

In the Court of Rajendra Kumar Pandey Addl. Sessions Judge-III,
District - Gopalganj
State Vs. Amit Chaubey & Others

S.T.R. No. - 472/2019
C.I.S. No. - 472/2019
Date of Judgment – 29-06-2026

FORM - A

<u>IN THE COURT OF DISTRICT & ADDL. SESSIONS JUDGE-III,</u> <u>DISTRICT - GOPALGANJ.</u> Present : Rajendra Kumar Pandey, A.S.J.-III [Date of Judgment : 29-06-2026] Sessions Trial No. – 472/2019 C.I.S. No. – 472/2019 (Arising out of Kateya P.S. Case No.-213/2015)	
Informant	STATE OF BIHAR (through Tetara Devi)
Represented by	Shri Raman Chand Mishra, Ld. A.P.P., Counsel for the Prosecution
Accused	1. Amit Chaubey , aged 42 years, S/o- Gaurishankar Chaubey. 2. Gaurishankar Chaubey , aged about 70 years, S/o- Late Nathuni Chaubey. 3. Rajeev Chaubey , aged about 40 years, S/o- Ram Ekbal Chaubey. 4. Subash Chaubey , aged about 58 years, S/o- Late Pashuram Chaubey. 5. Markandey Chaubey , aged about 52 years, S/o- Late Moti Chand Chaubey. 6. Sandeep Chaubey , aged about 32 years, S/o- Markande Chaubey. 7. Ramesh Chaubey , aged about 40 years, S/o- Late Pashuram Chaubey. 8. Sri Ram Chaubey , aged about 55 years, S/o- Late Ramnain Dubey. 9. Deonath Chaubey , aged about 60 years, S/o- Late Sitaram Chaubey. All R/o- Jaysavali, P.S. Kateya, District- Gopalganj.
Represented by	Sri Jai Prakash Chaubey, Ld. counsel for the accused persons.

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FORM – B

Date of Offence	22-06-2023
Date of FIR	22-06-2023
Date of Charge-sheet	07-03-2024
Date of Framing of charges	03-06-2024
Date of commencement of evidence	18-10-2024
Date on which Judgment is reserved	24-04-2026
Date of the Judgment	29-06-2026
Date of the Sentencing Order, if any	---

Accused Details :

Rank of Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences Charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during S. Trial for purpose of section 428 Cr.P.C.
1	Amit Chaubey	---	---	U/s-147, 447/149, 341/149, 323/149, 337/149, 324/149, 307/149, 504/149 of I.P.C.	Acquitted--	--	---
2	Gaurishankar Chaubey	---	---	----do--	--do--	--	-----
3	Rajeev Chaubey,	---	---	----do--	--do--	--	-----
4	Subash Chaubey	---	---	----do--	--do--	--	-----
5	Markandey Chaubey	---	---	----do--	--do--	--	-----
6	Sandeep Chaubey	---	---	----do--	--do--	--	-----
7	Ramesh	---	---	----do--	--do--	--	-----

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	Chaubey					--	
8	Sriram Chaubey	---	---	----do--	--do--	--	-----
9	Deonath Chaubey	---	---	----do--	--do--	--	-----

FORM - C

LIST OF PROSECUTION /DEFENCE/COURT WITNESS

1. PROSECUTION

Rank of Witnesses	Name of Witnesses	NATURE OF EVIDENCE
PW 1	Sukhdev Chauhan,	Witness
PW 2	Tetari Devi	Informant
PW 3	Lankesh Kumar Panda	Witness
PW 4	Suresh Chauhan @ Suresh Prasad	Witness
PW 5	Ramesh Prasad	Witness
PW 6	Subhavati Devi	Witness

2. Defence Witnesses if any:

RANK	NAME	NATURE OF EVIDENCE
NIL	NIL	NIL

3. Court Witness if any:

RANK	NAME	NATURE OF EVIDENCE
NIL	NIL	NIL

LIST OF EXHIBITS:- PROSECUTION/DEFENCE/COURT

A. Prosecution

Sr. No.	Exhibit Number	Description
1	Ext.-P1/P.W.-3	Chargesheet No. 261/2017 which bears writing and signature of Lankesh Kumar Panda.
2	Ext.-P1/1/P.W.-3	Charge-sheet 261/17 was forwarded by then S.H.O. Kumar Rajanikant bears his signature..

