

Present :- Kanaiya Jee Choudhary  
Sessions Judge,Purnea.  
Sessions Trial No. 579 of 2025/CIS No. 579 of 2025  
(arising out of Barhara P.S. Case No. 140 of 2009)  
State Versus Md. Jakir and 03 others  
Date of Judgment : 16.04.2026

**FORM-A**  
**IN THE COURT OF DISTRICT & SESSIONS JUDGE,**  
**PURNEA**

**Date of Judgment - 16<sup>th</sup> day of April, 2026**

**SESSIONS TRIAL NO.- 579 of 2025**  
**C.I.S. No.- 579 of 2025**

(Details of F.I.R./Crime and Police Station)  
(Arising out of Barhara P.S. Case No. 140 of 2009 (GR Case No.2879  
of 2009 registered for the offence under section 366(A)/34 of the  
IPC. )

|                       |                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Complainant</b>    | <b>State of Bihar through<br/>Bibi Jobina Khatoon, Informant</b>                                                                                                                                                                                                                                                                                                |
| <b>Represented By</b> | <b>Sri Awadhesh Tiwary, P.P.</b>                                                                                                                                                                                                                                                                                                                                |
| <b>Accused</b>        | <b>1.Md. Jakir, S/o Late Gayasuddin,<br/>aged about 35 years.<br/>2.Bibi Janefa Khatoon, W/o Late<br/>Gayasuddin, aged about 70 years.<br/>3.Md. Rabbez, S/o Md. Israfil,<br/>aged about 33 years.<br/>4.Bibi Gulshan Khatoon, W/o Md.<br/>Israfil, aged about 60 years.<br/>All resident of village- Sahsaul,<br/>P.S. Barhara Kothi, District<br/>Purnea.</b> |
| <b>Represent By</b>   | <b>Sri Hare Ram Singh, Advocate.</b>                                                                                                                                                                                                                                                                                                                            |

**FORM B**

|                                               |                   |
|-----------------------------------------------|-------------------|
| <b>Date of Offence</b>                        | <b>28.11.2009</b> |
| <b>Date of FIR</b>                            | <b>02.12.2009</b> |
| <b>Date of Charge-sheet</b>                   | <b>31.12.2009</b> |
| <b>Date of Cognizance</b>                     | <b>15.12.2012</b> |
| <b>Date of Commitment</b>                     | <b>13.10.2025</b> |
| <b>Date of Framing of Charges</b>             | <b>17.11.2025</b> |
| <b>Date of commencement of<br/>evidence</b>   | <b>05.01.2026</b> |
| <b>Date on which judgment is<br/>reserved</b> | <b>10.04.2026</b> |

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|                                      |            |
|--------------------------------------|------------|
| Date of the Judgment                 | 16.04.2026 |
| Date of the Sentencing Order, if any | Acquitted. |

Accused Details:

| Rank of the Accused | Name of Accused      | Date of Arrest | Date of Release on Bail | Offences Charged with | Whether Acquitted<br><br>or convicted | Sentence Imposed | Period of Detention Undergone during Trial for purpose of section 428, Cr.P.C. |
|---------------------|----------------------|----------------|-------------------------|-----------------------|---------------------------------------|------------------|--------------------------------------------------------------------------------|
| 1                   | Md. Jakir            | N/A            | 30.04.2024              | 366(A)/34 of the IPC  | 366(A)/34 of the IPC Acquitted.       | N/A              | N/A                                                                            |
| 2                   | Bibi Janefa Khatoon  | N/A            | 30.04.2024              | Do                    | Do                                    | N/A              | N/A                                                                            |
| 3                   | Md. Rabbez           | N/A            | 18.10.2023              | Do                    | Do                                    | N/A              | N/A                                                                            |
| 4.                  | Bibi Gulshan Khatoon | N/A            | 18.10.2023              | Do                    | Do                                    | N/A              | N/A                                                                            |

FORM C

List of Prosecution/Defence/Court Witnesses  
A. Prosecution

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| RANK | NAME            | NATURE OF EVIDENCE<br>(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|------|-----------------|--------------------------------------------------------------------------------------------------------------------|
| PW 1 | Farzina Khatoon | Victim of the case (Hostile)                                                                                       |
| PW 2 | Jobina Khatoon  | Informant.                                                                                                         |

**B. Defence Witnesses, if any:**

| RANK | NAME | NATURE OF EVIDENCE<br>(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|------|------|--------------------------------------------------------------------------------------------------------------------|
|      | N/A  |                                                                                                                    |

