actual commencement of the assault.

40. The learned defence counsel has relied upon the statement of this witness made during cross-examination that when he reached the place of occurrence he found only the women quarrelling and that accused Kapildev Mahto had gone to the vegetable market. It has been argued that this circumstance completely falsifies the prosecution case so far as Kapildev Mahto is concerned. The submission, on a closer scrutiny of the evidence, does not merit acceptance. P.W.-3 himself admits that he reached the place of occurrence only after hearing the alarm and about five minutes after the occurrence had started. He has nowhere stated that he had witnessed the occurrence from the beginning. Therefore, his statement regarding what he saw after reaching the place of occurrence cannot be stretched to infer that accused Kapildev Mahto was not present when the assault actually took place. He has merely narrated the situation which prevailed when he arrived at the spot. His evidence, therefore, cannot override the direct testimony of the injured witnesses who consistently attributed a specific role to accused Kapildev Mahto.

41. Another aspect of the evidence of P.W.-3 deserves notice. Though he stated that Draupadi Devi did not disclose the name of the person who assaulted her, he

unequivocally stated that she had informed him that she had sustained a head injury by a brick. He also saw that her clothes had been torn and that she required immediate medical assistance. His conduct in taking the injured to the hospital immediately after the occurrence appears to be natural and lends assurance to his presence at the place of occurrence. The defence has not been able to demonstrate any reason why this witness would falsely support the prosecution with regard to the occurrence or the injuries sustained by Draupadi Devi.

42. It is true that P.W.-3 has not supported the prosecution in its entirety. Equally, it cannot be overlooked that he has not supported the defence either. His evidence cannot be dissected into isolated sentences so as to reject the prosecution case. The settled rule of appreciation of evidence is that the testimony of a witness has to be read as a whole. Read in that manner, the evidence of P.W.-3 establishes that an occurrence had in fact taken place in the common courtyard, that Draupadi Devi had sustained a bleeding head injury during the occurrence, that her clothes had been torn and that she was immediately shifted to the hospital. These circumstances substantially corroborate the prosecution case regarding the occurrence itself.

43. Accordingly, the evidence of P.W.-3, though not that of an eyewitness to the commencement of the occurrence, cannot be ignored merely because he did not witness every stage of the incident. To the extent he speaks about the occurrence, the condition of the injured immediately thereafter and the surrounding circumstances, his testimony appears to be natural and trustworthy. His evidence, when read conjointly with that of P.W.-1 and P.W.-2, sufficiently establishes the genesis of the occurrence and furnishes assurance to the prosecution version before the Court proceeds to examine the testimony of the injured witnesses.

44. The prosecution case substantially rests upon the testimony of P.W.-4 Rinku Devi, who is not only the informant of the case but is also an injured witness. Her presence at the place of occurrence is admitted and beyond dispute. According to her, on the date of occurrence she was preparing food in the courtyard when the accused persons obstructed the common passage and prevented the members of her family from using the same. On her protest, accused Kapildev Mahto, Savita Devi and the other accused persons started abusing and assaulting her. She has consistently stated that when her mother-in-law, Draupadi Devi, came to intervene, accused Kapildev Mahto dealt a blow on her head by means of a brick, causing bleeding injury. She further stated that thereafter Draupadi Devi was also assaulted with bamboo sticks by the remaining accused persons. Thus, according to this witness, the dispute relating to the common passage was the immediate cause of the occurrence.

45. The evidence of P.W.-4 has been subjected to lengthy cross-examination. It has come in her evidence that both parties are close agnates residing in different portions of the same ancestral courtyard and that disputes regarding the use of the courtyard had existed even prior to the occurrence. She has further admitted that there was pushing and scuffling between the parties during the occurrence and that she as well as Draupadi Devi fell down. On the strength of this admission, learned defence counsel argued that the injuries were sustained only because of the fall. The argument does not commend acceptance. The evidence of a witness cannot be appreciated by isolating one sentence from the entire deposition. When the testimony of P.W.-4 is read as a whole, it becomes evident that the pushing and scuffling occurred during the course of the assault itself. Her evidence nowhere suggests that the injuries were accidental or unconnected with the

assault. On the contrary, she consistently maintained that Kapildev Mahto assaulted Draupadi Devi on the head and thereafter both the injured were assaulted by the accused persons. Therefore, the admission relied upon by the defence does not demolish the prosecution version.

