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Santosh Kumar Pandey,  
District & Additional Sessions Judge-II, Darbhanga  
Sessions Trial No. 460/2023  
[Arising out of Kamtaul P.S. Case No. 117/2020]  
The state of Bihar versus Md. Anjar and others  
Date of Judgement : 09.06.2026

|                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                             |
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| <b>IN THE COURT OF DISTRICT &amp; ADDITIONAL SESSIONS JUDGE-II<br/>DARBHANGA</b><br><b>Santosh Kumar Pandey, District &amp; Additional Sessions Judge-II</b><br><b>Date of Judgment:- 09.06.2026</b><br><b><u>Sessions Trial No. 460/2023</u></b><br><b><u>CIS/Registration No. 460/2023</u></b><br><b><u>[Arising out of Kamtaul P.S. Case No. 117/2020]</u></b> |                                                                                                                                                                                                                                                                                                                                                                                                             |
| REPRESENTED BY                                                                                                                                                                                                                                                                                                                                                    | Smt. Champa Mukherjee, Learned Addl. P.P.                                                                                                                                                                                                                                                                                                                                                                   |
| ACCUSED                                                                                                                                                                                                                                                                                                                                                           | <b>1. Md. Anjar</b> s/o Md. Sajid,<br><b>2. Md. Anjum</b> s/o Md. Sajid,<br><b>3. Md. Asgar</b> s/o Md. Zakir,<br><b>4. Md. Ajmal</b> s/o Md. Zakir,<br><b>5. Md. Afjal</b> s/o Md. Zakir,<br><b>6. Md. Sajid</b> s/o Md. Sahibul,<br><b>7. Md. Majid</b> s/o Md. Sahibul,<br><b>8. Md. Yusuf</b> s/o Late Md. Mutlum, all are<br>resident of Village - Dharampur, P.S. - Kamtaul,<br>District - Darbhanga. |
| REPRESENTED BY                                                                                                                                                                                                                                                                                                                                                    | Sri Sanjay Kant Thakur, Learned Advocate.                                                                                                                                                                                                                                                                                                                                                                   |

|                                      |                                   |
|--------------------------------------|-----------------------------------|
| Date of Offence                      | 16.05.2020                        |
| Date of FIR                          | 16.05.2020                        |
| Date of Charge-sheet                 | CS No.- 214/2020 Dated-30.11.2020 |
| Date of Framing of Charges           | 24.01.2024                        |
| Date of Commencement of evidence     | 20.05.2025                        |
| Date on which judgment is reserved   | 29.05.2026                        |
| Date of the Judgment                 | 09.06.2026                        |
| Date of the Sentencing Order, if any | NIL                               |

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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                  | Md. Anjar           | 16.07.20       | 16.07.20                 | Section 147/149, 148/149, 341/149, 323/149, 308/149, 504/149, 504/149 IPC | Acquitted                      | NIL              | NIL                                                                        |
| A2                  | Md. Anjum           | 16.07.20       | 16.07.20                 | Section 147/149, 148/149, 341/149, 323/149, 308/149, 504/149, 504/149 IPC | Acquitted                      | NIL              | NIL                                                                        |
| A3                  | Md. Asgar           | 15.04.23       | 15.04.23                 | Section 147/149, 148/149, 341/149, 323/149, 308/149, 504/149, 504/149 IPC | Acquitted                      | NIL              | NIL                                                                        |
| A4                  | Md. Ajmal           | 16.07.20       | 16.07.20                 | Section 147/149, 148/149, 341/149, 323/149, 308/149, 504/149, 504/149 IPC | Acquitted                      | NIL              | NIL                                                                        |
| A5                  | Md. Afjal           | 15.04.23       | 15.04.23                 | Section 147/149, 148/149, 341/149, 323/149, 308/149, 504/149, 504/149 IPC | Acquitted                      | NIL              | NIL                                                                        |

