

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3337 of 2025**

Arising Out of PS. Case No.-103 Year-2014 Thana- DERNI BAZAR District- Saran

Satrughan Singh S/o- Late Sheonath Singh Village- Ramjeetpur PS- Derni
Dist- Saran at Chapra

... .. Appellant/s

Versus

1. The State of Bihar Bihar
2. Raju Kumar S/o- Ganesh Singh Village- Gohpur PS- Garkha Dist- Saran at Chapra

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Nawal Kishore Singh, Advocate Mr. Kamlesh Kumar, Advocate
For the Respondent/s	:	Mr. Mukeshwar Dayal, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT**

Date : 25-11-2025

Heard learned counsel for the appellant and
learned Additional Public Prosecutor for the State.

2. The present appeal has been directed against the judgment of conviction dated 16.07.2025 and order of sentence dated 21.07.2025 passed by learned Additional Sessions Judge – XIIIth, Saran at Chapra in Sessions Trial No. 349 of 2015, arising out of Derni P.S. Case No. 103 of 2014 whereby and whereunder the appellant has been convicted for the offences punishable under Section 307 of IPC and has been sentenced to undergo rigorous imprisonment for three years along with fine of Rs. 20,000/- under Section 307 of IPC and in



case of default of payment of fine, appellant has to undergo further simple imprisonment for three months.

3. The prosecution story, in brief, is that the Riju Kumar is the informant/complainant of the case and accused persons are brother, father, mother and family members of his brother-in-law. It is alleged that sister of informant and her husband had returned two months ago after earning. It is further that sister of informant and her husband had planted the crop of wheat and potato on the land in their share. The informant /complainant went to the house of his sister and brother-in-law to help for irrigation of plants. It is alleged that brother-in-law and sister of informant were residing in thatched room with asbestos (*karkat*) which was built in the land of their own share. It is alleged that appellant and others were threatening the informant by mobile no. 9576256424 to mobile no. 9934554406. The complainant and his brother-in-law were irrigating the wheat crop on the land of informant's brother-in-law share but after sometime while irrigation was going on, they visited the house for ten minutes. It is alleged that complainant went to the house of his brother-in-law two days earlier to help for irrigation of plants. It is alleged that the appellant and others were damaging the roof of asbestos



(*karkat*) which was built by his brother-in-law in his own share of land and when the informant asked appellant and others as to why they were assaulting his sister and his brother-in-law, co-accused Shiv Nath singh abetted the accused to kill the informant and disappear his dead body upon which appellant is said to have assaulted the informant by means of Farsa on his neck which hit the informant on upper portion of of his head and blood started oozing out. It is alleged that appellant also gave second blow of farsa upon the informant which hit him on the shoulder. It is further alleged that co-accused Chandeshwar Singh gave rod blow on the neck of informant/complainant and also hit the shoulder, back. It is further alleged that wife of co-accused Shivrath Singh assaulted the informant by means of labda on his leg. It is further alleged that co-accused Indu Singh wife of appellant gave danda blow to the complainant as a result of which informant/complainant fell down on earth. It is alleged that villagers came and save the life of informant/complainant. It is further the informant and others wanted to get the injured treated at concerned Hospital but the accused persons reached there also and did not allow the informant to get treated. Lastly, they brought the injured informant to Chapra Sadar Hospital where the informant got



treated. Then, complaint was filed and sent to the concerned police station for instituting the case and further investigation.

4. On the basis of complaint filed by the complainant, Complaint Case No. 176 of 2013 was filed which was converted into Derni P.S. Case No. 103 of 2014 dated 01.09.2014 registered under Sections 341, 323, 324, 307, 427, 504, 506, 34 of the IPC. Routine investigation followed. Statement of witnesses came to be recorded and on the completion of investigation, charge sheet has been submitted against the appellant and others under Sections Sections 341, 323, 324, 307, 427, 504, 506, 34 of the IPC. Thereafter, the learned trial court took cognizance. The case was committed to the court of sessions after following due procedure. The learned trial court framed charges against the appellant and others under Sections 307/34, 504, 341, 427 of the IPC. Charges were read over and explained to the appellant to which he pleaded not guilty and claimed to be tried.

