

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.195 of 2014

Arising Out of PS. Case No.-39 Year-2010 Thana- GAUNAHA District- West Champaran

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Anand Prasad Yadav Son of Late Ram Laxman Prasad Yadav Resident of
village- Belwa Bahuyari, P.S.- Gaunaha, District- West Champaran

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Akhileshwar Kumar Shrivastva, Advocate

For the Respondent/s : Mr. S.N. Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

C.A.V JUDGMENT

Date : 23-06-2026

Heard Mr. Akhileshwar Kumar Shrivastva, learned
counsel for the appellant and Mr. S.N. Prasad, learned APP for
the State.

2. The appellant has preferred the present criminal
appeal against the judgment and order of sentence dated
31.03.2014 passed in S.Tr. No. 515 of 2010 (arising out of
Gaunaha P.S. Case No. 39/2010) by learned Adhoc Addl.
Sessions Judge, Illrd, Bettiah, West Champaran, whereby, the



learned trial court has acquitted the appellant under Section 307 of the Indian Penal Code and has convicted the appellant under Section 324 of the Indian Penal Code and sentenced him to undergo Imprisonment for one year and six months.

3. The appellant have assailed the impugned judgment primarily on the ground that the learned trial court has failed to appreciate the evidence available on record in its proper perspective and has erred in recording the conviction of the appellant.

BRIEF FACTS OF THE CASE

4. The prosecution case, as unfolded in the fardbeyan, is that on 01.07.2010 at about 10:00 p.m., the informant was sitting in his house with his family members when a hole of approximately one foot in length and width suddenly appeared in the western wall of the house. The informant suspected that his neighbour, Anand Prasad Yadav, with whom there was a long-standing land dispute, was breaking the wall. The informant directed his nephew, Digvijay Yadav, to ascertain who was causing the damage. It is alleged that as soon as Digvijay Yadav approached the wall, Anand Prasad Yadav threw acid upon him, causing burn injuries on various parts of his body. Upon hearing the cries of Digvijay Yadav, the informant's wife,



Sharda Devi, daughter Pinky Kumari, and granddaughter Bunty Kumari rushed to the spot. The accused allegedly threw acid upon them as well, resulting in burn injuries to all four victims, namely Digvijay Yadav, Sharda Devi, Pinky Kumari, and Bunty Kumari.

5. It has further been alleged that the occurrence was motivated by previous land disputes between the parties and that the accused had intentionally caused injuries to the victims by throwing acid. On the basis of the fardbeyan, an FIR was registered against the accused persons under Sections 326 and 307 of the Indian Penal Code. After investigation, the police submitted charge-sheet against the accused under Sections 324 and 307 IPC, whereupon cognizance was taken and the case was ultimately committed to the Court of Sessions for trial leading to the conviction of the sole appellant.

ARGUMENT ON BEHALF OF THE APPELLANT

6. Learned counsel appearing on behalf of the appellant submitted that the impugned judgment of conviction and order of sentence are bad in law and on facts and are liable to be set aside. He contended that the prosecution has failed to prove the charge beyond reasonable doubt and that the entire case rests upon mere suspicion arising out of previous land disputes



between the parties, who admittedly are pattidars. The informant himself admitted that he suspected the appellant because of the existing enmity. It is further submitted that there are material contradictions and inconsistencies in the prosecution case. As per the FIR the allegation is that the occurrence had taken place on 4:00 P.M., while P.W. 2 stated that it occurred at 4:30 P.M. The manner of occurrence narrated by P.W. 2 is also at variance with the prosecution story set out in the fardbeyan. P.W. 1 is admittedly a hearsay witness who did not witness the occurrence and came to learn about it only from the injured persons. He further admitted that the hole in the wall was situated only a few inches above the surface, making the prosecution story of throwing acid through the hole highly improbable. In course of trial, the P.W. 2 made admission during his cross-examination that he did not witness the acid being thrown upon the other alleged victims and that there were inconsistencies regarding the position and height of the hole in the wall.

