

JHJM030014162020



<u>In the Court of Judicial Magistrate, Ist Class, Jamtara</u> Present :- Ms. Shalika Anna Herenz Judicial Magistrate, Ist Class ID No. JH02065 CNR No. JHJM03-001416-2020 [Date of Judgment - 27.05.2026] District : Jamtara [G. R. Case No. 276 /2020] T.R. No. 37 /2026 (F.I.R. No. 03 of 2020, dated 26.04.2020, Bagdehari P.S).	
Informant	State of Jharkhand through viz. Hemlata Paul, W/o Vinay Pal, aged about 51 years, R/o Mouza-Laikapur, P.S. Bagdehri, District-Jamtara
Represented by	Sri Pritam Kumar Banti, Learned A.P.P
Accused	1. Saubj Kha, S/o late Hiralal Kha, aged about 64 years, Sex-Male. 2. Hemant Kha, S/o Sabuj Kha, aged about 21 years, Sex-Male, 3. Priyant Kha, S/o Sabuj Kha, aged about 29 years, Sex-Male, All R/o mouza- R/o Laikapur, P.S. Bagdehri, District-Jamtara
Represented By	Sri Trilochan Pandey, Learned Advocate,

Date(s) of Offence	25.04.2020
Date of F.I.R	26.04.2020
Date(s) of Charge sheet	29.06.2020
Date(s) Framing Charges/ Explanation of Substance of accusation	10.05.2022

Date of Commencement of evidence	18.07.2022
Date when Judgment was reserved	20.05.2026
Date of the Judgment	27.05.2026
Date of Sentencing Order, if any	Nil

Accused Details:

Rank of the Accused	Name of the Accused	Date of Arrest	Date(s) of Release d on Bail	Offences charged with	Whether Acquitted or Convicted	Senten ce impose d	Period of Detention undergon e during Trial for purpose of Section 428, Cr.P.C.
A 1	Saubj Kha,	Nil	30.06.20	u/s- 323/341/ 448/504/ 34 I.P.C.	All 3 Convicted U/S 323/ 34 of The Indian Penal Code	All 3 Release d after admoni tion u/s 3 of the Probati on of Offend ers Act.	Nil
A2	Hemant Kha,		30.06.20				Nil
A3	Priyant Kha,	-	30.06.20				Nil

List of Prosecution/Defence/Court Witnesses

A. Prosecution

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, other Witness)
PW 1	Paritosh Patar	Other witness
PW 2	Shymal Pal	Other witness
PW 3	Vinay Pal	Informant herself
PW 4	Mantri kha	Other witness
PW5	Hemlata Paul	Informant herself

PW6	Dr. Vineeta Murmu	Doctor witness
PW7	Manoj Hansda	Police witness

B. Defence Witness, if any :

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, other Witness)
1	N/A	N/A

C. Court Witness, if any :

Nil

List of Prosecution /Defence/Court Exhibits

Prosecution

Sr. No.	Exhibit Number	Description
1	Exhibit- P-01/PW-06	Signature and written of Dr. Vineeta Murmu on injury report.
2	Exhibit-P-01/01/PW-06	Signature of & Written of Dr. Vineeta Murmu on injury report for the X-ray report submitted by Hemlata Paul.
3	Exhibit-P-02/PW-07	Registration of F.I.R.
4	Exhibit-P-03/PW-07	F.I.R.
5	Exhibit-P-04/PW-07	Application for injury test of Hemlata Paul on 25.04.2020
6	Exhibit-P-04/1/PW-07	Application for injury test of Hemlata Paul on 11.06.2020

B. Defence:

Nil

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

C. Court Exhibits:

Nil

D. Material Objects:

Nil

-J U D G M E N T-

1. Three accused persons namely, **1. Saubj Kha (A 1), Hemant Kha (A 2), Priyant kha, (A 3)**, are facing trial for having committed, *as alleged*, an offence punishable U/s **323/341/448/504/34 of the Indian Penal Code**.

