

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1132 of 2025**

Arising Out of PS. Case No.-33 Year-2014 Thana- ASANWA District- Siwan

1. Rina Devi D/O Raj Kishore Yadav Resident of village- Parshurampur Tola Lohgajar, P.S.- Asawn, Dist.- Siwan
2. Geeta Devi D/O Raj Kishore Yadav Resident of village- Parshurampur Tola Lohgajar, P.S.- Asawn, Dist.- Siwan

... .. Appellants

Versus

The State Of Bihar

... .. Respondent

with

CRIMINAL APPEAL (SJ) No. 1120 of 2025

Arising Out of PS. Case No.-33 Year-2014 Thana- ASANWA District- Siwan

1. Rajkishore Yadav S/O Bhuwal Yadav Resident of village- Praturampur Tola Lohgajar, P.S.- Asawn, Dist.- Siwan
2. Dharendra Yadav@ Dharendra Kumar Yadav S/O Raj Kishore Yadav Resident of village- Praturampur Tola Lohgajar, P.S.- Asawn, Dist.- Siwan
3. Balindar Yadav S/O Raj Kishore Yadav Resident of village- Praturampur Tola Lohgajar, P.S.- Asawn, Dist.- Siwan

... .. Appellants

Versus

The State Of Bihar

... .. Respondents

Appearance :

(In CRIMINAL APPEAL (SJ) No. 1132 of 2025)

For the Appellant/s : Mr. Y.C. Verma, Sr. Adv.
Ms. Kumari Anupam, Adv.
Mr. Harsh Kumar, Adv.
Mr. Rahul Deovarman, Adv.

For the State : Mr. Satyendra Narayan Singh, APP

(In CRIMINAL APPEAL (SJ) No. 1120 of 2025)

For the Appellant/s : Mr. Y.C. Verma, Sr. Adv.
Ms. Kumari Anupam, Adv.
Mr. Harsh Kumar, Adv.
Mr. Salaj Kumar Rai, Adv.

For the State : Mrs. Anita Kumari Singh, APP

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT**

Date : 11-11-2025

1. Both the above stated appeals have been



directed against the common judgment of conviction and order of sentence dated 12.02.2025 passed by learned District and Additional Sessions Judge-5, Siwan in Sessions Trial Case No. 165 of 2016, G.R. No. 2159 of 2014 arising out of Asawn P.S. Case No. 33 of 2014 whereby and whereunder appellants/ Rina Devi and Geeta Devi in Cr. Appeal (SJ) No. 1132 of 2025 have been convicted for the offences punishable under Sections 147, 323 of the IPC and they have been extended the benefit of Section 3 of Probation of Offenders Act and have been released after due admonition. The Trial Court convicted the appellants/ Rajkishore Yadav, Dharendra Yadav @ Dharendra Kumar Yadav and Balindar Yadav in Cr. Appeal (SJ) No. 1120 of 2025 for the offences under Sections 147 and 325 of the IPC and sentenced them to undergo S.I. for one year each under Section 147 of the IPC, S.I. for four years each and fine of Rs. 500/- each under Section 325 of the IPC. In default of payment of fine, they will further undergo additional imprisonment of three months each. Therefore, both these appeals are being disposed of by this common judgment.

2. The prosecution case, as stated by the informant, Vijay Kumar Yadav (PW-5), in brief, is that on 26.05.2014, agnate of the informant, namely, Rajkishore Yadav



was digging plinth in joint property. The informant asked them not to dig the plinth without demarcation to which accused persons/ appellants did not agree and assaulted the informant's father by means of spade causing him severe injuries. It is further alleged that informant's mother/ Tulsi Devi and sister/ Vibha Kumari were also assaulted by the appellants by means of bricks due to which they sustained injury. It is further alleged that accused persons/ appellants assaulted the informant's brother/Arun Kumar by means of lathi due to which informant's brother sustained injury on the head. The informant stated that accused persons/appellants concertedly assaulted the informant and his family members causing them serious injuries and villagers took the injured persons to Sadar Hospital for treatment.

