

<u>In The Court Of District and Additional Sessions Judge</u> <u>Biraul (Darbhanga)</u> Present - Sri Shiv Kumar Session Trial number- 306/ 2014 CIS No. 548/2025 Ghanshyampur PS case number 13/2012 Cognizance - under section 147, 148, 149, 323, 324, 307, 379 IPC charge- under section 307/149, 148, 323 IPC	
Prosecution	State of Bihar (through – Sanjeet Paswan)
Represented by-	learned App Shri Bachcha Rai
Accused	(A1) Jagan Paswan, age 65 years, Son of Late Ugan Paswan (A2) Sunil Paswan, age 40 years, Son of Late Ugan Paswan (A3) Baiju Paswan, age 37 years Son of Late Ugan Paswan (A4) Sanjeev Paswan, age 30 years Son of Ramchandra Paswan (A5) Ramchandra Paswan, age 62 years Son of Bhushan Paswan All Resident of village- Bath, PS-

	Ghanshyampur, District- Darbhanga
Represented by	Ld Adv Sri Sudhir Kumar Mishra

Date of offence	25-01-2012
Date of FIR	03-02-2012
Date of Chargesheet	20-04-2012
Date of framing of Charge	20-07-2015
Date of commencement of evidence	24-08-2015
Date on which judgement is reserved	18-08-2026
Date of judgement	03/09/2026
Date of the sentencing order	--

Judgement

1. The above named accused person has been prosecuted for having committed offences punishable under sections 307/149, 148, 323 of IPC. The prosecution story as stated in fardbeyan of informant namely Sanjeet Paswan in brief is that a land dispute has been ongoing between informant and Jagan Paswan. Regarding the disputed land, informant has filed a case under section 144 Cr.P.C. at Biraul Sub Division. Upon coming to know of this , on 25.01.2012 at around 3 PM accused persons namely Jagan Paswan, Sunil Paswan, Baiju Paswan, Ram Chandra Paswan, Sanjeev Paswan arrived at informant's land armed with lathi, farsa, iron rods, and began building house. When informant went there and objected, all of them attacked informant and

began beating him. During this, Jagan Paswan, with the intention to kill informant, assaulted on his head with farsa. In the meantime, all the accused persons surrounded informant, Sunil Paswan and Baiju Paswan wrapped a rope around informant's neck, started pulling it, and shouted, "Kill him!". At that moment, informant's brother Vijay Paswan, and his aunt America Devi, rushed to rescue him then they have also assaulted them and injured them as well. When informant attempted to go to the hospital, the accused persons surrounded him, barged into his house, and looted all the household articles. After that injured were taken to Biraul Hospital.

2. On the basis of aforementioned information the present Ghanshyampur PS case number 13/2012 was registered. Investigation was carried out and a charge sheet was submitted by the investigating officer. After that learned Court took cognizance of the offence and after supplying police paper committed the record to court of sessions. After commitment the record was received in Sessions court. Later, the learned sessions court framed charges for commission of offences punishable under sections 307/149, 148, 323 of IPC against accused persons namely Jagan Paswan, Sulin Paswan, Baiju Paswan, Sanjeev Paswan, Ramchandra Paswan. 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	Vijay Paswan	Eye witness/Injured
PW 2	Amriti Devi	Eye witness/Injured
PW 3	Parma Paswan	Hostile

PW 4	Singheshwar Paswan	Hostile
PW 5	Mukti Paswan	Eye witness
PW 6	Sanjeet Paswan	Informant/injured

Prosecution exhibits

Sr No	Exhibit Number	Description
1	P1/PW1	Signature of PW1 on fardbeyan
2	P1/1 / PW 6	Signature of informant on fardbeyan

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 6 witnesses.

PW1 is Vijay Paswan who has stated in his examination in chief that the incident occurred about 4 years ago around 3 PM. At that time, I was near the land of Sanjeet Paswan's land situated near Bandh. Hearing a commotion, I ran there. Upon reaching, I saw that Sanjeet Paswan, Jagan Paswan, Ramchandra Paswan, Baiju Paswan, Sunil Paswan were there. Jagan Paswan assaulted Sanjeet Paswan

with farsa on his head. His head was cut and started bleeding profusely. When I went to intervene and save him, all the accused persons jointed together and assaulted me with lathi on back. They have also assaulted Imrati Devi. In para 2 he deposed that Sanjeet's was treated at Biraul Government Hospital. The police came there and recorded the statement. When we went to Hospital, the accused persons looted belongings from house. My signature is also on fardbeyan which is marked as Exhibit-1. In para 3 he deposed that Daroga Ji also interrogated me. Jagan Paswan is present in the court dock; he claimed to identify other upon seeing them.

