

In the court of Ved Prakash Modi, Distt. & Addl. Sess. Judge-VIII, Begusarai
<u>S.T. Case No.- 14/2016</u>
<u>State of Bihar Vrs. Tulesh Kumar & Others.</u>

FORM-A

In the court of Distt. & Addl. Sessions Judge- VIII, Begusarai Present- <u>Ved Prakash Modi</u> Date of judgment- <u>23.07.2026</u> <u>S.T. Case No.- 14/2016, C.I.S. No.- 22/2016</u> (Details of FIR/Crime and police Station) <u>Teghra P.S./Case No.- 267/2014</u>	
Informant	Pankaj Kumar Sharma
Represented by	Sri Manoj Thakur, Ld. Addl. P.P.
Accused	1. Sambhu Singh, S/o- Late Singheshwar Singh, aged about- 60 yrs. 2. Tulesh Kumar, S/o- Sambhu Singh, aged about- 38 yrs. Both R/o- Vill.- Barauni ward no.-11, Teghra P.S., Dist.- Begusarai
Represented by	Sri Arun Kumar Sinha, Ld. Adv.

FORM-B

Date of offence	16.08.2014
Date of First Information Report	16.08.2014
Date of Charge-Sheet	25.03.2015
Date of Framing of Charge	28.01.2016
Date of Commencement of Evidence	18.04.2016
Date on which Judgment is reserved	16.07.2026
Date of Judgment	23.07.2026
Date of sentencing order, if any	23.07.2026

Accused persons Details

No. of accused	Name of accused	Date of Arrest	Date of Release	Offence charged with	Whether Acquitted or Convicted	Sentence Imposed	Period of Detention undergone during Trial for purpose of Section 428 of Cr.P.C.
A1	Sambhu Singh	17-08-14	05-09-14	U/S- 307, 323, 324, 341/34 of IPC.	Convicted	Simple imprisonment and fine of Rs. 500/- for the offence u/s- 323 of IPC	19 days.
A2	Tulesh Kumar	13-02-15	26-06-15	U/S- 307, 323, 324, 341/34 of IPC.	Convicted	Rigorous imprisonment for 2.5 years and fine of Rs. 5,000/- for the offence u/s- 325 of IPC	04 months 13 days.

FORM-C

LIST OF PROSECUTION/ DEFENCE/ WITNESSES.

A. Prosecution Witness..

PROSECUTION WITNESS NO.	NAME OF WITNESS	DESCRIPTION
1	Naresh Singh	Eye Witness
2	Amit Singh	Eye Witness
3	Rohit Singh	Eye Witness
4	Laxmi Devi	Eye Witness
5	Pankaj Kumar Sharma	Informant.
6	Dr. Surendra Rai	Medical Witness
7	Raj Narayan Akela	Police Witness
8	Ajit Kumar Sharma	Other Witness
9	Ratish Kumar Jha	Other Witness
10	Adarsh Kumar	Other Witness

B. Defence Witness if any..

DEFENCE WITNESS NO.	NAME OF WITNESS	DESCRIPTION
xxx	xx	xx

C. Court Witness if any..

COURT WITNESS NO.	NAME OF WITNESS	DESCRIPTION
xx	xxx	xxx

FORM-D

LIST OF PROSECUTION/ DEFENCE/ COURT/WITNESSES EXHIBIT..

A. Prosecution.

Exhibit No.	Description of the Exhibit	Proved by/Attested by
1	Written application.	PW-5
2	Injury report of Adarsh Kumar.	PW-6
2/1	Injury report of Pankaj Sharma.	PW-6
2/1	Injury report of Ajit Kumar.	PW-6
3	Formal FIR.	PW-7
3/1	Endorsement over Written Application.	PW-7
4	Attendance Register	PW-9

B. Defence.

Exhibit No.	Description of the Exhibit	Proved by/Attested by
D1	C.C. of Order sheet of Teghra P.S. Case no.- 218/2014	xx
D2	Charge sheet of Teghra P.S. Case no.- 218/2014	xx
D3	FIR of Teghra P.S. Case no.- 218/2014	xx
D4	C.C. of Deposition of PW-6 Raj Narayan Akela in G.R. case no.- 3686/2014.	xx

D5	C.C. of Deposition of PW-7 Dr. Shubhansh Ranjan Jha in G.R. case no.- 3686/2014.	xx
D6	Requisition for examination of injured Sambhu Singh.	xx
D7	Injury report of Sambhu Singh.	xx
D8	Requisition for examination of injured Tulesh Kumar.	xx
D9	Injury report of Tulesh Kumar.	xx
D10	Requisition for examination of injured Jaimangla Devi.	xx
D11	Injury report of Jaimangla Devi.	xx
D12	Requisition for examination of injured Priyanka Kumari.	xx
D13	Injury report of Priyanka Kumari.	xx
D14	Supplementary Injury report of Sambhu Singh.	xx

C. Court Exhibit.

Exhibit No.	Description of the Exhibit	Proved by/Attested by
XXX	XXX	XXX

D. Material Objects.

Exhibit No.	Description of the Exhibit	Proved by/Attested by
XXX	XXX	XXX

J U D G M E N T

01. The above named two accused persons namely Sambhu Singh and Tulesh Kumar stands charged for the offences punishable U/S- 307, 323, 324, 341/34 of IPC.