46. It was next argued that P.W.-4 made certain improvements before the Court by alleging that the accused persons caught hold of her hair, threw her to the ground and that her ear-rings were snatched away. These facts do not find place either in the written report or in her previous statement. To that extent, the submission of the defence deserves acceptance. However, those improvements relate to ancillary aspects of the occurrence. The Court is presently concerned with the principal allegation regarding the assault upon the injured persons. On that aspect, the testimony of P.W.-4 has remained consistent from the very beginning. It is a settled rule of appreciation that exaggeration or embellishment with respect to collateral facts does not necessarily render the entire evidence unreliable where the substratum of the prosecution case remains intact.

47. The evidence of P.W.-7 Draupadi Devi, who is the another injured witness, assumes considerable significance. She has categorically deposed that when she came to rescue her daughter-in-law, accused Kapildev Mahto assaulted her on the head with a brick. She further stated that Kapildev Mahto caught hold of her hand, threw her on the ground and thereafter she was assaulted. She has also attributed participation to Savita Devi in the assault upon both the injured women. Her testimony establishes not only her presence at the place of occurrence but also the active participation of the accused in the occurrence.

48. During course of arguments, the learned defence counsel drawn an attention of the Court to the statement of P.W.-7 made during cross-examination that she did not become unconscious after the occurrence, whereas some of the prosecution witnesses stated that she had become unconscious. This discrepancy, in my opinion, does not affect the credibility of the prosecution case. Whether the injured remained conscious or unconscious after sustaining the injury is not the decisive circumstance. The material question is whether she sustained the injury during the occurrence. That fact stands consistently proved not only from her own testimony but also from the medical evidence. The discrepancy pointed out by the defence relates merely to the effect of the injury and not to the occurrence itself.

49. Another submission advanced by the defence is that P.W.-1 and P.W.-2 have stated about assault by lathi whereas P.W.-4 and P.W.-7 attributed the head injury to a brick. I am of the considered opinion that said inconsistency is not of such magnitude as would render the prosecution case doubtful. The occurrence admittedly took place all of a sudden in the course of a dispute over the common passage. Different witnesses observed the occurrence from different angles. Minor variations regarding the exact weapon used are but natural. What assumes significance is that every material witness has consistently stated that accused Kapildev Mahto dealt a hard blow upon the head of Draupadi Devi resulting in bleeding injury. The medical evidence also establishes a hard and blunt injury on the scalp. Thus, the discrepancy regarding the precise weapon does not go to the root of the matter.

50. The Court also cannot lose sight of the fact that both P.W.-4 and P.W.-7 are injured witnesses. Their presence at the place of occurrence is, therefore, established beyond any pale of doubt. Despite prolonged cross-examination, no material has been brought on record to indicate that they had any reason to falsely implicate accused

Kapildev Mahto and Savita Devi while shielding the actual assailants. The defence has suggested previous enmity; however, the same circumstance equally furnishes the motive for the occurrence itself. In the facts of the present case, the admitted dispute relating to the common passage lends assurance to the prosecution version regarding the genesis of the occurrence rather than probabilising false implication.

51. On an overall evaluation of the evidence of P.W.-4 and P.W.-7, I find that their testimony is consistent on the material particulars, namely, the place of occurrence, the genesis of the dispute, the participation of accused Kapildev Mahto and Savita Devi and the injuries sustained by the victims. Their evidence receives substantial assurance from the testimony of P.W.-1 and P.W.-2 as well as from the medical evidence. The omissions and discrepancies highlighted by the defence relate to peripheral aspects of the occurrence and do not affect the core of the prosecution case. Consequently, the evidence of both the injured witnesses is found to be reliable and worthy of acceptance.

