

**IN THE COURT OF PRINCIPAL DISTRICT AND SESSIONS JUDGE,  
BHAGALPUR**

Criminal Appeal No. 75 of 2023

Bibi Nayeema Khatoon, aged about 55 years W/o – Md. Manjoor Ansari  
R/o – Narga Bazar P.S. - Nathnagar, District - Bhagalpur ... Appellant

**Versus**

State of Bihar

... Respondent No. 1.

1. Md. Ibrar Ansari S/o Late Shamshad Ansari

2. Imran Ansari S/o Late Shamshad Ansari

3. Ekhlakh Ansari S/o Late Shamshad Ansari

All, R/o – Mohalla Narga Bazar, P.S. - Nathnagar, District – Bhagalpur.

... Respondent No. 2.

**Appearances**

Counsel for the Appellant

:- Sri Abhay Kant Jha, Advocate.

For the State

:- Sri S.N.P. Sah, Public Prosecutor.

Counsel for the Opposite 1<sup>st</sup> Party

:- Sri Md. Naseem Yunus, Advocate.

**JUDGMENT**

**Date of Judgment: 05-05-2026**

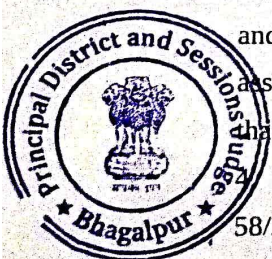
1. This criminal appeal has been preferred by the appellant against the judgment and sentence dated 07-08-2023, passed by learned A.C.J.M.-I, Bhagalpur in G.R. Case No. 828/2014, arising out of Nathnagar P.S. Case No. 58/2014, whereby the respondents were released from judicial custody after due admonition u/s 3 of Probation of Offenders Act.

2. A certificate has been given by the appellant that, no prior appeal or revision has been filed against the impugned judgment.

**Prosecution Case**

3. The prosecution case, as per the written application submitted by the informant Bibi Nayeema Khatoon, in brief, is that the accused Md. Ekhlakh Ansari has a bicycle shop and he used to keep bicycle on the way for which, informant's son at about 10.00 A.M. asked the accused Md. Ekhlakh to remove the bicycle, whereupon the accused Md. Ekhlakh Ansari, Md. Imran Ansari Md. Mehtab Ansari and Md. Ibrar Ansari abused the informant and her son using filthy words and assaulted them by means of lathi and Iron Rod. It is further alleged by the informant that miscreant Md. Mehtab Ansari snatched Gold chain from the neck of informant.

On the basis of the written report of the informant Nathnagar P.S. Case No. 58/2014 was instituted under Section 341, 323, 379, 504/34 of the Indian Penal



Code against all four F.I.R. named accused persons and investigation ensued. During investigation, the Investigating Officer recorded the statements of witnesses and collected the injury report of the injured. .

5. After completion of investigation, Charge-sheet No. 108/2014 dated 31-05-2014 was submitted against accused namely, 1. Ibrar Ansari, 2. Imran Ansari, 3. Ekhlakh Ansari and 4. Mehtab Ansari who are respondent in the present Appeal. Thereafter, cognizance of the offence u/s 341, 323, 325, 504/34 I.P.C. was taken and the case was kept in the file of the Court of learned A.C.J.M.- I, Bhagalpur, where charges under Section 341/34, 323/34, 325/34 and 504/34 IPC were framed against the respondents. The respondents pleaded not guilty and claimed to be tried.

6. After conclusion of the prosecution evidence, learned trial court has recorded the statement of all four charge-sheet accused person under the provision of section 313 Cr.P.C. on 30-01-2023 about the evidence of abusing and assaulting the informant, her son and husband by means of lathi and rod brought by the prosecution to which the accused persons denied the allegations and have taken the plea of innocence.

7. In order to substantiate the guilt, prosecution has examined altogether five witnesses in support of its case, namely P.W.1 Md. Isha Ansari, P.W.2 Md. Vicky Ansari, P.W.3 Bibi Nayeema Khatoon (Informant), P.W.4 Dr. Mamta Prasad (Medical Expert) and P.W.5 Vijay Kumar, (Investigating Officer)

8. The prosecution has prove the following documentary evidence on its behalf:

**Exhibit-1:-** The written application of informant Bibi Nayeema Khatoon

**Exhibit-1/1:-** The endorsement made on the written application

**Exhibit-2:-** Primary Injury report.

**Exhibit-2/1:-** Injury application of I.O.

**Exhibit-3:-** Final Injury Report.

**Exhibit-4 :-** Formal F.I.R.

**Exhibit -5 :-** Charge-sheet.

9. The defence did not examine any witness in support of its case. No documentary evidence was produced on behalf of the defence.

