

IN THE COURT OF ADDL. SESSIONS JUDGE-II, KATIHAR	
Present:- Asutosh Rai, Addl. Sessions Judge, II, Katihar	
[Date of judgment- 01th June, 2026]	
[S. Trial No. 14/2013]	
Barari P.S. case No.-65/2010 F.I.R. u/s 147, 48, 149, 323, 324, 307 of the I.P.C.	
Complainant/ Informant	State of Bihar through informant namely Atabur Rahman, S/O- Adul Rauf, R/O-Vill- Nauwadih P.S.-Barari, Distt.-Katihar
Represented By	Sri Md. Ezaj Alam Id. A.P.P.
Accused	1. Soharab Ali, S/o- Late Wayujuddin, aged about 61 years,R/o- Balughat, P.S.-Barari (Semapur), Distt.-Katihar 2. Md. Hussain @ Hero, S/o- Md. Islam, aged about 45 years,R/o- Balughat, P.S.-Barari (Semapur), Distt.-Katihar 3. Rustam Ali, S/o- Late Wayujuddin, aged about 55 years, R/o- Balughat, P.S.-Barari (Semapur), Distt.-Katihar 4. Abdul Rasid @ Rafique, S/o- Late Wayujuddin, aged about 50 years, R/o- Balughat, P.S.-Barari (Semapur), Distt.-Katihar 5. Md. Wasim, S/o- Rustam Ali, aged about 38 years, R/o- Balughat, P.S.-Barari (Semapur), Distt.-Katihar 6. Md. Saddam, S/o- Sohrab Ali, aged about 34 years,R/o- Balughat, P.S.-Barari (Semapur), Distt.-Katihar 7. Md. Rafique, S/o- Md. Islam, aged about 57 years, R/o- Balughat, P.S.-Barari (Semapur), Distt.-Katihar
Represented By	For defense : Sri S. K. Jha & Md. S. Rahman, Id. Advocate

Date of Offence	27-05-2010
Date of F.I.R.	27-05-2010
Date of Charge-sheet	30-09-2010
Date of Framing of Charge	23-05-2013

<i>Date of Commencement of evidence</i>	27-04-2018
<i>Date of which judgment is reserved</i>	23-05-2026
<i>Date of Judgment</i>	01-06-2026
<i>Date of Sentencing Order, if any</i>	N/A

Accused Details

<i>Ran k</i>	<i>Name of Accused</i>	<i>Date of Arrest/ Surrender</i>	<i>Date of Release on Bail</i>	<i>Offences Charged with</i>	<i>Whether Acquitte d or Convict ed</i>	<i>Senten ce Impos ed</i>	<i>Period of Detention Undergone during Trial for purpose of section 428 of Cr.P.C.</i>
01	Soharab Ali	16-09- 2010	16-09- 2010	Charges u/s- 325/149, 323/149, 307/149, 147/149, 148/149 of the I.P.C.	Acquitte d	N/A	N/A
02	Md. Hussain @ Hero	16-08- 2010	16-08- 2010	DO	DO	DO	DO
03	Rustam Ali	16-08- 2010	16-08- 2010	DO	DO	DO	DO
04	Abdul Rasid @ Rafique	16-09- 2010	16-09- 2010	DO	DO	DO	DO
05	Md. Wasim	16-08- 2010	16-08- 2010	DO	DO	DO	DO
06	Md. Saddam	16-08- 2010	16-08- 2010	DO	DO	DO	DO
07	Md. Rafique	16-08- 2010	16-08- 2010	DO	DO	DO	DO

JUDGMENT

1. The accused persons namely Soharab Ali, Md. Hussain @ Hero, Rustam Ali, Abdul Rasid @ Rafique, Md. Wasim, Md. Saddam and Md. Rafique and stand charged for the offences punishable U/S- 325/149, 323/149, 307/149, 147/149, 148/149 of the I.P.C. as leveled against them.

