

<u>In The Court Of Additional Sessions Judge Biraul</u> <u>(Darbhanga)</u> Present - Sri Shiv Kumar Session Trial number- 404 / 2009 CIS No. 814 of 2025 Biraul PS case number 234/2007 Cognizance - under section 341, 323, 307, 504/34 IPC Charge- under section 307/34, 323, 341, 504 of IPC	
Prosecution	State of Bihar (through – Priyeranjan Jha)
Represented by-	learned App Mr Bachcha Rai
Accused	(A1) Baidyanath Jha, age 50 years Son of Late Krishan Kant Jha (A2) Pappu Jha, age 27 years Son of Baidyanath Jha All resident of Parri, Biraul, Darbhanga
Represented by	Ld Adv Shri Sashi Kant Rai

Date of offence	07-10-2007
Date of FIR	16-10-2007
Date of Chargesheet	30-04-2008
Date of framing of Charge	01-12-2009
Date of commencement of evidence	18-12-2009
Date on which judgement is reserved	19-05-2026
Date of judgement	22-07-2026
Date of the sentencing order	22-07-2026

Accused Details

Rank of the Accused	A-1
Name of Accused	(A1) Baidyanath Jha
Date of Arrest/Remand	10.12.2007
Date of Release on Bail	10.12.2007

Offences Charged with	307/34, 323, 341, 504 of IPC.
Whether Acquitted or convicted	Acquitted under sections 307/34 and 504 of IPC. Convicted under section 325, 323, 341 of IPC.
Sentence Imposed	released on probation of good conduct under section 4 of the Probation of Offenders Act, 1958 , on each of them executing a personal bond of Rs. 10,000/- with one surety of the like amount to the satisfaction of this Court, undertaking to maintain peace and good behaviour for a period of one year and to appear and receive sentence as and when called upon during said period.
Period of Detention Undergone during Trial for purpose of section 428, CrPC	NIL

Rank of the Accused	A-2
Name of Accused	(A2) Pappu Jha
Date of Arrest/Remand	10.12.2007
Date of Release on Bail	10.12.2007
Offences Charged with	307/34, 323, 341, 504 of IPC.
Whether Acquitted or convicted	Acquitted under sections 307/34 and 504 of IPC. Convicted under sections 323 and 341 of IPC.
Sentence Imposed	released on probation of good conduct under section 4 of the Probation of Offenders Act, 1958 , on each of them executing a personal bond of Rs. 10,000/- with one surety of the like amount to the

	satisfaction of this Court, undertaking to maintain peace and good behaviour for a period of one year and to appear and receive sentence as and when called upon during said period.
Period of Detention Undergone during Trial for purpose of section 428, CrPC	NIL

Appendix of evidence

Prosecution witnesses

Rank	Name	Nature of Evidence(eye witness police fitness expert witness medical witness other witnesses)
PW 1	Bachcha Babu Thakur	Hostile
PW 2	Shyam Thakur	Eyewitness
PW 3	Sadanand Thakur	Eye witness
PW 4	Priye Ranjan Jha	Informant
PW 5	Dr. Arvind Kumar Sinha	Medical witness
PW 6	Dr. Shyam Babu Gupta	medical witness

Prosecution exhibits

Sr No	Exhibit Number	Description
1	P-1/PW5	Injury report of injured Priye Ranjan Jha
2	P-X/PW6	CT Scan report of Priye Ranjan Jha(Xerox Copy)

Defence witnesses

Rank	Name	Nature of Evidence(eye witness police fitness expert witness medical witness other witnesses)

Defence exhibits

Sr No	Exhibit Number	Description
1	Exhibit A	Certified copy of ordersheet of TR 964/11; Biraul PS case No. 233/07
2	Exhibit B	Certified copy FIR of Biraul PS case

		No. 233/07
3	Exhibit C	Certified copy of charge-sheet of Biraul PS case No. 233/07
4	Exhibit D	Certified copy of plaint of PS 46/06
5	Exhibit E	Certified copy of witness PS- 46/06
6	Exhibit F	Certified copy of Misc. 9/14 ordersheet
7	Exhibit G	Certified copy of Misc. 9/14 petition
8	Exhibit H	Certified copy of witness No. 1 of Misc. case No. 9/14
9	Exhibit I	Certified copy of ordersheet CR 81/07
10	Exhibit J	Certified copy of complaint petition CR 81/07
11	Exhibit K	Certified copy of case No. 391/06 u/s 107 CrPC
12	Exhibit L	Certified copy of Judgment Cri. Appeal No. 18/14

Present: Shiv Kumar

Additional Sessions judge Biraul

Judgement

1. The above-named accused persons have been prosecution for commission of offences punishable U/Ss 307/34, 323, 341, 504 of IPC. The present case has been lodged on the basis of the fardbeyan of informant namely Priya Ranjan Jha which has been recorded by SI yogendra Baitha at Kadam Kuan at Magadh Hospital Room No. 409 at 18 hours on 12.10.2007. The case of the prosecution as stated in fardbeyan of informant in brief is that on 12.10.2007 at around 18 hours in presence of brother and father, in injured condition on Bed No. 409 at Magadh Hospital, the informant gave this statement. The fardbeyan mentions that on Sunday, 07.10.2007, at around 11 AM, the informant was cleaning the drain of the handpump in front of his house at Sati Chowk, Parari. At that very moment Baidyanath Jha, Pappu Jha, Raushan Jha, Janaki Thakur, Tetar thakur arrived there. Badyanath Jha said informant “why are you cleaning the drain? A case is ongoing regarding this land.” To this, informant replied, “the drain is dirty, that’s why I am cleaning it.” Upon hearing this, all aforementioned individuals began assaulting informant with slaps and punches. In the meantime, Achyutanand Thakur alias Pappu Thakur, arrived at the scene holding a thick wooden stick in his hand. He said, “Why are you beating him with just slaps and punches? Hit the rascal

with this stick so hard that he dies.”. Upon hearing this, Baidyanath Jha snatched the stick from Achyutanand Thakur’s hand and, with the intention to kill informant, began striking informant repeatedly. As a result, informant sustained severe injuries ot his head. Informant also sustained injuries on other parts of his body, including his back, shoulder, and left hand. Due to the severe beating, informant lost consciousness and fell down.

