

In The Court of Sri Sunil Kumar III, DASJ-VI, Danapur.
Sessions Trial No. 582/2014, CIS No. 2204/2015
State Vs Arun Kumar & Ors.
Date of Judgment: 16.07.2026

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-VI, Danapur

Present- **Sri Sunil Kumar III**
Distt. & Addl. Sessions Judge-VI, Danapur.
Date of Judgment :- 16.07.2026

In Ref:

Sessions Trial No. 582/2014
CNR No. BRPA200007292014
FLR. No. 284/2013 , G.R. No. 1469/2013,
P.S. Bihta,
u/s **341/323/325/307/302/504/34 IPC**

FORM –A

Complainant/Prosecution	State of Bihar
Represented By	Md. Kalam Ansari, Ld. Addl. Public Prosecutor
Accused persons	1. Arun Kumar, aged about 37 years,.....A1 s/o- Harinath Mahto 2. Harinath Mahto, aged about 77 years,.....A2 s/o- Late Lutawan Mahto 3.Paras Nath Mahto, aged about 78 years,A3 s/o- Late Ram Niwas Mahto 4. Krishna Singh, aged about 66 years,A4 s/o- Ram Dhyan Mahto 5. Anandi Mahto, aged about 60 years,A5 s/o- Ram Dhyan Mahto all r/o- Itwa Doghdha, PS- Bihta, District- Patna
Represented by	Counsel Sri Vinay Kumar, Ld. Advocate

FORM B

Date of Offence	26.05.2013
Date of FIR	26.05.2013
Date of Charge-sheet	27.09.2013
Date of Framing of Charges	05.07.2018
Date of Commencement of Evidence	01.03.2019
Date on which the judgment is reserved	02.07.2026
Date of Judgment	16.07.2026
Date of sentencing order, if any	Fixed for hearing on the point of sentence on 23.07.2026

Accused Detail:

Rank of the Accused	Name of the 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 the purpose of section 428 Cr.p.c
A1	Arun Kumar	18.07.2013	21.02.2015	u/s 341/323/325/307/504 /302/34 IPC	Acquitted	NA	NA

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A2	Harinath Mahto	03.07.2013	24.03.2014	u/s 341/323/325/307/504 /302/34 IPC	Convicted u/s 302/34 IPC	Fixed for hearing on the point of sentence on 23.07.2026	8 Months 22 Days
A3	Paras Nath Mahto	08.07.2013	03.04.2014	u/s 341/323/325/307/504 /302/34 IPC	Convicted u/s 302/34 IPC		8 Months 27 Days
A4	Krishna Singh	08.07.2013	03.02.2014	u/s 341/323/325/307/504 /302/34 IPC	Convicted u/s 302/34 IPC		6 Months 27 Days
A5	Anandi Mahto	08.07.2013	03.02.2014	u/s 341/323/325/307/504 /302/34 IPC	Convicted u/s 323 IPC	Released on Probation After due admonition	6 Months 27 Days

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	Shiv Pujan Verma	Injured Eye Witness
PW2	Ramji Kumar	Injured Eye Witness
PW3	Balchand Singh	Other Witness
PW4	Bharat Kumar	Injured Eye Witness
PW5	Laxman Kumar	Informant/ Eye Witness
PW6	Lal Bahadur Singh	Other Witness
PW7	Ashok Verma	Eye Witness
PW8	Ram Narayan Sah	Investigating Officer(Police Witness)
PW9	Dr. Prema Singh	Medical Witness
PW10	Dr. Pankaj Kumar	Medical Witness
PW11	Kameshwar Singh	Other Witness

B. Defence Witnesses, if any:

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW 1	Manish Kumar	Other witness
DW2	Rahul Paswan	Other Witness

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sl. No.	Exhibit Number	Description
1	Ext. 1 (PW5)	Application of the informant upon which the FIR was registered
2	Ext. 1/1(PW8)	Endorsement order for registration of the case and for handing over the investigation
3	Ext. 1/2 (PW8)	Initial of the the then SHO Bihta under the endorsement. <i>(It was earlier inadvertently marked as Ext.2 as the Ext.2 was already marked during the deposition of the informant PW5)</i>
4	Ext. 2 (PW5)	Signature of the informant on his fardbayan recorded at PMCH
5	Ext. 3 (PW8)	Request made by investigating officer for the medical treatment of the injured Ramji Kumar
6	Ext. 3/1 (PW8)	Request made by investigating officer for the medical treatment of the injured Bharat Kumar
7	Ext. 3/2(PW8)	Request made by investigating officer for the medical treatment of the injured Shivpujan Verma
8	Ext. 3/3(PW8)	Request made by investigating officer for the medical treatment of the injured Ram Kumar Verma
9	Ext. 4 (PW8)	Charge Sheet
10	Ext. 5 (PW9)	Postmortem report of the deceased Ram Kumar Verma
11	Ext. 6 (PW10)	Injury report of the injured Ram Kumar Mehto

jeep and ran away resulting which the vegetables of informant could not be sent to the market.

