

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.280 of 2005

1. Birendra Bahadur Singh (Abated vide order by Hon'ble court dated 06-12-2025) son of Late Bishwanath Singh Resident of village- Sahengi, Ps- Agiaon, (Garhani), Dist- Bhojpur
2. Banarasi Singh (Abated vide order by Hon'ble court dated 06-12-2025) son of Late Awadhesh Singh Resident of village- Sahengi, Ps- Agiaon, (Garhani), Dist- Bhojpur
3. Sri Bhagwan Singh son of Late Awadhesh Singh Resident of village- Sahengi, Ps- Agiaon, (Garhani), Dist- Bhojpur
4. Mantu Singh son of Shri Sri Bhagwan Singh Resident of village- Sahengi, Ps- Agiaon, (Garhani), Dist- Bhojpur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Baxi S.R.P. Sinha, Sr. Advocate Mr. S. Nand Singh, Advocate Mr. Mukund Kumar, <i>Amicus Curiae</i>
For the Respondent/s	:	Mrs. Anita Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT

Date : 11-02-2026

At the outset, it is pertinent to mention that vide order dated 06.12.2025 the present appeal already stands abated with respect appellant No. 1 Birendra Bahadur Singh and appellant No. 2 Banarasi Singh and now the appeal is confined with respect to appellant No.3 Sri Bhagwan Singh and appellant No. 4 Mantu Singh.

2. Heard learned Senior Counsel as also learned *Amicus Curiae* appearing on behalf of the appellants and



learned A.P.P. for the State.

3. The present appeal is directed against the judgment of conviction and order of sentence dated 25.4.2005 passed learned Addl. Sessions Judge-cum-Presiding Officer of F.T.C. IInd, Ara in Sessions Trial No. 267 of 1999, whereby and whereunder appellants Birendra Bahadur Singh (since deceased), Banarasi Singh (since deceased), Sri Bhagwan Singh and Mantu Singh have been convicted under Sections-323, 325 and 34 of I.P.C. and they have been sentenced to undergo R.I. for six months under Section-323 of I.P.C. and R.I. for three years under Section-325/34 of I.P.C. and the sentences have been ordered to run concurrently and the trial court has acquitted the appellants from the charges under Sections- 307 and 341 of I.P.C.

4. According to the fardbeyan of informant-cum-victim recorded at Sadar Hospital, Ara at 21 hours early in the morning, the occurrence is of 07.06.1999 at about 06:00 a.m. The informant's younger brother (appellant No.1) Birendra Bahadur Singh (since deceased) was sitting near Guava tree which was situated at a distance of 5-6 metres from the house of the informant. When the informant came out of the house, appellant Birendra Bahadur Singh asked



him as to why he had executed a deed of gift in the name of his daughter-in-law. Informant stated that he had executed the same out of his share, whereupon appellant Birendra Bahadur Singh began to abuse the informant and upon hearing the voice of Birendra Bahadur Singh, appellants Banarasi Singh, Sri Bhagwan Singh and Mantu Singh, armed with lathi and danda came there and started abusing him. Upon exhortation of Banarasi Singh, all the appellants assaulted the informant with lathi and danda on his head causing head injury. Appellant Birendra Bahadur Singh gave two lathi blows on the head of the informant and on hearing the alarm raised by the informant when the informant's wife came there, it is alleged that Geeta Devi (not sent up for trial), wife of appellant Birendra Bahadur Singh caught hold of her hair and thrashed her on the ground causing head injury and appellants are alleged to have snatched gold chain from the informant and his wife.

5. On the basis of fardbeyan of informant, Agiaon Garhani P.S. Case No. 31/1999 was registered on 15.06.1999 under Sections- 341, 325, 323, 379, 504/34 of I.P.C. and routine investigation followed, statements of witnesses came to be recorded and after completion of



investigation, charge-sheet has been submitted under Sections- 341, 323, 325, 307, 504/34 of I.P.C. against the appellants/accused. Police has not submitted charge-sheet against accused Geeta Devi and she has been discharged from the case vide order dated 04.10.1999 passed by learned C.J.M. Cognizance was accordingly taken against the appellants. The case was committed to the court of sessions on 01.12.1999 and charge has been framed on 20.01.2001 under Sections-323, 307/ 34 and 341 of I.P.C. to which they pleaded not guilty and claimed to be tried.