2. On the basis of aforementioned fardbeyan of informant present Biraul PS case number 234 of 2007 was registered against 6 accused persons namely Baidyanath Jha, Pappu Jha, Raushan Jha, Janaki Thakur, Tetar Thakur, Achyutanand Thakur alias Pu Thakur. An investigation was carried out and a charge sheet being No. 80/2008 dt. 30.04.2008 was submitted by the investigating officer against only two accused persons namely Baidyanath Jha and Pappu Jha alias Balram Jha. The police has not sent up four accused persons namely Raushan Jha, Janki Thakur, Tetar Thakur, Achyutanand Thakur in the charge-sheet for trial. After that the learned Court took cognizance of the offence against both accused persons and after supplying the police paper to the accused persons committed the record to the 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 307/34, 323, 341, 504 of IPC against accused persons namely Baidyanath Jha and Pappu Jha alias Balram Jha. 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 fitness expert witness medical witness
------	------	---

		other witnesses)
PW 1	Bachcha Babu Thakur	Hostile
PW 2	Shyam Thakur	Eyewitness
PW 3	Sadanand Thakur	Eye witness
PW 4	Priye Ranjan Jha	Informant
PW 5	Dr. Arvind Kumar Sinha	Medical witness
PW 6	Dr. Shyam Babu Gupta	medical witness

Prosecution exhibits

Sr No	Exhibit Number	Description
1	P-1/PW5	Injury report of injured Priye Ranjan Jha
2	P-X/PW6	CT Scan report of Priye Ranjan Jha(Xerox Copy)

Defence witnesses

Rank	Name	Nature of Evidence(eye witness police fitness expert witness medical witness other witnesses)

Defence exhibits

Sr No	Exhibit Number	Description
1	Exhibit A	Certified copy of ordersheet of TR 964/11; Biraul PS case No. 233/07
2	Exhibit B	Certified copy FIR of Biraul PS case No. 233/07
3	Exhibit C	Certified copy of charge-sheet of Biraul PS case No. 233/07
4	Exhibit D	Certified copy of plaint of PS 46/06
5	Exhibit E	Certified copy of witness PS- 46/06
6	Exhibit F	Certified copy of Misc. 9/14 ordersheet
7	Exhibit G	Certified copy of Misc. 9/14 petition
8	Exhibit H	Certified copy of witness No. 1 of Misc. case No. 9/14
9	Exhibit I	Certified copy of ordersheet CR 81/07
10	Exhibit J	Certified copy of complaint petition CR 81/07
11	Exhibit K	Certified copy of case No. 391/06 u/

		s 107 CrPC
12	Exhibit L	Certified copy of Judgment Cri. Appeal No. 18/14

4. The statements of the accused persons were recorded under section 313 CRPC in which they claimed to be innocent.
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 Bachcha Babu Thakur. This witness has deposed in his examination in chief in para 1 that this incident took place about three years ago. I came to my salon at around 12:30 PM in the afternoon after the fight had ended. The people who came to my salon were saying that a fight had taken place between Priyaranjan Jha and Baijnath Jha. It was also found out that when Baijnath Jha went to open his shop, Priyaranjan Jha did not allow him to open the shop, and during that sequence, Priyaranjan Jha assaulted Baijnath Jha. In para 2 he deposed that I had given a statement to the police and I had said all these things.

At the request of prosecution this witness has been declared hostile. In para 3 he deposed that it is not true that I had stated in my statement given to the police that Baijnath Jha and his son Pappu Jha alias Balram Jha, that Baijnath Jha had a stick in his hand and his son Pappu Jha had a piece of wood in his hand, and they were assaulting Priyaranjan Jha. Baijnath Jha hit priyranjan Jha on his head with the stick he held in his hand, causing Priyaranjan Jha's head to split and began to bleed. The fight ended when people from the neighbourhood arrived there. In para 4 he deposed that Baijnath Jha is present in court right now, I identify him. In para 5 he deposed that It is not true that I have colluded with the accused and given a false statement while hiding the truth.

During his cross-examination by defence this witness deposed in para 6 that no incident has taken place in front of my eyes. I have given this statement based on hearsay. In para 7 this witness deposed that informant Priyaranjan Jha and the defendant Baijnath Jha are "Farik" to each others.

PW2 Shyam Thakur. This witness has stated in his examination-in-Chief in para 1 that this incident took place about three years ago from today at around 11:00 AM. The day was Sunday. At that time, I was at Sati Chowk, which is right next to my village. Upon hearing a commotion, I reached the spot of the incident and saw that Baijnath Jha, Pappu Jha, Roshan Jha, Tetar Thakur, Jananki Thakur were hitting Priyaranjan Jha with slaps. At that very moment, Achyutanand Thakur arrived there holding a wide wooden stick (danta) in his hand and said, "Why are you hitting him with slaps? Kill him with this wooden stick." On this, Baijnath Jha took that stick from Achyutanand's hand and struck Priyaranjan Jha, hitting him on his head. In para 2 this witness deposed that this incident happened regarding the cleaning of a drain. Priyaranjan Jha was cleaning the drain. Baijnath Jha stopped him from cleaning the drain. Priyaranjan Jha did not listen to him. This incident took place over this matter. In para 3 this witness deposed that I had narrated all these things to the police as well in para 4 this witness deposed that People lifted Priyaranjan Jha and took him to the hospital. In para 5 he deposed that today in court, the accused Baijnath Jha is standing; I recognize him. I will also identify the other absent accused persons upon seeing them.

