

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- 7th Day of July 2026]

[Sessions Trial No. 283/2014]

CIS NO.10283/2014

(Arising out of Amdabad P.S. Case No. 212/12)

U/S 307, 341, 323, 427, 504, 506 of IPC

PROSECUTION	State of Bihar Through: Biwi Jaigun – Informant
REPRESENTED BY	Ld. A.P.P. Shri P.N. Singh
ACCUSED	1. Md. Nafis, aged about 31 years, S/O- Md. Yasin [A-1] 2. Bibi Bholi Khatoon @ Mosamat Bholiya, aged about 59 years, W/O- Late Yasin [A-2] Both are R/O Vill–Paharpur, P.S.–Amdabad, Dist–Katihar, Bihar
REPRESENTED BY	Ld. Adv. Md. S.K. Khalid

FORM B

Date of Offence	11.11.2012
Date of FIR	11.11.2012
Date of Charge-sheet	31.12.2013
Date of Cognizance	06.01.2014
Date of Framing of Charges	07.11.2014
Date of commencement of prosecution evidence	08.12.2014
Prosecution evidence closed	01.07.2025
Date of recording Statement U/Sec 313 of Cr.P.C.	23.07.2025
Date of commencement of defense evidence	31.07.2025
Defense evidence closed	10.10.2025
Date on which judgment is reserved	29.06.2026
Date on which Judgment is Pronounced	07.07.2026
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 Detention Under- gone dur- ing Trial for pur- pose of section 428 Cr.P.C.
A-1	Md. Nafis	07.11.2013	30.05.2014	307, 341, 323, 427, 504, 506 of IPC	Acquitted	N.A.	N.A.
A-2	Bibi Bholi Kha- toon @ Maso- mat Bholiya	31.05.2013	31.05.2013	307, 341, 323, 427, 504, 506 of IPC	Acquitted	-DO-	-DO-

JUDGMENT

1. The abovenamed accused persons namely (1) Md. Nafis, and (2) Bibi Bholi Khattoon @ Masomat Bholiya are charged for the commission of the offences punishable U/Sec 307, 323, 341, 427, 504 & 506 of IPC and they are facing trial for the said offences.

FACTUAL BACKGROUND

2. The case of the prosecution as per written complaint, the informant, Bibi Jaigun, a resident of Paharpur, Amdabad, Katihar, in brief is that on 11.11.2012 at about 11:00 AM, Md. Nafis, Md. Sabbir, and Md. Fuddu were illegally digging soil from land adjacent to her house and they also dug up the soil of her verandah and demolished her boundary wall. When her husband, Kasim, objected to the digging and asked them to stop, the accused persons became angry and started abusing him. During the altercation, Nafis allegedly struck Kasim on the head with a spade, causing a serious injury. When the informant and other family members tried to intervene, the accused persons also assaulted them. As a result, Kasim sustained injuries on his head, eyes, and nose. Hence, the present case.

3. On the basis of the written report of the informant, Amdabad P.S. Case No. 212/12 dated 11.11.12 was instituted against the abovenamed four accused persons namely Md. Nafis, Md. Sabbir, Md. Fuddu and Bibi Bholi, for the offences punishable U/S 341, 323, 307, 427, 504, 506/34 of the I.P.C. and upon completion of investigation, the charge-sheet bearing No. 170/2013 dated 31.12.2013 was submitted on 06.01.2014 against all the abovenamed four accused persons. The case record of two accused persons namely Md. Sabbir and Md. Fuddu was split up and send to JJB, Katihar for inquiry and disposal since they were juvenile vide order dated 23.11.2012. Subsequently, cognizance of the offence punishable U/S 341, 323, 307, 427, 504, 506/34 of the I.P.C. was taken on 06.01.2014 by the court of Ld. C.J.M., Katihar against the abovenamed 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. C.J.M., Katihar, committed the case record to the Court of Sessions, Katihar on 10.07.2014 and accordingly, Sessions Trial Case No. 283/2014 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, 323, 341, 427, 504 & 506 of IPC against the abovenamed two accused persons namely (1) **Md. Nafis**, and (2) **Bibi Bholi Khatoon @ Masomat Bholiya** and the same were read over and explained to them in Hindi on 07.11.2014 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 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	Md. Faruque	Other Witness	09.05.2016
PW-2	Rashmi Khatoon	Other Witness	26.04.2018
PW-3	Sheikh Najim	Other Witness	17.06.2019
PW-4	Bibi Jaigun Khatoon	Informant	23.10.2021
PW-5	Qasim	Other Witness	14.08.2023