7. Learned counsel further submitted that the Investigating Officer was not examined by the prosecution, thereby, depriving the defence of an effective opportunity to prove contradictions and omissions in the statements of the



prosecution witnesses and causing serious prejudice to the appellant. It was also submitted that no independent witness was examined, despite the alleged occurrence having taken place in a residential locality and that all the material witnesses are closely related to the informant. The defence, on the other hand, produced documentary evidence relating to prior civil disputes between the parties, establishing the existence of long-standing enmity and a motive for false implication. In the absence of any recovery of acid, chemical examination report, or any independent evidence connecting the appellant with the alleged occurrence. He submitted that the prosecution has failed to establish its case beyond reasonable doubt. On the basis of the above facts and circumstances, learned counsel submitted that the conviction of the appellant under Section 324 of the Indian Penal Code is unsustainable and the appellant deserves to be acquitted by extending to him the benefit of doubt.

ARGUMENT ON BEHALF OF THE STATE

8. *Per Contra*, learned APP appearing for the State while opposing the appeal submitted that the learned District court, after considering all the evidences on record and exhibits submitted on behalf of the parties during the course of trial has erred no mistake in convicting the appellant for the offences



under Section 324 IPC.

ANALYSIS AND CONCLUSION

9. Heard the parties.

10. I have perused the lower court records and the evidence collected in the course of trial, proceedings and have also taken note of the arguments canvassed by learned counsel appearing on behalf of the parties.

11. With reference to the aforesaid rival legal contention urged on behalf of the parties, I have carefully examined the case to find out whether the impugned judgment warrants interference by this Court on the charge levelled against the accused/appellant under Sections 324 of IPC.

12. During the trial, the prosecution has examined altogether eight witnesses, namely:

- (i). P.W.1 – Anil Upadhyay
- (ii). P.W.2 – Digvijay Yadav
- (iii). P.W.3 – Santosh Upadhyay
- (iv). P.W.4 – Pinki Kumari
- (v). P.W.5 – Baliram Prasad Yadav (Informant)
- (vi). P.W.6 – Sharda Devi
- (vii). P.W.7– Md. Amanullah (Doctor)



13. The prosecution has also relied upon following documents exhibited during the course of trial:

- (i) (Exhibit-1) - Fardbeyan
- (ii) Exhibits 2 to 2/C- Injury Reports

14. From the perusal of records, I proceed to analyse the statements of the prosecution witnesses whether they have supported the prosecution case.

PW-1 : Anil Upadhyay - PW-1 deposed that on the date of occurrence he heard commotion coming from the house of Baliram Yadav and rushed towards the place of occurrence. He saw Digvijay Yadav, Pinky Kumari, Bunt Kumari and Sharda Devi coming out while shouting in pain. He noticed that their bodies had been affected by acid burns. According to him, when he inquired from the injured persons, they informed him that Anand Yadav had thrown acid upon them through a hole made in the wall.

In cross-examination, PW-1 admitted that he had not personally seen the accused throwing acid and that his knowledge regarding the assailant was based upon what had been narrated to him by the injured persons. However, he stated that he had seen burn injuries on the victims, a hole in the wall and signs of damage at the place of occurrence. The trial court



treated his evidence as corroborative in nature.

PW-2 : Digvijay Yadav (Injured Witness)- PW-2 is one of the injured victims and an eyewitness to the occurrence. He stated that upon hearing sounds near the wall, he went towards the room of his elder mother and found that the wall had been damaged. On questioning Anand Yadav as to why he was breaking the wall, the accused allegedly threatened him and immediately threw acid upon him from a steel glass/container. As a result, he sustained burn injuries and ran towards the door of the house. Thereafter, he informed Gopi Yadav that acid had been thrown upon him.