5. In order to bring home guilt of accused persons, prosecution has examined altogether five witnesses. PW-1 Gorakh Singh, PW-2 Riju Kumar(informant), PW-3 Ganesh Singh, PW-4 Baliram Singh, PW-5 Laxmi Devi and PW-6 Shivbachhan Rai.



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

*Ext. 1- Signature of
informant/complainant on
complaint petition*

7. Defence has produced one witness namely Bhagwan Rai (DW 1) and also produced amended exhibit P1 i.e. deed executed between Ganesh Singh and Satrugan Singh. However, defence of the appellant as gathered from the line of cross examination of prosecution witnesses as well as from the statement under Section 313 of the Cr.P.C. is that of total denial.

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

9. Following submissions have been made on behalf of learned counsel for the appellant:-

10. Learned counsel for the appellant submits that appellant and two other co-accused Indu Devi and Somari Devi were put on trial and the appellant convicted and sentenced as indicated in forgoing paragraph. He further submits that co-accused Indu Devi and Somari Devi have been acquitted on the same set of facts and evidence. Though, Indu



Devi and Somari Devi have been charged under the same sections. He further submits that P.W.1 and P.W. 3 who have been examined but not supported the case of prosecution and have been declared hostile. P.W. 2 has been examined and he was claiming himself as injured witness but no chit of paper with regard to the nature of injury has been produced by the prosecution and nothing was recorded which indicates that the place of occurrence has been pointed out by the P.W. 2 who is the informant of the case. In non examination of Investigating Officer, even place of occurrence is not specifically proved by any of the prosecution witnesses even PW 4 has indicated that he is not aware of the khata and khesra number of the land in question.

11. It is cardinal principle of criminal law that the place of occurrence is necessary to be proved by the prosecution. In the present case, Investigating Officer has not been examined and hence, place of occurrence has not been proved which has caused serious prejudice to the defence. Even doctor has not been examined to ascertain the injury sustained by the informant/victim. The very assertion of the allegation made by the informant is merely a bald statement without supporting document. Though, it has been alleged that



appellant is said to have assaulted by means of farsa upon the head as well as shoulder but even nature of injury cannot be ascertained. Even any chit of paper is not produced by the prosecution regarding the injury report. The very intention of a particular accused can be proved by the sheet of injury, number of injury and nature of injury. In absence of any chit of paper regarding the injury report, nothing is proved and the statement as asserted by informant is merely a bald statement. PW 1 and PW 3 have not supported the case of prosecution and hence, he has been declared hostile. Learned counsel for the appellant submits that the dispute arose on account of assaulting the brother-in-law and sister of informant but during the course of cross-examination, P.W. 4 (Balram Singh) has stated that he has not been assaulted rather his brother in law was assaulted who is PW 2. PW 4 in para 15 submits that eight injuries were sustained by informant/victim and P.W. 5 in para 5 has asserted that only six injuries were sustained by the informant/victim. The statement of PW 4 and PW 5 with regard to number of injuries sustained by informant are totally inconsistent. The very case is based on complaint which is not the reaction of instantaneous and contemporaneous reaction of existing fact. There is sufficient time to prepare the complaint for framing



the charges against the proposed accused. The present case clearly depicts regarding allegation of bald statement which is not supported by any chit of paper and even doctor has not been examined to prove the allegation of injury. The place of occurrence has not been identified by any of the witnesses of the prosecution. He further submits that how much force the accused has applied to cause the injury, which part of the body of victim is injured, what is the nature of injury, what weapon has been used to cause injury such facts have not been proved in the absence of injury report and non examination of doctor. He further submits that two prosecution witnesses (PW-4 and PW-5) have divergent views regarding the number of injuries sustained by informant. He further submits that there are several inconsistencies and discrepancies in the evidence of prosecution witnesses which shatter the prosecution story with respect to injury report. Neither injury report was produced nor doctor was examined. The very intention of accused cannot be proved and the allegation is merely a bald statement. Investigating Officer has not been examined and in absence of investigating officer, place of occurrence cannot be proved. Even, prosecution witnesses have not proved the place of occurrence and in absence of place of occurrence, story of



prosecution cannot be proved. In the light of the facts and circumstances of the case, the present case has not been proved and the concerned court without appreciating the materials available on record, reached to the wrong conclusion. In the light of the facts and circumstances of the case, the benefit of doubt goes in the favour of the accused/appellant.

