

IN THE COURT OF GARIMA YADAV, SUB DIVISIONAL
JUDICIAL MAGISTRATE, HATHIN

HRPLB10011562023



CNR No. : HRPLB1-001156-2023
CIS No. : CHI/231/2023
Case No. : 130/07.07.2023
Date of Decision: : 07.07.2025

State	Versus	1. Liyakat son of Aabad, age 45 years, resident of village Babupur, PS Hathin, Distt. Palwal
		2. Salim son of Isaam, age 28 years, resident of village Babupur, PS Hathin, Distt. Palwal
		3. Mustkim son of Usman, age 28 years, resident of village Babupur, PS Hathin, Distt. Palwal
		4. Sarafat son of Aabad Khan, age 37 years, resident of village Babupur, PS Hathin, Distt. Palwal
		5. Asmina wife of Mustkim, age 27 years, resident of village Babupur, PS Hathin, Distt. Palwal

----- Accused Persons

FIR No. : 347 dated 13.09.2019
U/s : 148, 149, 323, 324 and 506 of
IPC
Police Station : Hathin

Present : Sh. Rakshit, Ld. APP for the State.
Accused Liyakat, Salim, Mustkim, Sarafat and Asmina on bail
with Sh. Nasim Ahmed, Advocate.

(GARIMA YADAV)
Sub Divisional Judicial Magistrate,
Hathin, 07.07.2025
UID No. HR0413

JUDGMENT:-

The above named accused Liyakat, Salim, Mustkim, Sarafat and Asmina have been sent by SHO, Police Station, Hathin to face trial for commission of offences punishable under Section 148, 149, 323, 324 and 506 of IPC.

2. In brief, the prosecution case is that one complaint was given by Wasim in the police station. In his complaint he stated that on 30.08.2019 complainant gave a complaint for using inferior quality material for constructing a village road and he was pressurized for withdrawing that complaint. It is further stated in the complaint that on 09.09.2019 when he was bringing his uncle Basir from Safdurjung Hospital, at that time all the accused persons were present behind his house and they all were armed with weapons and they all attacked upon them when they stopped their car near their house. Liyakat tried to give a farsa blow on the head of his mother Rashmi. In order to save herself she put her hand forward and as a result her finger got cut. All accused persons entered into their house and started beating their family members and they also took away their belongings. Before leaving they threatened to kill them. So he requested that an action be taken against the accused persons. On his complaint case was registered.

3. After registration of case, investigation was conducted and statement of prosecution witnesses under section 161 Cr.P.C was recorded. After completion of all other usual formalities of investigation, challan against the accused persons were filed under section 173 Cr.P.C by SHO

(GARIMA YADAV)
Sub Divisional Judicial Magistrate,
Hathin, 07.07.2025
UID No. HR0413

concerned.

4. Copy of challan were supplied to the accused persons, free of costs, as envisaged under Section 230 of BNSS.

5. Thereafter, accused was charge sheeted under Section 148, 323, 324 and 506 read with 149 of IPC, by the Court, vide order dated 22.08.2024 to which, accused persons pleaded not guilty and claimed trial, and the present case was posted for prosecution evidence.

6. In order to prove its case prosecution examined two witnesses. PW-1 Wasim and PW-2 Rashmi.

7. PW1 Wasim deposed that nothing happened with them and he has no knowledge about the facts of the case. At this stage, learned Assistant Public Prosecutor requested to declare the witness hostile as witness was suppressing the truth and sought permission to cross-examine the witness. On the request of Learned Assistant Public Prosecutor, PW1 was allowed to be cross-examined by the prosecution. In his cross-examination by learned APP for the state he deposed that he never gave complaint Ex. PW1/A to the police. Police took his signature on blank paper. He denied that on 30.08.2019 he was pressurized for withdrawing the case and on 09.09.2019 accused persons beaten him, his uncle and family members and also looted their belongings. He denied that he has deposed falsely.

8. PW2 Rashmi deposed that she does not know anything about this case. She is the an old lady and nothing happened in her presence. Accused present in the Court has not caused any injuries to her. At this stage,

(GARIMA YADAV)
Sub Divisional Judicial Magistrate,
Hathin, 07.07.2025
UID No. HR0413

learned Assistant Public Prosecutor requested to declare the witness hostile as witness was suppressing the truth and sought permission to cross-examine the witness. On the request of Learned Assistant Public Prosecutor, PW2 was allowed to be cross-examined by the prosecution. In her cross-examination by learned APP for the state she stated that statement Ex. PW2/A was not given by her to the police. She denied that on 09.09.2019 accused persons attacked upon them and caused injuries to them. She denied that she has deposed falsely because of compromise.

