

STATE Vs Ajay Yadav & Ors.

FORM - A

Present:- Prabhat Krishna, Additional Sessions Judge-IV
Date of Judgment: 24-07-2026
S.T. No.-744/2016
Case No:-Sanokhar Amdanda P.S. 26/2013

INFORMANT	State through Shankar Yadav
REPRESENTED BY	Sri Binod Kumar Sah, Learned Addl. P.P.
ACCUSED	1. Ajay Yadav, age- 47 Years, son of Late Naresh Yadav; 2. Beeru Yadav, age- 40 Years, son of Suresh Yadav; 3. Lalu Yadav, age- 80 Years, son of Suresh Yadav; 4. Suresh Yadav, age- 30 Years, son of Late Harimohan Yadav; 5. Futo Yadav @ Foto Yadav, age- 42 Years, son of Late Naresh Yadav; All are R/o village- Bhawanipur, P.S.-Amdanda, District-Bhagalpur.
REPRESENTED BY	Sri Shaligram Singh, Learned Advocate

FORM B

Date of Offence	22-04-2013
Date of FIR	22-04-2013
Date of Chargesheet	C.S. No. 43/2013 Dated 30-06-2013
Date of Framing of Charges	17-12-2016
Date of Commencement of evidence	05-02-2020
Date on which judgment is reserved	20-07-2026
Date of the Judgment	24-07-2026

Accused Details

Rank of the Accused	Name of Accused	Date of Arrest/Sur render	Date of Release on Bail	Offence Charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergo ne during Trial for Purpose of Section 428 Cr.P.C
1.	Ajay Yadav	22.04.2016	22.04.2016	307/34, 341/34 ,	Acquitted	NIL	NIL

				325/34, 323/34 504/34 of the I.P.C.			
2.	Beeru Yadav	22.04.2016	22.04.2016	307/34, 341/34 , 325/34, 323/34 504/34 of the I.P.C.	Acquitted	NIL	NIL
3.	Lalu Yadav	22.04.2016	22.04.2016	307/34, 341/34 , 325/34, 323/34 504/34 of the I.P.C.	Acquitted	NIL	NIL
4.	Suresh Yadav	22.04.2016	22.04.2016	307/34, 341/34 , 325/34, 323/34 504/34 of the I.P.C.	Acquitted	NIL	NIL
5.	Futo Yadav @ Foto Yadav	22.04.2016	22.04.2016	307/34, 341/34 , 325/34, 323/34 504/34 of the I.P.C.	Acquitted	NIL	NIL

FORM C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES :-

A. Prosecution:

Rank	Name	Nature of Evidence (Eye witness, police witness, expert witness, medical witness, panch witness, other witness)
P.W. 1	Kiran Devi	Informant's wife
P.W. 2	Bablu Yadav	Informant's neighbour
P.W. 3	Bindeshwari Yadav	Hostile Witness
P.W. 4	Shankar Yadav	Informant
P.W. 5	Nunumani Devi	Hostile Witness

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P.W. 7	Nirmala Devi @ Mala Devi	Hostile Witness
P.W. 8	Dr. Ajay Kumar Sinha	Doctor

B. Defence Witnesses, if any: NONE.

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :

	Exhibit No.	Description
1	Ext-P1/ PW7	Injury report of Shankar Yadav
2	Ext-P1/ PW7	Injury report of Bindeshwari Yadav

B. Defence :- NIL

J U D G M E N T

1. Above named five accused persons stand charged for the offences punishable u/Ss 307/34, 341/34, 325/34, 323/34 and 504/34 of the I.P.C.
2. The prosecution story, to the extent relevant and necessary as unfolded in the written report of informant Shankar Yadav, is that on 22.04.2013 at about 07:00 pm while his son Vibhash Yadav was engaged in throwing dirty water from a pit into government drain, all the accused persons reached there and accused Beeru Yadav assaulted the informant on his head by means of lathi. On raising alarm, informant's brother Bindeshwari Yadav intervened on which accused Futo Yadav assaulted him and caused fracture injury in his right hand.

On the basis of the said written report, the police drew up a formal FIR and registered the case vide Sanokhar Amdanda P.S. 26/2013 u/Ss 341/323/307/504/34/325 of the IPC against all the five named accused persons and proceeded with the investigation.

3. The I.O., after completion of investigation, submitted chargesheet against all the five named accused persons namely Ajay Yadav, Beeru Yadav, Lalu Yadav, Suresh Yadav, Futo Yadav @ Foto Yadav finding the accusations true u/Ss 341, 323, 325, 504, 34 of the IPC. The learned Court below, after applying his judicial mind, was pleased to take cognizance accordingly and case record was committed to the Court of Sessions where charges were framed under aforequoted Sections contents of which were read over and explained to them in Hindi to which they pleaded not guilty and claimed to be tried.
4. Now the main point for consideration before this Court is as to whether the prosecution has been able to bring home the charges as levelled against the accused persons beyond the shadow of all reasonable doubts or not.

