

COURT OF SESSIONS JUDGE, SULTANPUR**Present: Sunil Kumar-IV (Higher Judicial Service)****Judicial Officer Code No.: UP 1885****UPST010004642011****SESSIONS TRIAL No.: 74 of 2011****State of U.P.****Versus****Sandeep Singh & 3 others**

Case Crime Number	336 of 2009
Under Section	308/34, 323/34, 504, 341/34, 342/34 IPC
Police Station	Akhand Nagar
District	Sultanpur
Informant/Complainant	Shivnath S/o Kallu, R/o Village Belwai Madhavpur, P.S. Akhand Nagar, District Sultanpur
Counsel on behalf of State of U.P.	1. Sri. Ram Achal Mishra, D.G.C. 2. Sri. Manoj Dubey, A.D.G.C.
Counsel on behalf of Defence	Sri. Arvind Singh
Name of injured	Shivnath S/o Kallu
Date and time of incident	19.07.2009 at about 08.00 AM
Date of institution of case/Date and time of lodging of FIR	19.07.2009 at about 09.40 AM
Details of the accused persons	1. Sandeep Singh Son of Ranjeet Singh, 2. Rahul Singh Son of Ranjeet Singh, 3. Randheer Singh @ Tedhai Singh Son of Harinarayan Singh, 4. Mahipati Singh @ Sadhai Singh S/o Bhagauti Singh (died during pendency of trial) All Resident of Village Meerpur Pratappur, P.S. Akhand Nagar, Distt. Sultanpur
Date of Charge framed	13.07.2011
Date of Prosecution Evidence starts	14.02.2020
Date of Recording of accused's statement	02.02.2026
Date of Defence Evidence	19.02.2026
Date of Court's Evidence	---
Date of Arguments	07.04.2026
Date of Judgment	16.04.2026

List of Prosecution/Defence/Court Witnesses

1-Prosecution Witnesses:-

Prosecution Witness No.	Name	Nature of witness (Eye-witness, Police witness, Expert witness, Medical witness, Inquest witness & other witness)
P.W.-1	Shivnath	Informant/Injured Witness
P.W.-2	Vishvanath	Witness
P.W.-3	Dr. Ajay Kumar Verma	Who prepared the Injury Reports
P.W.-4	Dr. L.S. Yadav	Who prepared the X-ray Report
P.W.-5	Chandra Shekhar Pandey, Inspector	Police Witness/Investigating Officer
P.W.-6	Gopal Krishna Tiwari, H.C.	Writer of Chik FIR and Kayami G.D.

2- Defence Witness:-

Defence Witness No.	Name	Nature of witness (Eye-witness, Police witness, Expert witness, Medical witness, Inquest witness & other witness)
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3- Court Witness, if any:-

Court Witness No.	Name	Nature of witness (Eye-witness, Police witness, Expert witness, Medical witness, Inquest witness & other witness)
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List of Exhibits of Prosecution/Defence/Court

1- Prosecution Exhibits:-

Paper No.	Exhibit No.	Description
5Ka/2	Exhibit Ka-1	Written Application
8Ka/1	Exhibit Ka-2	Injury report of Shivnath
9Ka/1	Exhibit Ka-3	X-ray report of Shivnath
7Ka/1	Exhibit Ka-4	Sitemap
4Ka/1	Exhibit Ka-5	Charge-sheet
5Ka/1	Exhibit Ka-6	Chik FIR
6Ka/1	Exhibit Ka-7	Kayami G.D. No. 16 dated 19.07.2009 at 09.40 Hrs. P.S. Akhand Nagar, Sultanpur
4Ka/2	Exhibit Ka-8	Charge-sheet

2- Defence Exhibits:-

Sr. No.	Exhibit No.	Description
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3-Court Exhibits:-

Sr. No.	Exhibit No.	Description
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4-Material Exhibits: -

Sr. No.	Exhibit No.	Description
01	Material Exhibit-01	X-Ray Plate of injured Shivnath Singh

JUDGMENT

Accused Sandeep Singh, Rahul Singh, Randhir Singh @ Tedhai and Mahipati Singh @ Sodhai Singh stand charged for the offences punishable under Sections 308, 341, 342, 323, 504 and 506 of the Indian Penal Code in Case Crime No. 336 of 2009, Police Station Akhand Nagar, District, Sultanpur.

DETAILS OF THE CASE

Briefly, the facts of the case are as follows:- The informant Shivnath son of Kallu, resident of village Belwai Madhavpur, Police Station Akhand Nagar, District Sultanpur, presented a written application dated 19.07.2009 (Exhibit Ka-1) at Police Station Akhand Nagar stating therein that on 19.07.2009 at about 08:00 AM he was going towards the northern side from his house to inspect his field. When he reached in front of the house of Dabbu Singh son of Amrej Singh, accused Mahipat Singh @ Sodhai Singh son of Bhagauti Singh, Randhir Singh @ Tedhai Singh son of Harinarayan Singh, Sandeep Singh son of Ranjeet Singh and Rahul Singh son of Ranjeet Singh, residents of village Mirpur Pratappur, Post Belwai, Police Station Akhand Nagar, came there in a black Bolero. They got down from the vehicle armed with licensed gun, forcibly hold the informant and assaulted him with the butt of the gun and took him in the vehicle to their house. The informant was wrongfully confined and beaten with butt of the gun and lathi-dandas. When he became unconscious, the accused persons presumed him to be dead and threw him near the bank of canal. The brother of the informant Vishwanath saw him lying in unconscious condition and informed the villagers, who brought him to the house in injured condition.

On the basis of above written application (Exhibit Ka-1), First Information Report (Exhibit Ka-6) was registered on 19.07.2009 at 09:40 AM at Police Station Akhand Nagar, District Sultanpur. Case Crime No. 336/2009 under Sections 308, 341, 342, 323 and 504 IPC was registered against accused Mahipati @ Sodhai Singh, Randhir @ Tedhai Singh, Sandeep Singh and Rahul Singh. The same was entered in General Diary No. 16 time 09:40 AM dated 19.07.2009 P.S. Akhand Nagar, District Sultanpur (Exhibit Ka-7).

After registration of FIR, investigation was conducted by Sub-Inspector Chandrashekhar Pandey (P.W. 5), who inspected the place of occurrence and prepared site plan (Exhibit Ka-4) on the pointing of informant Shivnath. During investigation, the Investigating Officer recorded the statements of the informant and other witnesses. After due investigation and finding sufficient evidence, first charge-sheet (Exhibit Ka-5) under Sections 308, 341, 342, 323, 504 and 506 IPC was filed against accused Mahipati Singh @ Sodhai and Randhir Singh @ Tedhai on 27.09.2009. Thereafter, further investigation, with respect to accused Sandeep Singh and Rahul Singh, was completed by Sub-Inspector Sadanand Arya and second charge-sheet (Exhibit Ka-8) under Sections 308, 341, 342, 323, 504 and 506 IPC was filed against accused Sandeep Singh and Rahul Singh on 29.03.2010. Over the charge-sheet filed against accused Mahipati Singh @ Sodhai and Randhir Singh @ Tedhai cognizance was taken on 27.03.2010 and over the charge-sheet filed against accused Sandeep Singh and Rahul Singh cognizance was taken on 03.05.2010. After considering the case to be triable by Sessions Court, the case was committed to the Court of Sessions on 09.03.2011.

