

FORM A

IN THE COURT OF DISTRICT & ADDITIONAL SESSIONS JUDGE-I,
ROSERA, DISTRICT-SAMASTIPUR

Present- DUSHYANT KUMAR, Additional Sessions Judge- I, Rosera

[Date of the Judgment on 30.06.2026]

[Sessions Trial No.-569/2016, CIS No. 164 of 2016]

(Details of FIR/Crime and Police Station)

Details of FIR- Hasanpur P.S. Case No.-10/2009

Complainant/Informant	State of Bihar through Dinesh Yadav Son of Domi Yadav, R/o Village- Rajour, P.S. Garhpura, District- Begusarai, Informant.
REPRESENTED BY	Sri Sita Ram Yadav
ACCUSED	(1) Gopi Kumar Rai aged about 39 years Son of Late Ram Balak Rai, R/o Village - Rampur, P.S. Hasanpur, District- Samastipur, (2) Rajesh Kumar Rai alias Belu Rai aged about 49 years Son of Late Mani Bhushan Prasad Rai, R/o Village-Rampur, P.S. Hasanpur, District- Samastipur.
REPRESENTED BY	Sri, Tej Narayan Yadav, Advocate.

FORM B

Date of Offence	23.01.2009
Date of FIR	24.01.2009
Date of Charge-sheet	30.11.2009
Date of Framing of Charges	22.11.2016
Date of commencement of evidence	29.07.2019
Date on which judgment is reserved	30.06.2026
Date of the judgment	30.06.2026
Date of the Sentencing Order, if any	N/A

Accused Details :

Rank of the accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences Charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr. P.C.
1	Gopi Kumar Rai	N/A	(On surrender) 14.09.2015	341/34, 323/34,307/34, 342/34,427/34, 379/34, IPC	Acquitted	N/A	-
2	Rajesh Kumar Rai alias Belu Rai	25.01.2009	07.03.2009	341/34, 323/34,307/34, 342/34,427/34, 379/34, 324/34 IPC	-Do-	N/A	-

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)
P.W.-1	Kailash Mahto	Non official Evidence,
P.W.-2	Dilip Paswan	Non official Evidence,
P.W.-3	Tunna Rai	Non official Evidence,
P.W.-4	Bhola Mahto	Non official Evidence,
P.W.-5	Subodh Kumar Sharma	Non official Evidence,(Seizure -list witness)
P.W.-6	Kishun Ram @ Krishan Ram	Non official Evidence,
P.W.-7	Sanjeev Rai	Non official Evidence,
P.W.-8	Ran Gayan Mahto	Non official Evidence,
P.W.-9	Guru Dayal Ram	Official Evidence (I.O. of the case)

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNES, OTHER WITNESS)
N/A	N/A	N/A

C. Court witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNES, OTHER WITNESS)
N/A	N/A	N/A

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :

Sr. No.	Exhibit Number	Description
1.	Exhibit-1 (P.W.-5)	Signature of Subodh Kumar Sharma on the seizure list
2.	Exhibit-1/1 (P.W.-9)	Seizure list
3.	Exhibit-2 (P.W.-9)	Endorsement on written application
4.	Exhibit-3 (P.W.-9)	Signature of SHO Sanaour Khan on the formal F.I.R.

