

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 27.07.2026] [Sessions Trial No.-93/2015, CIS No. 439/2015] (Details of FIR/Crime and Police Station) Details of FIR- Hathauri P.S. Case No.-75/2012	
Complainant/Informant	State Of Bihar through Dilip Kumar Singh Son of Ma- hendra Mandal R/o Village. Shapur Chintamani, P.S. Hathauri, District- Samastipur, Informant.
REPRESENTED BY	Sri Shiv Shankar Yadav
ACCUSED	(1) Gautam Kumar aged about 20 years Son of Ramun Mandal, R/o Village- Shapur Chintamani, P.S.- Hathauri, District-Samastipur, (2) Nitish Kumar aged about 18 years Son of Ramun Man- dal, R/o Village- Shapur Chintamani, P.S.-Hathauri, Dis- trict- Samastipur, (3) Radha Devi age about 45 years Wife of Ramun Mandal, R/o Village-Shapur Chintamani, P.S.- Hathauri, District- Samastipur,
REPRESENTED BY	Sri, Satikant Sahni, "Shashi" Advocate.

FORM B

Date of Offence	27.05.2012
Date of FIR	05.08.2012
Date of Charge-sheet	18.03.2013
Date of Framing of Charges	01.07.2015
Date of commencement of evidence	11.08.2015
Date on which judgment is reserved	27.07.2026
Date of the judgment	27.07.2026
Date of the Sentencing Order, if any	Nil

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 De- tention Un- dergone dur- ing Trial for purpose of section 428, Cr. P.C.
1.	Gautam Kumar	N/A	05.03.2013 (On surrender)	447/34, 448/34, 307/34, of IPC	Acquitted	N/A	N/A
2.	Nitish Kumar	-Do-	05.03.2013 (On surrender)	-Do-	-Do-	N/A	N/A

3.	Radha Devi	-Do-	29.01.2013 (On surrender)	-Do-	-Do-	N/A	N/A
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FORM C

LIST OF PROSECUTION/DEFENCE/ COURT WITNESSES

A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WIT- NESS, OTHER WITNESS)
P.W.-1	Soni Kumari @ Soni Devi	Non official
P.W.-2	Anita Devi	Non official
P.W.-3	Dilip Singh	Informant

B. Defence Witnesses, if any :

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

C. Court witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WIT- NESS, MEDICAL WITNESS, PANCH WITNES, OTHER WITNESS)
1	N.A	N.A

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :

Sr. No.	Exhibit Number	Description
1	Exhibit-1, (P.W.-3)	Signature of the complainant on the complainant application.

