

IN THE COURT OF ADDITIONAL SESSIONS JUDGE 2nd
NALANDA AT BIHARSHARIF

Present: Sri Akhauri Abhishek Sahay

[Date of Judgement: 11-03-2026]

Sessions Trial No: 177 / 2017

The State of Bihar V/s. Pintu Kumar & Others

Police Station Bihar {FIR No. 252/2013}

Cognizance U/s: 341, 323, 504, 308/149 IPC

Charge framed U/s: 341, 323, 504, 308/149 IPC

FORM: A

Informant-Vivek Kumar Sinha	State of Bihar through Prosecution
Represented by	Shri Sunil Kumar Sinha, A.P.P.
Accused person	1. Saurav Kumar, aged about 33 Yrs. 2. Monu Kumar, aged about 30 Yrs.
Represented by	Sri Sujay Kumar, Advocate

FORM: B

Date of offence	12-08-2013
Date of F.I.R	12-08-2013
Date of Original Charge Sheet	29-08-2013
Date of Supp. Charge Sheet	-
Date of Commitment of Record	04-03-2017
Date of framing of Charges	06-11-2019
Date of commencement evidence	05-05-2025
Date on which judgment is reserved	11-03-2026
Date of Judgment	11-03-2026
Date of Sentence	-
Date of Arrest	19-08-2013
Date of release on bail	19-08-2013
Whether Acquitted or Convicted	Acquitted

FORM: C

LIST OF PROSECUTION /DEFENCE/COURT WITNESS

A.

Prosecution

RANK	NAME	NATURE OF EVIDENCE { Eye witness, Police witness, Expert witness, Medical witness, Punch witness, Other witness}
PW1	Munchun Kumar	Other witness

FORM: D

LIST OF PROSECUTION /DEFENCE/COURT EXHIBITS

B. Prosecution

Sl. No.	Exhibit No.	Description
Nil	Nil	Nil

C. Material Exhibit

Sl. No.	Exhibit No.	Description
Nil	Nil	Nil

J U D G M E N T

1. The above named accused persons namely Saurav Kumar and Monu Kumar are facing trial for the offences punishable under sections 341, 323, 504, 308, 149 IPC for committing attempt to culpable homicide not amounting to murder of informant Sifty Kumar @ Vivek Kumar Sinha and Munchun.
2. The prosecution story is that the informant Sifty @ Vivek Kumar Sinha, S/o Ranjan Kumar Sinha, resident of mohalla Amber, Police Station Bihar, District Nalanda stated that on 12.08.2013, at about 8:00 PM, when he was going with his friend Munchun Kumar to his friend's home. On the way, when he reached near the house of Pintu Kumar, then Pintu Kumar along with other tenants Om Prakash, Monu, Sanjay, Saurav and other 5-7 unknown boys surrounded the informant and started abusing him. When he objected, they started hitting the informant and his friend Munchun with single shot, bat, hockey, wicket, etc. Which were in their hands, due to which head of informant got cracked and his neck, elbow, shoulder, etc. were also got injured. Any how informant and his friends ran away to save themselves. Many people present nearby have witnessed this incident who will tell about the incident on asking.
3. On the basis of the Fardbeyn of the informant, Bihar P.S. Case No. 252/2013 dated 12.08.2013 under sections 341, 323, 504, 308, 34 IPC against Pintu Kumar, Om Prakash, Monu, Sanjay, Saurav and other 5-7 unknown persons was registered and was investigated. After investigation, Police submitted charge-sheet no.-248/2013 dated 09.08.2013 for the offence under sections 341, 323, 504, 308, 34 IPC against Pintu Kumar, Om Prakash, Monu Kumar, Sanjay Kumar and Saurav Kumar. The learned lower Court took cognizance on 06.04.2015 under sections 341, 323, 504, 308, 34 IPC against Pintu Kumar, Om Prakash, Monu Kumar, Sanjay Kumar and Saurav Kumar and the record was committed to the Court of Sessions on 04.03.2017 for accused persons against Pintu Kumar, Om Prakash, Monu Kumar, Sanjay Kumar and Saurav Kumar.
4. The case was committed to the Court of Sessions on 02.03.2017 after due process against accused persons Pintu Kumar, Om Prakash, Monu Kumar, Sanjay Kumar and Saurav Kumar. The record was received before the Court of Sessions after commitment and thereafter after several transfer the said record was transferred the Court of ADJ-III on 07.10.2023 and for the first time the record was put before me on 18.06.2023 for favour of trial and disposal. It is relevant to say that during trial Saurav Kumar, and Sonu Kumar appeared before this Court but other three accused persons Pintu Kumar, Om Prakash, Sanjay Kumar did not appear even after the process U/s. 82 Cr.P.C. Hence, on 19.09.2019 the case against these three petitioners namely Pintu Kumar, Om Prakash Sanjay Kumar were separated and trial against Monu Kumar and Saurav Kumar remains in this record.
5. The charges have been framed in this case on 06.11.2019 under sections 341, 323, 504, 308, 149 IPC against Monu Kumar and Saurav Kumar, the same were read over and explained in Hindi to accused persons Monu Kumar and Saurav Kumar to which they denied the charges and claimed to be tried.
6. **Point for consideration:-** Whether the accused persons Monu Kumar and Saurav Kumar along with others have committing attempt to culpable homicide not amounting to murder of informant Sifty Kumar @ Vivek Kumar Sinha and Munchun.

