

Session Trial No. 280/2023

STATE OF BIHAR VS. MD. KARE AND OTHERS

FORM A**IN THE COURT OF DISTRICT AND ADDITIONAL SESSIONS****JUDGE-III, KATIHAR**

Present: Sunil Kumar Singh-III,
District & Additional Sessions Judge-III
Civil Court, Katihar

[Date of the Judgment- 03.07.2026]

[Session Trial No. 280/2023]

(Arising out of Kodha P.S. Case No. 230/2021)

U/S 307, 341, 504, 323, 325, 506/34 of IPC

PROSECUTION	State of Bihar Through: Md. Jamal- Informant
REPRESENTED BY	Ld. A.P.P. Shri S.N. Singh
ACCUSED	1. Md. Kare, aged about 35 years, S/O- Late Md. Balil.. (A-1) 2. Md. Shamser @ Barku, aged about 30 years, S/O- Late Md. Balil. (A-2) 3. Md. Tainu, aged about 50 years, S/O- Late Md. Balil... (A-3) 4. Dukhan @ Md. Dhukhu, aged about 45 years, S/O- Late Md. Balil (A-4) 5. Md. Israfil, aged about 40 years, S/O- Late Md. Balil... (A-5) 6. Md. Sanju @ Md. Sanjul, aged about 26 years, S/O- Md. Tainu.... (A-6) 7. Md. Mojahid @ Md. Mojahir, aged about 21 years, S/O- Md. Kare...(A-7) 8. Md. Jamsed @ Chhotu @ Md. Jamsher, aged about 28 years, S/O- Late Md. Balil... (A-9) R/O Vill- Mirzapur, P.S.-Kodha, Dist- Katihar, Bihar.
REPRESENTED BY	Ld. Adv. Shri Damodar Jha

03.07.26

FORM B

Date of Offence	17.05.2021
Date of FIR	19.05.2021
Date of Charge-sheet	29.07.2021
Date of Cognizance	17.06.2022
Date of Framing of Charges	12.09.2023
Date of commencement of prosecution evidence	18.10.2023

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Prosecution evidence closed	16.03.2026
Date of recording Statement U/Sec 313 of Cr.P.C.	20.05.2026
Date of commencement of defense evidence	N.A.
Defense evidence closed	20.05.2026
Date on which judgment is reserved	20.06.2026
Date on which Judgment is Pronounced	03.07.2026
Date of the Sentencing Order, if any	N.A.

Accused Details:

S. No.	Name of Accused	Date of Arrest/ Surrender	Date of Release on Bail	Offences Charged U/S	Whether Acquitted or convicted	Sentence Imposed	Period of De-tention Under-gone during Trial for purpose of section 428 Cr.P.C.
1.	Md. Kare	28.07.21	28.07.21	307, 341, 504, 323, 325, 506/34 of IPC	Acquitted	N.A.	N.A.
2.	Md. Shamser @ Barku	28.07.21	28.07.21	-Do-	Acquitted	N.A.	N.A.
3.	Md. Tainu	28.07.21	28.07.21	-Do-	Acquitted	N.A.	N.A.
4.	Dukhan @ Md. Dhukhu	28.07.21	28.07.21	-Do-	Acquitted	N.A.	N.A.
5.	Md. Israfil	28.07.21	28.07.21	-Do-	Acquitted	N.A.	N.A.
6.	Md. Sanju @ Md. Sanjul	28.07.21	28.07.21	-Do-	Acquitted	N.A.	N.A.
7.	Md. Mojahid @ Md. Mojahir	28.07.21	28.07.21	-Do-	Acquitted	N.A.	N.A.
8.	Md. Jamsed @ Chhotu @ Md. Jamsher	28.07.21	28.07.21	-Do-	Acquitted	N.A.	N.A.

JUDGMENT

1. The above named accused persons namely (1) Md. Kare (2) Md. Shamser @ Barku (3) Md. Tainu (4) Dukhan @ Md. Dhukhu (5) Md. Israfil (6) Md. Sanju @ Md. Sanjul (7) Md. Mojahid @ Md. Mojahir and (8) Md. Jamsed @ Chhotu @ Md. Jamsher are charged for the commission of the offences punishable under Sections 307, 341, 504, 323, 325, 506/34 of IPC and they are facing trial for the said offences.