He further deposed that acid was also thrown upon Pinky Kumari, Buntty Kumari and Sharda Devi, causing burn injuries to them as well. In cross-examination, he maintained that he had seen the accused standing near the damaged wall and had personally witnessed the accused throwing acid. He stated that after the acid attack he immediately washed himself with water. The trial court found no material contradiction in his testimony and relied upon his evidence

PW-3 : Santosh Upadhyay- P.W. 3, Santosh Upadhyay, deposed that the occurrence had taken place about one year and four months prior to his deposition at about 4:00



P.M. While he was at his house, he heard a commotion and proceeded towards the place of occurrence. There, he found Digvijay Yadav and other injured persons washing themselves with water. He noticed that acid had fallen on the body of Digvijay Yadav, causing blisters and burn injuries. He further stated that acid had also fallen upon Bunty and other members of the family. According to the witness, upon making inquiries, he was informed that Anand Yadav had thrown acid upon them, resulting in the injuries.

In his cross-examination, the witness stated that there was a hand pump situated to the south of his house where he saw the injured persons washing themselves. He remained there for about 15–20 minutes and noticed blisters on their bodies. However, the witness admittedly did not witness the actual occurrence or see the accused throwing acid upon the injured persons. His evidence is, therefore, not that of an eyewitness to the occurrence, but it corroborates the prosecution case to the extent that immediately after the incident he saw the injured persons suffering from burn injuries and blisters consistent with acid burns.

PW-4 : Pinky Kumari (Injured Witness)PW-4 is one of the injured victims. She supported the prosecution case and



stated that acid was thrown upon her by the accused, resulting in burn injuries. Her testimony was treated by the trial court as corroborating the version of PW-2 and other injured witnesses.

PW-5 : Anand Prasad Yadav- The informant of the case, deposed that on 01.07.2010 at about 4:00 P.M., while he was sitting in the courtyard of his house with family members, he heard a sound of the western wall of a room breaking. Upon his inquiry, his nephew Digvijay went to the spot and immediately returned shouting. When the witness rushed there, he found Digvijay with burn injuries on his body. Digvijay informed him that there was a hole in the wall and that Anand Prasad Yadav was sitting on the other side and throwing a water-like liquid from a steel glass, causing burns. The witness further stated that his wife Sharda Devi, daughter Pinky Kumari and granddaughter Buntty also came out screaming and disclosed that Anand Yadav was throwing acid through the hole. He noticed burn injuries on Sharda Devi, Pinky Kumari and Digvijay Yadav and thereafter arranged for their treatment at the hospital. Though P.W. 5 admittedly did not witness the actual act of throwing acid, he immediately reached the place of occurrence, saw the injured persons in a burnt condition and narrated the facts disclosed to him by the injured persons. He



also proved the written report lodged by him before the police.

P.W. 6, Sharda Devi, an injured witness, stated that at about 4:30 P.M. on the day of occurrence she was present in the courtyard of her house when a sound of the wall breaking was heard. On being asked to see what had happened, Digvijay went towards the spot and soon returned shouting that Anand Yadav had thrown acid upon him. Thereafter, she, along with her daughter Pinky Kumari, Kaushalya Devi and granddaughter Bunty, proceeded towards the place of occurrence. According to her, Anand Yadav then started throwing acid upon them through the hole in the wall with the aid of a steel glass, causing burn injuries to her and the others. She specifically stated that Pinky sustained burns and that the acid also damaged the clothes and articles which came in contact with it. The witness further deposed that her husband subsequently took the injured persons to the hospital for treatment. During cross-examination, she remained firm and reiterated that she had seen the acid being thrown through the hole in the wall and had identified the accused as the person responsible. Being an injured witness, her testimony directly supported the prosecution case regarding the manner of occurrence and the participation of the accused in the acid attack.



PW-7 : Dr. Md. Amanullah (Medical Witness) PW-7 was the doctor who medically examined the injured persons and prepared the injury reports marked as Exhibits 2 to 2/C. His evidence was relied upon by the prosecution to establish the nature and existence of burn injuries sustained by the victims. The medical evidence was considered by the trial court to be corroborative of the ocular version of the injured witnesses.

