

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-III, KAIMUR AT BHABUA.	
Present:- Vinay Prakash Tiwari , District and Addl. Sessions Judge-III, Kaimur, Bhabua.	
[Date of Judgment 29.04.2026] Session Trial Case No. 171 of 2017 (Chainpur P.S. Case No. 10 of 2014)	
INFORMANT	Alauddin Khan
REPRESENTED BY	Sri Satish Kumar Singh, Learned Spl. APP.
ACCUSED	1. Virendra @ Pinku Pandey. 2. Raju Pandey @ Jitendra Pandey. Both S/o Late Lalan Pandey, R/o Chainpur, PS- Chainpur, Distt-Kaimur.
REPRESENTED BY	Sri Ajay Shankar Singh, Ld. Advocate.

Date of Offence	06.02.2014
Date of FIR	06.02.2014
Date of Charge-sheet	31.03.2014
Date of Framing of Charges	28.08.2017
Date of Commencement of evidence	08.04.2019
Date on which judgment is reserved	21.04.2026
Date of the Judgment	29.04.2026
Date of the Sentencing Order, if any	N/A

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 Trial for purpose of section 428, Cr.P.C.
1.	Virendra @ Pinku Pandey	-	-	u/ss 341, 323, 307, 504/34 of the IPC	Acquitted	N/A	N/A
2.	Raju Pandey @ Jitendra Pandey	-	-		Acquitted	N/A	N/A

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS EX PERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
P.W.-1	Imtiyaz Khan	Eye Witness.

P.W.-2	Alauddin Khan	Informant.
P.W.-3	Safi Uddar Khan	Eye Witness.
P.W.-4	Parvez Khan	Eye Witness.
P.W.-5	Dr. Kumar Ganga Nand	Medical Witness.

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS EX- PERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	Nil

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS EX- PERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	Nil

LIST OF PROSECUTION/DEFENSE/COURT EXHIBITS

A. Prosecution :

Sr. No.	Exhibit Number	Description
1.	Ext.-1	Signature of the informant on the written information.
2.	Ext.-2	Written Information.
3.	Ext.-P-3/PW-5	Injury Report.
4.	Ext.-P-4/PW-5	Injury Report.
5.	Ext.-P-5/PW-5	Secondary Injury Report.
6.	Ext.-P-6/PW-5	CT Scan Plate.

B. Defence :

Sr. No.	Exhibit Number	Description
1.	Ext.-A	Certified copy of FIR of Chainpur PS Case No. 11/2014.
2.	Ext.-B	Certified copy of charge-sheet having No. 36/2014.

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
Nil	Nil	Nil

D. Material Objects :

Sr. No.	Exhibit Number	Description
Nil	Nil	Nil

J U D G M E N T

1. In the instant case there were three accused persons were facing trial, out of them one accused, namely, Lalan Pandey was died during the course of trial. His name was expunged and proceeding against him was dropped. Now two accused persons, namely, Virendra @ Pinku Pandey and Raju Pandey @ Jitendra Pandey for the offence punishable u/ss 341, 323, 307, 504/34 of the IPC.

2. It is alleged that the occurrence took place on 06.02.2014 at about 05:00 PM at Village-Chainpur, PS-Chainpur, Distt-Kaimur.

3. The prosecution case in brief as made out from the written information of the informant-Alauddin Khan that on the alleged date and time of occurrence, the informant was talking to his brother Parvez Khan at mill. Suddenly a gun shot sound came to him. When they came outside they saw Lalan Pandey was shouting while taking rifle in his hand and was saying that why he has given complaint against him in the police station. Virendra Pandey and Raju Pandey armed with sapde, lathi and bhala started assaulting both the brothers. Parvez Kahn was injured badly. He was taken to PHC, Chainpur from where he was referred to Varanasi. The accused person, namely, Lalan Pandey strongly repair the wall of mazar.