On 13.07.2011, charges were framed against accused Sandeep Singh, Rahul Singh, Randhir Singh @ Tedhai and Mahipati Singh @ Sodhai Singh under Sections 308/34, 341/34, 342/34, 323/34 and 504 IPC. The accused denied the charges and demanded a trial.

During trial, accused Mahipati Singh @ Sodhai Singh died and proceeding against him was abated on 03.11.2021. The present Sessions Trial is concerned with three accused namely Sandeep Singh, Rahul Singh and Randhir Singh @ Tedhai.

EVIDENCE ADDUCES BY PROSECUTION

To prove the charges against the accused, the prosecution presented the following oral evidences:

1. **P.W. 1 - Shivnath :-** Informant and injured witness who presented written report.
2. **P.W. 2 - Vishwanath :-** Brother of informant Shivnath.
3. **P.W. 3 - Dr. Ajay Kumar Verma :-** This witness prepared the injury report of injured Shivnath.

4. **P.W. 4 - Dr. L.S. Yadav :-** This witness prepared the X-ray report of injured Shivnath.
5. **P.W. 5 - Retired Inspector Chandrashekhar Pandey :-** Investigating Officer who prepared site plan and filed the charge-sheet against the accused Mahipati Singh @ Sodhai and Randhir Singh @ Tedhai.
6. **P.W. 6 - Head Constable Gopal Krishna Tiwari:-** This witness prepared the Chik FIR and the G.D. entry No. 16 time 09:40 AM dated 19.07.2009 at P.S. Akhand Nagar, District Sultanpur.

In addition to oral evidences, the prosecution presented the following documentary evidences:

1. **Exhibit Ka- 1 :-** Written report :- It was proved by P.W. 1 Shivnath.
2. **Exhibit Ka- 2 :-** Injury report of injured Shivnath :- It was proved by P.W. 3 Dr. Ajay Kumar Verma.
3. **Exhibit Ka- 3 :-** X-ray report of injured Shivnath :- It was proved by P.W. 4 Dr. L.S. Yadav.
4. **Exhibit Ka- 4 :-** Site plan :- It was proved by P.W. 5 Investigating officer Inspector Chandrashekhar Pandey (Retd.).
5. **Exhibit Ka- 5 :-** Charge sheet against accused Mahipati Singh @ Sodhai and Randhir Singh @ Tedhai :- It was proved by P.W. 5 Investigating officer Inspector Chandrashekhar Pandey (Retd.).
6. **Exhibit Ka- 6 :-** Chik FIR :- It was proved by P.W. 4 Head Constable Gopal Krishna Tiwari.
7. **Exhibit Ka-7 :-** G.D. entry No. 16 time 09:40 AM dated 19.07.2009 P.S. Akhand Nagar, District Sultanpur :- It was proved by P.W. 6 Head Constable Gopal Krishna Tiwari.
8. **Exhibit Ka- 8 :-** Charge sheet against accused Sandeep Singh and Rahul Singh :- It was proved by P.W. 6 Head Constable Gopal Krishna Tiwari as secondary witness.

STATEMENT OF ACCUSED U/S 313 Cr.PC

After the prosecution concluded its evidence on 13.09.2024, the statements of the accused under Section 313 of the Code of Criminal Procedure

were recorded on 02.02.2026. The accused denied the prosecution's narrative, and the evidence presented by the prosecution witnesses, labeling them as false and presented due to enmity. They stated that P.W.1 Shivnath and P.W.2 Vishwanath have given false evidence. It was further stated that P.W.3 Dr. Ajay Kumar Verma was not posted at C.H.C. Akhand Nagar and false injuries were shown by him. They further stated that Investigating Officers conducted faulty investigation and false charge-sheets were submitted. They also alleged that ante-timed FIR was prepared. The accused claimed innocence and stated that they did not abduct or assault the informant.

Despite giving ample opportunity no oral evidence was adduced by the defence. In form of documentary evidence, through list paper no. 165Kha/2 following documents were filed by the defence: -

1. Report dated 09.04.2025 obtained under Right to Information Act, (paper no. 165Kha/3).
2. Report dated 30.10.2005 obtained under Right to Information Act (paper no. 165Kha/4).
3. Photocopy of letter of CMO Sultanpur to Superintendent C.H.C. (Community Health Center) Akhand Nagar, Sultanpur to provide the Information under Right to Information Act (paper no. 165Kha/5).
4. Photocopy of application presented under Right to Information Act addressed to CMO Sultanpur (paper no. 165Kha/6)

ARGUMENTS PRESENTED BY THE PARTIES

This Court heard the arguments of the learned counsels for both the parties.

(A) Arguments on behalf of Prosecution: - The learned District Government Counsel (Criminal) & Addl. District Government Counsel (Criminal) drew the Court's attention towards the oral and documentary evidences available on record, and submitted that the prosecution has successfully proved its case beyond reasonable doubt. P.W. 1 Shivnath, who became injured in the incident, provided a detailed account of the event. As an injured eyewitness, he is the most competent witness. Through his evidence, he has fully supported the prosecution version. He has proved the specific role of

each accused as well as the joint role of accused in the whole incident. The testimony of an injured witness carries great evidentiary value and ordinarily cannot be disbelieved unless strong reasons exist. His testimony is consistent and trustworthy. It is further argued that P.W.2 Vishwanath has corroborated the prosecution case regarding the condition of injured Shivnath and the circumstances immediately after the incident. His testimony lends assurance to the statement of P.W.1. The medical evidences in form of injury report of the informant Shivnath Singh (proved by P.W.3 Dr. Ajay Kumar Verma) and X-ray report of the informant Shivnath Singh (proved by P.W.4 Dr. L.S. Yadav) corroborate the ocular testimony of the injured witness i.e. P.W. 1 Shivnath Singh. The injuries sustained by injured Shivnath are in line with the oral version of assault by butt of gun and lathi-dandas. The formal witnesses also supported the prosecution case and proved the relevant documents. The FIR was promptly lodged, indicating no attempt to exaggerate the incident. There are no material contradictions in the statements of the prosecution witnesses. Thus, from the evidences available on record, it is clear that the prosecution has successfully proved its case beyond reasonable doubt. Accordingly, the accused are liable to be convicted and punished.

(B) Arguments on behalf of Defence:- The learned counsel for the defence drew the Court's attention towards the oral and documentary evidences available on record and submitted that the prosecution has miserably failed to prove its case beyond reasonable doubt. The alleged incident is doubtful. The prosecution has failed to establish any motive for the occurrence. No reliable independent witness has been examined by the prosecution, though the alleged incident took place in a populated area and that too in broad day-light. All the witnesses of the facts, who were examined are related and interested witnesses, hence their testimonies require strict scrutiny. P.W. 2 Vishwanath, the brother of P.W. 1 Shivnath Singh, was not present at the place of incident during the incident and did not witness the incident. He is not an eyewitness to the incident. It is further argued that there are material contradictions in the statements of P.W.1 Shivnath and P.W.2 Vishwanath regarding the manner of occurrence and subsequent events. The prosecution alleges that the injured Shivnath Singh was beaten mercilessly to such an extent that he became unconscious, however, the nature of injuries found on the person of Shivnath does not support such allegation. Thus, the oral evidences are uncorroborated by the medical

evidences. It is also argued that P.W.3 Dr. Ajay Kumar Verma was not posted at C.H.C. Akhand Nagar at the relevant time, therefore the medical examination of the injured Shivnath Singh and preparation of injury report by him becomes doubtful. The defence further contended that the FIR is ante-timed and ante-dated and has been prepared after due deliberation. The prosecution has failed to prove wrongful confinement, abduction or assault by butt of gun and Lathi-Danda. The possibility of false implication due to enmity cannot be ruled out. The injuries sustained by Shivnath Singh, as evident from his injury report, do not correspond with the manner and description of assault as described by the witnesses. The defence further argued that there are material contradictions within and between the statements of the prosecution witnesses, rendering the prosecution's case entirely untenable. Neither the place of incident nor the presence of the accused at the place of incident has been proved. Neither any weapon used in the incident was recovered, nor any other evidence available at the place of incident was collected. The investigation was conducted in a highly flawed manner under the pressure of informant. Lastly, the learned counsel for the defence argued that since the prosecution has failed to prove its case beyond reasonable doubt hence, the accused persons are entitled for acquittal.