15. On the basis of materials surfaced during the trial, the appellant/accused was examined under Section 313 of the Cr.PC by putting incriminating circumstances/evidences surfaced against him, which he denied and showed his complete innocence.

The question for determination which falls for consideration is, as to whether, the trial court erred in convicting the appellant under Section 324 IPC and not for the offence committed under Section 326 of IPC?

16. In the background of allegation of acid attack, it would be appropriate to reproduce the provisions of Section 324 vis-a-vis Section 326, 326A and 326B of the I.P.C. for the sake of convenience and better understanding of the facts, the essential ingredients of Section 324 IPC, voluntarily causing "hurt" by dangerous weapon or means as defined under Section



319 IPC., which is *inter alia* reproduced as under:

"319. Hurt- Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt."

324. Voluntarily causing hurt by dangerous weapons or means.—

Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

17. It is apparent that acid is a heated substance and cause burn injury. Therefore, has the prosecution must proved both *i.e.* voluntary causing of hurt and use of a dangerous weapon or means.

18. The Legislature, taking cognizance of the alarming rise in incidents of acid attacks and the grave physical, psychological, and social consequences suffered by victims, introduced Section 326A and 326B of the Indian Penal Code through the Criminal Law (Amendment) Act, 2013. The object and purpose behind the insertion of this provision was to specifically recognize acid attacks as a distinct and aggravated form of violence warranting separate treatment under criminal law. Prior to the enactment of Section 326A and 326B, such



offences were ordinarily prosecuted under Section 326 IPC, which did not adequately account for the peculiar nature of acid attacks, the irreversible disfigurement and permanent injuries inflicted upon victims, or the necessity of imposing stringent punishment and ensuring adequate compensation. The legislative intervention was, therefore, intended to address these deficiencies, enhance deterrence, and provide a more effective legal framework for the protection and rehabilitation of acid attack survivors.

19. Section 326 of the IPC is reproduced as under:

"326. Voluntarily causing grievous hurt by dangerous weapons or means—

Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

20. Section 326A and 326B of the IPC are reproduced as under:

"326A. Voluntarily causing grievous hurt by use of acid, etc.—

Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on



or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine: Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim; Provided further that any fine imposed under this section shall be paid to the victim.

326B. Voluntarily throwing or attempting to throw acid —

Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

Explanation 1.— For the purposes of section 326A and this section, "acid" includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

Explanation 2.— For the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible."

21. The insertion of Sections 326A and 326B IPC with effect from 03.02.2013 did not automatically alter the legal position of pending cases arising from incidents that occurred before that date. These provisions created new substantive offences and prescribed enhanced punishments for acid attacks



and attempted acid attacks. Being substantive penal provisions, they operate prospectively and cannot be applied retrospectively because of the constitutional bar contained in Article 20(1) of the Constitution.

22. The Sections 326, 326 A and 326 B of IPC lays down the punishment for acid attacks. The minimum punishment is 10 years. Mere proof of a burn caused by acid would generally satisfy the "dangerous means" requirement, subject to prove of the act and the injury. The Hon'ble Supreme Court in case of *Laxmi Vs. Union of India, reported in (2014) 4 SCC 427*, issued extensive directions, regulating the sale of acid and protecting acid attack victims.

23. It is well settled principle of law that mere oral allegation is not sufficient where the very nature of injury is capable of objective medical verification. Therefore, relevant consideration would be does medical evidence show chemical burn?

24. Upon consideration of oral evidence on the record, it reveals that P.W.1 – Anil Upadhyay is not an eyewitness to the actual occurrence and has admittedly not seen the accused throwing acid upon any of the injured persons. His knowledge regarding the identity of the assailant is derived



solely from what was narrated to him by the injured persons after the occurrence. In paragraph 6 of his cross-examination, he has specifically stated that he did not witness the occurrence and had deposed on the basis of what was told to him by the injured persons. Thus, his evidence is essentially hearsay in nature so far as the participation of the accused in the alleged offence is concerned. Although he claims to have seen the injured persons suffering from burn injuries and noticed a hole in the wall, his testimony does not constitute direct evidence regarding the manner of occurrence or the role attributed to the accused. Consequently, the evidentiary value of P.W.1 is confined only to the fact that he reached the place of occurrence after the incident and found the injured persons in a burnt condition, and his testimony cannot be treated as substantive evidence for proving the alleged act of acid throwing by the accused.