During his cross-Examination this witness deposed in para 6 that Priyaranjan Jha is not related to me. He is a fellow villager. We do not even belong to the same Gotra (clan). In para 7 he deposed that the population of village Padri would be around 4500–4600. I am a resident of the Pachhiyari Tola (western sector) of this village. Priyaranjan Jha is a resident of Purvari Tola (eastern sector). Priyaranjan's house would be at a distance of about 1/4 kilometer

from my house. In para (8 he deposed that to the North of the spot of the incident is a concrete (paved) road, to the South is Priyaranjan Jha's house, to the East is a road, and to the West is a road. To the West of the incident spot, separate rooms (huts) of both parties, the plaintiff and the defendant, are built. The plaintiff and the defendant belong to the same Farik. They belong to the same family. I have no knowledge whether a land dispute was going on between both parties prior to this incident or not. On his own accord, states: My village is quite large, so I do not have knowledge about all these things. It is not the case that there was a prior land dispute between both parties and I, despite knowing everything, concealed the truth and gave a false statement. I have no knowledge whether Baijnath Jha has filed any title suit against Priyaranjan Jha or not till now. In para 9 this witness deposed that my house is towards the East at a distance of 300 yards from the spot of the incident. There would be about 25 houses between these two. Out of those 25 houses, I had seen only Ram Vilas Thakur of one house at the spot of the incident at the time of the incident. I did not see anyone else living in those houses there. A lot of outsiders had gathered at the spot of the incident. Within the 300 yards to the West of the incident spot, there are two-three houses and 3–4 shops. Among these, one is the house of Vinod Kumar, Master, and Parmanand Thakur, clerk of Baheri College. Among the shops, there is a tea shop of Kari Kamti, and another is a betel (paan) shop whose name I do not know. This incident took place at the square (Chowk). There are a total of 25 shops at that square. Around 5–7 shopkeepers from there were standing in their respective shops and watching the incident, whom I had seen there; whether other shopkeepers came there or not, I did not see. On his own accord, states: A large crowd of people had gathered there. Around 25–30 people had gathered at the spot of the incident, out of whom I recognized 4–5 men whose names are Ram Punit Thakur, Ram Vilas Thakur, and Sadanand Thakur; I recognize the other people by face. Those whom I recognize by face, I cannot state their father's name or their house or village name. in para 10 he deposed that our house, entrance door, and fields are all located at Sati

Chowk, due to which we always remain at Sati Chowk. Our common sitting area (Baithka) is also at Sati Chowk itself. That Baithka is located on the land of us three Fariks (partners/factions). I cannot state the Khata, Khesra, or area of the land of that sitting area. That land is registered in the names of Late Brahmadev Thakur, Dunai Thakur, and Saryug Thakur. I cannot state in which year that Baithka was built. On his own accord, states: It was built a long time ago; our forefathers must have built it. There is a road at a distance of 100 yards from Sati Chowk, after which our Baithka is situated. Between my Baithka and Sati Chowk, there is a committee hall and nothing else. Again states: The boundary wall of Sati Maharani is also there. At the time of the incident, there was no road in that committee hall. In para 11 he deposed that I was at the square (Chowk) at the time of the incident. I was at the gate of Sati Sthan. I had seen Priyaranjan Jha cleaning the drain there. I did not see which direction he had come from. When I saw Priyaranjan Jha, he was standing at that time. On his own accord, states: At that time, he was being beaten with slaps. I had seen Priyaranjan Jha cleaning the drain 10 minutes prior to the incident. Priyaranjan Jha's residential house from there would be at a distance of about 1/4 km. The houses of the accused persons are in different Tolas (localities). Three of the defendants belong to one family, and whether the other three defendants belong to different families or not, I cannot say. I cannot say whether the accused persons belonging to the three different families had any dispute or altercation with Priyaranjan Jha prior to the incident. In para 12 he deposed that at the time of the incident, none of the accused held a lathi (bamboo stick) in hand. I saw only one person hitting Priyaranjan Jha. Priyaranjan Jha was struck twice on his head with a wide wooden stick, due to which he fell to the ground. Apart from the accused persons, we were also present there while Priyaranjan Jha was being beaten. The accused who struck with the wooden stick fled from there after hitting him. Priyaranjan Jha was taken right there at the Chowk to a private doctor, who, seeing his serious condition, advised taking him away from there itself for better treatment. I cannot tell the name of that doctor; he is a quack (jhola

chhap) doctor. He is also a high school teacher who is a resident of Balia. I have never visited that doctor's clinic till date. For this reason, I do not know the name of that doctor. In para 13 he deposed that I have heard that after this incident occurred, the accused Baijnath Jha has also filed a case against Priyaranjan Jha and others. In para 14 he deposed that I did not see blood flowing from any part of Priyaranjan Jha's head. I cannot state how much of a wound mark was there on his forehead. In para 15 he deposed that I had given a statement to the police prior to this. I cannot state the day, date, month, and year of giving the statement. My statement was recorded between 10:00–11:00 AM at the Biraul Police Station. In para 16 he deposed that It is not the case that I did not state to the Investigating Officer about the beating with slaps and punches. In para 17 he deposed that It is not the case that I did not state to the police about the beating with a wide wooden stick (danta). In para 18 he deposed that It is not the case that I did not state to the police that I was at the square (Chowk) at the time of the alleged incident. In para 19 It is not the case that no such incident took place as per the statement I have given in the examination-in-chief. In para 20 he deposed that my village has two groups. On his own accord, states: Factionalism/groupism goes on in the entire village. It is not the case that I belong to Priyaranjan Jha's group and for this reason, I have given this false

PW3 is Sadanand Thakur. This witness deposed in his examination in chief in para 1 that this incident occurred about three and half years ago on a Sunday at around 11:00 AM. At that time, I was returning home from my Rati Rahi Kamat. When I reached near the middle school at Satishthan Chowk in my village, I saw that Baijnath Jha, Raushan Jha, Pappu Jha, Janki Thakur, and Tetar Thakur were collectively beating up Priyaranjan Jha with slaps and punches. At that very moment, Achyutanand Thakur alias Poo arrived there carrying a wide wooden log (danda) in his hand, handed that wooden log over to Baijnath Jha, and said, "Kill the brother-in-law (slang) with this log." Upon this, Baijnath Jha took the log and started

hitting Priyaranjan Jha with it. When Priyaranjan Jha fell unconscious, they fled from the spot, assuming him to be dead. In para 2 this witness deposed that some local people there went to rescue Priyaranjan Jha, but the accused persons did not listen. In para 3 this witness deposed that my statement was recorded by the police. In para 4 this witness deposed that I cannot state what the underlying reason or motive was behind the occurrence of the said incident. In para 5 this witness deposed that accused Baijnath Jha is present in the court right now, and I identify him. I will be able to identify the other absent accused persons upon seeing them.

