

**IN THE COURT OF THE ADDITIONAL DISTRICT AND SESSIONS
JUDGE, CHHABRA, DISTRICT BARAN, RAJASTHAN**

Presiding Officer- Sh. Avinash Chaudhary (RJS-DJ CADRE)
Sessions Case No. 15/2017
State vs. Pappu & Others
Judgment Date: 30.04.2026

PART – I

A.

Complainant: State of Rajasthan
Represented By Additional Public Prosecutor
Accused Persons: 1.Pappu son of Jaylal resident of Bhilwara Uncha Police Station Bapcha District Baran Rajasthan 2.Rajkumar son Jaylal resident of Bhilwara Uncha Police Station Bapcha District Baran Rajasthan
Representated By 1.Shri Bhanwar Singh Jadon , Advocate on behalf of accused Rajkumar. 2.Shri Bhavesh Lodha , Advocate on behalf of accused Pappu.

B.

Date of Incident	06.09.2016
Date of FIR	07.09.2016
Date of Filing Charge-Sheet	13.012.2016
Date of receipt of file after commit	04.02.2017
Date Reserved for Judgment	30.04.2026
Date of Pronouncement	30.04.2026

C. DETAILS OF ACCUSED

Name of accused	Date of first arrest	Date of first release on bail	charged offence	convicted or acquitted	Details of the sentence or probation order	Period spent in custody under Section 428 CrPC
Pappu	29.09.2016	07.10.2016	323/34, 458/34, 308/34 IPC	Convicted	Simple Imprisonment & to pay a fine	From 29.09.2016 to 07.10.2016
Rajkumar	29.09.2016	07.10.2016				From 29.09.2016 to 07.10.2016

PART – II

LIST OF WITNESSES

(A) PROSECUTION WITNESSES

No.	Name	Nature of Witness
PW-1	Rinku	Eye Witness
PW-2	Dr. Hariom Goyal	Medical Witness
PW-3	Reena	Injured

PW-4	Urmila	Eye Witness
PW-5	Draupati@Draopadi Bai	Complainant
PW-6	Ashraf Uddin Siddiqui	Investigation Officer
PW-7	Jayram	Recovery Witness

(B) DEFENCE WITNESSES

No.	Name	Nature of Witness
None		

(C) COURT WITNESSES

None Examined

LIST OF DOCUMENTS (EXHIBITS)

(A) PROSECUTION EXHIBITS

Exhibit	Exhibit Detail	Exhibited by/proved by witness
Ex. P-1	Site plan of the place of occurrence	PW1,PW3, PW5
Ex. P-2	Injurt Report	PW2
Ex. P-3	Written Report	PW3, PW5
Ex. P-4	First Information Report	PW3, PW5
Ex. P-5 & Ex. P-6	Arrest memo of the accused persons	PW6
Ex. P-7 & Ex. P-8	Information memo under Section 27 of the Evidence Act from accused persons	PW6
Ex. P-9 & Ex. P-10	Seizure Memo	PW6
Ex. P-11 & Ex. P-12	Site plan of the place of recovery	PW6, PW7

(B) DEFENCE EXHIBITS

Exhibit	Exhibit Detail	Exhibited by/proved by witness
None	None	None

(C) COURT EXHIBITS

None

(D) MATERIAL OBJECTS / ARTICLES

None

PART-III

JUDGMENT

DATE 30.04.2026

1. FACTUAL MATRIX & PROCEDURAL HISTORY:

The prosecution case, in brief, is that on 07.09.2016, the complainant Draupati@Draopadi Bai (PW-5) submitted a written report (Ex. P-3) at Police Station Bapcha, alleging that on the previous night, i.e., 06.09.2016, at about 10:30 PM, she was at her house in village Bhilwara Uncha when her two brothers-in-law (Devar), namely Pappu and Rajkumar (the accused), came there in an inebriated state and started hurling abuses. It is alleged that they struck the door of her house with a lathi, broke it, and trespassed into the courtyard. When her daughter, Reena (PW-3), questioned them as to why they had broken the door, the accused Pappu assaulted her on the head with a 'gandasi' (a sharp-edged agricultural tool), causing a head injury. The accused also threatened to kill her husband. The incident was witnessed by her son, Rinku (PW-1), and neighbours. Due to the late hour, she could not come to the police station to file the report at night.