9. This is the whole evidence led by the prosecution.

10. Statement of accused persons under Section 313 of Cr.P.C was dispensed with as there was no incriminating evidence against them.

11. It is argued by the Learned APP for the state that the prosecution has been able to prove its case against accused persons beyond shadow of reasonable doubt. All the prosecution witnesses has supported the case of the prosecution. Hence a prayer was made to convict the accused persons.

12. On the other hand, it is argued by the learned defence counsel that prosecution has failed to prove its case against the accused persons. There is no direct as well as circumstantial evidence against the accused persons to connect them with the alleged offence. The prosecution version is doubtful. He further argued that the accused persons may kindly be acquitted in the present case.

13. From the perusal of the case file, it is revealed that to prove the

(GARIMA YADAV)
Sub Divisional Judicial Magistrate,
Hathin, 07.07.2025
UID No. HR0413

guilt of the accused persons, prosecution has examined as many as two witnesses. PW1 who is complainant/injured Wasim has not supported the case of the prosecution. He stated that nothing happened with him. He does not know anything about this case. PW2 Rashmi who is also one of the injured in the present case shattered the case of the prosecution by turning hostile. As such from the perusal of the matter on record, it is coming up that when the complainant/injured persons/eye-witnesses have not supported the case of the prosecution and not proved the factum of attacking the complainant issuance of threat etc, no case is made out against the accused persons in these circumstances. Material witnesses in the present case have failed to support the case of the prosecution. The eye-witnesses/complainant/injured persons have shattered their own case by specifically denying the inflicting of the alleged injuries and threatening by the accused persons. They denied to recognize or identify the accused persons as the assailants. As such, there is nothing in the case file, which can connect the accused persons present in the court with the offences alleged and show that accused persons are the perpetrator of alleged offences. No direct/incriminating evidence against the accused persons have come on record in this case and consequently, it has remained unproved that it were the accused persons who had inflicted injuries on the person of complainant as mentioned in the MLR placed on the case file on the relevant date and consequently, the case of prosecution has remained unproved beyond shadow of reasonable doubt and this Court is of considered opinion that the the benefit of doubt should be extended in their favour. Hence, accused

(GARIMA YADAV)
Sub Divisional Judicial Magistrate,
Hathin, 07.07.2025
UID No. HR0413

namely Liykat, Salim, Mustkim, Sarafat and Asmina are acquitted of the charges framed against them. Their bail bonds and surety bonds discharged. Case property if any be disposed of as per rules after expiry of period of limitation appeal/record. File, after due compliance, be consigned to record room.

Announced in open Court.
07.07.2025

(GARIMA YADAV)
Sub Divisional Judicial Magistrate,
Hathin UID No. HR0413

Note: This judgment contains six pages and each page has been checked and signed by me.

(GARIMA YADAV)
Sub Divisional Judicial Magistrate,
Hathin, 07.07.2025

Suman
Stenographer

(GARIMA YADAV)
Sub Divisional Judicial Magistrate,
Hathin, 07.07.2025
UID No. HR0413

CNR No. : HRPLB1-001156-2023
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Present: Sh. Rakshit, Ld. APP for the State.
Accused Liyakat, Salim, Mustkim, Sarafat and Asmina on bail
with Sh. Nasim Ahmed, Advocate.

Today the case was fixed for recording statement of accused persons under Section 313 Cr.P.C. Statement of accused persons under Section 313 of Cr.P.C was dispensed with as there was no incriminating evidence against them. Accused persons opted not lead to any evidence. Sh. Nasim Ahmed, learned counsel for the accused persons has appeared before the court and suffered a statement that he closed the defence evidence. Arguments heard. Judgment pronounced. Vide my separate judgment of even date, by extending the benefit of doubt, accused namely Liyakat, Salim, Mustkim, Sarafat and Asmina are acquitted of the charges framed against them. In compliance of Section 437-A Cr.P.C accused persons are directed to furnish personal bond in sum of Rs. 30,000/-each. Personal bonds are furnished, accepted and attested. Bond shall remain in force for six month for ensuring their presence before higher/appellate Court. Case property, if any; be disposed of in accordance with the law after finality of this order. Accused be released from custody forthwith. File be consigned to the record room after due compliance.

Announced in open Court.
07.07.2025
Suman
Stenographer

(GARIMA YADAV)
Sub Divisional Judicial Magistrate,
Hathin UID No. HR0413

(GARIMA YADAV)
Sub Divisional Judicial Magistrate,
Hathin, 07.07.2025
UID No. HR0413