FACTS

2. The genesis of the prosecution case in a narrow compass is that on 25.04.2020 at about 07:00 PM, Sabuj kha threw water in angan of the informant, when the informant forbade him then accused (i) Sabuj kha, (ii) Hemant kha and (iii) Priyant kha having armed with lathi and danda entered into her house and started abusing in filthy languages and started assaulting the informant due to which she sustained injury in her right hand and blood started oozing out. When informant's husband tried to rescue her then all the accused persons pulled the informant's husband on the ground and also assaulted him with lathi. Earlier accused persons have assaulted the informant. When the informant raised alarm then villagers came there and rescued them. Hence this case.

COGNIZANCE, CHARGE AND STATEMENT UNDER SECTION 313, CrPC

3. Vide order dated 22.07.2020, cognizance for the offence punishable u/s 323/341/448/504/34 of Indian Penal Code was taken and after finding sufficient material against the accused persons namely, **1. Saubj kha (A 1), Hemant kha and (A 2), Priyant kha,(A 3)** processes were issued.

4. On 10.05.2022 Substance of accusation for the offence punishable U/s 323/341/448/504/34 of I.P.C. was framed and explained to the named accused persons in Hindi to which they denied and claimed trial.

5. Accused persons in his statement which was recorded u/s 313 of Cr.P.C. on 19.12.2024 has denied the allegations leveled against them and have stated themselves to

be innocent before the court.

6. Now it is incumbent upon this court to ascertain as to whether the informant has been able to prove the charges leveled against the accused persons beyond the shadow of all reasonable doubts or not.

FINDINGS

7. **P.W. 1, namely, (Paritosh Patar),** in his examination in chief stated that the incident occurred on 25.04.2020 at about 07:00 AM, he was at home at the time. The incident occurred at Hemlata Paul's home 100 feet from his home. He went to the scene amidst the commotion. He saw Hemlata Paul's head bleeding and her hands swollen. He saw Sabuj kha, Hemant kha and Priyant fighting with Hemlata's husband. Hemlata was unconscious and he gave her water. No one except Hemlata was injured in the altercation. Hemlata regained consciousness, she told to take her to police station. We went to the police station. The police sent Hemlata to Kundahit Hospital for treatment. From there, she was again sent to Jamtara Hospital. He further identified Subuj Kha who was present in the court and deposed that he could also identify the other accused persons as well.

In his cross-examination he deposed that between his house and Hemlata's house are the houses of Chandi Charan Nandi, Ramakrishna Mandal and Sanjay Patar. He was sitting at his home when he heard the commotion. He immediately left the house within two minutes after hearing the commotion. When he left the house, there were no other people on the road, so he did not see them. He gave his statement to the police. He told them everything, including the date of the incident. He did not tell the police that Hemlata's head was bleeding and her left hand was swollen. When he reached there, Hemlata was unconscious. We all gave her water. Hemlata regained consciousness after 15 minutes due to her injuries. He was not there when the police arrived. He do not know if any items were seized from Hemlata's house. He also went to the police station along with Hemlata. At the police station, the officer-in-charge (Bada Babu) had questioned him as well. Today, Hemlata's husband, Binay Pal, has not come to court. It is not the case that an incident of this kind did not happen. It is not the case that Hemlata did not sustain injuries during the physical assault. It is not the case that he is giving false testimony at Hemlata's behest.

8. **P.W. - 2 namely, (Shyamal Pal)** in his examination in chief he depose that the incident occurred on 25.04.2020 at about 07:00 AM, he was passing through the street when he saw a fight and commotion going on at Vinay Paul's house. Hemlata was being assaulted. Sabuj kha, Hemant kha and Priyant Kha, were assaulting her. Accused Sabuj hit Hemlata Pal on the forehead with a danda, injuring her and causing her to fall unconscious. We gave her water. After this, all the accused also assaulted her husband, Vinay Pal. Upon hearing hulla, Paritosh Patar, Mantri kha and others arrived at the scene. After that the accused fled away. Vinay Pal and his wife Hemlata went to the police station. An application was filed and registered a case, and Hemlata Pal was sent to the hospital by the police for treatment. He further identified Subuj Kha who was present in the court and deposed that he could also identify the other accused persons as well.

