

BRKH010035122016



Presented on : 26-12-2016
 Registered on : 26-12-2016
 Decided on : 18-03-2026
 Duration : 9 years, 2 months, 23 days

**IN THE COURT OF SESSIONS JUDGE
 At Khagaria, (Bihar)
 (Presided Over by Shri Rajesh Kumar Bachchan)**

**Sessions Trial Case No. 231/2016
 (Net No.122/2016)**

Parbatta P.S. Case No. 152/2014

u/Ss.- 342, 341, 323, 307, 379, 504/34 IPC

State v. Vijay Chaudhary and Others

FORM A

Informant	STATE (Through Bal Krishna Choudhary) S/o- Late Gita Choudhary R/o- Khajraitha, P.S. Parbatta District- Khagaria.
Represented by	Shri Bhola Prasad Singh, Ld. P.P. for State
Accused	1. Vijay Choudhary, aged about 77 years 2. Heera Choudhary, aged about 79 years both sons of Late Nageshwar Choudhary 3. Murari Kumar @ Murari Choudhary, aged about 40 years S/o- Heera Choudhary 4. Kanhaiya Kumar @ Kanhaiya Choudhary, aged about- 44 years S/o- Vijay Choudhary All R/o- Khajraitha, P.S. Parbatta Dist. Khagaria.
Represented by	Shri Santosh Kumar, Ld. Advocate for defence

FORM B

Date of offence	13/14.06.2014
Date of FIR	18.06.2014

Rajesh Kumar Bachchan

Date of charge-sheet	10.02.2015
Date of framing of charge	24.04.2017
Date of commencement of evidence	03.06.2017
Date on which judgment is reserved	11.03.2026
Date of judgment	18.03.2026

Accused Details

Rank of the accused	Name of accused	Date of arrest/surrender	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during trial for the purpose of Section 428 Cr.P.C.
1.	Vijay Choudhary	11.11.2014	22.11.2014	307/34; 323/34; 325/34; 341/34; 342/34; 447/34 and 504/34 of the IPC	Acquitted		11 days
2	Heera Choudhary	11.11.2014	22.11.2014		Acquitted		11 days
3	Murari Kumar @ Murari Choudhary	03.09.2014	08.10.2014		Acquitted		1 month 4 days
4	Kanhaiya Kumar @ Kanhaiya Choudhary	20.01.2015	10.02.2015		Acquitted		21 days

:: J U D G M E N T ::

- The aforesaid accused persons stand charged for the offence punishable u/Ss. 307/34, 323/34, 325/34, 341/34, 342/34, 447/34 and 504/34 of the IPC.

PROSECUTION CASE

- The case of prosecution unveiled from the F.I.R. are that informant viz. Balkrishna Chaudhary got recorded his fardbeyan on 14.06.2014 stating that on the intervening night of 13/14.06.2014 at about 1:30 A.M. he was sleeping at basa with his nephew Rajnish Kumar and suddenly 1. Vijay Chaudhary 2. Heera Chaudhary both S/o of

R.C. Chaudhary

Nageshwar Chaudhary 3. Murari Kumar S/o Heera Chaudhary 4. Kanhaiya Kumar S/o Vijay Chaudhary and 4-5 unknown persons came armed with weapons and surrounded his *basa*. Murari Kumar was carrying rifle and hurl abuses upon the informant. Murari Kumar asked the informant why he did not transfer the land in his favour. Heera Chaudhary pushed Rajnish Kumar with his leg and threatened saying to tell the informant to transfer the land otherwise both would be killed. Murari exhorted Heera Chaudhary, Vijay Chaudhary and Kanhaiya Chaudhary to bring the informant by tieing him with rope and finish. Murari, Heera, Vijay and Kanhaiya all thrashed the informant with *lathi* and rod. Rajnish was tied with rope and hit on his head with butt of the country made rifle. Informant was badly injured by them with butt of rifle and rod.

