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Santosh Kumar Pandey,
District & Additional Sessions Judge-II, Darbhanga
Sessions Trial No. 248/2006
CIS/Registration No. 2277/2014
[Arising out of Jalley P.S. Case No. 29/2004]
The state of Bihar versus Raju Rai and others
Date of Judgement : 05.06.2026

IN THE COURT OF DISTRICT & ADDITIONAL SESSIONS JUDGE-II DARBHANGA Santosh Kumar Pandey, District & Additional Sessions Judge-II Date of Judgment:- 05.06.2026 <u>Sessions Trial No. 248/2006</u> <u>CIS/Registration No. 2277/2014</u> [Arising out of Jalley P.S. Case No. 29/2004]	
REPRESENTED BY	Smt. Champa Mukherjee, Learned Addl. P.P.
ACCUSED	1. Raju Rai s/o Ram Prasad Rai, 2. Umesh Das s/o Ram Tarun Das, both are resident of Village - Manamdev, P.S. - Jalley, District - Jalley.
REPRESENTED BY	Sri Bipin Jha, Learned Advocate.

Date of Offence	17.03.2004
Date of FIR	17.03.2004
Date of Charge-sheet	CS No.- 39/2004 Dated-28.05.2004
Date of Framing of Charges	13.12.2006
Date of Commencement of evidence	29.11.2007
Date on which judgment is reserved	02.06.2026
Date of the Judgment	05.06.2026
Date of the Sentencing Order, if any	05.06.2026

Accused Details:

Rank of the accused	Name of the accused	Date of Arrest	Date of Released on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for purpose of Section 428 CrPC
A1	Raju Rai	27.05.04	11.06.04	Section 504, 379, 307/34, 324, 448 IPC	Convicted	See sentencing portion	16 days
A2	Umesh Das	27.05.04	11.06.04	Section 504, 379, 307/34, 324, 448 IPC	Convicted	See sentencing portion	16 days

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LIST OF PROSECUTION/DEFENCE/COURT WITNESSES :-

A. Prosecution

Rank	Name	Nature of Evidence (Eye-witness, Witness of last seen circumstances, Medical jurist/Medical Witness, Investigating Officer, Complainant/First Informant, Police Witness, Expert Witness, Panch Witness, Other Witness)
PW 1	Bhikari Das	Eye-witness
PW 2	Jitu Ram	Eye-witness/son of the witness/one of the injured in the occurrence.
PW 3	Radha Kant Jha	The Medical Witness/Medical Officer who examined the injured persons.
PW 4	Jagdish Ram	The Informant.
PW 5	Sundar Ram	The Eye-witness.
PW 6	Shambhu Ram	The eye-witness/son of the Informant/ one of the injured in the occurrence.
PW 7	Ram Narayan Ram	The eye-witness.
PW 8	Sharada Kumar Jha	The Investigation Officer

B. Defense Witnesses, if any :-

Rank	Name	Nature of Evidence (Eye-witness, Witness of last seen circumstances, Medical jurist/Medical Witness, Investigating Officer, Complainant/First Informant, Police Witness, Expert Witness, Panch Witness, Other Witness)
Nil	Nil	Nil

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C. Court Witnesses, if any :-

Rank	Name	Nature of Evidence (Eye-witness, Witness of last seen circumstances, Medical jurist/Medical Witness, Investigating Officer, Complainant/First Informant, Police Witness, Expert Witness, Panch Witness, Other Witness)
CW - 1	Badamiya Devi	The independent witness/wife of the Informant/one of the injured of this case.

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :-

Sr. No.	Exhibit Number	Description (Inquest Panchnama/Memo, Recovery Panchnama/Memo, Arrst Memo, Post-mortem Report, FSL Report Other exhibit)	Proved by /Attested by
1.	P-1 (with objection)	Hand writing on the written application so forming the basis of the FIR.	PW-2
2.	P-2	Injury report of Badamiya Devi	PW-3
3.	P-2/1/PW-3	Injury report of Shambhu Ram.	PW-3
4.	P-2/2/PW-3	Injury report of Jagdish Ram (The Informant)	PW-3
5.	P-3	The signature of the Informant on the written application so forming the basis of the FIR.	PW-4
6.	P-4	The entire formal FIR. The endorsement on the fard beyan so forming the basis of the FIR.	PW-8

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7.	P-5	The endorsement on the written application so forming the basis of the FIR.	PW-8
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B. Defense :-

Sr. No.	Exhibit Number	Description (Inquest Panchnama/Memo, Recovery Panchnama/Memo, Arrst Memo, Post-mortem Report, FSL Report Other exhibit)	Proved by /Attested by
-	Nil	Nil	NIL

C. Court :-

Sr. No.	Exhibit Number	Description (Inquest Panchnama/Memo, Recovery Panchnama/Memo, Arrst Memo, Post-mortem Report, FSL Report Other exhibit)	Proved by /Attested by
-	NIL	NIL	NIL