This Court thoroughly examined the evidences available on record in light of the arguments presented by the learned counsels for both parties.

The point for determination in this Sessions trial is:

"Whether the prosecution has succeeded in proving its case beyond reasonable doubt or not."

FINDINGS

In the present case, charges were framed against the accused Sandeep Singh, Rahul Singh and Randheer Singh @ Tedhai, under Sections 308/34, 341/34, 342/ 34, 323/34 and 504 IPC. Therefore, the prosecution has to prove beyond reasonable doubt that:

- i. On 19.07.2009 at 08:00 AM in front of the Dabbu Singh's house, situated in village Mirpur Pratappur, Chowki Belwai, Police Station Akhand Nagar, District Sultanpur, accused persons, in furtherance of their common intention, voluntarily caused injuries to informant Shivnath by means of butt of gun and lathi-danda with such intention or knowledge

and under such circumstances if by that act accused had caused his death, the accused would have been guilty of culpable homicide not amounting to murder.

- ii. On aforesaid date, time and place accused persons, in furtherance of their common intention, wrongfully restrained the informant Shivnath and forcibly made him to sit in a black coloured Bolero vehicle.
- iii. On the aforesaid date, time and place, the accused persons, in furtherance of their common intention, took the informant Shivnath in the said Bolero and wrongfully confined him in a house.
- iv. On aforesaid date, time and place accused persons, in furtherance of their common intention, voluntarily caused injuries to informant Shivnath by means of butt of gun and lathi-danda.
- v. On aforesaid date, time and place accused insulted and provoked the informant Shivnath Singh, by using abusive language, intending to cause him to breach the peace or commit any other offence.

To prove the aforementioned charges, the prosecution examined a total of 06 witnesses, out of which P.W. 1 Shivnath Singh (informant/injured) and P.W. 2 Vishwanath were examined as witnesses of facts, P.W. 1 Shivnath Singh is not only an eyewitness but was also injured in the incident. The remaining witnesses were examined as formal witnesses.

To substantiate the charges, the prosecution also came up with documentary evidences in form of Exhibit Ka-01 to Exhibit Ka-08.

In the case of **Nasir Sikander Sheikh v. State of Maharashtra, 2005 S.A.R. (Criminal) 489**, it was held that the fundamental principle of criminal law is that the prosecution must prove its case beyond reasonable doubt, while the defence need only to establish a probable case, supported by some facts on record, which may include suggestions made to prosecution witnesses.

In **Daulat Ram v. State of Punjab, 1997 (34) A.C.C. 839**, the Hon'ble Supreme Court held that the prosecution must prove its case beyond

reasonable doubt based on its own evidence and cannot rely on the weaknesses of the defence.

In **Dhanpal v. State, 2009 (69) A.C.C. 697**, the Hon'ble Supreme Court held that in a criminal trial, the prosecution bears the burden of proving its case and it is the duty of the court to ensure that the case is proved as alleged, without allowing any embellishments.

The Hon'ble Supreme Court, in **Krishnamochi & Ors. v. State of Bihar, 2002 Supreme Court (Cri.) 1220** and **Ambika Prasad & Ors. v. State of Delhi Administration, 2000 S.C.C. (Cri.) 522**, held that while it is the court's duty to ensure that no innocent person is punished, it is equally its duty to ensure that no guilty person escapes punishment.

As far as proving the charges against the accused is concerned, the term "**Proved**" is defined under Section 3 of the Evidence Act as follows:

"Proved" - A fact is said to be proved when, after considering the matters before it, the court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

In the case of **State of Odisha vs. Banbihari Mahapatra and another, 2022 (1) JIC Reports 274 (SC) (Bilingual)**, the Hon'ble Supreme Court has held that "an accused is presumed to be innocent unless he is proved guilty beyond reasonable doubt."

The present case must be considered in light of the above legal precedents.

The present case is based on direct evidence. The prosecution has examined only two witnesses of the facts, P.W. 1 Shivnath (informant/injured) and P.W. 2 Vishvanath, who is the real brother of informant/injured Shivnath Singh. P.W. 1 informant Shivnath Singh, who got injured in the alleged incident is the sole eye witness. P.W. 2 Vishvanath has categorically stated in his examination-in-chief that at the time of the incident he was at his home. In his cross-examination, P.W. 2 Vishvanath has made it clear that it is true that he has not seen the incident and he came to know about the incident from his brother Shivnath. He further stated that this is true that he has not seen the black Bolero

car, which came near his brother Shivnath. He has also not seen the accused beating his brother by the butt of licensed gun and forcibly taking away his brother from the car. He deposed that he has not seen any event. Thus, from the deposition of P.W. 2 Vishwanath, it is very much clear that P.W. 2 Vishwanath is not an eye witness.

P.W. 1 Shivnath Singh (informant/injured) is the sole eye witness of the incident. He also got injured in the incident. Thus, the evidence of P.W. 1 Shivnath Singh is very much important.

In the case of “**Surendra Singh Vs. State of Haryana –(2006) 2 SCC (Cri) 444**” the Hon'ble Apex Court has held that: -

“Testimony of an injured witness has its relevancy and efficacy. Fact that the witness was injured at the time and in the same occurrence finds support to the testimony that the witness was present during the occurrence and he saw the happening with his own eyes”.

In the cases of **Ashok Kumar Chaudhary Vs. State of Bihar 2008 (61) A.C.C.972(S.C.)** and **Hukam Singh Vs. State of Rajasthan 2000 (41) A.C.C.662 (S.C.)** the Hon'ble Apex Court has held that "if a witness examined in the court is otherwise found reliable and trustworthy, the fact sought to be proved by that witness need not be further proved through other witnesses though there may be other witnesses available who could have been examined but were not examined.

In the case of **Namdeo Vs. State of Maharashtra, 2007 Cri.LJ. 1519 (SC)**, Hon'ble Apex Court has held that: -

“Neither the legislature nor the judiciary mandate that there must be particular number of witnesses to record an order to convict the accused. Our legal system has already laid emphasis on value weight and quality of evidence rather than on quantity, multiplicity or plurality of witnesses. It is, therefore, open to competent court to fully and completely rely on a solitary witness and record conviction. On the contrary it may acquit the accused in spite of the testimony of several witnesses if it is not satisfied about the quality of evidence.”

