

IN THE COURT OF ADDITIONAL SESSIONS JUDGE V,
HILSA AT NALANDA

Present: Sanjeev Kumar Rai,
Addl. Sessions Judge V, Hilsa at Nalanda

[Date of Judgment:- 20th Day of June, 2026]
[Sessions Trial No. 246/2009; CIS No. 475/2015]
(Arising out of Islampur P.S. Case No. 177/2008)

Complainant STATE OF BIHAR

REPRESENTED BY SRI Ajaj Ahmad, A.P.P.

ACCUSED 1. aged about 60 Years (A1)
 2. aged about 35 Years(A2)
 3. aged about 32 Years (A3)
 4. aged about 53 Years

REPRESENTED BY SRI Kedar Paswan, Advocate

Date of Offence 29.08.2009
Date of FIR 29.08.2009
Date of Chargesheet 30.10.2008
Date of Framing of Charges 13.01.2010
Date of Commence of evidence 24.02.2010
Date on which judgment is reserved 06.06.2026
Date of the Judgment 20.06.2026
Date of the Sentencing Order, if any 20.06.2026

Accused Details:

20/06/26

Rank of the Accused	Name of accused	Date of arrest/ surrender	Date of release	Offences charged	Whether Acquitted or convicted	Sentence Imposed	Period of Detention during trial
1	Sudhir Paswan			341, 323, 325, 307, 448, 504 r.w. 34 of I.P.C	Convicted	3 years R.I.	
2	Pratima Devi			- do -	Convicted	3 years R.I.	

JUDGEMENT

1. The above named accused stand charged u/s 341, 323, 325, 307,

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379, 448, 504 read with section 34 of Indian Penal Code, 1860 (written as I.P.C. herein after) for trespassing into the house of Dharmsheela Devi, wrongfully restraining her, causing hurt and grievous hurt and attempting to commit her murder.

2. The case started with written report of Dharmsheela Devi upon which the Islampur P.S. Case No. 177/2008 dated 29.09.2008 was registered. After investigation charge sheet was submitted and cognizance was taken u/s 341, 323, 325, 307, 379, 448, 504 of I.P.C. Sec. 307 of I.P.C. being Sessions triable, the record was committed to the Court of Sessions and during trial the record is before this Court.
3. Prosecution story in brief as per written report is that on 29.09.2008 at 8 AM accused persons entered informant's house and started abusing her and assaulted her with 'lathi'. She got crack on her head. During this they also took away her gold-earrings.
4. The case of defence, on the other hand is that complete denial and false implication in the case.
5. Charges were framed and explained to accused persons on 13.01.2010 to which they pleaded not guilty and claimed for trial.

Points for determination

6. Now it is pertinent to see whether the prosecution has been able to bring home the charges beyond all reasonable doubts.

Evidence and Arguments

7. P.W.1 Bhagwatiya Devi said that the incident took place one and half year at 8 AM. She was at house of Dharmsheela. Sudhir Paswan with 'lathi' and Pratima Devi, Priyanka and Anubha entered her house. Sudhir Paswan attacked Dharmsheela with 'lathi'. Dharmsheela got her head cracked and she fell unconscious. All assaulted her and both her hands were fractured. They snatched her earrings. She was taken to Islampur hospital for treatment. Reason for the occurrence was some creeper. In cross-examination she said that Dharmsheela was her sister-in-law (gotini). She tried to rescue Dharmsheela. Blood got spilled on cloths. They went to P.S. first and then to hospital. She was discharged the same day. Earrings were purchased by her father-in-law who had died. The



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occurrence took place in the inner courtyard. She did not know whether Neeraj Paswan had raped Sudhir's daughter.

7.1 P.W.2 Naresh Paswan said that the incident took place about one and half years ago at 8 AM. He was home when he heard 'hulla' and went towards it. He saw Sudhir Yadav, Pratima Devi, Anubha Kumari and Priyanka Kumari beating Dharmsheela Devi. Pratima Devi was holding her and others were beating her. Dharmsheela fell down and her hand was broken and head fractured. Dharmsheela fell unconscious. Pratima Devi took away her earrings. In cross-examination he said that the informant was his sister-in-law. Sudhir Paswan hit her on head with 'lathi'. The occurrence took place in the inner courtyard of the house. He was behind the house from where he went there and saw the occurrence. He could not say the number of strikes but victim's head was fractured and hand broken. They took her to police station from where she was taken to hospital. He had not given evidence before. He did not know from where earrings were purchased. Anubha Kumari, daughter of accused Sudhir, had filed case u/s 376 which is numbered Islampur P.S. case no. 188/08.