4. On the basis of written information, Chainpur PS Case No. 10/2014 dated 06.02.2014 was registered by the SHO u/ss 341, 323, 324, 307, 504/34 of the IPC, formal FIR was drawn and investigation of the case was entrusted to I.O. Parmanand Singh. He investigated the case and submitted charge-sheet after finding the case true. The learned CJM,

Kaimur, took cognizance and transferred the case to the Court of Sri A.K. Singh, Ld. JMFC, Kaimur. Later on the case was transferred to the Court of ACJM-III, Kaimur. He committed the case to the Court of Sessions on 25.04.2017. This case came to my file on 03.10.2023 by the order of Ld. Principal District and Session Judge, Kaimur.

5. The accused persons were appeared before the Court and were charged u/ss 341, 323, 307, 504/34 of the IPC. The charges were read over and explained to them in Hindi. To which they pleaded not guilty and claimed to be tried.

6. In support of its case prosecution has altogether examined five witnesses and got exhibited the document as mentioned in the above table.

7. After closing the prosecution evidence the statement of the accused persons were recorded u/s 313 of the Cr.P.C. They were questioned regarding the evidences and incriminating circumstances against them, to which they pleaded not guilty and claimed to be tried.

8. The point for determination before this Court is whether prosecution has established its case against the accused beyond all shadow of reasonable doubts.

FINDINGS

9. PW-2 is Alauddin Khan, the informant of this case, has stated in his examination-in-chief that the occurrence took place five years ago at about 05:00 PM. At that time, he was talking with his brother Parvez at the mill. They came out after hearing the sound of gun shot and saw there Lalan Pandey, Paintu Pandey, Raju Pandey were abusing. Lalan Pandey had taken gun and others were taken spade and bhala. When his brother forbade them for abusing they started assaulting him. Lalan Pandey handed over the gun to his son and assaulted Parvez Khan on his head by means of bhala, due to which his got burst. He fell down. All the accused persons assaulted him by means of lathi. There was dispute regarding the cordoning of graveyard, for which an application was filed by them in the police station. He taken his injured brother to Chainpur Government Hospital from where he was referred to Varanasi. This

witness has identified the accused persons as well as his signature on the written information, exhibited as Ext.-1. In para 6 of his cross-examination, he has stated that his treatment was not done in the hospital as he sustained superficial injuries. In para 24, he has denied the suggestion thrown by the defence that his brother was never injured and in collusion with doctor he procured forged injury report and lodged this false case.

10. P.W.-1 is Imtiyaz Khan, in his examination-in-chief, he has stated that the occurrence took place five years ago at about 05:00 PM. At that time, he was in the market. When firing and commotion took place he arrived at the place of occurrence. He saw Lalan Pandey while taking gun Raju Pandey and three to four unknown persons had taken lathi-danda. In para 8, he has stated that when he arrived at the place of occurrence altercation was going on in between both the sides and the same was averted by them.

11. P.W.-3 is Safi Uddar Kahn, in his examination-in-chief, he has stated that the occurrence took place five years ago at about 05 to 05:30 PM. He heard that there was mar-peet in between Parvez, his family members as well as Lalan Pandey and his sons.

12. PW-4 is Parvez Kahn, in his examination-in-chief, he has stated that he is the injured witness in this case. The occurrence took place on 06.02.2014. at about 05:00 PM. He was at his mill along with his brother Alauddin. He came out from the mill after gun shot sound and saw Lalan Pandey was taking rifle and Virendra Pandey lathi attached with iron. And Raju Pandey had taken bhala. They started abusing him for lodging case against them in the police station. He forbade them for abusing. On this Lalan Pandey ordered for assaulting him. Virendra Pandey assaulted him by means of lathi attached with iron, due to which his head got burst. There is mark of injury on his head. When his brother came to rescue him. He was also assaulted by the lathi. They have filed a petition against the accused persons to the police station regarding cordoning of the market land. Being annoyed with the same they have committed the occurrence. His brother had taken him to Chainpur Hospital, where his treatment was done. The stitch was given in the head

and was referred to Varanasi. His brother had got scribe the written information by Naseem Sarpanch and submitted to Chainpur SHO. On his testimony the written information has been marked Ext.-2 with objection. In para 7, he has stated that Chainpur PS Case No. 11/2014 has been lodged by the informant Maya Devi against Parvez Khan, Bablu Khan and others. In para 8, he has stated that the case which was running for the land of Mazar has gone in the possession of Lalan Pandey. In para 12, he has stated that he was not injured in the maar-peet and got lodged this case at the behest of Sarpanch and deposed falsely.