6. In order to bring home the guilt of the accused persons, the prosecution has produced all together 7 witnesses. P.W. 1 Hridaya Nand Singh, P.W. 2 Nawaliq Singh, P.W. 3 Gangajala Devi, wife of informant, P.W. 4 Jyoti Prasad Singh, informant-cum-victim, P.W. 5 Ram Shreshth Ram, I.O., P.W. 6 Dr. Birendra Kumar Rai and P.W. 7 Bishwanath Prasad.

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

Ext. 1, Signature over fardbeyan;

Ext. 2, Formal F.I.R.;

Ext. X and X/1, Photo, attested copy of injury report of Jyoti Prakash Singh and Gangajala Devi;

Ext. 3, Carbon copy of injury report of Jyoti Prasad;



Ext. 3/1 Carbon copy of injury report of Gangajala Devi;

8. Defence has also produced three witnesses, D.W. 1 Saryu Pandey, D.W. 2 Raj Narayan Chaudhary and D.W. 3 Tarkeshwar Prasad. Defence has also relied upon the following documentary evidence:-

Ext. A, Fardbeyan G.R. No. 1392/99/Tr. No. 865/03;

Ext. B, Formal F.I.R. G.R. No. 1392/99/Tr. No. 865/03;

Ext. C, The written information by Jyoti Prasad Singh;

Ext. C/1, Endorsement for registering Sanha on the written information;

Ext. C/2, Sanha No. 131 dated 07.06.1999 in the Sanha Register;

Ext. D, C.C. of injury report of Geeta Devi;

Ext. D/1, C.C. of injury report of Birendra Bahadur Singh.

9. 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.

10. After hearing the parties, the learned trial court convicted the appellants and sentenced them as indicated in the 2nd paragraph of the judgment.

11. Following submissions have been made on



behalf of learned senior counsel on behalf of the the appellants:-

12. Learned senior counsel appearing on behalf of the appellants submitted that he confines his submission only to the quantum of sentence as awarded by the learned trial court. He has submitted the appellants are having no criminal antecedent and the informant and appellant Birendra Bahadur Singh are full brothers and the nature of dispute clearly indicates that appellant Birendra Bahadur has asked the question regarding the gift deed which has been executed by the informant in favour of his daughter-in-law. In this way, there is a dispute which is related with the family arrangement and the appellants have disputed the family arrangement and the dispute culminated, giving birth to tussle between both sides and there was nothing on record which entails that appellants had intention to cause any injury upon the informant rather the incident has taken place on the spur of moment and appellants have already suffered a lot while facing the trial since the date of institution of F.I.R. dated 15.06.1999. In this way, near about 26 years have already elapsed in facing the criminal trial and appellants have suffered a lot and during the



course of trial two appellants have already died regarding which report has already been given by S.P., Bhojpur at Ara and appellants have already spent about one month in jail custody and appellant Sri Bhagwan Singh has already crossed the age of 69 years and being a senior citizen, he has suffered a lot in facing the trial and appellant Mantu Singh is also 45 years old and they have been sufficiently punished by way of facing trial for so many years and if the sentence of the appellants is reduced to the period already undergone by them, it would meet the ends of justice.

13. Learned Amicus Curiae has endorsed the submissions advanced by the learned senior counsel for the appellants.

14. Learned APP for the State has submitted that informant and his wife, who are victims, are the star witnesses of this case. The presence of informant at the place of occurrence cannot be disputed as he has suffered six injuries upon his body and injury No.5 was found to be grievous. Rest of the injuries are simple in nature and informant's wife (P.W. 3) has sustained two injuries upon her body. Both the injuries are simple in nature. The statements of informant (P.W. 4) and his wife (P.W. 3) are



quite in consonance with the evidence of P.W. 6, who is the doctor and the case of prosecution has been proved by the statements of victims as well as injury report of the doctor. He further submits that the I.O. (P.W.5) has identified the place of occurrence and there are sufficient materials available on record to prove the prosecution-case. The concerned Court has analyzed all the evidences of witnesses, including the statements of the victims and passed the impugned judgment. In this way, the judgment of conviction passed by the concerned Court is justified and legal. However, learned A.P.P. for the State has also conceded that appellants have already suffered a lot while facing the criminal trial since 1999 and though maximum punishment awarded by the concerned Court is 3 years, appellants have no criminal antecedent and appellants have already spent near about one month in custody and they have been punished sufficiently.

15. The question which arises for consideration is:

“Whether offence under Sections-323 and 325/34 of I.P.C. is made out in the light of given facts and circumstances of the case or not?”