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

D. Material Objects :

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

Judgment

1. Three accused, namely Gautam Kumar, Nitish Kumar and Radha Devi, faced trial in the present case for the commission of offences punishable under Sections 447/34, 448/34 and 307/34 of the IPC. Initially, four accused were charged for the commission of the aforesaid offences. However, accused Ramun Mandal died during the pendency of the proceedings. Accordingly, his name was deleted vide order dated 01.12.2023, and the proceedings against him stood abated by the said order.
2. Briefly stated, the facts leading to the present case are that the informant, Dilip Kumar Singh, filed Complaint Case No. 6110 of 2012 against the accused persons, namely Ramun Mandal, Gautam Kumar, Nitish Kumar and Radha Devi, alleging that on 27.05.2012 at about 6:00 PM, at the doorstep of the informant, the above-named accused committed offences punishable under Sections 147, 452, 307, 379 and 120-B read with Section 34 of the IPC. It is alleged that all the accused persons and the informant resided in the house sharing the same courtyard. The informant came to know that accused Ramon Mandal was going to sell the informant's share of the land. Accordingly, the informant questioned Ramun Mandal as to why he was selling his share of the land. Upon hearing this, Ramun Mandal called the other accused persons, who came to the doorstep of the informant. Accused Gautam Kumar was armed with a *musal* (pestle), Nitish Kumar was armed with a bamboo stick, Ramun Mandal was carrying a wooden stick, and Radha Devi was also carrying a bamboo stick. The accused persons surrounded the house of the informant. The informant ran away in order to save himself, but the accused persons chased him. Ramun Mandal caught hold of the informant and pushed him to the ground. Thereafter, Nitish Kumar exhorted the other accused to kill him. The informant somehow managed to get up, whereupon Gautam Kumar assaulted him on the head with the *musal*. As a result, the informant sustained a grievous head injury and started bleeding, due to which he became unconscious. The other accused persons also assaulted him with slaps, kicks and bamboo sticks and, believing him to be dead, left the place. When the wife of the informant came to rescue him, she was also assaulted with slaps and kicks by the accused persons, and accused Nitish Kumar snatched away her gold jewellery worth Rs. 30,000. Thereafter, the wife of the informant took him to Jyoti Research Hospital, Laheriasarai, where he was treated. It is further alleged that accused Raman Mandal and Gautam Kumar bribed the doctor and manipulated the injury report. As there was no facility for a CT scan at Laheriasarai and the informant required a CT scan of his head, Jyoti Research Hospital referred him to a higher centre. Thereafter, the informant was admitted to PMCH, from where he was discharged on 03.06.2012. The doctor prescribed medicines and advised him to take rest. After recovering, the informant filed the complaint, resulting in some delay in lodging the case.

3. The complaint filed by the informant was forwarded to Hathouri Police Station for investigation. In pursuance of the order of the Ld. Court, Hathouri P.S. Case No. 75 of 2012 was instituted on 06.08.2012 under Sections 147, 452, 307, 379 and 120-B read with Section 34 of the IPC against Raman Mandal, Gautam Kumar, Nitish Kumar and Radha Devi.
4. Investigation commenced thereafter. During the course of investigation, accused Raman Mandal was arrested on 07.10.2012. Accused Radha Devi was granted bail vide order dated 22.01.2013 passed in A.B.P. No. 1659 of 2012, and consequently she was released on bail on 29.01.2013. Accused Gautam Kumar and Nitish Kumar were granted anticipatory bail vide order dated 01.03.2013 passed in A.B.P. No. 99 of 2013, and they were released on bail on 05.03.2013. Upon completion of the investigation, Charge-sheet No. 17 of 2013, dated 18.03.2013, was submitted under Sections 147, 448, 307 read with Section 34 of the IPC against Raman Mandal, Gautam Kumar, Nitish Kumar and Radha Devi.
5. Vide order dated 18.09.2013, cognizance of the offences punishable under Sections 447, 448 and 307 read with Section 34 of the IPC was taken against the aforesaid four accused persons. Thereafter, vide order dated 22.01.2015, the case was committed to the Court of the Learned Sessions Judge, as the offence punishable under Section 307 of the IPC is exclusively triable by the Court of Session.
6. On 01.07.2015, after hearing the Learned APP and the Ld. Counsel for the accused, and upon perusal of the materials available on record, charges under Sections 447, 448 and 307 read with Section 34 of the IPC were framed against the aforesaid four accused persons. 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.
7. Trial commenced thereafter. During the trial, three witnesses, namely, Soni Kumari @ Soni Devi (PW1), Anita Devi (PW2), and the informant, Dilip Singh (PW3), were examined. It is pertinent to mention that despite issuance of multiple processes against the witnesses and despite several opportunities granted to the prosecution, the remaining witnesses, including the official witnesses, could not be examined.
8. PW1, Soni Kumari @ Soni Devi, was examined on 10 December 2018. In her examination-in-chief, she stated that the occurrence had taken place about six years earlier at about 6:00 PM. At that time, she was at her house. Dilip Singh, Anita Devi, Roshan Kumar, Shivam Kumar, Runa Devi, Ram Bahadur, and Mati Devi were present there. Thereafter, Ramu Mandal, Gautam Kumar, Nitish Kumar, and Radha Devi came to her house. Gautam Kumar was armed with a *musal* (wooden pestle), Nitish Kumar was armed with a bamboo stick, Ramu Mandal was carrying a wooden stick, and Radha Devi was also carrying a bamboo stick. All the four accused assaulted Dilip Singh, causing injuries to