B. Defence

Sr. No.	Exhibit Number	Description
N/A	N/A	N/A

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
N/A	N/A	N/A

D. Material Objects :

Sr. No.	Exhibit Number	Description
N/A	N/A	N/A

Judgment

1. Accused Rajesh Kumar Rai alias Belu Rai and Gopi Kumar Rai stand charged and have been sent up for trial for the offences punishable under Sections 341/34, 323/34, 324/34, 307/34, 342/34, 427/34, and 379/34 of the Indian Penal Code (IPC).
2. Briefly stated, the facts leading to the present case are that the informant, namely Dinesh Yadav, submitted a written application before the S.H.O., Hasanpur Police Station, stating that on 23.01.2009, at about 4:50 P.M., he was travelling from Begusarai to Hasanpur in a bus. At about 7:30 P.M., when he reached near the railway crossing, there was a traffic congestion (jam) due to sugarcane-laden vehicles. Thereafter, he parked the bus at Rampur Trishul Chowk along with the conductor. At about 10:00 P.M., Vicky Kumar, Rajesh Kumar Rai @ Belu Rai, Ram Balak Rai, and two other unknown persons arrived there and surrounded him. It is alleged that Vicky Kumar abused the informant, took out a pistol from his waist, and assaulted him with the butt of the pistol. When the informant pleaded to be spared, Vicky Kumar fired a shot in the air, while Belu Rai assaulted him with a knife on his head, causing injuries. It is further alleged that Rajesh Kumar Rai, Ram Balak Rai, and the two unknown persons instigated the assault by saying that the informant was the person who had lodged the earlier case against them. When Dilip Kumar came to rescue the informant, Vicky Kumar drove him away after abusing him. It is further alleged that the accused persons damaged the informant's bus and removed its battery worth Rs. 1,800/-. They also damaged another bus parked nearby and removed the battery from that bus as well. The accused persons are also alleged to have assaulted the conductor of the bus, namely Ram Gyan Mahto. According to the informant, the motive behind the occurrence was that four days prior to the incident, Vicky Kumar had allegedly snatched money from him, in respect of which the informant had lodged a case against Vicky Kumar at Hasanpur Police Station.
3. On the basis of aforesaid fard-e-beyan of the informant Hasanpur P.S. Case No. 10/2009 was instituted on 24.01.2009, against Vicky Kumar, Rajesh Kumar Rai @ Belu Rai, Gopi Kumar, Ram Balak Rai and two unknown persons under Sections 341, 325, 307, 324, 323, 502, 365, 379, 427 read with 34 of I.P.C. and Section 27 of Arms Act. Thereafter investigation commenced. During investigation Rajesh Kumar Rai @ Belu Rai was arrested on 25.01.2009 and produced before the Court and sent to the judicial custody and his prayer for bail was rejected by the Ld. Lower Court on 19.02.2009. However, subsequently vide order dated 07.03.2009

passed in B.P. No. 174 of 2009, the accused Rajesh Kumar Rai @ Belu Rai was granted bail and he was released on bail.

4. Upon completion of investigation charge-sheet bearing No. 158/09 dated 30.11.2009 was filed under Section 341, 342, 324, 307, 427, 379/34 of I.P.C. and Section 27 of Arms Act against accused Rajesh Kumar Rai @ Belu, whereas accused Gopi Kumar Rai and Ram Balak Rai were shown as innocent and Vicky Kumar shows as dead. However, vide order dated 19.07.2013, cognizance was taken against all three accused Rajesh Kumar Rai @ Belu Rai, Gopi Kumar Rai and Ram Balak Rai under Sections 341, 342, 324, 307, 427, 379/34 of I.P.C. and Section 27 of Arms Act, whereas proceeding against the accused Vicky Kumar was directed to be dropped on account of him being dead. Accused Gopi Kumar Rai and Ram Balak Rai surrendered before the Court on 14.09.2015 and released on bail in pursuance of order passed in A.B.P. No. 1528 of 2015. Vide order dated 06.09.2016, the case was committed to the Court of Ld. District & Sessions Judge, Samastipur for trial.
5. On 22.11.2016, upon hearing the Ld. Additional Public Prosecutor and the Ld. Counsel appearing for the accused, and upon perusal of the materials available on record, this Court found sufficient grounds for framing charges against accused Rajesh Kumar Rai @ Belu Rai, Gopi Kumar Rai and Ram Balak Rai under Sections 341/34, 323/34, 307/34, 342/34, 427/34, 379/34, IPC. Charge under Section 324 of I.P.C. also was framed against accused Rajesh Kumar Rai alias Belu Rai. The contents of the charges were read over and explained to the accused in Hindi, to which they pleaded not guilty and claimed to be tried. Accordingly, the prosecution was directed to produce its witnesses, and the trial commenced.
6. Kailash Mahto (P.W.-1) was examined on 29.07.2019. In his examination-in-chief, he stated that he had no knowledge about the incident and that his statement had not been recorded by the police. At the request of the prosecution, he was declared hostile. In his cross-examination by the prosecution, the witness denied having made any statement to the police to the effect that, on the date and at the time of the occurrence, he was at his shop along with his mother; that he did not come out of the shop as his mother had forbidden him from doing so; that he heard Vicky Kumar hurling abuses and also heard the sound of gunfire; and that he subsequently came to know that Vicky Kumar had assaulted the conductor of the Jagadamba bus and damaged the bus. He further denied the suggestion that he was concealing the true facts in collusion with the accused and was giving false evidence before the Court. The witness identified accused Rajesh Kumar Rai @