CASE OF PROSECUTION/BRIEF FACTS

2. As per fard-e-beyan of informant namely Atabur Rahman prosecution case in brief is that aforesaid informant gave his fard-e-beyan on 27-05-2010 at about 16;30 O'clock to the police-officer Barari to this effect that his grandfather, late Md. Junab Aali, has agricultural land in Mauja-Kantnagar. Informant has further alleged that near about 10 to 15 years ago said land lost into Ganga river due to dilluvion but 04 to 05 years ago said land re-emerged through alluvion, in which there were bushes. But he and his family members removed the said bushes from said land and thereby said land was made suitable for agricultural purpose and said land was being cultivated by them from 4 to 5 years. But at the time of harvesting wheat crops his other co-sharer namely Soharab, Rustam and rafique. Then he told that land which is situated just adjacent will fall in theirs share. They have made this land suitable for agriculture they will not give any share in it. Then at around 11:00 O'clock in day Sohrab Ali, Rustam Ali, Abdul Rasheed @ Rafiq, Md. Waris, Md. Saddam Hussain Md. Rafiq and Md. Hussain @ Hiro, came at his land to cultivate the said land forcibly. When he and his family members forbade them to plough the said land then Abdul Rasheed @ Rafiq gave blow of lathi on his hand and leg thereby got him injured and Soharab Ali gave blow of spade on the head of Sariful with view to take his life away thereby got him injured and other accused persons brutally assaulted to the Md. Riyaz, Md. Sameed, Md. Mansur Alam, Md. Nifad Alam, Zubair Alam and Md. Hasim by the means of lathi and danda thereby got them injured seriously. Villages got them admitted in the Referral hospital, Barari, where theirs treatment is going on.

INSTITUTION OF CASE/ INVESTIGATION/ INQUIRY

3. On the basis of fard-e-beyan of informant namely Atabur Rahman formal F.I.R. bearing Barari P.S. case No. 65/2010 F.I.R. u/s 147, 148, 149, 323, 324 307 of the I.P.C. was instituted against the accused namely Soharab Ali, Rustam Ali, Abdul Rashid @ Rafique, Md. Wasim, Md. Sddam Husain, Md. Rafique and Md. Hussain and after investigation police submitted charge-sheet no. 162/2010 u/s 147, 148, 149, 323, 325, 307 of the I.P.C. against aforesaid all accused persons

4. On receipt of charge-sheet Ld. Court, Katihar took cognizance of the offence U/S- 147, 148, 149, 323, 325, 307 of the I.P.C. of the against the all charge-sheeted accused persons and having seen that the section 307 of the I.P.C. as leveled against the aforesaid accused persons is exclusively triable by the court of sessions, Ld. Court. supplied the Xe-rox copy of police papers as per requirement of section 207 of the Cr.P.C. to the ld. advocate of aforesaid accused persons and ld. court committed the case record to the court of Sessions for further trial. Later on, as per order of the District and Sessions Judge, Katihar case record came to the file of my court for further trial and disposal.

CHARGES AGAINST ACCUSED PERSONS

5. Later on, after completion of the appearance of the aforesaid accused persons namely Soharab Ali, Md. Hussain @ Hero, Rustam Ali, Abdul Rasid @ Rafique, Md. Wasim, Md. Saddam and Md. Rafique before the court and after considering the materials available on record and on hearing the ld. A.P.P. for State as well as ld. counsel for the aforesaid both accused persons, my ld. Predecessor court framed the charges u/s- 325/149, 323/149, 307/149, 147/149, 148/149 of the I.P.C. in written against the aforesaid aforesaid accused persons and the contents of the same were read over and explained to the aforesaid accused persons in hindi to which they denied and pleaded to be not guilty and claimed to be tried. Hence the trial.

PROSECUTION EVIDENCE

6. In order to substantiate its case prosecution side has examined altogether seven (07) witnesses in the support of its case. They are:-

- (i) PW-01- Sariful Alam (injured Witness)
- (ii) PW-02- Md. Nifaz (Injured witness)
- (iii) PW-03- Sheikh Hasiumuddin (injured Witness)
- (iv) PW-04- Juber Alam (injured Witness)
- (v) PW-05- Md. Riyaz (injured Witness)
- (vi) PW-06- Md. Samed Ali (injured Witness)
- (vii) PW-07- Atabur Rahman (Informant to this case)

7. Prosecution side has not adduced any documentary evidences on the record.

STATEMENT OF ACCUSED PERSONS

8. After conclusion of the prosecution evidence, the statement of the accused person namely Soharab Ali, Md. Hussain @ Hero, Rustam Ali, Abdul Rasid @ Rafique, Md. Wasim, Md. Saddam and Md. Rafique were recorded under section 313 of the Cr.P.C. and all incriminating facts were put to them but they denied veracity of prosecution evidences with the contentions that they are innocent and have falsely been implicated in this case.