10. Upon conclusion of the trial, the learned Trial Court, after appreciating the oral and documentary evidence available on record, found the all four respondents guilty under Sections 323 & 325 IPC and took them into judicial custody. Further, after hearing on the point of sentence, the trial court released the all four convicts namely, 1. Md. Ekhlakh Anari, 2. Md. Imran Ansari, 3. Md. Ibrar and 4. Md. Mehtab Ansari from judicial custody after due admonition u/s 3 of Probation of Offenders Act and discharged bailors from the liabilities of their respective bail bonds.

11. Being aggrieved and dissatisfied with the said judgment, the present appeal has been preferred.

**Grounds Raised by the Appellant**



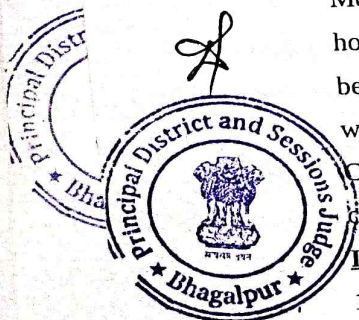
12. On behalf of the appellant Bibi Nayeema Khatoon it is argued by the learned counsel who assailed the impugned judgement on the ground that the judgement and sentence passed by the learned trial court is bad in both the fact and law this case, inasmuch as the accused persons, having intended to cause grievous hurt, were found guilty under the relevant provisions of the Indian Penal Code, yet the learned trial court, instead of awarding substantive punishment as mandated by law and supported by judicial precedent took an unduly lenient view. It is also submitted that no defence witness was examined on behalf of the accused, and the punishment prescribed for voluntarily causing grievous hurt is imprisonment of either description for a term which may extend to seven years and fine which the learned court failed to impose appropriately. However, during the course of argument the learned counsel fairly conceded that there is nothing on the record to show that petitioner was having criminal antecedents or F.I.R. pending/lodged prior to the date of occurrence as alleged in the present case in appeal but submitted that one FIR was instituted by the informant side in the year 2017 against the accused. The learned counsel further submitted on behalf of appellant that appellant has no objection on the offer of the respondent 2<sup>nd</sup> party/accused persons to pay compensation to the tune of Rs. 5,000/- to her/victim. On these grounds, it has been prayed to set aside the impugned judgment and sentence and pass such orders as may be deemed fit and proper in the circumstance of the case.

**Arguments of the Learned Public Prosecutor**

13. On the other hand, the learned Public Prosecutor duly assisted by the learned counsel of respondent 2<sup>nd</sup> party has supported the impugned judgment and submitted that the learned trial court has not committed any error in releasing the respondents from judicial custody after due admonition u/s 3 of Probation of Offenders Act after holding them guilty under Section 323 and 325 IPC on the basis of the evidence available on record. Hence, the learned Public Prosecutor has prayed for dismissal of the appeal and confirmation of the judgment of conviction and sentence passed by the trial court. Further, the learned counsel appearing on behalf of Respondent 2<sup>nd</sup> party i.e. Md. Ibrar Ansari, Imran Ansari, Ekhlakh Ansari and Md. Mehtab Ansari though supported the arguments of Ld. P.P. for the State, however, it is also submitted that a petition dated 16-04-2026 has been filed on behalf of the aforesaid four respondents that they are ready to pay Rs. 5,000/- by way of compensation to the Appellant, which will suffice her grievance and the Ld. Counsel for the appellant has also no objection on the aforesaid amount of compensation if being paid by the Respondents to the victim.

**Issue for Determination**

14. The narrow question before this Court is whether the learned trial court was justified in releasing the respondents from judicial custody after due admonition u/s 3 of Probation of Offenders Act after holding them guilty under Section 323 and 325 IPC on the basis of the evidence available on record.