Belu Rai, who was present in Court, on the ground that he was his co-villager and stated that he could identify the remaining accused if shown to him. In his cross-examination by the defence, he simply stated that he identified accused Rajesh Kumar Rai @ Belu Rai because he was his co-villager.

7. Dilip Paswan (P.W.-2) was examined on 29.07.2019. In his examination-in-chief, he stated that he had no knowledge about the occurrence and that he had not given any statement to the police. He was declared hostile at the request of the prosecution. During his cross-examination by the prosecution, he denied having stated before the police that he was present at Trisul Chowk at the time of the occurrence, or that upon reaching Trisul Chowk he came to know that, on the previous night, Vicky Kumar had assaulted the drivers and fired a shot, and that he found the windowpanes of the buses broken. He identified accused Rajesh Kumar Rai @ Belu Rai, who was present in Court, and stated that he could identify the remaining accused if shown to him. He further denied the suggestion that he was suppressing the true facts in collusion with the accused and was deposing falsely. In his cross-examination by the defence, he stated that he identified the accused only because they were his co-villagers.
8. Tunna Rai (P.W.-3) was examined on 01.08.2019. In his examination-in-chief, he stated that he had no knowledge about the incident and had not given any statement to the police. He was declared hostile at the request of the prosecution. In his cross-examination by the prosecution, he denied having stated before the police that, on the night of the occurrence, he was not at home; that after hearing the sound of firing he did not go to the place of occurrence that night but visited it the next morning; and that he came to know that Vicky Kumar had assaulted the conductor and driver of the Jagadamba bus, damaged the bus, and fired shots. He identified accused Rajesh Kumar Rai @ Belu Rai, who was present in Court. He denied the suggestion that he was suppressing the true facts in collusion with the accused and was giving false evidence before the Court. In his cross-examination by the defence, he stated that he identified the accused because he was his co-villager.
9. Bhola Mahto (P.W.-4) was examined on 01.08.2019. In his examination-in-chief, he deposed that he had no knowledge about the incident and had not given any statement to the police. He was declared hostile at the request of the prosecution. In his cross-examination by the prosecution, he denied the suggestion that he used to run a betel shop at Trisul Chowk. He further denied having stated before the police that, when he reached the place of occurrence, he found a traffic jam caused by buses, noticed that the windowpanes of the Jagadamba bus had been broken, and

came to know that Vicky Kumar had assaulted the driver and conductor of the bus and had fired shots into the air. He identified accused Rajesh Kumar Rai @ Belu Rai, who was present in Court. He denied the suggestion that he had concealed the true facts in collusion with the accused and was giving false evidence. In his cross-examination by the defence, he stated that he identified the accused because he was his co-villager.

10. Subodh Kumar Sharma (P.W.-5) was examined on 02.09.2019. In his examination-in-chief, he deposed that on 24.01.2009, during the course of investigation, an 8 mm bullet was recovered from the cabin of bus bearing Registration No. BR-09-0733 at Trisul Chowk. The bullet was seized and a seizure list was prepared, on which he put his signature. Upon identifying his signature, the same was marked as Exhibit-1. He further deposed that he had no knowledge about the incident and later came to know that there had been a dispute regarding payment of bus fare. He identified accused Rajesh Kumar Rai @ Belu Rai and Gopi Rai, who were present in Court. In his cross-examination by the defence, he stated that no article was recovered by the Investigating Officer in his presence, nor was any seizure list prepared before him. He further deposed that he signed the seizure list at the instance of the police out of fear. He also stated that he did not know who had informed him about the incident and that he identified the accused only because they were his co-villagers.
11. Kishun Ram @ Krishan Ram (P.W.-6) was examined on 07.09.2022. In his examination-in-chief, he stated that he had no knowledge about the incident and that the police had not recorded his statement. He was declared hostile at the request of the prosecution. In his cross-examination by the prosecution, he denied having stated before the police that he did not receive any information on the night of the occurrence but, on the following morning, saw a traffic jam and came to know that Vicky Rai had assaulted the driver of the bus, damaged its windowpanes, and fired shots into the air, causing terror in the locality. He also denied having stated that there had earlier been an altercation between Vicky Rai and the driver of the bus, which led to the occurrence, or that he had not heard about the involvement of Ram Balak Rai and Gopi Rai. He identified accused Belu Rai, who was present in Court, and stated that he could identify the remaining accused by face though he did not know their names. In his cross-examination by the defence, he stated that he lived outside the village for his livelihood and visited his home only occasionally. He neither witnessed the occurrence nor heard anything about it and identified the accused only because they were his co-villagers.