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|    |           |          |          |                                                                                                   |           |     |     |
|----|-----------|----------|----------|---------------------------------------------------------------------------------------------------|-----------|-----|-----|
|    |           |          |          | 504/149<br>IPC                                                                                    |           |     |     |
| A6 | Md. Sajid | 16.07.20 | 16.07.20 | Section<br>147/149,<br>148/149,<br>341/149,<br>323/149,<br>308/149,<br>504/149,<br>504/149<br>IPC | Acquitted | NIL | NIL |
| A7 | Md. Majid | 22.03.23 | 22.03.23 | Section<br>147/149,<br>148/149,<br>341/149,<br>323/149,<br>308/149,<br>504/149,<br>504/149<br>IPC | Acquitted | NIL | NIL |
| A8 | Md. Yusuf | 22.03.23 | 22.03.23 | Section<br>147/149,<br>148/149,<br>341/149,<br>323/149,<br>308/149,<br>504/149,<br>504/149<br>IPC | Acquitted | NIL | NIL |

**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES :-**

**A. Prosecution**

| Rank | Name         | Nature of Evidence<br>(Eye-witness, Witness of last seen<br>circumstances, Medical jurist/Medical<br>Witness, Investigating Officer,<br>Complainant/First Informant, Police<br>Witness, Expert Witness, Panch<br>Witness, Other Witness) |
|------|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PW 1 | Md. Daud     | Other witness.                                                                                                                                                                                                                           |
| PW 2 | Md. Murtuja  | Other witness.                                                                                                                                                                                                                           |
| PW 3 | Md. Alauddin | Other witness.                                                                                                                                                                                                                           |
| PW 4 | Md. Haidar   | The Informant.                                                                                                                                                                                                                           |

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|      |                         |                                   |
|------|-------------------------|-----------------------------------|
| PW 5 | Md. Fariyad @ Md. Belal | The injured/son of the Informant. |
|------|-------------------------|-----------------------------------|

B. Defense Witnesses, if any :-

| Rank | Name | Nature of Evidence<br>(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                                                                                                                                                                                                                       |

C. Court Witnesses, if any :-

| Rank | Name | Nature of Evidence<br>(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                                                                                                                                                                                                                       |

**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

A. Prosecution :-

| Sr. No. | Exhibit Number | Description<br>(Inquest Panchnama/Memo, Recovery Panchnama/Memo, Arrst Memo, Post-mortem Report, FSL Report Other exhibit) | Proved by /Attested by |
|---------|----------------|----------------------------------------------------------------------------------------------------------------------------|------------------------|
| 1.      | P-1            | Signature on the hand written petition so forming the basis of the FIR.                                                    | PW-4                   |

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B. Defense :-

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

Present :-

**Santosh Kumar Pandey**  
**District & Additional Sessions Judge-II,**  
**Darbhanga.**

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**JUDGMENT**

1. The accused persons named above have been sent up for trial on the allegations of having committed offences punishable under Sections **147, 148, 341, 323, 308, 504 and 379 read with Section 149 of the Indian Penal Code**. The prosecution case, in substance, is that the accused persons, being members of an unlawful assembly and sharing a common object, wrongfully restrained the informant and his family members, abused and assaulted them, caused injuries by means of deadly weapons with such intention and under such circumstances that, had death ensued, they would have been guilty of culpable homicide not amounting to murder. It is further alleged that during the course of the occurrence, the accused persons also committed theft of cash belonging to the victim.
2. The prosecution case, as unfolded in the written report lodged by the informant, is that on 15.05.2020 at about 11:00 A.M., his son, namely Md. Bilas, was proceeding towards a bank when the accused persons, namely Md. Anzar, Md. Anjum, Md. Asgar, Md. Ajmal, Md. Afzal, Md. Sajid, Md. Majid, Md. Yusuf, Md. Sonu and Md. Wajud, all allegedly armed with deadly weapons, surrounded him and began to assault him with the intention to kill. Upon hearing alarm and commotion, the informant rushed to the place of occurrence, whereupon the accused persons fled away. It is alleged that the informant found his son lying injured, having sustained severe injuries including fractures in both legs and injuries on his head. The accused persons are also alleged to have taken away a sum of Rs.1,00,000/- from the possession of the injured. The informant further stated that the motive behind the occurrence was previous enmity arising out of a criminal case instituted by him against the accused persons on 24.03.2020 and an ongoing land dispute between the parties. According to the informant, the accused persons had earlier also assaulted him and his family members and were pressurising him to compromise the earlier case.
3. On the basis of the aforesaid written report, Kamtaul P.S. Case No. 117 of 2020 dated 16.05.2020 was registered under the relevant provisions of the Indian Penal Code. The investigation of the case was taken up by Sub-Inspector Manoj Kumar Ram, who proceeded with the investigation in accordance with law. During the course of investigation, the Investigating