7. **Evidence of the Prosecution Witnesses:-**In order to substantiate the charges as levelled against the accused persons Monu Kumar and Saurav Kumar the prosecution has examined altogether one witness, PW-1- Munchun Kumar. Prosecution did not produce documentary evidence. The defence also did not produce any documentary or oral evidence.
8. It is relevant to mention here that after taking all the steps even summon,ailable warrant and nonailable warrant no any witness turn up to give there evidence. Even the informant did not turn up. The police has submitted its execution report that informant has gone some where and cannot be produced. The I.O. was also given last chance but informant did not turn up. It is old case also. On above facts the prosecution evidence was closed on 07-03-2026.
9. **PW-1 Munchun Kumar** who said in examination in chief that he does not know the informant Vivek Kumar Sinha. He also said that no incident took place with him. There was no statement before the police. He has been declared hostile on the request of the prosecution. He denied his statement made U/S. 161 Cr.P.C. before the police. He did not recognise any accused persons. He also denied that in collusion with accused persons he is telling lie. In his cross examination he said that the distance between his house and police station is 01 Kilometer. He has no relation with the informant of this case.
10. After completion of trial the statement of accused persons Monu Kumar and Saurav Kumar was recorded on 10.03.2026 under section 313 Cr.P.C. They denied the allegation and claimed to be innocent. The case of defense is only denial of the occurrence. Since then it was put for defense evidence. The defense has given an application that he does not want to examine any defence witnesses. Hence the record was put up for argument.
11. Now the point to be determine before this Court is that whether the prosecution has been able to prove the charges as levelled against accused persons Monu Kumar and Saurav Kumar beyond the shadow of all reasonable doubt ?

FINDINGS

12. Heard the argument of the learned counsel for defence as well as learned Additional P.P. for the State. Learned counsel for the defence had argued that during the course of trial the prosecution has examined altogether only one witness before the Court. He has been declared hostile. The informant of the case did not turn up even after taking all steps for his appearance. The police has submitted its report along with certificate of Parshad that 'Vivek Kumar Sinha at present does not reside at Amber'. The same report was given by the police. It is a case of no evidence. After taking all steps by the Court as well as by the prosecution, the I.O. and the Doctor of the case did not turn up to depose their evidence, So, neither formal FIR nor injury report were proved. On the above facts and circumstances, it is very much clear that prosecution has failed to prove the case beyond shadow of all reasonable doubt. Hence, on the basis of evidence of one witness who is hostile and taking all steps but neither informant nor the I.O. nor Doctor appeared to give their evidence. It is a case of no evidence. So, the counsel for defence prayed for acquittal of Monu Kumar and Saurav Kumar under Sections 341, 323, 504, 308/149 of the IPC.
13. The Additional P.P. argued and stated the fact that after his sincere effort neither the informant nor I.O. nor the Doctor appeared to give their evidence. So neither the FIR nor charge sheet nor injury report were proved. During the course of trial the prosecution has examined altogether one witness before the Court, who was declared hostile. He said that he has no knowledge about the incident. No statement has been made before the police. So he has been declared hostile. He is injured. The informant of the case did not turn up even after taking all steps for his appearance. The police has submitted its report along with certificate of Parshad that 'Vivek Kumar Sinha at present does not reside at Amber'. The same report was given by the police. It is a case of no evidence. After taking all steps by the Court as well as by the prosecution, the I.O. and the Doctor of the case did not turn up to depose their evidence, So, neither formal FIR nor injury report were proved. So on the basis of evidence the judgement may be passed.
14. Heard the argument from both side and after consideration entire material facts and circumstances of the case and after deep scrutiny of the case record as well as statement