- 12.** Sanjeev Rai (P.W.-7) was examined on 07.09.2022. In his examination-in-chief, he deposed that the occurrence had taken place about 13–14 years earlier, at around 10:30 P.M. He stated that he was the driver of bus bearing Registration No. BR-09A-0733 and used to ply the bus between Hasanpur and Begusarai. On the date of the occurrence, he had driven the bus from Begusarai to Hasanpur. Due to a traffic congestion caused by sugarcane-laden vehicles, he parked the bus at Trisul Chowk. At about 9:00 P.M., after having dinner, he went to sleep. At about 10:00–11:00 P.M., while they were sleeping, they heard the sound of windowpanes being broken. On waking up, they saw 3–4 persons standing outside the bus. Dinesh Yadav was the conductor of the bus. There was dense fog outside. Dinesh Yadav had gone to fetch water when 3–4 persons started assaulting him. The witness stated that he could not see who had assaulted Dinesh Yadav. He further deposed that shots were fired into the air. He did not get down from the bus and remained inside. He heard the sound of glass breaking and saw that Dinesh Yadav had sustained a bleeding injury on his head. He further stated that his statement had not been recorded by the Investigating Officer. The witness was thereafter partially declared hostile.
- 13.** In his cross-examination by the prosecution, the witness denied the suggestion that he had stated before the Investigating Officer that Dinesh Yadav had informed him that Vicky Kumar, along with his brother Gopi Rai, his father Ram Balak Rai and Belu Rai, were present at the place of occurrence; that Belu Rai assaulted Dinesh Yadav on the head with a knife; and that Vicky Kumar assaulted him with the butt of a pistol while threatening him that he had instituted a criminal case against them. He further denied the suggestion that he had stated before the Investigating Officer that the staff of the Jagadamba bus had previously snatched away money, in respect of which a case had been instituted at Hasanpur Police Station. He also denied the suggestion that he had stated before the police that Belu Rai ran a servicing centre and used to ask him to park the bus there and that, upon his refusal, Vicky Kumar snatched Rs. 1,800/- from the conductor's cabin. The witness did not identify accused Gopi Rai and Rajesh Kumar Rai @ Belu Rai, who were present in Court. He further denied the suggestion that he was suppressing the true facts in collusion with the accused.
- 14.** In his cross-examination by the defence, the witness deposed that it was a dark and foggy night and, therefore, he could not identify the assailants. He further stated that he did not get down from the bus and remained inside throughout the incident. He had no discussion with Dinesh Yadav regarding the occurrence. He also stated that Dinesh Yadav had since died. The witness declined to identify the accused

present in Court and further stated that he could not identify any of the remaining accused.