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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 documentary evidence and, upon finding sufficient prima facie materials against the accused persons, submitted charge-sheet against them. Thereafter, cognizance of the offences was taken by the learned court concerned and the accused persons were summoned to face trial.

4. Upon appearance of the accused persons, copies of the police papers and all documents relied upon by the prosecution were furnished to them in compliance with the mandatory provisions of Section 207 of the Code of Criminal Procedure. Since the offence under Section 308 of the Indian Penal Code was exclusively triable by the Court of Sessions, the case was committed to this Court for trial. Upon consideration of the materials available on record and after hearing the parties, this Court found sufficient grounds for presuming that the accused persons had committed offences punishable under Sections 147, 148, 341, 323, 308, 504 and 379 read with Section 149 of the Indian Penal Code. Accordingly, charges were framed against the accused persons. The charges were read over and explained to them in vernacular, to which they pleaded not guilty and claimed to be tried. Consequently, the case was fixed for recording of prosecution evidence.
5. The defence of the accused persons, as discernible from the tenor of cross-examination of the prosecution witnesses and their statements recorded under Section 313 of the Code of Criminal Procedure, is one of complete denial.
6. In order to bring home the charges levelled against the accused persons, the prosecution examined its witnesses and proved the documentary evidence available on record. The defence, on the other hand, subjected the prosecution witnesses to extensive cross-examination and sought to create doubt regarding the veracity of the prosecution case. The evidence adduced by the parties and its legal effect shall now be examined and appreciated in the light of the settled principles governing criminal jurisprudence.
7. In light of the rival contentions advanced on behalf of the prosecution and the defence and upon consideration of the materials available on record, the following point arises for determination before this Court:

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*"Whether the prosecution has been able to prove beyond reasonable doubt that on the alleged date, time and place of occurrence, the accused persons, being members of an unlawful assembly and in prosecution of its common object, committed offences punishable under Sections 147, 148, 341, 323, 308, 504 and 379 read with Section 149 of the Indian Penal Code?"*

8. The determination of the aforesaid point requires a careful appraisal of the oral and documentary evidence adduced by the prosecution. It is a cardinal principle of criminal jurisprudence that the burden of proving the guilt of the accused lies entirely upon the prosecution and such burden never shifts. The prosecution is required to establish its case beyond all reasonable doubt by leading reliable, cogent and convincing evidence. The accused persons are presumed to be innocent unless proved guilty and are entitled to the benefit of every reasonable doubt arising from the evidence on record.
9. In order to substantiate the charges levelled against the accused persons, the prosecution has examined altogether five witnesses. Out of them, PW-1 Md. Daud, PW-2 Md. Murtuja and PW-3 Md. Alauddin have been cited as independent witnesses. PW-4 Md. Haidar is the informant of the case, whereas PW-5 Md. Fariyad @ Md. Bilal is the injured witness and the alleged victim of the occurrence. Thus, the prosecution case substantially rests upon the testimony of the injured witness, which is required to be examined with due care and caution in light of the surrounding circumstances and the evidence available on record.
10. Besides the oral testimony of the witnesses, the prosecution has also adduced documentary evidence. The signature of the informant appearing on the written report, which formed the basis of institution of the First Information Report, has been proved and marked as Exhibit-1. The said document has been relied upon by the prosecution to corroborate the oral version of the informant and to establish the prompt lodging of the case. The documentary evidence brought on record has been tendered primarily with the object of corroborating the oral testimony of the prosecution witnesses and establishing the procedural steps undertaken during the course of investigation. The prosecution seeks to rely upon such documentary evidence to lend assurance to its version regarding the occurrence and the injuries allegedly sustained by the victim.

