

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.22 of 2019

Arising Out of PS. Case No.-226 Year-2015 Thana- AKBARPUR District- Nawada

Md. Ahsan Alam son of Syed Maksood @ Syed Maksood Alam @ Md. Maksood Resident of Village - Pachrukhi, P.S.-Akbarpur, District-Nawada
... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 3 of 2019

Arising Out of PS. Case No.-226 Year-2015 Thana- AKBARPUR District- Nawada

Md. Amir Hassan @ Amir Hassan son of Md. Maksood Resident of village- Pachrukhi, P.S- Akbarpur, Dist- Nawada
... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (DB) No. 22 of 2019)

For the Appellant/s : Mr.Shahabuddin Azeem @ S. Azeem

For the Respondent/s : Mr.Sri Shivesh Chandra Mishra

(In CRIMINAL APPEAL (DB) No. 3 of 2019)

For the Appellant/s : Mr.Shahabuddin Azeem @ S. Azeem

For the Respondent/s : Mr.Sri Dilip Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

and

HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)

Date : 22-04-2026

Both the appeals challenged the judgment of conviction and order of sentenced passed in Sessions Trial Nos.415 of 2016/319 of 2016, arising out of Akbarpur P.S. Case No.226 of 2015 on 09.10.2018, whereby and whereunder, the learned Additional Sessions Judge, 2nd Court at Nawada



convicted both the appellants under Section 235(1) of the Cr.P.C. and sentenced them as follows:-

“accused Md. Ahsan Alam is sentenced to imprisonment for life and fine of Rs.1,00,000/- (One lakh) for the guilt of offence under section 326A I.P.C. Further accused Md. Ahsan Alam is sentenced to imprisonment for life and fine of Rs.20,000/- (Twenty thousand) for the guilt of offence u/s 307 I.P.C. Further accused Md. Ahsan Alam is sentenced to 14 (fourteen) years rigorous imprisonment with fine of Rs.20,000/- (Twenty thousand) for the guilt of offence u/s 458 I.P.C. Accused Ahsan Alam is sentenced to five years rigorous imprisonment and fine of Rs.20,000/- (Twenty thousand) for the guilt of offence u/s 354 I.P.C.

Accused Amir Hasan is sentenced to imprisonment for life and fine of Rs.1,00,000/- (One lakh) for the guilt of offence under section 326A I.P.C. Further accused Amir Hasan is sentenced to imprisonment for life and fine of Rs.20,000/- (Twenty thousand) for the guilt of offence u/s 307/34 I.P.C. Further accused Amir Hasan is sentenced to rigorous imprisonment of 14 (fourteen) years and fine of Rs.20,000/- (Twenty thousand) for the guilt of offence u/s 458 I.P.C. Further accused Amir Hasan is sentenced to rigorous imprisonment for 05 (five) years and fine of Rs.20,000/- for the guilt of offence u/s 354/34



I.P.C. All the sentences shall run concurrently. Fine imposed in this case to both accused shall be paid as compensation to victim Soni Parveen who is in need of life long help of others and medical aid during whole life.”

2. Brief facts leading to filing of the instant appeal are as follows :-

“Akbarpur P.S. Case No.226 of 2015 dated 14.09.2015 under Section 448/354/307/326(A)/34 of the I.P.C. was registered on the basis of a statement made by one Md. Gayas Khan before S.I. S.N. Chaudhary of Town police station deputed at Sadar Hospital, Nawada at about 02:00 P.M. stating, inter-alia, that on 13.09.2015 at about 10:00 P.M. he along with his family members went to sleep after taking dinner. Her two daughters, namely, Soni Parveen and Afsari Parveen were lying on the cot in a room and his wife and youngest daughter, namely, Kajal were sleeping on a cot (चारपाई). The informant was sleeping with his son, Afsar on the Varandah in front of the said room, where the above-named persons were sleeping. The door of the room was open. At about 11:45 p.m. two neighboring young man, namely, Md. Ahsan Alam and Balal trespassed into his house and unauthorizedly entered into the room, where his wife and daughters were sleeping, then they threw acid on



