

Prosecution	State of Bihar (through – Rasho Devi)
Represented by-	learned App Shri Bachcha Rai
Accused	(A1) Suresh Manjhi, age 56 years Son of Jageshwar Majhi (A2) Rabin Manhi, age 32 years Son of Kari Manjhi (A3) Mahendra Manjhi, age 51 years Son of Rameshwar Manjhi (A4) Ganesh Manjhi, age 61 years Son of Jugeshwar Manjhi (A5) Anila Devi, age 40 years w/o- Dinesh Manjhi (A6) Manish Manjhi alias Manish Kumar, age 24 years Son of Dinesh Manjhi (A7) Sadhu Saran Manjhi, age 30 years Son of Suresh Manjhi (A8) Sita Devi, age 89 years w/o- Jageshwar Manjhi All resident of village- Manaur Bhauram, PS- Biraul, District- Darbhanga

Represented by	Ld Adv Mr Sashi Kant Ray
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Date of offence	07-02-2022
Date of FIR	09-02-2022
Date of Chargesheet	19-11-2022
Date of framing of Charge	07-08-2024
Date of commencement of evidence	23-10-2024
Date on which judgement is reserved	23-06-2026
Date of judgement	23/06/2026
Date of the sentencing order	--

Judgement

1. The above named accused persons have been prosecuted for having committed offences punishable under sections 323/34, 341/34, 324/34, 308/34, 504/34 of IPC. The prosecution story as stated in FIR in brief is that on 07.02.2022 at around 4 PM, informant was inside the courtyard of his house. At that time, the accused persons namely Suresh Manjhi, Manish Manjhi, Karan Manjhi, Rahul Kumar, Rabin Manjhi, Mahendra Manjhi, Ganesh Manjhi, Sadhu Charan Manjhi, Anita Devi, Sita Devi arrived at her house holding weapons in their hands such as Tengari, iron rods, sticks(lathi), and Sota. Upon arriving, they started abusing informant, saying, “You bastard woman, where is your son?” When informant asked them why they were hurling abuses, Sadhu Charan Manjhi Sadi, “We are only abusing you now, but in a short while, we will murder your son.” At that time, informant’s son’s father in law, Ramhit Manjhi was sitting at her house. He requested them to speak properly. Upon this, Sita Devi shouted, “Kill him right now!” Hearing this, Suresh Manjhi, with the intention to kill, struck the tangari he was holding directed at Ramhit Majhi’s head. Ramhit Manjhi head was cut and he began

bleeding profusely. When informant and her Samdhan Uma Devi rushed to rescue him, all the accused persons jointly assaulted them with sticks, Sota, and iron rods causing injuries. Meanwhile, Manish Manjhi with the intention to kill, blow tengari at informant's Samdhan Uma Devi. While trying to block the blow with her left hand, her thumb got chopped off. In the meantime, informant's son Satpal Manjhi arrived, accused Rabin Manjhi and Sadhu Charan Manjhi assaulted him with iron rod, fracturing his left arm. There are injury marks all over his body from the beating. The accused persons made informant and her Samdhan naked. They have destroyed the household articles. Rahul Kumar snatched informant's Samdhan purse containing Rs. 5100/-. The application also mentions that reason for the dispute is that the accused persons wanted to play obscene songs on the occasion of Saraswati Puja immersion, which informant's son objected to and prevented them from playing. Due to this grudge, this violent assault was carried out. The injured were treated at PHC, Baheri.

2. On the basis of aforementioned information the present Biraul PS case number 46/2022 was registered against 10 accused persons. Investigation was carried out and charge-sheet was submitted by the investigating officer against 5 accused persons namely Suresh Manjhi, Rabin Manjhi, Mahendra Manjhi, Ganesh Manjhi, Anila Devi. The Investigating officer has not sent up other 5 accused persons namely Manish Kumar, Karan Kumar, Sadhu Saran Manjhi, Sita Devi and Anil Manjhi in the charge-sheet for trial and their names have been mentioned in column 12 of the charge-sheet. After that the Ld. Magistrate has taken cognizance against the charge-sheeted accused persons as well as accused Manish Kumar, Sadhu Charan Manjhi and Sita Devi and committed the case to the court of Sessions. Later on, session court framed charges for commission of offences punishable under sections 323/34, 341/34, 324/34, 308/34, 504/34 of IPC. The contents of charges were read over and explained to the accused persons in Hindi to which they pleaded not guilty and claimed to be tried.