In the present case it has to be seen that whether the testimony of P.W. 1 Shivnath Singh is reliable and trustworthy?

P.W. 1 Shivnath Singh (informant/injured), in his written report, has stated that incident took place on 19.07.2009 at about 08.00 AM, in front of the house of co-villager Dabbu Singh. From the perusal of Chik FIR (Exhibit Ka-6), it is very much clear that FIR was lodged by the informant/victim Shivnath Singh at Police Station Akhand Nagar at about 09.40 AM on 19.07.2009. The distance between the Police Station and the place of incident is about 08 km. From the perusal of G.D. No. 16, time 09.40 Dated 19.07.2009, P.S. Akhand Nagar, District Sultanpur (Exhibit Ka-7), it is clear that when the FIR was lodged at the Police Station Akhand Nagar, P.W. 2 Vishvanath Singh was also present with his brother, Shivnath Singh. It is further clear that at the Police Station no report was written, rather a prior written report was brought to the Police Station. From the perusal of G.D. No. 16, time 09.40 Date 19.07.2009, P.S. Akhand Nagar, District Sultanpur (Exhibit Ka-7), it is also clear that at the Police Station Akhand Nagar injured Shivnath Singh was examined and the following two injuries were found on his body: -

1. Complaint of pain over the whole body.
2. Injury of swelling over left eye.

After examination of the body of the injured Shivnath Singh, injury report letter/medical examination memo was prepared and the injured Shivnath Singh was sent to C.H.C. Akhand Nagar along with home-guard Gyan Prakash Dubey, for medical examination.

From the perusal of Chik FIR (Exhibit Ka-6) and G.D. (Exhibit Ka-7), it is very much clear that except the own brother of informant, i.e., P.W. 2 Vishwanath, no other person was present at the Police Station at the time of lodging of FIR. It is further clear that the informant/injured at first went to the Police Station to lodge the report and thereafter, along with injury report letter/medical examination memo, he was sent to C.H.C. Akhand Nagar along with home-guard Gyan Prakash Dubey. In written report (Exhibit Ka-1), there is no mention about the writer of the report. On the written report, there is thumb impression of the informant Shivnath.

P.W. 1 Shivnath Singh (informant/injured) has stated in his examination-in-chief that on his dictation about the incident, one person wrote the report and after that the said person read over the content of the report to him, after which he made/imposed his thumb impression over the report. P.W. 1 Shivnath Singh (informant/injured) identified his thumb impression and proved the written report as Exhibit Ka-1. He further stated that his brother and co-villagers at first took him to Belwai Police Chowki, from where they were sent to Police Station Akhand Nagar, where on the basis of his written report FIR was lodged and his medical examination was conducted in Government Hospital Akhand Nagar. In his cross examination P.W. 1 Shivnath Singh (informant/injured) deposed differently by stating that I do not know the meaning of words 'कार्यवाही' (Proceeding) and 'प्रार्थी' (applicant). In the written report (Exhibit Ka-1) at many places the words 'कार्यवाही' (Proceeding) and 'प्रार्थी' (applicant) are written. I cannot explain as to how these words were written. I cannot tell the name who had written the written report (Exhibit Ka-1). I cannot tell as to what was written in tehrir (Exhibit Ka-1). It is true that the report was got written by Daroga Ji and my thumb impression was taken over it.

P.W. 2 Vishwanath Singh has stated in his examination-in-chief that from the place of incident villagers brought my brother on a cot after that we brought my brother to Akhand Nagar Police Station on a Jeep where my brother lodged the case. P.W. 2 Vishwanath Singh, in his cross examination has stated that his brother was not brought to his house by the villagers, rather he was directly taken to Belwai Police Chowki. When this witness was confronted with his statement under Section 161 Cr.P.C. that "villagers came at the place of occurrence and brought his brother to his house on a cot, and thereafter we went to Akhand Nagar on a Jeep," the witness stated that he cannot say that how this was written in his statement under Section 161 Cr.P.C.

From the above evidence it is clear that in the deposition of P.W. 1 Shivnath Singh (informant/injured) and P.W. 2 Vishwanath, there is no mention as to when and where the report of the incident was got written, and who was the scribe of the written report. From the deposition of P.W. 1 Shivnath Singh (informant/injured) and P.W. 2 Vishwanath, it is further clear that after the incident all efforts were made to bring the injured to the Police Station; nowhere it has been stated that after the incident, at any place, the report about the

incident was got written by any person. In the G.D. (Exhibit Ka-7), it has been mentioned that when P.W. 1 Shivnath Singh (informant/injured) came to the Police Station, he was already having a written report, on the basis of which the FIR was lodged. This means that no report about the incident was written at the Police Station.

Now, where there is no evidence that any effort was made to write a report about the incident before arriving at the Police Station, and where it has been mentioned in the G.D. (Exhibit Ka-7) that when the informant came to the Police Station, he was having a written report with him, then this statement made by P.W. 1 Shivnath Singh (informant/injured) in his cross examination becomes important that it is true that Daroga ji got written the report at the Police Station, and my thumb impression was taken over it.

It seems that P.W. 1 Shivnath Singh (informant/injured) was not the person who dictated the content of written report because if he had done so, then obviously he would have known the name of the person who had written the report. P.W. 1 Shivnath Singh (informant/injured) has not stated anywhere that at which place he found that person from whom he got his report written. Further if P.W. 1 Shivnath Singh (informant/injured) was brought to the Police Station by his brother and co-villagers, then obviously the person from whom P.W. 1 Shivnath Singh (informant/injured) got his report written must be a person, who was well known to him. He could be either a co-villager or his own brother P.W. 2 Vishwanath Singh. Under such circumstances the writer of the written report cannot be a person, who was unknown to P.W. 1 Shivnath Singh (informant/injured). This points towards a fact that P.W. 1 Shivnath Singh (informant/injured) was not instrumental in dictating the content of written report. He neither dictated the written report nor after writing, the written report was read over to him. That is why P.W. 1 Shivnath Singh (informant/injured) has deposed that he does not know the meaning of the words 'कार्यवाही' (Proceeding) and 'प्रार्थी' (applicant). The admission of P.W. 1 Shivnath Singh (informant/injured) in his cross examination that it is true that the report was got written by Daroga ji, points towards the fact that when P.W. 1 Shivnath Singh (informant/injured) came to the Police Station Akhand Nagar along with his brother P.W. 2 Vishwanath Singh, at the Police Station itself, it was Daroga ji, who dictated the content of the report to a person who was unknown to P.W. 1

Shivnath Singh (informant/injured) and his brother P.W. 2 Vishwanath Singh and thereafter the thumb impression of P.W. 1 Shivnath Singh (informant/injured) was taken over the written report, whose author was unknown to P.W. 1 Shivnath Singh (informant/injured). It is further clear that written report was not read over to P.W. 1 Shivnath Singh (informant/injured). P.W. 1 Shivnath Singh (informant/injured) simply put his thumb impression over the report, which was dictated by Daroga ji to a person who was unknown to P.W. 1 Shivnath Singh (informant/injured).