02. The case of the prosecution as per the written application of the informant in short is that informant's brother Ajit Sharma was brutally assaulted by Tulesh Kumar with the Garasha with intention to kill him and he became seriously injured and he was sent for treatment at Teghra and in the mean time Jaimala Devi wife of Sambhu Singh had given rod blow over the head of informant's son Adarsh and Sambhu Singh had given Khanti blow over the head of Chandan and Gaurav causing them head injury and the informant was also received injury over both of his arms by Khanti and rod blow by the accused persons and the incident took place in the morning at 08:00 AM on 16-08-2014 due to construction over their land which was objected by the accused persons.

03. The present case was registered on the basis of the written application of the informant namely Pankaj Kumar Sharma against the three accused persons namely Sambhu Singh, Tulesh Kumar and Jaymala Devi.

After registration of the F.I.R. investigation was taken up and after completion of the investigation the police submitted charge-sheet bearing charge sheet no.- 65/2015, U/S- 307, 323, 324, 341/34 of IPC. on 25-03-2015 and thereafter cognizance for the offence was taken on 000-08-2010 by the Ld. CJM, Begusarai.

The record has been committed to the court of sessions on 28-01-2016 after complying the provision u/s 207 of Cr.P.C. The learned Sessions Judge, Begusarai had transferred the case record on 21-01-2019 to this court.

The charges U/S- 307, 323, 324, 341/34 of IPC. was framed against the above named two accused persons on 28-01-2016 which they denied and pleaded not guilty and had claimed to be tried.

04. The prosecution has examined altogether ten witnesses in support of its case. The witnesses are-

PROSECUTION WITNESS NO.	NAME OF WITNESS
1	Naresh Singh
2	Amit Singh
3	Rohit Singh
4	Laxmi Devi
5	Pankaj Kumar Sharma
6	Dr. Surendra Rai
7	Raj Narayan Akela
8	Ajit Kumar Sharma
9	Ratish Kumar Jha
10	Adarsh Kumar

The following documents has been marked exhibit on behalf of the prosecution-

Exhibit No.	Description of the Exhibit
1	Written application.
2	Injury report of Adarsh Kumar.
2/1	Injury report of Pankaj Sharma.
2/1	Injury report of Ajit Kumar.
3	Formal FIR.
3/1	Endorsement over Written Application.
4	Attendance Register

The prosecution evidence was closed on 09-12-2025.

The statement of the accused u/s- 313 of Cr.P.C. was recorded on 05-01-2026 wherein they claimed themselves innocent.

On behalf of the defence no witness has been examined.

The defence evidence was closed on 21-05-2026.

05. Heard argument on behalf of both the sides. The Ld. A.P.P. submits that PW-1 who is the eye witness of the case has fully supported the case of the prosecution and the charges were established against the accused persons and it is a fit case for conviction.

The Ld. Private counsel on behalf of the prosecution has submitted that in the present case all the witnesses have fully supported the case of the prosecution. It is next submitted that the injured witnesses including the informant have proved the manner of occurrence, the date of occurrence and the place of occurrence and the I.O. has established the place of occurrence in his deposition and particularly the injured witnesses have fully supported the case of the prosecution and being the injured witnesses their evidence is of great weight and cogent and convincing ground are required to discard the evidence of injured witnesses and in this respect the Ld. Counsel has relied upon the following pronouncement of the Hon'ble apex court.

*i. **Baljinder Singh v/s Pankaj*** where it has been held that "the sworn testimony provided by injured witness generally carry significant evidenciary weight and such testimony cannot be dismissed as unreliable unless there is plucive contradiction that under mine there credibility.

*ii. **Balu Sudam Khalde v/s State of Maharastra 2023 SCC online SC 355.***

*iii. **Manjeet Singh v/s State of Punjab (2019) 8 SCC 529.***

It is further submitted that the defence failed to explain the injuries over the person of the accused Tulesh Singh and Sambhu Singh because in Teghra P.S. case no.- 268/2014 the doctor could not be examined and only a formal witness was brought over the record who identified the hand writing and initial of the doctor despite the fact that the doctor was alive. It is lastly submitted that all the witnesses who were examined on behalf of the prosecution have fully and categorically supported the case of the prosecution and the prosecution successfully bring home the charges levelled against the accused persons which are sufficient to convict them.

On the other hand the Ld. Defence counsel submits that all the private witnesses are either heresay witness or the interested witness.

06. The point for determination in this case is that whether the prosecution has been able to bring home the charges levelled against the above named accused beyond the shadows of all reasonable doubts or not ?

FINDINGS

07. In order to prove the charges levelled against the above named accused the prosecution has examined ten witnesses. Among them-

PW-1 Naresh Singh has stated that the incident was of 16-08-2014 at 08:00 AM when he was present at the house of his sister Prema Devi at Barauni where she was ill and after hearing hulla when he rushed to the vacant land of Ajit Sharma where he saw that Jaimala Devi, Tulesh Kumar, Priyanka Kumari and Sambhu Singh were hurling abuses to Ajit Sharma and when he objected Jaimala Devi ordered others to kill him and there upon Tulesh Kumar with intention to kill him gave him a Garasha blow over his head and the second garasha blow was intercepted by Adesh Kumar and thereafter Jaimala and Priyanka assaulted Adesh with rod which hit over his head near the eyes causing head injury and when Gobardhan, Chandan and Pankaj came to save him Sambhu Singh gave them Khanti blow which hit over the left head of Pankaj sharma and the second blow hit over his right hand and when Ajit Sharma fell down Priyanka Kumari snatched cash amount from his pocket and when the accused persons fled away from there the injured persons were brought to Teghra P.S. and from there Ajit, Adesh and Pankaj were admitted at Teghra Sadar Hospital.