During his cross-examination he deposed that the accused present in the court is not related to him in any way. His house is at a distance of 1500 feet from the place of occurrence. The police had questioned him a day after the incident. Whatever things he stated in his statement to the police, the police recorded all those details in their diary. He stated in his statement to the police that he saw the accused persons committing the assault. After he gave his statement to the police, the police read out the recorded statement to him, and whatever things he stated before the court, he had told the same to the police as well. Hemlata is his sister-in-law (brother's wife) by relation. Laikapur village is a settlement of about 120 houses. The house of the informant is located between his house and the village, at a distance of 15–20 feet. Upon hearing the commotion, he reached the place of occurrence. At that time, the physical assault was ongoing. He made an attempt to stop the fight. After that, Paritosh Patar, Mantri Khan, and Manav Ghosh also arrived at the place of occurrence. Those people also asked them to stop the assault, but they did not stop it. Apart from the three mentioned individuals, no one else reached the place of occurrence. Gudda Khan, who lives in the neighboring house, was not present at the time of the incident. The physical assault continued for about half an hour. Initially, Sabuj Kha beat Hemlata Pal. Sabuj Kha, Hemant Kha, and Priyat Kha all three of them were together assaulting Hemlata. He had mentioned this fact to the police. When Hemlata fell to the ground, he was the one who gave her water. He had stated this fact to the police in his statement as well. About 10–15 minutes after the incident, they went to the police station. Vinay Pal had also gone to the police station with them. The police completed the paperwork at the police station, on which Vinay Pal affixed his signature. The assault took place over a lane. He cannot specify the plot number of that land. Both sides have a single document for the land. No division of the land has taken place between

the parties through the court. It is not the case that because he is Vinay Pal's brother, he is giving false testimony at his behest, nor is it the case that no such incident took place.

9. **P.W. - 3 namely, (Vinay Paul)** in his examination in chief that the incident took place on April 25, 2020, at around 7:00 PM. Sabuj Kha, Hemant Kha, and Priyak Kha threw dirty water from their roof into his courtyard. When his wife, Hemlata Pal, went to object and stop the accused, all the accused told her that they would continue to throw water and she could do whatever she wanted. Following that, all three accused entered his house armed with sticks and clubs, caught hold of his wife, and began physically assaulting her. He was also inside his house at that time. When he went to stop them, the three of them slammed him onto the ground, and Priyak sat on his chest. Upon his shouting and creating a commotion, people from the neighborhood gathered, and all the accused persons fled from the spot. Sabuj Kha struck his wife on her hand and broke it. The villagers arrived and offered them water. Afterward, he went to the Bagdehari police station, from where they were sent to the Kundhit hospital for treatment. From there, they were sent to the Jamtara Sadar Hospital for better treatment. He recognizes all the accused. Today, Sabuj Kha is present in the court, whom he recognizes.

In his cross-examination he deposed that Hemlata Pal, the informant of this case, is his wife. The houses of the accused Chandi charan Nandi, Ram Krishna Mandal, and Sanjay Patar are located next to his house. A dispute regarding a lane has been ongoing between them for the past year. He had approached the Circle Officer (Anchal Adhikari) and had an Amin sent by him. The Amin conducted a measurement and also prepared a map, but he did not give that map to the police, nor has it been submitted to the court. When his wife was screaming during the incident, he was inside his house at that time. Upon hearing the commotion, he did not step out immediately. When he went outside, he saw his wife lying on the ground. He did not give water to his wife himself. About 4 to 5 people from the village had arrived and they gave her water. The police had arrived. The police recorded his statement. He stated in his statement to the police that the accused had thrown dirty water. He also stated in his statement to the police that when he went to stop the assault, Priyak Kha sat on his chest. He further stated in his statement to the police that blood was oozing from Hemlata's hand. The police did not seize any sticks or iron rods. His wife regained consciousness after an hour. When the police arrived, they were at their house. He went to the police station. He does not know Hindi. He does not know how to read Hindi. He cannot say what was written in the application submitted to the police station. After looking at the application, the witness stated that the date inscribed

