

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- 15th Day of May 2026]

Sessions Trial Case No. 133/2019

(Arising out of Abadpur P.S. Case No. 50/2018)

U/S 307, 392 & 504 r/w 34 of IPC

PROSECUTION	State of Bihar Through: Md. Manjar Alam – Informant
REPRESENTED BY	<u>Ld. A.P.P. Shri P. N. Singh</u>
ACCUSED	1. Md. Henglu @ Henglu , S/O-Md. Neharul, Aged 31 Years, R/O-Village-Satua, PS- Abadpur, District-Katihar, Bihar, [A-1] 2. Md. Neharul , S/O-Maula Baksh, Aged 56 Years, R/O-Village-Satua, PS-Abadpur, District-Katihar, Bihar, [A-2] 3. Dukho Khatoon , W/O-Md. Neharul, Aged 50 Years, R/O-Village-Satua, PS-Abadpur, District-Katihar, Bihar, [A-3]
REPRESENTED BY	<u>Ld. Adv. Md. Mujahidul Islam</u>

15.05.26

FORM B

Date of Offence	24.04.2018
Date of FIR	04.05.2018
Date of Charge-sheet	24.12.2018
Date of Cognizance	24.01.2019
Date of Framing of Charges	17.06.2019

Date of commencement of prosecution evidence	23.07.2019
Prosecution evidence closed	17.10.2025
Date of recording Statement U/Sec 313 of Cr.P.C.	13.11.2025
Date of commencement of defense evidence	12.12.2025
Defense evidence closed	09.02.2026
Date on which judgment is reserved	08.05.2026
Date on which Judgment is Pronounced	15.05.2026
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 with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428 Cr.P.C.
A-1	Md. Henglu @ Henglu	02.08.2018	31.08.2018	U/Sec 307/34, 504 & 392 of IPC	Acquitted	N.A.	N.A.
A-2	Md. Neharul	12.06.2018	12.06.2018	U/Sec 307/34 & 504 of IPC	Acquitted		
A-3	Dukho Khatoon	12.06.2018	12.06.2018	U/Sec 307/34 & 504 of IPC	Acquitted		

JUDGMENT

1. The above-named all the three accused persons namely **Md. Henglu @ Henglu [A-1]**, **Md. Neharul [A-2]** and **Dukha Khatoon [A-3]**, are stand charged for the commission of the offence punishable **under Section 307/34 and 504 of IPC** and is facing trial for the same offence. Apart from it, **Md. Henglu @ Henglu [A-1]**, is separately stand charged for the commission of the offense punishable **under Section 392 of IPC** and is facing trial for the same offense.

FACTUAL BACKGROUND

2. The factual score of the case, according to the fardbeyan of the informant Md. Manjar Alam on 24.04.2018 at 5.00 PM, he went at the house of Md. Neharul to demand his due amount of tractor sale which he had sold to him. On his demand, Md. Neharul started abusing him and in meantime, his family members namely Md. Henglu, Dukho Khatoon, Majbuna Khatoon, Sohagi Khatoon and Anjuma Khatoon, came there and started assaulting with lathi, danda

and rod. He sustained injury at his head and fell down and become senseless. After it, his sister Arvina Khatoon and brother Md. Sajarul came there to save him then they also assaulted them with fists, bamboo and bricks. In course of marpit, Md. Henglu stole Rs 2000/- from his pocket. On hulla, villagers came there and save them and brought at Barsoi Sub-Divisonal for treatment. Hence this FIR has been registered for necessary action.