**C. Court Witnesses, if any:**

| RANK | NAME | NATURE OF EVIDENCE<br>(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|------|------|--------------------------------------------------------------------------------------------------------------------|
| N/A  |      |                                                                                                                    |

| LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS |                |             |
|--------------------------------------------|----------------|-------------|
| A. Prosecution:                            |                |             |
| Sr. No                                     | Exhibit Number | Description |
| 1                                          | N/A            | N/A         |

**B. Defence:**

| Sr. No | Exhibit Number | Description |
|--------|----------------|-------------|
| 1      | N/A            | N/A         |

**c. Court Exhibits**

| Sr. No | Exhibit Number | Description |
|--------|----------------|-------------|
| 1      | N/A            | N/A         |

**J U D G M E N T**

1. All the four accused persons, namely, 1. Md. Jakir, 2. Bibi Janefa Khatoon, 3.Md. Rabbez and 4. Bibi Gulshan Khatoon stand charged for the offence punishable under section 366(A)/34 of the IPC that on

28.11.2009 at village Sahsoul, P.S. Barhara Kothi, District Purnea in furtherance of their common intention induced Farzina Khatoon (daughter of the informant Jobina Khatoon), a minor girl under the age of 18 years, to go from her house with the intent that the said victim forced to illicit intercourse.

2. As per written report of the informant, Jobina Khatoon, the prosecution case, in brief, is that she has two sons and two daughters. Her husband, Md. Usman, resides and works in Delhi. She lives at home with her daughter, Farzina Khatoon (aged approximately 15 years). Her elder son, Md. Noman, studies in Intermediate, and her younger son, Md. Gulfan, studies in Class VIII in Purnea. Her eldest daughter, Farmida Khatoon, is married to Ziaul—the son of her husband's elder brother, Suleman—and she resides in the same village. On 28.11.2009, the festival of Bakrid was celebrated. Both informant's sons, along with other male members from the neighborhood, went to the Eidgah to offer prayers (Namaz). Leaving informant's daughter, Farzina Khatoon, alone at home, the informant went to visit her eldest daughter Farmida's in-laws' house. When informant returned about half an hour later, she could not find her daughter Farzina inside her home, so she began searching for her in the neighbourhood. During the course of her search, Jaibun Nisha (wife of Md. Rais)—a resident of the same village—informed her that her daughter Farzina had been seen with Bibi Gulshan, W/o Md. Israfil and Janif, W/o Late Gyas. Later informant and her son-in-law Ziaul and son came while searching her daughter went to Sakardina

where Md. Azad and Md. Izhar Alam told them that their daughter Farzina was seen being taken by Md. Jakir, S/o Md. Gyas of Sahsoul on a Hero-Honda Splendor motorcycle towards Bihariganj. Then during the search, it was also found that informant's daughter was seen with Md. Rabbez, S/o Md. Israfil at the bus stand in Bihariganj at 12 noon. Then the informant informed her husband Md. Usman about her daughter's disappearance over the phone. In the meantime, the informant along with her family members together looking for her daughter but could not find her. Then her husband came to the village from Delhi on 30.11.2009 and then all of them kept on going to search informant's daughter. The informant suspects that her minor daughter Farzina Khatoon has been kidnapped by trial facing accused persons, namely, Md. Jakir, Bibi Janefa Khatoon, Md. Rabbez and Bibi Gulshan Khatoon along with other unknown persons, with the intention of marrying her.

3. On the basis of aforesaid written report of the informant, Barhara P.S. Case No. 140 of 2009 dated 02.12.2009 was registered for an offence under section 366(A)/34 of the IPC against all the four trial facing accused persons. The Police took up investigation and accomplishing the case, submitted chargesheet bearing No. 134 of 2009 dated 31.12.2009 against the accused persons, namely, Md. Jakir, Bibi Janefa Khatoon, Md. Rabbez and Bibi Gulshan Khatoon as mistake of fact based on the investigation done so far, statements of witnesses, inspection of the crime scene, observation and the statement given by the victim in the court under section 164 of Cr.P.C. But, the then learned

C.J.M., Purnea disagreed with the view and took cognizance against the aforesaid accused persons under section 366(A)/34 of the IPC vide order dated 15.12.2012. Consequently, the case was committed to the Court of Sessions vide order dated 13.10.2025 numbered as Sessions Trial No. 579 of 2025.

4. **Charge:-**

Vide order dated 17.11.2025 charge framed **under section 366(A) read with section 34 of I.P.C.** against all the four trial facing accused persons. Said charge read over and explained to them in Hindi language to which they pleaded not guilty and claimed to be tried.

5. Statements under section 313 of the Cr.P.C. of the accused persons were recorded on 22.01.2026, whereunder they claimed to be innocent and have not committed the offence as alleged.