on the application is April 26, 2020. The witness himself stated that the date inscribed on the application is April 24, 2020. It is not the case that no such incident occurred. It is not the case that they have filed a false case against the accused persons. It is not the case that the accused persons did not assault them. It is not the case that he is giving false testimony.

10. **P.W. - 4 namely, (Mantri khaa)** in his examination in chief he deposed that the incident took place three years ago between 5:00 PM and 6:00 PM. He was going to his backyard. He heard a commotion and saw that the noise was coming from Bijan Pal's house. He saw that Hemlata Pal had fallen, her hand was injured, and it was bleeding. He did not see who committed the physical assault. However, when he enquired with Hemlata, she told him that Priyat, Hemant, and Sabuj Kha had collectively assaulted her. After that, he left the spot. Today, Sabuj Kha is present, who belongs to his village and whom he recognizes. He can recognize the remaining individuals upon seeing them.

In his cross-examination that he deposed that he has been a member of the Communist Party since his childhood. There are 10 houses between his house and Subuj's house, but he cannot specify whose individual houses they are. The party office is near his house. He is 68 years old. He cannot state the exact date of the incident. He is uneducated. He heard the noise of the quarrel, which was coming from Hemlata's house. When he went to her house and checked, he found Hemlata fallen down. He did not see who assaulted her. The police arrived in the village and questioned him. The police came to the village three days after the incident. It is not the case that such an incident did not occur, and it is not the case that Hemlata did not sustain injuries during the incident.

11. **P.W.- 5 namely, (Hemlata Paul)** who is informant of this case in her examination in chief deposed that the incident took place three and a half years ago at 7:00 PM. On that day, the accused persons Subuj Kha, Hemant Kha, and Priyat Kha were discharging water from their roof into her courtyard. When her husband and she went to object and stop them, the accused persons collectively assaulted her and her husband with sticks. As a result, she sustained injuries to her right hand and head. She bled, and her hand was broken. Her husband sustained injuries to his waist and head. Verbal abuse, physical assault, and a fight took place regarding this very matter. After the assault, they went to the police station at night. From the police station, they were sent to the Kundhit Hospital, and from there, they were sent to the Sadar Hospital Jamtara for better treatment. A written application was submitted to the police station on the day following the incident, which bears her thumb impression. Today, Subuj Khan has come to the court.

She can recognize the others upon seeing them.

In his cross-examination she deposed that she has no knowledge as to whether there was any dispute with the accused persons prior to the day of this incident or regarding any other matter. Apart from this lawsuit, no other case is pending against the opposing parties. Her house and the houses of the opposing parties are adjacent to each other. The villagers did not come at the time of the fight; later, 10 to 20 people arrived and rescued them. She will not be able to state the names of all the people from the neighborhood who arrived. The dispute occurred because the opposing parties were throwing their water into her courtyard; this fact is mentioned in the case. It was read out and told to her in the application what exactly was written. They had gone to the police station about an hour after the incident. They returned home from the hospital on the very same night. The police had conducted an inquiry on the day of filing the case. The second time as well, an inquiry was conducted. The families of Chondi, Moyra, Gudda Khan, and one Lal Bihari reside in the vicinity of her house. All these people did not come during the commotion. It is not the case that no such incident occurred and that she is giving false testimony in a false case.