In his cross examination he stated that the statement was recorded by the police on the same day at 11:30 AM where he did not state that any civil case is pending between the parties and due to the land dispute the incident took place and members of both the parties were got injured. He also stated that he did not state before the police that Pankaj Sharma and his brother Ajit Sharma were constructing over the disputed land situated near the house of Sambhu and they objected him from doing construction work due to pending civil litigation. He also stated that Pankaj Sharma is his brother-in-law and he was present in his house since last 2-4 days and he accepted that police arrived at the P.O. land and arrested Pankaj Sharma on the basis of the case filed by the accused persons. He also stated that he did not see any injury mark over the body of the accused persons.

PW-2 Amit Singh has stated that on 16-08-2014 in the morning he was present at the house of his sister at Brauni Flag and he was present at the door of Rajendra Thakur for his hair cutting and saving then Ajit Singh, Jaimala Devi, Sambhu Singh, Tulesh and Priyanka Kumari started hurling abuse and when Ajit Singh objected Tulesh gave a farsha blow over his head and when the next farsha blow was intercepted by Adarsh Kumar, Jaimala Devi gave a khanti blow over the head of Adarsh Kumar causing him head injury and then Pankaj, Gaurav @ Gobardhan and Chandan arrived there who were assaulted by Sambhu Singh with a khanti. He also stated that Priyanka Kumari snatched Rs. 30,000/- from the pocket of Ajit Singh and he and his sister had brought the injured to Teghra Hospital.

In his cross examination he stated that he and his family members had been living at the house of his sister since last 6-7 years. He also admitted that when he arrived at the P.O. land he found Ajit and Adarsh were injured but he denied of any civil dispute between Ajit and Pankaj and he also denied that he stated before the police that fight took place between both the parties and both the parties were got injured.

PW-3 Rohit Singh has stated that on 16-08-2014 at 08:00 AM the incident took place when he was at the house of Rajendra Thakur and after hearing hulla when he came out he saw that Suresh, Sambhu Singh, Priyanka Kumari and Jaimala Devi were hurling abuses to Ajit Sharma and Sambhu Singh had a Khanti and Suresh Sharma had a Garasha in their hands and when Ajit Sharma objected Jaimala Devi ordered to kill him and thereafter Jaimala Devi and Priyanka caught hold of Ajit Sharma and Suresh gave farsha blow over his head but the second farsha blow was intercepted by Adarsh and Jaimala assaulted Adarsh with an iron rod over his head and Chandan Sharma, Pankaj Sharma and other persons came to pacify the fight Sambhu Sharma assaulted Pankaj with khanti and Gaurav and Chandan were also assaulted by Sambhu Sharma with Khanti and when Ajit Sharma fell down Priyanka took out Rs. 20,000/- from his pocket and after the incident all the injured persons had been brought to Teghra Hospital for treatment.

In his cross examination he stated that the house is at the distance of 30-40 yards from the house of Pankaj and he has no relation with Rajendra Thakur who is a barber and his statement was recorded by the police at the P.O. land.

PW-4 Laxmi Devi has stated that on 16-08-2014 at 08:00 AM when she was near her bathan she saw that Ajit Sharma was standing near his land then Jaimala Devi started hurling abuses to him and Sambhu Singh, Tulesh Kumar and Priyanka Kumari were also with her and when Ajit Sharma objected Jaimala Devi ordered to kill him and there upon Tulesh Kumar gave a Garasha blow over the head of Ajit Sharma and the second blow was interecepted by Adarsh and thereafter Sambhu Singh gave a khanti blow over the head of Adarsh and when Gaurav, Chandan and Pankaj Sharma arrived there Jaimala Devi said to kill all of them and Sambhu Singh assaulted Pankaj Sharma with khanti over his hands and Chandan was also assaulted by Sambhu Singh with a khanti over his back and hand and Jaimala Devi hit over his back. She also stated that Gaurav was assaulted by Jaimala Devi over his back and hand with a rod and when Ajit Sharma fell down Priyanka Kumari took out 30,000/- from his pocket and after the incident Ajit Sharma was brought to the hospital.

In her cross examination she stated that Raju and Gaurav are her sons and a case of murder was lodged against her son Raju Sharma but she denied that her sons were sent to jail in different cases although she accepted that Sambhu Singh also filed the case against her son Gaurav w.r.t. the same incident. She accepted that Pankaj and Ajit are her brothers-in-law and all the injured were not brought to the hospital at one time. She also stated that on the date of incident none of the accused persons were got injured. She also stated that Ajit Sharma returned to his house after two months after receiving treatment at Begusarai Patna, Ranchi and Delhi. She also stated that Ajit Sharma was teacher at Sanskrit School situated at Barauni Flag-1 and when she went to met him at the clinic of Dr. Sanjay he was uncouncious.

PW-5 Pankaj Kumar Sharma is the informant of the case who stated that the incident was of about 2.5 years ago at 08:00 AM when he was at the Bathan where Ajit Sharma came to inspect the land for construction of his house where Jaimala Devi, Tulesh Kumar, Priyanka Kumari and Sambhu Singh also arrived and started abusing him and they had Garsha, Khanti, rod and Lathi and when Ajit Sharma objected Jaimala Devi ordered to kill him and there upon Tulesh Kumar gave him Garasha blow over his head causing head injury and the second blow was interecepted by Adarsh and then Jaimala Devi hit over his head with a rod causing him head injury and when Chandan Sharma, Gaurav Sharma and he came to save him the accused persons started hurling Khanti and Rod causing injury over the back

and hand of Chandan Sharma, Gaurav Sharma and he received injury over his head and hands and Ajit Sharma was treated at Begusarai. he also stated that he filed a written application in the P.S. which is in his writing and signature and is marked as **exhibit-1**.