CHARGE SHEET, COGNIZANCE AND COMMITTAL

3. After investigation charge sheet was submitted on 24.02.2015 for the offence punishable u/Ss.447, 341, 342, 323, 325, 307, 504/34 of I.P.C. Cognizance was taken for the same offence on 30.07.2015. Case was committed to this Court by the Ld. Court of A.C.J.M.-I, Khagaria, vide order dated-15.07.2016.

CHARGE

4. Charge was framed on 24.04.2017 as aforesaid against all accused persons. The same was read over and explained to them in Hindi to which they pleaded not guilty and claimed to be tried.

PROSECUTION EVIDENCE, STATEMENT OF ACCUSED AND DEFENCE EVIDENCE

5. In order to prove its case, prosecution has examined five witnesses in evidence. Its evidence was closed on 05.01.2026. Statements of

Nageshwar Chaudhary

accused were recorded u/S. 313 Cr.P.C. except Vijay Chaudhary who did not respond to the questions due to some ailment.

FORM C

LIST OF PROSECUTION WITNESSES

RANK	NAME	NATURE OF EVIDENCE
P.W.- 1	Vivekanand Singh	Independent witness
P.W.- 2	Sunil Kumar @ Sunil Kumar Choudhary	Independent witness
P.W.- 3	Anjani Choudhary	Independent witness
P.W.- 4	Rajnish Kumar	Independent witness
P.W.- 5	Balkrishna Choudhary	Informant-cum-victim

EXHIBITS OF PROSECUTION

SL.No.	EXHIBITS	DESCRIPTION
1.	Ext. 1	Signature of informant (P.W.-5) on fardbeyan.

EXHIBITS OF DEFENCE

Sl. No.	No. of exhibits	Description
1.	NIL	NIL

ARGUMENTS

6. Ld. P.P. presented the case of the prosecution and has submitted that evidence against accused persons are sufficient and they are liable to be convicted.
7. Ld. Counsel for defence has submitted that the prosecution has failed to prove its case beyond reasonable doubt and the accused persons are entitled to be acquitted.

POINT FOR DETERMINATION

8. From the evidence on record and submissions of the Ld. Counsel for both sides, the following point emerged for determination:

“Whether the prosecution has succeeded in proving its case beyond reasonable doubt?”

NCB

DISCUSSION, DECISION AND REASONS THEREOF

9. In order to appreciate the arguments advanced on behalf of both the sides, it is considered next to outline a sketch of the evidence on record.

(i) P.W. 5 Balkrishna Chaudhary is informant of this case. He has stated in his examination in-chief that this case was got registered by him. He has further stated that incident is dated 14.06.2014 and had occurred at about 1:00A.M. He was sleeping at his *basa* and suddenly Vijay Chaudhary, Heera Chaudhary, Murari Chaudhary and Kanhaiya Chaudhary came armed with illegal weapon and *lathi*. Murari was carrying country made rifle, Vijay was having *lathi* in his hand and other accused were also having arms asked the P.W. 5 to give them share in the land and if he does not do so, he would have to lose his life. P.W. 5 has further stated that they gave *lathi* blows indiscriminately to the informant. He received 4-5 *lathi* and his head and elbows of both hands were injured. P.W. 5 has stated that he became unconscious after receiving blows on his head by butt of rifle. He was admitted to Mayaganj Hospital Bhagalpur and got senses after two days. P.W. 5 identified his signature on fardbeyan as Ext. 1. On cross-examination P.W. 5 has stated that accused persons are his co-sharers. He has further stated that accused were demanding shares in his registered land which is in favour of his wife. He has further stated that at the time of incident his nephew and niece were with him. He has stated that Vijay Chaudhary had used *lathi* first. He had become unconscious after assault. P.W. 5 has stated that F.I.R. was registered after three days of incident. He has stated that he remained hospitalized for fifteen days and police had recorded his statement in the hospital

Neelendra

itself. He has stated that he had filed prescription and x-ray report of his treatment of Bhagalpur Hospital in the Court. He has stated that land dispute between his father and that of the accused persons have already been settled long ago. He denied his suggestion that no such incident had occurred as stated by him.