3. Prosecution in support of the case has examined the following witnesses.

Prosecution witnesses

Rank	Name	Nature of Evidence(eye witness police witness expert witness medical witness other witnesses)
PW 1	Badri Manjhi	Hositle
PW 2	Jibchi Manjhi	Hostile
PW 3	Rambhadur Manjhi	Hostile
PW 4	Ramanand Manjhi	Hostile
PW 5	Raso Devi	Informant
PW 6	Ramhit Manjhi	Injured
PW 7	Imaa Devi	Injured
PW 8	Satpal Manjhi	Injured

Prosecution exhibits

Sr No	Exhibit Number	Description
1	P-1/PW5	Signature of informant on application submitted to police.

4. The statements of the accused persons were recorded under section 313 CRPC in which they claimed to be innocent. The defence has not adduced any evidence
5. Now the point for determination is whether the prosecution has been successful in proving charges against accused persons beyond all reasonable doubts

Findings

6. Prosecution in support of its case has examined 7 witnesses.

PW 1 is Badri Manjhi. This witness deposed in his examination in chief in para 1 that I know nothing about the incident. No statement of mine was recorded before the police.

At the request of the Prosecution, the witness was declared Hostile. During his Cross-examination by the Prosecution this witness deposed in para 2 that it is not true that I gave a statement to the police in support of the incident, or that I told the police that a dispute arose on the date of the incident regarding the playing of obscene songs during the Saraswati Puja immersion between Rabin Manjhi and Satpal Manjhi. On the occasion of the immersion, upon hearing a commotion at the house of Budheshwar Manjhi, when I went there to see, I saw Suresh Manjhi, along with 10 other people armed with sticks (lathi), danda, and tangari, assaulting them. During the intervention, Budheshwar Manjhi's son father-in-law Ramhit Manjhi came to protect them, and the accused started assaulting him as well. Suresh Manjhi struck Ramhit Manjhi on the head with tengari. Manish Manjhi assaulted Ima Devi and Budeshwar Manjhi. Sadhu Charan Manjhi and Robin Manjhi struck Satpal Manjhi with an iron rod, fracturing Satpal's left arm. This witness deposed that I have retracted my previously given statement out of fear of the accused. I identify Suresh Manjhi, who is present in the courtroom, and claimed to identify the others who are not present today.

During his cross-examination on behalf of the accused persons this witness deposed that on the date of the incident, I was in Karnataka. I

returned home 1 month after the date of the incident. After returning, I came to know that a dispute had occurred between informant accused persons. No incident took place in my presence. I recognize Suresh Manjhi, who is present in the court, as being from my village.

PW 02 is Jibchi Manjhi. This witness deposed in his examination in chief in para 1 that he has no knowledge about the incident. In para 2 he deposed that police has not inquired me.

On the request of prosecution this witness has been declared hostile. In para 3 he deposed that this is not true that my statement was recorded before police and I have told police that upon hearing commotion I went to house of Budheswhar Manjhi and saw that Suresh Manjhi, Rabin Manjhi, Mahendra Manjhi, Ganesh Manjhi, Anila Devi were assaulting Budheswhar Manjhi, Raso Devi and their family members with lathi and danda. When family members of Budheshwar Manjhi went to rescue then accused persons have also assaulted them. In para 4 he deposed that dispute arose between the children due to playing obscene songs during Saraswati idol immersion. In para 5 he deposed that It is not true that in collusion with accused persons I am differing from my previous statements. Suresh Manjhi is present in court today. This witness claim to identify those who are not present in court today.

During his cross-examination on behalf of the accused persons this witness deposed in para 6 that he has not seen any part of incident. IN para 7 he deposed that I cannot tell the day, date and month of incident. IN para 8 he deposed that first time, I am giving my statement before the Court regarding the incident. Prior to this I have not recorded my statement. IN para 9 he deposed that Suresh Manjhi is my fellow villagers due to which I recognize him.

PW 03 is Rambhadur Manjhi. This witness deposed in his examination in chief in para 1 that the incident took place 3 years ago. It happened in evening. In para 2 he deposed that I was not at home; the police did not question me.