the body of Soni Parveen causing grievous burn injury upon her person, when acid was thrown on her body some portion of acid was sprinkled over the body of the younger daughter of the informant, namely, Afsari. As a result, both of them received tremendous burning sensation and woke up and raised hue and cry, which attracted the informant. He saw that the above-named two accused persons were fleeing away from his house. He chased them from behind upto the entrance door of his house, but they managed to flee away. The informant returned to the room i.e. the place of occurrence, because his daughters were screaming. The informant also raised hue and cry which attracted local people, they arranged for a four wheeler and the informant brought both her injured daughters to the hospital. On the date of giving Fardbeyan they were under medical treatment. It is also stated by the informant in his Fardbeyan that accused Md. Ahsan used to contact his daughter Soni Parveen over phone for a year long, over the said incident a Panchayat Meeting was held. In the said Panchayat meeting a quarrel broke out between the informant and the accused persons. In order to take revenge of the said incident, they committed the offence. The informant also stated that on the date of occurrence in the evening, the accused persons asked the son of the informant where the family members of the informant used to sleep. He did not give any reply to such question.



3. The oral statement of the informant was reduced to writing treated as an F.I.R. and formal F.I.R. was drawn under Section 154 of the Cr.P.C. The SHO Akbarpur Police Station himself took up the case for investigation.

4. On completion of investigation, police submitted charge-sheet against the above-named two accused persons and one Md. Belal (still absconding) under section 448, 354, 307, 326(A)/34 of the I.P.C.

5. Since, the offence under Section 307 and 326(A) of the I.P.C. were triable exclusively by the Court of Sessions, the case was committed by the learned Chief Judicial Magistrate, Nawada to the Court of the learned Sessions Judge, Nawada. Subsequently, the case was transferred to the 2nd Court of the learned Additional Sessions Judge at Nawada for Trial and disposal.

6. The learned Trial Judge framed charge against the accused persons under Section 458, 326(A)/34, 354/34 of the I.P.C. as well as 307/34 I.P.C against the accused persons. The charge so framed was read over and explained to them to which they pleaded not guilty, accordingly, Trial of the case commenced.

7. In order to bring the charge against the accused



persons, the prosecution examined as many as seven witnesses. Amongst them, PW-1, Afsari Khatoon is the daughter of the informant, who on the faithful date of occurrence was sleeping with her elder sister Soni Parveen in the room of the informant. She also received injuries by Acid attack; PW-2, Nuresha Khatoon is the wife of the informant; PW-3, Md. Gayas Khan is the informant; PW-4, Soni Parveen is the principal injured, who received severe burn injuries due to Acid attack and she finally survives after prolonged treatment in Patna Medical College and Hospital and also in Safdarjung Hospital, Delhi. It is found from the record that the cost of her treatment was borne by the State Government. PW-5 was Md. Bakar Ahmad is one of the neighbours of the informant; PW-6, Dr. Ajay Kumar is the Medical Officer, who initially treated the injured girls; PW-7, Ranjeet Kumar is the Investigating Officer of this case.

8. Defense case as disclosed from the cross-examination of the witnesses on behalf of the prosecution and examination of the accused persons under Section 313 Cr.P.C., appears to be complete denial and false implication of them by the informant.

9. In support of the defense, the appellants examined six witnesses. Amongst them DW-1 to DW-5 are local witnesses



and DW-6 is a Medical Officer of Akbarpur Primary Health Centre. It is the specific defense of the accused persons that the daughters of the informant received burn injury by acid attack by one Arif. However, due to the village dispute and enmity between the informant and the accused persons, they were falsely implicated. It is also stated that the name of appellant Md. Amir Hassan @ Amir Hassan was not even stated in F.I.R. He was falsely implicated long after the institution of the case, on the basis of a statement made by victim under Section 164 of the Cr.P.C. Thirdly, in respect of Md. Ahsan Alam against a specific case was made out that on the date of occurrence, the above-named appellant was attacked and injured by an Ox and he received injury on his leg. He was medically treated in the local Medical Health Centre. He was not in a position even to move on the date of occurrence. Moreover, he was mentally ill and once he tried to commit suicide by drowning in a well. The appellants were not at all involved in the incident. However, they were falsely implicated in this case.