### Evidence on Record

15. During trial, the prosecution examined five witnesses and their evidence are as follows:

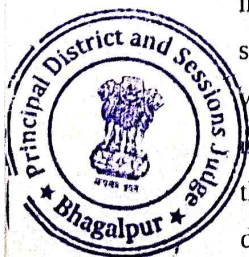
**P.W.1 Md. Isha Ansari** stated in his examination-in-chief that the incident took place on 12.03.2014 at about 10:00 A.M. At that time, he was present at his house. Accused Md. Ekhlakh Ansari used to run a bicycle shop adjacent to his house and he used to place bicycles on the public pathway, thereby obstructing ingress and egress. Despite repeated requests, he does not remove them which caused inconvenience in passage. On 12<sup>th</sup> March, his brother Vicky Ansari asked the accused to remove the bicycle for which accused Md. Ikhlakh Ansari, Md. Imran Ansari, Md. Mehtab Ansari, and Md. Ibran Ansari collectively assaulted him, his mother, and his brother with lathis and sticks. Md. Ikhlakh Ansari took out an iron rod from his shop, threatened Vicky saying that he would kill him, and struck him with the rod due to which Vicky sustained injuries on the ring finger of his right hand, which started bleeding. Accused Md. Mehtab Ansari snatched away the gold chain (sikri) from the neck of his mother. On hearing the commotion, villagers arrived and rescued them. Thereafter, they went to the police station, from where they were taken to Nathnagar Primary Health Centre, and subsequently to Mayaganj Hospital for treatment. On X-ray examination, fracture of the finger was confirmed. The witness claimed to identify all the accused persons and identified the accused Md. Mehtab who is present in court. **In his cross-examination by the defence**, he stated that he cannot state the khata-khesra or plot number of the pathway where the incident occurred. The lane is used by both parties, and both sides have doors and windows opening into it. Initially, there was an exchange of words, followed by physical assault in between them. Md. Haroon, Md. Pintu, Md. Badru, and several others gathered on hearing the commotion. The assault continued for approximately half an hour. He had informed the police officer about the snatching of the gold chain, but the officer did not record it in writing. The witness denied the suggestion that this case has been falsely instituted to compel the accused persons to close their windows opening into the lane.

**PW 2 Md. Vicky Ansari** has stated in his examination-in-chief that the incident took place on 12.03.2014 at about 10:00 A.M. At that time, he was at home. Accused Md. Ekhlakh Ansari used to place bicycles daily on the pathway used by him for ingress and egress, and on being objected to, habitually abused him. On the date of occurrence, when he was going out of his house, Md. Ekhlakh Ansari had blocked the passage by placing bicycle. When he asked him to remove it, the accused abused him in filthy language. At that moment, his brothers Md. Imran Ansari, Md. Mehtab Ansari, and Md. Ibran Ansari also arrived together. Md. Ekhlakh Ansari threatened to kill him, took out an iron rod from his shop and struck a blow on his head. In order to save himself, he raised his right hand, but the blow landed on the ring finger of his right hand, causing bleeding. Thereafter, all four accused persons together threw



him to the ground and assaulted him mercilessly. They also severely assaulted his mother Bibi Nayeema Khatoon and Md. Isha Ansari. Md. Mehtab Ansari snatched away the gold chain (sikri) from the neck of his mother and fled away. He was beaten very badly. Thereafter, they went to the police station, from where he was referred to Nathnagar Primary Health Centre, and subsequently to Mayaganj Hospital. At Mayaganj, he was treated and subjected to X-ray examination, which revealed fracture of the ring finger of his right hand, along with pain all over the body. Even after this, the accused persons did not desist and retained the intention to kill him. Subsequently, after about four years, on 01.08.2017, they again assaulted him, causing grievous injuries. That incident was registered as Case No. G.R. 3797/17 and Case No. 396/17. The present incident was witnessed by Md. Badroon Ansari, Md. Ansari, and Md. Pintu Ansari. The witness claimed to identify all the accused persons and further identified the accused Md. Mehtab Ansari who is present in court. **In his cross-examination by the defence**, he stated that he cannot state the khata, khesra, or plot number of the pathway where the incident occurred, nor can he describe the boundaries of the place of occurrence. The disputed pathway is used by both parties, and both sides have doors and windows opening into it. Prior to the assault, there was an exchange of words, followed by commotion. On hearing the commotion, Md. Badroon Ansari, Md. Haroon Ansari, and others arrived. He had given a statement to the police. He had informed the police officer about the snatching of the gold chain, but the officer did not record it. He had also mentioned about the snatching in his written application. The first assault was made by Md. Ekhlakh Ansari. In the year 2017, Md. Mehtab Ansari also instituted a case, registered as Nathnagar P.S. Case No. 395/17. The blow with the iron rod was inflicted by Md. Ekhlakh Ansari. At the time of the incident, he was coming out of his house. The witness denied the suggestion that the case has been falsely instituted with the intention of compelling the accused persons to close their doors and windows opening into the lane. He cannot state the weight of the iron rod used in the assault.