During his cross-Examination this witness deposed in para 6 that there are two factions in our village; one faction belongs to Parmanand Thakur and the second group belongs to Chandrakant Thakur. A case had been going on between the two factions since a long time ago, for about 5 to 10 years. Now, no case is active between them. In para 7 this witness deposed that I am an accused (mudalah) in only one case. Previously too, I was an accused in a case whose complainant (mudai) is Chandrakant Thakur. In that case, it was only alleged that I was involved alongside the other accused; there is no allegation of me committing any actual incident in it. I belong to Parmanand Thakur's group. Baijnath Jha belongs to Chandrakant Thakur's group. In para 8 he deposed that my father had three brothers in total, among whom the eldest was my father Kedar Narayan Thakur, younger to him is Bhola Thakur, and the youngest is Anand Sharan Thakur alias Thakko Babu. Out of these, my father and Bhola Thakur were born to one mother, and Anand Sharan Thakur was born to the second mother. My father has five sons in total, whose names respectively are Parmanand Thakur, Late Mahanand Thakur, Dayanand Thakur, Nityanand Thakur, and I, Sadanand Thakur. My biological brother Parmanand Thakur has served as the Mukhiya (village head) in the past. My uncle Bhola Thakur's son is Dharendra Prasad Thakur, who is currently the Mukhiya. In para 9 this witness deposed that It is not true that the members of our family exercise high-handedness or bullying using their position. One of my brothers, Nityanand Thakur, used to run a

medicine shop. My brother's medicine shop used to operate at Sati Sthan. The said shop did not operate on Baijnath Jha's land. I have no knowledge as to whether a case went up to the High Court regarding the removal of that medicine shop from that land or not. It is not true that I have knowledge about that case or that my brother's shop was removed from Baijnath Jha's land by the order of the High Court. In para 10 he deposed that I cannot state how many people from the village were fighting with Priyaranjan Jha on the date of the incident. In para 11 this witness deposed that among the accused persons, several accused belong to different families. In total, people from three families are included. Accused Baijnath Jha belongs to the Pubari (Eastern) Tola of our village. Accused Janki Thakur currently resides in Pachhbari (Western) Tola. He states on his own accord that he used to reside in the seven-house Tola which is in the Eastern Tola itself. At the time of the alleged incident, Janki Thakur's house was in the Pachhbari (West) Tola. Accused Tetar Thakur's house was in the Pubari (East) Tola. Accused Achyutanand Thakur's house belongs to the Uttarabadi (Northern) Tola. Janki Thakur, Achyutanand Thakur, and Tetar Thakur are not related to Baijnath Thakur. In para 12 this witness deposed that the length of my village runs East-West and the width runs North-South. The total population of my village is around 5,000. In para 13 this witness deposed that to the North of the incident site is a concrete (dhalai) road and Sati Sthan; to the South is Priyaranjan Jha's house and field; to the East is a road; and to the West is a road. Priyaranjan Jha's house is at Sati Sthan Chowk. There must be around 10–12 shops at that Chowk, which includes the shops of Anil Thakur and Maha Thakur as well. I cannot state the names of the other shopkeepers. At the time the incident took place, 2–4 shops were open and shopkeepers were sitting in them. I cannot specify individually which shops were closed and which were open, or the names of those shopkeepers. In para 14 this witness deposed that I had started from village Rati Rahi at 10:30 AM for my home. The distance from Rati Rahi to the incident site would be around 1 and 1/2 km. I cannot state the exact time I reached my home that day. I had started alone from Rati Rahi. I also

had a bicycle with me. Sometimes I walk on foot, sometimes I ride the bicycle. I cannot state how many people in total I encountered on the way while traveling from Rati Rahi to my house. In para 15 this witness deposed that on the day of the incident, I did not get a chance to go to the police station or the hospital. On that day, no conversation took place between me and Priyaranjan Jha or his family members. In para 16 this witness deposed that I do not have knowledge whether accused Baijnath Jha had filed any case against the complainant Priyaranjan Jha, Indramohan Jha, Dhirendra Thakur, etc., regarding the incident that took place on the date of occurrence or not. I do not know whether that case is Biraul Police Station Case No. 0-233/07 or not. I do not know whether this case was filed by Baijnath Jha before or after Priyaranjan Jha filed his case. In para 17 this witness deposed that the informant Priyaranjan Jha and the accused Baijnath Jha are close relatives/belong to the same faction. In para 18 this witness deposed that I also do not have knowledge whether accused Baijnath Jha had filed a partition suit (Batwara Vaad) No. 0-46/06 against the informant Priyaranjan Jha and his father Indramohan Jha etc., or not; I cannot say. I also do not know whether any lawsuit under Section 144 was ongoing between both parties or not. In para 19 he deposed that It is not true that I did not state before the police that Janki Thakur, Tetar Thakur, and Achyutanand Thakur beat the informant with lathis, dandas, and a wide wooden log. In para 20 this witness deposed that It is not true that no such incident took place as I have stated in my examination-in-chief, or that this false case has been filed to escape the case filed by Baijnath Jha, or that I have given a false statement due to village politics.

PW4 Priyaranjan Jha who is informant of this case has deposed in his examination in chief in para 1 that I am the informant of this case. This incident took place on 10/07/2007 on a Sunday at around 11:00 AM. At that time, I was cleaning the drain of the government handpump in front of my house. Just then, Baijnath Jha, Pappu Jha, Roshan Jha, Janki Thakur, and Tetar Thakur came there, forbade me

from cleaning the drain, and started beating me with slaps and punches. Exactly at that moment, Achyutanand Thakur of our village came and gave a wide wooden stick (danda) to Baijnath Jha and said, "Kill him. Why are you just slapping and punching him?" Upon this, Baijnath Jha started striking me on my head with the wooden stick, due to which I sustained injuries on my head, shoulder, back, hand, and other parts of the body. Since my head did not split open despite the injury, blood clotted there. Due to the injuries, I fell to the ground and was unable to get up. The local villagers lifted me up and took me to a village doctor. From there, I was referred to Darbhanga for treatment. While on the way to Darbhanga, I lost consciousness after that, I do not remember anything. From there, I was referred to Patna. IN para 2 he deposed that I was treated at Magadh Hospital in Patna. The Sub-Inspector (Daroga Ji) of Kadam Kuan Police Station came to Magadh Hospital in Patna and recorded my Fardbeyan (formal statement). This is the same Fardbeyan which bears my thumb impression; I recognize it. Voluntarily states: I know how to sign, but at that time my hand was not working, which is why I gave my thumb impression. In para 3 he deposed that the police had also taken my re-statement (puna-bayan). I had stated all the facts to them in the re-statement as well. In para 4 he deposed that my head was operated upon, the scar of which is still present on my head. (The witness shows his head, which displays a long, old wound scar). In para 5 he deposed that today in court, the accused Baijnath Jha is present; I recognize him. I will also identify the absent accused persons upon seeing them.