52. The medical evidence has been brought on record through P.W.-5 Dr. Deepak Kumar Singh. He deposed that on 23.08.2018 at about 1:35 P.M., while posted as Medical Officer at Primary Health Centre, Bakhri, he medically examined injured Draupadi Devi and found a lacerated wound measuring $\frac{1}{2}$ " $\times$ $\frac{1}{4}$ " over the back of her scalp. According to him, the injury had been caused by a hard and blunt object within six hours prior to the examination and was simple in nature. He proved the injury report, which has been marked as **Exhibit-2**. The medical evidence, therefore, conclusively establishes that Draupadi Devi had sustained a head injury on the date of occurrence. The defence has not challenged the genuineness of the injury report nor has it been suggested that the injury was fabricated or self-inflicted.

53. Learned defence counsel during course of argument much emphasised that the opinion elicited from the doctor during cross-examination that such an injury could also be caused by a fall on a hard surface. It has been argued that this opinion probabilises the defence version that Draupadi Devi accidentally fell during the altercation. The submission, though attractive at first blush, does not withstand closer scrutiny. The opinion expressed by the Medical Officer is only to the effect that such an injury is possible by a fall. The doctor has not opined that the injury was in fact caused by a fall. Medical evidence, unless it completely rules out the ocular account, is essentially corroborative in nature. In the present case, the medical evidence neither contradicts nor renders improbable the testimony of the injured witnesses. On the contrary, it fully supports the prosecution case to the extent that Draupadi Devi sustained a hard and blunt injury on her head during the relevant period.

54. The investigation was conducted by P.W.-6 Sohan Ram. His evidence shows that after taking over the investigation he re-examined the informant, inspected the place of occurrence, prepared the requisition for medical examination of the injured and recorded the statements of witnesses. He has consistently described the place of occurrence as the common courtyard situated between the residential houses of the parties. This part of his evidence substantially corroborates the prosecution case regarding the place of occurrence.

55. It is true that during cross-examination the Investigating Officer admitted that he did not record the statement of injured Draupadi Devi though he had met her during investigation. He further admitted that he did not find bloodstains at the place of occurrence and that no independent witness from the neighbourhood was examined during investigation. These omissions undoubtedly reflect that the investigation was not

free from defects. However, defective investigation cannot by itself be made a ground to discard otherwise reliable evidence. If such a principle were accepted, every lapse on the part of the Investigating Agency would necessarily result in acquittal irrespective of the truthfulness of the prosecution case. The duty of the Court is to appreciate the evidence that has actually come on record and not to punish the victim for lapses committed by the investigating agency. Therefore, the omissions shown in the investigation are required to be borne in mind while appreciating the evidence, but they do not by themselves demolish the prosecution case.

56. The defence has examined Ramchandra Mahto as D.W.-1. According to him, only the womenfolk were quarrelling and Draupadi Devi sustained the head injury after falling while trying to intervene. He has further stated that accused Kapildev Mahto had gone to the vegetable market and reached the place of occurrence only after the occurrence had ended. The evidence of a defence witness stands on the same footing as that of a prosecution witness and deserves equal consideration. However, its evidentiary value has to be assessed in the light of the entire material available on record.

57. A careful reading of the evidence of D.W.-1 shows that he himself admitted during cross-examination that he reached the place of occurrence only after hearing the commotion raised by the villagers. He also admitted that when he reached there, Rinku Devi and Draupadi Devi were crying and saying that they had been assaulted. He further admitted that Draupadi Devi had sustained a bleeding injury. These admissions materially dilute the defence version. Once the witness admits that the injured persons were alleging assault immediately after the occurrence and that Draupadi Devi had sustained bleeding injuries, his explanation that the injury was caused only by a fall ceases to inspire confidence. His evidence, therefore, is insufficient to probabilise the defence plea.