Since Daroga ji was instrumental in getting the report written at the Police Station, hence it was obvious that many words written in the written report were not familiar to the informant. Further, since the report was got written at the dictation of Daroga ji, hence P.W. 1 Shivnath Singh (informant/injured) has stated in his cross examination that he doesn't know as to what was written in the report. Further, since Daroga ji made dictation to some other person, who was not known to the informant, hence the informant stated in his cross examination that he doesn't know the name of the person who had written the written report. Had the report been written by any person before arrival of the informant at the Police Station, then there was no reason not to know the name of the person who had written the report. Since the report was written by some other person who was not known to P.W. 1 Shivnath Singh (informant/injured) and his brother P.W. 2 Vishwanath; hence, neither of them knew the name of the scribe of the written report. Thus, from the evidences available on the record, a serious doubt arises as to whether the report was written by a person who was acquainted with Shivnath Singh (informant/injured) or his brother Vishwanath and whether the report, about the content of which the informant has stated that it was got written by Daroga ji at Police Station, is a real report about the incident which took place on 19.07.2009 at about 08.00 AM?

In **Marudanal Augusti Versus State of Kerala 1980 Criminal Law Journal page 446**, the Hon'ble Apex Court has held that if the F.I.R. is found to be fabricated, the entire prosecution case becomes doubtful.

In **Dhani Ram Versus State 1983 (20) ACC Page 350** Hon'ble Allahabad High Court has held that if the F.I.R. is simply thumb marked and the scribe of F.I.R. is not examined, then an adverse inference can be drawn against the prosecution case.

In his written report, as well as in his examination-in-chief, P.W. 1 Shivnath Singh (informant/injured) has stated that from the place of incident, at first, he was brought to his house. On the other hand, P.W. 2 Vishwanath has stated in his examination-in-chief that he and other co-villagers brought his brother to Akhand Nagar Police Station, where his brother Shivnath lodged the case; thereafter, his brother was sent to C.H.C. Akhand Nagar along with Police. P.W. 2 Vishwanath, in his examination-in-chief, stated that he did not bring his brother to his house from the place of incident, rather he directly took his brother to Belwai Police Chowki. When this witness was confronted with his statement under Section 161 Cr.P.C. that “villagers came at the place of occurrence and brought his brother to his house on a cot, and thereafter we went to Akhand Nagar on a Jeep,” the witness stated that he cannot say that how this was written in his statement under Section 161 Cr.P.C.

From the above evidences available on record, it is clear that there is material contradiction in the statements of P.W. 1 Shivnath Singh (informant/injured) and P.W. 2 Vishwanath on the point that from the place of occurrence where P.W. 1 Shivnath Singh was taken to? Whether P.W. 1 Shivnath Singh was at first brought to his house and thereafter to Belwai Police Chowki or whether P.W. 1 Shivnath Singh was directly brought to Belwai Police Chowki from the place of occurrence? P.W. 1 Shivnath Singh (informant/injured), who is the sole eye witness, has stated that from the place of incident, at first, he was brought to his house, and thereafter from his house he was taken to Belwai Police Chowki, from where he was sent to Police Station Akhand Nagar. On the other hand, P.W. 2 Vishwanath has stated that from the place of incident his brother was not brought to his house, rather he was directly brought before the Police. On the point that after the incident, whether P.W. 2 Vishwanath brought his brother to Belwai Police Chowki or to Akhand Nagar Police Station, there is contradiction in the statements of P.W. 2 Vishwanath. In his examination-in-chief he has stated that he took his brother to Akhand Nagar Police Station, while in cross examination he has stated that his brother was brought to Belwai Police Chowki from where he was sent to Akhand Nagar Police Station. In his cross examination, P.W. 2 Vishwanath has not supported that his brother was directly taken to Akhand Nagar Police Station. Thus, there is no clarity on the point that from the place of incident, at which place the injured Shivnath Singh was taken at first. This contradiction is material one, because it

should be made clear that from the place of occurrence at which place the injured was taken at first, whether the injured was directly taken to Police Chowki or Police Station, or whether he was first brought to his house and thereafter he was taken to Police Station or Police Chowki.

From the perusal of depositions of P.W. 1 Shivnath Singh (informant/injured) and P.W. 2 Vishwanath, it is clear that when P.W. 1 Shivnath Singh (informant/injured) was brought to Police Station along with P.W. 2 Vishwanath, not only P.W. 2 Vishwanath but many other persons also came to the Police Station. Since the injured person was brought to the Police Station Akhand Nagar on a Jeep, and many other persons were also sitting on the Jeep, it will be assumed that when the injured was brought to the Police Station, there were many other persons who were also present at the Police Station Akhand Nagar along with the P.W. 1 Shivnath Singh (informant/injured) and P.W. 2 Vishwanath. Despite this, in the G.D. (Exhibit Ka-7), it has been mentioned that only Vishwanath came along with injured at the Police Station. There is no mention of any other person who came to Police Station with Shivnath Singh (informant/injured) and his brother Vishwanath.

From the perusal of written report (Exhibit Ka-1), it is clear that the incident took place on 19.07.2009 at about 08.00 AM, in front of the house of Dabbu Singh. It has been further stated that four accused persons namely, Mahipat Singh, Randhir Singh, Sandeep Singh, and Rahul Singh, came from a black coloured Bolero along with their personal licensed guns, and after beating the informant Shivnath Singh from the butt of gun, forcibly took away the informant to their house from the Bolero vehicle. The above narration of the incident makes it clear that the incident started in the broad day light, at 08.00 AM, when normally a hectic life prevails in village. If this was so then there should have been many eye-witnesses of the incident. Further, all four accused persons were outsiders as they were not residents of the village of the informant. Since the accused persons were outsiders and they had dared to enter into the village of the informant to commit crime, hence there was no reason for the eye witnesses not to come forward to depose about the incident. In the present case no independent witness came before the Court to depose about the incident.

As per prosecution story, when four accused persons came from the black coloured Bolero, they assaulted the informant with the butt of the gun,

and thereafter they forcibly took him away. When the accused persons were assaulting the informant, the informant would have naturally shouted for help; On hue and cry of the informant, the attention of many villagers would have drawn towards the incident. This makes it clear that many persons of the village of the informant would have witnessed the first part of the incident, when the accused persons came to the village of the informant and took him away after assaulting with the butt of gun and forcibly compelling him to sit on the black coloured Bolero. Despite this, no independent eye witness has come forward to depose from the side of the informant. In fact, no eye-witness, other than the injured himself, has come forward to support the incident.

It is an admitted fact that the first part of the incident took place in the village of the informant. It is further clear that accused persons were outsiders. Normally, in the broad day light, no outsider dares to come to any other village to commit any incident in which there is obvious danger of stiff opposition from the side of villagers. In the present case, it has been stated that accused persons came in the village, assaulted the informant with the butt of gun, and took away the informant on their Bolero to their own house without any opposition. This seems unnatural. No opposition from the side of the villagers and non-examination of any independent eye witness by the prosecution, make the prosecution story doubtful.

The Hon'ble Supreme Court in **Krishnegowda & Ors vs State of Karnataka By Arkalgud Police (AIR 2017 SC 1657)** held:

“It is to be noted that all the eyewitnesses were relatives and the prosecution failed to adduce reliable evidence of independent witnesses for the incident which took place on a public road in the broad day light. Although there is no absolute rule that the evidence of related witnesses has to be corroborated by the evidence of independent witnesses, it would be trite in law to have independent witnesses when the evidence of related eyewitnesses is found to be incredible and not trustworthy. The minor variations and contradictions in the evidence of eyewitnesses will not tilt the benefit of doubt in favour of the accused but when the contradictions in the evidence of

prosecution witnesses proves to be fatal to the prosecution case then those contradictions go to the root of the matter and in such cases accused gets the benefit of doubt.”