6. Now, the point for determination is whether the prosecution has been able to substantiate the charges levelled against the accused persons beyond shadow of all reasonable doubts or not?

**FINDINGS**

7. To substantiate the charge levelled against the accused persons, the prosecution has been able to examined altogether 02 witnesses, which are as follows :-

| RANK | NAME | NATURE OF EVIDENCE<br>(EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS) |
|------|------|--------------------------------------------------------------------------------------------------------------------|
|      |      |                                                                                                                    |

|             |                        |                                     |
|-------------|------------------------|-------------------------------------|
| <b>PW 1</b> | <b>Farzina Khatoon</b> | <b>Victim of the case (Hostile)</b> |
| <b>PW 2</b> | <b>Jobina Khatoon</b>  | <b>Informant.</b>                   |

During the course of trial, prosecution has not produced any documentary evidence in support of its case.

Defence has failed to adduce either oral or documentary evidence in support of its case.

8. Out of two prosecution witnesses examined on behalf of the prosecution, P.W.1 Farzina Khatoon who is victim of the case has deposed in her examination-in-chief that the incident took place in the year 2009. At the time of the incident, she was at her home and was alone at that particular moment. She had gone away to her maternal aunt's (Khala) house because she had a disagreement with her mother, and in a fit of anger, she left for her maternal aunt's place which is located in Raisna, Madhepura. She did not come to Purnea on the day of the incident. Nothing untoward happened to her. She returned from her maternal aunt's house after two or four days. Her brother brought her back from her Khala's house; the police were not accompanying him. Her family members had lodged a case at the police station regarding her disappearance. Upon her return, the police arrived, recorded her statement, and also had her statement recorded before the court. In her statement, she affirmed that she had left home of her own free will. She identified accused persons standing in the dock and claimed to identify other accused.

In her cross-examination, she has deposed that the accused persons never kidnapped her. The accused persons are her maternal aunt (Badi Ammi), sister-in-law (Bhabi) and brother. After her quarrel with her mother, when she left home, her mother—acting merely on the basis of suspicion filed a case against the accused persons.

9. P.W. 2 Jobina Khatoon is the informant of this case. She has deposed that the incident occurred approximately 20 years ago. Her daughter's name is Farzina Khatoon, and this case was instituted in connection with her. Farzina's elder sister is named Hamida. On the day of the incident, Farzina was at home, while she had gone to her elder daughter's house. When she returned from her elder daughter's house, Farzina was not at home. Subsequently, she searched for her; and upon finding no trace of her, she went to the police station and submitted an application regarding her disappearance. She affixed her thumb impression to that application. That application was written by her husband. Later, she received a phone call from the home of her sister—who resides in Madhepura—informing her that Farzina had arrived at her house. After her daughter was found, she informed the police station of this fact and submitted an application stating that she did not wish to proceed with the case further. She identified accused persons present in the court, namely, Jakir, Janefa, and Gulshan and claimed to identify other accused also. On the request of the prosecution, the witness is declared hostile.

In her cross-examination, she has deposed that it is not

true that, in the application and statement she submitted to the police, she had stated that her daughter Farzina was seen being taken away on a Hero Honda motorcycle by Md. Azad, Md. Izhar, Md. Jakir, and others acting in concert; nor is it true that her daughter Farzina was seen near the Bihariganj Bus Stand on the day of the incident. It is not true that, having colluded with the accused persons, she is concealing the truth and have given a false statement claiming that her daughter had merely gone to her sister's house at Madhepura.

10. The learned counsel for the accused persons submitted that it is an admitted fact that both the parties are close relatives and co-villagers and from the evidences of both prosecution witnesses, it is established that in the occurrence, the kidnapping charge against the accused persons was filed on the basis of suspicion. P.W. 1 who is the victim of the case has specifically stated in her statement recorded under section 164 of Cr.P.C. that no one had kidnapped her, rather she had left the house on her own free will. P.W. 2, who is the mother of the victim and informant of the case has deposed in her cross-examination that the trial facing accused persons had no involvement in the missing of her daughter. Her daughter had gone to her sister's house at Madhepura and after her daughter returned to her home, a written statement was submitted by her in the court on 27.05.2023 to the effect that her daughter was not kidnapped by the trial facing accused persons rather on the basis of suspicion, she filed a case against the trial facing accused persons. While all of them are innocent. Both the prosecution witnesses have been

declared hostile and they have not supported the prosecution version including the offence u/s 366(A)/34 of the IPC. The prosecution fails to bring any medical report of the victim before the court. From evidences, it is an admitted fact that informant's daughter had left the house and went to the house of her Mousi located at Madhepura of her own free will and there was no motive or intention to kidnap her against the trial facing accused persons. Moreover, good feelings between both the parties have been restored and the trial facing accused persons have been declared innocent in writing by the informant. The prosecution has miserably failed to prove the charge under section 366(A) read with section 34 of the IPC. Hence, all the trial facing accused persons are entitled for clean acquittal.