During his cross-examination on behalf of the accused persons this witness deposed in para 4 that my father has 4 brothers; Laxmi Paswan, Tapasum Paswan, Ramvilash Paswan and Rajdev Paswan. Informant is my cousin brother. The month was January; I do not recall the exact date. In para 5 he deposed that I do not know whether there was a land dispute between the accused persons. The said land is one Jarib away from my house. The said land is not inside the village. It is situated towards northern direction from my house near Bandh(Bandh ke kinare hai). In south there is "Basti". In east there is one man house. In West house of Jagan Paswan is situated. Sanjeet Land is nearby house of Jagan Paswan. I do now know whether that land is Gair Mazarua am or not. In para 6 he deposed that when I arrived at the place of occurrence, there were 10-12 people present. Out of them, 4-5 were people I recognized. Laxmi Paswan, Imrti Devi, Parma Paswan, Sigheshwar Paswan were known to me. Amriti Devi is my mother. Parma Paswan and Singheshwar Paswan are also from out locality/Tola. Sanjeet Paswan's house is situated a little far from my house. IN para 7 he deposed that on the day of the incident, I went to house of Sanjeet Paswan. I did not meet Sanjeet Paswan. I met Sanjeet Paswan at hospital. When I went hospital he was in unconscious state. I went

Hospital with him. He regained his consciousness after three days. In para 8 he deposed that sanjeet Paswan got two injuries. He got injury on left side of head. He wear vest and towel which were soaked in blood. Blood stained clothes were given to Daroga Ji. I spoke Sanjeet Paswan after he regained consciousness. IN para 9 he deposed that I do not say which accused assaulted where to me and my mother. They have assaulted me and my mother for one minute. Imrati Devi was unconscious for two days. I was conscious. My mother treated by Bhawan Jee Kumar Jha. I got treated at hospital for one day. In para 10 he deposed that I have not seen bruises/sign on Imrati Devi's body. The boundary details(chauhaddi) of the place of occurrence are : North- Land of Dodai Paswan, South- this witness again said in north- Kamla Bandh in south- Dodai Paswan, East- Government road, West- house of Jagan Paswan. Daroga Ji took my statement three at hospital after three days. In para 11 he deposed that It is not true that I stated before police that I and my mother went to intervene, the accused persons assaulted us with slaps, fists. In para 12 he deposed that I do not know that accused persons have lodged case against me and Sanjeet Paswan or not. In para 13 he deposed that It is not true that informant and his family members made an unlawful attempt to grab the land of accused, and when resisted marpeet took place. In para 14 he deposed that It is not true that a false case has been lodged against the accused to falsely implicated them or that I have given false testimony.

PW2 is Amrati Devi. This witness deposed in his examination in chief in para 1 that incident occurred 4 years ago at 3 PM. Baiju Paswan, Sunil Paswan, Sanjeet Paswan tied rope due to which her neck got cut. Jagan Paswan attacked Sanjeet Paswan with farsa. The land belongs to Sanjeet. When I went to rescue all accused persons have assaulted me with lathi. They have also assaulted Vijay Paswan. In para 2 she deposed that the injured got treated at Biraul

Government Hospital. Police has interrogated me. Today Jagan Paswan is present in court and claimed to identify other accused persons. In para 3 she deposed that a land dispute is going on with accused due to which present case has been lodged. I cannot tell the month of the incident. Sanjeet Paswan is my son in law(Damad). My father in law name is Lulai Paswan. He has four sons. They are Laxmi paswan, Laxman Paswan, Ramvilash Paswan, Rajket Paswan. Sanjeet Paswan is son of Laxman Paswan. My share is not on dispute land. In para 4 he deposed that I cannot tell the Khata, Khesra, Rakba of the dispute land. The boundary(Chauhaid) of the said land is in North- Kamla Balan, in South- Lolai Paswan, in East- Bandh, in West- Jagan Paswan. In para 5 he deposed that dispute land belong to Sanjeet Paswan. Vijay Paswan is my son. Dukhi Paswan is "mama" of Sanjeet Paswan. The place of occurrence is in mid of village. Thousands of people were present at the place of occurrence. Sanjeet Paswan was unconscious and he regained his consciousness after three days. In para 7 she deposed that I reached at hospital at 9 O'clock night. At 7 PM inquiry was conducted. Police has inquired Sanjeet Paswan after three days when he regained his consciousness. I cannot say that he has given his thumb impression of any paper or not. In para 10 he deposed that I have not assaulted by lathi. I was assaulted by slaps. In para 11 she deposed that it is not true that I have told police has Sanjeet has been assaulted with slaps and fists. I have told police that Vijay assaulted with lathi. In para 12 she deposed that it is not true that the occurrence has not taken place. My son and sanjeet Paswan assaulted accused and to save skin from that case this case has been lodged.