58. Upon an overall assessment of the oral and documentary evidence, I find that the prosecution has succeeded in establishing the genesis of the occurrence, namely, the dispute regarding the common pathway in the ancestral courtyard. The presence of P.W.-4 and P.W.-7 at the place of occurrence is admitted and stands further established by the injuries sustained by them. Their testimony receives material assurance from P.W.-1 and P.W.-2. P.W.-3 corroborates the occurrence and the immediate aftermath thereof. The medical evidence supports the factum of injury. The defence has not been able to create any reasonable doubt with regard to the participation of accused Kapildev Mahto and Savita Devi in the occurrence.

59. In view of the foregoing discussions, I am of the considered opinion that the prosecution has successfully established that the accused persons Kapildev Mahto and Savita Devi participated in the occurrence. The evidence of the injured witnesses, duly corroborated by P.W.-1 and P.W.-2, establishes that Draupadi Devi sustained a bleeding injury on her head during the occurrence. The medical evidence also confirms the presence of a lacerated wound on the scalp. The question which now falls for consideration is whether the proved acts of the accused would amount to an offence punishable under Section 308 read with Section 34 of the Indian Penal Code or whether they constitute only the lesser offences of voluntarily causing hurt and wrongful restraint.

60. The evidence on record unmistakably shows that the occurrence was neither pre-planned nor the outcome of any previous preparation. The genesis of the occurrence was an altercation over the use of the common passage situated in the ancestral courtyard

jointly used by the parties. The prosecution witnesses themselves have admitted that disputes over the said passage had been continuing for quite some time. The occurrence, therefore, appears to have erupted suddenly in the course of such dispute. Nothing has been brought on record to show that the accused had assembled with any pre-conceived design to commit an offence of such gravity as would attract Section 308 IPC.

61. It is true that the prosecution has attributed the head injury of Draupadi Devi to accused Kapildev Mahto. At the same time, the medical evidence assumes considerable significance. P.W.-5 found only one lacerated wound measuring half an inch by one-fourth inch on the scalp. The injury has been specifically opined to be simple in nature. No fracture, intracranial injury or grievous hurt has been detected. The doctor has not stated that the injury was dangerous to life or that it was sufficient in the ordinary course of nature to cause death. The injured was discharged after treatment and no material has been brought on record to indicate any lasting consequence of the injury.

62. No doubt, the head is a vital part of the human body and an assault on such part cannot be viewed lightly. Nevertheless, criminal liability under Section 308 IPC does not arise merely because the injury is caused on a vital part of the body. The Court is required to examine the cumulative effect of all the surrounding circumstances, including the nature of the weapon, the force employed, the number of blows, the nature of injuries actually caused and the intention or knowledge attributable to the accused. In the present case, those surrounding circumstances do not unmistakably indicate the intention or knowledge contemplated under Section 308 IPC.

63. The prosecution has also not produced any evidence to show that after causing the injury the accused continued the assault in a manner suggesting determination to cause death or such bodily injury as was likely to result in death. On the contrary, the occurrence came to an end after intervention of the villagers and the injured was immediately shifted to the hospital. The overall circumstances of the occurrence, viewed in their entirety, indicate that it was the outcome of a sudden quarrel arising out of a family dispute relating to the common passage rather than an assault actuated by the intention contemplated under Section 308 IPC.

64. Therefore, I am unable to hold that the prosecution has established beyond reasonable doubt the essential ingredients of Section 308 read with Section 34 IPC. Suspicion, however strong, cannot substitute legal proof. The benefit arising from the absence of satisfactory evidence regarding the requisite intention or knowledge must necessarily enure to the accused. Accordingly, accused Kapildev Mahto and Savita Devi deserve to be acquitted of the charge punishable under Section 308 read with Section 34 IPC.

