

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.363 of 2024**

In

CRIMINAL APPEAL (SJ) No.5312 of 2023

Arising Out of PS. Case No.-303 Year-2014 Thana- FATEHPUR District- Gaya

CHINTAMAN PRASAD YADAV S/o Late Mahabir Yadav R/o vill- Dhanita,
P.s. - Fatehpur, Distt. - Gaya Appellant

Versus

1. The State of Bihar
2. Chhotu Yadav S/o Rameshwar Yadav R/o Mauza- Dhaneta, P.S.- Fatehpur, Gaya
3. Rajesh Yadav S/o Rameshwar Yadav R/o Mauza- Dhaneta, P.S.- Fatehpur, Gaya
4. Vijay Yadav S/o Rameshwar Yadav R/o Mauza- Dhaneta, P.S.- Fatehpur, Gaya
5. Lalu Yadav S/o Rameshwar Yadav R/o vill - Dhanita, P.S. - Fatehpur, Distt. - Gaya

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. Rajendra Narayan, Sr. Advocate Mr. Sunil Kumar Yadav, Advocate
For the State	:	Mr. Bipin Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and**

**HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL JUDGMENT**

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 24-03-2026

Heard Mr. Rajendra Narayan, learned Senior counsel for the appellant and Mr. Bipin Kumar, learned Additional Public Prosecutor for the State.

2. The present appeal arises out of the judgment of acquittal dated 31.08.2023, passed by the learned Additional Sessions Judge-IInd, Gaya (hereinafter referred to as ‘the learned trial Court’) in S.Tr. No. 469 of 2016 (S.J.), arising out of Fatehpur P.S. Case No. 303 of 2014, dated 03.09.2014 registered under Sections 341, 323, 307, 379, 504/34 of Indian Penal Code (in short ‘IPC’).



3. By the impugned judgment, the learned trial Court has convicted Lalu Yadav (A-2) for the offences under Sections 324 and 341 of IPC, he has been ordered to undergo a sentence of 2 years and one month respectively. So far as the other accused, namely, Chhotu Yadav (A-1), Rajesh Yadav (A-3) and Vijay Yadav (A-4) are concerned, all of them have been acquitted of the charges under Sections 307, 323, 341, 504/34 of IPC.

Prosecution Case

4. The prosecution case is based on written application of the informant, namely Chinataman Yadav (PW-3) that on 03.09.2014 at about 4:30 p.m., the informant after alighting from the train at Banshi Nala Railway Station proceeded towards his house. As he reached near his house, he saw that Lalu Yadav, Rajesh Yadav, Chhotu Yadav and Vijay Yadav arrived at his disputed land, which he has acquired through parwana. They indulged in the skirmish with the informant and used abusive language and assaulted the informant with *lathi* and *khanti* with intention to kill him. Due to which, the informant sustained injury on his head. After hearing his alarm, co-villagers assembled at the spot and the informant was rescued. The informant said that the reason for this incident is the intention of the accused persons to take possession of the



land, which he has acquired through parwana. It is also alleged by the informant that in between the assault accused, Lalu Yadav took Rs.2,220/- from the pocket of the informant.

5. It appears that after investigation of the case lodged by Chintaman Yadav, the police submitted charge-sheet against all four accused persons, namely, Lalu Yadav, Rajesh Yadav, Chhotu Yadav and Vijay Yadav. The learned Magistrate took cognizance of the offence of Charge-sheet No. 86 of 2015, dated 21.05.2015 for the offences under Sections 341, 323, 307, 504/34 of IPC. After completion of the formalities, finding that one of the offences alleged is triable by a Court of Sessions, the learned Magistrate committed the records to the Court of Sessions where the present trial was registered.

6. It further appears that in the trial Court, the charges were explained to the accused persons, who denied the charges and claimed to be tried. Accordingly, charges under Sections 341, 323, 307 and 504/34 of IPC.

7. In course of trial, the prosecution examined as many as five witnesses and got exhibited various documentary evidence such as the formal F.I.R, injury reports and the charge-sheet etc. The description of the prosecution witnesses and the list of documents exhibited on behalf of prosecution are provided hereunder for ready reference in a tabular form.



List of Prosecution Witnesses

PW-1	Baiju Yadav
PW-2	Kuldeep Yadav
PW-3	Chintaman Yadav (Informant)
PW-4	Dr. Uma Shankar Lal
PW-5	Radhey Shyam Jha

List of Exhibits on behalf of Prosecution

Exhibit ‘1’	Signature of informant on written application proved as PW-3
Exhibit ‘1/1’	Endorsement by then S.H.O. on the written application proved by PW-5, the I.O of this case
Exhibit ‘2’	Injury report of informant proved by PW-4
Exhibit ‘2/1’	Injury report of informant proved by PW-4
Exhibit ‘3’	Requisition for medical examination of informant proved by PW-5
Exhibit ‘4’	Formal charge-sheet proved by PW-5
Exhibit ‘5’	Formal FIR proved by PW-5
Exhibit ‘6’	Order dated 23.05.2021 of A.D.M., Gaya wherein <i>status-quo</i> of person of Chintaman Yadav was upheld.