him. Gautam Kumar assaulted Dilip Singh on his head with the *musal*, resulting in a head injury and profuse bleeding. Thereafter, the other accused also assaulted Dilip Singh with sticks. He was initially treated at Laheriasarai Hospital, and later she came to know that he had been referred to PMCH for further treatment. The witness stated that she could identify the accused persons upon seeing them, as they were not present in Court on that day.

9. In her cross-examination by the defence, she deposed that Dilip Singh is her real brother. There are four accused persons in the case. She did not know whether there was any land dispute between the parties. She reached the place of occurrence after hearing the noise. She further deposed that Dilip Singh sustained injuries on his head and also on other parts of his body, but no one else was injured in the occurrence. Dilip Singh was treated at Laheriasarai Hospital. At the place of occurrence, apart from the accused and the informant, other villagers, namely, Runa Devi, Lal Bahadur Mandal, Anita Devi, Roshan Kumar, Shivam Kumar, and Mati Devi, were also present. The occurrence continued for about 15–20 minutes. She described the boundaries of the place of occurrence by stating that the house of Chandan Mandal lies to the north, the house of Bhola Mandal to the south, the house of Balaram Mandal to the east, and the house of Arjun Mandal to the west. She further deposed that after the occurrence, she used to meet the accused persons. She did not know whether any criminal case was pending between the parties. She denied the suggestion that she had falsely deposed merely because she is the sister of the informant and that no such occurrence had taken place. She further deposed that both sides had voluntarily compromised the case. She also stated that she had heard about the occurrence from Dilip Singh and had deposed on that basis, that there was a land dispute between both sides, and that no one had sustained any serious injury during the altercation.
10. Anita Devi was examined as PW2 on 6 August 2019. In her examination-in-chief, she stated that the occurrence had taken place about seven years earlier at about 6:00 PM. At that time, she was at her house along with her husband. Nitish Kumar, Gautam Kumar, Radha Devi, and Raman Mandal came there. Ramun Mandal was armed with a bamboo stick, Gautam Kumar with a *musal*, and Radha Devi and Nitish Kumar were also armed with bamboo sticks. All of them started assaulting her husband. Gautam Kumar assaulted him with the *musal* on his head, causing bleeding injuries, while the others assaulted him with bamboo sticks. When she went to rescue her husband, Nitish Kumar, Gautam Kumar, Radha Devi, and Raman Mandal also assaulted her. Nitish Kumar snatched away her gold chain. Her husband was treated at Darbhanga Hospital and was thereafter referred to PMCH. The witness identified accused Radha Devi, Nitish Kumar, and Raman Mandal in Court and stated that she could identify the remaining accused upon seeing him.