B) DOCUMENTARY EVIDENCE

Sl. No.	Description of Document	Date of Admission	With or Without Objection
Ext-1/Pw-1	Signature of Md. Faruque on written report	09.05.2016	Without Objection

7. Thereafter, no other witnesses were examined by the prosecution and prosecution evidence was closed on 01.07.2025. The statements of the abovenamed accused persons were recorded on 23.07.2025, 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 and on 10.10.2025, the defense evidence was closed on the prayer of the Ld. defense 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. Faruque** has stated in his examination in chief that incident took place of 12.10.2012 at 11.00 AM. At that time, he was at his home and in meantime, quarrel took place between Md. Nafis with Qasim and when his father objected the accused digging his land then Nafis assaulted his father at his head with spade and injured him. On hulla, he went at the spot and after it went to the police station along with the witnesses. His father was send to Siliguri for treatment where he is getting it. The incident was also seen by Reshmi and Ladli. This case was registered by her mother on which there is his signature and he identified it and the same has been marked Ext-1/Pw-1. He has stated that police recorded his statement and inspected the PO. He also identified the accused before the court.

(ii) **PW-2 Rashmi Khatoon** has stated in his examination-in-chief that on 11.11.2012 at about 11:00 a.m., Nafis was digging soil adjacent to the informant's father's house. When the informant's father, Mohammad Kasim, objected and requested him not to dig so close as it could cause the house to collapse, Nafis and his associates became enraged. Thereafter, Nafis, Jabir, Maddu and Bholi jointly assaulted Mohammad Kasim, and Nafis struck him on the head with a spade, causing a bleeding injury. When the informant and her mother tried to rescue him, the accused also assaulted her mother with fists and blows. On hearing the informant's alarm, villagers gathered at the spot, whereupon the accused persons fled away. The injured was first taken to Amdabad Police Station and thereafter referred to Amdabad Hospital, Katihar Hospital and finally to Siliguri for medical treatment. During the course of investigation, the police recorded the informant's statement.

(iii) **PW-3 Sheikh Najim** has stated in his examination-in-chief that the occurrence took place about six and a quarter years ago. On that day, a quarrel and assault took place between Kasim and Mithun regarding a land dispute. Kasim sustained an injury on his forehead and thereafter went to the police station. The police arrived later. The witness further stated that he had not given any statement to the police. He identified the accused Bhaujiya present in the court and stated that he would be able to identify the other accused person if produced before the court.

(iv) **PW-4 Bibi Jaigun Khatoon** is the informant/complainant of this case and she has stated that the occurrence took place about ten years ago at around 11:00 a.m. She had

instituted the present case against Md. Nafis, Md. Rafiq, Md. Faddu and Bholi. According to her, Nafis dug up the wall adjoining her house. When her husband, Kasim, went to restrain him, all four accused persons started abusing him. Thereafter, Nafis struck her husband on the left side of his head with a spade, causing bleeding. When she and her daughter, Reshmi, went to rescue him, all the accused persons assaulted them as well. She and her daughter were beaten with fists and slaps, while her husband was assaulted with fists on his mouth, eyes and nose. Thereafter, she took her husband to the police station, from where they were referred to Katihar Sadar Hospital, and subsequently her husband was sent to Siliguri for treatment. She further stated that the police had written her written application, which she signed by affixing her thumb impression after it, it was read over and explained to her. She further deposed that her husband remained admitted in a hospital at Siliguri for about ten days after the occurrence. The police visited the place of occurrence, inspected it, and collected blood-stained material from there. In court, she identified accused Bholi, who was present, and stated that she could identify the other accused persons if shown to her.

(v) PW-5 Qasim has stated that the occurrence had taken place about ten years ago at around 9:00–10:00 a.m. Soil was being excavated on a piece of residential land, and when they objected to the excavation, an altercation ensued between the two sides regarding the same. He further stated that the present case had been instituted by his wife. The witness deposed that when the dispute was going on, he went there to intervene and pacify the matter. In the process, he accidentally fell down, due to which he sustained an injury on his forehead and his forehead was cut open. He categorically stated that no one had assaulted him. Thereafter, he went to Amdabad Hospital where he received treatment. He further stated that the police had visited the place of occurrence after the incident. However, he did not give any statement to the police.