16. 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.

17. It is necessary to analyze and screen out the evidences of prosecution-witnesses adduced before the trial court.

18. P.W. 4 Jyoti Prasad Singh is the informant himself and he is also a 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.

19. According to informant, the occurrence took place on 7.6.1999 at about 6:00 a.m. in the morning. He has stated that he came out of his house and saw that Birendra Bahadur was standing near the Guava tree. He (Birendra Bahadur) asked the informant as to why he had gifted the land to his daughter-in-law upon which the informant replied that he had gifted his share and not the share of Birendra Bahadur upon which Birendra Bahadur started abusing the informant. On hearing the voice of Birendra Bahadur, Banarasi Singh and Sri Bhagwan Singh came with lathi. On the exhortation of Banarasi, Birendra assaulted the



informant on his head with lathi due to which the informant sustained head injury. When informant's wife came to his rescue, Sri Bhagwan Singh assaulted with lathi on her head due to which she sustained head injury. Mantu Singh assaulted on the left leg and arm of the informant with lathi, as a result of which informant fell down. When the villagers came, accused persons fled away. The leg of the informant was broken and he was treated at Sadar Hospital.

20. From the analysis of evidence of P.W. 4/informant, it is crystal clear that he has supported the time of occurrence, manner of occurrence and 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. 4 cannot be disbelieved in the light of the facts as discussed above.

21. P.W. 3 Ganajala Devi is the wife of the informant and she is also an injured witness of the case. She



has supported the manner of occurrence, time of occurrence and place of occurrence and her version is also quite consistent with the initial version of prosecution-story on the point of assault. She has stated that Birendra Bahadur started assaulting her husband/P.W. 4 with danda, as a result of which her husband sustained injury on his forehead. Thereafter, Banarasi, Sri Bhagwan and Mantu Singh also came with danda. On exhortation of Banarasi, Sri Bhagwan and Mantu assaulted the informant with danda upon his left leg and left shoulder. When informant's wife went to save the informant, Sri Bhagwan assaulted on her head as a result of which she sustained head injury. There is no reason to disbelieve her version which is quite consistent with the statement of P.W.4/informant 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-story and during trial the statement of P.W. 3 is quite consistent with the statement of P.W. 4 on the point of assault. In this way, her presence at the place of occurrence cannot be denied.

22. P.W. 5 Ram Shresth Ram is the Investigating Officer of the case. He has stated that he had investigated



the present case and inspected the place of occurrence which the joint house of both sides. He recorded the re-statement of informant/PW-4 as well as statements of other witnesses. He received the injury reports of injured and mentioned the same in the case diary and after completion of investigation, he submitted charge-sheet against the appellants. Thus, he has supported the version of prosecution on the point of place of occurrence.

23. 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 is the door of the informant. Further, P.W. 4 has narrated the story of prosecution and explained the manner of occurrence, place of occurrence and time of occurrence and his statement is quite consistent throughout his evidence and there is no reason to disbelieve the version of prosecution-witnesses as two witnesses are injured witnesses whose presence at the place of occurrence cannot be disbelieved and the concerned Court has elaborated and explained the details and reached to the conclusion that prosecution has proved the case beyond reasonable doubt and convicted the appellants.

24. P.W. 6/Dr. Birendra Kumar Rai has stated that



on 07.06.1999 he was posted as a Medical Officer, Sadar Hospital, Ara. On that date he examined Jyoti Prasad Singh/informant and found the following injuries:-

(i) Lacerated wound 1(1/2)" x 1/4" x scalp deep over frontal region of head left to mid line.

(ii) Lacerated wound 1" x 1/4" x skin deep over interdigital cleft between thumb and index finger of left hand with swelling over dorsum.

(iii) Bruise 3"x1" over left lateral aspect of left leg in middle.

(iv) Bruise 3"x1" over lateral aspect of left leg above injury No.3.

(v) Bruise 2"x1" over lateral aspect of left ankle.

(vi) Bruise 4"x1" over lateral aspect of left gluteal region.

Type of injury – Injury no. (i), (ii) and (v) opinion reserved till X-Ray report. Injury No (iii), (iv) & (vi) simple in nature. Type of weapon- All by hard & blunt substance such as lathi. Time since injury within 6 Hours.

On the basis of X-ray report, injury No. (i) and (ii) are found simple in nature & injury No. (v) has been found grievous in nature.