2. INVESTIGATION & TRIAL:

On the basis of the said written report (Ex. P-3), a formal First Information Report (FIR) No. 233/2016 (Ex. P-4) was registered at Police Station Bapcha for offences under Sections 457, 308, read with Section 34 of the Indian Penal Code, 1860 (hereinafter 'IPC'), and investigation commenced. After completion of the investigation, the police filed a charge-sheet against the accused persons, Pappu and Rajkumar, for offences under Sections 308, 323, and 458 read with Section 34 of the IPC before the court of the learned Additional Chief Judicial Magistrate, Chhabra, on 13.12.2016. Since the offences were triable exclusively by the Court of Session, the case was committed to this Court on 04.02.2017 for trial.

3. CHARGES FRAMED:

Upon hearing the arguments on charge, this Court framed charges against both accused persons for the offences punishable under Sections 323/34, 458/34, and 308/34 of the IPC. The charges were read over and explained to the accused, to which they pleaded not guilty and claimed to be tried.

4. EVIDENCE LED BY THE PROSECUTION

To substantiate its case, the prosecution examined a total of seven witnesses, namely PW-1 Rinku, PW-2 Dr. Hariom Goyal, PW-3 Reena, PW-4 Urmila, PW-5 Draupati@Draopadi Bai, PW-6 Ashraf Uddin Siddiqui, and PW-7 Jayram. The prosecution also placed on record and proved documentary evidence, which was exhibited as Ex. P-1 to Ex. P-12.

5. STATEMENT OF THE ACCUSED:

Thereafter, the accused persons were examined under Section 313 of the Code of Criminal Procedure, 1973 (Cr.P.C.), wherein they denied the incriminating evidence put to them, claimed innocence, and stated that they have been falsely implicated in this case. The accused opted to lead evidence in their defence but did not produce any evidence, despite being given opportunity to do so.

6. ARGUMENTS ADVANCED:

Final arguments were advanced by the learned Additional Public Prosecutor for the State and the learned counsel for the accused persons. The learned Additional Public Prosecutor vehemently argued that the prosecution has successfully established its case against the accused beyond any shadow of a doubt through the cogent and consistent testimonies of the injured witness (PW-3) and the eyewitnesses (PW-1 and PW-4), which are duly corroborated by the medical evidence (Ex. P-2) and the investigation records. He prayed for the conviction of the accused and the imposition of the maximum prescribed punishment.

Per contra, the learned defence counsel assailed the prosecution case, arguing that the accused have been falsely implicated due to a pre-existing family dispute over agricultural land and compensation money. He highlighted several infirmities in the prosecution's case, such as the delay in lodging the FIR, the fact that all witnesses are closely related and thus "interested," contradictions in the testimonies regarding the weapon of offence, and the non-production of the seized weapon in court. He further submitted that the medical evidence does not conclusively support the prosecution's version

and that the recovery witness is a police official, rendering the recovery doubtful. On these grounds, he prayed for the acquittal of the accused.

7. POINTS FOR DETERMINATION

Having considered the rival submissions and meticulously perused the entire record, the following points for determination arise for the consideration of this Court:

(i) Whether on 06.09.2016, at about 10:30 PM, at village Bhilwara Uncha, the accused persons, in furtherance of their common intention, committed lurking house-trespass by night, having made preparation for causing hurt to any person, and thereby committed an offence punishable under Section 458 read with Section 34 of the IPC?

(ii) Whether on the said date, time, and place, the accused persons, in furtherance of their common intention, voluntarily caused simple hurt to the victim Reena and thereby committed an offence punishable under Section 323 read with Section 34 of the IPC?

(iii) Whether on the said date, time, and place, the accused persons, in furtherance of their common intention, did an act, to wit, assaulted Reena on her head with a weapon, with such intention or knowledge and under such circumstances that, if by that act they had caused her death, they would have been guilty of culpable homicide not amounting to murder, and thereby committed an offence punishable under Section 308 read with Section 34 of the IPC?