From the perusal of written report (Exhibit Ka-1) and the deposition of P.W. 1 Shivnath Singh (informant/injured) and his brother P.W. 2 Vishwanath, it is very much clear that incident took place in two parts: at first the accused came to the village of the informant and after assaulting the informant Shivnath with the butt of gun they forcibly took him away to accused Sandeep Singh's house. In the second part, when the accused brought the informant to accused Sandeep Singh's house, they confined the informant in one of the rooms of accused Sandeep Singh's house and there they again assaulted the informant with the butt of gun and lathi-danda. When the informant became unconscious, they thought that the informant has died and so they again brought back the body of the informant to his village and threw it away at a place situated near the bank of the Canal passing through the village of the informant.

Now question arises that if the purpose of the accused persons was to assault the informant, then there was no need to bring him to accused Sandeep Singh's house. They would have easily caused the desired injuries to the informant in the village of informant itself; They were armed with deadly weapons so if they wanted to kill the informant there was no intervening circumstance to prevent them from doing so. Further, if they had brought the informant to accused Sandeep Singh's house and had beaten the informant to such an extent that they thought that the informant has died then there was no reason to bring back the dead informant again to the village of the informant and thrown away the dead-body on the bank of the Canal. They would have easily disposed of the dead-body to any other place and not at a place which was situated in the village of the informant because there was a great risk for the accused to bring back the dead-body at a place situated in the village of the informant. Further, in the written report (Exhibit Ka-1) it has been stated that when the informant became unconscious in the house of accused Sandeep Singh, the accused thought that the informant has died because of the injuries inflicted by them, but in his examination-in-chief P.W. 1 Shivnath Singh (informant/injured) has stated that when he became unconscious the accused thought that he has half died and so they brought him to his village and threw him away near the bank of Canal.

In written report (Exhibit Ka-1), the informant Shivnath has stated that at the first time he was assaulted in his own village in front of the house of Dabbu Singh and thereafter, when he was forcibly taken to the house of accused Sandeep Singh, he was further assaulted by the accused for the second time because of which he became unconscious and the accused persons thought that he had died. In his examination-in-chief, P.W. 1 Shivnath Singh (informant/injured) has supported his statement made in written report and has stated that he was badly assaulted at two places, first in his own village in front of house of Dabbu Singh and second in the house of accused Sandeep Singh where he became unconscious. The above evidence suggests that the informant was badly beaten, meaning thereby, that the informant would have got several injuries on his body. From the perusal of G.D. No. 16, time 09.40, Date 19.07.2009, P.S. Akhand Nagar, District Sultanpur (Exhibit Ka-7), it is clear that when the informant came to the Police Station to lodge the report, he was very much conscious, as he himself came to the Police Station and presented a prior written report to the Police to lodge the F.I.R. In his examination-in-chief, P.W. 1 Shivnath Singh (informant/injured) had categorically stated that when he came to the Police Station, he was in conscious state and he had shown his injuries to the Police. P.W. 2 Vishwanath has also stated in his cross examination that at the Police Station Shivnath was in conscious state and he himself lodged the case.

The incident took place at about 08.00 AM on 19.07.2009 and the FIR was lodged at Police Akhand Nagar at about 09.40 AM on 19.07.2009. This means that within one-and-half-hour the informant was in a conscious state. From the perusal of G.D. (Exhibit Ka-7), it is further clear that when the FIR was lodged at the Police Station Akhand Nagar, inspection of the injuries was made and number of injuries were noted in the injury report letter/medical examination memo. From the inspection of the body of the injured/informant, it was found that only two injuries were present on the body of the injured/informant, which were as below:

1. Complaint of pain all over the body.
2. Swelling injury above the left eye.

These two injuries were mentioned in the G.D. (Exhibit Ka-7) and injury report letter/medical examination memo was prepared. The injured was sent for medical examination to C.H.C. Akhand Nagar along with Home-guard

Gyan Prakash Dubey. Out of two injuries, there was only one visible injury over the left eye. There was no lacerated injury over the body of the informant/injured. Now a question arises that if the informant was badly beaten at two places to such an extent that he became unconscious and he was treated as a dead person, then whether the corresponding injuries found on the body of the informant supports the oral evidence regarding unconsciousness of the informant at the place of occurrence. The nature and number of injuries as mentioned in the G.D. (Exhibit Ka-7) do not support the oral version of the informant. Only one visible injury cannot give an impression to the accused that the injured has died or half died. It is also doubtful that one swelling injury above the eye can make a person unconscious. When the informant was brought to C.H.C. Akhand Nagar by Home-guard Gyan Prakash Dubey, he was examined by P.W. 3 Dr. Ajay Kumar Verma.

P.W. 3 Dr. Ajay Kumar Verma has stated in his examination-in-chief that on 19-07-2009 he was posted as medical officer at C.H.C. Dostpur, District Sultanpur. On that day at about 01.30 PM, home-guard Gyan Prakash Dubey of Police Station Akhand Nagar, District Sultanpur, brought the informant Shivnath S/o Kallu, aged about 45 years, resident of village Belwai, P.S. Akhand Nagar, District Sultanpur, for primary treatment and medical examination. He found following injuries over the body of the injured:

Injury No. 1: Contused swelling measuring 3×2.5 cm on the left side of the face, located slightly below the lower eyelid of the left eye.

Injury No. 2: Contused swelling measuring 2×1.5 cm behind the left ear.

Injury No. 3: Subconjunctival haemorrhage measuring 2 cm in width and 1.8 cm vertically in the left eye. This injury was kept under observation. Redness was present.

Injury No. 4: Abrasion measuring 3×1 cm on the left arm, situated about 1 cm above the elbow and wrist. The injury was red in colour.

Injury No. 5: Abrasion measuring 3×2 cm on the posterior aspect of the right forearm, just below the elbow. The colour was red.

Injury No. 6: Contusion measuring 6×4 cm on the front of the right shoulder, about 6 cm above the armpit. The colour was red.

Injury No. 7: Abrasion measuring 1×0.5 cm on the front of the left leg, about 16 cm below the left knee. The colour was red.

Injury No. 8: Contusion measuring 3×3 cm near the big toe of the right foot, about 2 cm behind its tip. The colour was red.

Injury No. 9: Contusion measuring 1×0.5 cm on the inner side of the left lip, about 1.5 cm inside from the left corner of the mouth. The colour was red.

Injury No. 10: Lacerated wound measuring 1×0.3 cm up to muscle depth on the right lower lip, about 0.5 cm inside from the right corner of the mouth. The margins were irregular and bleeding on touch.

Injury No. 11: Abrasion measuring 0.5×0.3 cm between the left side of the face and the nose. The colour was red.

P.W. 3 Dr. Ajay Kumar Verma further stated in his examination-in-chief that injury no. 1, 2, 4, 5, 6, 7, 8, 9, 10 and 11 were of simple nature. Injury no. 1, 2, 3, 6, 8, 9 and 10 were seems to be caused by blunt object. Injury no. 4, 5, 7 and 11 were seems to be caused by friction. Injury no. 3 was kept under observation and X-ray was suggested. All injuries were fresh. P.W. 3 Dr. Ajay Kumar Verma proved the injury report as Exhibit Ka-2.

