

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2831 of 2025

Arising Out of PS. Case No.-69 Year-2002 Thana- LAUKAHI District- Madhubani

1. Nandeshwar Koragia @ Udai Koragia @ Nandeshwar Yadav Son of Bishwanath Koragia @ Vishwanath Koragiya @ Udai Koragin R/o - Belhi, P.S - Laukahi, District - Madhubani
2. Bishwanath Koragia @ Vishwanath Koragia son of Late Chhatu Lal Koragia R/o - Belhi, P.S - Laukahi, District - Madhubani

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Arvind Kumar, Advocate Ms. Priya, Amicus Curiae
For the State	:	Mrs. Anita Kumari Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
Date : 10-11-2025

Heard learned *Amicus Curiae* as also the learned counsel appearing on behalf of the appellants and learned A.P.P. for the State of Bihar.

2. The present appeal has been filed for setting aside the judgment of conviction and order of sentence dated 11.06.2025, passed by the learned District and Additional Sessions Judge-III, Jhanjharpur, Madhubani in Sessions Trial No. 27 of 2004 in connection with Laukahi P.S. Case No. 69 of 2002 dated 20.06.2002 for the offences punishable under Sections- 447, 341, 323, 504, 324, 354, 379, 307/34 of I.P.C.,



whereby and whereunder the appellants have been convicted and sentenced to undergo simple imprisonment for a period of six months and a fine of Rs. 1000/- for the offence punishable under Section-323 of I.P.C. and, in default of payment of fine, to further undergo simple imprisonment of one month.

3. The prosecution story, in brief, is that on 20.06.2002 early in the morning when the informant went on a walk he found that appellant Bishwanath Koragia @ Vishwanath Koragia and his son Nandeshwar Koragia @ Udai Koragia @ Nandeshwar Yadav were sitting on the road with Lathi. When the informant asked his son as to why the accused persons have not gone to plough the field, it is alleged that Nandeshwar Koragia, appellant No. 1, assaulted with Farsa on the head of the informant and left armpit of the informant's wife due to which both of them got badly injured. It is alleged that the appellant No.2 Vishwanath Koragia assaulted with lathi on the informant's left arm and leg and took out gold earrings, silver payal as well as gold chain of the informant's wife, inserted his arm into her blouse and tore her dress.

4. On the basis of aforesaid written report of informant, Laukahi P.S. Case No. 69 of 2002 dated 20.06.2002 was registered for the offences punishable under Sections- 447,



341, 323, 504, 324, 354, 379, 307/34 of I.P.C. Routine investigation followed. Statement of witnesses came to be recorded and on the completion of investigation, charge sheet has been submitted against the appellants under Sections Sections-447, 341, 323, 504, 307, 326, 34 of I.P.C. and cognizance was taken under the aforesaid Sections. Thereafter, the case was committed to the court of sessions after following due procedure. The learned trial court framed charges against the appellants under Sections 307/34, 326, 323, 341, 447, 504 and 354 of I.P.C. Charges were read over and explained to the appellants to which they pleaded not guilty and claimed to be tried.

5. In order to bring home guilt of the accused persons, prosecution has examined all together five witnesses. P.W. 1- Shri Lal Mandal, P.W.2- Dharmendra Kapar @ Dharmendra Yadav, P.W. 3-Vijay Narayan Yadav, P.W. 4-Sarita Devi and P.W. 5-Shiv Jee Pathak.

6. Prosecution has relied upon following documentary evidence on record:-

Ext-1, Signature of informant
Shiv Narayan Yadav on written report;
Ext-2, Formal F.I.R.;
Ext-3, Endorsement of Raj Kumar
Paswan on written report;
Ext-4, Charge Sheet;



Ext-5, Carbon Copy of Injury Report of Vijay Narayan Yadav marked with objection

Ext-6, Carbon copy of Injury Report of Sarita Devi marked with objection.

7. Defence has produced only one documentary evidence in the form of order sheet of MR No. 421/01, under Sections-144 and 145 of Cr.P.C. pending before the S.D.O., Phulparas. Defence has not produced any oral evidence. Defence of appellants as gathered from the line of cross examination of prosecution witnesses as well as from the statement under Section-313 Cr.P.C. is that of total denial of the charges.

8. After hearing the parties, the learned trial court convicted the appellants and sentenced them as indicated in the opening paragraph of the judgment.