15. Ram Gayan Mahto (P.W.-8) was examined on 09.11.2022. In his examination-in-chief, he deposed that, at the relevant time, he was working as a conductor in a truck. On the date of the occurrence, after unloading sand in a village under Hasanpur, he was returning. The occurrence had taken place about 10–11 years earlier at around 10:00 P.M. At that time, there was a traffic congestion caused by sugarcane-laden vehicles. The truck was being driven by Shankar Singh, whose matrimonial home was at Sakarpur. Owing to the traffic jam, Shankar Singh left the truck at Trisul Chowk and went to his matrimonial home with the intention of returning the next morning. The witness slept inside the truck. Thereafter, one person came there, broke the windowpanes of the truck and assaulted him, causing injuries. He stated that he could not recognise the person who assaulted him and never came to know his identity thereafter. The witness did not identify any of the accused present in Court and declined to identify any of the remaining accused.
16. In his cross-examination by the defence, he deposed that only one person had come to him at the time of the occurrence and no one else was present. Owing to the darkness, he could not identify the assailant. He further stated that the persons present in Court were not present at the place of occurrence and had never committed any offence against him. He also deposed that no other occurrence, apart from the one narrated by him in his testimony, had taken place on that day.
17. Gurdayal Ram (P.W.-9) was examined on 05.06.2023. In his examination-in-chief, he deposed that on 22.01.2009, he was posted as an Assistant Sub-Inspector at Hasanpur Police Station. On 24.01.2009, the informant, Dinesh Yadav, submitted a written application before the Station House Officer, Hasanpur Police Station, on the basis of which Hasanpur P.S. Case No. 10 of 2009, dated 24.01.2009, was instituted under Sections 341, 323, 325, 307, 324, 452, 365, 379 and 427 read with Section 34 of the Indian Penal Code, and Section 27 of the Arms Act.
18. He further deposed that the endorsement directing registration of the case was made by the then Station House Officer, Sri Sanour Khan, in his own handwriting and bearing his signature. Upon identifying the handwriting and signature, the endorsement was marked as Exhibit-2. He further deposed that the formal First Information Report was also prepared by the Station House Officer in his own handwriting and bearing his signature. Upon identification, the formal F.I.R. was marked as Exhibit-3. Thereafter, the investigation of the case was entrusted to him. He perused the written application of the informant and incorporated the same in

the case diary. He recorded the statement of the informant and inspected the place of occurrence. He deposed that the place of occurrence was the road at Trisul Chowk in village Rampur, where the injured was alleged to have been assaulted by the accused persons. After describing the boundaries of the place of occurrence, he stated that he found bus bearing Registration Nos. BR-09A-0733 and BR-09A-5589 standing there with broken windowpanes and pieces of glass scattered on the ground. He further deposed that an 8 mm bullet was recovered from bus bearing Registration No. BR-09A-0733. He also found truck bearing Registration No. BR-09B-8704 parked at the same place. He recorded the statement of Sanjeev Rai, the driver of bus bearing Registration No. BR-09A-0733, as well as the statements of Dilip Paswan, owner of a tea stall at the place of occurrence, and Tunna Rai, and incorporated the same in the case diary. The recovered bullet was seized and a seizure memo was prepared in the presence of two witnesses, namely, Vijay Kant Rai and Subodh Kumar, who signed the seizure memo. The witness stated that the seizure memo was in his handwriting and bore his signature. Upon identification, the seizure memo was marked as Exhibit-1/1. He also recorded the statements of the seizure witnesses, Subodh Kumar and Vijay Kant Rai, as well as those of Bhola Mahto and Kailash Mahto, and incorporated the same in the case diary.

19. He further deposed that he perused the records of Hasanpur P.S. Case No. 07 of 2009, from which it transpired that its informant, Lakhpatti Yadav, the conductor of bus bearing Registration No. BR-09D-9431, had submitted a written application on the basis of which the said case had been instituted on 20.01.2009 under Sections 341, 323, 504 and 379 of the Indian Penal Code against Vicky Kumar and two unknown persons, and that Jhopi Rai was a witness therein. He further deposed that, during the course of investigation, a raid was conducted on 25.01.2009, during which accused Rajesh Kumar Rai @ Belu Rai was arrested. His disclosure statement was recorded, whereafter he was produced before the Court. Report No. 1 from the Superintendent of Police was received. The injury reports of Dinesh Yadav and Ram Gayan Mahto were also received and incorporated in the case diary. The statement of injured Ram Gayan Mahto was recorded and entered in the case diary. He further deposed that the supervision report of the S.D.P.O., Rosera, was received and incorporated in the case diary, wherein the case was found to be true against accused Vicky Kumar, Rajesh Kumar Rai @ Belu Rai, and two unknown persons under Sections 341, 342, 324, 307, 427 and 379/34 of the Indian Penal Code and Section 27 of the Arms Act. The criminal antecedents of accused Vicky Kumar were also obtained and incorporated in the case diary. Report No. 2

from the Superintendent of Police was likewise received and entered in the case diary.