3. On the basis of the fardbeyan of informant Md. Manjar Alam, Abadpur PS Case No- 50/2018 dated 04.05.2018 has been registered U/Sec 323, 341, 325, 307, 504, 379/34 of IPC against six accused persons. After completion of investigation, police submitted charge-sheet bearing No-184/2018 dated 24.12.2018 U/Sec 323, 325, 341, 307, 504/34 of IPC only against three accused persons namely Md. Henglu @ Henglu, Md. Neharul and Dukho Khatoon showing innocent to the rest accused. Accordingly, Ld. J.M. 1st Class, Katihar, Smt. Jai Shree Kumari, took cognizance U/Sec 323, 325, 341, 307, 504/34 of IPC against the accused persons namely Md. Henglu @ Henglu, Md. Neharul and Dukho Khatcon on 24.01.2019.
4. After completion of appearance of the accused persons, the complete set of police papers were supplied to the accused and then Ld. JM Katihar, committed the case record to the Court of Sessions, Katihar on 23.04.2019 and accordingly Session Trial Case No-133/2019 was instituted and in due course of time, the case record was received to this court by order of the Session Judge, Katihar for trial and disposal in accordance with law.

TRIAL PROCEEDINGS

5. After hearing the rival submissions of both the sides, charge was framed for the offense punishable under Section 307/34 and 504 of IPC, against all the three accused persons namely Md. Henglu @ Henglu [A-1], Md. Neharul [A-2] and Dukha Khatoon [A-3], and the same was read over and explained to them in hindi on 17.06.2019 to which they plead not guilty and claimed for trial. Further, separate charge was framed for the offense punishable under Section 392 of IPC against the accused Md. Henglu @ Henglu [A-1] and the same was read over and explained to him in hindi on 17.06.2019 to which he plead not guilty and claimed for trial.

6. To substantiate its case, the prosecution has examined altogether five [05] 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	Abdul Hai	Other Witness	11.02.2020
PW-2	Hamid	Other Witness	31.05.2024
PW-3	Md. Manjar Alam	Informant/Victim	19.06.2024
PW-4	Dr. Vinay Kumar Singh	Medical Witness	02.07.2024
PW-5	Enamul Haque	Other Witness	07.10.2024

B) DOCUMENTARY EVIDENCE

Sl. No.	Description of Document	Date of Admission	With or Without Objection
Ext. P-1/PW-3	Signature of informant at the fardbeyan	19.06.2024	Without Objection
Ext. P-1/2/PW-3	Signature of Jahrul Haque at the fardbeyan	19.06.2024	Without Objection
Ext. P-1/1/PW-3	Signature of SI Ajay Kr Pandey at the fardbeyan	19.06.2024	Without Objection
Ext. P-2/PW-4	Injury report of Md. Manjar Alam	02.07.2024	Without Objection
Ext. P-3/PW-4	Injury report of Arvina Kha-toon	02.07.2024	Without Objection
Ext. P-4/PW-4	Injury report of Md. Sajarul	02.07.2024	Without Objection

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7. Thereafter, no other witnesses were examined by the prosecution and prosecution evidence was closed on 17.10.2025. The statement of the abovenamed accused was recorded on 13.11.2025, 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 falsely implicated in the present case and are innocent.

8. Accused have not adduced any oral evidence in support of their defense but accused have adduced following documentary evidence in their support.

A. DOCUMENTARY EVIDENCE

Sl. No.	Description of Document	Date of Admission	With or Without Objection
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Ext. A	Certified copy of Abadpur PS Case No-54/2018	12.12.2025	Without Objection
Ext. B	Certified copy of Cognizance order dated 03.10.2018 passed in GR Case No-1798/2018	12.12.2025	Without Objection
Ext. C	Certified copy of Charge-sheet of Abadpur PS case No-54/2018	12.12.2025	Without Objection

POINT FOR DETERMINATION

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

ARGUMENTS OF RIVAL CONTENTENDERS

10. Placing the case before the court, the Ld. Additional PP for the State, during course of his argument has submitted that there are serious allegations against the accused persons. It has been submitted that all the accused persons with pre meeting of minds, assaulted the victims in which three persons have got serious injuries. It has been submitted that all the witnesses including the victims have supported the prosecution story and there is not any serious contradiction in their evidence. Further, doctor has also been examined and he has categorically corroborated the prosecution story. It has been conceded that even after lot of efforts, investigating officer did not turn up but in any way it has no impact upon the prosecution case because his non-examination has not prejudiced the accused in any manner. It has been argued that there is not any contradiction in the statement of the prosecution witnesses and if it is then it is minor in nature and necessary to be ignored. It has been contended that only due to non-examination of investigating officer, rest prosecution evidence which is credible, reliable and truthful, cannot be discarded and thrown aside. Hence submitted that prosecution has proved the charges levelled against the accused persons and prayed to convict them and sentence accordingly.