PROCEDURAL HISTORY

3. After completion of the investigation, the police submitted the police report (*charge-sheet*) **u/s 341/323/325/307/302/504/34 IPC** against all the accused persons A1,A2,A3,A4 & A5 herein alongwith the accused Sudam Mehto by showing one acused Vishal Kumar @ Viresh as absconder thereafter, the ACJM, Danapur, took the cognizance of the offence **against all the accused persons** and thereafter the police paper was supplied to the accused persons. The record of the accused Vishal Kumar @ Viresh was sent to the JJB Board Patna vide order dt.26.05.2014 and thereafter, this case was committed to the court of Sessions and this record was received in the Court of Session on 28.05.2014 wherein this case was registered and numbered as Sessions Trial No. **582/2014**. Thereafter on hearing the accused persons and the Ld. Prosecutor for the state, the Court vide its order date 05.07.2018 framed the charge against the six accused persons A1, A2, A3, A4, A5 herein and one Sudama Mehto @ Ravan Mehto for the offence punishable u/s **341/323/325/307/504/ 302/34 IPC** to which they pleaded not guilty and claimed trial. During the course of trial, the record of Sudam Mehto was split up vide order dated 01.03.2019.

EVIDENCE OF PROSECUTION :-

- 4.** During the course of trial the prosecution altogether examined eleven witnesses such as the PW1- Shiv Pujan Verma, PW2- Ramji Kumar, PW3- Balchand Singh, PW4- Bharat Kumar, PW5- Laxman Kumar i.e the informant, PW6- Lal Bahadur Singh, PW7- Ashok Kumar, PW8- Ram Narayan Sah i.e the investigating officer, PW9- Dr. Prema Singh, PW10- Dr. Pankaj Kumar & PW11- Kameshwar Singh.

The prosecution also adduced documentary evidence in support of its case as shown in form “C” above.

EXAMINATION OF THE ACCUSED PERSONS AND THEIR EVIDENCE:-

- 5.** After closing the prosecution’s evidence the accused persons A1, A2, A3, A4 and A5 herein, were examined in the light of the section 313 Cr.P.C. where they denied the alleged occurrence and claimed to be innocent and thereafter, the accused persons also examined two witnesses DW1- Manish Kumar and DW2- Rahul Paswan. Thereafter, the accused adduced some

documentary evidence as Ext. D1 (Marked as Ext. A previously) is communication made by the Investigating Officer to the Ld.court of ACJM, Danapur, vide DR No. 3317/13 dated 23.10.2013 wherein by way of the such communication dated 22.10.2013, the Investigating Officer made a modification letter in connection with the police report (charge sheet) No.359/12 dated 27.09.2103 wherein he requested the court that the chargesheeted accused Arun Kumar should be considered as exonerated in relation to the memo of ASP Patna, vide memo No. 8551/13 dated 25.09.2013. The attested photo copy of the medical Certificate Ext.D2 issued by the Dr. Suresh Prasad Singh C/O M/s Pintu Nursing Home, Dak Bangla, Harnaut wherein he certified that Arun Kumar under his treatment from 25.05.2103 – 30.05.2013 and thereafter he was referred to PMCH, Patna or the nearest railway hospital for the needful.

POINT OF DETERMINATION

6. **The point of determination** before the court is whether the prosecution has been able enough to bring home the charges against the accused A1, A2, A3,A4 & A5 herein, beyond the reasonable doubts or not?

ARGUMENTS ON BEHALF OF THE STATE

7. The Ld. Addl.P.P. for the state argued that all the witnesses of the prosecution supported the case of the prosecution and their testimony are under corroboration establishing the time of occurrence and also the manner of occurrence. The Ld. Public Prosecutor also submitted that the medical evidence in the shape of injury reports Exts. 6, 6/1, 6/2 and 6/3 and also the post-mortem Ext. 5 coupled with the testimony of the Dr. Prema Singh established and proved the charges against the accused persons where the injured persons also supported the case of the prosecution in their testimonies. For this, Ld. Public Prosecutor prayed that the accused persons A1, A2, A3, A4 and A5 herein are liable to be convicted and punished for all the charges.

ARGUMENTS ON BEHALF OF THE ACCUSED PERSONS

8. The Ld. Counsel of the accused persons submitted that there are the contradictions in the statements/testimony of the witnesses and Ld. Counsel also stated that this case registered on the basis of an application of the informant but his *fardbayan* is also recorded at PMCH by the Pirbahor Police and the said statement recorded in PMCH was sent to the police station Bihta and there is the vital contradictions in the application upon

which the FIR registered and the *fardbyan* recorded at Patna. The Ld. Counsel also submitted that there are the previous dispute between the parties and the accused A1 herein, was not present at the time & place of occurrence and he submitted that he was admitted in Pintu Nursing Home at Harnaut for which after submission of the police report(Charge sheet), the investigating officer went to in deep into investigation and later he submitted an application that the accused Arun Kumar should be considered as exonerated by way of his application submitted before the court and the said application was marked Ext. D1. Therefore, the Ld. Counsel of the accused persons submitted that the accused persons have falsely been implicated in this case and the prosecution is failed to prove the case beyond the reasonable doubts and he prayed for the acquittal for the accused persons.