In his cross examination he admitted that Sambhu Singh also filed a counter case Teghra P.S. Case no.- 268/2014 against them at he was arrested by the police on the same day and he had land dispute with the accused persons and a civil suit was also pending in the court filed by him and Ajit Sharma was going to construct a house over the plot no.- 2959 which was a disputed land. He also admitted that Sudama Devi on 15-02-2006, Sahanti Devi on 22-07-1996 and Nagendra Prasad Singh on 13-10-2004 had executed sale deeds in favour of Jaimala Devi. He also stated that at first Ajit Sharms was got injured and he was brought to the Hospital by him, Arun Sharma, Amod Sharma, Laxmun Singh and his Bhabhi and from there he was brought to the clinic of Dr. Sanjay at 12:30 PM at Begusarai. he also stated that Ajit is his own brother and was a teacher at Sanskrit School Teghra and on the date of incident he did not go to School. He also accepted that disputed land was not in his occupation.

PW-6 Dr. Surendra Rai -is the Doctor of the case who stated that on 16-08-2014 he was posted at Teghra PHC and on that day he examined **Adarsh Kumar** aged about 15 years s/o- Pankaj Kumar and found the following injuries-

- i. Lacerated wound left side frontal region of scalp 1/2"x1/4"x skin deep.
- ii. Abrasion left lower leg anteriorly 1"x1/4".

Age of injury:- with in 24 hours.

Nature of Injury:- Simple caused by hard and blunt substance.

The injury report is marked as **exhibit-2**.

-on 16-08-2014 he was posted at Teghra PHC and on that day he also examined **Pankaj Sharma** aged about 35 years s/o- Late Satyanarayan Sharma and found the following injuries-

- i. Abrasion left knee joint of anteriorly 2.5"x1/4".
- ii. Swelling right elbow joint as whole.

Age of injury:- with in 24 hours.

Nature of Injury:- Simple caused by hard and blunt substance.

Opinion reserved as the patient was referred to Sadar Hospital Begusarai.

The injury report is marked as **exhibit-2/1**.

-on 16-08-2014 he was posted at Teghra PHC and on that day he also examined **Ajit Kumar** aged about 45 years s/o- Late Satyanarayan Sharma and found the following injuries-

- i. Lacerated wound left side frontal region 4"x1/4"xScalp deep.
- ii. Swelling and pain right side buttock 1"x1/2".

Age of injury:- with in 24 hours.

Nature of Injury:- Simple caused by hard and blunt substance.

Opinion reserved as the patient was referred to Sadar Hospital Begusarai.

The patient was referred to Sadar Hospital Begusarai but he went to B.M. Hospital for C.T. Scan of his head and according to the radiologist Dr. Ajay Kumar a linear undisplaced fracture was seen in left zygomatic arch and left temporal bone with adjacent soft tissue swelling.

Hence, the injury no.-i was grievous in nature and caused by hard and blunt substance.

Injury no.-ii x-ray report not available till date hence injury is simple in nature which caused by hard and blunt substance.

C.T. Head plate with report was submitted to Teghra P.S.

The injury report is marked as **exhibit-2/2**.

In his cross examination he stated that the injury over the body of Pankaj Sharma may be caused by due to falling over the ground. He accepted that he did not mention the colour of injury. He also stated that the injury found over the body of Adarsh Sharma may be caused due to falling over the ground. He admitted that in his injury report he mentioned the lacerated wound over the body of Ajit Sharma right side parietal region which was later change to right side of perietal region but he did not made any initial over the correction. He also stated that Garasha is a heavy and sharp cut weapon. He also stated that when Ajit Sharma was brought before him blood was not oozing out from his injuries.

PW-7 Raj Narayan Akela is the I.O. of the case who stated that on 16-08-2014 he was posted at Teghra P.S. as S.I. and on that day he was handed over the charge of investigation of Teghra P.S. case no.- 267/2014 by the then SHO Ashok Kumar Mandal and after receiving the charge he had gone through the FIR and inspected the

P.O. land situated at Teghra Barauni Road which was the land of the informant and the accused persons and entire incident took place due to objection raised by the accused persons to stop the construction work over the land. He stated the boundary of the P.O. land as in the north house of Rajendra Thakur and Doman Thakur in south house of Prem Sah, in east land of Suresh Sharma and in west house of Chamru Sah and Parmanand Singh. He also stated that he recorded the re-statement of Pankaj Kumar and statement of witnesses Laxmi Devi, Arun Shama, Amit Singh, Naresh Singh and Rubi Singh and thereafter arrested the accused Sambhu Singh. He also stated that he received the supervision note of the inspector and obtained the injury report and submitted charge sheet against Sambhu Singh and Suresh Kumar vide charge sheet no.- 65/2015 u/s- 341, 323, 324, 307, 504/34 of IPC on 25-03-2015. the formal FIR is marked as **exhibit-3** and the endorsement over the written application which is in the writing and signature of the then SHO A.K. Mandal is marked as **exhibit-3/1**.