On the request of prosecution this witness declared hostile. In para 4 he deposed that it is not true that my statement was recorded by the police

on the day of the incident. The incident occurred on the day of the immersion of idol of Goddess Saraswati. At around 4 PM, hearing an uproar regarding the playing of obscene songs near the houses of Budheshwar Manjhi and Satpal Manjhi I went to look. I saw about 10 people including Suresh Manjhi, were assaulting my wife and my family members. Son of Bindeshwar Manjhi and his father has also been assaulted . Suresh Manjhi assaulted Ramhit Majhhi with tengari on his head. Shadu Saran Manji and Ronin Manjhi assaulted Satpal Manjhi on his left hand. In para 5 he deposed that Suresh Manjhi is present in Court and this witness claimed to identify other accused persons who are not present in court.

During his cross examination he has deposed in para 6 that I cannot sate the day, date and month of the incident. In para 7 he deposed that no part of the incident took place in front of me. In para 8 he deposed that on the day of the incident, I had gone to Darbhanga for treatment. In para 9 he deposed that Suresh Manjhi is co-villager.

PW 04 is Ramanand Manjhi. This witness deposed in his examination in chief in para 1 that I have no knowledge about the incident. In para 2 he deposed that police has not inquired me.

On the request of prosecution this witness declared hostile. In para 3 he deposed that it is not true that my statement was recorded in police. I have told police that immersion of Saraswati was taking place. During this due to playing of obscene songs, a dispute arose between Rabin Manjhi and Satpal Manjhi. At 4 PM upon hearing commotion I went to the house of Budheshwar Manjhi and saw that Suresh Manjhi with 10 other people were assaulting Raso Devi and her family members with lathi and tengari. When son of Budheshwar Manjhi Ramhit Manjhi and his wife came to rescue then they have also been assaulted. Suresh Manjhi was carrying tengari in his hand, he has blowed that tengari on head of Ramhit Manjhi. Budheshar Manjhi assaulted Uma Devi with tengari. Sadhu Saran and Rabin Manji assaulted Satpla Manjhi on his left hand with iron rod. In para 4 he deposed that today Suersh Manjhi is present in court. This witness claimed to identify those who are not present in court.

During his cross examination on behalf of the accused persons this witness deposed in para 5 that on the day of incident I was in Karnatak. In para 6 he deposed that I returned to my village after 1 year of incident. In para 7 he deposed that I have not seen any part of the incident. In para 8 he deposed that I know Suresh Manjhi as he is my co-villager. In para 9 he deposed that, first time, I came to depose regarding the incident.

PW 05 is Raso Devi. This witness deposed in his examination in chief in para 1 that I am informant of this case. In para 2 she deposed that the incident took place about 4 years ago. It occurred at four O'clock in day. In para 3 she deposed that at that time, I was in my courtyard when Suresh Manjhi, Manish Manjhi along with eleven other men and woman, arrived at my door. Suresh Manjhi, holding a tengari, iron rod, and stick, came and abused me, saying, "Where is you son?" Today we will kill your son." Sitting at my door, my son's father in law, Ramhit Manjhi, said, "Why would you kill him?" Hearing this, Suresh Manjhi struck Ramhit Manjhi on the head with the tengari, causing blood to flow. When my daughter in law Uma Devi came to save him, everyone together assaulted her with sticks, injuring her, and Manish Manjhi broke her left hand with a tengari,. My son Satpal Manjhi came out, and they beat him mercilessly with iron rods. Robin Manjhi also assaulted him with an iron rod and tore his blouse. This entire incident happened during the occasion of the immersion of the Sarasawati Puja idol over a dispute regarding vulgar sons. I got written application drafted and submitted it to Biraul PS, which was read over and explained to me. Upon understanding it and finding it correct, I affixed my signature to that application. This is my signature, which is marked as Exhibit 1. In para 4 he deposed that I recognize the accused. Today, Suresh Manjhi is present in court, and I recognize those who have not appeared.