FINDINGS

9. The prosecution altogether examined 11 witnesses.

The witness PW1-Shiv Pujan Verma, deposed that this case is instituted by the Laxman Kumar and the incident took place on 26.05.2013 at about 07:00 AM and at that time, he was at his house and the incident took place in front of his house and he stated that Ram Kumar Verma, Ramji Kumar, Bharat Kumar and Laxman Kumar were going to his house and when they reached in front of the house of Arun Kumar, the accused persons surrounded them and started assaulting him and Arun Kumar assaulted on the forehead of the Ram Kumar by which he sustained injury on his forehead and the Ram Kumar was also assaulted with lathies. He further stated that Harinath assaulted him with lathi by which he sustained his left hand was fractured and he got medical treatment from Dr. Deepak at Bihta and he further deposed that Ram Kumar and Laxman Kumar also sustained injuries where Ram Kumar sustained injuries and blood was coming out and meanwhile during the treatment Ram Kumar died on 07.06.2013. In cross examination (para No. 29) he stated that on that day he did not visit at the field and on the alleged date and time, he along with his wife and four children were remained in the house and at that time he was in front of his house (par No. 23). (para No. 36) Arun Kumar assaulted with the back of the *Farsa* and no altercation took place (para No. 33).

PW2- Ramji Kumar also deposed that the accused persons assaulted his father Ram Kumar Verma on his head and the blood was oozing out and when Shiv Pujan tried to intervene to save his father, Harinath assaulted Shiv Pujan by which his hand was injured, thereafter the injured persons

were removed to the Bihta police station from where they were referred to the government hospital and then his father was referred to the PMCH for better treatment where his father died on 07.06.2013 and he further stated(Para No.8) that there was no motive behind the occurrence.

PW3-Balchand Singh deposed that the incident took place on 26.05.2013 and on that time he was at his *Baranda* and he saw that the informant along with his father Ram Kumar, Ramji, Bharat Kumar, Laxman Kumar and Ashok Kumar were coming home after harvesting of vegetables and they were assaulted by the accused persons and when Shiv Pujan triad to sort out the matter, he was also assaulted. They also assaulted Ramji Kumar & Bharat Kumar and when they were assaulting, nearby persons gathered and then the accused persons ran away.

PW4- Bharat Kumar also deposed regarding the commission of Marpit and he further deposed that when Shiv Pujan Verma tried to intervene he was also assaulted and he sustained injury on his hand and he was also assaulted with lathi on all over his body and Ramji Kumar was also assaulted.

PW5- Laxman Kumar who is informant of this case and he deposed that the accused Arun Kumar assaulted with *pasa(blunt side)* of the *Farsa* by which he sustained injury and he fell down and when Pujan Verma tried to rescue, he was also assaulted and other accused persons also assaulted with lathis. The informant also stated (*para No. 40*) that on 25.05.2013 he hired a transport of Paras Nath for transporting his vegetables and Paras Nath refused to load the vegetables and due to that issue, there was an altercation made out due to which this occurrence took place. He further deposed that he took his injured father and injured persons to the Bihta police station and made a written complaint there. He identified his application as well as his signature on his application and thus his application is marked Ext. 1. He further deposed that during the course of treatment, his father succumbed to the injuries on 08.06.2013 and thereafter, his statement was recorded by the Pirbahor police officer and then his statement was referred to the police station Bihta. He further stated that he made his signature on his *fardbyan*. He further stated that in the said *fardbyan* the police officers left the name of accused persons Anandi Mahto, Sudama Mehto, Vishal Kumar @ Viresh in his *fardbyan*. He identified his signature(Ext.2) on his *fardbyan*. He further deposed that that he identified the accused Paras Nath Mahto and Harinath Mahto in the court and he claimed to identified the other accused persons. He further deposed that the

accused persons intimidated him but for such intimidation, he did not make any complaint to any police station. In cross examination, he also stated that he tried to rescue his father and he sustained some minor injuries. He further stated in para No. 41 that from the injuries sustained by his father blood was oozing out and there was blood stains on his wearing cloths but the said cloths were not handed over to the police. He further stated that the statement of his father was recorded in police station (para No. 43) but he could not see as to whether his father made his signature or not.

PW6- Lal Bahadur Singh deposed that on hearing the noise he went to the place of occurrence and he saw that head of the Ram Kumar was lacerated opened and he is lying on the ground and there 2-3 injured persons were also there and the names of the injured persons were Pujan, Bharat and Ramji. He further stated that he did not see other persons and he did not see the occurrence and he cannot say as to who allegedly caused the occurrence. He stated in his cross examination that he did not see the alleged occurrence and his statement was not recorded by the police.