65. The matter, however, does not end there. The evidence which has been accepted by this Court clearly establishes that the accused persons prevented the informant and her family members from using the common passage and thereafter voluntarily assaulted Rinku Devi and Draupadi Devi. The defence has not been able to probabalise its plea that the injuries were sustained merely due to an accidental fall. Even if some discrepancies have appeared regarding the precise weapon used or the sequence of assault, the same do not affect the core of the prosecution case. The evidence consistently establishes that both injured sustained injuries during the occurrence at the hands of the accused.

66. The acts proved on record clearly satisfy the ingredients of wrongful restraint as defined under Section 339 IPC and punishable under Section 341 IPC. Likewise, the

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medical evidence coupled with the ocular testimony satisfactorily establishes that simple hurt was voluntarily caused to both the injured persons. The participation of accused Kapildev Mahto and Savita Devi has been consistently spoken to by both injured witnesses and receives adequate assurance from P.W.-1 and P.W.-2. The prosecution has thus succeeded in proving beyond reasonable doubt that both the accused acted in furtherance of their common intention while committing the offences punishable under Sections 341 and 323 of the Indian Penal Code.

67. For the reasons discussed hereinabove, I am of the considered opinion that the prosecution has failed to establish the charge under Section 308 read with Section 34 IPC against accused Kapildev Mahto and Savita Devi beyond reasonable doubt. Therefore, they are entitled to the benefit of doubt in respect of the said charge. However, the prosecution has successfully proved beyond reasonable doubt that accused Kapildev Mahto and Savita Devi, acting in furtherance of their common intention, wrongfully restrained the informant and voluntarily caused simple hurt to Rinku Devi and Draupadi Devi. Accordingly, both the accused are held guilty and convicted for the offences punishable under Sections 341/34 and 323/34 of the Indian Penal Code.

ORDER

Accordingly, accused Kapildev Mahto and Savita Devi are hereby convicted for the offences punishable under Sections 341 read with Section 34 IPC and 323 read with Section 34 IPC. However, both the accused are acquitted of the charge punishable under Section 308 read with Section 34 IPC by extending to them the benefit of doubt. The accused are presently on bail. Their bail bonds are hereby cancelled, and they are taken into judicial custody and remanded to court Hazat. The case is now fixed for hearing on the point of sentence at 3.30 P.M.

Announced in open court on this 13th July, 2026.

Dictated, Corrected and Signed by me.

Sd/-
(Rishi Kant)
Principal Sessions Judge, Begusarai
13.07.2026

Sd/-
(Rishi Kant)
Principal Sessions Judge, Begusarai
13.07.2026

ORDER ON SENTENCE

Dated:13.07.2026

At 03:30 P.M.

Convicts namely Kapildev Mahto and Savita Devi are present before the Court on bail.

Heard the learned P.P.-In-charge for the State as well as the learned counsel appearing on behalf of the convicts on the question of sentence.

Learned defence counsel submitted that both the convicts are first-time offenders having no criminal antecedents. It was further submitted that the occurrence arose out of a sudden dispute regarding the use of a common pathway in the ancestral courtyard between close agnates. The parties are closely related and the occurrence was the outcome of a long-standing family dispute relating to the common courtyard. It was further argued that the injured persons sustained only simple injuries, as is evident from the medical evidence on record. The convicts have been facing the agony of criminal prosecution since the year 2018 and have remained on bail throughout the trial without misusing the liberty granted to them. It was, therefore, prayed that a lenient view be taken and the convicts be extended the benefit of the Probation of Offenders Act.

On the other hand, the learned P.P.-In-charge opposed the prayer for probation and submitted that the convicts voluntarily assaulted the informant and the injured witness in broad daylight and wrongfully restrained them. It was submitted that merely because the injuries are simple in nature, the gravity of the occurrence cannot be ignored and, therefore, the convicts deserve appropriate punishment in accordance with law.