FACTUAL BACKGROUND

2. The case of the prosecution as per written application of informant namely Md. Jamal is that on 17.05.2021 at about 09:30 P.M., he and his brother namely Md. Bablu were going to Kamat. On the way the accused persons assaulted and injured them. Hence, the present case.

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3. On the basis of the written application of the informant, Kodha P.S. Case No. 230/21 dated 19.05.2021 was instituted against the above named accused persons for the offences punishable U/S 307, 341, 324, 504/ 34 of IPC and upon completion of investigation, the charge-sheet bearing No. 415/21 dated 29.07.2021 was submitted on 29.07.2021. Subsequently, cognizance of the offences punishable U/S 307, 341, 323, 325, 504, 506 /34 of IPC was taken on 17.06.2022 by the court of Ld. C.J.M., Katihar against the above named accused persons.

4. After completion of the appearance of the above named accused persons, the complete sets of police papers were supplied to the accused and the then Ld. J.M.-Ist Class, Katihar, committed the case record to the Court of Sessions, Katihar on 26.04.2023 and accordingly, Sessions Trial Case No. 280/2023 was instituted and in due course of time, the case record was received to this court by the order of the Ld. Sessions Judge, Katihar for trial & disposal in accordance with law.

TRIAL PROCEEDINGS

5. Hearing rival arguments of both the sides, charges were framed for the offences punishable U/S 307, 341, 504, 323, 325, 506/34 of IPC against the above named accused persons and the same were read over and explained to them in Hindi on 12.09.2023 to which they pleaded not guilty and claimed trial. Accordingly, the case was fixed for prosecution evidence.

6. To substantiate its case, the prosecution has examined altogether four (04) witnesses. The brief description, serial number, name of witnesses etc. are being produced here for easy reference. The prosecution has produced following evidence:-

A) ORAL EVIDENCE

Sl. No.	Name	Type	Date of examination
PW-1	Md. Jamal Uddin	Informant/ Injured	02.05.2025
PW-2	Md. Bablu	Injured	02.05.2025
PW-3	Md. Islam	Other Witness	03.06.2025
PW-4	Md. Jubair	Other Witness	03.06.2025

B) DOCUMENTARY EVIDENCE

Sl. No.	Description of Document	Date of Admission	With or Without Objection
P1/PW-1	Signature of Informant on the written application	02.05.2025	Without Objection

7. Thereafter, no other witnesses were examined by the prosecution and prosecution evidence was closed on 16.03.2026. The statements of the above named accused persons were recorded on 20.05.2026, U/S 313 Cr.P.C and all the incriminating evidences had been put to them in their vernacular language to which they stated that they have been

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falsely implicated in the present case and are innocent and on 20.05.2026, the defence evidence was closed on the prayer of the Ld. defence counsel. Accused persons have not produced any oral or documentary evidence in support of their defense.

POINT FOR DETERMINATION

8. The point for determination before this court is that whether the prosecution has been able to prove its case beyond the shadow of reasonable doubts against the accused persons or not?

APPRECIATION OF EVIDENCE

9. Now, this court shall discuss all the evidence available on the records in the light of charges levelled against the accused persons.

10. A brief scrutiny of the evidence recorded in the matter is as under: -

(i) **PW-1 Md. Jamal Uddin is the informant/ injured of this case**, has stated in his examination-in-chief that the incident occurred in year 2021 at about 08:00 P.M. and that time he was going to Kamat after dinner. During the same he noticed a commotion at the door. After that he went there and saw that Karim and one other boy were fighting, then he started explaining to Karim why they are fighting, then Karim hit on his head with sickle and injured him. When his brother namely Bablu spoke, he also hit him with sickle. Thereafter, they consulted a local doctor, after that they treated at the Primary Health Center, Kodha. The written application given in the police station is in his writing and signature, which he identified, which is marked as Exhibit-P1/PW-1. He identified accused Md. Kare and claim to identify other accused by sight (Para-1&2). During the course of cross-examination done on behalf of defence, this witness has stated that there was a stampede in the village and during the same he was fell down. He was hurt by hit with brick. No one assaulted him. There was a fight over the road and now solved the same. The matter has been compromised between the both parties. Now he has to contested the case. He has no objection, if the case has been disposed off. He has put his signature on the compromised petition. The accused persons are his villager/uncle so identified them.