During his cross examination this witness deposed that in para 6 that my grandfather (Baba) Babu Narayan Jha were two brothers. The second brother was older than him, whose name was Krishnakant Jha. I have three brothers in total. The eldest brother's name is Niranjan Jha, who is in the Air Force. After him is Manoranjan Jha. I am the youngest. My brother Manoranjan Jha is a doctor. Krishnakant Jha has a son named Baijnath Jha, who is an accused (mudalah) in this case. Baijnath Jha has three sons, whose names are respectively: Pankaj Jha, Pappu Jha, and Roshan Jha. In

this case, Pappu and Roshan are accused. Krishnakant Jha passed away before I gained conscious memory. My memory developed from the age of 10 years. In para 7 he deposed that I am a sister's son (bhaginmaan) of village Padri. The accused Baijnath Jha is also a sister's son (bhaginmaan) of village Padri and he belongs to our family lineage. There are about 50–60 Jha families in village Padri. The said village is predominantly a Thakur settlement. Our village is divided into several neighborhoods (tolas). My house and Baijnath Jha's house are located towards the south-east of our village. There are about 100–200 houses to the north and west of our house. In total, there are 110 houses to the south and east of my house in the village. Village Saho and village Padri fall under different Panchayats. In para 8 he deposed that there are two roads in our village—one is an east-west road and the other is a north-south road. Achyutanand Thakur's house is towards the north side of my village. I cannot say whether he was a candidate for Sarpanch twice in our Panchayat elections or not. Currently, the Sarpanch of our Panchayat is Naresh Chandra Thakur alias Bhai Ji. I cannot say who the candidates for Sarpanch were in the last election. Currently, Ashok Thakur won the Mukhiya election by defeating Dharendra Thakur. I do not have information whether two factions led by Mafatlal and Phokatlal are running in my village or not. I know Parmanand Thakur; whether he was ever a Mukhiya or not, I do not know. He is the brother of Sadanand Thakur. I know this fact. It is not true that I am deliberately hiding the fact that Achyutanand Thakur was the Sarpanch of our Panchayat twice and Parmanand Thakur was the Mukhiya. In para 9 he deposed that there is a Sati Chowk in my village. There are about 25–30 shops there, and that is also where the Sati Sthan is located. A path goes east from Sati Chowk towards my house and the village, and there is a path towards the south .which goes towards village Saho. My house and Baijnath Jha's house face each other at a distance of 1/4 km from Sati Chowk. In para 10 he deposed that the handpump is to the north in front of my house, which is a government handpump. There are hundreds of houses between Sati Chowk and Baijnath Jha's house. In para 11 he deposed that at my home, I live

with my family, which includes my mother, my father, my paternal grandmother, my younger sister, and myself. I do not know how many people live in Baijnath Jha's family. To the west of my house, there is only one house. There is a house belonging to some Halwai and Khabas. To the west of my house, there is no house belonging to Ramashray Thakur. The road going north from Sati Chowk turns east after 1/2 km. Achyutanand Thakur's house is at a distance of 1/2 from where the road turns. In para 12 he deposed that I do not know whether any lawsuit was pending between my family and Baijnath Jha's family. No partition suit is pending between us either. Niranjan Jha is my brother; he is in the army. He was also posted in Darbhanga for several years. I do not have information whether he had filed any case against Baijnath Jha or not. My relationship with Niranjan Jha is good. Apart from this case, no other case has been filed between us and Baijnath Jha. Prior to this case, there was no case or enmity with Baijnath Jha. I had recorded in the First Information Report (FIR) that Baijnath Jha said, "A lawsuit is pending over this land, do not clean it." I did not ask Baijnath Jha which land lawsuit was pending. To date, I have not found out which land the case or lawsuit was about. It is not true that several cases under Sections 144, 145, 107 of the CrPC and a partition suit are pending between our family and Baijnath Jha's family, and that I have deliberately hidden this and given a false statement. In para 13 he deposed that my father is alive; I will have his testimony recorded in this case. In para 14 he deposed that a partition had already taken place between our family and Baijnath Jha's family during the time of our ancestors. I cannot state when Baijnath Jha separated from my late grandfather (Swa.) Babu Narayan Jha, or how much land was partitioned. I cannot produce the partition documents. In para 15 he deposed that regarding the incident, I gave my statement before the Sub-Inspector of Kadam Kuan Police Station, Patna at Magadh Hospital, Patna on 12/10/2007. At that time, my brother Niranjan Jha and my father were also present there. That statement was given 5 days after the incident. Manoranjan Jha is my elder brother, who is a doctor at Safdarjung, Delhi. Whatever incident happened to me, I met

my brothers after that. Between the occurrence of the incident and giving the statement to the police, I did not have any conversation regarding the incident with any member of my family. No one told me anything about the incident. In para 16 he deposed that the rural hospital is to the north of Sati Sthan. Voluntarily states: There is no rural hospital in the village. My treatment was done by Ladoo Sir. I went to him at around 11:30 AM – 12:00 PM. I stayed at the doctor's place for about half an hour. He referred me to Darbhanga Hospital for treatment. I lost consciousness after that. For this reason, I cannot tell what time I reached Darbhanga. I do not know how many days I stayed at Darbhanga Hospital. I do not even know when I reached Patna. I do not remember how many days I remained unconscious. Voluntarily states: I regained consciousness after the operation. I do not know how many days after the incident my operation took place. I lost consciousness on the way from my village to Darbhanga. I have stated in the Fardbeyan that I lost consciousness and fell as soon as I was beaten. From the place of occurrence, people carried me to the rural clinic. Ramlal Thakur, Murari Rai, Shyamanand Thakur, Ram Vilas Thakur, Ramakant Thakur, and Sadanand Thakur had carried me there. I was mostly conscious at that time. I was given water etc. to drink. There were 5–10 injury marks on my body. Blood was not bleeding from any part of my body. My body had swollen wherever I was injured. I do not remember whether the doctor applied ointment/bandages on the swollen parts or not. I do not know whether a family member, the villagers, or the doctor gave information about the incident to the police station. No one, including my father, told me in Patna that information about the incident had been given to the police station. I regained consciousness on the morning of 12/10/2007. Upon regaining consciousness, I saw my family members. Those people did not tell me how I reached Patna. I do not know who informed the police at Magadh Hospital. The police came there and told me that they were from Kadam Kuan Police Station, Patna. Whether my mother, father, or brother gave a statement to the police there or not, I cannot say. Voluntarily states: My mother was not present there. In para 17 he deposed that no heated