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11. PW-4 Md. Haidar, the informant of the case, has deposed that the occurrence took place about five years prior to his deposition at about 11:00 A.M. According to him, accused persons namely Majid, Sajid, Afzal, Anjum and several others assaulted his son Bilal, as a result of which his son sustained injuries and had to undergo treatment in both government and private hospitals. He has further stated that accused Anjum and other accused persons took away money from his son. He identified his signature on the fardbeyan and on his identification the same was marked as Exhibit-1. He also identified the accused persons present in Court.

During his cross-examination, however, this witness admitted that he had lodged the case on the basis of information furnished by his son. He categorically stated that he had neither witnessed the assault upon his son nor seen the accused persons snatching any money from him. His evidence, therefore, reveals that he is not an eyewitness to the occurrence and his testimony regarding the manner of assault and theft is essentially hearsay in nature. He denied the defence suggestion that the case was false and that no such occurrence had taken place.

12. PW-5 Md. Fariyad @ Md. Bilal is the injured witness and the star witness of the prosecution. He has deposed that the occurrence took place on 16.05.2020 at about 11:00 A.M. when he was proceeding towards a bank. According to him, accused persons namely Md. Sajid, Md. Majid, Md. Anjum, Md. Anzar, Md. Asgar and Md. Ajmal assaulted him and forcibly snatched a sum of Rs.1,00,000/- from his possession. He has identified the accused persons in Court as the perpetrators of the occurrence.
13. Being an injured witness, his testimony carries considerable evidentiary value as ordinarily an injured person is not expected to falsely implicate innocent persons while sparing the actual assailants. Nevertheless, his evidence is required to be scrutinized in the light of the other evidence available on record, including the testimony of independent witnesses and the documentary evidence, in order to ascertain whether the prosecution has succeeded in proving its case beyond reasonable doubt.
14. PW-5 Md. Fariyad @ Md. Bilal, during his cross-examination, made certain admissions which assume significance while appreciating the evidentiary value

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of his testimony. He stated that he had not actually seen by whom he was assaulted during the occurrence. He further deposed that he had not seen the person who allegedly snatched the money from him. The witness also admitted that he identified the accused persons because they were residents of the same village and were known to him from before.

15. The aforesaid admissions materially affect the evidentiary worth of his testimony insofar as the identity and participation of the accused persons in the alleged occurrence are concerned. Although the witness claims to have sustained injuries, his inability to specifically identify the assailants or the person who allegedly committed theft creates a serious dent in the prosecution case. The testimony of an injured witness ordinarily carries great weight; however, where the witness himself expresses inability to state as to who actually assaulted him or who committed the alleged theft, the Court is required to scrutinize such evidence with greater caution before acting upon it as the sole basis for conviction.
16. Before recording a finding of guilt, it is incumbent upon the Court to examine whether the prosecution has succeeded in establishing each of the ingredients constituting the offences charged against the accused persons. The accused persons have been charged for offences punishable under Sections 147, 148, 341, 323, 308, 504 and 379 read with Section 149 of the Indian Penal Code. Since the prosecution has invoked Section 149 IPC, it was first required to establish beyond reasonable doubt that the accused persons constituted an unlawful assembly within the meaning of Section 141 IPC and that the alleged offences were committed in prosecution of the common object of such assembly or were such as the members of the assembly knew to be likely to be committed in prosecution thereof.
17. In the present case, the prosecution has failed to establish the very foundation of the charge under Sections 147 and 148 IPC. The independent witnesses, namely PW-1, PW-2 and PW-3, have not supported the prosecution case and were declared hostile. Neither of them has stated anything regarding the formation of an unlawful assembly, the common object of the accused persons, or the participation of the accused persons in the alleged occurrence. Even the injured witness, PW-5, has admitted during cross-examination that he had not seen who assaulted him and by what means. In the absence of reliable evidence