PW7- Ashok Verma deposed that when he alongwith Ram Kumar Verma, Bharat & Shiv Pujan reached at the house of the Arun Kumar, the accused persons Arun Kumar, Krishna, Harinath, Anandi & Paras, Sudama alongwith Vishal started assaulting Ram Kumar, Ramji and Bharat and Meanwhile Shiv Pujan tried to intervene, then they assaulted Shiv Pujan also. During the alleged occurrence Ram Kumar Verma sustained injury on his head as he was assaulted by Arun Kumar and thereafter Krishna Singh assaulted Ram Kumar. Harinath Singh assaulted Ramji and Bharat with lathi. Sudama, Vishal and Anandi assaulted Ram Kumar, Ramji and Bharat with lathi thereafter, the nearby persons removed Ram Kumar Verma to Bihta police station where the case was registered and thereafter, Ram Kumar, Ramji, Bharat, Shiv Pujan were referred to Bihta hospital and from where, Ram Kumar was again referred to PMCH and thereafter, Ram Kumar died during treatment in PMCH.

PW8- Ram Narayan Sah who is the Investigation Officer of this case, he deposed that on 26.05.2013, he was posted at Sub-inspector at Bihta police station and on that day a written complaint was made by Laxman Kumar upon which the officer in-charge made an endorsement and ordered to registered this case, he identified the endorsement which is marked Ext. 1/1 for convenience (It is marked Ext. 1 in the deposition where Ext 1 was already marked in the evidence of PW5 and thus for the sake of convenient it is marked as Ext. 1/1). He further stated that the said written application

was in the writing of Sadanand Manjhi upon which the officer in-charge made his initial and the same is marked Ext. 1/2 (It is marked as Ext. 2 which has already been marked and thus the initial of the concerned SHO marked Ext. 2 now hereby marked Ext.1/2). He further deposed that the charge of investigation was handed over to him and thereafter he issued request letter of the medical examination of the injured persons Ramji Kumar, Bharat, Shiv Pujan Verma and Ram Kumar Verma in his writing and the said requisitions were marked 3, 3/1, 3/2 & 3/3 respectively. Thereafter, he went to the referral hospital Bitha where he recorded the statement of injured Laxman Kumar, Ram Kumar, Shiv Pujan Verma and Bharat and they supported the allegation as levelled in FIR and thereafter, he went to the place of occurrence and inspected the place of occurrence and thereafter, he conducted raid upon the house of the accused persons but all the accused persons were found absconded thereafter, he recorded the statement of the witnesses Ashok Kumar, Ramji Kumar, Lal Bahadur Singh, Bittu Mahto, Balchand Singh, Gorakh @ Anil Kumar, Shanti Devi, Lal Babu Mahto and collected the injury reports from the referral hospital and thereafter, on 11.06.2013, he got *fardbyan* of the informant Laxman Mahto and also the *fardbyan* of the Ram Kumar Verma and also the inquest report of the dead body of the Ram Kumar Verma and he prepared the case diary and thereafter, he also collected post-mortem report of the deceased Ram Kumar Verma and thereafter, he submitted chargesheet No. 359 dated 27.09.2013 by showing the accused persons Vishal Kumar @ Vinesh Kumar as absconded and he identified his writing and the signature on the police report (*charge sheet*) and same as marked Ext. 4. In para No. 25, he stated that at the place of occurrence, he neither found any sign of scuffle nor any blood stain there. In para No. 28, he did not record the statement of the police officer who recorded the *fardbyan* of the informant Laxman Kumar at PMCH and he also did not record the statement of the said police officer who prepared inquest report of the dead body of the deceased. He further stated that that he recorded the statement of Ram Kumar and at that time Ram Kumar Verma was in conscious state. He further stated that during the course of investigation the accused Arun Kumar i.e accused A1 herein made in his statement that on the 25.05.2013 he was not well and in the morning at about 09:00 AM, he was under treatment at Pintu Nursing home under the supervision of Dr. Suresh Prasad Singh and on 31.05.2013, he was referred to referral hospital, Mokama, where he remained there to 01.06.2013 – 03.06.2013 for his treatment. Investigating officer further

stated that, during the course of investigation he visited at Pintu Nursing home, Dak Bangla Road, Harnaut, and recorded the statement of Dr. Suresh Prasad Singh wherein he stated that registration No. 18643 he was running Nursing home for last 20-25 years and he informed the investigating officer that in his nursing home on 25.05.2013 the accused Arun Kumar visited his nursing home at 09:00 AM as he was suffering from acute fever and remained there from 25.05.2013 – 31.05.2013 and on 31.05.2013 he referred Arun Kumar i.e accused A1 herein, to the nearby referral hospital and IO also stated the said doctor gave a document of treatment and the same he annexed along with case diary (*para No. 30*). In para No. 31, he further stated that he also visited the referral hospital and made investigation and he found the said fact true regarding the alleged treatment and the said document was annexed with the case diary thereafter, in para No. 35, he further stated that after submission of police report (*charge sheet*), he submitted a supervision report to the court on 22.10.2013 and he identified the said report and the same is marked Ext. A (*Now it is marked as Ext. D1*) wherein he stated that he prayed to the court that the accused Arun Kumar should be considered as exonerated in the chargesheet(Ext.4) He further stated that he did not make investigation regarding the loading and unloading of vegetable on the alleged hired jeep of the accused persons.

