

In The Court of Sri Sunil Kumar III, DASJ-VI,Danapur.
Sessions Trial No. 346/2023 & 968/2023
State Vs Raushan Kumar & Ors
Date of Judgment: 07.07.2026

A2	Monu Kumar	24.01.2023	18.12.2024	u/s 302/326/120B/34 IPC	Acquitted	NA	NA
A3	Rohit Kumar	25.04.2023	03.09.2024	u/s 302/326/120B/34 IPC	Convicted u/s 302/34 IPC	Fixed for hearing on sentence on 14.07.2026	1 Year 4 Months & 9 Days

FORM C

LISTOFPROSECUTION/DEFENCE/COURT WITNESSES

A. Prosecution

Rank	Name	NATUREOFEVIDENCE(EYEWITNESS,POLICEWITNESS,EXPERTWITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	Dr. Tahseen Akhtar	Medical Witness
PW2	Aman Kumar, s/o- Om Prakash Singh	Other witness
PW3	Amit Kumar	Other witness
PW4	Soni Devi	Informant
PW5	Rani Devi	Eye witness
PW6	Aman Kumar, s/o- Rajesh Rai	Other witness
PW7	Sumit Kumar @ Sujit Kumar	Other witness
PW8	Raju Kumar	Witness of recovery/seizure of blood stains
PW9	Mukesh Kumar	Investigating Officer(Police Witness)

B. DefenceWitnesses,ifany:

Rank	Name	NATUREOFEVIDENCE(EYEWITNESS,POLICEWITNESS,EXPERTWITNESS,MEDICALWITNESS, PANCH WITNESS, OTHER WITNESS)
Nil	Nil	Nil

LISTOFPROSECUTION/DEFENCE/COURTEXHIBITS

A. Prosecution:

Sl.No.	ExhibitNumber	Description
1	Ext. 1 (PW4)	Signature on <i>farbbyan</i> of the informant
2	Ext. 1/A (PW5)	Signature of the witness Aman Kumar on <i>farbbyan</i>
3	Ext. 1/B(PW5)	Signature of the witness Aman Kumar on first seizure list
4	Ext. 1/C (PW5)	Signature of the witness Aman Kumar on second seizure list
5	Ext. 2 (PW4)	Signature of the witness PW4 on Carbon Copy of the Inquest report
6	Ext. 2/A(PW8)	Signature of Raju Kumar on the carbon copy of Inquest report
7	Ext.3/A(PW8)	Signature of the witness PW8-Raju Kumar on seizure list of blood stains
8	Ext.3/B (PW8)	Signature of the witness PW8-Raju Kumar on another seizure list of blood stains
9	Ext.1/2 (PW9)	Initial of Sri Kameshwar Prasad the then SHO Danapur on the endorsement order of handing over the investigation
10	Ext. 2/B (PW9)	Carbon Copy of Inquest Report
11	Ext.4(PW9)	Seizure List blood stains in front of house
12	Ext. 4/A(PW9)	Another Seizure List Blood stains at the place where the dead body was found
13	Ext. 5 (PW9)	Formal FIR
14	Ext. 6	Certified copy of FIR of Danapur P.S. Case No. 1082/2022
15	Ext.7	Certified copies of the charge sheets submitted in the Danapur P.S. Case No. 1082/2022(Marked as Ext.5 but that number was already marked and hence it was marked as Ext.7)
16	Ext.8(PW1)	Postmortem Report (<i>It was marked Ext.1</i> during examination of PW1but later for the convenience it was marked Ext.8as other Exhibits were repeatedly marked as Ext.1 and Ext.1 series)

B.Defence

Sl.No.	ExhibitNumber	Description
NIL	NIL	NIL

Shankar Chaudhary. She also stated that there was a dispute with her gotiyas where her nephew Raushan intimidated to kill her son.