12. **P.W. - 6 namely, (Vineeta Murmu)** in her examination in chief she deposed that on 25.04.2020, she was posted as M.O CHC Kundahit. On that day at 10:15 PM, she was examined Hemlata Paul 45 Yrs female W/o Binay Paul, Vill- Laikapur, P.S. Bagdehari with police requisition no ER no. 554 dt. 25.04.2020 and found the following injury on her person:- i) Slight bruise wound thigh about 05 c.m of Skin only on right hand with swelling in surrendering area. ii) Bodyache. Injury caused by- hard blunt object. Age of injury within 6 hrs, marks of identification- A mole upper right arm, nature of injury- An investigation for X-ray right hand including wrist joint PA/AP. View have been suggested the report of which is not submitted till date. Excluding this injury no. 1 & 2 simply in nature. This injury report is written by her and bears her signature and this injured was examined on police requisition which is marked as **Exhibit P-01/PW-06**. On dated 11.06.2020 the X-ray report have been submitted by Hemlata Paul and on the basis of X-ray report right hand and wrist AP view its states, features of second metacarpal with callous formation. This according to her its simple injury. This report is also prepared and signature by her which is **Exhibit P-01/01/PW-06**. She has not mention in supplementary injury report that how feature being treated as simple nature.

The Defence denied her cross examination.

13. **P.W. - 7 namely, (Manoj Hansda)** in his examination in chief deposed that on

April 26, 2020, he was posted as an Assistant Sub-Inspector (A.S.I.) at Bagdehari police station. On that very day, based on the written application of Hemlata Pal, Bagdehari Police Station Case No. 03/2020 dated April 26, 2020, was registered. He recognizes the handwriting and signature of the then Station House Officer (O.C.), Mukesh Kumar, on the registration. It is marked as **Exhibit P-02/PW-07**. This is the same computerized formal First Information Report (F.I.R.), on which he recognizes the signature of the then Station House Officer Mukesh Kumar. It is marked as **Exhibit P-03/PW-07**. He took over the charge of investigation of this case on April 26, 2020. After taking charge of the investigation, he recorded the statement of the informant Hemlata Pal, who supported the occurrence. Thereafter, he inspected the place of occurrence of this case. The place of occurrence of this case is situated in Laikapur village, three kilometers away from Bagdehari police station. To the east of the place of occurrence, there is a courtyard and an attached kitchen room. To the west, adjacent to the informant's house, is the mud-built house of Chandi charan Nandi. To the north is the house of the informant and to the south, adjacent to the informant's house, is the house of Sabbuj Khan. During the course of the investigation, he recorded the statements of witnesses Paritosh Patar, Mantri Khan, and Shyamal Pal, all of whom supported the incident. During the course of the investigation, the accused persons Sabuj Kha, Hemant Kha, and Priyant Kha were arrested and released on bail. During the course of the investigation, he recorded the statements of independent witnesses and the injured Vinay Pal, who supported the incident. It is worth mentioning that the injured Hemlata Pal was examined on April 25, 2020, and a supplementary application was given by the medical officer to the police station on June 11, 2020. This supplementary application is marked as **Exhibit P-04/PW-07** and **Exhibit P-04/01/PW-07**. On the basis of the medical report and eye-witness accounts, finding the occurrence to be true, he submitted a chargesheet under Sections 341, 323, 504, 448 / 34 of the Indian Penal Code against the three accused persons vide Chargesheet No. 17/2020 dated June 29, 2020.

In his cross-examination he deposed that the registration and the formal F.I.R. were not recorded in his presence. No one had signed the registration in his presence. He was given charge of the case after the registration of the F.I.R. Thereafter, he had submitted a report to get the injured person treated. He did not inspect the place of occurrence of this case, nor did he record the statements of people around the scene of the incident. He had recorded the defense statements of the accused persons in this case, in which they had declared themselves innocent. Witness Paritosh Patar had not stated the day or date of the incident in the statement given before him, nor had he mentioned

anything about Hemlata being injured. Witness Shyamal Pal, in the statement given before him, had not claimed to be an eyewitness to the physical assault. That incident was narrated to him by his wife. Witness Binay Pal had not mentioned the detail about someone sitting on his chest in the statement given before him. There was a dispute between both parties in this case regarding trash/garbage. There was also a land dispute between both parties, which he did not investigate. It is not the case that his investigation is faulty or that he has submitted a wrong charge sheet.