8. APPRECIATION OF EVIDENCE AND FINDINGS

8.1. To adjudicate the aforesaid points, a deep and careful analysis of the evidence adduced by the prosecution is imperative. The prosecution case hinges primarily on the testimonies of the injured victim, PW-3 Reena, and the two eyewitnesses, PW-1 Rinku and PW-4 Urmila.

8.2. PW-3 Reena, the injured victim, is the star witness of the prosecution. In her examination-in-chief, she has unequivocally deposed that on the

evening of the incident, both accused, Pappu and Rajkumar, came to her house under the influence of alcohol and started abusing her. She stated that when she told them that her parents were not at home, they forcibly entered the house. She testified that the accused Rajkumar caught hold of her, while the accused Pappu struck her on the head with a 'farsi'. She stated that her sister, Urmila (PW-4), came to her rescue, and she subsequently fell unconscious. She identified her thumb impression on the written report (Ex. P-3) and the site plan (Ex. P-1).

8.3. The law is well-settled that the evidence of an injured witness is accorded a special status in law. It is considered to be on a higher pedestal than that of an ordinary witness, as the injured witness is the one who has suffered the most in the incident. The presence of such a witness at the scene of the crime is natural and cannot be doubted. Their testimony should not be discarded lightly unless there are compelling reasons to do so. In the present case, during her cross-examination, PW-3 Reena has remained firm on the core of her testimony. While the defence counsel has pointed out that she is illiterate and was unaware of the contents of the written report (Ex. P-3), this does not, in any manner, discredit her ocular account of the assault. It is common for rustic and uneducated witnesses to be unaware of the procedural niceties of legal documents. What is material is her consistent and unwavering deposition regarding the assault on her by both the accused persons. Her testimony is clear, cogent, and inspires confidence.

8.4. The testimony of PW-3 Reena finds strong corroboration from the eyewitness accounts of her brother, PW-1 Rinku, and her sister, PW-4 Urmila. PW-1 Rinku has deposed that he was inside the house when his uncles, the accused Pappu and Rajkumar, broke the door, entered the house, and assaulted his sister Reena. He specifically stated that Pappu hit Reena on the head with a 'lath' (stick) and Rajkumar hit her on the back. Similarly, PW-4 Urmila has deposed that she and her sister Reena were at home when the accused came. She stated that Rajkumar caught hold of her sister, and Pappu assaulted her on the head with a 'gandasi'. She also stated that she intervened to save her sister.

8.5. The learned defence counsel has argued that since PW-1, PW-3, and PW-4 are all members of the same family, they are "interested" witnesses, and their testimony should be discarded. This argument is devoid of merit. A witness being related to the victim is not a ground to reject their testimony. The only requirement of law is that the court must scrutinize their evidence with greater care and caution. In the instant case, the presence of these witnesses at the scene of the crime, which was their own house, is entirely natural. A stranger is unlikely to be present inside a house at 10:30 PM. Their testimonies, when read together, are consistent on the material particulars of the incident:

- (i) the accused came to their house at night,
- (ii) they broke the door and entered,
- (iii) they assaulted Reena, and
- (iv) the assault was specifically directed at her head.

8.6. It has been argued that there are contradictions regarding the weapon of offence, with PW-1 mentioning a 'lath', PW-3 a 'farsi', and PW-4 a 'gandasi'. In the considered view of this Court, this is a minor discrepancy that does not go to the root of the matter. These are rural witnesses, and variations in their description of a weapon are natural. The crucial fact is that an assault was made on a vital part of the body, i.e., the head, with a weapon. The medical evidence, which shall be discussed subsequently, clarifies this aspect. The essence of their testimony is the act of assault, not the precise nomenclature of the weapon used.

8.7. The ocular evidence is further fortified by the **medical evidence** on record. PW-2 Dr. Hariom Goyal, who medically examined the victim Reena on 07.09.2016, has proved the Injury Report (Ex. P-2). As per his testimony and the report, he found a lacerated wound of size 5 cm x 1 cm x 0.5 cm on the middle of her head. He opined that the injury was simple in nature and was caused by a blunt weapon within 12 to 24 hours. The defence has heavily relied on his statement in the cross-examination that such an injury could be caused by a fall. This is a standard hypothetical suggestion given to

medical experts. However, an opinion on a mere possibility cannot override the direct, credible, and consistent ocular evidence of three witnesses who saw the assault. When the direct evidence of assault is available, the medical opinion is merely corroborative. The location of the injury – the head, a vital part of the human body – is of paramount importance and directly supports the charge under Section 308 IPC. The nature of the weapon being "blunt" as per the doctor is consistent with the use of a 'lath' (as stated by PW-1) or the blunt side/handle of a 'farsi' or 'gandasi'.