words/argument (baata-baati) took place at the time of the incident. The beating with slaps and punches lasted for 5–10 minutes. There were 10 injury marks on my body from the beating. I fell to the ground and became unconscious; after that, I regained consciousness at Magadh Hospital. Voluntarily states: I had regained consciousness on the way as well. I do not remember in which direction I fell at that time. I do not remember how many people were present at the time of the slaps and punches. I do not remember at this moment which individuals from the village were present there. In para 18 he deposed that I cannot state how many cubits (haath) long the wooden stick was. In para 19 he deposed that I gave my statement to the police only once. I had read that statement. I read it at the same time I gave it. The statement I gave before the police is the same statement I have given before this court. In para 20 he deposed that I did not get it written in the police statement that my treatment took place at the rural hospital and from there I was referred to Darbhanga. I have read the copy of the statement given to the Sub-Inspector (Daroga Ji). I have never filed any complaint against the police or the doctor. I have read the doctor's report. In para 21 he deposed that It is not true that I have fabricated a false story about the occurrence of the incident at the designated place, or that no such incident ever took place. It is not true that due to prior enmity or prior litigation, I have colluded with the police and doctor to manufacture a false case and give false testimony in a false case. In para 22 he deposed that I do not know whether Baijnath Jha has filed any case against us or not. In para 23 he deposed that apart from this case, another case is ongoing in a different court in which I am an accused (mudalah). That case was filed by the accused Baijnath Jha. Voluntarily states: That is a false case.

PW5 is Dr. Arvind Kumar Sinha has stated in his Chief Examination that

(1) On dated 07/10/2007, I was posted at DMCH as a Senior Resident. On same at 5:20 P.M. I examined PriyRanjan Jha S/o-

Indra Mohan Jha, resident of Biraul P.S., Dist- Darbhanga and found injury on his person.

1. Swelling 2"x2" occipital region of the scalp.
2. Swelling 1"x1" left parietal region of the scalp.

C.T. Scan of scalp was done by R.B. Memorial Hospital dated 07/10/07 shows A cut extradural haematoma left Temporo parietal convexity with mass effect.

Hemorrhagic contusion left parietal cortex; linear undisplaced fracture of left parietal bone as per report of the C.T. Scan injury No:-(2) is grievous in nature and No:-(1) is simple in nature caused by hard blunt substance.

3. Within 12 hours injury case has been referred to higher centre.
4. Mark- Mole right side of thigh.
5. I treated the said injured person based on the report of Naval Kishor S.I.
6. This injury report is in my handwriting and signature, and it is marked as Exhibit-1.

During his Cross-Examination this witness deposed in para 2 that I have been working at DMCH since the year 06/10/2006. I prepared the said injury report on 07/10/2007. We prepare [the entry] in the injury register on the very same day, and we record the date on which we fulfill the demand of the police. I had no prior acquaintance with the injured person. Neither any L.T.I. (Left Thumb Impression) nor the signature of the injured person was taken on the injury report. I have not written the advice for C.T. Scan or X-Ray on the injury report because we do not write it on the injury report. Instead, we write it on the prescription slip. I do not remember how long the injured person was treated. In para 3 he deposed that the aforementioned injury could also be caused by falling on a hard surface. In para 4 he deposed that It is not true that there was no such injury and that I have given a false injury report in collusion with the complainant.

PW6 is Dr. Shyam Babu Gupta. This witness deposed in his examination in chief that

(1) on 07.10.2007 I used to run a private medical practice at R.B. Memorial Hospital. I do not know whose C.T. Scan I conducted on that date.

(2) This C.T. Scan, which is currently in my hands, was issued by me. This C.T. Scan belongs to Priyaranjan Jha. In the said C.T. Scan Report, I have recorded the following findings:

Acute extradural haematoma left temporo parietal convexity with mass effect. Hemorrhagic contusion left parietal cortex and linear displaced fracture of left parietal bone.

(3) This report has been typed and signed by me. Mark this as an exhibit X (for identification).

During his Cross-Examination on behalf of the Accused this witness deposed that (4) I practiced at R.B. Memorial from the year 2004 to the year 2008. I have not written when I conducted this [scan] because it is recorded on the film, on the basis of which I have given this report. That film is not present in front of me. I cannot say how much time it took to do all this. Only a technician is required. There will not be much difference if this report is evaluated by another radiologist. In para 5 he deposed that the document on the basis of which I have given testimony is a photocopy, not the original. The overwriting done on this is also not mine.

7. The prosecution has argued that all the prosecution witnesses have supported the prosecution and by adducing evidence it has been successful in proving charges against the accused persons while the defence has argued there are many inconsistencies and contradictions in the statement of prosecution witnesses. Further the informant had prior enmity and land dispute with the accused persons and due to village politics, the accused persons have been falsely implicated in this case and the prosecution have completely failed to prove charges against the accused persons.

8. I have heard both parties and perused materials available on record.

Analysis of evidence

9. I have carefully considered the oral and documentary evidence adduced on behalf of the prosecution, the defence exhibits brought on record, and the submissions advanced from both sides. The burden lies upon the prosecution to establish the charges against the accused persons beyond reasonable doubt. At the same time, it is equally settled that minor discrepancies which do not go to the root of the matter are not sufficient to discard an otherwise reliable prosecution case. The evidence on record is therefore required to be assessed as a whole.

In the present case, the prosecution has examined six witnesses, out of whom PW2 Shyam Thakur, PW3 Sadanand Thakur, and PW4 Priyeranjan Jha are the material witnesses on the point of occurrence. PW1 is only a hearsay witness and has not supported the prosecution case. PW5 Dr. Arvind Kumar Sinha and PW6 Dr. Shyam Babu Gupta are the medical witnesses.