Present :-

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JUDGMENT

1. Before entering into the merits of the present case, it is necessary to note that charges were initially framed against four accused persons including the present accused persons. However, during pendency of the trial, one of the accused persons, namely Nagendra Rai, was declared absconder and, vide order dated 09.11.2020, his name was expunged from the array of accused persons. Consequently, the present trial proceeded only against the remaining accused persons, namely, **(i) Raju Rai, (ii) Umesh Das and (iii) Subodh Das.**
2. It is further clarified that earlier, this instant record was fixed on 19.05.2026 for judgement but the accused namely **Subodh Das** remained absent and therefore, the judgement could not be pronounced. Further, this court vide order dated 02.06.2026, separated the trail of the said Subodh Das. Now, the present sessions trial is pending against two accused persons as named in the memo of parties.
3. Both the aforesaid accused persons have been put on trial for the offences punishable under **Sections 504, 379, 307/34, 324 and 448 of the Indian Penal Code.** The charge against them is that, in furtherance of their common intention, they unlawfully entered into the house of the Informant, abused and assaulted the Informant and his family members and caused injuries by means of deadly weapons with the intention to commit their murder. It is further alleged that they also committed theft of ornaments and caused damage to the property of the Informant.
4. The prosecution case, as unfolded in the written report, is that on 17.03.2004 at about 07:30 P.M., while the wife of the Informant was serving food to the Informant and his son, namely Shambhu Ram, the accused persons, namely Nagendra Rai, Raju Rai, Umesh Das and Subodh Das, forcibly entered into the house of the Informant. It is alleged that accused assaulted the wife of the Informant on her head by means of a *farsa*, causing serious injuries. Thereafter, all the accused persons allegedly surrounded the Informant and his family members and assaulted them by means of *lathi*, *danda* and *farsa*. The accused persons are further alleged to have abused and threatened the

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Informant and his family members with dire consequences. The prosecution further alleges that the accused persons damaged the roof of the house and removed jewellery worth approximately Rs. 2,500/-. According to the Informant, the assault upon his wife by means of *farsa* was made with the intention to cause her death.

5. On the basis of the aforesaid written report, Jalley P.S. Case No. 29 of 2004 dated 17.03.2004 was instituted for the offences punishable under the relevant provisions of the Indian Penal Code. The investigation of the case was entrusted to Sub-Inspector Sarda Kumar Jha, who took up the investigation in accordance with law. During the course of investigation, the Investigating Officer inspected the place of occurrence, recorded the statements of witnesses under Section 161 of the Code of Criminal Procedure, collected the injury reports and other relevant materials and, upon finding sufficient prima facie materials against the accused persons, submitted charge-sheet against them. Thereafter, cognizance of the offences was duly taken by the learned court concerned and the accused persons were summoned to face trial.
6. Upon appearance of the accused persons before the Court, copies of the police papers and other relied upon documents were supplied to them in compliance with the mandatory provisions of Section 207 of the Code of Criminal Procedure. On perusal of the materials available on record and upon hearing both sides, this Court found sufficient grounds to presume that the accused persons had committed offences triable by this Court. Accordingly, charges under Sections 504, 379, 307/34, 324 and 448 of the Indian Penal Code were framed against them. The contents of the charges were read over and explained to the accused persons in vernacular, to which they pleaded not guilty and claimed to be tried. Consequently, the case was posted for recording of prosecution evidence.
7. The defence of the accused persons, as emerging from the trend of cross-examination of the prosecution witnesses as well as from their statements recorded under Section 313 of the Code of Criminal Procedure, is that of complete denial of the prosecution case. The accused persons have taken the plea that they have been falsely implicated due to previous enmity and strained

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relations between the parties. It has been suggested on behalf of the defence that no such occurrence had taken place in the manner alleged by the prosecution and that the prosecution witnesses, being interested and inimical towards the accused persons, have deposed falsely with the sole object of securing their conviction. The defence has further attempted to challenge the veracity and reliability of the prosecution evidence by pointing out alleged contradictions and embellishments in the testimonies of the witnesses. On these premises, the accused persons claimed themselves to be innocent and prayed for their acquittal from all the charges levelled against them.

8. In light of the rival submissions and the materials available on the record, the principal point that arises for determination before this Court is as follows:

“Whether the prosecution has succeeded in proving, beyond all reasonable doubt, that the accused persons, in furtherance of their common intention, committed the offences punishable under Sections 504, 379, 307, 324 and 448 of the Indian Penal Code?”

9. The adjudication of the aforesaid point necessarily requires this Court to undertake a careful scrutiny of the oral and documentary evidence adduced by the prosecution and to examine whether the same is trustworthy, cogent and sufficient to establish the guilt of the accused persons in accordance with the settled principles of criminal jurisprudence. It is well settled that in a criminal trial the burden lies entirely upon the prosecution to prove its case beyond reasonable doubt and that the accused persons are entitled to the benefit of every reasonable doubt arising from the evidence on record.
10. In order to substantiate the charges levelled against the accused persons, the prosecution has examined altogether eight witnesses. Out of them, PW-1 Bhikhari Das is an independent witness; PW-2 Jitu Ram is the son of the Informant ; PW-3 Dr. Radha Kant Jha is the Medical Officer who medically examined the injured persons and proved their injury reports; PW-4 Jagdish Ram is the Informant and also an injured witness; PW-5 Sundar Ram is an independent witness; PW-6 Shambhu Ram is the son of the Informant and also one of the injured witnesses; PW-7 Ram Narayan Ram is another independent witness; and PW-8 Sharda Kumar Jha is the Investigating Officer of the case.

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Apart from the prosecution witnesses, Badamiya Devi, wife of the Informant and an alleged injured of the occurrence, was examined by the Court as Court Witness No. 1 (CW-1). Thus, the prosecution has sought to establish the culpability of the accused persons primarily on the basis of the testimony of the injured witnesses and other eye-witnesses, which is sought to be corroborated by the medical evidence as well as by the evidence of the Investigating Officer regarding the investigation conducted in the case.