11. In her cross-examination by the defence, she stated that she had appeared before the Court pursuant to the summons issued by the court. She had given her statement to the police but did not remember the exact date or month on which it was recorded. She denied the suggestion that she had not stated before the police about the alleged snatching of the gold chain or that she had concealed any facts. She maintained that she had disclosed everything to the police during the investigation. Accused Ramon Mandal is her uncle-in-law. There is a land dispute between both sides. Ramun Mandal was going to Rosera to sell his share of land on the date of occurrence. She stated that the occurrence took place on account of the land dispute. She could not say whether there had been any formal partition of the land by documents. She stated that the occurrence had taken place on a Sunday but could not recall the month or year. She described the boundaries of the place of occurrence by stating that the house of Shivaji Mandal lies to the north, the house of Jagdish Mandal to the south, the houses of Amarjeet and Balaram to the east, and the house of Mahendra Mandal to the west. She further deposed that she reached the place of occurrence after hearing the noise. Apart from the informant and the accused, Runa Devi, Soni Devi, Roshan Kumar, Shivam Kumar, Ram Bahadur, and others were present there. Her husband had sustained injuries on his head and other parts of his body, and while rescuing him she sustained injuries on her waist. Her husband was assaulted with a musal, though she could not state its dimensions. She deposed that both she and Soni Devi had gone to rescue her husband. She could not say whether any case had been instituted against them by the accused. She further deposed that her husband's injuries were treated both in a private hospital at Darbhanga and in PMCH. After her husband recovered, the present complaint case was instituted because the police had not registered their case. She admitted that she had met the accused persons during the last five years as they reside in the same courtyard. She denied the suggestion that the present case had been falsely instituted due to the land dispute or that no such occurrence had taken place. She further deposed that the case had been voluntarily compromised by both sides, that the compromise petition bears her signature, that the case had been instituted only because of the land dispute, and that all disputes had since been amicably resolved and cordial relations had been restored between the parties.
12. The informant, Dilip Singh, was examined as PW3 on 6th August 2019. In his examination-in-chief, he stated that he is the informant of the case. The occurrence had taken place about seven years earlier at about 6:00 PM. At that time, he was at his house along with his wife. Raman Mandal, Gautam Kumar, Nitish Kumar, and Radha Devi came there. Gautam Kumar was carrying a musal, Nitish Kumar was carrying a bamboo stick, Raman Mandal was armed with a wooden stick, and Radha Devi was also carrying a bamboo stick. When

he questioned them as to why his share of the land was being sold, they started abusing him. Gautam Kumar assaulted him on the head with the musal, causing a bleeding injury. Thereafter, Nitish Kumar assaulted him with a bamboo stick, Ramun Mandal assaulted him with a wooden stick, and Radha Devi also assaulted him with a bamboo stick, causing injuries all over his body. When his wife, Anita Devi, came to rescue him, she too was assaulted by the accused persons. Thereafter, Soni Devi also came to rescue him and was assaulted by all the accused. He was treated at Darbhanga Hospital and was thereafter referred to PMCH, where he remained admitted for two days. He further stated that when he went to lodge the case at the police station, the police did not register his case, whereafter he filed the present complaint case before the court. The complaint petition was drafted by his advocate and typed by Shri Harinder. After reading and understanding its contents, he signed the same. The witness identified the complaint petition and his signature thereon, which was marked as Exhibit-1. Thereafter, the complaint was forwarded to the police station for registration of the FIR, where his statement was also recorded. He stated that he had also filed the CT scan report and other medical documents before the court. The witness identified accused Nitish Kumar, Radha Devi, and Raman Mandal in court and stated that he could identify the remaining accused upon seeing him.

13. In his cross-examination by the defence, the witness stated that he had appeared before the Court pursuant to the summons issued by the Court. His statement was recorded by the police about three months after the occurrence. The occurrence had taken place on 27th May 2012. Accused Ramun Mandal is his uncle. The altercation had taken place on account of a land dispute. Ramun Mandal was going to sell his share of the land. No formal partition of the land had taken place on paper, though both parties were in possession of their respective shares by mutual arrangement. The occurrence continued for about 5–7 minutes. Four accused persons were present at the place of occurrence, while there were other villagers present who could identify them. About 10–15 persons had gathered at the place of occurrence. The police had not recorded the statements of those persons. He described the boundaries of the place of occurrence by stating that the house of Ramchandra Mandal lies to the north, the house of Bhola Mandal lies to the south, their own house lies to the east, and the house of Bhola Mandal lies to the west. His house and the house of the accused share the same courtyard. The occurrence took place in front of the house of Ramchandra Mandal. The accused were standing at a distance of about one to two arm's length from him. Gautam Kumar first assaulted him with the musal, whereafter all the accused started beating him. He sustained injuries all over his body, and his head was torn. He was taken for treatment by his wife to Jyoti Memorial Hospital, Darbhanga, from where he was referred to PMCH. After returning from Patna, he continued treatment on the basis of the prescription