3. After completion of the investigation, the police submitted police report(Charge sheet) u/s 302/326/120B IPC against accused persons **A1 & A2 herein** and kept the supplementary investigation pending and thereafter the ACJM- 1, Danapur, took the cognizance of the offence **against the accused persons Raushan Kumar & Monu Kumar i.e the accused persons rank A1, & A2 herein** and thereafter the police papers were supplied to them and then the case was committed to the court of Sessions where the case was numbered as Session Trial No. 346/23. The supplementary police report (Charge sheet) **u/s 302/326/120B IPC** was also submitted against the accused Rohit Kumar i.e the accused rank A3 herein, and after supplying the police papers, the said case was also committed to the court of Sessions wherein the said case was registered and numbered as Sessions Trial No. 968/23. Thereafter on hearing the accused and the Ld. Prosecutor for the state, the Court vide its order dated 11.12.2023 in ST No. 346/23 framed the joint charge **u/s 302/326/120B/34 IPC** against the accused persons A1 & A2 herein while vide order dt. 22.09.2023 framed the charge **u/s 302/326/120B/34 IPC** in case ST. No. 968/2023 against the accused A3 herein. The charges were read over & explained to the accused persons to which the accused persons pleaded not guilty and they claimed trial. Vide order dated 05.01.2024 both the records of Session Trial 968/23 & 346/23 were amalgamated as both the cases arose from the same police case vide Danapur P.S. case No. 1362/2022 and thereafter, the entire case runs being Session Trial No. 346/2023.

4.EVIDENCE:-

During the course of trial the prosecution altogether examined nine witnesses such as the PW1-Dr. Tahseen Akhtar, PW 2- Aman Kumar, s/o- Om Prakash Singh, PW3- Amit Kumar, PW4- Soni Devi i.e the informant, PW 5- Rani Devi, PW6-Aman Kumar s/o- Rajesh Rai, PW7- Sumit Kumar @ Sujit Kumar, PW8- Raju Kumar and PW9- Mukesh Kumar i.e the Investigating Officer of the case.

Besides this, the prosecution adduced documentary evidence as shown and Form C

EXAMINATION OF THE ACCUSED PERSONS AND THEIR EVIDENCE:-

5. After closing the prosecution's evidence the accused persons A1, A2 & A3 herein, were examined in the light of the section 313 Cr.P.C where they denied the alleged occurrence and claimed to be innocent. Thereafter, the accused A1 examined one witness DW1-Babita Kumari. No evidence was adduced on behalf of the accused persons.

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 herein, beyond the reasonable doubts or not?

ARGUMENTS ON BEHALF OF THE STATE

7. Ld. Addl. Public Prosecutor argued that the prosecution has proved its case beyond all reasonable doubts as all the examined witnesses of the prosecution supported the case of the prosecution and their evidence are under corroboration and they proved the date of occurrence, place of occurrence and also the manner of occurrence coupled with motive of the occurrence. He further submitted that the documentary evidence as adduced by the prosecution supported by corroborated with the medical evidence i.e the post-mortem report Ext. 6 and the testimony of the eyewitness PW5-Rani Devi proved the charges as levelled against accused persons, and the Ld. Addl. PP for the state further submitted that the accused persons are liable to be convicted and punished for offence as charged.

ARGUMENTS ON BEHALF OF THE ACCUSED

8. Ld. Counsel for the accused persons A1, & A2 herein submitted that nothing has come incriminating against the accused persons A1 & A2 during trial. The Ld. Counsel for the accused A3 herein, argued on the point that no electronic evidence such as pen drive or cctv footage or the FSL report was provided to the accused during compliance of supplying police papers u/s 207 Cr.P.C and there is unreasonable delay in lodging of FIR. The Ld. Counsel also argued that there are vital contradictions in the testimony of the examined witnesses where some of them were hostile. The Ld. Counsels submitted that the prosecution is failed to establish the charges against all the accused persons, and thus they prayed for their acquittal.

FINDINGS

9. The witness PW1- Dr. Tahseen Akhtar deposed that on 30.11.2022 he was posted as Sub-divisional Medical Officer, Danapur, and on that day he

deposed that he conducted post-mortem examination of the body of the deceased Rahul Kumar and he prepared post-mortem report in his pen & signature was the same marked Ext. 1(*Now it was re-marked as Ext.8*). He also deposed that he found rigor mortis present at the both upper and lower limbs, ear black, eye closed, mouth closed body covered with sand particles.