PW9- Dr. Prema Singh deposed that on 26.05.2013 she was posted at Dr. referral hospital Bihta and on that day she examined injured Ram Kumar Mahto, Shiv Pujan Verma, Bharat Kumar and Ramji Kumar wherein she found on the body of the injured Ram Kumar Verma(Mahto) three injuries as :-

1. Lacerated wound over his forehead 1”x 0.5”x 0.5”.
2. Swelling over left side of scalp 3” x 1” x 1”.
3. Swelling over right shoulder 4” x 2” x 1”

and she preserved the opinion about the nature of injury allegedly caused by hard and blunt substance and the injured Ram Kumare Verma was referred to PMCH.

She further deposed that she found only one injury on the body of the injured Bharat Kumar as Bruise over left thigh 2” x 1 x 0.5”.

She further deposed that on the body of the Shiv Pujan Verma she found two injuries 1. Swelling over left forearm 2”x1”x 0.5” 2. Swelling over left side of thigh 2” x 1” x 0.5” and she opined the injuries were simple in nature and caused by hard and blunt substance.

She further deposed that she found only one injury on the body of the injured Bharat Kumar as Bruise over left thigh 2" x 1 x 0.5". and the nature of the said injury was simple and caused by hard & blunt object.

She further deposed that injury sustained by Ramji Kumar were three injuries 1. Abrasion Over his right ear 1" x 0.5" 2. Lacerated wound on middle finger on left hand 1" x 0.5" x 0.5". 3. Swelling over right thigh 4"x 3" and these injuries were also simple in nature caused by hard and blunt substance. She identified her writing and signature on the injury reports of the injured Ram Kumar Verma, Shiv Pujan Verma, Bharat Kumar and Ramji Kumar was marked 6, 6/1, 6/2 & 6/3 respectively,

PW10- Dr. Pankaj Kumar, he deposed that on 07.06.2013, he conducted post-mortem of the body of the deceased Ram Kumar Verma. He found on External examination:-

Rigor mortis present all over both eyes blackened left hand iv present, major tube.

On further examination he found ante mortem external and internal injuries as:-

One diffuse swelling right frontoparietal area of scalp 3.5"x 2.5" on dissections hematoma under scalp all over. One communicated fracture 8.5"x 5", frontal both parietal area of skull. Extra dural hematoma found under the fracture side 5.5"x 5" size sub dural hematoma found on both side of brain. Heart- right side blood, Vesera-congested, bladder empty, stomach fifty ML cream paste.

Opinion :- Time since death 6 – 24 hours approx. Cause of death head injury caused by hard and blunt substance. He identified his writing and signature on post-mortem report marked Ext. 5.

PW11- Kameshwar Singh identified his signature as well as the signature of the informant Laxman Yadav on the carbon copy of the inquest report of the deceased prepared by A.P.Yadav and the carbon copy of the said inquest report was marked Ext.7. This witness also Identified writing and signature of AP Yadav who recorded the *fardbyan* of the informant Laxman Kumar and he also made his signature on the said *fardbyan* marked Ext. 6 herein. (Ext. 6 is the injury report of the injured persons and thus for the sake of convenience it is marked as Ext.8).

10. On the other hand, the accused persons also examined two witnesses such as DW1- Manish Kumar & DW2-Rahul Paswan.

DW1- Manish Kumar, deposed that he appeared on the notice of the court. He further stated that he worked with Dr. Suresh Prasad Singh for the period of the years 2012-2021 as his personal servant and he was getting salary 8,000 per month. He identified the writing and signature of the Dr. Suresh Prasad Singh on the certificate issued by him on the letter head of Pintu Nursing Home and the same is marked as Ext. X. In cross examination he stated that on 25.05.2013 – 31.05.2013, Arun Kumar was continued came in the morning at 08:00 and went to at 05:00 PM.