11. Besides the oral evidence, the prosecution has also brought on record certain documentary exhibits in support of its case. Exhibit-1 is the handwriting appearing on the written application forming the basis of the First Information Report; Exhibit-2 is the injury report of Badamiya Devi; Exhibit-2/1 is the injury report of Shambhu Ram; Exhibit-2/2 is the injury report of Jagdish Ram; Exhibit-3 is the signature of the Informant on the written application; Exhibit-4 is the formal First Information Report; and Exhibit-5 is the endorsement made on the written application forming the basis of the institution of the case. These documents have been relied upon by the prosecution in order to corroborate the oral testimony of the witnesses and to lend assurance to the prosecution version regarding the occurrence and the injuries allegedly sustained by the victims.
12. The aforesaid documentary evidence has been adduced by the prosecution with the object of corroborating the oral testimony of the witnesses and proving the procedural steps undertaken during the course of investigation. The injury reports have been relied upon to establish the nature and extent of injuries allegedly sustained by the victims, whereas the formal First Information Report and connected documents have been brought on record to demonstrate the prompt institution of the case and the manner in which the criminal law was set into motion.
13. PW-4 Jagdish Ram, being the Informant as well as one of the injured witnesses, occupies a material place in the prosecution case. He deposed before the Court that the occurrence took place on 17.03.2004 at about 07:30 P.M. At the relevant time, he was taking food along with his son while his wife was serving the meal. According to this witness, in the meantime, accused persons

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namely Nagendra Rai, Raju Rai, Umesh Das and Subodh Das entered into his house. He specifically stated that accused Nagendra Rai was armed with a *farsa*, whereas the remaining accused persons were carrying *lathi*. The witness further deposed that the accused persons abused them and exhorted to kill. It is his further evidence that when his wife objected to such abusive conduct, accused Nagendra Rai assaulted her on the head by means of *farsa*, as a result of which blood started oozing out from the injury. He further stated that when he intervened and requested the accused persons not to assault them, all the accused persons jointly assaulted him by means of *lathi*, causing injuries on his hand and back. The witness has also alleged that thereafter the accused persons entered into the room of his house and removed a steel box containing cash amounting to Rs. 5,000/-, jewellery and clothes. According to him, the accused persons also caused damage to the roof of his house. He further deposed that thereafter he went to the police station, from where he and the injured persons were referred to the hospital for medical treatment.

14. During his cross-examination, PW-4 stated that at the time of occurrence about six persons, including Bhikhari, Sundar Ram, Ram Narayan Ram, his son and himself, were present at the place of occurrence. He stated that both he and his son remained conscious throughout, whereas his wife regained consciousness after about 12 to 14 hours. He further stated that the blood-stained saree of his wife was handed over to the police. This witness also admitted that his statement was recorded by the police during investigation. According to him, he reached the police station at about 09:00 P.M., though he could not state the exact time when he reached the hospital. In course of cross-examination, attention of the witness was also drawn towards Jalley P.S. Case No. 34 of 2004, allegedly instituted from the side of the accused persons. However, the witness denied the suggestion that the present case had been falsely instituted merely to save himself and his family members from the prosecution launched against them in the said counter case. The defence has thus attempted to impeach the credibility of this witness by suggesting existence of previous enmity and pendency of a counter case between the parties.
15. PW-2 Jitu Ram, son of the Informant and also one of the injured witnesses, substantially supported the prosecution case. He deposed that the occurrence

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took place about five years and nine months prior to his deposition at about 07:30 P.M. At the relevant time, he, along with his father and brother, was taking food while his mother was serving the same. According to this witness, accused persons namely Nagendra Rai, Raju Rai, Umesh Das and Subodh Das suddenly entered into their house armed with *lathi* and *danda* and started assaulting him and his father. He further stated that when his mother intervened in order to save them, accused Nagendra Rai assaulted her with a *farsa*, causing bleeding injury on her head. This witness further alleged that accused Nagendra Rai removed a box containing cash amounting to Rs. 2,500/-, jewellery and clothes. He also deposed that thereafter they went to Jalley Police Station, where his father submitted a written report bearing his signature, which he identified before the Court and which was marked as Exhibit-1 with objection. According to this witness, thereafter they were referred for medical examination.

16. In his cross-examination, PW-2 stated that his mother had sustained injury on her head, while his father and brother sustained injuries caused by *lathi*. He further stated that the injury sustained by his mother was approximately one finger deep. According to him, the blood-stained clothes were handed over to the police during investigation. This witness also admitted that a counter case had been instituted against him and his family members. The defence has relied upon such admission in order to suggest that the present prosecution case is a retaliatory measure arising out of previous hostility between the parties.
17. PW-6 Shambhu Ram, another son of the Informant and also one of the injured witnesses, has substantially corroborated the prosecution version. He deposed that the occurrence took place about seven years prior to his deposition at about 07:30 P.M. According to him, at the relevant time, his mother was serving food to him, his brother and his father. He further stated that accused persons namely Nagendra Rai, Subodh Das, Raju Rai and Umesh Das entered into the house while abusing and thereafter assaulted his family members. This witness specifically stated that accused Nagendra Rai assaulted his mother on her head by means of a *farsa*. He further deposed that on hearing alarm, Ram Narayan Ram, Sundar Ram and Bhikhari Das arrived at the place of

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occurrence. According to him, accused Subodh Das entered into the room and removed a box containing cash amounting to Rs. 2,500/-, clothes and jewellery. He further stated that he, along with his mother and father, was treated in the hospital.