11. Per contra, the Ld. Defense counsel has submitted that accused persons are innocent and they have not committed any such alleged offense and they

have been implicated falsely in this case. It has been argued that in this case, there are three victims who have allegedly sustained injuries but only one victim i.e. informant, has been adduced before the court in spite of the fact that rest two alleged victims are also belongs to the same family. There is no explanation in this respect on the record. Further doctor has clearly stated that such type of injuries may be caused due to hit with any stone. Apart from the victim, any other eye witness has not been brought before the court. the witnesses adduced are either relative or friend of the informant and there is not any independent witness and so their evidence cannot be believed because they are the interested witness. Further, the investigating officer of this case has not been adduced and due to this reason, accused persons failed to draw contradiction of the earlier statements made by the witnesses before the investigating officer and accused have been prejudiced by this way. Apart from it, there are serious contradictions in the statement of the prosecution witnesses and so they become unreliable. It has been contended that there is nothing on the case record to prove the charges levelled against the accused persons. Hence prayed to acquit them.

DECISION AND REASON FOR THE DECISION

12. Heard the arguments advanced by Ld. Additional PP for the State as well as the Ld. Counsel on behalf of the accused and have meticulously perused the materials available on the case record. Before going through the case and appreciating the evidence on record, I would like to state that it is the settled proposition of criminal law that prosecution is supposed to prove its case on judicial file beyond the shadow of reasonable doubts by leading reliable, cogent and convincing evidence and any such doubt in the prosecution story entitle the accused person to acquittal. To prove its case on judicial files prosecution is supposed to stand on its own leg and it cannot drive any benefit whatsoever from the weakness, if any, in the defense of accused. In a criminal trial, the burden of proving everything essential to establish the charge against an accused always rests on the prosecution and there is presumption of innocence in favor of the accused until the contrary is proved. Criminality is not to be presumed subject to some statutory exceptions.

13. According to the fardbeyan of the informant, on 24.04.2018 at 5.00 PM, he went at the house of Neharul (A-1) to demand his money because he had sold him his tractor but accused started abusing him. On hulla, Henglu (son of Neharul) and Dukho Khatoon (wife of Neharul) also came there and all they started assaulting him with lathi, danda and rod. His head fractured, blood started oozing and he fell down and become senseless. Seeing all this, his sister Arvina Khatoon and brother Sajarul came there and then accused assaulted them with fists, bamboo, and bricks and injured them also. In course of marpit, Hengly stole Rs 2000/- from his pocket. After it, villagers brought them at Sub-Divisional Hospital at Barsoi where they got their treatment.

14. This prosecution story clearly denotes that incident took place on 24.04.2018 at 5.00 PM and at the house of accused because informant had gone there to demand his dues amount. Pw-3 who is informant cum victim has not stated the exact date and time of incident but has stated before the court in his examination in chief that occurrence took place before six years at 5.00 PM. He had gone to demand his money at the house of Neharul because had sold his tractor to him but he assaulted him with rod at his head. Henglu and Dukho had kept him caught there. After he became senseless. After it, his brother and sister came to save him then all accused also assaulted them with lathi danda. His Rs 2000/- has been taken away by Henglu. He has also stated that his treatment was done in Barsoi Hospital. Further, Pw-1 has proved the content of his fardbeyan and identified his signature which has been marked Ext-P-1/Pw-3. He also identified signature of his father made upon the fardbeyan and the same has been marked Ext-P-1/2/Pw-3 and signature of daroga as Ext-P-1/1/Pw-3. He also identified the accused before the court. In his cross examination also, he has stated that it was became dark and things were not visible clearly but Neharul, Henglu and Dukho had beaten him. Neharul had assaulted him and rest had caught him. He has admitted that accused have also lodged case against him in which he is on bail. He has also admitted that accused are his distance aunti and uncle. Apart

from it, this witness has not stated any thing contradictory in his cross examination.