During her cross examination this witness deposed in para 5 that I cannot state the date, month, and year of the incident. In para 6 she deposed that all the accused persons arrived one after the other. In para 7 she deposed that I did not see weapons in hands of any of the accused. In para 8 she deposed that at the time of the incident, many people gathered during the scuffle between both parties. Because of this, I did not see who hit whom and with what object. In para 9 he deposed that during the

scuffle, Ramhit, Uma Devi, and Satpal fell down, due to which they sustained some injuries, for which they were treated at the hospital. In para 10 he deposed that regarding this incident, the accused Robin Manjhhi filed Biraul PS case No. 47/22 against me and my family members, which is currently ongoing in this court. In para 11 this witness deposed that Ram Bahadur Manjhi, Badri Manjhi, Jibach Manjhi, and Ramanand Manjhi all arrived after the incident, to whom I narrated the details of the incident. In para 12 this witness deposed that I cannot state the boundaries of the place of occurrence. In para 13 this witness deposed that I cannot state the total duration of time the incident lasted.

PW 06 is Ramhit Manjhi. This witness deposed in his examination in chief in para 1 that this incident took place four years ago. It happened at four O'clock in day. In para 2 he deposed that upon hearing the sound of uproar, when I went to the house of Budheshwar Manjhi, I saw that Suresh Manjhi, Manish Manjhi and about ten other men and women had formed an unlawful assembly. Armed with sticks, iron rods, and tengari they were beating Budheshwar manjhi and his son's father in law. Suresh Manjhi attacked Ramhit Manjhi with tengari, severely injuring him. Following this, Manish Manjhi assaulted Budheshwar Manjhi's son's father in law with tengari. Apart from the Raso Devi, Budeshwar Manjhi and other members of their family were also beaten and injured. The medical treatment of these individuals was conducted at Baheri Hospital. In para 3 he deposed that I recognize the accused. Today, Suresh Manjhi is present in Court. I can also recognize those who have not appeared.

During his cross-examination this witness deposed in para 4 that I cannot state the day, date and month of the incident. In para 5 he deposed that I cannot state the boundaries of the place of occurrence. In para 6 he deposed that I did not see the incident with my own eyes. IN para 7 he deposed that hearing the noise, I was running towards the spot. On the way, my foot struck a brick, causing me to fall to the ground, due to which my head got injured, I then went straight to the hospital for treatment. No one else from either side had arrived at the spot by the time I turned back from there. In para 8 he deposed that Suresh Manjhi is my fellow villager, which is why I recognize him.

PW 07 is Imaa Devi. This witness deposed in her examination in chief in para 1 that this incident took place four years ago. It happened at four O'clock in day. IN para 2 she deposed that Budheswhar Manjhi the informant of this case is my relative. On the date and time of the incident, I was at Budeshwar Manjhi's house. Suresh Manjhi, Manish Manjhi, along with ten other men and women, arrived armed with sticks, danda and tengari. They assaulted and injured Budeshwar Manjhi, his son, and other members of their family. They also attacked me and my husband Ramhit Manjhi with a tengari, stick and danta injuring us. Out treatment was conducted at the PHC, Baheri. In para 3 she deposed that today, Suresh Manjhi is present in Court, whom I recognize. I can also recognize those who have not appeared.

During her cross examination this witness deposed in para 4 that I cannot state the day, date and month of the incident. In para 5 she deposed that I cannot state the boundaries of the place of occurrence. In para 6 she deposed that I cannot state which accused held which weapon in their hand. In para 7 she deposed that I cannot state which accused hit whom and with what object. In para 8 she deposed that due to the commotion, I ran from the courtyard with the intention of escaping/hiding, during which I fell down and consequently got myself treated. In para 9 she deposed that I cannot state how much total time the incident took. In para 10 she deposed that the police did not question me. In para 11 she deposed that today is the first time I have come to testify in court. In para 12 she deposed that the accused Suresh Manjhi resides next to my relative, which is why I recognize him.

PW 08 is Satpal Manjhi. This witness deposed in his examination in chief in para 1 that the informant of this case is Budeshwar Manjhhi. In para 2 he deposed that the informant of this case , Raso Devi, is my mother. In para 3 he deposed that this incident took place four years ago at around four o'clock in day. At that time, I was in my courtyard when Suresh Manjhi, Manish Manjhi, along with eight other persons, including me and women, arrived carrying sticks, danta, and tengari and began searching for us.