F I N D I N G S

5. The prosecution, in order to substantiate its charges, has produced and examined altogether seven witnesses whose details are mentioned in the appendix attached with the judgment. Defence did not examine any witness and no chit of paper came to be filed on its behalf. So far as documentary evidences on behalf of the prosecution is concerned, the injury report of injured Shankar Yadav and Bindeshwari yadav have been marked as exhibit P1/PW7 and P2/PW7 respectively. In this case, the I.O. has not been examined. Situated thus, let me evaluate and appreciate the evidence informant first of all and thereafter other evidences will be discussed to see as to whether the prosecution has been able to bring home the charges as levelled against the accused persons beyond shadow of all reasonable doubts or not and to what extent.

6. The very informant of this case is Shankar Yadav who is examined as PW-04 and while deposing before the Court this witness stated that heated argument took place with his nephew Futo, Ajay, Lalu, Suresh in which he had fallen down and sustained injury on his head by a brick which was kept there. In his cross-examination this witness categorically stated that accused persons had neither abused nor assaulted him. He further stated that he had sustained injury after falling on the brick and stated that the written report given to the police about the occurrence is not in his hand writing and he doesn't know about the contents of the same.

PW2 Bablu Yadav stated that on hearing hue and cry he went at the place of occurrence and found the fracture injury in the hand of Shankar Yadav. This witness stated that Shankar had quarrelled with Ajay Yadav and Futo Yadav. In his cross-examination, however, this witness didn't support the case of prosecution and stated that he didn't see who assaulted whom. In his examination-in-chief though this witness had claimed to have identified all the accused persons of this case but in his cross-examination this witness stated that he does not identify the accused persons.

PW3 Bindeshwari Yadav happens to be the full brother of the informant and also one of the victims of this case as per written report of informant but when examined before the Court as PW3 this witness turned hostile and stated that neither he knows about the occurrence nor police had recorded his statement. This witness also denied the suggestion of prosecution that he had reached at the place of occurrence and had witnessed the occurrence from his naked eyes. In his cross-examination on behalf of the defence this witness stated that all accused are his relatives.

PW1 Kiran Devi happens to be the wife of informant Shankar Yadav and while supporting the case of prosecution she stated that seven years ago at about 07:00 pm while her brother-in-law Buddhu Yadav was engaged in taking out water from a pit and pouring it in drain, accused persons quarrelled with her husband Shankar Yadav and in the scuffle head of her husband Shankar Yadav got ruptured and her brother-in-law Bindo Yadav also sustained fracture injuries in his hand whereafter both were taken to Kahalgaon Hospital where they received treatment. However, in her cross-examination this witness stated that neither she has seen the occurrence from her naked eyes nor she recollects the date and day of the occurrence. This witness also failed to state the boundary of the place of occurrence and also failed to state who assaulted whom because she had reached at the place of occurrence after the incident and concluded by stating that she has no personal knowledge about the occurrence.

PW 7 is Dr. Ajay Kumar Sinha who had examined injured Shankar Yadav and Bindeshwari Yadav and proved their injury reports which got marked as Exhibit P1/PW7 and P2/PW7 respectively. This expert medical witness found one lacerated wound of size 1" x ¼" x ¼" on left occipital region, one lacerated wound of size 1" x ¼" x ¼" on right occipital region and swellings on right shoulder and right forehead on the person of injured Shankar Yadav and opined the same as simple in nature caused by hard and blunt substance. Again, this witness found one swelling with tenderness on right hand and referred him to J.L.N.M.C.H, Bhagalpur for X-ray of right hand on the person of injured Bindeshwari Yadav but kept his opinion reserve as there was no X-ray report . In his cross-examination this witness admitted that both the injuries can occur by falling and concluded by stating that the X-ray plate is not available before him.

Evidences of P.W.5 and P.W 6 are of no use and help to the prosecution because both these witnesses turned and declared hostile and nothing has come out in their respective cross-examination which could benefit the prosecution in any manner. This Court is well aware of the settled legal principle that evidence of a hostile witness should not be rejected outright and if there is any evidence or material connecting the story of prosecution for the defence then the same should be taken into consideration. However, from perusal of evidences of both these witnesses it is crystal clear that they have stated about having no knowledge of the occurrence, their statements were never recorded by the police and concluded by stating that they identify the accused persons because of being co-villagers.