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B. Defence

Sr. No.	Exhibit Number	Description
NIL	NIL	NIL

J U D G E M E N T.

1. The above named accused persons stand charged for the offence punishable u/s- 147, 447/149, 341/149, 323/149, 337/149, 324/149, 307/149, 504/149 of I.P.C.

PROSECUTION CASE

2. Short matrix of prosecution case as stated in the written petition of informant namely Tetara Devi that she has given a written application to the S.H.O. Kateya police station, stating therein that at about 07:00 p.m. she was sitting at her door and in the meantime, her villager namely Amit Chaubey, Gaurishankar Chaubey, Rajeev Chaubey, Subash Chaubey, Markandey Chaubey, Sandeep Chaubey, Ramesh Chaubey, Sriram Chaubey and Deonath Chaubey armed with deadly weapon came there and Gaurishankar Chaubey stated to all the accused persons, "This fellow did not cast their vote in favour of their party, kill all of them." Thereupon, all the accused persons started assaulting her and her husband. Amit Chaubey attacked on the head of her husband by means of farsa with intention to kill, as a result of which her husband sustained a bleeding injury on his head. Sandeep Chaubey handed with lathi assaulted on her back. Thereafter, Sandeep Chaubey trespassed

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into her house and with the intention of committing theft, took away cash of ₹20,000/- and jewellery worth approximately ₹10,000/- which was kept in a trunk and remaining accused persons searched for and assaulted all the women and children of her neighbour. All the accused persons also jointly assaulted her daughter-in-law. Further, Gauri Shankar Chaubey, being an influential and powerful person, is attempting to terrorize and forcibly drive away all the residents of their hamlet. They belong to the Scheduled Caste community and are poor labourers, being socially and economically vulnerable. Her husband, Angoor Chauhan, after receiving initial treatment at Katya Hospital and referred Medical College, Gorakhpur for better treatment. Accordingly the F.I.R. was lodged.

3. On the basis of written application of informant, the case has been registered against the petitioner as **Kateya P.S. Case No. 213 of 2015, U/s.- 147, 149, 447, 341, 323, 324, 307, 504, 379 of I.P.C.** and investigation was taken up. After completion of investigation, I.O. submitted charge-sheet against the accused **U/s- 147, 149, 447, 337, 341, 323, 324, 307, 504 of I.P.C.** and on the basis of case diary and charge-sheet, Ld. A.C.J.M.-XV, Gopalganj has taken cognizance against the accused persons in the same section. The case was being exclusively triable by the Sessions Court, was committed to the court of Sessions on **27-08-2019** and lastly the case was received to this court on **02-08-2025** for trial and disposal.
4. The statements of accused persons u/s- 313 of Cr.P.C. were recorded with the defence of innocence and false implication and denial of entire prosecution case.

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5. Now, the point for consideration is as to whether the prosecution has been able to bring home the charges leveled against the accused persons beyond shadows of all reasonable doubts or not?

FINDINGS

6. In order to substantiate the charges, altogether six (6) witnesses have been examined on behalf of the prosecution. A brief description of all the prosecution witnesses as well as their testimony is mentioned herein below: –

1. PW 1- Sukhdev Chauhan,
2. PW 2- Tetari Devi (**Informant**),
3. PW 3- Lankesh Kumar Panda (Formal witness),
4. PW 4- Suresh Chauhan @ Suresh Prasad,
5. PW 5- Ramesh Prasad,
6. PW 6- Subhavati Devi,

7. On behalf of the prosecution, following documentary evidence has been brought on the record.

(a) Ext.-P1/P.W.-3 - Chargesheet No. 261/2017 which bears writing and signature of Lankesh Kumar Panda.

(b) Ext.-P1/1/P.W.-3 - Charge-sheet 261/17 was forwarded by then S.H.O. Kumar Rajanikant bears his signature.

8. **P.W 1 Sukhdev Chauhan** : P.W 1 has deposed in his examination-in-chief that he does not know anything about the occurrence and his statement was not recorded by the police. On the request of prosecution, this witness has been **declared as hostile**.

During cross-examination witness deposed that he did not present at his home on the day of occurrence.