He also found that the lungs congested, both right and left chambers of the heart were found empty, liver and other vessels found pale and the stomach contains semi-digested food while urinary bladder contains one litre of urine. He opined the cause of death was due to haemorrhage and shock caused by injuries sustained due to sharp object leading to cardio pulmonary failure.

During the cross examination he stated that the injury caused by sharp object that he did not mention in the post-mortem report that the injuries were caused sharp object.

Post-mortem report (Ext.8) shows that on External, there were injuries on the body of the deceased as:-

1. Cut lacerated wound over upper lips & nose, bony deep– 4 inch size.
2. Multiple incised wound in front of the neck, trachea cut, right carotid artery cut.
3. Multiple incised wound over back of neck, cervical spine, deep 6 inch length.
4. Stab wound over mid sternum & right lower chest 2 $\frac{1}{2}$ inch size each
5. Cut lacerated wound left hand palm 3 inch size.
6. Multiple incised wounds lower at left upper thigh + groin + penis of size 2" X 4" inch.

The witness PW2-Aman Kumar, s/o- Om Prakash Kumar and PW3-Amit Kumar deposed that they knew nothing and police did not record their statement.

The witness PW4- Soni Devi is the informant of this case and she deposed that Vikash made a telephonic call on her mobile that the Rohit Kumar took her son Rahul Kumar by assaulting him and Aman Kumar came to her and informed her that Rohit Kumar took her son Rahul Kumar and thereafter, she made a telephonic call to Raushan for accompanying her to police station as Rohit took her son by assaulting with the sharp edged weapon but the local *mohalla* persons told her they would not cooperate her and thereafter, she went to the police station and she found the dead body of

her son at Dhobi Tola and she found that her son was having cutting wounds on his body, neck and nerves. She further deposed that the accused Rohit who is the nephew of Kaju Rai assaulted on the head of Vikash and in that regard the case was registered and in that case her son deposed and for the said enmity her son was murdered and prior to the incident the accused Rohit came to her house and he intimidated to give a lesson to her son. She further deposed that by giving false plea that she suffered with acute pain in her stomach Raushan called her son and then Rohit caught hold him and thereafter, her son was murdered. She further deposed that the Sanjna who is the wife of Rohit intimidated that she lost her son and she would be lost other person including her husband. She identified her signature Ext. 1 her on the fardbyan and she also identified her signature Ext.2, on the inquest report of the dead body of her son.

In cross examination,she stated that at the time of occurrence she was at her house while the incident occurred at Dhobi Tola and the said place of occurrence was at short distance from her house and she took 10 minutes in reaching at the place of occurrence. She also stated that her son was residing along with Raushan at Dharm Tola and she again stated that her son was not residing there. She further stated that she disclosed the fact to the police in her statement that Aman told her that Rohit caught hold her son Rahul and took him. She also stated that in para No. 17 that the dead body of her son was cut into pieces and she also stated that she could not tell as to in which case her son deposed in a case instituted by Vikash. She also stated in para No. 20 regarding the alleged intimidation given by Rohit but she did not complain in any public authority as she was in fear and she further stated in para No. 24 that Aman types his *fardbyan* in police station and she made her signature on it in the night and she could not tell as to how many pages were of *fardbyan*. She further stated that she got information regarding the said occurrence on 11:30 PM in the night and at that time she was along with Aman and Vikash, and after getting the information regarding the occurrence, she gave information at first to the police. In para No. 27 of the cross examination, she stated that the occurrence of murder was committed in her absence which means she was not present at the place of occurrence when the offence was allegedly committed.