18. During his cross-examination, PW-6 stated that while he and his family members were taking food, the accused persons came and assaulted them by means of *lathi*. He further admitted that accused Nagendra Rai had instituted a counter case against him and his family members. According to this witness, after the assault they became unconscious and were taken to the hospital. He reiterated that a box containing articles was stolen during the occurrence. He further stated that apart from his family members, all the four accused persons were present at the place of occurrence and that upon hearing alarm, Bhikhari Das, Sundar Ram, Ram Narayan Ram and others arrived there. This witness also stated that accused Nagendra Rai was armed with a *farsa* and that he himself sustained injuries on his head and hand. In paragraph-11 of his cross-examination, he deposed that although he attempted to hand over the blood-stained clothes to the police, the police refused to seize the same. He also confirmed that his statement had been recorded by the Investigating Officer during investigation. Further, he admitted that accused Umesh Das was a witness in the counter case instituted against him and his family members. Thus, the defence sought to highlight previous enmity and pendency of a counter case in order to impeach the credibility of this witness.
19. Before proceeding to discuss the testimony of the remaining prosecution witnesses, this Court considers it necessary to advert to the evidence of Court Witness No. 1, namely Badamiya Devi, who is not only the injured victim in the present case but also an eye-witness to the occurrence. Her testimony assumes significance inasmuch as, according to the prosecution case itself, she was present at the place of occurrence while serving food to PW-4 Jagdish Ram, PW-2 Jitu Ram and PW-6 Shambhu Ram at the relevant time.
20. CW-1 Badamiya Devi deposed before the Court that the occurrence had taken place about sixteen years prior to her deposition, though she could not recollect the exact date and time. She stated that at the relevant time she was serving

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food to her husband and sons. According to her, accused Nagendra Rai entered into her house while abusing and assaulted her on the head by means of a *farsa*. She further stated that thereafter she was taken to the hospital for treatment. Her testimony, being that of an injured witness, carries its own evidentiary value and lends assurance to the prosecution version regarding the assault allegedly committed by accused Nagendra Rai.

21. During cross-examination, CW-1 stated that after sustaining the injury she became unconscious and, therefore, could not state how many persons were present at the place of occurrence. She further stated that she remained admitted in the hospital for about one hour. According to her, she had attempted to hand over her blood-soaked saree to the police, but the same was not accepted by them. Nothing substantial could be elicited in her cross-examination so as to completely discredit her testimony regarding the assault inflicted upon her.
22. PW-1 Bhikhari Das has been projected by the prosecution as an independent eye-witness to the occurrence. He deposed that he knew the Informant and that the occurrence took place about three years and eight months prior to his deposition at about 07:30 P.M. According to him, at the relevant time he was present in his courtyard. He further deposed that accused persons namely Raju Rai, Nagendra Rai, Subodh Das and Umesh Das came there armed with *lathi*, while accused Nagendra Rai was carrying a *farsa* and assaulted Badamiya Devi on her head, causing injury to her. He further stated that thereafter she was taken to the hospital. The witness also identified accused Nagendra Rai before the Court.
23. During cross-examination, PW-1 stated that there was no wall between the courtyard of his house and that of the accused persons. He further stated that he reached the place of occurrence within two minutes and saw that Badamiya Devi had sustained head injury. According to him, Badamiya Devi regained consciousness after about eight to ten days from the occurrence. He further stated that his statement was recorded by the police on the very day of occurrence and that he had affixed his thumb impression thereon. The defence,

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however, could not elicit any material contradiction from his testimony regarding the occurrence itself.

24. PW-5 Sundar Ram is another eye-witness examined by the prosecution. He deposed that the occurrence took place about seven years prior to his deposition at about 07:00 P.M. According to him, he was present at Thakurwari when he heard alarm coming from the courtyard of Jagdish Ram. Upon hearing the same, he rushed to the place of occurrence and saw accused persons namely Nagendra Rai, Raju Rai, Subodh Das and Umesh Das abusing the Informant and his family members while they were taking food. He further stated that when the wife of the Informant protested, accused Nagendra Rai, who was armed with a *farsa*, assaulted her on her head, while the remaining accused persons assaulted by means of *lathi*. According to him, thereafter she was taken to Jalley Police Station and subsequently to the hospital. He also claimed to identify the accused persons before the Court.
25. In his cross-examination, PW-5 stated that he was deposing for the first time before the Court. He further stated that he identified the accused persons as they were residents of his village. He admitted that Jagdish Ram, the Informant, was his cousin brother. He also stated that he remained present at the place of occurrence till the end. The defence sought to suggest from his relationship with the Informant that he was an interested witness; however, mere relationship by itself is not sufficient to discard otherwise reliable testimony.
26. PW-7 Ram Narayan Ram, who was cited as an eye-witness by the prosecution, did not support the prosecution case during trial. He turned hostile and categorically stated that he had no knowledge regarding the occurrence in question. Since this witness resiled from his earlier statement, his testimony does not materially advance the prosecution case except to the extent it may otherwise stand corroborated by reliable evidence on record.
27. PW-3 Dr. Radha Kant Jha is the Medical Officer who medically examined the injured persons. He deposed that on 17.03.2004 he was posted as Medical Officer at Jalley Referral Hospital. On the same day at about 11:30 P.M., he

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examined Badamiya Devi, wife of Jagdish Ram, and found the following injuries on her person:

- (i) Transverse lacerated wound on the posterior part of parietal bone of scalp measuring approximately 3½ inches bone deep; and
- (ii) Vertical bruise on the back side of lower spine measuring 4 inches × 1 inch.

According to the doctor, both the injuries were simple in nature and caused by hard and blunt substance, and the age of injuries was within twenty-four hours. He also noted an old scar on the lateral side of the right leg as a mark of identification. The medical evidence thus lends corroboration to the prosecution case regarding the injuries sustained by Badamiya Devi during the alleged occurrence.

The Medical Officer further deposed that on the same date at about 11:40 P.M., he examined injured Shambhu Ram and found the following injuries on his person:

- (i) Lacerated wound on the dorsal surface of the right index finger measuring ¼" × ¼" × ¼"; and
- (ii) Swelling on the medial side of the right knee measuring 2" × 2".

According to the doctor, the aforesaid injuries were simple in nature and caused by hard and blunt substance. The age of the injuries was found to be within twenty-four hours. He also noted a scar on the right ankle as the mark of identification of the injured. The doctor further deposed that on the same day at about 11:50 P.M., he examined Jagdish Ram and found the following injuries:

- (i) Swelling on the upper part of the left arm measuring 2" × 1";
- (ii) Bruise on the back side of the right chest measuring 4" × 2"; and
- (iii) Abrasion on the right chest measuring 2" × ⅛".