They were hurling abuses and said, "kill him." My father in law Ramhit Manjhi was sitting at my door. Sita Devi said, "kill him." Suresh Manjhi struck my father in law Ramhit Manjhi on the head with tengari, causing a wound. When my mother in law Uma devi came to rescue him., they beat her too with sticks and danta, injuring her. Manish Manjhi struck my mother in law on her left hand with a tengari. When I went to intervene and break up the fight, Robin Manjhi hit me with an iron rod, beating me up. Furthermore, all the accused beat my mother in law, stripped her naked, and tore her blouse. In para 4 this witness deposed that this incident occurred over a dispute regarding vulgar songs during the occasion of the immersion of the Saraswati Puja idol. My statement was recorded by the police. In para 5 he deposed that today, Suresh Manjhi has appeared in Court, and I can recognize the others as well.

During his cross-examination this witness deposed in para 6 that I cannot state the day, date, month and year of the incident. In para 7 he deposed that at the time of the alleged incident, a large crowd of people had gathered there, which is why we cannot state which accused beat with which weapon. In para 8 he deposed that I fell down during the intervention, because of which I sustained an injury. I went to the hospital directly for the treatment of the same. In para 9 he deposed that I reached the place of occurrence half an hour after the incident. In para 10 he deposed that the accused were not present at the spot when we arrived. In para 11 he deposed that Suresh Manjhi is my fellow villager, which is why we recognize him.

7. The prosecution has argued that by adducing evidence, it has been successful in proving charges against the accused persons while the defence has argued that prosecution witnesses have supported the prosecution story and the prosecution have completely failed to prove charges against the accused persons.

8. I have carefully considered the evidence adduced by the prosecution, the statements of the accused persons recorded under Section 313 Cr.P.C., and the submissions advanced on behalf of both sides.

The burden lies upon the prosecution to establish the charges against the accused persons beyond all reasonable doubt. It is a settled principle of criminal jurisprudence that suspicion, however strong, cannot take the place of proof and that the accused are entitled to the benefit of every reasonable doubt.

In the present case, the prosecution has examined eight witnesses. PW-1 Badri Manjhi, PW-2 Jibchi Manjhi, PW-3 Rambhadur Manjhi and PW-4 Ramanand Manjhi were cited as eyewitnesses to the occurrence. However, all these witnesses did not support the prosecution case during their examination-in-chief and were declared hostile by the prosecution. Though suggestions were put to them regarding their alleged previous statements before the police, in their cross-examination on behalf of the accused they categorically stated that they had not witnessed the occurrence. PW-1 and PW-4 specifically stated that they were in Karnataka on the date of occurrence, whereas PW-3 stated that he had gone to Darbhanga for treatment and had not seen the occurrence. Their evidence, therefore, does not provide any reliable support to the prosecution case.

PW-5 Raso Devi is the informant of the case. In her examination-in-chief she supported the allegations made in the written report and attributed specific overt acts to some of the accused persons. However, during her cross-examination she admitted that she could not state the date, month and year of the occurrence. She further admitted that she had not seen any weapon in the hands of the accused persons and that due to the crowd and scuffle she could not see who assaulted whom and with what object. She further stated that Ramhit, Uma Devi and Satpal sustained injuries after falling down during the scuffle. These admissions strike at the root of the prosecution case and materially affect the reliability of her testimony regarding the specific role of the accused persons.

PW-6 Ramhit Manjhi is projected as an injured witness and according to the prosecution he had sustained a head injury caused by a tangari blow given by accused Suresh Manjhi. However, during cross-examination he admitted that he had not seen the occurrence with his own eyes. He further stated that while proceeding towards the place of occurrence he stumbled against a brick, fell down and sustained injury on his head, after which he

went directly for treatment. This admission is wholly inconsistent with the prosecution story that he was assaulted by accused Suresh Manjhi with a tangari. Consequently, the testimony of PW-6 does not inspire confidence regarding the alleged assault.

PW-7 Imaa Devi also claimed to have sustained injuries in the occurrence. However, during cross-examination she admitted that she could not state which accused carried which weapon and could not state which accused assaulted whom. She further stated that due to the commotion she ran away and fell down, thereby sustaining injuries. She also stated that the police had not examined her. Thus, her testimony also fails to establish the specific participation of the accused persons in the alleged occurrence.