**PW 3 Nayeema Khatoon** has stated in her examination-in-chief that she has instituted in this case. The written application was prepared by her elder son and submitted and same bears her signature. The witness identified her signature on the written report and on her identification her signature on the written report has been marked as Exhibit 1. The incident took place on 12-03-2014 at about 10:00 A.M. At that time, she was at home. Accused Md. Ekhlakh Ansari used to place bicycles daily on the pathway used by her for ingress and egress. On the date of occurrence, her son Vicky Ansari asked Ekhlakh Ansari to remove the bicycle but Ekhlakh Ansari refused to remove the bicycle and started abusing him. On hearing the noise, she came out, followed by her elder son Ishan and her husband Md. Manzoor Ansari. At that time, Ekhlakh Ansari along with his brothers Md. Imran Ansari, Md. Mehtab Ansari, and Md. Ibrar Ansari arrived and began abusing. They brought



lathis, and Ekhlakh Ansari took out an iron rod from his shop, threatening to kill. Thereafter, all four accused persons assaulted them. Ekhlakh Ansari struck a blow on the head of Vicky Ansari, which he tried to ward off, resulting in injury to the ring finger of his right hand. She was also assaulted, and her husband was pushed. When she attempted to lift Vicky Ansari, who had fallen due to the assault, accused Md. Mehtab Ansari snatched away gold chains (sikri) of two bhars from her neck and fled. The incident was witnessed by several persons on the road, though she cannot identify all of them. Thereafter, she went to the police station and submitted the written application. From the police station, she was referred to Nathnagar Referral Hospital, and Vicky was further referred to Mayaganj Hospital, where X-ray examination revealed fracture of his finger. The witness claimed to identify all the accused persons and identified the accused Md. Mehtab Ansari who was present in court. **In her cross-examination by the defence**, she stated that her house is adjacent to that of the accused. There is a lane in between their house which is used by both parties. The incident occurred on the road. The boundaries of the place of occurrence are: north – Ekhlakh's house, south – Shamshad's house, east – road, west – Bhola's house. She is the eye witness of the incident. At the time of occurrence, many persons gathered, but she cannot state their names. She did not see the neighbours coming. The witness denied the suggestion that she did not inform the police officer about the snatching of the gold chain. The assault was initiated by Ekhlakh Ansari, followed by his brothers, who abused and assaulted all of them. The accused persons also instituted a case against them. She had given her statement to the police. Her son had sustained injury on his finger, for which treatment was taken, and the medical papers have been filed in court. On hearing the noise, she immediately came out of her house. In the lane, both parties have doors and windows. The accused have a staircase, opposite which is her window. The witness denied the suggestion that this case has been falsely instituted with the intention to compel the accused persons to close their staircase or doors opening into the lane.

**PW 4 Dr. Mamta Prasad** stated that on 13.03.2014, while she was posted as Medical Officer at Referral Hospital, Nathnagar, she examined one Md. Vicky Ansari, aged about 20 years, son of Md. Manjoor Ansari, resident of Village Narga Bazar, P.S. Nathnagar, District Bhagalpur, who was brought before her by Sub-Inspector Vijay Kumar for medical treatment. Upon examination, she found the following injuries: -

- (a) Slight swelling at the wrist joint of the right hand.
- (b) Bruises at the back of the right arm.
- (c) Complaint of pain all over the body.

Mark of identification: A black mole on the right side of the cheek.

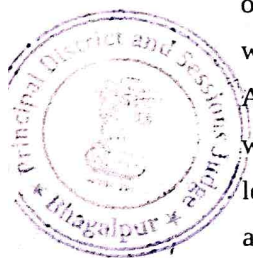
Approximate time of injury: Within six hours.

Opinion: Injury report kept reserved; patient referred to JLNMCCH for necessary investigation and treatment.



According to this witness she prepared injury report on reverse side of the application submitted by Vijay Kumar. She identified her handwriting and signature on the injury report and on her identification same has been marked as Exhibit-2. Subsequently, upon receipt of the injury report dated 20-03-2014 from Dr. Manibhushan, Casualty Registrar, JLNMC, she prepared the final injury report on the reverse thereof and handed it over to the Investigating Officer. In the said report, she recorded "As per JLNMC X-ray plate no. 5677 dated 13-03-2014 report fracture of proximal phalanges of the little finger. Nature of injury: Grievous." The second injury report dated 23-05-2014 is also in her handwriting and bears her signature. It was prepared on the reverse of the injury report sent by Dr. Manibhushan. She identifies it, and it has been marked as Exhibit-3. In her medical opinion, such fracture of the finger could be caused by a blow with a heavy object such as a rod or lathi. **In her cross-examination by the defence**, she stated that she did not mention the colour of the injuries in her report. She recorded the approximate age of the injuries as about six hours prior to examination. Such injuries may also be caused by a fall. However, swelling of this nature cannot be caused by mere contact with Urkushi leaves.