8.8. The testimony of the complainant, PW-5 Draupati@Draopadi Bai, though she is not an eyewitness, is relevant to establish the immediate conduct and the lodging of the report. She has deposed that upon returning from the farm, she was informed about the incident and saw her daughter injured. Her testimony corroborates the factum of the incident and the injury sustained by Reena. The delay in lodging the FIR has been reasonably explained. The incident occurred late at night in a village. For a woman to wait until the next morning to approach the police station is natural and does not cast any doubt on the veracity of the prosecution case.

8.9. The Investigating Officer, PW-6 Ashraf Uddin Siddiqui, has detailed the steps taken during the investigation, including the preparation of the site plan (Ex. P-1), arrest of the accused (Ex. P-5, P-6), and recovery of weapons (wooden sticks) at the instance of the accused vide seizure memos (Ex. P-9, P-10) based on their disclosure statements (Ex. P-7, P-8). The defence has argued that the recovery is vitiated as the recovery witness, PW-7 Jayram, was a police official and the weapons were not produced in court. While the non-production of the weapon is a procedural lapse on the part of the prosecution, it is not fatal to the case, especially when the prosecution case is firmly established by direct and unimpeachable ocular testimony. The core of the case rests on the evidence of the eyewitnesses, which has been found to be credible and trustworthy.

8.10. In light of the aforesaid analysis, this Court finds that the prosecution has successfully established its case against both accused persons. The

evidence of PW-1, PW-3, and PW-4 conclusively proves that the accused, sharing a common intention, trespassed into their house at night after breaking the door, with the preparation to cause hurt. This act squarely falls within the ambit of Section 458/34 IPC. The medical evidence (Ex. P-2) coupled with the ocular testimony proves that they voluntarily caused simple hurt to Reena, establishing the offence under Section 323/34 IPC.

8.11. Regarding the charge under Section 308/34 IPC, the intention or knowledge of the accused is the crucial element. The act of striking a person on the head, which is a vital and delicate part of the body, with a weapon, speaks volumes about the intention of the assailant. Such an act is imminently dangerous and is done with the knowledge that it is likely to cause death. The fact that the injury was ultimately opined to be simple is a matter of fortune for the victim and does not absolve the accused of their culpability for the offence of attempt to commit culpable homicide. The intention and knowledge have to be inferred from the nature of the act, the weapon used, and the part of the body targeted. All these factors in the present case point towards the guilt of the accused for the offence under Section 308/34 IPC.

9. CONCLUSION:

9.1. For the foregoing reasons, this Court is of the considered opinion that the prosecution has proved the charges against the accused persons, Pappu and Rajkumar, beyond all reasonable doubt. The defence has failed to create any credible dent in the prosecution's narrative. The points for determination are accordingly decided against the accused.

9.2. Consequently, the accused Pappu son of Jaylal and Rajkumar son of Jaylal are hereby held guilty and convicted for the offences punishable under Sections 323/34, 458/34, and 308/34 of the Indian Penal Code, 1860.

::ORDER::

10. The accused persons, **Pappu** son of Jaylal and **Rajkumar** son of Jaylal, are hereby **CONVICTED** for the offences punishable under Sections 323/34, 458/34, and 308/34 of the Indian Penal Code, 1860.

11. The accused persons are on bail. Their bail bonds are cancelled and sureties are discharged.

12. In compliance with Section 437-A of the Cr.P.C., each of the acquitted accused persons shall furnish a personal bond in the sum of Rs. 25,000/- (Rupees Twenty-Five Thousand Only) with one surety of the like amount, to the satisfaction of this Court, which shall be in force for a period of six months from today, undertaking to appear before the Hon'ble High Court as and when such notice is issued in respect of any appeal or petition filed against this judgment of acquittal.