25. P.W.7 – Dr. Md. Amanullah is only a medical witness who has proved the injuries sustained by the victims and does not provide any direct evidence regarding the occurrence itself. The prosecution witnesses have attributed the alleged act of throwing acid exclusively to the accused Anand Prasad Yadav.

26. The prosecution case substantially rests upon



the testimonies of P.W.2 – Digvijay Yadav (injured witness), P.W.4 – Pinky Kumari and P.W.6 – Sharda Devi, who are stated to be victims of the alleged acid attack. Their version receives limited corroboration from P.W.1 – Anil Upadhyay. P.W.3 and P.W.5 appear to be supporting witnesses, though the details of their evidence are not fully reflected in the extracted portion of the judgment. The medical evidence of P.W.7 – Dr. Md. Amanullah undoubtedly establishes that the injured persons had sustained burn injuries consistent with exposure to a corrosive substance; however, the medical evidence by itself does not identify the author of the injuries nor does it conclusively establish the manner in which the occurrence took place

27. The record reveals that the occurrence arose out of a pre-existing land dispute between the parties. However, the record itself indicates that the prosecution witnesses are closely related and interested witnesses, and no independent witness to the actual occurrence has been examined. Further, the prosecution version is based upon the allegation that the accused threw acid through a hole allegedly made in the wall, yet the evidence regarding the exact manner of occurrence and surrounding circumstances requires careful scrutiny. In such circumstances, the prosecution case principally rests upon the



testimony of related injured witnesses, supported by medical evidence regarding burn injuries, and its reliability must be assessed in the light of the overall evidence and circumstances appearing on the record. Significantly, no independent witness to the actual occurrence has been examined despite the alleged incident having taken place in a residential locality. In such circumstances, while the factum of burn injuries may stand established through the medical evidence, the evidence regarding the identity of the assailant and the precise manner of occurrence rests substantially upon the testimony of related witnesses. Therefore, the possibility of embellishment or exaggeration in the prosecution version cannot be completely ruled out and the prosecution evidence requires cautious scrutiny before recording a finding of guilt beyond reasonable doubt.

The point of determination in facts and circumstances of the case whether the learned trial court erred in convicting the appellant under Section 324 of the Indian Penal Code instead of for offence under Sections 326 or 307 of IPC?

28. The record reveals that the charge-sheet was submitted under Section 307 IPC and the conviction is under



Section 324 IPC. To attract the offence under Section 307 IPC an attempt to commit murder must be clearly distinguished from a mere intention to commit the offence or from acts that amount only to preparation for its commission. The law recognizes that the existence of a guilty intention alone is not sufficient to constitute an attempt. There must be something more than planning or arranging the means to commit the crime.

29. The Apex Court laid down the litmus test for determination of nature of offence in ***Pulicherla Nagaraju v. State of A.P. reported in (2007) 1 SCC (Cri) 500***. In the facts and circumstances of a particular case, the Court needs to decide the pivotal question of existence of intention with care and caution. The following factors needs to be examined:

- "(i) nature of the weapon used;*
- (ii) whether the weapon was carried by the accused or was picked up from the spot;*
- (iii) whether the blow is aimed at a vital part of the body;*
- (iv) the amount of force employed in causing injury;*
- (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight;*
- (vi) whether the incident occurs by chance or whether there was any premeditation;*
- (vii) whether there was any prior enmity or whether the deceased was a stranger;*
- (viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation;*
- (ix) whether it was in the heat of passion;*
- (x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner;*
- (xi) whether the accused dealt a single blow or several*



blows."