20. He further deposed that accused Vicky Kumar had subsequently been murdered, in respect whereof Bithan P.S. Case No. 34 of 2009, dated 15.06.2009, under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act, had been instituted. The statements of independent witnesses, namely, Ram Bahadur Mahto, Bindeshwari Yadav, and Vishun Ram, were also recorded and incorporated in the case diary. He further deposed that the final supervision report of the S.D.P.O., Rosera, directed submission of the charge-sheet by treating accused Gopi Rai and Ram Balak Rai as innocent, accused Vicky Kumar as deceased, and finding the case true against accused Rajesh Kumar Rai @ Belu Rai under Sections 341, 342, 324, 307, 427 and 379/34 of the Indian Penal Code and Section 27 of the Arms Act. Report No. 3 from the Superintendent of Police was thereafter received and incorporated in the case diary. Upon completion of the investigation, Charge-sheet No. 158 of 2009, dated 30.11.2009, was submitted against accused Rajesh Kumar Rai @ Belu Rai under Sections 341, 342, 307, 427 and 379 read with Section 34 of the Indian Penal Code, and Section 27 of the Arms Act. Accused Gopi Kumar Rai and Ram Balak Rai were shown as innocent, while accused Vicky Kumar was shown as deceased. The witness identified accused Rajesh Kumar Rai @ Belu Rai, who was present in Court.
21. In his cross-examination by the defence, he deposed that he did not find any criminal antecedents against any accused other than Vicky Kumar. He admitted that he had not prepared any seizure memo in respect of the two damaged buses or the truck, nor had he prepared any seizure list regarding the damaged articles therein. He further admitted that he had neither attempted to trace the owners of the buses and the truck nor recorded their statements, voluntarily stating that he did not consider it necessary to do so. He also admitted that the recovered cartridge was not sent for forensic or ballistic examination. He denied the suggestion that he had prepared the statements of the witnesses as table work or had written them himself without recording their statements. He voluntarily stated that he had not obtained the signatures of the witnesses on their statements. He further denied the suggestion that the witnesses had not made the statements attributed to them in the case diary. He admitted that he had not prepared a site plan of the place of occurrence. He further deposed that the witnesses named by him had not claimed to have seen the occurrence but had only stated that they had heard the sound of firing. He denied the suggestion that the investigation was faulty.

22. Despite issuance of several processes including warrants, other witnesses could not be examined. Accordingly, prosecution was given last chance on 17.06.2026 was given, however no witness turned up on the next date of hearing. During the course of the proceedings on 29.06.2026, Ld. Counsel fir defence submitted that no purpose could be served by waiting for other examination of other witnesses because no witness has supported the case of prosecution. Accordingly, taking into account the considerable lapse of time and testimonies of the witnesses, further opportunities to the prosecution for examining witnesses was considered to be unwarranted, and hence statements if the accused was recorded under Sections 313 of Cr.P.C. Ld. Counsel for the defence declined to adduce any defence evidence. Thereafter, the case was put up for arguments.
23. Despite the issuance of several processes, including warrants, the remaining prosecution witnesses could not be examined. Accordingly, by order dated 17.06.2026, the prosecution was granted a last opportunity to produce its remaining witnesses. However, on the next date fixed for evidence, no witness appeared.
24. During the proceedings held on 29.06.2026, Ld. Counsel for the defence submitted that no useful purpose would be served by granting any further opportunity to the prosecution to examine the remaining witnesses, as none of the witnesses examined till then had supported the prosecution case. Considering the considerable lapse of time since the institution of the case and the testimonies of the witnesses already examined, this Court found that granting any further opportunity to the prosecution for examining additional witnesses was unwarranted. Accordingly, the prosecution evidence was closed, and the statements of accused recorded under Section 313 of the Code of Criminal Procedure. Ld. Counsel for the defence declined to adduce any defence evidence. Thereafter, the case was posted for final arguments.
25. During the course of the arguments, Ld. Counsel fir the defence submitted that the prosecution had succeeded in proving the occurrence through the documentary evidence and the testimony of the Investigating Officer. It was argued that the F.I.R., seizure memo, and other documents stood duly proved and that the Investigating Officer corroborated the recovery of an 8 mm bullet and the damaged condition of the buses at the place of occurrence. It was further submitted that merely because several witnesses turned hostile, their evidence could not be discarded in toto, and the prosecution case stood corroborated by the surrounding circumstances and the investigation. Accordingly, it was prayed that the accused be convicted.