In his cross examination he stated that he recorded the statement of the informant Pankaj Kumar at the P.O. land. He also stated that at the P.O. land he did not find any construction material and the P.O. land is the land of both the parties and he mentioned that the incident took place due to land dispute between the parties but he did not record the statement of Ajit Sharma during investigation because he never appeared before him. He also stated that the witness Rohit Singh did not state before him that at the time of the incident he was present at the house of Rajendra Thakur and after hearing hulla when he came out he saw that Suresh, Sambhu Singh, Priyanka Kumari and Jaimala Devi were abusing Ajit Sharma and Sambhu Singh had a khanti, Suresh Singh had a Garasha and on the instruction of Jaimala she and Priyanka cuaght hold of Ajit Sharma and Suresh gave him a Garasha blow over his head and the second Garasha blow was intercepted by Adarsh and he was assaulted by Mala Devi with a rod which hit over his head. He also stated that the witness Rohit Singh stated before him that Pankaj Sharma and his brother Ajit Sharma were preparing to start construction work over the disputed land situated near the house of Sambhu Singh and when Sambhu and his son objected fighting took place between them and members of both the sides got injured. He also stated that the witness Naresh Singh had stated before him that there exist a land dispute between the parties and this was the reason of the incident and members of both the sides were got

injured. He also stated that the witness Naresh Singh did not state before him that after hearing hulla when he rushed to the land of Ajit Sharma, Jaimala Devi and Priyanka Kumari were abusing Ajit Sharma and on the instruction of Jaimala Devi to kill him Tulesh gave a garasha blow over the head of Ajit Singh causing him head injury and the second blow was intercepted by Adarsh Kumar and Jaimala and Priyanka assaulted Adarsh with a rod causing him head injury and when Gobardhan, Chandan and Pankaj came to rescue him Sambhu assaulted Pankaj with a khanti causing injury in both of his hands. He also stated that the witness Laxmi Devi did not state before him that Jaimala Devi ordered to kill and thereafter Tulesh gave a garsha blow over the head of Ajit Sharma but the second blow was intercepted by Adarsh and Sambhu Singh gave a khanti blow over the head of Adarsh when Gaurav, Chandan and Pankaj came there Sambhu Singh assaulted Pankaj Sharma with a khanti and Chandan was also assaulted with a khanti over his back and hand by Sambhu Singh and Jaimala Devi assaulted Gaurav and Rohit with a rod.

PW-8 Ajit Kumar Sharma has stated that the incident was of 16-08-2014 in the morning at 08:00 AM when he was present at his land for construction of house where Sambhu Singh, his wife Jaimala Devi, son Tulesh Kumar and Daughter Priyanka Kumari arrived and Tulesh had a garasha, Sambhu Singh had a khanti and Jaimala Devi had a rod in their hands and they started hurling abuses to them and he objected Jaimala Devi ordered her son to kill him and there upon Priyanka and Sambhu Singh caught hold of him and Tulesh Kumar gave him a garasha blow over his head with intention to kill him causing him head injury and bleeding but when Tulesh tried to give the second garasha blow his nephew Adarsh Kumar caught his hand and then Jaimala Devi gave rod blow over his head causing him head injury and bleeding and when his borther Pankaj Sharma, Chandan Sharma, Gaurav Sharma and Raju Sharma came there to save him they were assaulted by the accused persons with khanti and rod. He also stated that Sambhu Singh gave a khanti blow over the head of Pankaj but it hit over his shoulder and back and Priyanaka Kumari snatched Rs.-30,000/- from his pocket. He also stated that he was treated at Teghra hospital and thereafter at Begusarai by Doctor Sanjay and from there he was treated at Patna and Ranchi.

In his cross examination he stated that since 2004 he has been posted as a teacher at Vani Vilash Sanskrit High School at Barauni-1 and at the time of incident

the school timing was 09:30 AM to 04:00 PM and on saturday 09:30 AM to 01:00 PM. He also stated that on 16-08-2014 the school timing was 09:30 AM to 04:00 PM and on that day he did not attend the school. He accepted that in the attendance register the leave is also mentioned. He also stated that his statement was recorded by the police on 25-08-2014 at the clinic of Dr. Sanjay at Ishwar Hospital and he admitted that Sambhu Singh filed a counter case Teghra P.S. case no.- 268/2014 against him and his family members w.r.t. the same incident although he denied the fact that in said incident the accused persons were also got injured and were treated at Teghra PHC. He also stated that there is no land dispute between the parties and the disputed land was entered in the name of Kusheshwar Sharma in the Khatiyani but he has no knowledge that Sudama Devi, Santi Devi and Nagendra Prasad Singh had purchased the said land from Kusheshwar and he admitted that his brother Pankaj Sharma filed a Title Suit No- 307/2010 against Jaimala Devi which is still pending. He admitted that during treatment at Teghra PHC the Doctor found a single injury over his body and Tulesh had a garasha which was 4" wide and 4" long and he gave garasha blow over his head with full force and he did not give any other blow either by the lathi or iron rod over his head and when he got injured about 25 persons gathered there. He also stated that after arriving at PHC Teghra he became unconscious and he remained unconscious for about a month.

PW-9 Ratish Kumar Jha is the formal witness who appeared in the court with the attendance register of the school's teacher of year 2014 and in page no.- 16 & 17 at serial no.-7 there were signature of the teacher Ajit Kumar Sharma and at the bottom of Page no.-17 there were short signature of the then Principle Ravindra Singh which is identified by the witness and it is marked exhibit-P4/PW-9. He also stated that on 16-08-2014 Ajit Kumar Sharma was on casual leave and there were no signature of Ajit Sharma on that day. The Photocopy of the exhibited page of the attendance register is substituted in the case record and the original register has been returned.