30. The similar question came up before the Supreme Court in the case of ***Joseph v. State of Kerala***, reported in ***1995 SCC (Cri) 165*** has observed in para 3 which is reproduced hereinafter:

"3. In this appeal the learned counsel for the appellant submits that the intention to cause the injury which was found sufficient to cause the death in the ordinary course of the nature was not established. In support of this submission he relied on the circumstances namely that the whole incident took place because of a trivial incident which resulted in a quarrel and that the weapon used was only a lathi and in the circumstances it cannot be said that the accused intended to cause the death by inflicting that particular injury which objectively was proved by the medical evidence to be sufficient in the ordinary course of nature to cause death. In other words he submits that clause 3rdly of Section 300 IPC is not attracted in this case. We find considerable force in the submission. The weapon used is not a deadly weapon as rightly contended by the learned counsel. The whole occurrence was a result of a trivial incident and in those circumstances the accused dealt two blows on the head with a lathi, therefore, it cannot be stated that he intended to cause the injury which is sufficient (sic). At the most it can be said that by inflicting such injuries he had knowledge that he was likely to cause the death. In which case the offence committed by him would be culpable homicide not amounting to murder. We accordingly set aside the conviction of the appellant under Section 302 IPC and the sentence of imprisonment for life awarded thereunder. Instead we convict the appellant under Section 304 Part II IPC and sentence him to five years' RI."



31. The judgment of **Joseph (supra)** was referred by the Apex Court in the case of **Jugatram Vs. State of Chhattisgarh**, reported in **(2020) 9 SCC 520** and recently in the case of **Sivamani v. State**, reported in, **2023 SCC OnLine SC 1581**, the Hon'ble Supreme Court in paragraph no. 9 has held *inter alia* as under:

“ 9. In **State of Madhya Pradesh v. Saleem**, (2005) 5 SCC 554, the Court held that to sustain a conviction under Section 307, IPC, it was not necessary that a bodily injury capable of resulting in death should have been inflicted. As such, non-conviction under Section 307, IPC on the premise only that simple injury was inflicted does not follow as a matter of course. In the same judgment, it was pointed out that ‘...The court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section.’ The position that because a fatal injury was not sustained alone does not dislodge Section 307, IPC conviction has been reiterated in **Jage Ram v. State of Haryana**, (2015) 11 SCC 366 and **State of Madhya Pradesh v. Kanha**, (2019) 3 SCC 605. Yet, in **Jage Ram (supra)** and **Kanha (supra)**, it was observed that while grievous or life-threatening injury was not necessary to maintain a conviction under Section 307, IPC, ‘The intention of the accused can be ascertained from the actual injury, if any, as well as from surrounding circumstances. Among other things, the nature of the weapon used and the severity of the blows inflicted can be considered to infer intent.’ ”

32. In the facts of the present case, therefore, Section 307 IPC is not attracted. Now I analyse whether offence under Section 326 IPC is made out.

33. In case of **Pritam Chauhan v. State (Govt. of NCT of Delhi)**, reported in **(2014) 9 SCC 637**, the Apex Court



has held as under:

“5. The punishment contemplated under Section 326 IPC is imprisonment for life or with imprisonment of either description for a term which may extend to ten years, along with fine. In a recent pronouncement of this Court in Gopal Singh v. State of Uttarakhand [(2013) 7 SCC 545 : (2013) 3 SCC (Cri) 608] it has been held that the “principle of just punishment” is the bedrock of sentencing in respect of a criminal offence. The wide discretion that is vested in the courts in matters of sentencing must be exercised on rational parameters in the light of the totality of the facts of any given case. The doctrine of proportionality has to be invoked in the context of the facts in which the crime had been committed, the antecedents of the accused, the age of the accused and such other relevant factors.”

34. The material evidence shows burn injury caused by acid, which is supported by exhibit 2 to 2/C, therefore, the prosecution has to establish its case that the appellant is the one, who had caused acid injury, but there is no clear finding of the learned trial Court on this point.