26. Ld. Counsel for the defence submitted that the prosecution had failed to prove the charges beyond reasonable doubt. It was argued that all the material witnesses had either turned hostile or failed to identify the accused, and even the alleged eyewitnesses did not support the prosecution case. It was further contended that the informant was not examined, the seizure witness did not support the prosecution, and the investigation suffered from serious lapses, including failure to prepare a site plan, seize the damaged articles, examine the owners of the vehicles, and send the recovered bullet for forensic examination. It was, therefore, submitted that the prosecution had failed to establish the guilt of the accused, who was entitled to the benefit of doubt and consequent acquittal.
27. I have carefully considered the submissions advanced by the Ld. APP and the Ld. Counsel for the defence. I have also gone through the oral and documentary evidence adduced by the prosecution as well as the entire materials available on record. The burden always lies upon the prosecution to establish the guilt of the accused beyond all reasonable doubt. The prosecution is, therefore, required to establish not only the occurrence but also the identity and participation of the accused in the commission of the alleged offences.
28. In the present case, the prosecution examined nine witnesses. P.Ws. 1 to 4, namely, Kailash Mahto, Dilip Paswan, Tunna Rai and Bhola Mahto, did not support the prosecution case at all. They categorically stated that they had no knowledge of the occurrence and denied having made the statements attributed to them during investigation. Although they were declared hostile and were extensively cross-examined by the prosecution, nothing incriminating against the accused could be elicited from their evidence. Their testimony merely establishes that they identified accused Rajesh Kumar Rai @ Belu Rai as their co-villager. Such identification cannot be construed as evidence of his involvement in the alleged occurrence.
29. P.W.-5, Subodh Kumar Sharma, who was examined as a seizure witness, proved his signature on the seizure memo. However, in his cross-examination he categorically stated that no recovery was effected in his presence and that he had signed the seizure list at the instance of the police out of fear. Thus, the independent witness to the alleged seizure did not support the prosecution regarding the recovery itself. Consequently, the evidentiary value of the alleged seizure stands substantially weakened.
30. P.W.-6, Kishun Ram @ Krishan Ram, also turned hostile. He denied having made any statement before the police and specifically stated that he had neither witnessed

nor heard about the occurrence. He also identified the accused only because he was his co-villager.

31. P.W.-7, Sanjeev Rai, was the driver of the bus involved in the alleged occurrence and was one of the most material witnesses examined by the prosecution. He deposed that on the relevant night there was traffic congestion due to sugarcane-laden vehicles and that he had parked his bus at Trisul Chowk. He further stated that while sleeping inside the bus he heard the sound of breaking windowpanes and gunfire and saw 3–4 persons assaulting the conductor, Dinesh Yadav. However, he categorically stated that it was a dark and foggy night and that he could not identify the assailants. He also stated that he remained inside the bus throughout the occurrence and did not get down. Significantly, he denied the material portions of his alleged statement recorded during investigation and declined to identify the accused persons present in Court. Thus, although he lends some support to the factum of an occurrence, he completely fails to establish the identity or participation of the accused.
32. Similarly, P.W.-8, Ram Gayan Mahto, deposed that while he was sleeping in his truck, one unknown person assaulted him and damaged the windowpanes of the truck. However, he categorically stated that he could not identify the assailant due to darkness. More importantly, he specifically deposed that the accused persons present in Court were not present at the place of occurrence and had never committed any offence against him. His testimony, therefore, completely rules out the involvement of the accused in the occurrence.
33. The prosecution has also examined P.W.-9, Gurdayal Ram, the Investigating Officer. He proved the formal First Information Report, the endorsement on the written report, the seizure memo and detailed the various steps taken by him during investigation. He also stated that he recovered an 8 mm bullet from the bus and that the buses had sustained damage. However, it is well settled that the evidence of the Investigating Officer is primarily intended to prove the manner in which the investigation was conducted. The statements recorded by him under Section 161 of the Code of Criminal Procedure are not substantive evidence and cannot be relied upon to prove the prosecution case when the witnesses themselves have not supported those statements before the Court. The testimony of the Investigating Officer also reveals several deficiencies in the investigation. He admitted that he had not prepared any site plan of the place of occurrence. He further admitted that he had neither seized the damaged buses and truck nor prepared any seizure list of the damaged articles. He also admitted that he neither examined the owners of the