(ii) **PW-2 Md. Bablu is injured of this case** has stated in his examination-in-chief that the incident occurred in year 2021 at about 08:00 P.M. and that time he and his brother were going from home to Kamat. Meanwhile, we saw a commotion and asked Karim, why he was making it, on this he assaulted to him and his brother and sustained injury. Thereafter they went to Kodha Hospital and treated. He identified accused Md. Kare and claim to identify other accused by sight (Para-1&2). During the course of cross-examination done on behalf of defence, this witness has stated that there was a stampede in the village and he doesn't know who assaulted whom. The accused is his uncle, so identified

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him. He has given testimony voluntarily. There was a stampede over the road and now the matter solved. Now, reconciled between the both parties (Para-3 to 7).

(iii) **PW-3 Md. Islam** has stated in his examination-in-chief that he has no knowledge about the occurrence. The police has not recorded his statement. On the request of prosecution, this witness has been declared hostile.

(iv) **PW-4 Md. Jubair** has stated in his examination-in-chief that he has no knowledge about the occurrence. The police has not recorded his statement. On the request of prosecution, this witness has been declared hostile.

ARGUMENT OF RIVAL CONTENDERS

11. BY PROSECUTION: -

On the other hand, the Ld. Addl. P.P. for the State argued that the prosecution, through the evidence adduced, has been able to prove the case beyond reasonable doubt and therefore, the accused persons are liable to be convicted and sentenced accordingly.

12. BY DEFENCE: -

The learned counsel arguing for the accused persons, submitted that the whole prosecution story to be false & concocted one. The Ld. Counsel submitted that all the witnesses examined by the prosecution have not supported the prosecution story. It is argued further that basically this is a case of no evidence, accordingly, it is prayed by the Ld. Counsel that the accused persons deserve kind consideration of acquittal from the charges leveled against them.

DECISION AND REASON FOR THE DECISION

13. Having heard the arguments advanced by Ld. Addl. P.P. for State as well as the Ld. Counsel for accused persons and have meticulously perused the materials available on the case record.

14. Before going through the case and appreciating the evidence on record, I would like to state that, it is settled proposition of criminal law that the prosecution is supposed to prove its case on judicial file beyond the shadow of all reasonable doubt by leading reliable, cogent and convincing evidences and any such doubt in the prosecution story entitle the accused person to acquittal.

15. Further to prove its case on judicial files prosecution is supposed to stand on its own leg and it can't drive any benefit whatsoever from the weakness, if any, in the defence of the accused person.

16. In a criminal trial, the burden of proving everything essential to the establishment of the charge against an accused always rests on the prosecution and there is a presumption

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of innocence in favour of the accused until the contrary is proved. Criminality is not to be presumed, subject to some statutory exceptions.

17. Now, the case in hand, altogether four (04) prosecution witnesses have been examined in this case. Although, the informant namely Md. Jamal is stated in written application is that on 17.05.2021 at about 09:30 P.M., he and his brother namely Md. Bablu were going to Kamat. On the way the accused persons assaulted and injured them. But from perusal of the evidence of this witness PW-1, has stated in his examination-in-chief that the incident occurred in year 2021 at about 08:00 P.M. and that time he was going to Kamat. On the way he noticed a commotion at the door. After that he went there and saw that Karim and one other boy were fighting, then he started explaining to Karim why they are fighting, then Karim hit on his head with sickle and injured him. When his brother namely Bablu spoke, he also hit him with sickle. They treated at the Primary Health Center, Kodha. The written application given in the police station is in his writing and signature, which he identified, which is marked as Exhibit-P1/PW-1. He identified accused Md. Kare and claim to identify other accused by sight. During the course of cross-examination done on behalf of defence, this witness has stated that there was a stampede in the village and during the same he was fell down. He was hurt by hit with brick. No one assaulted him. The accused persons are his villager/uncle so identified them. Thus, according to his cross-examination statement, his statement is contradictory. PW-2 Md. Bablu is injured of this case has stated in his examination-in-chief that the incident occurred in year 2021 at about 08:00 P.M. and that time he and his brother were going from home to Kamat. Meanwhile, they saw a commotion and asked Karim, why he was making it, on this he assaulted to him and his brother and sustained injury. Thereafter they went to Kodha Hospital and treated. He identified accused Md. Kare and claim to identify other accused by sight. During the course of cross-examination done on behalf of defence, this witness has stated that there was a stampede in the village and he doesn't know, who assaulted whom. The accused is his uncle, so identified him. There was a stampede over the road and now the matter solved. Thus, according to his cross-examination statement, his statement is contradictory. PW-3 and PW-4, it appears that these witnesses have not supported the case of prosecution and have turned hostile. Hence, it is obvious that these witnesses including informant/injured have not supported the case and their statement is proved contradictory. Moreover, Medical Officer as well as the Investigating Officer of this case have not been produced and examined by the prosecution, the reason best known to the prosecution. The non-examination of the Medical Officer and the Investigating Officer have become fatal for the case of the prosecution. Hence, it is obvious that the prosecution has not been able to establish the case against the above named accused persons beyond the shadow of reasonable doubts as the prosecution witnesses have not supported the case of the prosecution.