11. The learned P.P. has submitted that P.W.1, who was 15 years old at the time of occurrence and hence a minor, was kidnapped by the trial facing accused persons and being a minor, the statement given by her is not admissible in the eyes of law.

12. I have considered the argument of learned P.P., learned defence counsel and evidences on record. Perused the case record, evidences available on record as discussed above and arguments advanced on behalf of the learned P.P. and the learned counsel of the defence, I find that the informant and the accused persons are close relatives. Though, P.W.2 being the informant of this case, in her written complaint had filed a case against the accused for kidnapping her minor daughter, but in her examination-in-chief she deposed that on the day of

the incident, her daughter had gone to her maternal aunt's house at Madhepura on her own free will and she came to know about it from her sister. Her daughter had gone to her sister's house at Madhepura and after her daughter returned to her home, a written statement was submitted by her in the court on 27.05.2023 to the effect that her daughter was not kidnapped by the trial facing accused persons rather on the basis of suspicion, she filed a case against the trial facing accused persons. She also deposed that the accused persons had no involvement in the kidnapping of her daughter and she also requested the court not to proceed with the case further. P.W.1 has deposed that due to quarrel with her mother, she became angry and voluntarily left for her maternal aunt's house at Madhepura, returning home 2-4 days later. The trial facing accused persons did not kidnap her, rather, they are her aunt, sister-in-law, and brother respectively. None of the witnesses have deposed anything with regard to allegation u/s. 366(A)/34 of the IPC. Prosecution has failed to adduce any documentary evidence in support of prosecution case. Since accused persons and prosecution witnesses are relatives to one another and residing in same locality, hence, their presence on the place of occurrence is natural and unsubstantiated allegation made by Informant that accused persons in furtherance of their common intention of all kidnapped her minor daughter with bad intention. In the course of investigation, accused persons was found innocent. Not only this, there is no events of chain of circumstance to establish the prosecution version. The contention of learned P.P. that the victim was a minor girl,

so her statement is not admissible and sustainable. The victim before Magistrate in her statement under section 164 Cr.P.C. narrated the real incident and she is the best witness of the occurrence and her statement is torch holder for the investigation of the case. Accordingly, on the basis of her statement, police filed Final Form as 'mistake of fact' which should be admitted at the time of cognizance as all the statements on case diary against the trial facing accused persons were on the basis of suspicion. So, the statement of the victim is absolutely admissible in this case. Hence, prosecution is unable to prove the charge for the offence under section 366(A)/34 of the IPC leveled against the trial facing accused persons on the basis of oral, documentary, material or circumstantial evidence. In fact allegation of assault has come during the trial but there is lack of any motive or intention. There is no eye witness of the alleged incident. No injury report or medical report of the victim was produced by the prosecution which could prove the charge levelled against the accused persons. For want of evidences, prosecution has failed to prove the charge for the offence under section 366(A)/34 of the IPC against the trial facing accused persons beyond shadow of all reasonable doubt. The benefit of doubt also goes in favour of the accused persons.

13. On the basis of above discussions, I find and hold that the trial facing accused persons, namely, 1. Md. Jakir, 2. Bibi Janefa Khatoon, 3. Md. Rabbez and 4. Bibi Gulshan Khatoon are hereby acquitted from the charge u/s. 366(A)/34 of the IPC. Hence, I find and hold that

Present :- Kanaiya Jee Choudhary  
Sessions Judge,Purnea.  
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prosecution has miserably failed to prove the charge u/s 366(A)/34 of the IPC levelled against the trial facing accused persons, namely, 1. Md. Jakir, 2. Bibi Janefa Khatoon, 3.Md. Rabbez and 4. Bibi Gulshan Khatoon and they are acquitted from the charge for the offence under section 366(A)/34 of the IPC. The abovenamed trial facing accused persons are on bail. Hence, they and their sureties shall be discharged from the liabilities of their respective bail bonds.

(Dictated & corrected by me)

sd/-  
(Kanhaiya Jee Choudhary)  
Sessions Judge, Purnea.  
16.04.2026

sd/-  
Sessions Judge, Purnea  
16.04.2026.

|                                    |                                  |
|------------------------------------|----------------------------------|
| Date of Judgment/Order -           | 16.04.2026                       |
| Date of Reserving Judgment/Order - | 10.04.2026                       |
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