7. The fulcrum of prosecution case is the written report of informant Shankar Yadav in which there is allegation against the accused persons of brutally assaulting the informant and his brother Bindeshwari Yadav by means of lathi on their heads and hand which led the F.I.R. to get registered u/Ss 307, 325 alongwith other Sections of the I.P.C. in which Section 307 of the I.P.C. is exclusively triable by the Court of Sessions but the prosecution has miserably failed to prove the same.
8. To prove the charge for the offence punishable u/S 307 of the I.P.C. the nature of the injury is immaterial but the intention or knowledge of the accused person is required to be ascertained for causing that intended injuries and for deciding the required intention or knowledge the same has got to be proved like any other ingredients of an offence. But it is equally true that these ingredients, being state of mind, the same can be ascertained after taking into consideration the attending facts and circumstances of the case including the nature of injuries, type of weapon used in committing the crime, the body parts on which blow was given etc. alongwith the medical evidence available on the record.

As per F.I.R., the informant and his brother Bindeshwari Yadav are not only the eye witnesses but also the victims of this case who were brutally assaulted by the accused persons by means of lathi but neither informant nor his victim brother supported the case of the prosecution on the point of manner of occurrence. In the written report, the informant specifically stated that accused Beeru Yadav inflicted lathi blow on his head and when informant's brother Bindeshwari Yadav intervened, he was assaulted by accused Futo Yadav on his right hand causing fracture injury. However, when informant turned up before the Court and examined as PW4, he simply stated about hot discussion having taken place with accused persons in which he fell down and sustained injury on his head because of the brick which was lying there. This witness neither named accused Beeru Yadav as assailant nor named his brother Bindeshwari Yadav as victim. In fact, this witness categorically stated that accused persons neither abused nor assaulted him and gave axe blow to his own case by stating that neither he knows about the contents of the written report nor he had himself penned said written report. What is surprising is the evidence of informant's brother Bindeshwari Yadav who, in his evidence before the Court as PW3, didn't support the case of prosecution and categorically stated that neither he knows about the occurrence nor his statement was ever recorded by the police. Thus, the eye witness as well as victim of this case turned hostile. PW1 happens to be the wife of informant Shankar Yadav but this witness also didn't support the case of prosecution and failed to state as to who assaulted whom. In short, none of the ocular witnesses supported the case of prosecution on the point of manner of occurrence and they also failed to connect the guilt with the accused persons. Though, doctor has been examined as PW7 but in his opinion the injuries sustained by the injured Shankar Yadav was simple in nature caused by hard and blunt substance and so far as another injured Bindeshwari Yadav is concerned, the opinion regarding the nature of injuries was kept reserved because of non-availability of X-ray report. Thus, the medical evidence is also not sufficient to bring home the charge for the offence punishable u/S 307 of the I.P.C. As discussed earlier, the doctor didn't express his final opinion in respect of injury sustained by injured Bindeshwari Yadav and the injuries sustained by informant Shankar Yadav has been opined as simple in nature, therefore, charge for the offence punishable u/S 325 of the I.P.C. also flatly falls on the ground. The informant has categorically stated that none of the accused persons had abused or assaulted him and there is no whispering of evidence on the point of restraining the informant and his brother by the accused persons, therefore, the charges for the offences punishable u/S 323, 504 and 341 of the I.P.C. also fails.

9. In this case, substantive evidences available on record are completely lacking the required force to bring home the charges levelled against the accused persons. The fulcrum of the prosecution case is the written report of the informant but it is equally

true that F.I.R. itself is not a substantive piece of evidence. In catena of decisions, it has been held that the F.I.R. itself is not the proof of a crime but is a piece of evidence which could be used for corroborating the case of the prosecution. It can only be used to corroborate the statement of the maker u/S 157 of the Evidence Act or to contradict u/S 145 of that Act. It cannot be used for the purpose of corroborating or contradicting other witnesses. In this case, the informant himself has not supported the case of prosecution on the point of manner of occurrence and another victim of this case turned hostile. Further, none of the witnesses named accused persons as assailants. In short, the prosecution has miserably failed to connect the guilt with any of the accused persons facing trial in this case. Thus, the very foundation of the case suffers from the vice of unreality. Testimonies of witnesses, even if taken on their face value, fall short of the requirements of proof of the charges beyond all reasonable doubts. The accused persons are, therefore, entitled to the benefit of doubt in the singular facts and circumstances of this case.

- 10.** In the light of the discussions held in the preceding paras on laws, facts, evidences and circumstances and after sifting and weighing the evidences and materials available as well as brought on record, this Court is of the considered opinion that the prosecution has utterly and miserably failed to bring home any of the charges against any of the accused persons facing trial in this case beyond the shadow of all reasonable doubts for want of cogent and consistent ocular and documentary evidences. Resultantly, all the five accused persons facing trial are not found guilty of any of the charges levelled against them and are, accordingly, hereby acquitted of all the charges from this case and are further hereby discharged from the liabilities of their respective bail- bonds.

Dictated & corrected by me

Additional Sessions Judge-IV
Bhagalpur
24-07-2026

PRABHAT KRISHNA
Additional Sessions Judge-IV
Bhagalpur
24-07-2026

Date of judgment/order	24.07.2026
Date of Reserving judgment/order	-
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