The doctor opined that all the aforesaid injuries were simple in nature and caused by hard and blunt substance and that the age of the injuries was within twenty-four hours. He further stated that the injury reports were prepared in his

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own pen and bore his signatures, which he identified before the Court. Upon such identification, the injury reports were marked as Exhibit-2, Exhibit-2/1 and Exhibit-2/2 respectively.

28. During his cross-examination, PW-3 deposed that the colour of wounds changes with passage of time depending upon the age of the injuries. He further stated that though such injuries ordinarily could not be sustained by falling on a surface, the same could be manufactured. Thus, while the medical evidence corroborates the prosecution case to the extent that the injured persons had sustained injuries within the time alleged by the prosecution, the doctor did not opine that the injuries were grievous or dangerous to life.
29. PW-8 Sharda Kumar Jha is the Investigating Officer of the case. He deposed that on 17.03.2004 he was posted as Assistant Sub-Inspector at Jalley Police Station and on the same day the investigation of the present case was entrusted to him by the then Officer-in-Charge. He proved the formal First Information Report, which was marked as Exhibit-4, as well as the endorsement made upon the written report, which was marked as Exhibit-5. He further deposed that after taking up the investigation, he recorded the statements of the Informant, injured witnesses and other witnesses under Section 161 of the Code of Criminal Procedure and inspected the place of occurrence. According to him, all the witnesses supported the occurrence during investigation. He also collected the injury reports of the injured persons from Jalley Referral Hospital and, after receipt of supervision note and completion of investigation, submitted charge-sheet against the accused persons.
30. During his cross-examination, PW-8 stated that witness Ram Narayan Ram had supported the occurrence during investigation. He further admitted that he had not mentioned in the case diary as to who had taken him to the house of the Informant or the exact time when he inspected the place of occurrence. He also deposed that the Informant had never handed over any blood-stained saree to him. Further, according to him, witness Shambhu Ram had not stated before him as to who was carrying the *farsa*. He also stated that none of the witnesses had attempted to hand over blood-stained clothes to him during investigation. Lastly, the witness denied the defence suggestion that he had conducted a

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faulty and biased investigation. The defence has sought to highlight these omissions in order to cast doubt upon the fairness and completeness of the investigation conducted in the present case.

31. Learned counsel appearing on behalf of the accused persons has argued that there are material contradictions and inconsistencies in the testimonies of the prosecution witnesses which strike at the very root of the prosecution case. It has further been contended that the injuries found on the persons of the injured witnesses are simple in nature and do not satisfy the essential ingredients required for constituting an offence under Section 307 of the Indian Penal Code. It has also been argued that no witness has specified the exact abusive words allegedly used by the accused persons so as to attract the offence under Section 504 IPC. Learned defence counsel has further submitted that there is no reliable evidence regarding theft of any articles or cash and that no injury caused by a dangerous weapon has been satisfactorily proved. It has also been argued that the prosecution witnesses are closely related and interested witnesses and, therefore, their testimony cannot be safely relied upon in the absence of trustworthy independent corroboration. On these premises, it has been contended that the prosecution has failed to establish the charges beyond reasonable doubt and that the accused persons are entitled to the benefit of doubt and consequent acquittal.
32. Per contra, learned Additional Public Prosecutor appearing on behalf of the State has argued that the prosecution witnesses have consistently supported the prosecution case on all material particulars and that their testimony remains unshaken despite lengthy cross-examination. It has further been contended that the ocular version of the injured and eye-witnesses stands duly corroborated by the medical evidence adduced through PW-3 as well as by the investigation conducted by PW-8. Learned APP has further argued that merely because some of the witnesses are related to the Informant, their evidence cannot be discarded when the same inspires confidence and is otherwise trustworthy. It has also been submitted that for attracting the offence under Section 307 IPC, the decisive factor is the intention or knowledge accompanying the act and not merely the nature of injury sustained. According to the prosecution, the evidence available on record clearly establishes that accused Nagendra Rai

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assaulted the injured Badamiya Devi on a vital part of the body by means of a *farsa*, thereby manifesting the requisite intention to commit murder. On the aforesaid grounds, it has been submitted that the prosecution has successfully proved the charges against the accused persons beyond all reasonable doubt.

FINDINGS AND REASONS

33. Before advertng to the appreciation of evidence available on the record, it would be apposite to refer to the legal position governing the offence punishable under Section 307 of the Indian Penal Code, particularly in view of the argument advanced on behalf of the defence that the injuries sustained by the injured persons were simple in nature and, therefore, the offence under Section 307 IPC is not attracted in the present case. It is well settled that for constituting an offence under Section 307 IPC, the nature of injury is not always determinative; rather, the intention or knowledge accompanying the act assumes primary importance. The law on this aspect has been consistently explained by the Hon'ble Supreme Court in catena of decisions.

In *State of Maharashtra vs. Kashirao & Ors.*, reported in AIR 2003 SC 3901, the Hon'ble Supreme Court elaborately discussed the essential ingredients required to constitute an offence under Section 307 IPC. It was held that the prosecution must establish:

- (i) that the death of a human being was attempted;
- (ii) that such death was attempted to be caused by an act of the accused; and
- (iii) that such act was done with the intention of causing death or causing such bodily injury as the accused knew to be likely to cause death or sufficient in the ordinary course of nature to cause death.

34. The Hon'ble Apex Court further held that in an offence under Section 307 IPC, all the ingredients of murder are present except the actual death of the victim. It was specifically observed that for the applicability of Section 307 IPC, it is not necessary that an injury capable of causing death should in fact have been inflicted. The nature of assault, the weapon used and the attending

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circumstances are relevant considerations for determining the intention of the accused.