15. Pw-1 has stated that incident happened before two years. At about 5.00 PM, he was coming at chauk from village and then heard hulla at the chauk. He went at the house of Neharul and saw there that Neharul, henglu, Dukho and others quarreling and doing marpit with Anjarul. He again deposed that they were assaulting Manjar and accused had lathi and dang. Henglu assaulted with bamboo at the head. He assaulted with bamboo fattha at the hand of manjar's brother and he sustained injures in his hand and head. In his cross examination, he has stated that he saw Manja in standing condition but he had not any conversation with him. Henglu assaulted at the head of Manjar. Further any contradictory statement has not been made by him.

16. Pw-2 has deposed that incident took place before six years at 5.00 PM. He heard hulla and went there at Satua chauk and saw Majahrul, and Akbar and they were doing marpit near the house of Neharul. Neharul, Henglu, Dukho and Suhagi assaulted Majahrul and Neharul. Henglu assaulted with rod at the head of Neharul and got it fractured. In his cross examination he has deposed that accused have also lodged case against the informant for the same occurrence. he was at the chauk and seen the incident from there.

17. Pw-4 is doctor and he has examined the three victims namely manjar Alam, Arbina Khatoon and MD Sajarul. He examined these victims on 25.04.2018 at Sub-Divisional Hospital, Barsoi. He has found injury over frontal reigon deep sharp skull bone, depressed fracture at the body of Manjar Alam. This injury was found grievous in nature. The rest injuries found at the body of Manjar Alam and other victims have been found simple in nature. In his cross examination, he has deposed that such injuries might be caused due to falling on hard surface.

18. In the present case, though the date and time of incident have not been exactly stated by the prosecution witnesses but it is necessary to keep in mind

that witnesses are illiterate and belongs to rural background and in such situation, exact date and time of incident cannot be expected from them. However, the evidence of doctor shows that he examined these injured persons on 25.04.2018 and time has not been stated by him in his evidence. The injury report of these victims also not discloses that when they were examined by the doctor on 25.04.2018. As per the fardbeyan, the incident took place on 24.04.2018 at 5.00 PM but the fardbeyan of the informant was recorded on 25.04.2018 at 9.00 AM and police issued requisition on 25.04.2018. The requisition of Barsoi police station is also silent that when the victims approached the police on 25.04.2018. formal FIR of this case shows that it has been registered on 04.05.2018. It amounts to delay of ten days. The Investigating officer of this case did not turn up and there is not any explanation on the part of prosecution regarding the inordinate delay in lodging the FIR even after the knowledge of the police. It appears that it might happened due to two reasons. Either delay happened due to fault of the police officials or the incident shown to be happened in back date to counter the opposite party because it is an admitted fact that for the same day incident, both parties have lodged the case and counter case against each other.

19. The genesis of this incident is that informant demanded his dues money of his sold tractor but there is nothing on the record that when he sold the said tractor, in how much price he sold the said tractor, the tractor belongs to which company and how much money was dues upon the accused. In this respect, there is not any single statement of the prosecution witnesses on the record. In such situation, the prosecution has been failed to prove the genesis of the occurrence.

20. Further, Pw-1 has stated that Henglu assaulted with bamboo at the head of Manjar. Pw-2 has stated that Henglu assaulted with rod at the head of Manjar and the victim has stated that Neharul assaulted at his head with rod. Pw-1 and Pw-2 have claimed themselves as eye witness of this case but both have made contradictory statement from the statement of the victim and it shows that actually they have not seen the incident and deposed before the

court on the basis what they heard from others. The investigating officer of this case did not turn up even after all the efforts made by the court and prosecution has not given any explanation that why IO was not adduced. The examination of the IO was necessary because non examination of IO has curtailed the right of the accused to draw his attention regarding the earlier statement of the witnesses made before him and thus it amounts to denial of fair trial which is the foundation of the criminal justice system.