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9. P.W 2 Tetari Devi (Informant): P.W. 2 has deposed in her examination-in-chief that she is the informant of this case. On 11.11.2015, this incident occurred. She was sitting on her door, in the meantime, her villager namely Amit Chaubey, Raju Chaubey, Ramesh Chaubey, Gaurishankar Chaubey came and started hurling abuses and they assaulted her and her husband and today she recognized the accused Gaurishankar Chaubey who was present in the Court.

During cross-examination witness has deposed that today, she has come for deposition on Summon. No one hit her, she sustained injury due to fall. Further she has stated that no one attacked her with a deadly weapon.

10. P.W 3 Lankesh Kumar Panda: P.W 3 has deposed in his examination-in-chief that on 15.06.2017, he was posted as S.I. at Kateya Police Station and he took over the investigation charge of Kateya P.S Case No. 213/2015 from the then S.H.O. Dhananjay Kumar. Subsequently, the case file was examined. After reviewing the incident, the supervisory remarks issued by office of the police inspector Mirganj regarding this case were recorded in the case diary and in the instruction contained therein were complied with. Supplementary investigation report of injured Ankur Chuahan was recorded in para no. 43 of the case diary. On 31.10.2017, Chargesheet No. 261/2017 submitted against Amit Chaubey, Gaurishankar Chaubey, Rajeev Chaubey, Subash Chaubey, Markandey Chaubey, Sandeep Chaubey, Ramesh Chaubey, Sriram Chaubey and Deonath Chaubey under Section 147, 149, 447, 337, 341, 323, 324, 307, 504 of I.P.C. which bears in his writing and signature was marked as **Exhibit-P1/P.W.-3**. This charge-sheet was

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forwarded by the then S.H.O. Kumar Rajanikant bears his signature was marked as **Exhibit-P1/1/P.W.-3.**

During cross-examination witness deposed that he did not lodge the F.I.R.. On 15.06.2017, he took over the charge of this case and he did not record the statement of witnesses. Only on perusal of record and supervisory note, he submitted the charge-sheet.

11. P.W 4 Suresh Chauhan @ Suresh Prasad: P.W 4 has deposed in his examination-in-chief that he does not know anything about the occurrence and his statement was not recorded by the police. On the request of prosecution, this witness has been **declared as hostile.**

During cross-examination witness deposed that he has come for deposition on notice.

12. P.W. 5 Ramesh Prasad: P.W. 5 has deposed in his examination-in-chief that he does not know anything about the occurrence and his statement was not recorded by the police. On the request of prosecution, this witness has been **declared as hostile.**

During cross-examination witness deposed that he has come for deposition on notice. All accused persons are his villagers so he recognized them.

13. P.W 6 Subhawati Devi: P.W 6 has deposed in her examination-in-chief that she does not know anything about the occurrence and her interrogation was not done by the police. On the request of prosecution, this witness has been **declared as hostile.**

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During cross-examination witness deposed that she has come for deposition on notice. All accused persons are her villagers so she recognized them.

14. Heard, learned Addl. P.P. for the State as well as the learned counsel for the defence.

15. Ld. Addl. P.P. submitted that the witnesses examined on behalf of the prosecution have supported the allegation and the accused persons is liable to convict.

16. Ld. Counsel for the defence has submitted that none of the witnesses have supported the prosecution case and prosecution has failed to prove the ingredients of section **147, 447/149, 341/149, 323/149, 337/149, 324/149, 307/149, 504/149 of I.P.C.**, hence the accused persons is entitled to benefit of doubt.

17. Having heard both the sides at length, I have gone through the case record and material available on record. It appears that the accused persons are facing charge **u/s- 147, 447/149, 341/149, 323/149, 337/149, 324/149, 307/149, 504/149 of I.P.C.** and prosecution produced six witnesses including informant in order to support its case.