9. While accused persons have not examined any witnesses but accused persons have adduced the following documentary evidence on record:-

- (i) Ext-PW2/PD is the signature of Md. Nifaz Alam over joint compromise petition
- (ii) Ext-PW2/D1 is the signature of Md. Jubair over joint compromise petition.

10. Now, the point for consideration is whether the prosecution has been able to prove the charges as leveled against the accused persons, beyond the shadow of all reasonable doubts ?

FINDINGS

11. From perusal of the record it is evident that informant and victim to this case namely P.W.-07 Ataubar Rahman (informant and victim to this case) as well as other victims to this case namely PW-01- Sariful Alam, PW-02- Md. Nifaz PW-03- Sheikh Hasiumuddin PW-04- Juber Alam PW-05- Md. Riyaz and PW-06- Md. Samed Ali have already compromised with all seven accused persons namely Soharab Ali, Md. Hussain @ Hero, Rustam Ali, Abdul Rasid @ Rafique, Md. Wasim, Md. Saddam and joint compromised petition is on record and charges under section- 325/149 and 323/149 of the I.P.C. as leveled against the accused persons are compoundable in nature. So, having consideration the above facts permission petition is hereby allowed and compromise petition is hereby accepted. Accordingly on the basis of compromise aforesaid all 07 accused persons are hereby acquitted from the charges u/s 325/149 and 323/149 of the I.P.C as leveled against them.

Since the charges u/s- 147/149, 148/149 and 307/149 of the I.P.C. are not compoundable in nature, so in the respect of aforesaid charges all seven accused persons are hereby tried on the merits of evidence available on the record. From perusal of case record it is evident that prosecution has relied on oral evidences of the prosecution witnesses. From record it appears that in order to substantiate its case prosecution has examined altogether seven (07) witnesses, out of them 10. P. W.-07 Atabur Rahman who is non else but the informant and victim to this case has stated inter alia that his altercation took place with cousin brother namely Hussain, Abdul Rafique, Md. Saddam and Wasim. In the said altercation he sustained injury in his leg. Further in his cross-examination P.W.-07 has stated that he did not see as to who assaulted him. So it is evident that P.W.-07 has taken the name of only 04 accused persons but he has not leveled any specific allegation against them. While P.W.-01 Sariful Alam has stated in his cross-examination that one by one had came and went away one by one. There was not any weapon with them. Who assaulted from which object he can not say. He was not assaulted. So it is evident that P.W.-01 has clearly stated that accused persons were not laced with weapon. He has further stated that who

assaulted from which object he can not say. So it is evident that P.W.-01 also did not see the alleged occurrence properly. Further P.W.-02 Md. Nifaz has stated inter alia that Rasid and rafique assaulted to the Atabur Rahman from lathi. But P.W.-07 Atabur Rahman has stated that he did not see as to who assaulted him. P.W.-02 has further stated that He was assaulted by Saddam but he never stated that Sdam assaulted him with view to take his life away. P.W.-02 has further stated that Soharab Ali caused head injury to the Sariful Alam by hitting spade. But P.W.-01 Sariflul has stated that he was not assaulted. P.W.-02 has further stated that rest accused persons committed assaulting by the means of lathi. So it is evident that P.W.-02 has not leveled any specific allegation against rest accused persons. P.W.-03 Sheikh Hasimuddin has in his cross-examination that one by one had came and went away one by one. There was not any weapon with them. Who assaulted from which object he can not say. So it is evident that P.W.-03 did not see the occurrence properly. Further P.W.-04 Juber Alam has stated that incident took place nine years six month ago. Incident took place 11:00 O'clock. Wheat crops had been planted in the land situated at Kantnagar Mauja which had been riped. For harvesting the crops Rafique, Rafique, Saddam Rustam, Wasim and Hasim had gone for harvesting the crops. At that time they were in the vicinity of the said land. Aforesaid seven persons harvested the some crops of wheats. Then having seen that crops were being cut they went and asked as to why you are cutting the crops. Then altercation took place and Rustam inflicted one danda on his hand and further one danda on his waist. When Rustam inflicted on danda on his leg then he fell down. After felling down he did not see anything as to what happened. After sometime he saw that any accused persons were not at the ground only the people of his own side were laying in the injured condition. So it is evident that P.W.-01 has leveled only specific allegation against the Rustam. But he never stated that Rustam assaulted him with view to take his life away. Further P.W.-07 has never stated that accused persons had harvested the some wheat crops. While P.W.-05 Md. Riyaz has stated that Rafique assaulted him by rod due to which his head sustained cut injury. Soharab inflicted lathi at his right leg. Soharab gave a blow of