PW3 is Parma Paswan. This witness has stated in his examination in chief in para 1 that that he has no knowledge about the incident. At

the request of prosecution this witness has been declared hostile. During his cross examination by the prosecution this witness has stated nothing beneficial to prosecution.

PW4 is Singheshwar Paswan. This witness deposed in his examination in chief in para 1 that I have no knowledge about the incident. At the request of prosecution this witness has been declared hostile. During his cross examination by the prosecution this witness has stated nothing beneficial to prosecution.

PW 05 is Mukti Paswan. This witness deposed in his examination in chief in para 1 that the incident occurred 5 years ago at 3 PM. At that time I was going to Bath village and when arrived at Bandh saw that Jagan paswan, Sunil Paswan, and one other person assaulting Sanjeet Paswan. Jagan Paswan assaulted Sanjeet Paswan with farsa on his head. Sunil Paswan and Baiju Paswan tied rope in neck and started pulling. When aunt of Sanjeet came to rescue, then they have also assaulted her. In para 2 he deposed that Police has inquired me. Today Jagan Paswan is present in court. In para 3 he deposed that my house is situated half kilometer far from the place of occurrence. I did not recognize Sarpanch of that village. The name of sister and brother in law(bahnoi) is sushila Devi and Laxman Paswan. Sanjeet Paswan is son of Laxman Paswan. In para 4 he deposed that Laxman Paswan has four brothes. Laxmi Paswan, Ravilash Paswan, Ramchandra Paswan are his brothers. Imrti Devi is wife of Laxmi Paswan who is witness of this case. His son Vijay Paswan is also witness of this case. There is land dispute between informant and accused. I have no knowledge about the disputed land. In para 5 he deposed that when I arrived at the place of occurrence there are 4 persons present there. When I reached Sanjeet Paswan was unconscious. In para 6 he deposed that I have

not injuries on forehead and sign of rope around neck. Occurrence took place at Bandh road. The occurrence has not taken place in mid village. In para 7 he deposed that after incident, upon noise villagers came. I do not know any persons who have arrived. I cannot tell the boudary (Chauhaddi) of the place of occurrence. In para 8 he deposed that Sanjeet's aunt was also unconscious. I have not seen injuries on her person. I cannot tell who assaulted whom how many fists. In para 9 he deposed that today, first time I am giving my statement. Before today, I have not given my statement. In para 10 he deposed that it is not true that this type of incident has not taken place. My Bhagina has lodged this case with an intention to grap the land of Jagan Paswan.

PW 06 is Sanjeet Paswan. This witness deposed in his examination in chief in para 1 that he is the informant of this case. Occurrence took place 6 years ago at 3 Pm. At that time I was at my land situated norther direction from my home. Jagan Paswan, Sunil Paswan, Baiju Paswan were building hut in my land. When I protested accused beaten me. Sunil Paswan and Baiju Paswan assaulted me by tying a rope around my neck. Jagan Paswan assaulted with farsa on my head due to which I have received fracture on my head. When I was going to Rasiyari for treatment then again Jagan Paswan, Baiju Paswan, Sunil Paswan, Ramchandra Paswan and Sanjeet Paswan surrounded me. When Vijay Paswan and Imrti Devi came to rescue me then they have also assaulted them with lathi. I have treated at Biraul Government Hospital. In para he deposed that my statement was recorded at hospital and I have put my signature on that. Vijay has also put his signature at my statement. My signature has been marked as Exhibit 1/1. Police has recorded my restatement. In para 3 he deposed that today Jagan Paswan is present in Court. This witness claims to identify