ARGUMENT OF RIVAL CONTENDERS

11. BY PROSECUTION:-

The Ld. APP on behalf of the State has argued that there are serious allegations against the accused persons and they have committed serious offense. It has been argued that all the prosecution witnesses have supported the case of prosecution except the victim. It appears that victim of this case has been gained over and due to this reason, he did not support the prosecution version. It has been contended that rest witnesses are consistent and have corroborated and supported the case of the prosecution. It has also been submitted that doctor and investigating officer did not turn up even after lot of efforts and in such situation, there are other reliable evidence available on the record is required to be considered. Placing the case before the court, the Ld. Addl. P.P. for the State during the course of his argument has submitted that the prosecution by way of his evidence and arguments, has been able to duly prove the case and therefore, the accused persons be convicted and

sentenced accordingly.

12. BY DEFENCE: -

Per contra, the Ld. Counsel on behalf of the accused has argued that accused persons are innocent and have been falsely implicated due to land dispute and actually any such alleged occurrence did not happen. The prosecution case is completely false and concocted one. It has been argued that most important witness i.e. victim, has himself admitted before the court that no one assaulted him and he sustained injury due to falling on the ground. If he himself admits this fact then how other witnesses can say that he was assaulted by the accused persons. In such situation, the evidence of rest witnesses is not reliable and cannot be believed at all. It has been further contended that prosecution has neither brought the doctor who examined the victim nor any injury report has been proved. It has been submitted that accused are facing trial since twelve years and even after lot of processes issued against the IO and doctor, they did not turn up and prosecution has no explanation that why it happened so. 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.

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07.07.26

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 persons 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 persons.

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

17. According to written report of the informant, on 11.11.2012 at about 11.00 AM, all the accused persons started digging the soil adjacent to her house and dug the soil of her baramda and broken her wall. On this, her husband came and objected and then accused abused and did marpit with her husband. This is general allegation upon all the accused persons. Further, there is specific allegation upon the accused Md. Nafis that he assaulted with spade upon the head of the husband (Md.Qasim) of the informant and he sustained

serious injuries and his treatment was done from Sadar Hospital, Katihar to Siliguri. It is important to mention here that in the present case, neither doctor has been examined nor injury report has been proved before the court. Since, Md. Qasim is the main victim who sustained head injuries as per the prosecution story so his evidence is most important in the present case. Md. Qasim has been examined as Pw-5 and in his examination in chief, he has stated that incident took place before ten year at about 9-10 AM. Soil was being dug and they objected and due to this reason, hot-talk took place between both the parties. He has stated further, that this case has been filed by her wife. He has deposed that when hot-talk was going on there then he went to pacify the matter but himself fall down and sustained injuries in his head. He has categorically stated that no one assaulted him. After that he went at Amdabad Hospital. Police came after the incident but he did not give his statement. Ultimately, this witness has been declared hostile to the case of prosecution. The IO of this case did not turn up and due to this reason attention could not be drawn that whether his statement was recorded by the police are not. In his cross examination, done on behalf of the defense, he has stated that he identified the accused Bholi Khatun because she is his villager and admitted again that no one assaulted him rather he sustained injuries due to falling on the ground. It is pertinent to mention here that in any case, the person who sustains injury becomes the most important witness and if he denies any assault with him then no one other can say that he was assaulted.

07.07.26

18. Bibi Jaigun Khatun i.e. informant, has been examined as Pw-4 and she has supported the case of prosecution but she has put her thumb impression on the written report and has not proved the content of the FIR. In her examination in chief, she has stated that Md. Nafis assaulted her husband at his head with spade but her husband himself denied this fact and this amount to major contradiction. Moreover, Pw-4 was recalled for her cross examination and she categorically stated that police did not record her statement and her husband sustained injuries due to falling on the bricks and no one assaulted him. Finally, Pw-4 has also admitted the version of the victim that he sustained injuries due to falling down. Pw-3 has stated that there became marpit before six years between Qasim and Mithun due to land dispute and Qasim sustained head injury but he did not give any statement to police. However, he has admitted in his cross examination that he did not see the incident and cannot say that who assaulted Qasim. It means, he is a hearsay witness and has stated whatever he heard from others but he had not even stated the name of the person from whom he heard about the incident.