DW2- Rahul Paswan deposed that he had an opportunity of being a compounder in Pintu nursing home and the managing director of clinic was Dr. Suresh Kumar Singh and he was compounder there since 2012. He further stated that Dr. Suresh Kumar Singh died in the year 2021. He further stated that on 31.05.2013, the certificate was issued on behalf of the clinic Pintu Nursing Home by the Dr. Suresh Kumar Singh in the name of Arun Kumar where Arun Kumar was admitted in the said clinic from 25.05.2013-31.5.2013 in his clinic and he identified the said certificate is related to the said treatment and the said treatment written on the letter head of Pintu Nursing Home by Dr. Suresh Kumar Singh and the said certificate was marked Ext.A (Already marked “X” in the deposition of DW1) and the same is now remarked as Ext. D2. In cross examination, he stated that he appeared in the court on the request of father of Harinath Singh and now he is working as compounder in the hospital at Begusarai and he left the clinic of Suresh Prasad Singh after his death. He further stated that he used to get his salary ₹ 8,000 per month from the said clinic and he worked there for 8 years and he started worked there for the salary ₹ 4,000 per month and at the said time, there were seven bed in the said hospital built up to two storyes where one staff room and on the ground floor there were bed for the patients. He further stated that Arun Kumar was suffering from Typhoid, Malaria and on 31.05.2013 he was referred to PMCH. He further stated that Arun Kumar reached at 25.05.2013 on 07:00 AM and again he visited hospital at 07:00 AM on 26.05.2013 on next date and this was continued till 31.05.2013. He further stated that on 25.05.2013 Abhishek Kumar was also under treatment and on 27.05.2013 there were two more patient along with Arun Kumar in the clinic. He further stated that during those days when the alleged occurrence took place, the railway hospital was not in running condition and the railway hospital was started in 2015-16.

11. In this case, five accused persons are facing trial u/s 341/323/325/307/504/302/34 IPC. Initially the FIR was registered u/s 341/323/ 307/504/34 IPC but one injured died during treatment and then FIR was added with section 302 IPC and the charge sheet was submitted u/s 341/323/325/307/504/302/34 IPC. The prosecution's story is that the informant along with his father, uncle & two brothers were returning home and when they reached in front of the house of the accused A1 herein, the accused persons A1, A2, A3 & A4 herein surrounded them and then the accused A1, assaulted the father of the informant on his head with the back side of *Farsa* and then he fell down and then other accused persons A2, A3 & A4 alongwith the accused A1 also assaulted the father of the informant with lathis and when the informant and his brothers & uncle tried to save the father of the informant, then the another accused person A5 herein alongwith the accused persons Sudama Mehto & Vishal assaulted the informant and his brothers & uncle and they sustained simple injuries. Later the accused Vishal Kumar was sent before the JJB Board as he was juvenile conflicting with law and the the case of the accused Sudama Mehto was split up during trial. Here only A1, A2, A3, A4 & A5 are facing trial. After the death of the father of the informant, his further statement (*fardbayan Ext.8*) was again recorded wherein he stated that only the accused persons A1, A2, A3 & A4 assaulted his father where the accused A1 herein, assaulted his father with back of *Farsa* and thereafter the accused persons A1, A2, A3 & A4 herein, assaulted his father with sticks/lathi. During examination in the court the informant (PW5) as well as his injured brothers (PW2-Ramji Kumar & PW4-Bharat Kumar) & uncle (PW7-Ashok Verma) were examined and they deposed that they and the father of the informant were surrounded by all the accused persons A1, A2, A3, A4, A5 alongwith Vishal Kumar and Suma Mehto and at first the accused A1, assaulted with back of *Farsa* on the head of the father of the informant and thereafter they assaulted all of them including one Shivpujan Mehto (PW1) who intervened. There are the injury reports of the father of the informant, his brothers and third persons (PW1) who allegedly intervened but there is no injury report of the informant and his uncle PW7-Ashok Verma. The investigating officer was examined and he stated that after submitting the police report he came to know and found that the accused A1 was going under treatment at clinic at the time of occurrence and remained under treatment continuously for five days and thereafter he was referred to railway hospital where he remained under treatment for three days and in this regard the investigating officer stated

that he visited the said doctor of the clinic and railway hospital and found the said fact correct and thus he submitted the report to the court for exonerating the accused A1 herein. In defence, the servant and compounder of the doctor of clinic were examined as the defence witnesses DW1 & DW2 respectively and they asserted the fact of the treatment of the accused A1, in that clinic at Harnaut on the very date of the occurrence and continued therein. They also identified the Attested copy of the said certificate (Ext. D2) issued by the said doctor who died in the year 2021 and his compounder and servant of the doctor were examined.

