

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.137 of 2014**

Arising Out of PS. Case No.-21 Year-2002 Thana- JHAJHA District- Jamui

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1. Sanjay Yadav, Son of Parmeshwar Yadav
 2. Parmeshwar Yadav Son of Late Thakuri Yadav Both 1 and 2 Are R/o Vill-Bhalgori, P.S- Jhajha, District- Jamui.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Amar Prakash, Advocate
For the State	:	Mr. Z.Hoda, Addl. P.P.

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT**

Date : 18-02-2026

Heard Mr. Amar Prakash, learned counsel for the appellants and Mr. Z. Hoda, learned Additional Public Prosecutor for the State.

2. The instant criminal appeal has been preferred by the appellants against the judgment of conviction and order of sentence dated 07.02.2014, passed in Sessions Trial No. 54/2008 arising out of Jhajha P.S. Case No. 21 of 2002 by the Court of the District and Sessions Judge, Jamui, whereby and whereunder the appellants have been convicted for the offence under Section 323 of the Indian Penal Code (in short, 'IPC') and sentenced to



undergo simple imprisonment for a period of six months each for the said offence.

Prosecution Story:-

3. The substance of the prosecution case is as follows:-

The prosecution case is based on the fardbeyan of the informant, Thakuri Yadav (since deceased), recorded by the Officer-in-Charge of Jhajha Police Station on 24.02.2002. It is alleged that on the same day at about 2:00 P.M., a dispute arose regarding a passage used by the family of the informant. Parmeshwar Yadav (Appellant No. 2) had placed bricks on the said passage, thereby obstructing the way of the informant's younger son, Lattu Yadav (P.W.-7). When Lattu Yadav started removing the bricks to clear the passage, the accused persons arrived there and objected, which led to a heated altercation between the parties. Parmeshwar Yadav (Appellant No. 2) was armed with an iron rod, his son Sanjay Yadav (Appellant No. 1) was armed with a *Katta*, and the other accused persons were armed with lathis. During the course of the altercation, Parmeshwar Yadav (Appellant No. 2) assaulted Lattu Yadav with the iron rod, striking him on the head and causing serious injuries. On hearing the commotion, the informant Thakuri Yadav and his wife Puniya Devi (P.W.-6) rushed to the spot to rescue their son, but they were also assaulted by



Parmeshwar Yadav, Pramod Yadav, and Bishundeo Yadav with iron rods and lathis. During the occurrence, accused Sanjay Yadav (Appellant No. 2) assaulted Lattu Yadav with the katta, causing additional injuries. The entire incident occurred due to the ongoing dispute over the passage between Parmeshwar Yadav and Lattu Yadav (P.W.-7), which constituted the genesis of the occurrence.

4. On the basis of the fardbeyan of the informant, on 24.02.2002 setting out the aforesaid prosecution case, a formal FIR bearing Jhajha P.S. Case No. 21/2002 was registered for the offences under Sections 147, 148, 323, 324, 326 and 307 of the IPC. Consequently, the criminal law was set in motion and investigation was taken up.

5. After completion of the investigation, the police submitted a charge-sheet against the appellants along with the other accused persons for the alleged offences. Thereafter, the learned Judicial Magistrate 1st Class took cognizance of the offences under Sections 147, 148, 323, 324, 326 and 307 of the IPC and committed the case to the Court of Sessions for trial.

6. The appellants along with other co-accused persons were charged with the offences under Sections 147, 148, 323, 324, 326 and 307 of the IPC. The charges were read over and explained



to them in Hindi, to which they pleaded not guilty and claimed to be tried.

7. During the trial in ocular evidence the prosecution examined altogether eight witnesses who are as under:-

Sl. No.	Name	Relevancy
P.W.-1	Bijay Kumar Yadav	Eyewitness
P.W.-2	Gauri Devi	Wife of PW-7 and an eyewitness
P.W.-3	Mukesh Kumar Yadav	Eyewitness
P.W.-4	Ranjeet Kumar	Son of PW-7 and an eyewitness
P.W.-5	Rampukar Kumar	Son of PW-7 and an eyewitness
P.W.-6	Puniya Devi	Wife of the informant, Injured Witness
P.W.-7	Lattu Yadav	Injured Witness
P.W.-8	Ramniti Yadav	Proved the formal FIR and injury reports

8. In documentary evidence, the prosecution proved and exhibited the following documents:-

Sl. No.	Relevancy
Ext.-1	An application for injury report of Lattu Yadav
Ext.-1/1	An application for injury report of Thakuri Yadav
Ext.-2	Injury report of Lattu Yadav
Ext.-3	Formal FIR
Ext.-3/1	Signature of Uday Pratap Singh S.I. on Fardbeyan of the informant
Ext.-4	A Carbon copy of the injury report of Lattu Yadav
Ext.-4/1	Injury report of Thakuri Yadav

9. After completion of the prosecution evidence, the statements of the appellants were recorded by the trial court under



Section 313 of the Cr.P.C., wherein they denied the incriminating circumstances appearing against them in the prosecution evidence and claimed themselves to be innocent.