14. Learned counsel for the defence argued that the prosecution's entire narrative is a fabricated, malicious afterthought born out of deep-seated animosity over a long-standing property and lane dispute, and thus fails to meet the threshold of absolute proof. The defense strongly relies on the critical omissions and material contradictions exposed during cross-examination. The independent neighbor, Paritosh Patar (P.W. 1), explicitly admitted he did not see the day or date of the occurrence, nor did he see who committed the assault, while Mantri Khaa (P.W. 4) acknowledged he is an uneducated, deep-rooted local communist party worker living next to the accused and also failed to witness the actual altercation. Crucially, the Investigating Officer, Manoj Hansda (P.W. 7), conceded that the formal FIR and registration were not executed in his presence, he completely failed to inspect the alleged place of occurrence, failed to collect or seize any weapon of offense (such as sticks or rods), and did not secure statements from any surrounding objective neighbors. Moreover, the IO admitted that during his statement collections, Shyamal Pal was not an eyewitness but was merely recounting hearsay from his wife, and Vinay Pal had entirely omitted the vital accusation that an assailant sat on his chest. Coupled with conflicting timelines where the victims claim an evening occurrence at 7:00 PM while witnesses mention morning hours the defense argues that the investigation is severely flawed, lacks independent validation, and demands an acquittal.

15. Learned A.P.P has submitted before the court that the charges against the accused persons Sabuj Kha, Hemant Kha, and Priyant Kha under Sections 323, 341, 448, 504, and 34 of the Indian Penal Code are fully established beyond reasonable doubt. The genesis of the incident on April 25, 2020, stems from an unwarranted provocation where the accused discharged dirty water into the informant's courtyard, and upon being told to stop, launched a coordinated, premeditated assault inside the victim's house using lethal weapons like lathis and dandas. This direct physical assault is robustly corroborated by the testimony of the informant, Hemlata Pal (P.W. 5), her husband Vinay Pal (P.W. 3), and eye-witness Shyamal Pal (P.W. 2), who verified seeing Sabuj Khan deliver a traumatic

blow to Hemlata's head and limbs. Furthermore, the ocular evidence matches the objective findings of the medical officer, Dr. Vineeta Murmu (P.W. 6), whose initial report noted a bruise on the right hand and body, and a subsequent X-ray/supplementary report explicitly confirmed a fracture to the second metacarpal bone of the victim's right hand consistent with defensive or blunt-force trauma. The prosecution maintains that minor temporal variations do not dilute the core truth of the brutal assault, and the prompt hospital referrals reinforce the gravity of the injuries sustained.

16. In view of the above discussion, and upon meticulous perusal of the case record, it appears that with respect to the charge under Section 323 read with Section 34 of the Indian Penal Code i.e. Voluntarily Causing Hurt with Common Intention, the informant, Hemlata Paul (P.W. 5) and her husband, Vinay Paul (P.W. 3), are injured witnesses who have given a clear, consistent, and reliable account of the physical assault. Under Indian law, the testimony of an injured witness is placed on an extremely high pedestal because their injuries guarantee their presence at the scene of the crime.