P.W. 3 Dr. Ajay Kumar Verma stated in his cross examination that injuries used to be of different types like lacerated, incised, caused by fire weapon, contusion, abrasion etc. Normally lacerated wound appears because of blunt object and incised wound appears from the sharp cutting weapons. In this case injury no. 4, 5, 7 and 11 are that of abrasion. He has opined that these injuries can come from friction. In this case he found only one lacerated injury, no other lacerated or incised wound was found by him. This is true that except injury no. 3 all other injuries were simple in nature. This is also true that after X-ray injury no. 3 was also found to be simple and no abnormality was found in injury no. 3. It is true that during medical examination the injured was neither unconscious nor he was having any complaint of vomiting. Before medical examination he had perused the injury report letter/medical examination memo.

This is true that in injury report letter/medical examination memo there was mention of only one visible injury and another was complaint of pain. This is true that in injury report letter/medical examination memo there was no mention of Crime Number. This is further true that on the medical examination report there is no mention of Crime number. All injuries can come from falling and rolling of the injured. This is true that all injuries mentioned in Exhibit Ka-2 are simple in nature.

P.W. 4 Dr. L.S. Yadav, is a Radiologist, who did the X-ray of face of the injured Shivnath Singh stated in his examination-in-chief that on 20.07.2009 he was posted as Radiologist at District Hospital Sultanpur. On that day Home-guard Gyan Prakash Dubey of Police Station Akhand Nagar, District Sultanpur, brought injured Shivnath aged about 45 years S/o Kallu resident of village Belwai, Police Station Akhand Nagar, District Sultanpur, before him for X-ray. Under his supervision X-ray of the face was done, in which no fracture was found. P.W. 4 Dr. L.S. Yadav proved the X-ray Report as Exhibit Ka-3.

P.W. 4 Dr. L.S. Yadav stated in his cross examination that when injured Shivnath was brought before him for X-ray, he was fully conscious. It is true that in the X-ray report no abnormality was found in the eye and over the face, hence the injury will come under simple category.

Through list paper no. 165Kha2, the defence has filed two documents, first document is paper no. 165Kha3, which is a report dated 09.04.2025 furnished under Right to Information Act and the second document is paper no. 165Kha/4, which is a report dated 30.10.2005 furnished under Right to Information Act.

In the report dated 09.04.2025, it has been mentioned that on 19.07.2009 Dr. Ajay Kumar Verma was posted as Medical Officer at C.H.C. Dostpur, Sultanpur. Dr. Ajay Kumar Verma was never posted as medical officer at C.H.C. Akhand Nagar, Sultanpur. Before and after 19.07.2009 Dr. Ajay Kumar Verma remained posted at C.H.C. Dostpur, Sultanpur.

In the report dated 30.10.2025, it has been mentioned that on 19.07.2009 medical examination of Shivnath Singh S/o Kallu R/o Belwai P.S. Akhand Nagar, Sultanpur, was carried out at C.H.C. Akhand Nagar. On 19.07.2009 Dr. B.K. Lal was posted as medical officer at C.H.C. Akhand Nagar, Sultanpur.

From the above evidences available on the record, it is very much clear that at first, when the FIR was lodged by the informant at Police Station Akhand Nagar, the injuries found on the body of informant were noted. At the Police Station Akhand Nagar, it was found that there were only two injuries over the body of the informant. First was complaint of pain all over the body and second was swelling injury over the left eye. From the Police Station Akhand Nagar, the informant/injured was sent for medical examination to C.H.C. Akhand Nagar. On 19.07.2009, Dr. B.K. Lal was posted as medical officer at C.H.C. Akhand Nagar. P.W. 3 Dr. Ajay Kumar Verma was not posted at C.H.C. Akhand Nagar. He was posted at C.H.C. Dostpur. Despite that, P.W. 3 Dr. Ajay Kumar Verma conducted medical examination of the informant Shivnath Singh at C.H.C. Akhand Nagar and prepared the medical examination report of the informant/injured. There is no explanation as to why Dr. B.K. Lal, who was officially posted as medical officer at C.H.C. Akhand Nagar, did not conduct the medical examination of informant/injured Shivnath Singh. Further, there is no explanation as to why P.W. 3 Dr. Ajay Kumar Verma, who was posted at C.H.C. Dostpur and was never posted at C.H.C. Akhand Nagar, came to C.H.C. Akhand Nagar and conducted medical examination of informant/injured Shivnath Singh.

From the perusal of medical examination report (Exhibit Ka-2), it is further clear that at the bottom of the medical examination report, at first, it was written as C.H.C. Dostpur. Later on, the word 'Dostpur' was cut and below it 'Akhand Nagar' was written. P.W. 5 Chandrashekhar Pandey, who investigated the case, has deposed in his cross examination that he had perused the medical report (Exhibit Ka-2) in which there was stamp of medical officer C.H.C. Dostpur, in which 'Dostpur' was cut and 'Akhand Nagar' was written by hand without any initial of any competent officer. This creates a reasonable doubt as to whether the medical examination of the injured Shivnath was conducted at C.H.C. Dostpur or C.H.C. Akhand Nagar. Where it is clear that there was no occasion for P.W. 3 Dr. Ajay Kumar Verma to remain present at C.H.C. Akhand Nagar and Dr. B.K. Lal was duly posted at C.H.C. Akhand Nagar, then why and in what circumstances the medical examination of injured Shivnath Singh was not conducted by Dr. B.K. Lal and it was conducted by P.W. 3 Dr. Ajay Kumar Verma, who was officially posted at C.H.C. Dostpur.

For the sake of argument, if it is assumed that because of some compelling circumstances it was P.W. 3 Dr. Ajay Kumar Verma who came to C.H.C. Akhand Nagar and conducted the medical examination of injured Shivnath Singh, then he should have put stamp of C.H.C. Akhand Nagar over the medical examination report of the informant. Cutting of the word 'Dostpur' and writing the word 'Akhand Nagar' in place of 'Dostpur' gives an impression that actually the medical examination of injured Shivnath Singh was conducted at C.H.C. Dostpur and when the medical examination report was prepared it was deliberately shown to be conducted at C.H.C. Akhand Nagar. Further, there is no 'iota of evidence' on the record that P.W. 3 Dr. Ajay Kumar Verma was called from C.H.C. Dostpur to attend the injured Shivnath Singh at C.H.C. Akhand Nagar.