35. **In *State of Maharashtra vs. Balram Bama Patil & Ors.*, AIR 1983 SC 305**, the Hon'ble Supreme Court reiterated the aforesaid principle while setting aside the acquittal recorded by the High Court under Section 307 IPC. In the said case, although the injuries sustained by the victims were found to be simple in nature, the Hon'ble Apex Court held that the offence under Section 307 IPC may nevertheless be attracted if the act was committed with the requisite intention or knowledge contemplated under the Section. The Hon'ble Supreme Court observed that the Court has to examine whether the act, irrespective of its result, was done with such intention or knowledge and under such circumstances that, had death ensued, the offence would have amounted to murder. It was further held that an attempt, in order to be criminal, need not be the penultimate act and that an overt act coupled with requisite intention is sufficient to attract Section 307 IPC.
36. Similarly, in ***Vasant Vithu Jadhav vs. State of Maharashtra*, AIR 2004 SC 2678**, the Hon'ble Supreme Court again held that it is not essential for attracting Section 307 IPC that bodily injury capable of causing death should have been actually inflicted. What is material is the intention or knowledge with which the act was committed. The Court further held that merely because the injuries inflicted are simple in nature, the accused cannot automatically be absolved from the charge under Section 307 IPC if the surrounding circumstances disclose the requisite mens rea.
37. The aforesaid legal position was reiterated by the Hon'ble Supreme Court in *State of Maharashtra vs. Balram Bama Patil & Ors.*, reported in (1983) 2 SCC 28, as well as in Criminal Appeal No. 1034 of 1997 decided on 04.02.2004 and Criminal Appeal No. 1179 of 1997 decided on 11.02.2004, wherein it was consistently held that the determinative factor for constituting an offence under Section 307 IPC is the intention or knowledge accompanying the act and not merely the nature of the injury sustained by the victim.
38. In ***Sarju Prasad vs. State of Bihar*, AIR 1965 SC 843**, the Hon'ble Apex Court observed that the mere fact that the injury inflicted did not affect any

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vital organ of the body is not by itself sufficient to exclude the applicability of Section 307 IPC. The Court emphasized that the intention of the accused is to be gathered from the weapon used, the part of the body chosen for assault and the surrounding circumstances of the occurrence.

39. Thus, the settled legal position emerging from the aforesaid authorities is that the question whether an offence under Section 307 IPC is made out depends essentially upon the intention or knowledge attributable to the accused at the time of commission of the act. The fact that the injuries sustained by the victim are simple or not sufficient in the ordinary course of nature to cause death would not, by itself, take the case out of the ambit of Section 307 IPC if the surrounding circumstances disclose an intention to commit murder. The nature of weapon used, the manner of assault, the part of the body targeted and the conduct of the accused before, during and after the occurrence are relevant factors for determining such intention.
40. In the light of the aforesaid settled principles of law, this Court shall now proceed to examine whether, on the basis of the evidence available on record, the prosecution has been able to establish the ingredients of the offences alleged against the accused persons beyond reasonable doubt. From a careful perusal of the aforesaid judgments of the Hon'ble Apex Court, the settled legal position which emerges is that, for attracting the provisions of Section 307 of the Indian Penal Code, the Court is required to examine whether the act, irrespective of its ultimate result, was committed with such intention or knowledge and under such circumstances as are contemplated under the said Section. The intention or knowledge attributable to the accused must be of the nature necessary to constitute the offence of murder. In absence of such intention or knowledge, an offence punishable under Section 307 IPC cannot be said to have been made out.
41. It is also well settled that under Section 307 IPC, the intention precedes the act attributed to the accused and, therefore, such intention is to be gathered from the totality of the attending circumstances and not merely from the consequence that ensued. The nature of weapon used, the manner in which the assault was committed, the motive behind the occurrence, the severity and

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frequency of blows, and the particular part of the body targeted are all relevant considerations for determining whether the accused persons acted with the requisite intention or knowledge contemplated under Section 307 IPC.

42. In the present case, three persons are alleged to have sustained injuries during the occurrence. The first injured is Badamiya Devi, wife of the Informant, who was examined as CW-1 and whose injury report has been marked as Exhibit-2. The second injured is Shambhu Ram, son of the Informant, examined as PW-6, whose injury report has been marked as Exhibit-2/1. The third injured is the Informant himself, namely Jagdish Ram (PW-4), whose injury report has been marked as Exhibit-2/2. The consistent prosecution case, as emerging from the testimony of the injured as well as the eye-witnesses, is that on the alleged date and time of occurrence, while Badamiya Devi was serving food to her husband Jagdish Ram and her son Shambhu Ram, all the accused persons forcibly entered into the house of the Informant. According to the prosecution witnesses, accused Nagendra Rai was armed with a *farsa*, whereas the remaining accused persons were carrying *lathi* and *danda*. It has further been alleged that accused Nagendra Rai assaulted Badamiya Devi on her head by means of *farsa*, while the other accused persons also assaulted the remaining inmates of the house. The injury report of Badamiya Devi reveals that she sustained a transverse lacerated wound on the posterior part of the parietal region of scalp measuring approximately 3½ inches bone deep and another injury in the nature of a vertical bruise on the backside of the lower spine measuring 4" × 1". However, the Medical Officer has opined that both the injuries were simple in nature and caused by hard and blunt substance. Similarly, the injury report of Shambhu Ram shows that he sustained two injuries, namely, a lacerated wound on the dorsal surface of the right index finger measuring ¼" × ¼" × ¼" and swelling on the medial side of the right knee measuring 2" × 2". Both the injuries were also found to be simple in nature caused by hard and blunt substance. Likewise, Jagdish Ram sustained three injuries, namely swelling on the upper part of the left arm measuring 2" × 1", bruise on the backside of the right chest measuring 4" × 2", and abrasion on the right chest measuring 2" × ½". These injuries too were opined by the doctor to be simple in nature caused by hard and blunt substance. Thus, the medical

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evidence clearly establishes that all the injuries sustained by the injured persons were simple in nature and not dangerous to life.