The witness PW5-Rani Devi deposed that the incident took place in the mid night about two years before. Her deposition was recorded on 10.12.2024. She deposed that at that time she was in her room and thereafter, she heard a ruckus and she peeped through the window and she saw that Rohit i.e the accused A3 herein, along with 4 unknown persons

were assaulting Rahul and Rohit assaulted with fist and thereafter, he assaulted with knife and took him. She further deposed that the blood stains was also dropped at door of her house and thereafter, she had got her son called Aman on telephonic call through Aman S/o Om Prakash, upon which her son Aman told her that she should not worry and thereafter, her son along with another Aman S/o Om Prakash, started searching Rahul and in the morning they found that the dead body of Rahul was lying on the heap of the sand and thereafter, the mother of the deceased Rahul reported the matter to the police. She further deposed that the police recorded her statement. She further deposed that the motive behind the occurrence was the deceased Rahul was used to live in the company of Shankar from whom Rohit have enmity and Shankar broken the glasses of his bus.

She only identified the Rohit i.e the accused A1 herein, during her examination and she further stated that she could not identify other accused persons. In cross examination, she further stated that at first the information regarding the occurrence was given by Aman Kumar S/o Om Prakash and she could not tell as to whom Aman Kumar informed about the occurrence and she further stated that as to who informed the matter to the police. She further stated that the police saw the blood stains and they recovered it on dated 30th date but she could not tell at which time the police picked up the blood stains from the spot. She further stated in para No.10 that the police was informed in the morning after recovery of the dead body and she had no knowledge as to who visited the place of occurrence and she further stated that what documents were prepared by the police in that relation. In cross examination she further stated (para No.19) that the occurrence of marpit is for about 20-25 minutes.

The witness PW6-Aman Kumar deposed that the incident took place on 29.11.2022 at about 12:00 mid night and at that time he received a telephone call from Aman Kumar and the said Aman Kumar s/o Om Prakash told him on telephone that Rahul's brother Raushan came to house of Jhunjhunwala and he knocked the door and told him that his mother was suffering from acute pain in her stomach upon which the Rahul opened the gate where Rohit, Monu and other 3-4 persons present and then Rohit dragged Rahul and started assaulting him and other persons were also assaulted him and when Rahul screamed for help, Rohit assaulted with knife and dragged him out of the house and thereafter on hearing the said information of telephone this witness departed to Jhunjhunwala road and when he reached there he saw Aman, Vikash, father of Rahul and Rahul's mother Soni Devi were searching Rahul and thereafter, he also started

searching for him but they could not find Rahul and then he told them to report the matter to the police and then he went to the house at Jhunjhun road where he asked about the incident from his mother and his mother also narrated the incident to him and then he told his mother not to worry and then he moved to his house at Bhatta and thereafter, at 04:00 AM he came to know that the dead body of Rahul was found at Dhobi Tola and then he went there in the morning and saw that Rahul was murdered by assaulting with knife and there was many cut wounds on his neck, stomach, private part and lips and thereafter, he was called for his statement in the police station and the police officers also shown CCTV footage to him and he identified Rohit Kumar and other persons were having muffled faces. He identified his signature Ext. 1/B of the seizure list of the blood stains, he also identified his signature Ext. 1/C regarding to blood stains lifted from the sand. He also identified his signature Ext. 1/A on the fardbyan of the informant Soni Devi. He identified the accused Rohit and Monu Kumar in the court and he stated that one accused is in judicial custody. He further deposed that the motive behind the occurrence was that Rahul Kumar was the witness in case instituted by Vikash Kumar.

In cross examination, he stated that his statement was recorded on 30.11.2022. He also stated the said CCTV footage shown to him was of the night time of the dated 29th. He also stated that in his cross examination that the case No. 1082/2022 was instituted by the Vikash Kumar where the Rohit Kumar, Raju @ Kaju Rai and Anna assaulted Vikash on his head.

The witness PW7-Sumit Kumar @ Sujit Kumar deposed that he knew nothing and police did not record his statement and he turned hostile and did not support the story of the prosecution.

The witness PW8-Raju Kumar deposed that on 30.11.2022 seizure list was prepared and he made his signatures Ext. 3/A as witness on the seizure list and Ext. 3/B on the seizure list and he also identified his signature Ext. 2/A on the inquest report.