7.2 PW 3 Charittar Paswan said that he was not there at the time of occurrence, he was in market. He got to know that Dharmsheela Devi was assaulted by Sudhir in which her head was fractured and hand broken. In cross-examination he said that he did not see the occurrence but has seen injury on hand. He did not know whether something happened to daughter of Sudhir.

7.3 PW 4 Suresh Paswan said that the occurrence took place at 8 AM about two years ago. He was returning from fields. When he reaching near house of Bundi Paswan, he heard 'hulla' and rushed inside his house. Sudhir Paswan, Pratima Devi, Priyanka Kumari and Anubha Kumari were beating Dharmsheela Devi. Sudhir Paswan hit her on head due to which her head got fractured and hit her fracturing her wrist. Others were hitting with fists and stones. Priyanka snatched her earrings. In cross-examination he said that the informant was his wife. Dharmsheela remained unconscious for 15-20 minutes. He went to P.S. The occurrence took place in the inner courtyard of his house. Earrings were given to her by this witness' father.

7.4 P.W.5 Shivbarati Devi said that the occurrence took place at 8 AM about two years ago. She was returning from fields. She heard 'hulla'



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at the doors of Suresh Paswan. Accused were abusing Dharmsheela Devi there. Sudhir assaulted her due to which her head got cracked and hand fractured. His wife and daughters also beat. Priyanka took away her earrings. In cross-examination she said that she was giving evidence for the first time. Accused hit two 'lathi' each on hands and one lathi on head. Occurrence took place in the inner courtyard. Blood spilled over cloths. Dharmsheela fell unconscious. She could not say with whom Dharmsheela talked first after gaining consciousness. He did not know the name of goldsmith from whom earrings were bought.

7.5 P.W. 6 Dharmsheela Devi is informant who said that the occurrence took place two years ago at 8 AM. There was a quarrel for ridge guard. She was cooking when Sudhir, Pratima Devi, Priyanka and Anubha came there. Sudhir assaulted her with 'lathi' on head and her head got cracked. Both her hands were fractured. She received injury on right cheek. Priyanka Kumari took away her earrings. She was treated at government hospital. In cross-examination she said that it was Monday. He hit on head but she was not unconscious. She spent a day at hospital. The occurrence took place in inner courtyard which was 15 feet long and 10 feet wide. Receipt of earrings was not with her. There was previous dispute over drain and land with the accused.

7.6 P.W. 7 is Dr. Prashant Sinha who stated that on 29.09.2008 he was posted as Medical Officer at PHC, Islampur. On that day at 10:10 AM he examined Dharmsheela Devi and found the following injuries on her person:

- 26/06/26
- (i) a lacerated injury of size 2"×1/4"×skin deep on the left parietal region of skull, margin irregular.
 - (ii) an incision like wound over the palmar area of right hand of size 3"×1/4" deep. X-ray shows fracture of head of first metacarpal bone.
 - (iii) a bruise of size 1/2"×1/2" on lower third of left forearm. X-ray showed simple fracture of lower 1/3 of ulna bone.
- Nature of injury No. (i) was simple caused by HBS; injury No. (ii) & (iii) are grievous caused by HBS. Age of injury within six hours
- During **Cross-Examination** the witness stated that injury no. (I) and (ii) can be caused by fall on stone. Injury no. (iii) can not be caused by fall on surface.

8. After conclusion of prosecution evidence, statement of the accused under section 313, Cr.P.C was recorded on 05.11.2019 wherein the accused denied the correctness of all the incriminating circumstances appearing in the evidence against them and stated that they were innocent.

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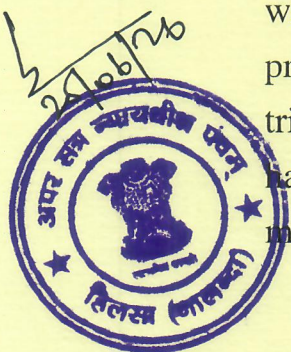
9. No oral or documentary evidence was adduced from the side of defence.