12. Learned counsel for the State has submitted that judgment of conviction and order of sentence passed by the concerned court after due appreciation of material available on record. PW 2 who is informant/victim has supported and corroborated the story of prosecution and other witnesses who are also along with informant, they have also corroborated and supported the story of prosecution. There is no reason to differ from the finding of the concerned court and no interference is required and judgment of conviction and order of sentence passed by the concerned court is quite justified and legal.

13. The question which arises for consideration is:-

"Whether offence under Sections 307 of IPC is made out in the light of given facts and circumstances of the case or not ?"

14. I have perused the impugned judgment,



order of trial court and trial court records. I have given my thoughtful consideration to the rival contention made on behalf of the parties as noted above.

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

16. PW-1 and PW-3 have not supported the case of prosecution and they have been declared hostile.

17. PW-2 (Riju Kumar) is the informant of the case and during the course of examination-in-chief, in para 12, he has stated that appellant and Shivnath Singh (since deceased), Chandeshwar Singh (since deceased), Indu Devi and Somari Devi were breaking the thatched house which was build in the share of his brother-in-law. He has stated that appellant is said to have assaulted him by means of farsa which hit him upon the head and appellant has also inflicted farsa blow second time which hit him on his right shoulder. In para 5, he has stated that he went for irrigating the field but he cannot point out the boundary of the of the said field. In para 8, he has stated that he was irrigating the field from 7:30 – 7:45 AM. In para 18, he has admitted that he was treated at hospital.

18. Though, he has asserted during the course



of adducing evidence before the Court that he was treated and in initial version he has stated that he was treated at Sadar Hospital, Chapra but no chit of paper was produced which reflects that he was treated at a particular hospital and no injury report was produced and the doctor who treated the the informant (PW-2) has not been examined. In this way, in absence of injury report, the accusation made by the informant (PW-2) is merely a bald statement and his statement does not carry any reliability. In this way, his statement cannot be taken into account for the accusation as alleged in the initial version of prosecution story.

19. PW – 4 (Baliram Singh) is the brother-in-law of informant (PW- 2). During the course of examination-in-chief, he has stated that appellant is said to have assaulted his brother-in-law (PW-2) by means of farsa which hit him on his head and the appellant also inflicted second farsa blow upon him which hit him on the upper portion of ear. In para 9, he has stated that he does not know the khata khesra of the land in question. In para 15, he has stated that informant (PW-2) has sustained eight injures. He has also stated that when he reached at the place of occurrence, he was not assaulted by anyone. He has also stated that he has prescription of doctor of



informant/victim (PW-2) as his brother-in-law was hospitalized in Chapra Hospital for five days. In para 16, he has stated that there was shed of blood upon the cloth of informant (PW-2) as well as on the ground after sustaining injuries from farsa and he has shown the blood to the daroga.

20. The statement of PW-4 is totally inconsistent with the initial version of prosecution story. Informant (PW-2) has stated in initial version of prosecution story that appellant inflicted second farsa blow upon him which hit on his right shoulder but PW-4 has stated that appellant inflicted second farsa blow upon informant (PW-2) which hit him on the upper portion of ear. The statement of PW-4 that he is not assaulted by anyone is totally inconsistent with the initial version of prosecution story as when informant narrated the initial version of prosecution story he stated that when he reached at the place of occurrence, informant's sister and his brother-in-law (PW-4) were being assaulted. The statement of PW-4 is quite divergent upon the manner of occurrence as he has stated that the appellant inflicted second farsa blow upon informant which hit him on the upper portion of ear and on the point of number of injuries, PW-4 has divergent view with PW-5, who has stated that total six injuries



were sustained by informant (PW-2).

21. PW- 5 (Laxmi Devi) is sister of informant (PW-2). She has stated that appellant assaulted the informant by means of farsa which hit on his right shoulder and again, appellant assaulted the informant by means of farsa which hit on upper portion of ear.