18. **307 I.P.C. is described regarding *attempt to murder* “It applies when a persons does an act with the intent or knowledge that such act would cause death, regardless of whether actual hurt is caused.”**

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19. The ingredient of “attempt to murder” has been demolished by the witnesses examined and none of the witnesses has stated about the offence of committing attempt to murder. Record reveals that out of 8 charge-sheeted witnesses, prosecution has produced 6 witnesses including the informant in this case. **P.W.- 1**, has clearly stated in his examination-in-chief that he does not know anything about the occurrence and his statement was not recorded by the police. On the request of prosecution, this witness has been **declared as hostile**. **P.W – 2** who is the informant has stated in her cross-examination no one hit her, she sustained injury due to fall. Further she has stated that no one attacked her with a deadly weapon. P.W. 3 is the formal witness. **P.W – 3** has clearly stated in his cross-examination that he did not lodge the F.I.R.. On 15.06.2017, he took over the charge of this case and he did not record the statement of witnesses. Only on perusal of record and supervisory note, he submitted the charge-sheet. **P.W.-4, 5 & 6** has clearly stated in their examination-in-chief that they does not know anything about the occurrence and their statements were not recorded by the police. On the request of prosecution, these witness have been **declared as hostile**. Subsequently, these four witnesses **P.W.-1, 4, 5 & 6** have been declared as hostile by the prosecution. After meticulously examination of evidences, it is clear from the record that prosecution did not produce doctor of this case and no any reason has been shown for it. Although, I.O. has been examined but informant herself not supported the prosecution case. Sole evidence of P.W.s is not in position to establish the prosecution case beyond the shadow of reasonable doubts. On the basis of the above statements of the prosecution witnesses, it is clear that prosecution case does not come in the ambit of the Section **147, 447/149, 341/149, 323/149, 337/149, 324/149, 307/149, 504/149 of I.P.C.** Prosecution witnesses did not utter any word regarding offence of rioting, unlawful assembly,

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criminal trespass wrongful restraint, causing hurt by an act, voluntarily causing hurt by dangerous weapon or means, voluntarily causing hurt, intentional insult with the intent to provoke a breach of the peace or commit any offence. **Section 147** I.P.C. describes punishment for rioting, **Section 149** I.P.C. describes unlawful assembly, **Section 447** I.P.C. describes criminal trespass, **Section 341** I.P.C. describes wrongful restraint, **Section 337** I.P.C. describes causing hurt by an act, **Section 324** I.P.C. describes voluntarily causing hurt by dangerous weapon or means. **Section 323** of I.P.C. describes voluntarily causing hurt, **Section 307** of I.P.C. describes attempt to murder, **Section 504** of I.P.C. describes intentional insult with the intent to provoke a breach of the peace or commit any offence. Evidence which was produced by the prosecution are not in position to establish prosecution case on its own leg. No any prosecution witnesses has supported the prosecution version. **No any subjective or objective corroboration are present on record and unless such evidence not come on record court will not be in position to assess and weigh whether such occurrence was committed by the accused or not.** On the basis of the above statement of the prosecution witness, it is clear that prosecution case does not come in the ambit of the **Section 147, 447/149, 341/149, 323/149, 337/149, 324/149, 307/149, 504/149 of I.P.C.** There is apparent inconsistency in the evidence of prosecution witness. No any subjective or objective corroboration are present on record. Evidence which was produced by the prosecution are not in position to establish prosecution case beyond the shadow of reasonable doubts.

Hence, the prosecution has not been able to bring home the charge leveled against the accused persons **u/s- 147, 447/149, 341/149, 323/149, 337/149, 324/149, 307/149, 504/149 of I.P.C.**

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20. From the discussion made above, I draw the inference that prosecution has not been able to substantiate the charges leveled against the accused persons.

Accordingly,

ORDER

21. I hereby acquit the accused persons namely namely **1. Amit Chaubey, 2. Gaurishankar Chaubey, 3. Rajeev Chaubey, 4. Subash Chaubey, 5. Markandey Chaubey, 6. Sandeep Chaubey, 7. Ramesh Chaubey, 8. Sriram Chaubey and 9. Deonath Chaubey** are found and held not guilty for offence **U/s- 147, 447/149, 341/149, 323/149, 337/149, 324/149, 307/149, 504/149 of I.P.C.**, giving the benefit of doubt. Therefore, they are acquitted of the charges leveled against them because prosecution has been failed to prove the case beyond the shadow of the all reasonable doubts. Since the accused persons are on bail, hence bailers are discharged from bail bonds and sureties.

Let a copy be sent to the District Magistrate, Gopalganj.

Today the judgment has been signed, verified and pronounced in open court

Dictated and corrected by me

Dictated by me

(Rajendra Kumar Pandey)
Addl. Sessions Judge- III
Gopalganj.
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(Rajendra Kumar Pandey)
Addl. Sessions Judge- III
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