43. It is pertinent to mention here that none of the injured persons sustained repeated blows on any vital part of the body. Except for one lacerated wound on the parietal region of the head of Badamiya Devi, no serious injury on any vital organ has been found by the Medical Officer. Had there been a definite intention on the part of the accused persons to commit the murder of the injured persons, the manner of assault would ordinarily have reflected repeated and forceful blows on vital parts of the body. The nature of injuries actually found on the injured persons does not support such an inference. Moreover, although the prosecution witnesses have consistently alleged that Badamiya Devi was assaulted by means of a *farsa*, the medical evidence materially contradicts the ocular version inasmuch as the doctor has specifically opined that the injuries were caused by hard and blunt substance. No incised wound or sharp-cut injury, ordinarily expected in case of assault by *farsa*, was found on the person of the injured. This inconsistency between the ocular testimony and the medical evidence assumes significance and creates a reasonable doubt regarding the precise manner of assault alleged by the prosecution.
44. Accordingly, this Court is of the considered opinion that though the prosecution has succeeded in proving that an occurrence had taken place and that injuries were caused to the injured persons, it has failed to establish beyond reasonable doubt the requisite intention or knowledge necessary to constitute the offence punishable under Section 307 IPC.
45. In view of the discussions made hereinabove and upon careful appreciation of the entire evidence available on record, this Court finds that although the prosecution has succeeded in proving the occurrence and the assault upon the injured persons, it has failed to establish beyond reasonable doubt the essential ingredients constituting the offence punishable under Section 307 of the Indian Penal Code. The medical evidence does not support the prosecution allegation regarding assault by a sharp cutting weapon, inasmuch as the injuries sustained by the injured persons have been opined to be simple in nature caused by hard and blunt substance. Furthermore, there is no evidence of repeated or forceful

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assault on any vital part of the body so as to unmistakably indicate an intention or knowledge to cause death. The surrounding circumstances, the nature of injuries, the weapon alleged to have been used and the manner of assault, when assessed cumulatively, do not disclose the requisite mens rea necessary for constituting an offence under Section 307 IPC. Consequently, this Court is of the considered view that the prosecution has failed to prove the charge under Section 307/34 IPC beyond all reasonable doubt and, accordingly, the accused persons are entitled to benefit of doubt in respect of the said charge.

46. So far as the charges under Sections 324, 379 and 504 of the Indian Penal Code are concerned, the evidence adduced by the prosecution does not inspire sufficient confidence to warrant conviction under the said provisions.
47. In order to attract the provisions of Section 324 IPC, the prosecution is required to establish that hurt was voluntarily caused by means of any dangerous weapon or dangerous means. In the present case, although the prosecution witnesses have alleged assault by *farsa*, the medical evidence completely belies the use of any sharp cutting weapon. PW-3, the Medical Officer, has categorically opined that all the injuries sustained by the injured persons were simple in nature and caused by hard and blunt substance. No incised wound or sharp-cut injury was found on the person of any injured witness. Thus, the medical evidence materially contradicts the ocular version regarding use of *farsa* as a dangerous weapon. In such circumstances, the prosecution has failed to establish the ingredients necessary to attract Section 324 IPC.
48. Likewise, the charge under Section 504 IPC also does not stand proved beyond reasonable doubt. Mere allegation of abuse, without specifying the actual words used or proving intentional insult of such nature as was likely to provoke breach of peace, is insufficient to constitute an offence under Section 504 IPC. None of the prosecution witnesses have specifically stated the words allegedly uttered by the accused persons or established the essential ingredients of intentional insult contemplated under the said provision.
49. Similarly, this Court finds that the charge under Section 379 IPC has also not been satisfactorily established. The allegations regarding theft of cash, jewellery and clothes are vague and materially inconsistent. PW-1 and PW-5,

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who have been projected as independent eye-witnesses, have not stated anything regarding theft in their examination-in-chief. PW-2 has stated that accused Nagendra Rai took away the box containing cash, jewellery and clothes, whereas PW-6 attributed the act of taking away the box to accused Subodh Das. The Informant (PW-4) stated that all the accused persons jointly entered into the room and removed the articles. CW-1 Badamiya Devi also gave a different version regarding the person who allegedly carried away the box. Thus, there are material contradictions regarding the identity of the accused who allegedly committed theft as well as the manner in which the alleged theft was committed.

50. It is a settled principle of criminal jurisprudence that where material contradictions go to the root of the prosecution case and create reasonable doubt regarding the commission of the offence, the accused is entitled to benefit of doubt. In the facts and circumstances of the present case, this Court is of the considered opinion that the prosecution has failed to prove the charge under Section 379 IPC beyond reasonable doubt.
51. However, from the evidence available on record, particularly the testimony of PW-4 Jagdish Ram, PW-6 Shambhu Ram and CW-1 Badamiya Devi, all of whom are injured witnesses, it stands clearly established that they sustained injuries during the occurrence. The presence of these injured witnesses at the place of occurrence cannot be doubted. Their testimony regarding assault by the accused persons finds substantial corroboration from the medical evidence adduced through PW-3 and the injury reports marked as Exhibits-2, 2/1 and 2/2. The injuries found on their persons were opined to be simple in nature caused by hard and blunt substance. Though no specific charge under Section 323 IPC was framed against the accused persons, it is well settled that where the facts necessary to constitute a minor offence are clearly established and the accused persons had full knowledge of the allegations against them, conviction for a minor offence is legally permissible by virtue of Sections 222 and 464 of the Code of Criminal Procedure, provided no prejudice is caused to the accused. In the present case, the accused persons were fully aware of the allegations of assault and had ample opportunity to defend themselves during trial. Therefore, this Court finds that the prosecution has successfully proved

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the offence punishable under Section 323 IPC against the accused persons beyond reasonable doubt.