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regarding the participation of the accused persons and their common object, the offences of rioting punishable under Sections 147 and 148 IPC cannot be said to have been proved.

18. Likewise, the charge under Section 341 IPC relates to wrongful restraint. To establish this offence, the prosecution was required to prove that the accused persons voluntarily obstructed the victim so as to prevent him from proceeding in a direction in which he had a lawful right to proceed. The evidence adduced by the prosecution is wholly insufficient in this regard. No witness has specifically deposed regarding any act of obstruction attributable to any particular accused. The evidence on record is vague, general and lacking in particulars. Consequently, the essential ingredients of Section 341 IPC remain unproved.
19. So far as the charge under Section 323 IPC is concerned, the prosecution was required to prove that hurt was voluntarily caused by the accused persons. Though the prosecution has alleged that the victim sustained injuries, the evidence falls short of proving that such injuries were caused by the accused persons. The informant himself is admittedly not an eyewitness. The injured witness has categorically stated during cross-examination that he had not seen who assaulted him. Such admission strikes at the root of the prosecution case. In the absence of reliable evidence identifying the assailants, no conviction can be recorded under Section 323 IPC.
20. The gravamen of the prosecution case is the allegation attracting Section 308 IPC, namely attempt to commit culpable homicide. To establish this offence, the prosecution was required to prove not merely the factum of assault but also the existence of such intention or knowledge and such circumstances that, had death been caused, the act would have amounted to culpable homicide not amounting to murder. However, the prosecution has failed to prove the manner of assault, the weapon allegedly used, the part of the body targeted, the nature of injuries sustained, or the intention and knowledge attributable to the accused persons. Significantly, the doctor who allegedly examined the injured has not been examined. Consequently, the injury report remains formally unproved and cannot be relied upon as substantive evidence. In the absence of medical evidence and reliable ocular testimony, the charge under Section 308 IPC completely fails.

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21. The charge under Section 504 IPC also remains unsubstantiated. To constitute an offence under Section 504 IPC, there must be intentional insult with knowledge that such provocation is likely to cause the person insulted to break the public peace or commit any other offence. The prosecution witnesses have not deposed regarding any specific abusive words, acts of insult, or circumstances indicating the requisite intention contemplated under Section 504 IPC. Mere omnibus allegations are insufficient to attract criminal liability under the said provision.
22. The prosecution has further alleged commission of theft of Rs.1,00,000/- from the possession of the injured, thereby attracting Section 379 IPC. However, the evidence led by the prosecution is wholly inadequate to establish this charge. The injured witness himself has admitted that he did not see who had taken away the money. The informant admittedly had no personal knowledge regarding the alleged theft. No recovery has been effected from any of the accused persons. There is also no independent evidence connecting any accused with the alleged theft. Thus, the essential ingredients of dishonest removal of movable property from the possession of another without consent remain unproved.
23. Apart from the aforesaid deficiencies, this Court finds that the prosecution has withheld two most material witnesses, namely the Investigating Officer and the Doctor. The non-examination of the Investigating Officer has caused serious prejudice to the defence, as the defence was deprived of the opportunity to prove contradictions and omissions in the statements of witnesses recorded during investigation. Similarly, non-examination of the Doctor has deprived the Court of the best available evidence regarding the nature, extent and cause of injuries allegedly sustained by the victim. Though non-examination of the Investigating Officer or Doctor may not be fatal in every case, where the prosecution evidence is otherwise weak and unreliable, such omissions assume considerable significance.
24. The evidence adduced by the prosecution, when viewed in its entirety, does not inspire confidence. The informant is admittedly not an eyewitness. The injured witness has failed to identify the actual assailants and the person who allegedly committed theft. The independent witnesses have not supported the prosecution case. The material documentary evidence has not been duly proved