**PW 5 Vijay Kumar** has stated that in the year 2014, he was posted as a Sub-Inspector at Nathnagar Police Station. He was entrusted with the investigation of Nathnagar Police Station Case No. 58/14 by order of the then SHO, Mahfuz Alam which is on the margin of written application. The witness identified the handwriting and signature of Mahfuz Alam on the written and on his identification handwriting and signature of Mahfuz Alam on the margin of written application has been marked as Exhibit-1/1. The formal FIR is in the handwriting of the Station House Clerk, Kailash Yadav, and bears his signature. He identified the same, which has been marked as Exhibit-4. After taking charge of the investigation of the case, he recorded the restatement of the informant and thereafter recorded the statements of witnesses Mohammad Pintu, Mohammad Badrul Joha, Mohammad Haroon Ansari, Vicky Ansari, Manzoor Ansari, and Mohammad Isha, all of whom supported the occurrence. He inspected the place of occurrence which, as stated by the informant, was situated to the east of the bicycle shop of the accused, Mohammad Ekhlakh Ansari, s/o of Late Shamshad Ansari, resident of Narga Bazaar, Bhagalpur. The witness states the boundary of the place of occurrence as in east lies the PCC road leading southwards from Narga Chowk towards CTS; to the west lies the house of accused Ekhlakh Ansari; to the north lies the house of Mohammad Shamshad; and to the south lies the house of the informant. Nothing significant was found at the place of occurrence. The injured Vicky Ansari was sent to Nathnagar Referral Hospital for medical examination. The forwarding report for medical examination of Vicky Ansari is in his handwriting and signature. He identifies the same, which has been marked as Exhibit-2/1. On the reverse side of the said report, the doctor prepared the injury report, which he recorded in paragraph 25 of the case diary. In paragraph



34, he recorded the receipt of the injury report, wherein the doctor opined the injury to be grievous in nature. In paragraph 53, he arrested the accused from his house and, since the offence was bailable, released him after taking a bail bond. After inspecting the place of occurrence, recording the statements of witnesses, and considering the injury report, he found the case to be true during investigation and submitted Charge-sheet No. 108/14 dated 31-05-2014 against the accused Mohammad Ekhlakh Ansari, Imran Ansari, Mahtab Ansari, and Ibrar Ansari under Sections 341, 323, 325, 504/34 of the Indian Penal Code. The said charge-sheet is in his handwriting and signature. He identifies the same, which has marked as Exhibit-5. The witness claimed to identify the accused persons and identified the accused Mahtab Ansari who was present in Court. **In his cross-examination by the defence** he state that he did not record the statement of Mohammad Shamshad, who reside to the north of the place of occurrence and not find anything significant at the place of occurrence. There are approximately 50 houses in Narga market. He recorded the statements of persons residing near the place of occurrence. He visited the place of occurrence once, the details of which are mentioned in the case diary. All the witnesses whose statements he recorded are independent witnesses; however, their addresses were not verified by him. The house of the informant is situated approximately 100-200 meters from the place of occurrence. The place of occurrence is situated directly in front of the house of accused Ekhlakh Ansari. He saw that the finger was plastered, but he does not know whether it was fractured or not. The injury report was received later, in which the injury of Vicky Ansari was found as grievous. The witness denied the suggestion that his investigation is defective and he conducted the entire investigation while sitting at the police station.

#### **Discussion and Findings**

16. I have carefully considered the submissions advanced on behalf of the appellant as well as the learned Public Prosecutor for the State and the learned counsel appearing for the respondents 2<sup>nd</sup> party/accused and also minutely examined the impugned judgment of conviction and sentence passed by the learned trial court, the lower court records, the oral evidence of prosecution witnesses P.W.1 to P.W.5 and the documentary evidence marked as Exhibit-1, Exhibit-1/1, Exhibit-2, Exhibit-2/1, Exhibit-3, Exhibit 4 and Exhibit 5.