10. The learned Advocate on behalf of both the appellants have placed the evidence adduced by the witnesses on behalf of the prosecution in detail, in order to show inherent contradictions in the evidence of the witness on behalf of the



prosecution.

11. It is contended by him that PW-1, PW-2, PW-3 & PW-4, all are members of the family. They are absolutely interested and inimical against the appellants. Therefore, the appellants were falsely implicated in this case.

12. In order to substantiate his contention, it is submitted by him that admittedly when the above-named witnesses were sleeping, when the victim namely, Soni and Afsari received acid attack and injuries, the victims were sleeping inside a room. From their evidence, it is found that they woke up after receiving injuries. Thus, none of the victims saw any of the appellants actually committing the offence. In the absence of such evidence, the appellants were implicated only on circumstantial evidence. There is no eye witness account of the incident. It is stated by both the victims that as soon as they felt burning sensation on their persons, they woke up and saw the appellants.

13. It is needless to say that while a person is sleeping in a room, the room is kept in dark. There is no specific evidence coming from the witnesses on behalf of the prosecution that the victims and the wife of the informant saw the appellants committing the offence.



14. The learned Advocate on behalf of the appellants next drew our attention to the cross-examination of PW-2- Nuresha Khatoon, who is mother of the victim. The specific suggestion was put to her that at the time of occurrence, there was no electricity and it was a low shade. Therefore, it was not possible for her or anybody to identify the accused persons. After hearing the scream of the victims, she lit a lighter and found her elder daughter Soni turning black receiving acid injuries. Therefore, PW-2 cannot be a witness of the incident of throwing acid over her daughters.

15. Even if the evidence of PW-3, Md. Gayas Khan is accepted on his face value, he saw the accused persons fleeing away from his house. Now a specific question is raised that if some outsiders entered into the house of another and thereafter, flee away it cannot be said that they entered into the house to commit acid attack injury on the persons of the family members of the informant. There may be other reasons like committing theft or any other offence by the trespassers, but in the absence of specific evidence in this regard, the learned Trial Judge was wrong to hold both the accused persons guilty for committing offence under the sections, in which they were charge. Thirdly, it is submitted by the learned Advocate for the accused/



appellants that from the evidence of PW-1 it appears that the informant and the victims went first to the police station and thereafter, to the District Hospital, Nawada. PW-1 also stated that in the police station they met the police officer. According to the learned Advocate for the appellants, when the informant made the police officer for the first time before going to the hospital, there must have been some statement made by him to the police officer, which ought to have been treated as the First Information Report. Withholding of the initial statement about the incident makes the prosecution case doubtful and the foundation of the prosecution case is shaken. Thus, it is concluded by the learned Advocate on behalf of the appellants that the prosecution failed to prove all circumstances, which may be treated as hypothesis to the guilt of the appellants. Therefore, the appellants are entitled to get benefit of doubt.

16. The learned Advocate on behalf of the prosecution, on the other hand, submits that prosecution has been able to bring home the charge against the accused persons. The prosecution has also proved the motive behind the acid attack because appellant Md. Ahsan Alam wanted to marry Soni, but Soni refused his proposal and over the said incident a Panchayat meeting was held. In spite of such settlement by the



Panchayat, the principal appellant-Md. Ahsan Alam wanted to marry Soni. Since, she refused to marry him, she received an unfortunate fate and practically her appearance was disfigured by acid attack.

17. The learned Advocate on behalf of the informant has also supported the prosecution case.

18. Having heard the learned Advocates for the parties and on perusal of the materials on record, we are of the view that this is a case absolutely of circumstantial evidence. The golden rule of probity of circumstantial evidence has been laid down in ***Sharad Birdhichand Sarda Vs. State of Maharashtra***, reported in (1984) 4 SCC 116 in the following words:-

“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned "must or should" and not "may be" established. There is not only a grammatical but a legal distinction between "may be proved" and "must be or should be proved" as was held by this Court in Shivaji Sahabrao Bobade v. State of Maharashtra where



the observations were made: [SCC para 19, p. 807: SCC (Cri) p. 1047]

"Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency,

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."

19. These five golden principals was subsequently followed by the Hon'ble Supreme Court in ***Abdul Nassar Vs. State of Kerala***, reported in ***2025 INSC 35***.