In cross examination, he stated that no document was read over to him prior to his signature and he also could not read the same and he could not recall as to whether the police obtained his signature on the seized material or not and the entire proceeding was done by police officer in police station.

The witness PW9-Mukesh Kumar is the Investigating Officer and he deposed that on 30.11.2022 he was posted as Sub inspector at Danapur, police station and the fardbyan of the informant was typed by the then SHO Kamleshwar Prasad Singh and he was handed over the charge of the

investigation of this case under the endorsed order Ext. 1/2 of the then SHO Kamleshwar Prasad Singh. He further deposed that after getting the charge of the investigation, ASI Pran Mohan Singh prepared inquest report at the place of occurrence. He identified the said carbon copy of the inquest report of the deceased Rahul Kumar prepared by ASI Pran Mohan and the said inquest report is marked as Ext. 2/B and thereafter, he inspected the place of occurrence and thereafter, he lifted the blood stains on cotton and marked them and he then visited place of occurrence at Dhobi Tola where the dead body of the deceased Rahul was found and he found the cut wounds at his neck, lips, stomach & thigh and he also found his penis was also cut and there was several assault of knife. He also identified seizure list (Ext. 4) and he prepared of sight plan at the place of occurrence and the seizure list Ext. 4/A was also prepared. He also recorded the statement of Aman Kumar s/o Om Prakash and Aman Kumar s/o- Rajesh Rai at the place of occurrence and thereafter through secret messenger, he got information regarding the accused Raushan Kumar and upon the said information Raushan Kumar was arrested and his confessional statement was recorded on 02.12.2022 he was sent to the judicial custody and thereafter, on 02.12.2022, he recorded the statement of the witness Rani Devi and conducted raid of for the arrest of other accused persons but they found absconded. Thereafter, he obtained the post-mortem report and on 05.12.2022 and he also obtained the CCTV footage of the camara installed in the house of Narendra Kumar, Pravan Kumar and Ashok Kumar. He submitted 03 pendrives to the court but on that pendrives no mark of identification and case number is mentioned thereon. The said pendrives were marked Ext. I, I/1, I/2 (with objection). He further deposed that from the CCTV footage of the camara of the house of Pravan Raj, the face of the assailant could not be identified but the CCTV footage as obtained from Amresh Kumar of near Kali Asthan also could not help and thereafter, on 10.12.2022, he collected pendrive and obtained the signature u/s 65B and thereafter, he submitted chargesheet against Raushan Kumar and Monu Kumar u/s 302/326/120B/34 IPC and kept the supplementary investigation pending. He also recorded the statement of the witnesses Amit Kumar and Sujit Kumar and thereafter, he further submitted the supplementary chargesheet on 08.09.2023 against the accused Rohit Kumar i.e the accused A3 herein and kept the investigation pending against the Raju @ Kaju Rai. He also identified the FIR (Ext. 5).

In cross examination he stated that no one saw any accused at the place where the dead body was found prior and after of the alleged occurrence, and no witnesses stated as such in their statement recorded

during the course of investigation. He further stated that the fardbyan of the informant does not show as to where the said fardbyan was types and who typed it. He further stated that inquest report was not prepared by him. The blood stains were found at the house and also at the house place where the dead body was found but no blood stains was found between the said two places i.e at house and where the dead body was found. He further stated that on the instance of the confessional statement recorded in the police custody nothing was recovered. He further submitted that where the seizure list was prepared, no statement of the witness except the house owner was recorded. Investigating Officer further stated that the witness Rani Devi did not state in her statement u/s 164 Cr.P.C that the accused Rohit Kumar took Rahul Kumar assaulting with knife. He also stated that the informant did not state in her recorded statement during the investigation that Raushan called Rahul on the pretext that his mother was suffering from pain in her stomach and handed over to Rohit and thereafter, her son was murdered (para-No. 14). He further stated that the informant did not state regarding the intimidation as alleged story of the prosecution in her fardbyan. IO further stated that in the CCTV footage, no face was identified and he did not record the statement of owner of the CCTV footage Pravan Raj, Amresh Kumar and Narendra Kumar and he did not say as to of which date the said CCTV footage.