17. Upon careful and comprehensive appraisal of the entire evidence available on record, this court finds that the prosecution has successfully established the occurrence of assault and the participation of all four accused persons i.e. Respondent 2<sup>nd</sup> Party herein this appeal beyond reasonable doubt.

18. P.W. 1, PW 2(Injured) and PW 3(informant) have consistently deposed that on the alleged date and time of occurrence, all four accused persons, acting in concert, assaulted them by means of lathi and rod. Their testimonies are cogent, natural and mutually corroborative on all material particulars including the date, time and manner of occurrence and the weapon used. The version so given by these



witnesses finds further assurance from the written report submitted by the informant, which was lodged promptly and contains the foundational version of the prosecution case without material embellishment.

19. The testimony of PW 2 assumes greater significance as he is an injured witness. He has categorically stated that one of the accused Md. Ekhlakh Ansari dealt an iron rod blow aimed at his head, which he attempted to ward off, resulting in injury to the little finger of his right hand. His presence at the place of occurrence is thus firmly established and his testimony carries intrinsic reliability.

20. The medical evidence, as adduced through PW4(Doctor), lends strong corroboration to the ocular version. The injury report (Exhibit 3) proves that PW 2, namely, Md. Vicky Ansari, sustained fracture of the proximal phalanx of the little finger, has been opined to be grievous in nature. The nature and location of injury are consistent with the manner of assault as described by the eye witnesses, thereby reinforcing the prosecution case.

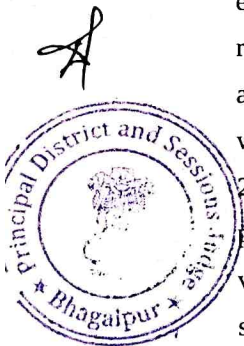
21. So far as PW 1 and PW 3 are concerned, although no injury reports have been brought in evidence in their respect, both have consistently deposed that they too were assaulted during the same occurrence. Their presence at the place of occurrence is natural and stands corroborated by the testimony of PW 2 as well as prompt lodging of the F.I.R. It is well settled that absence of medical evidence is not fatal where the ocular testimony is credible and trustworthy. Nothing material has been elicited in their cross-examination to discredit their version.

22. PW5(Investigating officer) has proved the endorsement on the written report(Exhibit 1/1), Formal F.I.R. (Exhibit 4), injury requisition (Exhibit 2/1) and charge-sheet (Exhibit 5) and also proved the place of occurrence. His testimony supports the prosecution case in material particulars and has remained unshaken.

23. The evidence of all material witnesses has remained intact during cross-examination and no material contradictions or inconsistencies have been brought on record. The witnesses have remained consistent with respect to the date, time, place and manner of occurrence as well as the participation of all four accused persons who are respondent 2<sup>nd</sup> party herein this appeal.

24. In view of the above discussion, this court finds that the prosecution has proved beyond reasonable doubt that all four accused persons, acting conjointly, voluntarily caused hurt to PW1, PW2 and PW3, thereby attracting the offence under section 323 I.P.C. Further, it stands proved that grievous hurt, in the form of fracture injury, was caused to PW 2 (Md. Vicky Ansari), which squarely falls within the ambit of section 325 I.P.C. The learned trial court has rightly appreciated the evidence and correctly recorded the conviction under section 323 and 325 I.P.C. r/w section 34 I.P.C. which calls for no interference.

25. However, the principal question for determination before this Court is whether the learned trial court was justified in releasing the respondents from judicial custody after due admonition u/s 3 of Probation of Offenders Act after

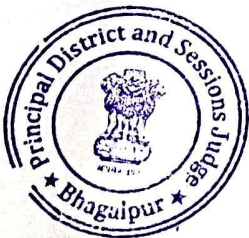


holding them guilty under Section 323 and 325 IPC on the basis of the evidence available on record.

26. To understand the correct perspective and object of Probation of Offenders Act it would be relevant to mention some paragraphs discussed by the Hon'ble Patna High Court in the case of **Kamal Naiyan Singh S/o Late Ram Naresh Singh** reported in **2024(4) eILR(PAT) HC 621**, which reads as under :-

42. *The Probation of Offenders Act, 1958* provides for the release of offenders of certain categories on probation or after due admonition. The Act was enacted in view of the increasing emphasis on the reformation and rehabilitation of the Offenders as a useful and self-reliant members of society without subjecting them to deleterious effects of jail life. In **Ratan Lal Vs. States of Punjab** as reported in **AIR 1965 SC 444**, Hon'ble **Supreme Court** has held that the Act is a milestone in the Progress of the modern liberal trend of reform in the field of Penology. It is the result of the recognition of the doctrine that the object of criminal law is more to reform the individual offender than to Punish him.