spade at the head of Sariful dut to which head sustained cut injury. Rafique inflicted rod at the head of Atabur which hit at his head and his hand got fractured. Saddam inflicted lathi on the hand and head of Nefaz. But P.W.-05 has never stated that accused persons committed alleged assaulting with view to cause murder. Further P.W.-06 Md. Saddam Ali has deposed before court that accused persons came one by one and went away one by one. He had fell down due to which he sustained injury. Who assaulted from which object, he can not say. So from the above facts it is evident that prosecution witnesses have not given constant and reliable oral evidences to prove that accused persons formed unlawful assembly and in furtherance of common object of unlawful assembly they came at the place of occurrence with weapons and they committed alleged assaulting with intention to cause murder to the victims to this case. Furthermore, prosecution has not examined the concerned medical officere who medically examined to the victims to this case. Further injury report was also not got exhibited on record by the prosecution side. So by taking in account above all facts of this case as well as oral evidence available on record i find and hold that prosecution has not succeeded to prove the charges U/S 147/149, 148/149, 307/149 of the I.P.C. as levekd against the accused persons namely Soharab Ali, Md. Hussain @ Hero, Rustam Ali, Abdul Rasid @ Rafique, Md. Wasim, Md. Saddam and Md. Rafique.

12. So, having consideration the above facts and circumstances of this case i find and hold that prosecution has not brought any evidence to prove the charges u/s 147/149, 148/149 and 307/149 of the I.P.C. as leveled against the aforesaid all seven accused persons namely Soharab Ali, Md. Hussain @ Hero, Rustam Ali, Abdul Rasid @ Rafique, Md. Wasim, Md. Saddam and Md. Rafique. So, having consideration the above facts as well as in the want of sufficient evidence I find and hold that aforesaid all accused persons namely Soharab Ali, Md. Hussain @ Hero, Rustam Ali, Abdul Rasid @ Rafique, Md. Wasim, Md. Saddam and Md. Rafique are not guilty for the offence punishable U/S 147/149, 148/149 and 307/149 of the I.P.C. and accordingly they are hereby

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acquitted from the charge U/S 147/149, 148/149 and 307/149 of the I.P.C. as leveled against them. As the aforesaid accused persons are on bail, accordingly, the aforesaid accused persons and theirs bailors are also discharged from the liabilities of their respective bail bonds.

13. Office is directed to send a copy of judgment to the D.M., Katihar in compliance of section 365 of Cr.P.C.

14. Office is further directed to consign the case record to the D.R.R, Katihar after necessary compliance, if any.

15. Judgment was dictated and corrected by me and same was pronounced by me in open court.

(Asutosh Rai)

Addl. Sessions Judge II

Katihar

01-06-2026

(Asutosh Rai)

Addl. Sessions Judge II

Katihar

01-06-2026

IN THE COURT OF ADDL. SESSIONS JUDGE-II KATIHAR
Sessions Trial Case No.-14/2013

LIST OF PROSECUTION WITNESSES

Sr. No.	Pws. Number	Description
01	PW-01- Sariful Alam	Other Witness
02	PW-02- Md. Nitaz	Other witness
03	PW-03- Sheikh Hasiumuddin	Other Witness
04	PW-04- Juber Alam	Other Witness
05	PW-05- Md. Riyaz	Other Witness
06	PW-06- Md. Samad Ali	Other Witness
07	PW-07- Atabur Rahman	Informant to this case

LIST OF PROSECUTION EXHIBITS

Sr. No.	Exhibit No.	Description
01	N/A	N/A
02	N/A	NA/

LIST OF DEFENCE WITNESS

RANK	NAME	NATURE OF EVIDENCE
1	N/A	N/A

LIST OF DEFENCE EXHIBITS

Sr. No.	Exhibit No.	Description
1	Ext-PW2/PD	Signature of Md. Nifaz Alam over joint compromise petition.
2	Ext-PW2/D1	Signature of Md. Jubair over joint compromise petition.

(Asutosh Rai)
Addl. Sessions Judge-II
Katihar
01-06-2026