3. On the basis of written report of the informant/PW-5, Asawn P.S. Case No. 33 of 2014 dated 28.05.2014 was registered under Sections 147, 148, 341, 323, 324, 337 of the IPC. Routine investigation followed. Statement of witnesses came to be recorded and on the completion of investigation, charge sheet has been submitted against all the aforesaid appellants under Sections 147, 148, 341, 323, 325, 308, 337, 504 of the IPC. Thereafter, on 20.12.2014 the learned



trial court took cognizance against all the appellants under the aforesaid sections. The case was committed to the court of sessions after following due procedure. The learned trial court framed charges against all the appellants under Sections 147, 148, 341, 323, 325, 308 of the IPC. Charges were read over and explained to the appellants to which they pleaded not guilty and claimed to be tried.

4. In order to bring home guilt of accused persons, prosecution has examined altogether seven witnesses. PW-1 Tulsi Devi (injured), PW-2 Arun Kumar Yadav (injured), PW-3 Ashok Choudhary, PW-4 Reena Devi, PW-5 Vijay Kumar Yadav (informant and injured), PW-6 Dr. Sanjay Kumar and PW-7 Surendra Rai (I.O. of the case). Prosecution has relied upon following documentary evidence on record:-

Ext. 1- Signature of informant on fardbeyan.

Ext. 2- Injury report of Vibha Kumari.

Ext. 2/1- Injury report of Arun Kumar.

Ext. 2/2-Injury report of Awadh Yadav

Ext. 2/3- Injury report of Vijay Kumar.

Ext. 2/4 - Injury report of Tulsi Devi.

Ext. 3- Supplementary injury report of Vibha Kumari.

Ext. 3/1- Supplementary injury report of Arun Kumar.

Ext. 3/2- Supplementary injury report of Awadh Yadav.

Ext. 3/3- Supplementary injury report of Vijay Kumar.

Ext. 3/4- Supplementary injury report of Tulsi Kumari.



Ext. 4- Complete FIR.

Ext. 4/1- Signature of SHO Kamlesh Kumar on pagination of FIR.

Ext. 4/2- Formal FIR.

5. Defence of the appellants as gathered from the line of cross examination of prosecution witnesses as well as from the statement under Section 313 of the Cr.P.C. is that they denied the allegation made in the FIR and claimed to be innocent. However, they did not enter into defence.

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

7. Following submissions have been made on behalf of Mr. Y. C. Verma, learned senior counsel for the appellants:-

Learned senior counsel for the appellants has submitted that on account of digging plinth by the appellants in a joint property, altercation took place between the parties. The informant and appellants are agnates. He further submits that there is delay of about three days in lodging the FIR as occurrence took place on 26.05.2014 and FIR has been lodged on 28.05.2014 which questions the authenticity of the prosecution story. Though reference has not been made in respect of counter case filed by the appellants side but there is



case and counter case between the parties for the same date of occurrence. Appellants have no criminal antecedent. Learned counsel further submits that appellants had not formed unlawful assembly rather they were asserting right of their land. He further submits that present occurrence took place due to assertion of right over the land. In such scenario, appellants cannot be put into the category of habitual offender and it cannot be assumed that appellants are danger to the society. He further submits that after conviction the appellants/ Rajkishore Yadav, Dharendra Yadav @ Dharendra Kumar Yadav and Balindar Yadav in Cr. Appeal (SJ) No. 1120 of 2025 have remained in custody for about five months. He further submits that appellants have been falsely implicated due to previous land dispute with the informant and his family and the trial court failed to consider the possibility of false implication due to ongoing property dispute. The occurrence is of the year 2014 and the appellants have already suffered eleven years in litigation and as such, they have sufficiently been punished.

8. Mrs. Anita Kumari Singh, learned Additional Public Prosecutor appearing for the State has submitted that FIR is quite indicative that how the appellants have assaulted the informant and his family members. Three persons sustained



grievous injury in the occurrence. Learned APP further submitted that out of five prosecution witnesses, PW-1, PW-2 and PW-5 are injured witnesses and their version cannot be disbelieved. They have supported and corroborated the story of prosecution. PW-7 is Investigating Officer of the case, who has identified the place of occurrence. Learned APP further submits that Investigating Officer has also stated that on the issue of disputed land, the occurrence has taken place. Learned APP further submitted that while passing the judgment of conviction and order of sentence, the concerned court has recorded the finding that prosecution has fully proved the case under Sections 325 and 147 of the IPC against the appellants/ Rajkishore Yadav, Dharendra Yadav @ Dharendra Kumar Yadav and Balindar Yadav in Cr. Appeal (SJ) No. 1120 of 2025 and there is no reason to differ from the findings of the concerned court. Learned APP further submits that the trial court convicted the appellants Rina Devi and Geeta Devi in Cr. Appeal (SJ) No. 1132 of 2025 for the offences punishable under Sections 147, 323 of the IPC and extended the benefit of Section 3 of Probation of Offenders Act to them and they have been released after due admonition. In this way, judgment of conviction and order of sentence is based on the sound principle of law and



hence, the impugned judgment does not require any interference.