19. Pw-2 is daughter of the informant and alleged victim and she has supported the case of prosecution and specifically stated that Md. Nafis assaulted at the head of her father with spade and he sustained head injury. She has also stated about the treatment done with respect to the alleged injury but when she was recalled for her cross examination then she deposed that at the time of the incident, she was in her matrimonial house and her mother informed her about the incident on phone. Her statement was also not recorded before the

police. She has stated further that she cannot say that who assaulted her father and how he sustained injury and her mother told that he sustained injury due to falling on the ground and no one assaulted her. It means she has completely contradicted her statement made in her examination in chief and supported the version of the victim that he sustained injury due to falling on the ground.

20. Pw-1 is son of the informant and he has supported the case of the prosecution in his examination in chief but on recall for his cross examination, he has stated that his statement was not recorded before the police and both the parties have compromised the case and so he did not want to proceed further. Thus, Pw-1 has not contradicted his statement made in his examination in chief but he has stated new fact of compromise before the court though other witnesses have not stated about any compromise taken place between the parties. It is necessary to clarify here that offense of Sec 307 is not compoundable and so no compromise can take place. moreover, only victim has right to compromise but he did not say any single word regarding the fact of any compromise taken place between the parties and so this fact will not be considered by the court and case will be decided only on merit.

07.07.26
21. The victim of this case himself has not supported the allegation of being assaulted by the accused persons. He also denied regarding his statement recorded by the police. Further, Pw-2, Pw-3 and Pw-4 have also stated in their cross examination, that their statement was not recorded by the police. In such facts and circumstances, the examination of investigating officer was very much necessary with a view to draw attention of the earlier statement made by these witnesses before the IO but neither IO was produced nor any explanation was given that why he was not produced. Like this, neither doctor has been brought before the court nor injury report has been proved. Apart from it, most important witness i.e. victim, has been declared hostile to the case of prosecution and there are major contradiction in statement of the rest of witnesses with respect to examination in chief and cross examination. Except, Pw-1, all the rest witnesses have admitted the fact that accused did not assault the victim rather he sustained injury due to falling on the ground. Hence, the case of the prosecution fails on merit.

22. 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

23. 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 U/S 307, 323, 341, 427, 504 & 506 of IPC against the accused persons namely (1) Md.

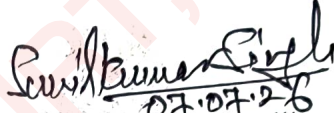
Nafis, and (2) Bibi Bholi Khatoon @ Masomat Bholiya beyond the shadow of reasonable doubts. Hereinafter, order is passed.

ORDERED

24. Therefore, the accused persons namely (1) Md. Nafis, and (2) Bibi Bholi Khatoon @ Masomat Bholiya are hereby **acquitted** from the charges of the offences punishable U/S 307, 323, 341, 427, 504 & 506 of IPC. Accused persons are on bail, as such, they and their sureties are discharged from the liabilities of their respective bail bonds.

25. 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 off as per rule.

Dated: The 7th day of July, 2026


07.07.26
(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 07.07.2026.

Dated: The 7th day of July 2026


07.07.26
(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. Faruque	Other Witness	09.05.2016
PW-2	Rashmi Khatoon	Other Witness	26.04.2018
PW-3	Sheikh Najim	Other Witness	17.06.2019
PW-4	Bibi Jaigun Khatoon	Informant	23.10.2021
PW-5	Qasim	Other Witness	14.07.2023

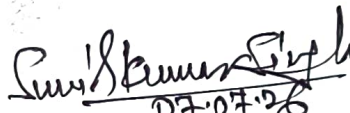
B) DOCUMENTARY EVIDENCE

Sl. No.	Description of Document	Date of Admission	With or Without Objection
Ext-1/Pw-1	Signature of Md. Faruque on written report	09.05.2016	Without Objection

EVIDENCE ON BEHALF OF DEFENCE

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

Dated: The 7th day of July, 2026


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

Date of Judgment/ Order	07.07.2026
Date of Reserving Judgment/ Order	29.06.2026
Uploading Date	
Uploaded by	