other accused persons. In para 4 he deposed that I cannot say the month, date and year of the occurrence. There is land dispute between the parties. I cannot tell the Khata, Khesra, Rakba of the disputed land. The boundaries of place of occurrence is in north-Bandh, in South- house of Mithilesh Paswan, in East- Bandh, in West-Land of Manmohan. In West, Jagan Paswan's land is also situated. Mukti Paswan is my "Mama". Parm Paswan and Singeshwar Paswan is my uncle. Dispute is going on at my land, where the incident took place. The said land is not Garmazrua Aam but the said land is Maraushi land. The place of occurrence is not mid of the village but it is towards northern direction. In Southern direction there is fully occupied "basti". In East- Bandh and in West- land. In para 5 he deposed that the place of occurrence is 10 lagga far from my house. There is houses of 5-6 persons between the place of occurrence and my house. Marpeet has took place at disputed land. Rope was tied around the neck. The said rope was made of plastic and length of said rope is 6 hands and it is red in color. The rope was tide from back. I became unconscious and fell. I remain unconscious three to four days. I regained my consciousness at Biraul Hospital. I have met no one when I was conscious. I met Vijay Paswan at hospital. Vijay paswan has injuries of lathi on his back and hand. In para 6 he deposed that Police has inquired me at Biraul about the incident after one day. In para 7 he deposed that accused has also lodged case against me. In para 8 he deposed that it is not true that no occurrence has taken place and due to land dispute false case has been lodged and I gave false statement.

7. I have heard both parties and perused materials available on record. From perusal of the materials available on record this Court finds that prosecution has examined six witnesses in support of its case. PW-1 Vijay Paswan, PW-2 Amriti Devi and PW-6 Sanjeet Paswan are the material witnesses, whereas PW-3 Parma Paswan

and PW-4 Singheshwar Paswan have not supported the prosecution case and have been declared hostile. PW-5 Mukti Paswan has also supported the prosecution case only in part.

PW-6 Sanjeet Paswan is the informant and injured witness. He has alleged that accused Jagan Paswan assaulted him on his head with a farsa and that accused Sunil Paswan and Baiju Paswan tied a rope around his neck. He has further alleged that when Vijay Paswan and Amriti Devi came to rescue him, they were also assaulted. However, during cross-examination, this witness admitted that there was a land dispute between the parties and that a case had also been lodged by the accused side against him. He could not state the exact date, month and year of the occurrence. He also could not furnish the Khata, Khesra or Rakba of the disputed land. These circumstances require the Court to examine his testimony with due caution.

PW-1 Vijay Paswan has stated that upon hearing a commotion he reached the place of occurrence and saw Jagan Paswan assaulting Sanjeet Paswan with a farsa on his head. He further stated that when he intervened, the accused persons assaulted him with lathi and also assaulted Amriti Devi. However, in cross-examination, this witness admitted that when he reached the place of occurrence, about 10-12 persons were present. He further stated that he could not say which accused assaulted him and his mother and that they were assaulted for about one minute. His evidence regarding the specific overt act of the individual accused persons is therefore not consistent and specific.

PW-2 Amriti Devi has also supported the prosecution version regarding assault upon Sanjeet Paswan and herself. However, she materially differed from PW-1 and PW-6 regarding the manner of assault. In particular, she stated during cross-examination that she was not assaulted by lathi but by slaps. She also admitted the

existence of a land dispute between the parties. Such material variations regarding the manner of assault and the occurrence create doubt regarding the exact prosecution version.

PW-5 Mukti Paswan has stated that he saw Jagan Paswan assaulting Sanjeet Paswan with a farsa and that Sunil Paswan and Baiju Paswan tied a rope around his neck. However, this witness stated that when he reached the place of occurrence only four persons were present and that Sanjeet Paswan was unconscious. He further stated that he had not seen any injury on the forehead or any mark caused by the rope. More importantly, he stated that he was giving his statement for the first time in Court and that prior to that he had not given his statement. His evidence, therefore, does not provide the requisite assurance to the prosecution version.

PW-3 Parma Paswan and PW-4 Singheshwar Paswan have not supported the prosecution case at all and have been declared hostile. Their evidence does not advance the prosecution case.

There are also material inconsistencies amongst the prosecution witnesses regarding the place of occurrence. PW-2 stated that the occurrence took place in the middle of the village and that thousands of people were present, whereas PW-1, PW-5 and PW-6 have stated that the occurrence took place near the Bandh/disputed land situated towards the northern side of the village. The witnesses have also given differing versions regarding the surrounding boundaries of the place of occurrence.