So far as PW1 Bachcha Babu Thakur is concerned, he has clearly stated in his cross-examination that no occurrence took place before his eyes and that whatever he stated was on the basis of hearsay. Therefore, his evidence does not advance the prosecution case on the factum of assault. However, the evidence of a hostile witness is not to be rejected in toto; only that part which inspires confidence may be considered. In the present matter, PW1 does not furnish any direct account of the occurrence and is therefore of little assistance on the core issue.

PW2 Shyam Thakur has supported the prosecution case in material particulars. He has stated that on hearing commotion he reached the place of occurrence and saw Baijnath Jha, Pappu Jha and others assaulting Priyaranjan Jha with slaps, and thereafter Achyutanand Thakur came with a wooden stick and Baijnath Jha took the said stick and struck Priyaranjan Jha on the head. He has also stated that the occurrence took place over cleaning of the drain. In cross-examination, though several questions were put to him with

regard to village faction, relationship of parties, layout of the place of occurrence, presence of persons and previous dispute, nothing substantial could be elicited to demolish his presence at the place of occurrence or his witnessing of the assault. The defence has pointed out that in para 12 he stated that none of the accused had a lathi in hand and he saw only one person hitting Priyaranjan Jha, but this statement, read as a whole, does not destroy the prosecution version. His evidence remains consistent on the crucial aspect that Baidyanath Jha assaulted the informant on the head with a wooden stick after an initial scuffle.

PW3 Sadanand Thakur has also supported the prosecution case. He has deposed that he saw Baijnath Jha, Raushan Jha, Pappu Jha, Janki Thakur and Tetar Thakur beating Priyaranjan Jha with slaps and punches and that Achyutanand Thakur brought a wooden log and handed it over to Baijnath Jha, who then assaulted Priyaranjan Jha with it, where-after the latter fell unconscious. In cross-examination, this witness admitted existence of village factions and also admitted that he belongs to one faction while accused Baijnath Jha belongs to another. This circumstance undoubtedly requires his evidence to be scrutinized with caution. However, mere factional background is not by itself a ground to discard testimony which is otherwise cogent and consistent. The defence could not extract any material contradiction touching the core of the occurrence. His testimony on the actual assault by accused Baijnath Jha substantially corroborates PW2 and PW4.

PW4 Priyaranjan Jha, the informant and injured witness, is the most material witness of the case. He has fully supported the prosecution version and stated that while he was cleaning the drain in front of his house, accused persons came there, objected to the same, assaulted him with slaps and punches, and thereafter Achyutanand Thakur gave a wooden stick to Baijnath Jha, who struck him on the head causing injuries due to which he fell down. He has further stated that he was taken for treatment and his fardbeyan was recorded at Magadh Hospital, Patna.

The evidence of an injured witness carries its own significance because his presence at the place of occurrence ordinarily cannot be doubted. Unless strong reasons exist for rejection, such testimony deserves great weight. In the present case, the defence subjected PW4 to lengthy cross-examination on previous litigation, relationship, village faction, place of occurrence, treatment, time of recording of fardbeyan, and other surrounding circumstances. Certain contradictions and omissions have emerged. For example, PW4 stated in cross-examination that blood was not bleeding from any part of his body, whereas in the fardbeyan there is mention of severe head injury. He also stated in one place that he became unconscious immediately, while elsewhere he said that he regained consciousness on the way and later on 12.10.2007. Likewise, there is some uncertainty regarding treatment at village level, Darbhanga, and subsequent transfer to Patna. But these inconsistencies pertain to post-occurrence details and medical movement, not to the central fact of assault. On the essential aspect that accused Baidyanath Jha struck him on the head with a hard blunt object during the occurrence, his testimony has remained firm.

The ocular version of PW4 finds material corroboration from the medical evidence. PW5 Dr. Arvind Kumar Sinha examined the injured on 07.10.2007 at 5:20 PM and found swelling over the occipital and left parietal region of the scalp. He proved the injury report as Exhibit-1. He has further stated that CT Scan showed acute extradural hematoma, hemorrhagic contusion and linear undisplaced fracture of left parietal bone, and that injury no. 2 was grievous in nature and caused by a hard blunt substance. Thus, the medical evidence clearly establishes that the informant had sustained a serious head injury on the date of occurrence.

PW6 Dr. Shyam Babu Gupta has proved the CT Scan report of Priyaranjan Jha and stated the findings therein as acute extradural hematoma left temporo-parietal convexity with mass effect, hemorrhagic contusion left parietal cortex and fracture of left parietal bone. It is true that this witness admitted that the document shown to him was a photocopy and the original film was not before him, and

therefore the evidentiary value of Exhibit X is somewhat limited. Nevertheless, even without placing strong reliance upon the xerox CT Scan report, the testimony of PW5 along with Exhibit-1 sufficiently proves the existence of grievous head injury caused by hard and blunt substance.

The defence has stressed previous enmity, pending litigation, village faction and the existence of a counter-case as reflected from Exhibits A to L. The defence case is that due to prior land dispute and factional rivalry, the accused persons have been falsely implicated. There is no doubt from the record that the parties were related and that litigation and factional background existed between them. However, it is a settled principle that enmity is a double-edged weapon. While it may furnish motive for false implication, it may equally furnish motive for commission of offence. Therefore, mere proof of previous enmity is not sufficient to reject the prosecution case when the same is otherwise supported by injured testimony and medical evidence.

At the same time, the effect of prior enmity has to be considered while evaluating the extent of prosecution case proved against each accused. In the present case, although the fardbeyan named six persons, after investigation charge-sheet was submitted only against two accused persons, namely Baidyanath Jha and Pappu Jha. Out of the eye witnesses examined before the Court, the allegations are strongest, clearest and most consistent against Baidyanath Jha, who is specifically assigned the role of taking the wooden stick and giving the head blow. So far as Pappu Jha is concerned, the allegation is of participation in the initial assault by slaps and punches along with others. No specific overt act causing the grievous head injury has been attributed to Pappu Jha.