In ***Balu Sudam Khalde And Another Versus The State Of Maharashtra, 2023 SCC Online SC 355***, the Hon'ble Supreme Court held that the testimony of an injured witness has greater evidentiary value and unless there are compelling reasons to discard it, it must be relied upon. Minor discrepancies cannot wash away the substratum of their version. Further, the presence of an injured eye-witness at the time and place of the occurrence can't be doubted unless there are material contradictions in his deposition. Also, unless established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused. Adding on, it said that the evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

17. The testimonies of the injured witnesses find strong backing from independent neighbor P.W. 2 (Shyamal Pal), who witnessed Sabuj Kha hit Hemlata Pal on the forehead with a danda. This ocular evidence perfectly aligns with the medical testimony of Dr. Vineeta Murmu (P.W. 6) and Medical Report (Exhibit P-01/P.W.-06), which documents a blunt force bruise on the right thigh, swelling, and a subsequent X-ray-confirmed fracture to the second metacarpal bone of the right hand.

In ***Pruthiviraj Jayantibhai Vanol vs Dinesh Dayabhai Vala, AIR 2021 SUPREME COURT 3532***, it was observed that Ocular evidence is considered the best

evidence unless there are reasons to doubt it. Further in ***Dinesh Kumar Jaldhari Vs. State of Chhattisgarh***, 2025 INSC 1317 it was established that ocular testimony will always take precedence over medical evidence unless the medical findings completely rule out the optical version. Here, the medical evidence acts as a robust corroborative pillar.

18. The depositions and the evidence displays that all three accused arrived together armed with sticks, simultaneously launched an assault on the couple, and fled the spot collectively when the village crowd assembled. This active, coordinated participation satisfies the essence of a prior meeting of minds and shared intent.

In ***The State of Karnataka v. Battegowda & Ors.*** 2025 Supreme(SC) 148 the Apex Court reiterated that common intention and pre-meeting of minds can occur at the spur of the moment during an incident, thus attracting Section 34 of the Indian Penal Code.

19. With respect to charges under Sections 341, 448, and 504 read with Section 34 of the Indian Penal Code to attract Section 341 of The Indian Penal Code, the prosecution must strictly satisfy the definition under Section 339 of The Indian Penal Code, which requires proving that the accused voluntarily obstructed a person so as to prevent them from proceeding in a direction in which they have a right to proceed. In this case, the depositions reveal fundamental contradictions regarding the venue of the crime. While the formal complaint alleges the incident occurred inside the house/courtyard, P.W. 2 (Shyamal Pal) unequivocally stated during cross-examination that "the assault took place over a lane". No evidence exists to show any actual directional restriction or confinement of the victims.

20. For a charge of house trespass under Section 448 of The Indian Penal Code, the prosecution must prove criminal trespass into a building used as a human dwelling (Section 442 of The Indian Penal Code). The Investigating Officer, Manoj Hansda (P.W. 7), explicitly conceded during cross-examination that he completely failed to inspect the alleged place of occurrence or prepare a verified site plan. Under cardinal criminal jurisprudence, the prosecution is strictly burdened to prove its case and the guilt of the accused beyond a reasonable doubt. This includes establishing the exact place of occurrence. If the investigating agency fails to establish the precise scene of the crime beyond doubt, the entire prosecution story crumbles. In this case due to the complete lack of physical or objective verification of the spot by the I.O., the charge of trespassing into a domicile collapses.

21. Section 504 of The Indian Penal Code requires proof that the accused intentionally insulted the victim, and that such insult was of such a nature that it would break the public peace or provoke the commission of an offense. Beyond a generic mention of "abusing in filthy languages" in the complaint, the individual depositions of P.W. 1, P.W. 2, P.W. 3, and P.W. 5 offer no specific details regarding the exact abusive words spoken or how it generated a breach of public peace.

In *Mohammad Wajid vs State of U.P., 2023 INSC 683*, wherein it was observed that mere abuse, discourtesy, rudeness or insolence, may not amount to an intentional insult within the meaning of Section 504, IPC if it does not have the necessary element of being likely to incite the person insulted to commit a breach of the peace of an offence.