21. Moreover, as per the case of prosecution, there are three victims in this case who have allegedly sustained injuries i.e is Manjar Alam, Arbina Khatoon and Md. Sajarul. However, only Manjar Alam turned up before the court. It is an admitted fact that rest two victims are also belongs to the family of the informant Manjar Alam and they had full knowledge of this case but in spite of this fact, they did not turn up and there is not any justified explanation on the part of prosecution for their non production before the court.

22. It is settled proposition of criminal law that prosecution has to prove its case on the judicial file beyond reasonable doubts and any such doubt in the prosecution story entitle the accused to acquittal. It is cardinal principle of jurisprudence that the criminal law can never work on mere conjecture and surmises or suspicion. This is a principle of jurisprudence that the prosecution has to stand on its own legs and it doesn't gain any strength from the weakness of the defense. The prosecution has to prove each and every ingredient of the offence against the accused persons and this general burden never shifts, unless provided by the statute as such. The prosecution case may be true but the criminal jurisprudence says that the prosecution case must be true and there is long mental gap between may be true and must be true. The prosecution has to prove the guilt of the accused beyond all reasonable doubts by adducing positive cogent evidence and not by mere raising suspicion on his conduct as such. The presumption of innocence and the right to fair trial are twin safeguards available to the accused under our criminal justice system. The prosecution has to prove its case by leading evidence in con-

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junction with the chain of events as are stated to have occurred and this evidence must point irresistibly to the conclusion that the accused is guilty. The seriousness of the offence also requires much stricter proof.

23. In the present case, delay in lodging the FIR, non-production of two victims and investigating officer, non-disclosure of victims examinations timing by the doctor, contradictory statement of witnesses and absence of any eye witness except the informant, have cumulatively cast serious doubts upon the prosecution story.

CONCLUSION

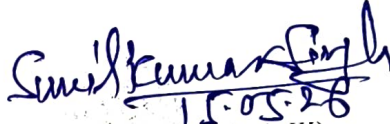
24. On the basis of discussions made above and keeping in mind the entire prosecution evidence, I find and hold that the prosecution has not been able to prove the charges levelled against the accused persons beyond the shadow of reasonable doubts. Hereinafter, order is passed.

ORDERED

25. Therefore, all the three accused persons namely Md. Henglu @ Henglu [A-1], Md. Neharul [A-2] and Dukha Khatoon [A-3] are hereby acquitted from the charge of the offence punishable under Section 307/34 and 504 of Indian Penal Code. Further, accused Md. Henglu @ Henglu [A-1] is also hereby acquitted from the charge of the offense punishable under Section 392 of Indian Penal Code. All the three accused are already on bail. Hence, their sureties are hereby discharged from their respective bail-bonds.

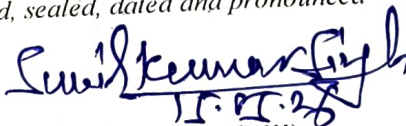
26. File be consigned to Record Room after due recall of process; issued if any; and return of original Documents; if any; to the parties and seized article if any; be disposed of as per rule.

Dated: The 15th Day of May 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 15.05.2026.

Dated: The 15th Day of May 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	Abdul Hai	Other Witness	11.02.2020
PW-2	Hamid	Other Witness	31.05.2024
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B) DOCUMENTARY EVIDENCE

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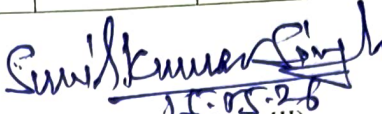
EVIDENCE ON BEHALF OF DEFENCE

Accused persons has not adduced any oral evidence in support of his defense but have adduced following documentary evidence.

A.

Sl. No.	Description of Document	Date of Admission	With or Without Objection
Ext. A	Certified copy of Abadpur PS Case No-54/2018	12.12.2025	Without Objection
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(Sunil Kumar Singh-III)
Distt. & Addl. Sessions Judge-III,
Civil Court, Katihar

Dated: The 15th Day of May 2026

Date of Judgement/Order	15.05.2026
Date of Reserving Judgement/Order	08.05.2026
Uploading Date	
Uploaded By	