9. Heard learned *Amicus Curiae* as also the learned counsel appearing for the appellants at sufficient length of time. Following submissions have been made on behalf of learned counsel for the appellants:-

10. Learned counsel for the appellants submitted that P.W. 1, during examination-in-chief, has supported the prosecution version of prosecution that Vijay Narayan Yadav



was assaulted by appellant Vishwanath Koragia by means of lathi and he was also assaulted by Nandeshwar Koragia by means of Farsa and his wife was assaulted by Vishwanath Koragia by means of lathi and by Nandeshwar Koragia by means of Farsa, but during cross-examination he has stated that he has no knowledge regarding the said occurrence. In para-14 of cross-examination he has stated that he has no knowledge regarding the nature of dispute between the two. In this way, his statement is quite inconsistent with the story of prosecution and he has not supported the prosecution-case. It has been submitted that the doctor has not been examined. In this way, the veracity of injury report has no meaning at all in the eyes of law and its genuineness and authenticity is doubtful. P.W. 2 has turned hostile and has not supported the prosecution-case. Learned counsel for the appellants has further submitted that none of the prosecution-witnesses are independent witnesses and the testimony of witnesses are inconsistent with the story of prosecution and prosecution has failed to prove the charges levelled against the accused persons/appellants beyond reasonable doubt and the concerned Court has also acquitted the accused for the rest of the charges except Section-323 of I.P.C. While recording the judgment of conviction, the Court has



recorded the reasoning for the same. The prosecution has failed to prove the charges under Sections- 448, 341, 354, 504, 307 and 326 against both the appellants on the ground that materials are insufficient to prove the guilt for the charges under the said Sections. Accordingly, the appellants were given benefit of doubt and they are acquitted of the said charges. In the same manner, the charges under Section-323 of I.P.C. is also not proved and the concerned Court has recorded the finding by taking into account the materials which were not sufficient. In the light of aforesaid facts and circumstances of the case, even the conviction under Section-323 of I.P.C. is not sustainable and sentence awarded by the concerned Court is not justified and legal and the same is fit to be set aside.

11. Learned APP for the State has submitted that for the charges under Section-323 of I.P.C., the statement of the informant as well as his wife are sufficient to prove the allegation under Section-323 of I.P.C. The Investigating Officer has clearly identified the place of occurrence and in para-7 he has stated that during the course of investigation injured Vijay Narayan Yadav. and his wife Sarita Devi were sent to Laukahi Primary Health Centre for treatment. In this way, from the statement as mentioned in para-7 of the I.O. it is evident that



their presence at the place of occurrence cannot be denied as they are injured though injury of both the injured witnesses were not duly proved just because the doctor has not been examined, but for the purpose of Section-323 of I.P.C., their statement is quite enough to prove the charges levelled against the appellants. P.W. 1, P.W. 3, P.W. 4 and P.W. 5 all have supported the initial version of prosecution-story and the version of prosecution cannot be disbelieved and judgment of conviction and sentence passed by the concerned Court is justified and legal and no interference is needed with the same.

12. The question which arises for consideration is:

“Whether offence under Section-323 of I.P.C. is made out in the light of given facts and circumstances of the case or not?”

13. I have perused the impugned judgment and order of the trial Court and the trial court record and I have given my thoughtful consideration to the submissions advanced on behalf of the parties as noted above.

14. It is necessary to evaluate, analyze and screen out the evidences of witnesses adduced before the trial court.

15. P.W. 3 Vijay Narayan Yadav @ Vijay Kumar Yadav is the informant himself and he is also injured witness of



the case. It is necessary to test the veracity of this witness upon the touchstone of manner of occurrence, time of occurrence and place of occurrence.

According to informant, the occurrence took place on 20.06.2002 at 08:00 AM early in the morning. PW-3 stated that he proceeded for walking and after returning he made query from the ploughman as to why he had not gone for ploughing the field upon which he replied that appellants/ Vishwanath Koragia and Nandeshwar Koragia @ Uday did not allow him to plough the field. When the informant proceeded with the ploughman and reached to his main door, appellant Vishwanath Koragia started assaulting the informant by means of Lathi whereas appellant Nandeshwar Koragia assaulted the informant by means of Farsa upon his head. When the informant's wife came to his rescue, she was also assaulted by Vishwanath Koragia by means of Lathi and appellant Nandeshwar Koragia assaulted her by means of Farsa which hit on her left armpit.

16. From the analysis of evidence of P.W. 3, it is crystal clear that he has supported the time of occurrence, manner of occurrence, place of occurrence and his version is quite consistent with the initial version of story of prosecution. His initial version of prosecution is quite consistent with the



examination-in-chief adduced by this witness during trial. He is the injured witness and his presence at the place of occurrence cannot be denied. The defence has failed to make any dent during cross-examination of this witness. In this way, evidence of P.W. 3 cannot be disbelieved in the light of the facts as discussed above.

17. P.W. 4 Sarita Devi is the wife of the informant. She has supported the time of occurrence, manner of occurrence as well as place of occurrence and her statement is also quite consistent with the initial version of prosecution on the point of assault. She has stated that appellant Vishwanath Koragia started assaulting her husband with lathi and appellant Nandeshwar Koragia assaulted her husband by means of farsa due to which her husband sustained injury on the head. She has stated that she was also assaulted by appellant Nandeshwar Koragia and there is no reason to disbelieve her version which is quite consistent with the statement of P.W. 3 and it cannot be denied that she is an injured witness and her presence at the place of occurrence is also consistent with the initial version of prosecution and during trial the statement of P.W. 4 is quite consistent with the statement of P.W. 3 on the point of assault. In this way, her presence at the place of occurrence cannot be



denied.