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through competent witnesses. The prosecution has thus failed to establish either the participation of the accused persons or the essential ingredients of the offences charged against them.

25. It is a settled principle of criminal law that the prosecution must stand on its own legs and prove the guilt of the accused beyond all reasonable doubt. The burden never shifts upon the accused to establish their innocence. Where two views are possible, the one favourable to the accused must be adopted. Suspicion, however strong, cannot substitute legal proof. In the present case, the evidence on record creates substantial and reasonable doubt regarding the involvement of the accused persons in the alleged occurrence.
26. Accordingly, this Court holds that the prosecution has failed to prove beyond reasonable doubt that the accused persons formed an unlawful assembly, committed rioting, wrongfully restrained the victim, voluntarily caused hurt, attempted to commit culpable homicide, intentionally insulted the informant or committed theft of the alleged amount. Consequently, the charges punishable under Sections 147, 148, 341, 323, 308, 504 and 379 read with Section 149 of the Indian Penal Code have not been proved against the accused persons.

**ORDER**

27. In view of the discussions, findings and reasons recorded hereinabove, this Court is of the considered opinion that the prosecution has failed to prove beyond reasonable doubt that the accused persons, in furtherance of their common intention, committed the offences punishable under **Sections 147/149, 148/149, 341/149, 323/149, 308/149, 504/149, 504/149 of the Indian Penal Code**. Accordingly, all the accused persons namely **Md. Anjar, Md. Anjum, Md. Asgar, Md. Ajmal, Md. Afjal, Md. Sajid, Md. Majid and Md. Yusuf** are hereby **acquitted** of the aforesaid charges by extending to them the benefit of doubt.
28. In view of the discussions, findings and reasons recorded hereinabove, this Court is of the considered opinion that the prosecution has failed to establish the charges punishable under Sections 147, 148, 341, 323, 308, 504 and 379 read with Section 149 of the Indian Penal Code against the accused persons beyond all reasonable doubt. Accordingly, all the accused persons, namely **1. Md. Anzar, 2. Md. Anjum, 3. Md. Asgar, 4. Md. Ajmal, 5. Md. Afzal, 6.**

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**Md. Sajid, 7. Md. Majid and 8. Md. Yusuf,** are hereby acquitted of all the charges levelled against them by extending the benefit of doubt.

29. The accused persons are on bail. Their bail bonds are hereby cancelled and the sureties are discharged from their respective liabilities.
30. Let the seized articles, if any, be disposed of in accordance with law after expiry of the statutory period of appeal/revision.
31. The office is directed to communicate this judgment to the concerned authorities and thereafter consign the record to the Record Room in due course.

**Judgment pronounced in the open Court.**

Dictated and corrected by me.

(Santosh Kumar Pandey)  
Additional Sessions Judge - II,  
Darbhanga  
09.06.2026

(Santosh Kumar Pandey)  
Additional Sessions Judge - II,  
Darbhanga  
09.06.2026

|                                          |                                    |
|------------------------------------------|------------------------------------|
| <b>Date of Judgement/order</b>           | <b>09.06.2026</b>                  |
| <b>Date of reserving judgement/Order</b> | <b>29.05.2026</b>                  |
| <b>Uploading Date</b>                    | <b>09.06.2026</b>                  |
| <b>Uploaded by</b>                       | <b>Ashish Kumar, Stenographer.</b> |