**ON THE POINT OF IDENTIFICATION OF
ACCUSED**

35. So far as the identification of the appellant is concerned, this Court finds that the prosecution evidence is not free from doubt. Admittedly, none of the independent witnesses, namely P.W. 1 Anil Upadhyay, P.W. 3 Santosh Upadhyay and P.W. 5 Anand Prasad Yadav, had actually witnessed the appellant throwing acid upon the victims. Their knowledge



regarding the identity of the assailant is entirely derivative, being based upon what was allegedly narrated to them by the injured persons after the occurrence. Their evidence, therefore, is hearsay insofar as the identification of the appellant is concerned and cannot constitute substantive evidence of the appellant's participation in the occurrence.

36. Though P.W. 2, P.W. 4 and P.W. 6 have sought to identify the appellant as the person who threw acid, their testimonies require careful scrutiny in light of the surrounding circumstances. The prosecution case itself suggests that the occurrence took place suddenly after a hole had allegedly been made in the wall and acid was thrown through the opening. The evidence does not clearly establish the conditions under which the witnesses could have had a clear and unobstructed view of the person standing on the other side of the wall. No Test Identification Parade was conducted during investigation, nor has the prosecution produced any independent eyewitness who actually saw the appellant throwing acid. The prosecution version regarding identification thus rests solely upon the testimony of interested and related witnesses.

37. Moreover, while the medical evidence establishes that the victims sustained burn injuries, it does not, by itself,



connect the appellant with the commission of the offence. Medical evidence can corroborate the factum of injuries but cannot establish the identity of the offender. Thus, although the prosecution has succeeded in proving that an acid attack had occurred, the evidence regarding the appellant's identification as the perpetrator does not attain the degree of certainty required in a criminal trial. The cumulative effect of the aforesaid circumstances creates a reasonable doubt regarding the identity of the assailant, and such doubt must necessarily enure to the benefit of the appellant.

Whether the accused deserves benefit of doubt?

38. The medical evidence of P.W.7 – Dr. Md. Amanullah establishes the existence of burn injuries on the victims but does not conclusively identify the perpetrator or independently corroborate the precise manner in which the occurrence is alleged to have taken place. In the backdrop of the admitted previous enmity between the parties, the absence of independent eyewitnesses, and the fact that the prosecution case rests substantially upon the testimony of related witnesses, the possibility of embellishment or exaggeration cannot be completely ruled out. When these circumstances are considered cumulatively, the prosecution evidence requires careful scrutiny



before a finding of guilt can be recorded, particularly with regard to the intention attributable to the accused and the precise nature of the offence alleged against him. The prosecution has failed to prove the guilt of the appellant beyond reasonable doubt. The learned trial court has erred in appreciating the evidence in convicting the appellants under Section 324 of the Indian Penal Code, particularly in view of the injury reports showing burn injuries and in the background of the discussions made hereinabove, the impugned judgment of conviction dated 31.03.2014 passed in S.Tr. No. 515 of 2010 (arising out of Gaunaha P.S. Case No. 39/2010) by learned Adhoc Addl. Sessions Judge, IIIrd, Bettiah, West Champaran, whereby the appellant has been convicted under Section 324 of the Indian Penal Code, cannot sustain in absence of material witnesses and substantial evidences.

39. Accordingly, the impugned judgment of conviction dated 31.03.2014 passed in S.Tr. No. 515 of 2010 (arising out of Gaunaha P.S. Case No. 39/2010) by learned Adhoc Addl. Sessions Judge, IIIrd, Bettiah, West Champaran, is hereby quashed and set aside. Consequently, the above-named appellant/accused is acquitted from all the charges levelled against them. Since the appellant is on bail, as such, he is



discharged from the liability of his bail bonds. The fine deposited by the appellant, if any, shall be refunded to him.

40. Accordingly, the present appeal is allowed.

41. Office is directed to send back the lower court records along with a copy of the judgment to the learned District Court forthwith.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	
CAV DATE	16.06.2026
Uploading Date	23.06.2026
Transmission Date	23.06.2026