of the only witness who is injured but has been declared hostile as he has no knowledge of the incident. Nothing has happened with him. He does not identify any accused person neither the informant. After taking all steps for production of informant and other witnesses, even after summon, bailable and non bailable warrant the police submitted report along with certificate of Parshad that 'Vivek Kumar Sinha at present does not reside at Amber'. The police has submitted similar report. Prosecution was also given last chance but was unable to produce the informant. It is a case of no evidence. After taking all steps by the Court as well as by the prosecution, even the I.O. and the Doctor of the case did not turn up to depose their evidence, So, neither formal FIR nor post mortem report were proved. It is very much clear that informant did not appeared to depose its evidence and one witness examined has been declared hostile. So, from the above facts and circumstances, the prosecution was unable to prove the charge levelled against the accused persons Monu Kumar and Saurav Kumar for the offence punishable under Sections 341, 323, 504, 308/149 of the IPC beyond the shadow of the reasonable doubts.

15. Therefore, prosecution was unable to prove the persons involved in this offence as neither informant appeared to give his evidence. The one witness examined was declared hostile. It is case of no evidence. From the above facts and circumstances, it appears that prosecution evidence is full of inconsistency, informity, shortcomings and contradiction which make entire allegation of the prosecution highly doubtful and unreliable. On perusal it appears that prosecution has miserably failed to prove the charge levelled against the accused persons Monu Kumar and Saurav Kumar under Sections - 341, 323, 504, 308/149 of the IPC. Thus, accused persons Monu Kumar and Saurav Kumar deserve acquittal from charge punishable under Sections - 341, 323, 504, 308/149 of the IPC.

It is, therefore,

ORDER

16. That, in view of above discussions and finding and also going through the facts and circumstances of the case, heard both the parties. Perused the case record, I am of the view that the prosecution has miserably failed to prove it's allegations under Sections - 341, 323, 504, 308/149 of the IPC as levelled against Monu Kumar and Saurav Kumar beyond the shadow of all reasonable doubt. So accused persons namely Monu Kumar and Saurav Kumar are found not guilty for the offenses punishable under Sections - 341, 323, 504, 308/149 of the IPC. Hence, Monu Kumar and Saurav Kumar are hereby acquitted from offenses punishable under Sections - 341, 323, 504, 308/149 of the IPC. They are hereby released from liability of their bail bond.

(Delivered and pronounced in open Court on 11.03.2026)

Written and corrected by me,

Sd/-
Additional Sessions Judge - IInd
Nalanda At Biharsharif.

Sd/-
Additional Sessions Judge - IInd
Nalanda At Biharsharif

Details of the Accused persons:

Rank of the Accused	Name of the Accused	Date of Arrest	Date of release on bail	Offences charged with	Whether Acquitted or Convicted	Sentence Imposed	Period of detention during trial for purpose of section 428 Cr.pc
1.	Monu Kumar	-	19-08-13	U/s. 341, 323, 504, 308/149 of the IPC	Acquitted	—	—
2.	Saurav Kumar	-	19-08-13	-Do -	Acquitted	—	—

Sd/-
(Akhauri Abhishek Sahay)
Additional Sessions Judge IInd
Nalanda at Biharsharif.