(ii) P.W. 4 Rajnish Kumar is also one of the injured. He has stated in examination in-chief that he knows nothing about the incident and his statement was not recorded by the police. He was declared hostile. P.W. 1 Vivekanand Singh, P.W. 2 Sunil Kumar alias Sunil Kumar Chaudhary and P.W. 3 Anjani Chaudhary have also stated that they do not anything about the incident and their statement was not recorded by the police. These P.W.s were also declared hostile.

ANALYSIS OF EVIDENCE

10. Allegations against accused persons is to commit attempt to murder of informant Balkrishna Chaudhary and Rajnish also, causing hurt and grievous hurt, wrongful restraint and confinement, criminal trespass and intentional insult to them and for that they have been charged with the aforesaid sections of the Indian Penal Code. There are two injured in this case first is the informant himself and his nephew Rajnish Kumar. Prosecution has examined both injured. Informant deposing as P.W. 5 has stated against accused persons whereas Rajnish Kumar deposing as P.W. 4 has not supported the case of the prosecution and was declared hostile.
11. P.W. 5 has stated that in the night of 14.06.2014 accused persons had assaulted him indiscriminately with *lathi* and he received injuries on his head and hand. He also received injuries on both elbows. P.W. 5 has stated that he was treated in Mayaganj Hospital Bhagalpur. No

Neel Kumar

injury report or any treatment record has been produced before this Court by the prosecution. Prosecution evidence was started on 03.06.2017 and was closed on 05.01.2026 but despite taking several opportunities prosecution did not produce the doctor to prove injuries of injured. This Court also took possible steps to ensure the presence of doctor and I.O. but effort resulted in vain. In the present case there is specific allegation of assault against the accused persons to hit on the head and hand of the informant and doctor has not been examined, in this situation it is unsafe to convict the accused persons for any of the offence relating to assault i.e. Section 307, 325 and 323 of I.P.C.

12. P.W. 5 has stated that the accused persons were demanding share in his land and when he refused to oblige them he was assaulted badly. He has stated that there was a land dispute with the accused but that has been settled. He has also stated that there was also dispute relating *jethansh* between his father and that of the accused. It means there is a history of land dispute between the parties. Considering the facts of land dispute between the parties and absence of any evidence of wrongful restraint and confinement and criminal trespass, this Court finds ingredient of offence punishable u/S. 341, 342 and 447 of I.P.C. is missing.
13. Accused persons have also been charged with Section 504 of I.P.C. relating intentional insult. Though, F.I.R. mentions that the accused persons had hurled abuses upon the informant but he has not stated about the said fact in his evidence. Even otherwise simple abuse by words does not constitute the offence punishable u/S. 504 of I.P.C.
14. As there is no evidence against accused persons as nothing incriminating could be proved by the prosecution regarding their



involvement in the offence for which the accused have been charged with. Point for determination is decided accordingly and against the prosecution.

CONCLUSION

15. In view of the findings recorded herein above as the prosecution has failed to prove the charge of u/Ss. 307/34; 323/34; 325/34; 341/34; 342/34; 447/34 and 504/34 of the IPC against accused 1. Vijay Chaudhary 2. Heera Chaudhry 3. Murari Kumar alias Murari Chaudhary 4. Kanhaiya Kumar alias Kanhaiya Chaudhary, thus, they are acquitted from aforesaid charges. Bail bonds furnished earlier, are extended for further period of six months in compliance of Section 437-A of Cr.P.C.
16. Judgment pronounced in open court today on 18th day of March, 2026 in presence of accused.

(Dictated and corrected by me)

(Dictated)

RK Bachchan

(Rajesh Kumar Bachchan)
Sessions Judge,
Khagaria,
18.03.2026

RK Bachchan

(Rajesh Kumar Bachchan)
Sessions Judge,
Khagaria,
18.03.2026

Date of Judgment	18-03-2026
Date of Reserving Judgment	11-03-2026
Uploading Date	19-03-2026
Uploaded by	Sushant Kumar (DGO)