18. P.W. 5 is the Investigating Officer of the case. He has stated that he took the charge of investigation of Laukahi P.S. Case No. 69 of 2002 dated 20.06.2002 and inspected the place of occurrence. PW-5 has stated that after obtaining the written application, on the instruction of S.H.O., Laukahi the format of F.I.R. was prepared by S.H.O. Raj Kumar Paswan which was identified by this witness and the said format of F.I.R. has been exhibited as Ext. 2. He has recorded the statement of informant/PW-3 as well as his wife/PW-4. In this way, the statement of I.O. clearly indicates that he inspected the place of occurrence as pointed out by the informant at village Belhi as recorded in para-7 of his evidence. PW-5 has also stated that during the course of investigation he sent informant and his wife to PHC, Laukahi for treatment of their injury.

19. From perusal of F.I.R., it is quite evident that two persons suffered injury by the act of the appellants and the place of occurrence, i.e. the door of the informant at village Belhi, as is evident from F.I.R. P.W. 3 has narrated the story of prosecution, the manner of occurrence, place of occurrence, time of occurrence. On the point of assault, his statement during the course of trial is quite consistent with the initial version of



story of prosecution. Informant's wife was also assaulted by the appellants and she has been examined as P.W. 4. She has stated during the course of trial that her husband and she were assaulted. Both the injured persons and the I.O. have supported that both injured persons were sent to Primary Health Centre for treatment, which is also evident from para-7 of the deposition of P.W. 5./Investigating Officer.

20. After going through the evidence of prosecution witnesses, it is clear that informant/P.W. 3 and informant's wife/P.W. 4 have supported the prosecution case on the point of place of occurrence, time of occurrence, manner of occurrence as well as on the point of assault and their statements are quite intact. PW-5 is the investigating officer of the case. He has visited the place of occurrence. He has sent both injured persons to Primary Health Centre for treatment. In this way, the prosecution has proved its case beyond reasonable doubt.

21. On all counts from the analysis of evidence of prosecution witnesses adduced during trial, it is crystal clear that judgment of conviction passed by the concerned court is justified and legal and no interference is needed. Hence, the impugned judgment of conviction is upheld.

22. It is necessary to cite para-10 of decision rendered



by Hon'ble Supreme Court in the case of ***State of M.P. vs. Bablu***, reported in (2014) 9 SCC 281 which reads as under:-

10. It is well settled proposition of law that one of the prime objectives of criminal law is the imposition of adequate, just, proportionate punishment which is commensurate with the gravity and nature of the crime and manner in which the offence is committed. One should keep in mind the social interest and consciousness of the society while considering the determinative factor of sentence commensurate with the gravity and nature of crime. The punishment should not be so lenient that it shocks the conscience of the society. It is, therefore, the solemn duty of the court to strike a proper balance while awarding sentence as awarding a lesser sentence encourages any criminal and as a result of the same society suffers.

23. So far as order of sentence in respect of appellants/ Nandeshwar Koragia @ Uday Koragia @ Nandeshwar Yadav and Bishwanath Koragia @ Vishwanath Koragia is concerned, from perusal of record it is evident that occurrence is of the year 2002 and appellants have already suffered 23 years in litigation and they have suffered mental agony of facing the trial since 2002 and they have lost their precious time being a first offender. The appellant no. 1 has



remained in judicial incarceration for 62 days and appellant no. 2 has remained in judicial incarceration for 13 days. Hence, to put the appellants in jail for remaining period is too harsh as appellant no. 2 is aged about 80 years. The court is of the view that if sentence of the appellants is reduced to the period already undergone that would meet the ends of justice. Accordingly, the sentence of the appellants is reduced to the period already undergone.

24. With the aforesaid modification in sentence, the instant appeal stands dismissed.

25. The interlocutory application, if any, also stands disposed of.

26. Let a copy of this judgment be transmitted to the Superintendent of the concerned jail for compliance and for record.

27. The records of this case be also returned to the concerned trial court forthwith.

28. Before parting with the judgment, I appreciate the legal assistance rendered by Ms. Priya, learned *Amicus Curiae*. Patna High Court Legal Services Committee is directed to pay a sum of Rs. 5000/- (five thousand) to Ms. Priya, learned *Amicus Curiae*, as consolidated fee for the legal assistance rendered by



her within a period of four weeks from the date of receipt of this
order.

(Alok Kumar Pandey, J)

K.C.Jha/-

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	22.11.2025
Transmission Date	22.11.2025