The cardinal principle is that the prosecution must prove its case beyond the reasonable doubt. The defence is only required to create a reasonable doubt or establish its plea on the touchstone of preponderance of probabilities. The prosecution alleges that accused A1 gave the first blow on the head of the deceased with the blunt side of a *farsa* and thereafter participated in the assault with lathis alongwith the other accused persons A2, A3 & A4. The application(Ext.1) of the informant upon which the FIR registered is Firstly stated that the accused persons rank A1, A2, A3 & A4 were there when the informant, his brothers & uncle reached in front of the house of the accused A1 herein and then the accused A1 assaulted on the head of the father of the informant with the blunt side of *Farsa* by which he sustained injury on his head and he fell down and then the accused persons A2, A3, A4 along with the accused A1 herein also again assaulted him with Lathi. Thereafter other accused persons including the accused A5 herein arrived there and they assaulted the brothers of the informant and one Sivpujan Verma. The FIR itself shows that at first all four accused persons A1, A2, A3 & A4 assaulted the father of the informant and on second part is that the accused A5 herein, alongwith Vishal Kumar and Sudama Mehto reached and they also assaulted brothers of the informant and one Shivpujan and they also took part in the occurrence. The investigating officer however submitted police report against the accused persons including the accused A1 herein on 27.09.2013 but he made requisition and submitted a report (Ext. D1) vide DR. No. 3317/13 dt. 23.10.2013 before the Ld. Court of ACJM, Danapur, who had seen the said report 31.10 2013 wherein the investigating officer prayed before the Ld. Court of ACJM, Danapur, to consider the accused A1 herein as exonerated the Investigating Officer himself verified that accused A1 was under treatment in a private clinic at the time of the occurrence and remained under treatment for five days and thereafter he was shifted to the Railway Hospital for three days. The

Investigating Officer(PW8) deposed that personally visited both hospitals, verified the records and thereafter he submitted a report before the Court recommending exoneration of accused A1 herein. The testimony of the defence witnesses DW1 & DW2 who are the compounder and servant/assistant of the Dr. Suresh Prasad Singh also admitted the attested certificate Ext. D2 issued by the Dr. Suresh Prasad Singh who died in the year 2021. The witnesses DW1 & DW2 deposed that the accused A1 herein, was under treatment in the clinic on the relevant date. Since the doctor had died before trial, these witnesses identified the Attested certificate issued by him. The said evidence is admissible and at least raises a strong probability regarding the presence of accused A1 herein in the clinic situated at Harnaut about 50 Km away from the place of occurrence. Moreover, the prosecution has not produced any evidence to discredit these witnesses or the document Ext. D2. Although the burden of proving alibi lies upon the accused, it is discharged, if the evidence creates a reasonable doubt regarding his presence at the place of occurrence. Thus, the plea of alibi stands probablised. Thus the participation of accused A1 becomes highly doubtful and thus he is entitled for the benefit of doubt.

The *fardbayan* (Ext.8) that was recorded by the police officer of Police station Pir Bahor Patna at PMCH after the demise of the injured father of the informant and the informant in that fardbayan only stated about the participation of the accused persons A1, A2, A3 & A4 herein and he did not say the name of any other persons that means that at first instance, the informant made allegations against the accused persons A1, A2 A3 & A4 herein only and the FIR also stated as such and in the second instance the accused A5 and other co-accused persons reached at the spot and they participated in the occurrence and caused injury to the brothers of the informant and one Shiv Pujan Verma. The Fardbayan Ext.8 did not whisper regarding participation of other accused persons except the accused A1, A2, A3 & A4 herein.

The prosecution also examined the alleged injured persons and ordinarily great weight is attached to their testimony. But the witness PW1- Shiv Pujan Verma who stated that he was at his home when the occurrence took place and he intervened to sort out the matter but he was also assaulted by the accused persons where another witness PW7-Ashok Verma who also allegedly was returning home alongwith the informant Laxman, Ram Kumar Verma, Ramji Kumar & Bharat Kumar but he deposed that Shivpujan was also alongwith them when they were returning home after harvesting

vegetables but Shiv Pujan deposited that he remained in his house on that day. The first version of FIR immediately after the occurrence, the informant who allegedly eye witness stated that the accused A1 assaulted the deceased with the back side of the *Farsa* and thereafter the accused persons A2, A3 & A4 assaulted the deceased. While other accused persons A5 and Vishal & Sudama reached thereafter and they assaulted the informant, brothers and uncle. Subsequent statement after death of one of the injured, the informant again stated (*fardbayan Ext.8*) only A1, A2, A3 and A4 assaulted the deceased. But during the examination before the court, the informant(PW5), his brothers PW2-Ramji Kumar & PW4-Bharat Kumar, his uncle PW7-Ashok Verma stated that all the accused persons i.e the accused persons A1, A2, A3, A4, A5 herein alongwith the co-accused Vishal Kumar & Sudama Mehto surrounded them and thereafter all assaulted not only the deceased but every injured including one the PW1-ShivPujan Verma and thus this is a clear improvement over the FIR where the witnesses PW2, PW4 & PW7 are relatives of the informant as stated in the FIR itself. Here there are the injury reports of the deceased, brothers of the informant and one Shiv Pujan Verma but there is no medical report of the informant (PW5), though the informant claims to have sustained minor injuries injuries(*Para 35 of the testimony of PW5*) where the uncle (PW7-Ashok Verma) sustained no injury (*Para No. 23 of the testimony of PW7*) and this omission creates doubt regarding the extent of assault upon them but does not discredit the prosecution regarding the assault upon the deceased as well as to other injured persons PW1, PW2 & PW4 which supported by the evidence as of requests for medical treatment of the injured persons Ext. 3, Ext.3/1, Ext.3/2 & Ext.3/3 and their injury reports Ext.6, Ext.6/1, Ext.6/2 & Ext.6/3. Where the injured Ram Kumar Verma succumbed to the injuries during treatment at PMCH and his post-mortem report Ext.5 alongwith testimony of the witness PW9-Dr. Prema Singh & PW10-Dr. Pankaj Kumar also supported the occurrence.