In his cross examination he stated that on perusal of page no.-16 & 17 of the attendance register it is clearly evident that whitener has been used but over the whitener no short signature had been made by him and in the month August 2014 the assistant teacher Sri Ajit Kumar was on Casual Leave only for one day and in the month of September 2014 the total C.L. was five.

PW-10 Adarsh Kumar has stated that the incident was of 16-08-2014 in the morning at 08:00 AM when he had gone along with his father Pankaj Kumar Sharma and uncle Ajit Kumar Sharma to his land for construction of their house where Sambhu Singh, Jaimala Devi, Tulesh Kumar @ Fulesh Kumar, Priyanka Kumari having iron rod, Khanti and Garasha gathered there and they started hurling abuses to his uncle Ajit Sharma and when objection was made by him on the instruction of Jaimala Devi, Tulesh gave garasha blow over the head of his uncle with intention to kill him causing him head injury in the left side of his head and when he tried to save his uncle Ajit Sharma, Jaimala Devi had given a rod blow over his head but he tried to save himself from the blow causing him injury over his head and leg and when his father Pankaj Sharma came to save him he was assaulted by Sambhu Singh with a khanti over his head causing injury over his head. He also stated that his father received injury also over his hand left and right knee and elbow and thereafter Sambhu Singh gave khanti blow over the head and back of his brother Gaurav Sharma @ Gobardhan and Chandan Sharma and in the mean time Priyanka Kumar had snatched Rs. 30,000/- from the pocket of his uncle and thereafter they were brought to the P.S. and from there they were sent to the Govt. Hospital and his uncle Ajit Sharma was referred to Begusarai Hospital and from there he went to Patna and Ranchi for his treatment.

In his cross examination he stated that his statement was never recorded by the police. He also accepted that the statement made by him before the court is not stated in the written application filed by his father in the P.S. and he accepted regarding the land dispute pending between both the sides and Sambhu Singh also filed a counter case Teghra P.S. case no.- 263/2014 against his father and others but he is not the accused in that case.

08. On behalf of the defence no witness has been adduced although the following documents have been marked exhibit:-

Exhibit No.	Description of the Exhibit
D1	C.C. of Order sheet of Teghra P.S. Case no.- 218/2014
D2	Charge sheet of Teghra P.S. Case no.- 218/2014
D3	FIR of Teghra P.S. Case no.- 218/2014
D4	C.C. of Deposition of PW-6 Raj Narayan Akela in G.R. case no.- 3686/2014.
D5	C.C. of Deposition of PW-7 Dr. Shubhansh Ranjan Jha in G.R. case no.- 3686/2014.

D6	Requisition for examination of injured Sambhu Singh.
D7	Injury report of Sambhu Singh.
D8	Requisition for examination of injured Tulesh Kumar.
D9	Injury report of Tulesh Kumar.
D10	Requisition for examination of injured Jaimangla Devi.
D11	Injury report of Jaimangla Devi.
D12	Requisition for examination of injured Priyanka Kumari.
D13	Injury report of Priyanka Kumari.
D14	Supplementary Injury report of Sambhu Singh.

APPRECIATION OF EVIDENCE

09. It is evident that the prosecution has examined altogether ten witnesses in support of its case and among them-

PW-1 is the brother-in-law of Pankaj Sharma who stated that on the date and time of the incident he visited the house of his sister Prema Devi at Barauni and after hearing hulla when he came out he saw that the accused persons were hurling abuses to Ajit Sharma and when he objected Tulesh Kumar gave him a garasha blow over his head causing injury to him and the second garasha blow was intercepted by Adesh Kumar and Sambhu Singh assaulted Pankaj Sharma with Khanti causing injury over both of his hands. He admitted that after the incident police arrested Pankaj Sharma on complaint of the opposite party. He also stated that he did not see any injury mark over the body of the accused persons. This witness is not reliable because he is the relative of the informant and he accepted that Ajit Sharma was assaulted by Tulesh Kumar and Pankaj Sharma was assaulted by Sambhu Singh although he denied the fact the fact that the accused persons were also injured during the incident but there are injury reports over the record showing injury over the person of Sambhu Singh (Ext.- D7) and Tulesh Kumar (Ext.- D9). **PW-2** is a chance witness who stated that on the date and time of the incident he was present at the house of Rajendra Thakur and after hearing hulla when he came out he saw that the accused persons were hurling abuses to Ajit Sharma and later on Jaimala Devi and Priyanka caught hold of Ajit Sharma and on her order Tulesh gave a garasha blow over the head of Ajit Sharma causing the head injury and Sambhu Sharma gave Khanti blow to Pankaj Sharma and he also assaulted Gaurav and Chandan with Khanti. This witness has stated that he has no knowldege regarding any land dispute between the parties. **PW-3** is the sister-in-law (Bhabhi) of the informant who also supported the incident and