From the deposition of P.W. 3 Dr. Ajay Kumar Verma and from the perusal of medical examination report (Exhibit Ka-2) it is clear that altogether 11 injuries were found on the body of injured Shivnath Singh. Out of these 11 injuries many injuries like injury no. 1, 2, 6, 8, 9 were contusions. These injuries were easily visible from the naked eyes. If these injuries were present on the body of the informant Shivnath Singh, then there is no explanation as to why these injuries were not noted at the police station Akhand Nagar. Further, from the perusal of the deposition of P.W. 3 Dr. Ajay Kumar Verma, it is clear that injury no. 10 was of lacerated wound and that too was on left lip. This injury was also not mentioned when the injuries were noted at the Police Station Akhand Nagar. From the perusal of medical examination report of the informant/injured (Exhibit Ka-2) and from the perusal of deposition of P.W. 3 Dr. Ajay Kumar Verma, it is clear that injury no. 4, 5, 7 and 11 were caused by friction. There is no explanation from the prosecution side as to how these injuries were caused on the body of the injured Shivnath Singh. Nowhere any prosecution witness has stated that at any place informant/injured Shivnath Singh was dragged. From the deposition of P.W. 3 Dr. Ajay Kumar Verma, it is very much clear that out of 11 injuries found on the body of injured Shivnath Singh, 10 injuries were of simple in nature and only one injury, injury no. 3 which was over the eye, was kept under observation and X-ray was suggested. From the deposition of P.W. 4 Dr. L.S. Yadav, it is clear that no abnormality was found in the X-ray report and injury no. 3 was also simple in nature. Thus, it is clear that all the 11 injuries which were found on the body of the injured Shivnath Singh were simple in

nature. This means that these injuries were not of such nature which can make a person unconscious. Further, the 11 injuries found on the body of the informant Shivnath Singh were not in conformity with the oral evidence about the incident. As per oral evidence the accused persons assaulted the informant/injured at two different places with the butt of gun and Lathi-Danda to such an extent that the informant not only became unconscious but he was also treated as dead or half dead. From the perusal of medical examination report of the injured/informant Shivnath Singh (Exhibit Ka-2), it transpires that the injured got his injuries in an incident which has no connection with the present incident. P.W. 3 Dr. Ajay Kumar Verma has clearly stated in his examination-in-chief that injuries which have been shown in medical examination report (Exhibit Ka-2) can occur from falling and rolling of the injured. This suggests that the injuries which were found on the body of the informant by P.W. 3 Dr. Ajay Kumar Verma can occur in a road accident as well. Suggestion regarding road accident was put to P.W. 1 Shivnath Singh (informant/injured) during his cross examination.

In G.D. (Exhibit Ka-7) only two injuries, in which one was complaint of pain in whole body and second was swelling above left eye have been mentioned. It is further clear from the above G.D. that injury report letter/medical examination memo was prepared, in which above two injuries were mentioned. P.W. 3 Dr. Ajay Kumar Verma has accepted that while conducting medical examination of the injured Shivnath Singh, he perused the injury report letter/medical examination memo. From the perusal of medical examination report of the injured, it is clear that altogether 11 injuries were found on the body of the injured, in which one injury was of lacerated wound and several injuries were of contusion. Non-mentioning of lacerated wounds and wounds of contusion, which were easily visible from the naked eyes, in the G.D. (Exhibit Ka-7)/injury report letter/medical examination memo and mentioning of those injuries, which were not mentioned in the G.D. (Exhibit Ka-7)/injury report letter/medical examination memo but were found during the medical examination of the injured, is unexplained. This further creates doubt over the medical examination report of the injured.

Regarding the motive of the present incident nothing has been stated in the written report (Exhibit Ka-1). P.W. 1 Shivnath Singh (informant/injured), in his examination-in-chief, has stated that accused persons have occupied his land measuring 12 Biswa. Because of that the accused caused

the present incident. In his cross examination, P.W. 1 Shivnath Singh (informant/injured) has stated that before this incident accused Mahipati Singh had lodged an FIR against him, his brother Vishwanath, Habbal and Santram in Akhand Nagar Police Station under Section 323, 325, 504, 506 IPC, in which they are on bail. P.W. 2 Vishwanath has stated in his examination-in-chief that accused Sandeep Singh, Rahul Singh, Mahipati Singh and Randheer Singh are resident of adjacent village Meerpur with whom he has a land dispute. In his cross examination, P.W. 2 Vishwanath has stated that before this incident Mahipati Singh had lodged a report in Police Station in which he, Shivnath, Habbal and Santram are accused and they are on bail.

From the above evidences available on the record, it is clear that accused persons are resident of a village which is adjacent to the village of informant. It is further clear that between the informant and the accused a land dispute is prevailing. It is further clear that before the present incident the accused persons had lodged a criminal case under Section 323, 325, 504, 506 IPC against informant/injured Shivnath Singh, Vishwanath, Habbal and Santram. Thus, there is clear evidence of enmity between the informant and the accused. Because of this prevailing enmity the possibility of false implication of the accused cannot be ruled out as enmity is always considered as a double-edged sword, it can cause to the occurrence of actual incident and it can also cause false implication of the accused. In present case, where from the appreciation of the evidences available on record, it is clear that prosecution story doesn't inspire confidence of this Court, it seems that prevailing enmity of the informant with the accused persons compelled the informant to develop a false prosecution story on the basis of the injuries sustained either in a road accident or in any other way.

In the present case, it has been stated that accused were armed with licenced gun and lathi-dandas, but during investigation no recovery of any firearm or any weapon was made, which was used in the incident. P.W. 5 Chandra Shekhar Pandey (investigating officer) in his cross examination admitted this fact and deposed that this is true that during investigation no recovery of any weapon was made from any of the accused persons. Further from the evidences available on record, it is clear that since the present incident took place in broad day light in a village, there were many eye witnesses of the incident, despite that the investigating officer did not record the statement of any

independent eye witness. This fact was admitted by P.W. 5 Chandra Shekhar Pandey (investigating officer) in his cross examination as he has stated that this is true that during investigation, he did not take statement of any eye witness. Thus, it is clear that in the present case the investigation was not conducted properly.

On the basis of above discussion, this Court is of the view that in the present case the evidence of sole eye witness P.W. 1 Shivnath Singh (informant/injured) is not trustworthy regarding the various aspects of the incident. Further there is material contradiction between the medical and oral evidence coupled with serious contradiction in oral evidence and there are clear latches in investigation as well. Under such circumstances the benefit of doubt has to go to the accused persons. Thus, this Court concludes that the prosecution has miserably failed to prove its case beyond reasonable doubt and the accused are liable to be acquitted of the charges under Section 308/34, 323/34, 504, 341/34, 342/34 IPC.

ORDER

The accused Sandeep Singh, Rahul Singh and Randheer Singh @ Tedhai Singh are **acquitted** of the charges under Sections 308 read with Section 34, Section 323 read with Section 34, Section 341 read with Section 34, Section 342 read with Section 34 and Section 504 of the IPC.

Sandeep Singh, Rahul Singh and Randheer Singh @ Tedhai Singh are on bail. Their personal bonds and bail bonds are hereby cancelled, and their sureties are discharged from their liabilities.

Sandeep Singh, Rahul Singh and Randheer Singh @ Tedhai Singh each shall furnish a personal bond of Rs. 50,000/- (Rupees Fifty Thousand) and two sureties of the like amount within one week, in compliance with the provisions of Section 437A CrPC, to ensure their appearance before Hon'ble High Court if summoned in case an appeal is filed against this order in the Hon'ble High Court. This bond shall remain effective for a period of six months from the date of this judgment.

In the event no appeal is filed, the case property, if any, shall be disposed of in accordance with the rules upon the expiry of the appeal period. If an appeal is filed, the case property shall be disposed of as per the directions of the Hon'ble Appellate Court

Let a copy of this judgment be sent to the District Magistrate,
Sultanpur.

Dated: 16.04.2026

(Sunil Kumar-IV)
Sessions Judge,
Sultanpur
(J.O. Code UP 1885)

Judgment Dated, signed and pronounced by me in the open Court today.

Dated: 16.04.2026
Prakhar Kumar Srivastava/-

(Sunil Kumar-IV)
Sessions Judge,
Sultanpur
(J.O. Code UP 1885)