8. The statement of the accused persons was recorded under Section 313 Cr.P.C. (now Section 351 of BNSS), they claimed innocence.

9. On behalf of defence, one defence witness Siya Saran Prasad was examined. The defence exhibited a certified copy of counter F.I.R of Fatehpur P.S. Case No. 304/2014 dated



03.09.2014 (Exhibit-A), certified copy of charge-sheet no. 332 of 2014 dated 31.12.2014, FIR of Fatephur P.S. Case No.304/2014 (Exhibit-B) and certified copy of *Parwana* from office of Circle Officer, Tankuppa Gaya (Exhibit-C).

Findings of the Learned Trial Court

10. Learned trial court having examined and analyzed the entire evidences available on the record, came to a conclusion that in this case the prosecution has not established its case against A-1, A-3 and A-4. It has been held that the charges framed with the aid of Section 34 of IPC could not be substantiated and proved by the producing and convincing evidences on the record. The active participation of the accused persons (A-1, A-3 and A-4) have not been shown and in absence of their being a prior meeting of mind to the commit offence of attempt of murder, of the informant, they cannot be held guilty.

11. The Court further found that the occurrence has taken place because of the land dispute, therefore, there may be an attempt on the part of the informant to implicate other supporters members of the accused persons. In these circumstances, the charges levelled against Rajesh Yadav, Chhotu Yadav and Vijay Yadav, held and they have been given benefit of doubt.

12. The learned trial Court has, however, convicted



Lalu Yadav (A-2) for the offence punishable under Sections 324 instead of Section 307/34 of IPC. The learned trial Court has held that in this case the place of occurrence and the scuffle between the informant and the accused Lalu Yadav is proved beyond all reasonable doubt. The allegation of assault, brought on record, is only against Lalu Yadav. The previous land dispute is an admitted fact but the prior meeting of minds of the accused persons could not be proved. It has been held that act of the assailant Lalu Yadav is qualified for allegation of charge under Section 324 IPC. In these circumstances, the said accused Lalu Yadav (A-2) has been convicted and sentenced as stated at top of this judgment hereinabove.

Submission on behalf of appellant

13. While assailing the impugned judgment, the learned Senior Counsel for the appellant submits that the learned trial Court would not properly appreciated the evidences available on the record and has committed gross error in acquitting all other accused persons of the charges levelled against them. It is also contended that the learned trial Court has instead of convicting Lalu Yadav (A-2) under Section 307 of IPC, convicted him only under Section 324 of IPC, which is not justified.



Submission on behalf of State

14. On the other hand, learned Additional Public Prosecutor for the State submits that in this case, the learned trial Court has properly appreciated the entire evidences available on the record and has rightly concluded the findings.

Analysis and Consideration

15. Having heard learned Senior counsel for the appellant and learned Additional Public Prosecutor for the State. We have also gone through the evidences available on the record. In this case, the star witness is the informant himself who has been examined as P.W.3 and whose testimony has been discussed by the learned trial Court in detail. The testimony of the injured witness (P.W.3) and that of the doctor (P.W.4) are to be analyzed together.

16. We have noticed on going through the evidences on the record that the injured Chintaman Yadav (P.W.3) has himself stated that it was Lalu Yadav (A-2), who had assaulted him by a *khanti* on his head. So far as the involvement of other accused persons are concerned, this witness has specifically stated that nobody had assaulted him by *lathi*. We have also noticed that the injury on the thumb of the informant has not been brought on the record in course of trial. We have also noticed from the deposition of the doctor (P.W.4) that he has found one lacerated wound 5 cm x 1½ cm into scalp deep



over interior part of head. This injury is called hard and blunt substance within six hours. The injury has been found dangerous to life and grievous in nature.

17. P.W.4 has proved the hand written injury report as Exhibits '2' and '2/1' respectively. We, therefore, find that in this case only one injury was found on the head of the informant (P.W.3). The learned trial Court has though recorded in the impugned judgment that two injuries were found on the body of Chintaman Yadav (P.W.3), but from the injury report, which is available on the record and the deposition of the witness (P.W.4), we do not find so. However, it is an admitted position that in the evidence of the informant and injured (P.W.3) that it was Lalu Yadav (A-2), who had assaulted him by *khanti*. The trial Court has not found any evidence of pre-concert of mind among the accused persons to commit an offence of attempt to murder.

18. In an appeal against acquittal, we are of the considered opinion that the finding of the learned trial Court cannot be interfered with unless the Appellate Court comes to an irresistible conclusion that the accused person are guilty of commission of the offence. We are unable to reach to such a



conclusion. In these circumstances, this appeal having no merit, is dismissed.

19. This Court would make it clear that all observations and findings of this Court are limited to the acquittal of the accused. So far as conviction of Lalu Yadav (A-2) under Sections 324 and 341 of I.P.C. is concerned, we have not gone into any of the aspects of his conviction, therefore appeal, if any, preferred by him against his conviction would be considered without being influenced by the observations of this Court in the present appeal.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

Anand/ Harsh/-

AFR/NAFR	NAFR
CAV DATE	NA
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