10. Final Arguments:

10.1 Arguments were advanced by Shri Ajaj Ahmad, learned Additional Public Prosecutor for the State and Shri Kedar Paswan, learned counsel for the accused.

10.2 Learned A.P.P. argued that all the necessary witnesses including doctor were produced who have supported the case of the prosecution. The time, place and manner of occurrence have been supported by the witnesses. The injury corresponds to the allegations. The doctor was produced who supported the version of the prosecution. All the evidences produced by the prosecution proves the case.

10.3 Learned counsel for the defence argued that it is admitted both the parties are neighbors. This case is an exaggeration of trivial dispute between neighbors. All the witnesses are family members and closely related to the informant. No independent witness was produced by the prosecution. The only independent witness who was named by other witnesses to be present there is PW3 who did not support the case of the prosecution. The witnesses claim to be eye witnesses but none of them tried to save the victim. This is strange and falsifies the claim of them having seen the occurrence. None of the witnesses have given exact date, month, year of the occurrence.



FINDING

11. As per the written report to the police accused entered the house of informant at 8 AM on 29.09.2008 and abused her. On being protested they hit her on head with 'lathi' and stick. They also took her gold earrings during the scuffle.

11.1 Altogether seven witnesses have been produced by the prosecution including the informant and doctor. The I.O. was not produced for evidence. PW1 is informant's sister-in-law (gotini), PW2 is her brother-in-law (dewar), PW3 is hearsay witness, PW4 is her husband, PW5 is her cousin mother-in-law PW6 is informant herself and PW7 is the doctor.

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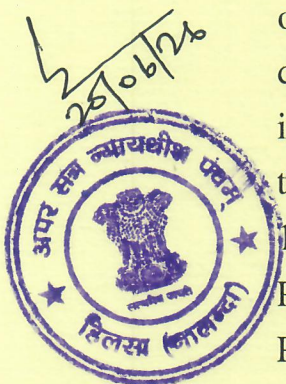
11.2 PW3 said that he was in market at the time of occurrence and heard about it after he came back home. All other witnesses have said that the occurrence took place at 8 AM (Para 1 of PW1, PW2, PW4, PW5 & PW6). Witnesses said that the occurrence took place in inner courtyard (aangan) of the informant (Para 6 of PW1, Para 2 of PW2, Para 3 of PW4, Para 3 of PW5, Para 3 of PW6). All witnesses said that the accused entered the house of informant and accused Sudhir hit her on head with 'lathi' (Para 1 of PW1, PW2, PW4, PW5 & PW6). In this way the time, place and manner of occurrence is fully established from the evidence of prosecution.

11.3 As it is established that the occurrence took place inside the house of the informant, the family members are the most natural witnesses who could have seen the occurrence. Hence their evidence can not be brushed aside on sole ground of being related witnesses. As their version of occurrence is consistent and the injuries are also commensurate to the evidences, they are reliable witnesses. The doctor examined as PW7 and proved injury report (Ext. 1). Ext. 1 shows three injuries on the person of the injured; one on skull, one on right hand and one on left forearm. Injury no. 1 was only skin deep and was found to be simple. The other two injuries in the hands were found grievous after X-ray. The injuries are exactly similar to the evidences given by the witnesses.

11.4 All the witnesses were cross examined in detail by the defence but no any substantial contradiction could be brought forth about the time, place, manner of occurrence or the injuries alleged and found on the body of the injured. As for the allegation of theft of gold earrings is concerned, during cross-examination, none of the witnesses could say from where was it purchased. In written report there is general allegation of taking away the earrings. PW1 said generally that accused took away the earrings (Para 1 of PW1), PW2 said that Pratima Devi took away earrings, PW4, PW5, PW6 said that Priyanka took away the earrings (Para 1 of PW4, PW5, PW6). Similarly except PW5 none of the witnesses said anything about abusing or provoking the victim. Coming to sec. 307 of I.P.C. which reads:

307. Attempt to murder.—

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any



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person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

11.5 We have to see whether the accused had been guilty of murder if the injured had died. Murder as defined under sec. 300 of I.P.C. reads:

300. Murder- Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or -
Secondly- If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or -
Thirdly- If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or-
Fourthly- If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury is aforesaid.