22. The statement of PW-5 is totally inconsistent with the initial version of prosecution story as she has stated that first injury inflicted by the appellant upon the right shoulder of informant (PW-2) and second injury inflicted by the appellant on the upper portion of ear of informant which is totally inconsistent with the initial version of prosecution story as well as other prosecution witness. On the point of number of injuries, she has stated that informant sustained six injuries which is quite inconsistent with the version of PW-4.

23. PW-6 (Shiv Bachhan Rai) has stated, during the course of examination in chief, that appellant assaulted the informant by means of farsa upon his head as a result of which he sustained head injury. Co-accused Chandeshwar Singh (since deceased) assaulted the informant (PW-2) by means of rod upon his back due to which informant fell down on the ground. He further stated that co-accused Indu



Devi, Somari Devi, Shatrughan Singh (appellant), Chandeshwar Singh (since deceased), Shivnath Singh (since deceased) and others started pelting stones upon the informant (PW-2) which has neither been narrated in the initial version of prosecution story not stated in any of the prosecution witnesses.

24. The statement of PW-6 is totally inconsistent with the initial version of prosecution story as he has stated that appellant has inflicted one injury upon the head of informant and he has not pointed out other injuries caused by the appellant. PW-6 has stated that accused persons including the appellant have started pelting stones upon the informant which does not find place in initial version of prosecution story as well as in the statement of any of prosecution witnesses.

25. Apart from that, the Investigating Officer of this case has not been examined who is the material witness on the point of identifying the place of occurrence.

26. In *Behari Prasad Vs. State of Bihar* reported in (1996) 2 SCC 317, the Hon'ble Supreme Court held that though non-examination of the Investigating Officer may not always be fatal where it causes prejudiced to the accused, it



becomes a significant infirmity, as observed in the judgment which reads as under:-

"We may also indicate here that it will not be correct to contend that if an Investigating Officer is not examined in a case, such case should fail on the ground that the accused were deprived of the opportunity to effectively cross examine the witnesses for the prosecution and to bring out contradictions in their statements before the police. A case of prejudice likely to be suffered by an accused must depend on the facts of the case and no universal straight jacket formula should be laid down that non examination of investigating Officer per se vitiates a criminal trial. These appeals, therefore, fail and are dismissed. The appellants who have been released on bail should be taken into custody to serve out the sentence."

27. Applying this principle to the present matter, this Court finds that the omission to examine the Investigating Officer has, in fact, caused serious prejudice to the defence. The prosecution version suffers from contradictions and omissions in the statements of the witnesses and the only person who could have clarified or explained such contradictions was the Investigating Officer.

28. The failure to examine the Investigating



Officer also means that the place of occurrence has not been duly established. At this point, it would be relevant to take note of the decision passed by the Hon'ble Supreme Court in the case of *Syed Ibrahim versus State of Andhra Pradesh*, reported in *(2008) 10 SCC 601*, wherein it has been held that "when place of occurrence itself has not been established, it would not be proper to accept the prosecution side."

29. Apart from that, doctor, who is an expert witness, has not been examined in the present case and injury sustained by the injured has not been brought on record. In absence of examination of doctor, it is difficult to prove the injury of injured who are claiming that they have sustained injury and charges were framed under section 307 of the I.P.C.

30. *"What is necessary to constitute offence under Section 307 of IPC?"*

31. Intention under Section 307 of the IPC is not directly proven but inferred from surrounding evidence, such as the weapon used, the part of the body targeted, the nature of the injuries, the force applied, and the circumstances of the act. Since intent is a mental state, courts look at the objective actions of the accused to understand their subjective state of mind, focusing on factors like the type of weapon, how



it was used, and the location and severity of the injury.

Factors used to infer intention:-

(i) **Nature of weapon used:-** The type of weapon (e.g., a firearm, a knife, a rod) and its dangerousness can indicate intent to cause death.

(ii) **Sheet of Injury:-** The body part where the injury was inflicted is a key factor. For example, hitting the head or vital organs is a strong indicator of intent to kill.

(iii) **Nature of Injury:-** The severity and extent of the injuries are considered. Even the injury is not fatal, a severe assault with a dangerous weapon can still suggest an intent to cause death.

(iv) **Circumstances of the Act:-** The context in which the act occurred, the relationship between the accused and the victim, and the force used can all provide clues to the accused's intent. For example, a pre-planned attack with a clear motive is more likely to be considered an attempt to murder.