issued by PMCH. He instituted the present complaint case about 20–21 days after the occurrence. The police station is situated about 3–4 kilometres from his house. When he had gone to lodge the case, the police refused to register it. He further deposed that during the last 6–7 years there had been no occasion for him to speak to the accused. He denied the suggestion that he had falsely implicated the accused due to the land dispute or that no such occurrence had taken place. He further deposed that all the accused had voluntarily compromised the case, that the compromise petition bears his signature, that the case had been instituted only because of the land dispute, and that all disputes had since been amicably been resolved.

14. Despite issuance of several processes and despite multiple opportunities granted to the prosecution, no other witnesses could be examined. During the course of the proceedings on 23 July 2026, Ld. Counsel for the accused submitted that no fruitful purpose would be served by awaiting the examination of the remaining witnesses, including the official witnesses, since the parties had already compromised the matter and the witnesses who had been examined, including the informant and his wife, had not fully supported the prosecution case and had admitted in their testimonies that the matter had been compromised. Considering the considerable lapse of time since the framing of charge and taking into account the evidence already adduced, further opportunity for examination of the prosecution witnesses was considered unnecessary.
15. Accordingly, the statement of the accused under Section 313 of the Code of Criminal Procedure was recorded, as all the accused were present in court on that day.
16. Ld. Counsel for the defence submitted that he did not wish to adduce any defence evidence. Accordingly, the case was fixed for final arguments.
17. During the course of arguments, Ld. APP submitted that all the prosecution witnesses, in their examination-in-chief, have fully supported the prosecution case. It was, therefore, contended that the accused deserve to be convicted for the offences with which they have been charged. Per contra, Ld. Counsel for the defence submitted that there are material contradictions in the testimonies of the prosecution witnesses and that their evidence suffers from significant discrepancies. It was further submitted that, in any event, the matter has been amicably compromised between the parties. Accordingly, Ld. Counsel prayed for the acquittal of the accused.
18. I have carefully considered the evidence available on record and the submissions advanced by the Ld. APP as well as Ld. Counsel for the accused.
19. The accused persons have been charged for the offences punishable under Sections 447/34, 448/34 and 307/34 of the IPC. It is a settled principle of

criminal jurisprudence that the burden always lies upon the prosecution to establish the guilt of the accused beyond reasonable doubt.

20. In the present case, the prosecution has examined only three witnesses, namely PW1 Soni Kumari @ Soni Devi, PW2 Anita Devi and PW3 Dilip Singh. PW2 is the wife of the informant, PW3 is the informant himself and PW1 is the real sister of the informant. Thus, all the witnesses examined are closely related to the informant and are interested witnesses. Merely because a witness is related to the victim, his or her testimony cannot be discarded solely on that ground. However, where the prosecution case arises out of a pre-existing property dispute between close relatives and no independent witness has been examined despite the admitted presence of several villagers at the place of occurrence, the evidence of such interested witnesses requires careful scrutiny and independent assurance before it can safely be relied upon.
21. The prosecution case itself discloses that the occurrence arose out of a land dispute between the parties, who admittedly reside in the same courtyard. During their cross-examinations, PW2 and PW3 categorically admitted the existence of such land dispute. Thus, the possibility of exaggeration or false implication cannot be completely ruled out and, therefore, greater caution is required while appreciating the evidence.
22. The testimonies of the prosecution witnesses also suffer from material inconsistencies. PW1 admitted in her cross-examination that she reached the place of occurrence only after hearing noise and further stated that she had heard about the occurrence from PW3. Such admission substantially diminishes her evidentiary value as an eyewitness. Moreover, while in her examination-in-chief she claimed to have witnessed the assault, in cross-examination she admitted that she narrated the incident on the basis of what she had heard from the informant. Her evidence, therefore, does not inspire complete confidence.
23. There are also inconsistencies regarding the place of occurrence. PW1, PW2 and PW3 have described altogether different boundaries of the alleged place of occurrence. While minor discrepancies regarding boundaries may not by themselves be fatal, the present case concerns an occurrence alleged to have taken place in a common courtyard shared by close relatives. The inconsistent descriptions assume significance, particularly when the prosecution has failed to produce any independent witness or any objective evidence to establish the precise place where the alleged occurrence took place.
24. The evidence further reveals inconsistencies regarding the manner of occurrence. PW1 stated that she reached the place after hearing the alarm, whereas PW2 also deposed that she reached after hearing noise despite having stated in her examination-in-chief that she was already present in the house with her husband. Similarly, the duration of occurrence differs materially. PW1 stated that the occurrence continued for about 15–20 minutes, whereas PW3 stated that it lasted