52. So far as the charge under Section 448 IPC is concerned, the prosecution case from the very inception has been that the accused persons forcibly entered into the residential house of the Informant and thereafter committed assault upon the inmates of the house. The testimony of the injured witnesses as well as the supporting eye-witnesses consistently establishes that the accused persons had entered into the house of the Informant without authority and with intent to commit an offence therein. Their evidence on this aspect has remained substantially unshaken during cross-examination.
53. Section 448 IPC punishes the offence of house-trespass, which is committed when a person unlawfully enters into or remains in any building used as a human dwelling with intent to commit an offence or to intimidate, insult or annoy the person in possession thereof. In the present case, the prosecution has successfully established that the accused persons, acting in furtherance of their common intention, trespassed into the dwelling house of the Informant and assaulted the inmates therein. There is no material on record to disbelieve or discard this part of the prosecution case. Accordingly, this Court holds that the prosecution has proved the charge under Section 448/34 IPC against the accused persons beyond all reasonable doubt.
54. In view of the discussions, findings and reasons recorded hereinabove, this Court is of the considered opinion that the prosecution has failed to establish beyond reasonable doubt the charges punishable under Sections 307, 324, 379 and 504 of the Indian Penal Code against the accused persons. The evidence adduced on behalf of the prosecution suffers from material inconsistencies and lacks the essential ingredients necessary to bring home the aforesaid charges. Accordingly, the accused persons are entitled to the benefit of doubt in respect of the said offences.
55. However, from the consistent testimony of the injured witnesses duly corroborated by the medical evidence and surrounding circumstances, the prosecution has successfully proved that the accused persons voluntarily caused simple hurt to the Informant and his family members and had

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unlawfully entered into the dwelling house of the Informant with intent to commit an offence therein. The prosecution has, therefore, succeeded in establishing the offences punishable under Sections 323 and 448 of the Indian Penal Code beyond all reasonable doubt against the accused persons.

56. **Consequently, all the accused persons, namely: Raju Rai and Umesh Das, are hereby found guilty and convicted for the offences punishable under Sections 323 and 448 of the Indian Penal Code.**
57. The accused persons are presently on bail. Their bail bonds are hereby cancelled and they are taken into judicial custody for the purpose of hearing on the quantum of sentence.
58. Let the matter be put up after a while for hearing the convicts on the point of sentence.

Judgment pronounced in the open Court.

Dictated and corrected by me.

(Santosh Kumar Pandey)
Additional Sessions Judge - II,
Darbhanga
05.06.2026

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ORDER ON THE POINT OF SENTENCE

05.06.2026

After Lunch

Heard learned counsel for the convicts and learned Additional Public Prosecutor for the State on the point of sentence. The convicts namely Raju Rai and Umesh Das have been convicted for the offences punishable under Sections 323 and 448 of the Indian Penal Code vide judgment pronounced today.

Learned counsel appearing on behalf of the convicts has submitted that the convicts are first offenders having no previous criminal antecedent brought on record. It has further been submitted that the occurrence is of the year 2004 and the convicts have faced the ordeal of criminal prosecution for a considerable long period of time. It is also submitted that the parties belong to the same locality and the occurrence appears to have arisen out of village dispute and sudden altercation. Prayer has accordingly been made for taking a lenient view in the matter.

On the other hand, learned Additional Public Prosecutor has submitted that the convicts unlawfully entered into the house of the Informant and assaulted the inmates and, therefore, they do not deserve undue leniency. However, it is not disputed that the convicts have no proven criminal antecedent and have remained on bail during trial.

This Court has carefully considered the submissions advanced on behalf of both sides. While determining the question of sentence, the Court is required to balance the nature of offence, the circumstances under which the offence was committed, the age, character and antecedents of the convicts, and the possibility of their reformation. Sentencing should not only be punitive but also reformatory wherever circumstances justify such approach.

In the present case, the convicts have been acquitted of the major charges under Sections 307/34 and 379 and 504 of the Indian Penal Code and have been convicted only under Sections 448, 323 of the Indian Penal Code. The injuries caused in the occurrence have not been found to be grievous or dangerous to life. The occurrence is old in nature and pertains to the year 2004. The convicts have faced the mental agony and rigours of criminal proceedings

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for about two decades. There is nothing on record to indicate that the convicts are habitual offenders or that they misused the privilege of bail during the pendency of trial.

Considering the entire facts and circumstances of the case, the nature of offence, the age of the litigation, absence of criminal antecedent and the possibility of reformation of the convicts, this Court is of the considered opinion that the ends of justice would be adequately met by extending the benefit of admonition to the convicts instead of sentencing them to substantive imprisonment.

Accordingly, invoking the beneficial provisions of Section 3 of the Probation of Offenders Act, 1958, all the convicts namely Raju Rai and Umesh Das are hereby released after due admonition for the offences punishable under Sections 323 and 448 and of the Indian Penal Code. They are admonished to maintain peace, good behaviour and not to involve themselves in any criminal activity in future. The bail bonds of the convicts are hereby discharged.

Let a copy of this order be supplied to the convicts free of cost forthwith.

Pronounced in open Court.

Judgment pronounced in the open Court.

Dictated and corrected by me.

(Santosh Kumar Pandey)
Additional Sessions Judge - II,
Darbhanga
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(Santosh Kumar Pandey)
Additional Sessions Judge - II,
Darbhanga
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