43. In **Arvind Mohan Sinha Vs Amulya Kumar Biswas** as reported in **(AIR 1974 SC 1818)**, Hon'ble **Supreme Court** has pointed out that the Probation of Offenders Act is a reformative measure and its object is to reclaim amateur offenders who, if spared the indignity of incarceration, can be usefully rehabilitated in society. A jail term should normally be enough to wipe out the stain of guilt but the sentence which the society passes on convicts is relentless. The ignominy commonly associated with a jail term and the social stigma which attaches to convicts often render the remedy worse than the disease and the very purpose of punishment stands in the danger of being frustrated. In recalcitrant cases, punishment has to be deterrent so that others similarly minded may warn themselves of the hazards of taking to a career of crime. But the novice who strays into the path of crime ought, in the interest of society, be treated as being socially sick. Crimes are not always rooted in criminal tendencies and their origin may lie in psychological factors induced by hunger, want and poverty. The Probation of Offenders act recognizes the importance of environmental influence in the commission of crimes and prescribes a remedy whereby the offender can be reformed and rehabilitated in society. An attitude of social defiance and recklessness which



comes to a convict who, after a jail term, is apt to think that he has no more to lose or fear may breed a litter of crime. The object of the Probation of Offenders Act is to nip that attitude in the bud.

44. In *Arvind Mohan Sinha case (Supra)*, *Hon'ble Supreme Court* also held that there is no foundation for the fear that offenders released on probation may hold the society to ransom and the society may therefore look upon the release of offenders on probation as the triumph of criminals over the weaknesses of law. An offender released on probation is convicted but not forthwith sentenced in the sense of penal laws. Under the disposition made by the court, the sentence is suspended during the period of probation. Section 4(1) of the Act provides that instead of sentencing the offender "at once", the court may direct his release on his entering into a bond to "receive sentence when called upon" during the probationary period and in the meantime to keep the peace and be of good behaviour. Thus it is. only in a limited, though a socially significant, sense that the Act constitutes as exception to the broad and general principle of criminal law.

45. The object of the Act has been also pointed out by *Hon'ble Supreme Court* in *Ramnaresh Pandey Vs State of Madhya Pradesh (AIR 1974 SC 35)* and *Jugal Kishore Prasad v. State of Bihar (AIR 1972 SC 2522)* stating that the object of the Act is to prevent the conversion of youthful offenders into obdurate criminal as a result of their association with hardened criminals of mature age in case the youthful offenders are sentenced to undergo imprisonment in jail. The above object is in consonance with the present trend in the field of penology, according to which efforts should be made to bring about correction and reformation of the individual offenders and not to resort to retributive justice. Modern criminal jurisprudence recognizes that no one is a born criminal and that a good many crimes are the product of socio-economic milieu. Although not much can be done for hardened criminals, considerable stress has been laid on bringing about reform of young offenders not guilty of very serious offences and of preventing their association with hardened criminals. The Act is statutory recognition to the above objective. It is therefore provided that youthful offenders should not be sent to jail, except in certain circumstances.

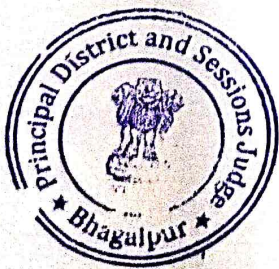


48. As such, as per **Section 3** of the Act, the Court has power to release convicts after admonition on fulfillment of the following conditions:

- “1. The offender is found guilty of the offences punishable under section 379, or 380 or 381 or 404 or 420 of Indian Penal Code, 1860 or any offence punishable with imprisonment for not more than two years, or with fine, or with both, under the Indian Penal Code or any other law,
2. Offender should not have been previously convicted,
3. The Court considers it expedient to release the offender to release him after admonition considering the nature of the offence and the character of the offender. The word character is not defined in the Act. Hence it must be given the ordinary meaning,
4. The Court may release the offender after due admonition, instead of sentencing him or releasing him on probation of good conduct applying section 4 of the Act.”

50. As such, as per **Section 4**, if any person is found guilty of having committed an offence not punishable with death or imprisonment for life and the court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct, then, notwithstanding anything contained in any other law for the time being in force, the court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the court may direct and in the meantime to keep the peace and be of good behavior. The word character is not defined in the Act. Hence it must be given the ordinary meaning.