buses and truck nor considered it necessary to record their statements. The recovered bullet was not sent for forensic or ballistic examination. Though defective investigation by itself cannot be a ground for acquittal where there is otherwise reliable evidence, such omissions assume importance where the prosecution evidence itself suffers from serious infirmities and fails to establish the guilt of the accused.

34. The informant and injured, Dinesh Yadav, who was the star witness, could not be examined before the Court as he died during the pendency of the case as testified by one of the prosecution witness. Similarly, none of the eyewitnesses examined by the prosecution has identified the accused as one of the perpetrators of the offence. On the contrary, the material witnesses have either turned hostile or have categorically stated that they could not identify the assailants.
35. Although it is settled principle that the testimony of a hostile witness is not to be discarded in its entirety and that the Court may rely upon such part of the testimony as inspires confidence. However, in the present case, even after carefully scrutinising the evidence of the hostile witnesses, this Court does not find any reliable or admissible evidence connecting the accused with the alleged offences. At best, the evidence establishes that some untoward incident involving damage to vehicles and assault had taken place. However, proof of the occurrence alone is not sufficient. The prosecution is further required to prove beyond reasonable doubt that it was the accused who committed the offences charged. On this crucial aspect, the prosecution evidence is completely deficient.
36. It also deserves mention that despite repeated issuance of summons and warrants, the remaining prosecution witnesses could not be secured. Adequate opportunities were granted to the prosecution over a considerable period of time extending to several years. Even after a final opportunity was granted, no witness appeared before the Court. By that stage, all the material witnesses who had entered the witness box had already failed to support the prosecution case. The Ld. Defence Counsel rightly submitted that no useful purpose would be served by indefinitely awaiting the attendance of the remaining witnesses. Criminal trials cannot be kept pending endlessly merely on the possibility that some witness may appear in future. The Court is required to strike a balance between granting reasonable opportunity to the prosecution and protecting the accused's constitutional right to a fair and speedy trial. In the facts of the present case, after affording sufficient opportunities to the prosecution, the closure of prosecution evidence was fully justified and cannot be said to have caused any prejudice to the prosecution.

37. Having considered the evidence as a whole, this Court finds that there is no substantive and reliable evidence establishing the identity or participation of accused Rajesh Kumar Rai @ Belu Rai and Gopi Kumar Rai in the commission of the alleged offences. The prosecution has failed to prove the essential ingredients of the offences beyond reasonable doubt. The benefit of every reasonable doubt must necessarily go to the accused. Accordingly, this Court holds that the prosecution has failed to bring home the charges against the accused.

Order

38. In view of the aforesaid findings, accused Rajesh Kumar Rai @ Belu Rai and Gopi Kumar Rai are held not guilty of the offences punishable under Sections 341, 342, 323, 324, 307, 427 and 379 read with Section 34 of the Indian Penal Code. Accordingly, they are acquitted of all the charges by extending to them the benefit of doubt.
39. The accused are on bail. Their bail bonds shall remain in force for a period of six months in terms of Section 437-A of the Code of Criminal Procedure, 1973. Let a copy of this judgment shall also be forwarded to the office of the District Magistrate for information and necessary action, if any. After due compliance with all necessary formalities, let the record be consigned to the Record Room.

Pronounced and Signed in open Court on 30.06.2026.

**DUSHYANT KUMAR
DISTRICT & ADDITIONAL SESSIONS JUDGE - 1
ROSEERA, SAMASTIPUR**