The prosecution also submitted the certified copies of the FIR (Ext.6) of Danapur PS Case No. 1082/2022 and chargesheets (Ext.7) submitted in that case on completion of the investigation wherein it is shown that the said FIR was lodged by Vikash Kumar against Rohit Kumar and Kajy Rai and the police submitted the police reports against them.

10. In this case, the story of prosecution is that the deceased was called from his house and the accused persons dragged him out and then they murdered him by assault with knife and on the morning, his body was found on the heap of sand and the medical report also shown there were several sharp cut wounds on neck, face, lip, thigh, & penis. The investigating officer however collected and seized blood stains at the door and also from the place where the deceased was found dead but he did not send them for forensic examination. He also obtained the cctv footage from the cameras installed in other houses of locality and stated that he obtained certificate u/s 65 B of Evidence Act but the said certificate was not placed and proved on record however, three pen drives submitted by investigating officer and they were marked exhibited Ext. I, Ext.I/1 & Ext. I/2. He stated that in that footage no one was identified. The informant is the mother of the deceased. He was informed about the occurrence committed at about midnight. The

informant was informed by a person Aman Kumar (PW2) who hostile during the course of trial and did not support the prosecution.

Herein, a lady i.e the witness PW5-Rani Devi, who is the resident of the street and she saw the occurrence and she deposed that she heard a noise and then she saw from window that Rohit Kumar stabbed Rahul Kumar with knife and she named the the name of only one assailant Rohit Kumar whom she identified and she also identified the said accused Rohit Kumar in the court during her examination. She only identified the accused A3 herein, in the court that he was stabbing the deceased and then the accused persons took him away and, in the morning, the dead body of the deceased was found. The post-mortem report (Ext.8) of the deceased as well as the testimony of the doctor (PW1) corroborated the alleged assault as there were several cut wounds were found on the body of the deceased.

11. The witness PW5-Rani Devi is the local resident and she is the eyewitness and is a natural witness of the alleged occurrence. As she lived in the same street and she heard the alarm and then she immediately looked through the window and thus her presence is therefore natural. The Investigating officer stated that the said witness did not named the accused persons in her statements recorded u/s 164 Cr.P.C but nothing in the record to show that the investigating officer (PW9) had got recorded her statements u/s 164 Cr.p.c however he recorded her statements u/s 161 Cr.P.C wherein the said witness Rani Devi supported the prosecution and she named Rohit Kumar & Monu Kumar i.e the accused persons A2 & A3 herein, in the commission of the alleged occurrence but during her examination in the court, she only identified Rohit Kumar i.e the accused A3 herein. The testimony of the witness PW5 substantially remained intact as under Section 161 CrPC statement's she named Rohit Kumar & Monu Kumar and during trial she identified only Rohit Kumar i.e the accused A3 herein. Failure to identify another does not make her entire evidence unreliable. Moreover, her testimony is corroborated by the post-mortem report showing repeated sharp-cut injuries, Recovery of blood from the door& Recovery of blood from the place where the body was found as shown by the seizure list Ext4 & Ext 4/A. The story of the prosecution that the deceased was dragged out of his house and assaulted with knife is supported by Bloodfound near the house and also at the place of recovery of the dead body and medical evidence corroborated the story of the prosecution. The witnesses PW4(Informant), PW6 & PW8 however are not the eye witnesses but they are the witnesses of circumstances and they supported the commission of occurrence. occurrence.

The absence of recovery of the knife is not fatal as the recovery of the weapon is only corroborative and not essential where there is reliable ocular evidence.

The Eye witness only identified the accused Rohit Kumar i.e the accused A3, during her examination and did not identified the accused A1 & A2 herein, however she named the accused Monu Kumar i.e the accused rank A2 herein, in her statements u/s 161 Cr.p.c but non identifying the accused A2 herein during her cross examination created suspicious about the involvement of the accused A2. There is no direct evidence also against the accused Raushan Kumar and nothing incriminating evidence was also against the accused A1 also.