24.1. He has further stated that on same date at 10.40 A.M. he examined Gangajala Devi, wife of Jyoti Prasad Singh and found the following injuries on her person;

(i) Lateraled wound 2½"x1½"x Scalp deep over back of head.

(ii) Bruise 4" x 1" over left scapulae region.

Type of injury – Injury No. 1 reserved till X-Ray report, Injury No. 2 simple in nature. Nature of weapon-Hard and blunt substance such as lathi. Age of injury within 6 hours. On the basis of X-ray report, injury No. 1 is found simple in nature.

25. P.W. 6/doctor is an expert witness and his evidence on the point of nature of injury and number of injury cannot be disbelieved. The statement of informant/victim who has suffered injury on the head, left leg and arm and the statement of P.W. 3 who has also suffered injury on her head, have been corroborated by the doctor (P.W. 6) on the point of assault.

26. P.W. 7 is a formal witness and his evidence is of no significance in the light of the facts and circumstances of the case. From perusal of evidence of P.W. 1 and P.W. 2,



it is evident that they arrived at the place of occurrence after the incident had taken place and they found the informant and his wife in injured condition. Thus, on the point of injury, statements of P.W. 1 and P.W. 2 cannot be disbelieved in view of the evidence adduced by the doctor (P.W. 6).

27. Defence has examined three witnesses and also produced some documentary evidence. Accused/appellants have taken the defence that at the relevant place of occurrence, both sides sustained injury as there was land dispute between both sides and genesis of occurrence is already admitted by prosecution side as there was no partition between both the sides by metes and bounds. Though accused/appellants have taken the said defence but they have failed to give any supporting document in support of their defence. The doctor has not been examined on behalf of the defence to prove that they have sustained injury. There is only forwarding letter regarding the injury which is having no substance. In absence of cogent evidence, the version of defence is meaningless.

28. In the light of given facts and circumstances



of the present case, it is found that the informant, who sets the initial version of story of prosecution into motion by recording the fardbeyan (Ext. 1) and from perusal of Ext. 1, it is crystal clear that informant and his wife are the two victims of the alleged occurrence. The informant has given graphic detail as to how he has suffered the injury at the hands of appellants and he has also asserted how the wife of informant sustained injury during the course of occurrence and both have supported and corroborated the story of prosecution regarding manner of occurrence, place of occurrence and time of occurrence throughout their evidence and on the point of assault, their evidence is quite consistent with the initial version of prosecution-story and their presence at the place of occurrence cannot be disbelieved. The statement of doctor, who has given the opinion regarding the injury, specifically corroborated the version of prosecution story as discussed in foregoing paragraph. So far as the duration of injury, number of injury, place of injury and weapon used in causing injury are concerned, opinion of the doctor (P.W. 6) is quite consistent with the story of prosecution. Other witnesses, P.W. 1 and P.W. 2, though they are not eye-witnesses of the



alleged occurrence but their statement is quite consistent on the point that the informant/P.W. 4 and his wife/P.W. 3 sustained injury and they found informant and his wife in injured condition. In this way, statement of informant/P.W. 4 is quite reliable and inspires confidence which is corroborated and supported by the doctor who has examined the injury and statement of informant's wife/P.W. 3 has also corroborated and supported the initial version of prosecution-story. PW-5 is the investigating officer of the case. He has visited the place of occurrence and obtained the injury reports of the injured witnesses of this case. In this way, the prosecution has proved its case beyond reasonable doubt.

29. 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.

30. 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.

31. So far as order of sentence in respect of appellant No. 3 Sri Bhagwan Singh and appellant No. 4 Mantu Singh is concerned, from perusal of record it is evident that occurrence is of the year 1999 and appellants have already suffered about 26 years in litigation and they have suffered mental agony of facing the trial since 1999 and they have lost their precious time being a first offender.



The appellants have remained in judicial incarceration for one month. Hence, to put the appellants in jail for remaining period is too harsh as appellant No. 3 Sri Bhagwan Singh has already crossed the age of 69 years and being a senior citizen, he has suffered a lot in facing the trial. Hence, 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.

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

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

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

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

36. Before parting with the judgment, I appreciate the legal assistance rendered by Mr. Mukund Kumar, learned *Amicus Curiae*. Patna High Court Legal Services Committee is directed to pay a sum of Rs. 5000/-



(five thousand) to Mr. Mukund Kumar, learned *Amicus Curiae*, as consolidated fee for the legal assistance rendered by him 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	18.02.2026
Transmission Date	18.02.2026