only about 5–7 minutes. These are not insignificant variations, particularly when the prosecution seeks conviction for a serious charge under Section 307 IPC.

25. The prosecution has also failed to produce the best available evidence. Although it is alleged that the informant sustained a grievous head injury requiring treatment at Jyoti Research Hospital and thereafter at PMCH, neither the treating doctor nor the injury report nor the CT scan report has been formally proved in accordance with law. No medical witness has been examined to establish the nature, seat or gravity of the injuries. In a prosecution involving an allegation under Section 307 IPC, medical evidence assumes considerable importance for determining the nature of the injuries and the intention or knowledge attributable to the accused. The absence of legally proved medical evidence considerably weakens the prosecution case.
26. It is also noteworthy that according to the prosecution witnesses themselves, several villagers had assembled at the place of occurrence. PW3 admitted that about 10 to 15 persons had gathered there and could identify the accused. However, none of those independent witnesses has been examined. No satisfactory explanation has been furnished for their non-examination. Though non-examination of independent witnesses is not invariably fatal, in the facts of the present case, where all the examined witnesses are closely related and admittedly interested, the absence of independent corroboration assumes considerable significance.
27. Another circumstance which cannot be ignored is the subsequent conduct of the parties. During their respective cross-examinations, PW1, PW2 and PW3 unequivocally admitted that the dispute had been amicably compromised and that cordial relations had been restored. PW2 admitted that the compromise petition bears her signature and further stated that the case had been instituted because of the land dispute and that all disputes had since been resolved. PW3 also admitted that the compromise petition bears his signature and that the matter had been amicably settled. Although the offence under Section 307 IPC is non-compoundable and such compromise by itself cannot result in acquittal, these admissions are nevertheless relevant while appreciating the credibility of the prosecution version and the overall probability of the occurrence in the manner alleged.
28. The Court is conscious that every discrepancy is not fatal and that minor inconsistencies are bound to occur in truthful testimony. However, where the prosecution evidence suffers from material inconsistencies touching the very genesis of the occurrence, where all the witnesses examined are interested witnesses, where no independent witness has been examined despite their admitted availability, where the medical evidence has not been proved, where the place of occurrence itself is inconsistently described, and where the entire dispute admittedly originated from a family land dispute which has subsequently

been amicably settled, it would be unsafe to base a conviction solely on such evidence.

29. Upon an overall appreciation of the evidence, this Court is of the considered opinion that the prosecution has failed to establish the guilt of the accused beyond reasonable doubt. The evidence on record does not inspire the confidence necessary for recording a conviction. The accused are, therefore, entitled to the benefit of doubt.
30. Accordingly, accused Gautam Kumar, Nitish Kumar and Radha Devi are acquitted of the charges under Sections 447/34, 448/34 and 307/34 of the Indian Penal Code by extending to them the benefit of doubt. Their bail bonds are extended in compliance of Section 437-A of the Code of Criminal Procedure (or Section 395 of the Bharatiya Nagarik Suraksha Sanhita, as applicable). Let a copy of this judgment be supplied to the office of the District Magistrate.

Pronounced and Signed in open Court on 27.07.2026.

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