The witness (PW9) who is the investigating officer and he deposed that he obtained a certificate under Section 65B. but the said certificate was not produced & proved on trial and hence the mandatory requirements for making the electronic evidence admissible are not fulfilled as the original device itself is not produced. Therefore, the pen drives are not admissible as substantive electronic evidence. The witness PW9 himself stated that no one was identified from the said vedio footage. As the Pen drives were marked Ext.I/1, Ext.I/2 & Ext.I/3 and even assuming admissibility, the IO himself admitted that nobody could be identified in the said footage. On playing the said pen drives, in one pendrive marked Ext. I/2 it is only seen that three persons dragged and assaulted one person took him in a street but non was identified therein and thus it does not prove as to who they were. Despite that the Investigating officer (PW9) stated that he did not record the statements of the camera's owner owning the cameras, preserving the recording and handing over the footage and thus this breaks the chain of custody. Thus, the footage has almost no incriminating value.

12. In this case, the investigating officer did not clear as to whether he sent the blood stains for the forensic examination for grouping and for DNA and its failure has deprived the Court of scientific evidence. No murder weapon was recovered and no effort was made by investigating officer for such recovery. Investigating officer also stated that he did not record the statement of the owners of the cameras from whom he obtained cctv footage residing in pen drive. The police submitted the charge sheet only against the accused A1, A2 & A3 and kept the investigation pending against one which is still pending for four years while the trial of this case is complete. Investigation against fourth accused kept pending for four years is highly irregular and is contrary to fair investigation.

However, there are lapses on the part of investigation but the Court has to decide the guilt of the accused only on legally admissible evidence, while ensuring that lapses of the Investigating Officer (IO) do not automatically result in acquittal, if the substantive evidence is otherwise trustworthy.

13. In this case, there is direct evidence of an eye witness PW5-Rani Devi and direct eyewitness identification of the accused rank A3-Rohit Kumart, corroborated by medical evidence and surrounding circumstances as discussed above established the guilt of the accused rank A3 for the charge u/s 302/34 IPC beyond the reasonable doubts and thus the prosecution succeeded in proving the said charge u/s 302 /34 IPC against the accused Rohit Kumar i.e the accused A3 herein. There is no substantive evidence connecting the accused persons ranked A1 & A2 herein with the alleged crime beyond the reasonable doubts and hence the accused A1 & A2 herein, are liable to be acquitted as they are entitled for the benefit of doubt.

In relation to the charge u/s 326 IPC, however, there are various sharp cut injuries on the vital parts of the body were caused by the accused A3 herein, and the very injuries which resulted in the death of the deceased. The offence of voluntarily causing grievous hurt does not survive as an independent offence and merges into the offence of murder. Consequently, no separate conviction under Section 326 IPC is called for, and the accused A3 herein, is liable to be convicted only under Section 302 read with Section 34 IPC.

14. With the forgoing reasons and on the basis of the evidence available on record, this court holds that the prosecution has been able enough to bring home the charge u/s 302/34 IPC as leveled against the accused Rohit Kumar (A3) beyond the reasonable doubts and thus the accused Rohit Kumar (A3) is hereby convicted for the offence u/s 302/34 IPC. The bail bonds of the accused Rohit Kumar(A3) are hereby cancelled and he is taken into the Judicial Custody.

Further, the accused persons Raushan Kumar (A1) & Monu Kumar (A2) are hereby acquitted for all the charge u/s 302/326/34 IPC& 120B IPC by giving the benefit of doubt as the prosecution failed to establish charges against them beyond the reasonable doubt. As the accused Monu Kumar (A2) is on bail, so his bail-bonds are hereby accordingly

discharged. The accused Raushan Kumar (A1) is in Judicial Custody, so he is directed to be released henceforth, if he is not required in any other case. Let the release order of the accused A1 be sent to the Jail Authorities.

15. The convict Rohit Kumar (A3) in J/C shall be heard on the point of sentence on 14.07.2026.

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

**Sunil Kumar – III
DASJ- VI, Danapur
07.07.2026**

**Sunil Kumar – III
DASJ – VI, Danapur
07.07.2026**