This Court has given thoughtful consideration to the rival submissions. The convicts have been found guilty for the offences punishable under Sections 341 read with Section 34 IPC and 323 read with Section 34 IPC, while they have been acquitted of the charge under Section 308 read with Section 34 IPC. From the evidence available on record, it is evident that the occurrence arose out of a dispute regarding the common pathway situated in the ancestral courtyard jointly used by the parties. The dispute was essentially private and arose between close agnates. The medical evidence establishes that the injuries sustained by injured Draupadi Devi were simple in nature and caused by a hard and blunt object. No grievous or life-threatening injury has been proved. There is nothing on record to show that either of the convicts have any previous criminal antecedent or that they are habitual offenders. The occurrence took place in the year 2018, and the convicts have remained under the shadow of criminal prosecution for nearly eight years. They have regularly appeared before the Court during the trial and there is nothing to suggest that they misused the concession of bail or attempted to interfere with the administration of justice.

Sentencing is not merely a matter of punishment; it is also a process of balancing the interests of society, the rights of the victim and the possibility of reformation of the offender. Where the offence arises out of a sudden quarrel between close relatives, the injuries are simple in nature, and the offenders have

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clean antecedents, the reformatory approach deserves due consideration. Having regard to the age, background and antecedents of the convicts, this Court is of the considered opinion that sending them to prison at this stage would not serve any useful purpose. The ends of justice would be adequately met by extending to them the benefit of probation coupled with payment of compensation to the injured persons.

Accordingly, in exercise of powers under Section 4 of the Probation of Offenders, convicts Kapildev Mahto and Savita Devi are directed to be released on probation of good conduct on their executing a bond of Rs.10,000/- (Rupees Ten Thousand) each with one surety of the like amount for a period of one year, undertaking to maintain peace and good behaviour during the said period and to appear and receive sentence as and when called upon during the currency of the bond.

Further, in exercise of powers under Section 395 of BNSS, each convict shall pay compensation of Rs. 2,000/- each (total Rs. 4,000/-) to the injured persons Rinku Devi and Draupadi Devi within one month from today. The compensation shall be shared equally between both the injured persons. In default of payment of compensation, the defaulting convict shall undergo simple imprisonment for fifteen days.

The convicts are informed of the conditions of the probation bond and it is made clear that in the event of breach of any of the conditions of probation during the bond period, they shall be liable to be dealt with in accordance with law.

The bail bonds furnished by the convicts shall remain operative for the purposes of Section 481 of BNSS for the prescribed statutory period.

Let a copy of the judgment and this order on sentence be supplied to the convicts free of cost forthwith.

Dictated and corrected by me.

Sd/-
(Rishi Kant)
Principal Sessions Judge, Begusarai
13.07.2026

Sd/-
(Rishi Kant)
Principal Sessions Judge, Begusarai
13.07.2026

LIST OF PROSECUTION WITNESSES

Prosecution Witness No.	Name of witness	Description
1	Nutan Devi	Other witness.
2	Nitu Kumari	Other witness.
3	Yogendra Kumar Mahto	Other witness.
4	Rinku Devi	Informant/injured.
5	Dr. Deepak Kumar Singh	Medical witness.
6	Sohan Ram	Police witness.
7	Draupadi Devi	Another injured.

LIST OF PROSECUTION EXHIBITS

Exhibit No.	Description of the Exhibit	Proved by/Attested by
1	Signature of informant and writing of Shambhu Mahto on Written application.	PW-4
2	Injury report of injured Draupadi Devi	PW-5
3	Formal FIR	PW-6
3/1	Endorsement	PW-6
4	Police requisition for injury report.	PW-6

LIST OF DEFENE WITNESSES

Defence Witness No.	Name of witness	Description
1	Ramchandra Mahto	Other witness.

Sd/-
(Rishi Kant)
Principle Sessions Judge, Begusarai
13.07.2026

Date of Judgment/Order	13.07.2026
Date of Reserving Judgment/Order	29.06.2026
Uploading Date	15.07.2026
Uploaded by	Rahul Verma