The prosecution witnesses have further given inconsistent versions regarding the injuries suffered by Sanjeet Paswan and the other alleged injured persons. PW-1 stated that Sanjeet Paswan had two injuries, whereas PW-6 stated that he sustained fracture of his head. PW-1 also stated that he did not know which accused assaulted him and his mother. PW-2 subsequently stated that she was assaulted by slaps and not by lathi. PW-5 stated that he had not

seen injuries on Sanjeet Paswan's forehead or marks of rope around his neck.

So far as the charge under Section 307/149 IPC is concerned, the prosecution is required to establish beyond reasonable doubt that the accused persons, being members of an unlawful assembly, committed the act with the requisite intention or knowledge contemplated under Section 307 IPC and that the ingredients of Section 149 IPC are also established. Mere allegation of assault, without reliable and consistent evidence establishing the nature of the assault, participation of the individual accused and the requisite intention or knowledge, cannot by itself justify conviction under Section 307 IPC.

In the present case, although the prosecution witnesses have alleged an assault with farsa upon the head of the informant, the evidence available on record, as reproduced before this Court, suffers from material contradictions regarding the place of occurrence, number of persons present, manner of assault, injuries suffered and participation of the individual accused persons. The evidence regarding the alleged rope assault is also not corroborated by consistent testimony of the witnesses.

It is also significant that the prosecution has not examined the Investigating Officer or medical witness in the evidence reproduced before this Court. No injury report, medical evidence or other material exhibit establishing the nature and severity of the alleged injuries has been proved through the evidence set out above. In a charge of attempt to murder, the nature and location of injuries and the surrounding circumstances may be relevant in determining whether the requisite intention or knowledge existed. In the absence of reliable corroboration, the oral evidence must be scrutinised with greater caution.

The existence of a prior land dispute between the parties is admitted by the prosecution witnesses. The defence has also suggested that the present case was instituted as a counterblast to the dispute between the parties. The existence of such previous enmity does not by itself make the prosecution case false, but it is a circumstance which requires the Court to seek reliable and independent corroboration before recording a finding of guilt.

It is a settled principle of criminal jurisprudence that the prosecution must prove its case beyond all reasonable doubt. The accused are entitled to the benefit of every reasonable doubt arising from the evidence. Suspicion, however strong, cannot take the place of proof.

On an overall appreciation of the evidence, this Court finds that the prosecution evidence is not sufficiently consistent, cogent and reliable to establish beyond reasonable doubt that all the accused persons formed an unlawful assembly with the common object alleged by the prosecution and, in prosecution of such common object, committed the offences charged. The specific role attributed to each accused is also not established with the degree of certainty required for a criminal conviction.

Accordingly, this Court holds that the prosecution has failed to prove the charges under Sections 307/149, 148 and 323 of the Indian Penal Code against accused Jagan Paswan, Sunil Paswan, Baiju Paswan, Sanjeev Paswan and Ramchandra Paswan beyond all reasonable doubts.

Order

The accused person namely (A1) Jagan Paswan, Son of Late Ugan Paswan, (A2) Sunil Paswan, Son of Late Ugan Paswan, (A3) Baiju Paswan, Son of Late Ugan Paswan, (A4) Sanjeev Paswan, Son of Ramchandra Paswan, (A5) Ramchandra Paswan, Son of Bhushan Paswan are acquitted of charges for commission of offences punishable under sections 307/149, 148, 323 of IPC. Since the accused persons are already on bail, they and their respective sureties are hereby discharged from their liabilities under the bail bond. Office is directed to submit the case records of the present case in record room as per rule.

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

Place

Date

(Shiv Kumar)
Additional Sessions Judge
Biraul, Darbhanga

Appendix of evidence

Prosecution witnesses

Rank	Name	Nature of Evidence(eye witness police fitness expert witness medical witness other witnesses)
PW 1	Vijay Paswan	Eye witness/Injured
PW 2	Amriti Devi	Eye witness/Injured
PW 3	Parma Paswan	Hostile
PW 4	Singheshwar Paswan	Hostile
PW 5	Mukti Paswan	Eye witness
PW 6	Sanjeet Paswan	Informant/injured

Prosecution exhibits

Sr No	Exhibit Number	Description
1	P1/PW1	Signature of PW1 on fardbeyan
2	P1/1 / PW 6	Signature of informant on fardbeyan

Place

Date.

(Shiv Kumar)
Additional Sessions Judge
Biraal, Darbhanga