PW-8 Satpal Manjhi, son of the informant, supported the prosecution case in examination-in-chief. However, in cross-examination he admitted that due to the large crowd he could not state which accused assaulted which person with which weapon. He further stated that he sustained injury after falling down during the intervention. Significantly, he also deposed that he reached the place of occurrence about half an hour after the incident and that the accused persons were not present there when he arrived. These statements create serious doubt regarding his claim of having witnessed the occurrence in the manner alleged by the prosecution.

It is further noteworthy that no medical witness has been examined by the prosecution. No injury report, medical certificate or any other medical document has been brought on record and proved in accordance with law.

It is also apparent from the evidence of PW-5 that a counter-case arising out of the same occurrence, namely Biraul P.S. Case No. 47 of 2022, was instituted by the opposite side against the informant and her family members. The existence of a case and counter-case indicates that the occurrence was a free fight between the parties. In such circumstances, the prosecution is required to present clear, cogent and reliable evidence regarding the specific acts committed by each accused. The evidence adduced in the present case falls short of that requirement.

The evidence of the prosecution witnesses suffers from material contradictions and inconsistencies. The independent witnesses have not

supported the prosecution. The injured witnesses themselves have made admissions suggesting that their injuries may have been sustained due to falls during the commotion. The prosecution has also failed to prove the medical evidence relating to the alleged injuries. Consequently, the participation of the accused persons and the commission of the alleged offences have not been established beyond reasonable doubt.

Having considered the entire evidence on record, this Court finds that the prosecution has failed to prove beyond reasonable doubt that the accused persons, in furtherance of their common intention, wrongfully restrained, voluntarily caused hurt, caused hurt by dangerous weapons, attempted to commit culpable homicide, or intentionally insulted the informant and other injured persons as alleged.

Accordingly, the point for determination is decided against the prosecution and in favour of the accused persons. The prosecution has failed to establish the charges under Sections 323/34, 341/34, 324/34, 308/34 and 504/34 IPC beyond reasonable doubt. The accused persons are, therefore, entitled to the benefit of doubt.

Order

The accused person namely (A1) Suresh Manjhi, Son of Jageshwar Majhi, (A2) Rabin Manhi, Son of Kari Manjhi, (A3) Mahendra Manjhi, Son of Rameshwar Manjhi, (A4) Ganesh Manjhi, Son of Jugeshwar Manjhi, (A5) Anila Devi, w/o- Dinesh Manjhi, (A6) Manish Manjhi alias Manish Kumar, Son of Dinesh Manjhi, (A7) Sadhu Saran Manjhi, Son of Suresh Manjhi and (A8) Sita Devi, age 89 years w/o- Jageshwar Manjhi, All resident of village- Manaur Bhauram, PS- Biraul, District- Darbhanga are acquitted of charges for commission of offences punishable under sections 323/34, 341/34, 324/34, 308/34, 504/34 of IPC. Since the accused persons are already on bail, they and their respective sureties are hereby discharged from their respective liabilities under the bail bond. Office is directed to submit the case records of the present case in record room as per rule.

In The Court of District and Additional Sessions Judge, Biraul, Darbhanga

Present: Shiv Kumar,

Dist.& Addl. Sessions Judge, Biraul

Page No. 15 of 16 State of Bihar vs Suresh Manjhi and others

15

Judgement corrected by me and pronounced by me in open court.

Place

Date

(Shiv Kumar)

Additional Sessions Judge

Biraul, Darbhanga

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Appendix of evidence

Prosecution witnesses

Rank	Name	Nature of Evidence(eye witness police fitness expert witness medical witness other witnesses)
PW 1	Badri Manjhi	Hositle
PW 2	Jibchi Manjhi	Hostile
PW 3	Rambhadur Manjhi	Hostile
PW 4	Ramanand Manjhi	Hostile
PW 5	Raso Devi	Informant
PW 6	Ramhit Manjhi	Injured
PW 7	Imaa Devi	Injured
PW 8	Satpal Manjhi	Injured

Prosecution exhibits

Sr No	Exhibit Number	Description
1	P-1/PW5	Signature of informant on application submitted to police.

Place
Date.

(Shiv Kumar)
Additional Sessions Judge
Biraul, Darbhanga