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18. It is a settled principle of criminal law that the prosecution is supposed to prove its case on judicial file and the burden of proof in the criminal trial lies throughout upon the prosecution which never shifts.

CONCLUSION

19. On the basis of discussions made above and keeping in mind the entire prosecution evidence, I find and hold that the prosecution has not been able to prove the charges lev-
elled U/S 307, 341, 504, 323, 325, 506/34 of IPC against the above named accused persons
beyond the shadow of reasonable doubts. Hereinafter, order is passed.

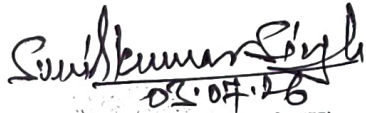
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03.07.26

20. Therefore, the accused persons namely (1) Md. Kare (2) Md. Shamser @ Barku (3) Md. Tainu (4) Dukhan @ Md. Dhukhu (5) Md. Israfil (6) Md. Sanju @ Md. Sanjul (7) Md. Mojahid @ Md. Mojahir and (8) Md. Jamsed @ Chhotu @ Md. Jamsher are hereby acquitted from the charges of the offences punishable U/S 307, 341, 504, 323, 325, 506/34 of IPC. Accused are on bail, as such, they and their sureties are discharged from the liabilities of their respective bail bonds.

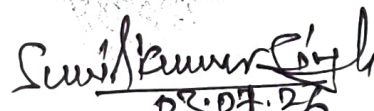
21. File be consigned to Record Room after due recall of process; issued if any; and re-
turn of original Documents; if any; to the parties and seized article if any; be disposed
off as per rule.

Dated: The 03rd day of July, 2026


(Sunil Kumar Singh-III)
Distt. & Addl. Sessions Judge-III,
Civil Court, Katihar

This judgment has been written, corrected, signed, sealed, dated and pronounced by me in open court today i.e., on 03.07.2026.

Dated: The 03rd day of July, 2026


(Sunil Kumar Singh-III)
Distt. & Addl. Sessions Judge-III,
Civil Court, Katihar

FORM C

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

EVIDENCE ON BEHALF OF PROSECUTION

A) ORAL EVIDENCE

Sl. No.	Name	Type	Date of examination
PW-1	Md. Jamal Uddin	Informant/ Injured	02.05.2025
PW-2	Md. Bablu	Injured	02.05.2025
PW-3	Md. Islam	Other Witness	03.06.2025
PW-4	Md. Jubair	Other Witness	03.06.2025

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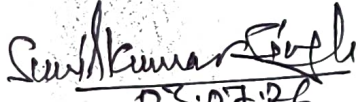
B) DOCUMENTARY EVIDENCE

Sl. No.	Description of Document	Date of Admission	With or Without Objection
P1/PW-1	Signature of Informant on the written application	02.05.2025	Without Objection

EVIDENCE ON BEHALF OF DEFENCE

Accused persons have not adduced either any oral or documentary evidence in support of their defence.

Dated: The 03rd day of July, 2026


(Sunil Kumar Singh-III)
Distt. & Addl. Sessions Judge-III,
Civil Court, Katihar

Date of Judgment/ Order	03.07.2026
Date of Reserving Judgment/ Order	20.06.2026
Uploading Date	
Uploaded by	