20. In the instant case, the following circumstances are found to be proved. Md. Ahsan Alam wanted to marry



victim Soni. There is no cross-examination by the defense to challenged the said claim by the witness. Secondly, it is sufficiently proved by the witnesses on behalf of the prosecution that even on the date of occurrence in the evening, Afsari Khatoon was threatened by the accused persons saying that Soni would have to marry Md. Ahsan Alam. Soni did not agree. Therefore, Md. Ahsan Alam had grudge against Soni.

21. Another important circumstance is that the incident took place at about 11:45 P.M. in village Pachrukhi within Akbarpur police station. At the point of time, the informant, victims and all other members of the family were sleeping. Both the victims stated on oath that a lantern was burning inside their room and as soon as they received burning sensation, they woke up and saw the accused persons. It is very natural that a person will wake up within a split of second from sleep receiving tremendous burn injury by acid attack. Thus, it is very probable and possible to see the accused persons inside the room of the victims. Thirdly, beside the victims, no evidence is forthcoming that any third person entered into the said room to commit any such offence.

22. In course of cross-examination of the victims by the defense, it was not suggested that the room where the



victims received acid attack was dark; there was no source of light or that lantern was not burning in the said room. In the absence of such cross-examination, we have no reason to disbelieve the evidence of the PW-1 and PW-4 regarding source of light and identification of the accused persons by them.

23. In *State of U.P. Vs. Hari Prasad & Ors.*, reported in *1974 AIR 1740*, the accused took a defense that as the deceased was sleeping inside a room and there was no source of light it was not possible for him to identify the deceased and committed murder.

24. The Hon'ble Supreme Court observed that it was difficult to disbelieve that though a lantern was burning just near the place where Vishwanath, deceased, was sleeping, the accused were unable to identify him. They knew Vishwanath intimately and it is highly unlikely that they would commit a mistake of such a grave nature. Indeed, if the various eye-witnesses were able to identify the accused in the light of the lantern, the accused should have been able to identify Vishwanath.

25. In the instant case, appellant-Md. Ahsan Alam was previously known to the victim. According to the prosecution case, he wanted to marry PW-4-Soni Parveen. Both the appellant-Md. Ahsan Alam and the victim reside in the same



village. Therefore, we have no hesitation to hold that the appellant-Md. Ahsan Alam was identified in the light of the lantern.

26. Identification in the light of lantern was also held to be proved in the subsequent decisions by the Supreme Court in *Dina Vs. State of U.P.*, reported in *AIR 1978 SC 1605*, *Nath Singh Vs. State of U.P.*, reported in *1980 SCC (Crl) 968*.

27. In *State of U.P. Vs. Manohar Lal*, reported in *AIR 1981 SC 2073*, all the accused were known persons. Two of the eye witnesses had opportunity of seeing the accused persons from a very close distance. On such factual background, the Hon'ble Supreme Court held that even if there is no sufficient light they could have been identified by voice, by gait and by their features. This observation by the Hon'ble Supreme Court is absolutely applicable in the instant case. As the appellant-Md. Ahsan Alam was well known to the victims, they had no difficulty to identify him.

28. Though the learned Advocate on behalf of the appellants strenuously urged that the mother of the victim told that there was no electricity at that point of time and after hearing the scream of her daughters she lit the lantern, but the fact remains the above fact was suggested to the said witness



which she denied, meaning thereby she also supported the evidence of the victims with regard to identification.

29. On the issue of identification, the evidence of PW-3, Md. Gayas Khan is that when he woke up he saw the accused persons fleeing from his room. The said fact was not challenged by the defense. There is no explanation as to why the appellants entered into the said room. PW-5 is an independent witness, who also stated that on the date and time of occurrence, he came out from her house to ease himself and saw the accused persons fleeing away. There is no reason to disbelieve the evidence of PW-5. The extent of acid attack injury has been fully described by PW-6 as hereunder :-

Injury of victim-Soni Praween-

- “1) On the face whole (face) area burn.
- 2) B. eye white cornea by the Acid burn No.P.L.PR.
- 3) On the neck acid bur 6”x2”
- 4) Both thigh, acid burn 6”x3”
- 5) Both fore arm acid bur 2”x2”
- 6) On the back side acid burn 6”x3”

Opinion on – Refd. To P.M.C.H. Patna for proper treatment and management and opinion is Reserved upto P.M.C.S. Report.