10. The appellants produced the following witnesses in their defence:-

Sl. No.	Name	Relevancy
D.W.-1	Janardan Yadav	Member of Panchayat Meeting and Signatory on Panchnama
D.W.-2	Satyanarayan Turi	Panch in partition meeting
D.W.-3	Ram Prasad Yadav	Member of Panchayat Meeting and Scriber of Panchnama

11. While convicting the appellants, the trial court observed that although the prosecution examined eight witnesses, most were interested or related witnesses and the Investigating Officer and doctor were not examined, which seriously weakened the case, particularly regarding the alleged grievous injuries. The court noted material contradictions, exaggerations, hearsay evidence, and the admitted land dispute between the parties, and found that the charges under Sections 147, 148, 324, 326 and 307 of the IPC were not proved. On appraisal of the evidence, it held that only a case of simple hurt was established against accused Sanjay Yadav (Appellant No.1) and Parmeshwar Yadav (Appellant No.2) for assaulting the informant and P.W.-7, and accordingly



convicted them under Section 323 of IPC, while acquitting the remaining accused due to lack of reliable evidence.

Submissions on behalf of the appellant:-

12. Mr. Amar Prakash, learned counsel appearing for the appellants, submits that on the same set of allegations and evidences, the accused Pramod Yadav, Bishundeo Yadav, Chuvan Yadav, Dillo Yadav, and Shambhu Yadav were acquitted of the charged offences, whereas the present appellants were convicted for the offence under Section 323 of the IPC, though they were acquitted of the more serious offences punishable under Sections 147, 148, 324, 326 and 307 of the IPC, for which they had also been charged. It is further submitted that, as regards the manner of occurrence and assault as detailed by the informant in the FIR, contradictory statements were made by the prosecution witnesses. In the FIR, a weapon, namely *Katta*, was alleged to have been used by the appellant no.2 in assaulting P.W.-7, however, during the course of trial, the material witnesses changed their version and stated that the weapon used was a *Katari* (dagger) and a *Khanti*. It is also submitted that the injury reports of P.W.-7 and the informant were not proved by the concerned doctor, who, according to the prosecution, had examined both the injured persons. Further, the Investigating Officer was not examined by



the prosecution. It is contended that there was admittedly a land dispute between the parties arising out of a partition issue, and both sides are close relatives. On account of the said dispute, the prosecution party has falsely implicated the appellants.

Submissions on behalf of the State:-

13. Mr. Z. Hoda, learned APP appearing for the State, opposes this appeal and submits that the injury reports of the informant and his son were proved by a formal witness. He further submits that there was admittedly enmity between the appellants and the prosecution party, and it is a settled proposition of law that enmity cuts both ways. Though there are some minor contradictions in the testimonies of the prosecution witnesses, the same are ignorable and do not affect the credibility of the prosecution's case. It is also submitted that the non-examination of the I.O. did not seriously prejudice the appellants, and they are not entitled to any benefit on account of such non-examination, as the place and manner of occurrence described in the FIR stand established from the evidence of the prosecution witnesses.

Consideration and Analysis:-

14. I have heard both sides, perused the evidence on the record of the trial court, and taken into consideration the



statements of the appellants and the findings recorded by the trial court in the impugned judgment.

14.1. It is an admitted position that there was a land dispute between the appellants and the prosecution party on the day of the alleged occurrence. As per the prosecution case, the informant and his son, who are said to be the injured victims, were treated at a hospital for the injuries sustained in the alleged occurrence. However, the prosecution failed to produce the doctor who had examined the said injured persons. Though the prosecution exhibited the injury reports of the injured, namely Lattu Yadav (P.W.-7) and his father Thakuri Yadav, by examining a formal witness, the nature of injuries mentioned in the injury reports does not corroborate the allegations made in the FIR. According to the FIR, a weapon, namely *Katta*, was used in assaulting P.W.-7; however, during the course of trial, the material prosecution witnesses described the weapon as a *Khanti*, while some stated it to be a *Katari*. Furthermore, P.W.-6, Puniya Devi, who, as per the prosecution story narrated in the FIR, was also assaulted by the accused when she and the informant tried to rescue P.W.-7, did not state anything in her evidence regarding the use of *Katta* or an iron rod by the accused. On the other hand, P.W.-1 stated in his evidence that the accused assaulted P.W.-7



with an iron rod and also deposed that appellant no.1 Sanjay Yadav inflicted a *Katari* blow on the nose of P.W.-7. A *Katari* is considered to be a sharp-edged weapon, but no injury corresponding to such a weapon was found on the body of P.W.-7. As per the FIR, P.W.-6, the mother of P.W.-7, was an eyewitness to the occurrence as well as an injured witness; however, her testimony does not support her being an eyewitness to the extent of manner of assault and manner of occurrence.

Conclusion:-

15. Accordingly, in view of the aforesaid facts, this Court is not persuaded to affirm the conviction of the appellants for the offence under Section 323 of the IPC. Consequently, the judgment of conviction and order of sentence dated 07.02.2014, passed in Sessions Trial No. 54/2008 arising out of Jhajha P.S. Case No. 21 of 2002 by the Court of the District and Sessions Judge, Jamui, convicting and sentencing the appellants for the said offence, are hereby set aside, and the appeal stands allowed.

16. Both the appellants are on bail. Accordingly, their bail bonds stand cancelled forthwith, and they, along with their sureties, are discharged from their respective liabilities.



17. Let the records of the trial court, along with a copy of this judgment, be sent forthwith to the court concerned for compliance and for doing the needful.

(Shailendra Singh, J)

maynaz/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	21.02.2026
Transmission Date	21.02.2026