Herein, in the FIR, in the Fardbayan(Ext.8), and in the deposition of the alleged eye witnesses PW1, PW2, PW4, PW5 & PW7 in the court, the consistence part of the prosecution evidence is that the accused persons A2, A3 & A4 assaulted the deceased with lathis. The deceased Ram Kumar Verma Sustained three injuries Lacerated wound over forehead 1” x 0.5” x 0.5” , Swelling over left side of scalp 3” x 1” x 1” and swelling over right shoulder as per his injury report Ext.6 and according to post-mortem report(Ext.5) and also as per testimony of the PW10- Dr. Pankaj Kumar Hemotoma was found under skull all over and with communicated fracture

8.5” x 5.5” and subdural hematoma was found on both side of brain. Therefore there is skull fracture and cause of death was stated to be the head injury and the nature of violence was hard and blunt object and its impact. The maxim falsus in uno, falsus in omnibus is not applicable. The Court has to separate the grain from the chaff. The presence of the accused A2, A3 & A4 at the place of occurrence at first time when the deceased was assaulted and their participation of assaulting the deceased with Lathis in furtherance of their common intention is established beyond the reasonable doubt on the basis evidence as placed by the prosecution during trial and in consequent to the injuries sustained by the deceased, he died during his treatment. Thus the accused persons A2, A3 & A4 are liable to be convicted for the offence u/s 302 IPC.

Herein also, the story of prosecution has never alleged that accused A5 herein, assaulted the deceased however in the application Ext.1, it is shown that when the deceased fell down and the accused persons A2, A3 & A4 assaulted him and thereafter, the accused A5 alongwith other accused persons reached there and they assaulted other injured persons PW1-Shiv Pujan Verma, PW2-Ramji Kumar & PW4-Bharat Kumar and PW1, PW2 & PW4 sustained only Simple injuries and therefore his role is confined to causing simple injuries to other witnesses. Therefore Section 302/34 IPC cannot be invoked merely because he participated in another part of the occurrence. Therefore, the accused A5 herein, is only liable to cause simple hurt for the offence u/s 323 IPC.

12. With the forgoing reasons and on the basis of the evidence available on record, this court holds that the prosecution has not been able enough to prove the charge as levelled against the accused Arun Kumar (A1) herein, beyond the reasonable doubts and thus the accused Arun Kumar (A1) is hereby acquitted from all the charges u/s 341/323/325/307/504/302/34 IPC by giving him the benefit of doubt.

The Court further holds that the prosecution has been able enough to bring home the charge u/s 302/34 IPC as leveled against the accused persons Harinath Mehto (A2), Parasnath Mehto (A3) & Krishna Singh(A4) beyond the reasonable doubts and thus they are hereby convicted for the offence u/s 302/34 IPC. The bail bonds of the accused persons Harnath Mehto (A2), Parasnath Mehto (A3) & Krishna Singh(A4) are hereby cancelled and they into the Judicial Custody.

The Court further holds that the prosecution has been succeeded to prove the only charge u/s 323 IPC against the accused Anandi Mehto (A5) and thus he is convicted there under. As the accused Anandi Mehto(A5) is on bail, so his bail bonds are cancelled and he is taken into the judicial custody.

13. The Ld. Counsel for the convict Anandi Mehto (A5)prayed that the convict Anandi Mehto (A5) is the first offender and he is convicted for only charge u/s section 323 IPC and this is the first conviction and thus the Ld. Counsel prayed for release him on probation. On the other hand, the Ld. Addl. Public Prosecutor contended that the accused should be punished for the maximum period.

Having regard to the age of the convict, nature of the offence of section 323 IPC for which the accused Anandi Mehto(A5) is convicted, circumstances in which the offence have been committed, character of the convict, in the light of the submissions made by the Ld. Counsel and of the Ld. Addl. P.P. for the state and to meet out the ends of justice, the court found nothing on record to show the previous conviction of the convict Anandi Mehto(A5) and the court further considers that the convict had already undergone judicial custody for 6 months and 27 days in this case and the convict is of rural background and it is therefore, and in the interest of justice, this court instead of **sentencing the convict to any punishment, release him after due admonition.**

14. The Convicts Harnath Mehto (A2), Parasnath Mehto (A3) & Krishna Singh(A4) shall be heard on the point of sentence on 23.07.2026.

**Typed, Corrected &
pronounced by me in
open court**

**Sunil Kumar III
DASJ- VI, Danapur
16.07.2026**

**Sunil Kumar III
DASJ – VI, Danapur
16.07.2026**