Further, the relevant portion of section 299 IPC which defines "Culpable homicide", having reference in the definition of 'Murder' reads as follows:

299. Culpable homicide- Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

11.6 Three external injuries are found on the person of injured are (i) lacerated injury of size 2" * 1/4" * skin deep over left parietal bone of skull, (ii) incision like wound over palmar area of right hand of size 3" * 1/4" with movement of thumb disturbed, (iii) a bruise of size 1/2" * 1/2" on lower 1/3 of left forearm. After X-ray injuries no. (ii) and (iii) were found to be grievous as (ii) showed fracture of head of first metacarpal bone and (iii) showed simple fracture of lower 1/3 of ulna. None of these injuries either separately or taken together is dangerous to life. In other words the injuries caused were not intended or known to cause death of the victim. There is no evidence that anybody reached there to rescue the victim. Had the accused intended to cause death of the victim there was nothing to stop them. Hence it can not be said that the prosecution evidences are sufficient enough to bring home the charge of attempt to murder.

11.7 Considering the whole materials on record and discussions made above The prosecution has not been able to prove the charges under sections 307, 341, 379 and 504 of I.P.C. but has been able to prove other charges.

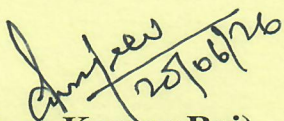
ORDER

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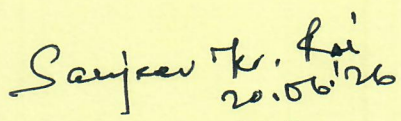
Accused Sudhir Paswan and Pratima Devi are acquitted of the charges u/s 307, 341, 379, 504 of I.P.C. but are found guilty and are convicted u/s 448, 323 and 325 read with sec. 34 of I.P.C. Their bail bonds are canceled and they are taken into judicial custody. Put up after a while for hearing on the point of sentence.

Written and corrected by me


(Sanjeev Kumar Rai)

Addl. Sessions Judge- V,
Hilsa.




(Sanjeev Kumar Rai)

Addl. Sessions Judge- V,
Hilsa.



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SENTENCE

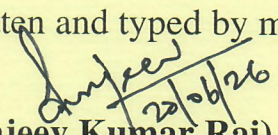
20.06.2026

Heard learned A.P.P. and learned counsel for defence on the point of sentence. Learned A.P.P. argued that it is proved that all the accused conjointly committed the offence and being neighbors they tried to brutally assault a lady in her house. Thus they deserve strictest punishment. Learned counsel for defence argued that this is the first offence of the accused. The accused did not intent to cause any grievous harm to the victim though she was alone. The accused acted in a fit of anger when they heard of assault on their daughter.

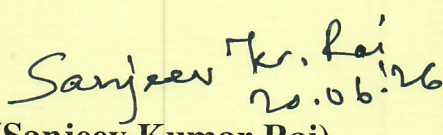
For quantum of sentence to be awarded we have to see the aggravating and mitigating circumstances with respect to the victim, accused and manner of occurrence. The aggravating circumstances in this case are that the accused went together prepared inside the house of informant when she was cooking and assaulted her. The mitigating circumstances are that this is the first offence of the accused, the accused did not act too harshly, other accused are alleged generally and one of the accused is lady.

Hence convict Sudhir Paswan and Pratima Devi are sentenced under section 448 of I.P.C. to undergo rigorous imprisonment for one year, under section 323 of I.P.C. to undergo rigorous imprisonment for six months years and under section 325 of I.P.C. to undergo rigorous imprisonment for three years and a fine of Rs. Rs. 500/- each in default of which they will undergo additional imprisonment for one month. All the sentences will run concurrently. Any imprisonment already undergone in connection with this case shall be set off.

Written and typed by me


(Sanjeev Kumar Rai)
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(Sanjeev Kumar Rai)
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FORM C
LIST OF PROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Bhagwatiya Devi	Eye witness
PW2	Naresh Paswan	Eye witness
PW3	Charittar Paswan	Other
PW4	Suresh Paswan	Eye witness
PW5	Shivbarati Devi	Eye witness
PW6	Dharmsheela Devi	Informant
PW7	Dr. Prashant Sinha	Doctor

B. Defence Witnesses, if any: None

C. Court Witnesses, if any: None

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution

Sr. No.	Exhibit Number	Description
1	Exhibit P-1/PW7	Injury report

B. Defence: None

C. Court Exhibits: None

D. Material Objects: None