has stated that on the date and time of the incident she saw Ajit Sharma was at his land where Jaimala Devi was abusing him and thereafter Tulesh Kumar gave Garasha blow over the head of Ajit Sharma and Sambhu Singh assaulted Pankaj Sharma with Khanti over his hands and also assaulted her son Gaurav and Chandan. She denied the fact that Sambhu Singh also filed the case against her son w.r.t. the incident of the same day. She accepted that Ajit Sharma and Pankaj Sharma are her brothers-in-law. She also denied of having any injury to the accused persons and she stated that Ajit Sharma returned home after two months of his treatment. **PW-5** is the informant of the case who stated that on the date and time of the incident Ajit Sharma came to the land for inspection with purpose to start construction over it where the accused persons first started abusing him and thereafter Tulesh gave garasha blow over the head of Ajit Sharma causing him head injury and when Chandan, Gaurav and the informant came to save him the accused persons started giving khanti and rod blow over them causing injury over their back, hand and he was assaulted over both of his hands and his head. This witness is the informant of the case and he stated that Tulesh gave garasha blow over the head of Ajit Sharma and he, Chandan and Gaurav were assaulted by the accused persons although he did not mention name of any specific accused who assaulted him and his sons. This witness has accepted that Sambhu Singh also filed a counter case Teghra P.S. case no.- 268/2014 against them and in that case he was arrested on the same day. He also admitted that he has land dispute with the accused persons and a civil suit no.- 307/2010 was filed by him and the land over which Ajit Sharma wanted to construct house was the portion of the suit land. He also admitted that Ajit Sharma is his own brother and was a teacher in Sanskrit School Teghra and he further admitted that a suit land was not in his possession. This witness has admitted that a counter case was also filed by the accused persons against him and others w.r.t. the same incident. He further admitted of having land dispute with the accused persons and admitted that the disputed land over which the alleged incident took place is not in their possession although Ajit Sharma went there to inspect the land to start construction work. All these admissions make the fact clear that on the date of the alleged incident the disputed land was over which the incident took place was not in possession of the informant or his family members and rather it was in possession of the accused persons and to get possession over the land the informant filed a civil case which was sub judice on

the date of the incident. This fact shows that the informant and Ajit Sharma went to the land which propels the initiation of the incident. PW-6 is the doctor who found a lacerated wound on left side of the frontal region of scalp and an abrasion over left lower leg of Adarsh Kumar and both the injuries were found simple in nature and caused by hard and blunt substance. The doctor also examined the informant Pankaj Sharma and found abrasion over left knee joint and a swelling over right elbow joint and both the injuries were found simple. The doctor also examined Ajit Kumar and found lacerated wound on left side of frontal region and swelling and pain over right side buttack. The opinion was kept reserved and after the CT Scan of the injured was done at B.M. Hospital at Begusarai a linear undisplaced fracture was seen in left zygomatic arch and left temporal bone with adjacent soft tissue swelling. The doctor found the injury was grievous in nature and caused by hard and blunt substance. The doctor has admitted that the garasha is a heavy and sharp object. The PW-7 is the I.O. of the case who stated that during investigation he found that there exist land dispute between the parties. PW-8 Ajit Sharma is the injured and the brother of the informant who stated that Tulesh Kumar with intention to kill him had given a garasha blow over his head causing head injury and bleeding and when other persons of his family arrived there to save him they were also being assaulted with khanti. On perusal of the injury report it is evident that the injury found over the head of the witness Ajit Sharma was liner undisplaced fracutre caused by hard and blunt substance and injuries found over the body of other injured persons were also found caused by hard and blunt substance which totally contradict the testimony of the witnesses who unanimously stated that the accused Tulesh Kumar had cuased injury over the head of Ajit Sharma with a farsa which is a heavy and sharp cutting weapon but it is deposed by all the witnesses that the injury was caused during the incident. It is also admitted by the informant and the injured Ajit Sharma that there exist land dispute between both the sides and they also filed a Title Suit No.- 307/2010 against Jaimala Devi, w/o- Sambhu Sharma. The PW-9 is a formal witness who appeared before the court with the attendance register of the school and it is found that on the date of incident the injured Ajit Sharma was on causal leave but it was also came into light that whitener was used over the attendance of Ajit Sharma which creates doubt regarding the interpolation made in the attendance register.

On behalf of the defence the certified copy of the counter case along with the charge sheet and deposition of witnesses in that case as well as the injury reports of Sambhu Singh, Tulesh Kumar and his other family members were also filed which shows the fact that members of the family of the accused persons and they themselves got injured during the incident.

After going through the entire oral as well as the documentary evidence available over the record it is ample clear that both the parties have fought with each other on the date and time of the incident and it was the matter of free fight.

The Supreme Court in the famous case of [Gajanand Vs. State of Uttar Pradesh, AIR 1954 SC 695](#), had explained and defined the word "free fight" in the following manner:

"A free fight is when both sides mean to fight from the start, go out to fight and there is pitched battle. The question of who attacks and who defends in such a fight is wholly immaterial and depends on the tactics adopted by the rival commanders. When one party after preparation and armed with deadly weapon went to the other party's house, it could not be said in these circumstances that both the parties were pre-determined for a trial of strength and had a free fight, rather the first party was the aggressor."

Thus, it can be said that a free fight is one when both sides start fight from the start. In the case of [Kanbi Nanji Virji and Ors. Vs. State of Gujarat, AIR 1970 \(SC\) 219](#), the Hon'ble Supreme Court had observed as under:

"Where there was a melee at the time of the incident and the two groups indulged in a free fight resulting in injuries to persons of both groups and death of two, if the Court comes to the conclusion that the injuries sustained by the persons were in the course of a free fight, then only those persons who are proved to have caused injuries or death can be held guilty for the offence individually committed by them".