13. Let the convicts be heard on the point of sentence.

(Avinash Chaudhary)
Additional District and Sessions Judge
Chhabra, District Baran (Rajasthan)

14. HEARING ON SENTENCE

The convicts were heard on the quantum of sentence. The learned Additional Public Prosecutor submitted that the convicts committed a heinous crime by trespassing into a house at night and brutally attacking a young, unarmed girl. He argued that such an act deserves no leniency and prayed for the maximum punishment prescribed under the law to send a strong message to society.

On the other hand, the learned defence counsel prayed for a lenient view. He submitted that the convicts are poor agricultural labourers and the sole breadwinners of their respective families. He stated that they have no prior criminal antecedents and that the incident occurred due to a family misunderstanding. He further submitted that the convicts have already spent some time in custody during the trial and prayed for a minimum sentence, offering to pay a reasonable fine as compensation to the victim.

15. CONSIDERATION ON SENTENCE

This Court has given due consideration to the submissions of both sides and the facts and circumstances of the case. Sentencing is a delicate task that requires a balance between the aggravating and mitigating circumstances. The aggravating factors in this case are the high-handedness of the convicts, their act of trespassing into the sanctity of a home during the night, and the targeting of a vital body part of a young woman. The mitigating factors are that the convicts are first-time offenders with family responsibilities.

After balancing these factors, this Court is of the view that a sentence of imprisonment, along with a substantial fine, would meet the ends of justice. The fine amount should be directed to be paid as compensation to the victim for the trauma and injury she has suffered.

::ORDER ON SENTENCE::

16. The convicts, **Pappu** son of Jaylal resident of Bhilwara Uncha Police Station Bapcha District Baran Rajasthan and **Rajkumar** son Jaylal resident of Bhilwara Uncha Police Station Bapcha District Baran Rajasthan son of Jaylal, are hereby sentenced as under:

(i) For the offence under Section 323 read with Section 34 of the IPC, they are sentenced to undergo Simple Imprisonment for a period of Two (2) Months.

(ii) For the offence under Section 458 read with Section 34 of the IPC, they are sentenced to undergo Simple Imprisonment for a period of Two (2) Years and to pay a fine of Rs. 5,000/- (Rupees Five Thousand only) each. In default of payment of the fine, they shall undergo further Simple Imprisonment for a period of Three (3) Months.

(iii) For the offence under Section 308 read with Section 34 of the IPC, they are sentenced to undergo Simple Imprisonment for a period of One (1) Year and to pay a fine of Rs. 5000/- (Five Thousand only) each. In default of payment of the fine, they shall undergo further Simple Imprisonment for a period of Three(3) Months.

17. All the substantive sentences of imprisonment shall run concurrently.

18. The convicts shall be entitled to the benefit of Section 428 of the Cr.P.C. for the period already undergone by them in custody during the investigation and trial of this case.

19. The convicts shall be sent to the concerned Jail to serve their sentences. Jail warrant be prepared and sent to the concerned authorities for compliance.

20. The case property, if any, shall be disposed of in accordance with the law after the expiry of the period for appeal or upon the final outcome of the appeal, if any.

VICTIM COMPENSATION

21. Under Section 357-A of the Cr.P.C., it is the duty of the Court to consider compensation for the victim. The victim, Reena, has suffered physical injury and mental trauma. Total fine amount, if realized shall be paid as compensation to the victim Reena. Further, it is recommended that adequate compensation be paid to her. The District Legal Services Authority (DLSA), Baran, is directed to determine and award appropriate compensation to the victim, Reena daughter of Ramsingh, under the Rajasthan Victim Compensation Scheme, 2011, after due verification. A copy of this judgment shall be sent to the Secretary, DLSA, Baran, for necessary compliance.

22. The file be consigned to the record room after due compliance.

(Avinash Chaudhary)
Additional District and Sessions Judge
Chhabra, District Baran (Rajasthan)

23. Judgment pronounced and signed in open court today, the 30th day of April 2026.

(Avinash Chaudhary)
Additional District and Sessions Judge
Chhabra, District Baran (Rajasthan)