The next question is whether the offence under Section 307 IPC is made out. To bring a case within Section 307 IPC, the prosecution must prove not merely the causing of hurt, but the requisite intention or knowledge to cause death, gathered from the nature of weapon used, part of body targeted, severity of blow, surrounding circumstances and manner of attack. In the present

case, the injury was caused on the head, which is undoubtedly a vital part of the body, and the medical evidence shows fracture and extradural hematoma. This certainly shows a serious assault. However, the evidence on record also shows that only one wooden stick was used, there is no evidence of repeated blows of extreme ferocity by accused Baidyanath Jha except general statements, there is no clear seizure or production of the weapon, and there are notable infirmities in the prosecution case regarding the surrounding circumstances and manner in which the assault progressed. The fact that the injury could also be caused by fall on a hard surface, as admitted by PW5, does not by itself falsify the prosecution case, but it does call for caution while inferring the specific intention to commit murder.

Having considered the entire evidence, this Court is of the view that the prosecution has been able to prove beyond reasonable doubt that accused Baidyanath Jha voluntarily caused grievous hurt to the informant by means of a hard and blunt substance on the head. The medical evidence fully supports the infliction of grievous head injury. However, the material on record falls short of establishing beyond reasonable doubt that the assault was committed with such intention or knowledge, and in such circumstances, as to bring the act squarely within Section 307 IPC. Therefore, conviction under Section 307 IPC would not be safe. The proved act of accused Baidyanath Jha, however, clearly attracts the offence punishable under Section 325 IPC.

So far as accused Pappu Jha is concerned, the prosecution witnesses have alleged that he participated in assaulting the informant with slaps and punches. Though no corresponding external simple injury apart from head swelling has been elaborately described in the medical evidence, the testimony of the injured witness PW4 and supporting eye witnesses PW2 and PW3 is sufficient to establish that there was voluntary assault during the occurrence. Accordingly, the offence under Section 323 IPC is made out against accused Pappu Jha. Since the informant was obstructed

while cleaning the drain and was confronted at the very place, ingredients of Section 341 IPC are also attracted.

As regards Section 504 IPC, though abusive and provocative words have been attributed in the prosecution version, there is no clear and reliable evidence showing intentional insult of such nature as was likely to provoke breach of the peace independently of the assault itself. In absence of specific and satisfactory evidence on this ingredient, benefit of doubt deserves to be extended on this count.

The Court has also considered whether the aid of Section 34 IPC can be invoked. The evidence shows that the quarrel arose suddenly at the spot on the issue of cleaning the drain. While more than one person was allegedly present and some participated in the initial assault, the evidence as to prior meeting of minds and sharing of the specific intention to cause the grievous head injury is not free from doubt. The grievous blow is specifically attributed to Baidyanath Jha alone. Therefore, it would not be safe to hold that the grievous offence stands proved against both accused persons with the aid of Section 34 IPC.

Consequently, this Court arrives at the conclusion that the prosecution has successfully proved that accused Baidyanath Jha assaulted informant Priyeranjan Jha on the head with a hard blunt object and thereby caused grievous hurt. The prosecution has also proved that accused Pappu Jha participated in assaulting the informant and wrongfully restrained him. The prosecution has not proved beyond reasonable doubt the charge under Section 307/34 IPC against either accused. The prosecution has not proved beyond reasonable doubt the charge under Section 504 IPC against either accused.

Accordingly, accused Baidyanath Jha is found guilty for the offence punishable under Section 325 IPC and also under Section 323, 341 IPC. Accused Pappu Jha is found guilty for the offences punishable under Sections 323 and 341 IPC. Both the accused persons are acquitted of the charge under Section 307/34 IPC and Section 504 IPC, giving them benefit of doubt.

Order

The accused persons namely (A 1) Baidyanath Jha and (A2) Pappu Jha are acquitted of charges for commission of offence punishable under sections 307/34 and 504 of IPC. Accused (A1) Baidyanath Jha is held guilty of offences punishable under section 325, 323, 341 of IPC. Accused (A2) Pappu Jha is held guilty of offences punishable under sections 323 and 341 of IPC. Their bail bonds are cancelled and they are taken into custody.

Both counsels are directed to argue on the point of sentence.

Place

Date

(Shiv Kumar)
Additional Sessions Judge Biraul

After being scribed by me this judgment was pronounced in the open court having my signature along with date.

(Shiv Kumar)
Additional Sessions Judge, Biraul

Later on
22.07.2026

Sentence

Heard the Ld. APP for the State and the Ld. Counsel appearing on behalf of the convicts on the point of sentence.

It has been submitted on behalf of the convicts that the occurrence is of the year 2007 and the convicts have remained on bail throughout the trial. It is further submitted that the convicts have faced the agony of criminal prosecution for about nineteen years. The learned counsel for the defense submits that since the accused persons are first time offenders, belong to respectable families, have no previous conviction and are the sole breadwinners of their families and have faced the ordeal of criminal prosecution for a considerable period. It is further submitted that they are not likely to commit any offence in future and there, deserve the benefit of Probation of Offenders Act.

On the other hand the learned counsel for the prosecution submits that a maximum punishment should be awarded to the convicts, so that a message may be conveyed to the society.

The Probation Officer's report has been received and carefully perused. The report indicates that both the convicts are well settled in society, and there is every likelihood of their reformation. The Probation Officer has recommended that they be extended the benefit of Probation of Offenders Act.

Having considered the nature of offences, the circumstances in which the occurrence took place, the age and antecedents of the convicts, the absence of any material showing previous conviction, case and counter case between the parties, and keeping in view the object of reformative justice embodied in the Probation of Offenders Act, this Court is of the opinion that it is expedient to extend the benefit of Section 4 of the Probation of Offenders Act to both the convicts instead of awarding substantial punishment.

Accordingly, both convicts are directed to be released on probation of good conduct under section 4 of the Probation of Offenders Act, 1958, on each of them executing a personal bond of

Rs. 10,000/- with one surety of the like amount to the satisfaction of this Court, undertaking to maintain peace and good behaviour for a period of one year and to appear and receive sentence as and when called upon during said period.

The convicts are further directed to maintain peace and good behaviour during the probation period and shall not commit any offence. In case of breach of any of the conditions of the bond, they shall be liable to be called upon to receive sentence in accordance with law.

Let a copy of the judgment and order on sentence be supplied to the convicts free of cost forthwith.

Pronounced by me in open Court.

Place

Date

(Shiv Kumar)
Additional Sessions Judge Biraul