In a case of free fight, question of conviction with the aid of [Section 149](#) IPC does not arise and for that law laid down by the Hon'ble Supreme Court in the case of [Puran Vs. State of Rajasthan, AIR 1976 \(SC\) 912](#), may be referred to in which it was observed as under:

"In a case of sudden mutual fight between the two parties, there can be no question of invoking the aid of Section 149 for the purpose of imposing constructive criminal

liability on accused. The accused in such a case the convicted only for the injuries caused by him by his individual acts."

Moreover, no right of private defence is available in the case of free fight and for that law laid down by the Hon'ble Supreme Court in the case of Vishvas Aba Kurane Vs. State of Maharashtra, AIR 1978 (SC) 414, may be referred to in which the Hon'ble Supreme Court has observed as under:

Free fight-No right of private defence is available to either party and each individual is responsible for his own acts."

Before proceeding further something should be said about sudden fight. The word "sudden fight" has been defined by the Hon'ble Supreme Court in the case of Mariadasan and Ors. Vs. State of Tamil Nadu, AIR 1980 (SC) 573, in the following manner:

"Sudden fight- When no party attacks the members of the opposite party at the commencement of the occurrence and there is no evidence regarding formation of unlawful assembly with a particular common object and the fight takes place as a result of heated passion and without premeditation, it can be said to be a "sudden fight". No unlawful assembly can be said to have been formed in such cases and the accused cannot be convicted under this Section. All the persons must be held responsible for their individual acts and not vicariously liable for acts of others."

The Hon'ble Supreme Court in the case of Mariadasan (supra), further held that even in sudden fight which had taken place on spur of moment, the accused cannot be convicted under Section 147, 148 or Section 149 IPC.

In the present case it is evident that on the matter of land dispute a free fight took place between both the sides and Ajit Sharma, Pankaj Sharma, Adarsh Kumar were got injured and the allegation of inflicting injury over the person of Ajit Sharma is solely against the accused Tulesh Kumar and it has been alleged that he gave garasha blow over the head of Ajit Sharma which is a sharp cutting heavy weapon but the injury over the head of Ajit Sharma was an undisplaced fracture caused by some hard, blunt substance hence the allegation is not in concurrence with the injury report but it was infact a free fight between both the sides.

The witnesses have stated that Shambhu Singh had given khanti blow over the person of other injured persons who came to save Ajit Sharma but from the injury

report of Adarsh Kumar and Pankaj Sharma it is evident that both of them received only simple injury over their persons caused by hard and blunt substance.

CONCLUSION

10. Hence, on the basis of the discussions made above it is evident that the prosecution has successfully bring home the charge against the accused Shambhu Singh u/s- 323 of IPC and u/s- 325 against the accused Tulesh Kumar beyond all reasonable doubts.

11. Both the accused persons are on bail. Their bail bond is hereby cancelled and they are taken into custody.

12. Put up the record for hearing on the point of sentence after the lunch recess.

Sd/-

(Ved Prakash Modi)
Addl. Sessions Judge-VIII
Begusarai, Dated- 23-07-2026

Hearing on the point of sentence

Dated- 23-07-2026

13. Heard both the sides on point of sentence.

The Ld. Defence counsel submits that the convicts have no criminal antecedent and the entire incident took place without any pre-planing and in a spur of moment. It is also submitted that they are the bread earners of their family. It is further stated that a lenient view should be taken by the court in awarding sentence to the convicts.

On the other hand the Ld. A.P.P. forcefully submits that the convicts have committed the offence without any instigation from the other side and they are the aggressor. It is also submitted that the convicts had full knowledge about the consequences of their act. It is further submitted that the convicts may be awarded with the maximum punishment provided for the offence.

Heard both the parties on point of sentence and after considering the facts and circumstances of the case I came to the conclusion that it was a free fight and members of both the sides got injured during the incident as well as the fact that the convicts have no criminal antecedent.

Hence the convict has been awarded with the following sentences.

ORDER

14. Both of the convicts are hereby awarded the following sentence:-

No.	Name of Convict	Punishment Awarded	Fine Imposed	Punishment in default of fine
1.	Shambhu Singh	Simple Imprisonment for six month for offence u/s- 323 of IPC.	Rs. 500/- (Five hundred)	Fifteen Days Simple Imprisonment
2.	Tulesh Kumar	Rigorous Imprisonment for 2.5 Years (two and half years) for the offence u/s-325 of IPC.	Rs. 5,000/- (Five Thousand)	Three Months Simple Imprisonment

Out of the total fine amount, if realised, a some of Rs. 5,000/- shall be paid to the injured victim Ajit Sharma as compensation u/s- 357 of Cr.P.C..

15. The period of detention already undergone by the convicts during investigation and trial shall be set-off u/s- 428 of Cr.P.C. from the punishment awarded to them.

16. Let a free copy of judgment be provided to the convicts at once for the purpose of appeal. The convicts are informed of the right to prefer an appeal against the judgment of conviction and this order on sentence in accordance with law.

17. Let a copy of judgment be sent to the D.M. Begusarai in compliance of the provision u/s 365 of Cr.P.C.

18. The O/C is directed to consign the record in record room as per the rule.

The order of quantum of sentences is pronounced today on 23-07-2026 by me in the open court before the convict.

(Dictated & Corrected by me)

Sd/- (Ved Prakash Modi) Addl. Sessions Judge-VIII Begusarai, Dated 23.07.2026	Sd/- (Ved Prakash Modi) Addl. Sessions Judge-VIII Begusarai, Dated 23.07.2026
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Date of Judgment / Order	
Date of Reserving Judgment / Order	
Uploading Date	
Uploaded by	