(v) **The Intention of Action:-** The action must be directly linked to causing death. For the offence to be made out, the act must have been done with the intention or knowledge that it would cause death, irrespective of whether death was actually caused.



(vi) **Result vs. intent :-** It is crucial to understand that Section 307 does not require death to occur. The court assesses the intention behind the act, not the result. An act that is an attempt to murder can still be charged even if the victim survives due to chance.

32. In the present case, informant (PW-2) and PW-4 have already admitted that informant was treated in Sadar Hospital, Chapra but the said treatment has not been supported by any piece of injury report. In this way, the evidence adduced by PW-2 and PW-4 do not carry any weightage in absence of any injury report.

33. In the present case, after going through the material available on record, no chit of paper regarding the injury report has been produced which reflects that the injury sustained by informant is simple or grievous or dangerous to life. Without producing any injury report, no conclusion can be drawn with regard to the intent of accused. Only the statement of informant who has stated that he was assaulted by farsa by the appellant but his statement of assaulting through farsa can only be proved if there is injury report. Without taking into account the injury report, the place of injury and number of injury cannot be proved and the statement of informant suffers



from infirmities in absence of any injury report and it cannot be taken into account as it is merely a bald statement for framing allegation against the appellant.

34. In the criminal case, place of occurrence is the specific place where the occurrence has taken place and in the light of the present case, even Investigating Officer has not been examined. The version of Informant (PW-2) clearly depicts that he was irrigating field prior to reaching the place of occurrence and he has not specifically pointed out the place of occurrence either during the course of examination-in-chief or cross-examination. PW-4 who is related with the land in question, is unable to specifically point out even khata and khesra number of his land as said land is origin point of dispute and he has not pointed out the boundary of place of occurrence. The statement of informant does not carry reliability in the light of the facts and circumstances of the case that he has not produced injury report of injury sustained by him. In this way, the statement of very star witness of this case suffer from infirmities which cannot be repaired.

35. In the present case, neither Investigating Officer nor doctor has been examined and the Court has convicted the present appellant under Section 307 of IPC, even



it is not a case of firing. In case of firing, if firing does not make any injury to a person to whom the firing is made, in that situation, firing material is necessary to prove the occurrence and in the cases of Section 307 of IPC, impossibility is not a defence. Both the physical act and intention is necessary in the cases of Section 307 of IPC and the same cannot be proved by merely a bald statement. In absence of any injury report, it is difficult to come to conclusion that as to whether the informant has sustained injury as alleged in the FIR. Neither doctor has been examined nor injury report has been produced. In the light of the facts and circumstances of the case, the statement of informant does not carry any reliability and the statement of another witnesses who are alongwith informant are quite divergent regarding the number of injuries. Even on number of injuries, two witnesses (PW-4 and PW-5) are quite divergent views and so far as inconsistencies of witnesses regarding the number of injury is quite necessary to be evaluated with the injury report which is not available on record. In the present case, the Investigating Officer has not been examined and place of occurrence has not been proved and specifically there are several infirmities and inconsistencies in the evidence of prosecution witnesses. On the same materials, evidences and



charges, two persons namely, *Indu Devi and Somari Devi* have been acquitted. The learned trial court has also not made any differentiation on the point of appreciation of evidence that how the case of present appellant is different from co-accused persons who have participated in the alleged occurrence and acquitted on the same set of facts and evidence.

36. In the light of the facts and circumstances of the case, the evidence of witnesses are quite shaky in order to prove the injury and place of occurrence is also not proved, as discussed in foregoing paragraph. In this way, the prosecution has failed to prove the case beyond reasonable doubt.

37. In the result, in my view, prosecution case suffers from several infirmities, as noticed above, and it was not a fit case where conviction could have been recorded. The learned trial court fell in error of law as well as appreciation of facts of the case in view of settled criminal jurisprudence. Hence, impugned judgment of conviction and order of sentence are hereby set aside and this appeal stands allowed. The appellant is on bail, he is discharged from the liabilities of his bail bonds.

38. The interlocutory application, if any, also



stands disposed of.

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

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

(Alok Kumar Pandey, J)

alok/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	01.12.2025.
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