13. PW-5 is Dr. Kumar Ganganand, in his examination-in-chief, he has stated that on 06.02.2014 he was posted at PHC, Chainpur as Medical Officer and at about 04:45 PM he examined Parvez Khan and found the following injuries :-

- (i) A transverse lacerated wound of left occipito parietal region 4 inch x ½ inch x ½ inch.
- (ii) A bruise on left scapular region dimension 5 inch x 1 inch.
- (iii) A bruise on sub scapular region 4 inch x 1 inch.

M/I – A til on right side of nasal bridge.

Age of injury with in one hour.

Opinion regarding injury no. 1 kept reserve as X-ray, CT-scan advised. I have prepared supplementary injury report after receiving X-ray and CT-scan report which is as follows : - No bone injury was seen in said report therefore injury no. is simple in nature. Rest two injuries are simple in nature caused by hard and blunt substance and no. 1 injury also caused by hard and blunt substance.

Both report was prepared by him and bears his signature. Both report is exhibited as P3/PW5 and P4-PW5 respectively.

His secondary report is based on report of Kashi Diagnostic Centre, Ardaly Bazar, Varanasi. This report is exhibited as P5/PW5. CT-scan plate is exhibited as P6/PW5.

In cross-examination, he has stated that there is no thumb impression or signature of the injured on the injury report. All the injuries were found simple in nature. In para 11, he has stated that the injury on the body of person can be occurred by falling on the hard surface.

14. These are all the evidences adduced on behalf of the prosecution. Heard the argument of the Ld. APP and the Ld. Defence Counsel. Now, I will scrutinise the evidences adduced on behalf of the prosecution in the light of arguments advanced by the parties. On perusal it appears that the informant and injured are own brothers. As per evidence of informant, his brother Parvez Khan was assaulted by means of bhala on his head by the accused Lalan Pandey, against whom the proceeding has been dropped as he was dead.

So far as other accused persons and the charges levelled against them have been concerned they were jointly charged u/ss 341, 323, 307, 504/34 of the IPC along with deceased accused Lalan Pandey. But there is no evidence of prior meeting of mind in between the accused persons. In such circumstance, Section 34 of the IPC is not directing against them. So far as allegation of Section 307 has been concerned there is material contradiction in the statement of the witnesses i.e., informant and his own brother Parvez Khan. The informant as a PW-2 has stated that Lalan Pandey has assaulted his brother by means of bhala on his head and due to which his head got burst. Whereas the injured himself as stated that Virendra Pandey had assaulted him by means of lathi attached with iron on his head. These facts are material contradictions weakening the case of prosecution as the other witnesses who are said to be independent are either hearsay or not stated any thing to corroborate the evidence of informant. I.O. has not been examined to contradict the statement of the prosecution witnesses recorded by him during the investigation. The defence became prejudice by the non-examination of the I.O. So far as documentary evidence has been concerned the CT Scan report is issued by the private center which cannot be conclusive evidence to reinforce the charge levelled against the accused persons. The entire these discussed facts pointing towards the doubt regarding the

commission of the offence by the present accused persons, namely, Virendra @ Pinku Pandey and Raju Pandey @ Jitendra Pandey. This benefit of doubt is given to him as prosecution has failed to prove the charge u/s 341, 323, 307, 504/34 of the Indian Penal Code beyond all shadow of reasonable doubts. They are ***acquitted*** for the same.

Dictated and corrected by me.

Sd/-
(Vinay Prakash Tiwari)
A.S.J-III, Bhabhua
Dated : 29.04.2026

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