22. The defense has rightly pointed out significant flaws in the investigation. The Investigating Officer failed to visit the actual spot, failed to execute the formal FIR in the presence of witnesses, and entirely failed to recover or seize the alleged weapons of offense (lathis/dandas). While these serious investigative gaps completely crumble the secondary charges of trespass and restraint, they do not automatically collapse the entire prosecution story regarding the physical injury. A criminal court cannot acquit an accused solely because the investigating officer was negligent or defective in his duties. If the story of the injured eyewitnesses is robust, rings true, and is backed by solid medical documentation, the core charge of assault must be sustained despite the IO's failure to seize the weapons.

23. On the basis of the comprehensive discussion on the legal merits and provisions above, this Court arrives at the following final conclusions that the individual elements of criminal force, physical hurt, and joint liability are fully established beyond a shadow of reasonable doubt through the ocular testimonies of P.W. 3 and P.W. 5, heavily supported by independent witnesses and objective medical proof of fracture (Exhibit P-01/P.W.-06). But due to material contradictions regarding the spot of the incident, the absolute failure of the I.O. to inspect the place of occurrence, the lack of weapon recovery, and the complete absence of specific ingredients regarding criminal insult, the prosecution has failed to satisfy the essential criteria required under the remaining sections. Giving them the benefit of the doubt arising from a severe lack of legal evidence.

ORDER

24. Thus, from the facts and circumstances of the case and on the basis of the above made discussions on the evidences on record, I come to the conclusion that the prosecution has fully established beyond a shadow of reasonable doubt elements of criminal force, physical hurt, and joint liability against the accused persons hence the accused persons, namely **Sabuj Kha (A 1), Hemant Kha (A 2) and Priyant Kha (A 3), are found guilty and are hereby Convicted for the offence punishable under Section 323 read with Section 34 of the Indian Penal Code.** Giving them the benefit of the doubt arising from a severe lack of legal evidence, the accused persons, namely **Sabuj Kha (A 1), Hemant Kha (A 2) and Priyant Kha (A 3), are hereby Acquitted of the charges under Sections 341, 448, and 504 read with Section 34 of the Indian Penal Code.** Bail of the above named accused person stands cancelled and they are taken into judicial custody. O/c is directed to give the copy of the judgment to the accused persons free of cost.

(The judgment is pronounced in the open Court.)

Dictated and corrected by me

Sd/-

**(Ms. Shalika Anna Herenz)
Judicial Magistrate Ist Class
Jamtara.
27.05.2026**

Dictated

Sd/-

**(Ms. Shalika Anna Herenz)
Judicial Magistrate, Ist Class
Jamtara.
27.05.2026**

HEARING ON THE POINT OF SENTENCE

Later on 27.05.2026

Ld. APP and Ld. Counsel for the convict persons were heard on the point of sentence.

The Ld. APP for the State argues for a deterrent sentence, contending that an assault on a woman, regardless of the nature of the injury, must be met with imprisonment to maintain public order.

Conversely, the Ld. Defence Counsel submits that the convicts are a first-time offender with no criminal antecedents. It is further submitted that the incident arose out of a sudden heat of passion regarding a long-standing dispute and that the convicts have a family to support. The Defence prays for the benefit of the Probation of Offenders Act, 1958.

Heard Ld. APP and Ld. Counsel for the convict persons. From the submissions made by Ld. Counsels it appears that the convicts have no prior criminal history. The injuries sustained were "simple,". The altercation was not premeditated but was a fallout of a dispute and having regard to the circumstances of the case, nature of the offence and character of the offenders, I am of the opinion that it is fit case to invoke provisions of Section 3 of the Probation of Offenders Act.

Thus, the convicted persons namely **1. Sabuj Kha (A 1), 2. Hemant Kha (A 2) and 3. Priyant Kha (A 3)** are ordered to be released after due admonition.

O/c is directed to give the copy of the judgment to the convicted persons free of cost and is further directed to deposit the record in the record room as per rules.

**(TYPED, CORRECTED AND PRONOUNCED BY ME IN OPEN COURT
TODAY)**

Sd/-

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