51. The court may also require the offender to remain under the supervision of a probation officer during certain period, if it thinks that it is in the interests of the offender and of the public. It can also impose appropriate conditions which might be



required for such supervision. In case the court does specify such conditional release, it must require the offender to enter into a bond, with or without sureties, enumerating the conditions. The conditions may relate to place of residence, abstention from intoxicants, or any other matter as the court thinks appropriate to ensure that the crime is not repeated.

### Analysis

27. The offence u/s 325 I.P.C. pertains to grievous hurt and ordinarily carries a substantive sentence. The injury sustained by PW 2 being fracture, stands duly proved by the medical evidence.

28. The learned Trial Court extended benefit u/s 3 of the Probation of Offender Act. However, this court finds that such release by mere admonition is not commensurate with the gravity of the offence.

29. At the same time, while considering applicability of Section 4 of the Probation of Offenders Act, the court must examine the conduct and antecedent of the accused. The testimony of P.W. 2 transpires that it is admitted position of both sides that case and counter case lodged by them against each other in the year 2017 relating to fight and quarrel taken place between them. Therefore, the allegation of a subsequent assault and quarrel indicates that respondents may not have fully reformed. However, such allegation is subject matter of a separate pending case, and in absence of conviction, it cannot be conclusively held against the respondents.

30. Thus, the said circumstances cannot be the sole basis to deny statutory benefit, but it is certainly a relevant factor requiring stricter conditions if probation is to be granted.

31. Considering grievous nature of injury, the circumstances of sudden quarrel, absence of proven prior conviction and subsequent conduct indicating need for caution, this court is of the opinion that release of respondents under Section 3 is inadequate, but complete denial of probation is not warranted. The ends of justice would be met by extending benefit under Section 4 of the Probation of Offenders Act with stringent conditions and compensation.

### Order

32. Accordingly, the conviction of the respondents U/s – 323 and 325 I.P.C. r/w section 34 I.P.C. is affirmed. The order of sentence is modified as follows :-

- (a) The respondents are released on probation of good conduct U/s – 4 of the Probation of Offenders Act.
- (b) Each respondent shall execute a bond of Rs. 15,000/- with one surety of like amount to keep peace and be a good behaviour for a period of one year.
- (c) Each respondent shall remain under supervision of a Probation Officer for a period of one year.



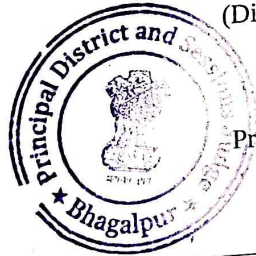
In the Court of Dipankar Pandey, Principal District & Sessions Judge, Bhagalpur, Criminal Appeal No. 75/2023 Bibi Nayeema Khatoun Vs. State of Bihar, Judgment dated: 05-05-2026

- (ii) In exercise of powers U/s – 5 of Probation of Offenders Act read with Section 357 CrPC, the respondents shall jointly pay compensation of Rs. 5,000/- to the injured / victim within one month from the date of this judgment (as voluntarily offered and accepted) which shall be deposited by the respondent 2<sup>nd</sup> party/acused and released to the victim/injured in the manner as indicated in sub paragraph (iii).
- (iii) The, accused-respondents are directed to deposit the aforesaid compensation amount of Rs. 5,000/- in the Victim Compensation Fund through D.L.S.A., Bhagalpur which shall be released to the injured/victim by the D.L.S.A., Bhagalpur.
- (iv) The respondents shall not commit any offence during the probation period, failing which the Ld. Trial Court shall be at liberty to cancel the probation and impose substantive sentence in accordance with law.
- (v) In case of default in payment of compensation, the benefit of probation shall be liable to be withdrawn.

### Result

The appeal is **partly allowed** with modification of sentence as indicated above. Let the copy of this judgement be transmitted to D.L.S.A., Bhagalpur, concerned Probation Officer and to the learned lower court with the L.C.R.

Pronounced in open Court on this the 05<sup>th</sup> day of May, 2026.



(Dictated and corrected by me)

*Dipankar Pandey*  
(Dipankar Pandey)  
Principal District & Sessions Judge  
Bhagalpur

|                                  |             |
|----------------------------------|-------------|
| Date of Judgment/Order           | 05.05.2026  |
| Date of Reserving Judgment/Order | 29.04.2026  |
| Uploading Date                   | 08.05.2026  |
| Uploaded by                      | Nitu Kumari |