M.I- Wound spot on the back side.

Time of wound – Between four to six hrs.”

Injury of victim-Afshari Praween

- 1) Acid burn on the buttock Rt. Side 3”x2”.



2) On the neck burn 1"x2".

Opinion- Simple in nature due to Acid burn.

Time of wound-Between four to six hrs.

M.I-Til on the neck back side."

30. Added with the said circumstances, another important factor is required to be stated in this case that the accused Md. Ahsan Alam took the specific defense that he was not in a position to move on the date of occurrence on being attacked by an Ox on his legs. In support of his contention, defense examined PW-6, Dr. Sanjay Kumar, from his evidence we find that the above-named appellant came to the Primary Health Centre on the date of occurrence in the evening with a complaint of chest pain. Thus, the defense plea of receiving injury by appellant-Md. Ahsan Alam begin attacked by a Ox is proved to be false. Last but not the least, added with the above circumstances, abscondance of the said accused immediately after the occurrence adds to another circumstance proving involvement of the accused in the offence.

31. So far as the involvement of Md. Amir Hassan @ Amir Hassan is concerned, we are of the view that appellant Md. Amir Hassan @ Amir Hassan was not named in the F.I.R. He was not implicated by the witnesses during their examination under Section 161 Cr.P.C.. Only in the statement



under Section 164 of the Cr.P.C. recorded by the learned Magistrate after a pretty long time of the incident after about 04 (four) months, the said appellant was implicated. Therefore, false implication of Md. Amir Hassan @ Amir Hassan cannot be ruled out. As such, he is entitled to get benefit of doubt.

32. In view of the above discussion and on independent appreciation of evidence, we find that the Trial Court rightly convicted accused/appellant-Md. Ahsan Alam.

33. However, we are of the view that the appellant-Md. Ahsan Alam in Cr. Appeal (DB) No.22 of 2019 is entitled to get benefit of doubt in view of the fact that his specific role in the offence has not been proved.

34. The learned Advocate on behalf of the appellant-Md. Ahsan Alam submits that the quantum of sentence was not in parity with the offence committed. For the offence of causing injury by acid attack, the appellant ought not to have been sentence to suffer rigorous imprisonment for life.

35. We have given anxious thought over the matter. It is needless to say that causing grievous injury by acid attack is a serious offence. Such attack does not only cause burning injury on the person of the victim. It is sufficient to cause victims disfigurement.



36. In the instant case, it is submitted by the learned Advocate on behalf of the State-Respondent that the victim was recovered after a prolonged treatment in Safdarjung Hospital, New Delhi. Her face and other parts of the body has been totally dis-feagured. The appellant-Md. Ahsan Alam practically took away all youthful dream of the victim, which she might cherish to come in her future life. She is now living as a burden to her parents. She has lost all her hops in her life.

37. Under such circumstance, if we modify the quantum of sentence by awarding lesser punishment to the appellant-Md. Ahsan Alam in Cr. Appeal(DB) No.22 of 2019, we shall fail to do justice in favour of the victims.

38. For the reasons stated above, we are not in a position to modify the sentence passed by the Trial Court against appellant-Md. Ahsan Alam.

39. As a result, Criminal Appeal (DB) No.22 of 2019 is dismissed on contest. The judgment of conviction and order of sentenced passed in Sessions Trial Nos.415 of 2016/319 of 2016, arising out of Akbarpur P.S. Case No.226 of 2015 is affirmed.

40. Criminal Appeal (DB) No.03 of 2019 is however allowed on contest.



41. Appellant-Md. Amir Hassan @ Amir Hassan is acquitted of the charge, set at liberty and release from bail. If the appellant-Md. Amir Hassan @ Amir Hassan is in custody released order be issued at once, if not wanted in any other case.

(Bibek Chaudhuri, J)

(Chandra Shekhar Jha, J)

mdrashid/-

AFR/NAFR	N/A
CAV DATE	22.04.2026
Uploading Date	27.04.2026
Transmission Date	27.04.2026