9. The question which arises for consideration is:-

"Whether offence under Sections 147 and 325 of the IPC is made out in the light of given facts and circumstances of the case or not ?"

10. I have perused the impugned judgment, order of trial court and trial court records. I have given my thoughtful consideration to the rival contention made on behalf of the parties as noted above.

11. It is necessary to evaluate, analyze and screen out the evidences of witnesses adduced before the trial court.

12. PW-5/ Vijay Kumar Yadav is informant as well as injured of the present case. He has stated that Rajkishore Yadav assaulted his father by means of spade as a result of which informant's father sustained injury and when informant came to save, appellant Balindar Yadav assaulted upon the informant by means of farsa and appellant Dharendra Yadav assaulted the informant by means of lathi. PW-5/informant has further stated that when informant's mother Tulsi Devi and Sister Vina Kumari came to rescue, the appellants/ Rina Devi,



Geeta Devi and co-accused Sunganti Devi assaulted upon the head of informant's mother and sister. PW-5 has also stated that appellant Dhirendra Yadav assaulted the informant's mother and sister by means of lathi as a result of which they sustained injury on the head. PW-5 has identified his signature on the fardbeyan which stands marked as Exhibit-1. During cross examination, PW-5 has stated that appellants are agnates and there is no land dispute between appellants and informant. He has admitted that for the same date of occurrence, appellants have also filed case against the informant.

13. From perusal of evidence adduced by PW-5, who is informant as well as injured witness, it is evident that he has supported the manner of occurrence in which informant and his family members have been assaulted, causing injury to them. During cross-examination, nothing was elucidated to disbelieve the version of PW-5.

14. PW-1 Tulsi Devi is mother of the informant as well as injured witness of this case. She has supported the version of informant on the point of assault upon the informant and his family members. There is no reason to disbelieve the version of PW-1 as her version is quite consistent with the initial version of PW-5.



15. In similar way, PW-2 Arun Kumar Yadav, who is also an injured witness of the case, has also supported and corroborated the version of PW-5/ informant as well as PW-1. There is no reason to disbelieve the version of PW-2. PWs-3 and 4 have also supported the version of PW-5 and other prosecution witnesses. However, they have admitted that on account of land dispute, the said occurrence has taken place.

16. PW-6 Dr. Sanjay Kumar stated that on 26.05.2014 he was posted at Sadar Hospital, Siwan.

1. On the same day at 09:10 PM, he examined Bibha Kumari and found following injuries:-

1. Lacerated wound 3"x1/2"x muscle deep over right parietal region near vertex.

Injury caused by hard and blunt substance, except injury no. 2 reserved for x-ray and C.T. scan report.

2. On the same day at 08:40 PM, he examined Vijay Yadav and found following injuries:-

(i) Lacerated wound 1-1/2"x1/2"x Muscle deep over forehead of left side.

(ii) Lacerated wound 1"x1/2"x Muscle deep over left eye-brow.

(iii) Lacerated wound = 3"x1/2"x Muscle deep over left parietal bone.

(iv) Lacerated wound = 1"x1/2"x muscle deep over left parietal bone.

Injury no. 2, 3 simple in nature and all injuries are caused by hard and blunt substance,



remaining injuries are kept reserved.

3. On same day at 8:50 P.M, he examined Arun Kumar and found the following injuries on his person:-

(i) Swelling- 2"x2" over right occipito-parietal region.

(ii) Lacerated wound 1/2" X 1/4" X muscle deep over right occipito parietal region.

All injuries caused by hard and blunt object, nature of injury 1 & 2 are kept reserved till coming of X-ray & CT Scan of Skull.

4. On the same day at 8:55 P.M. he examined Tulsi Devi and found following injuries on her person:

(i) Lacerated wound- 1/2" X 1/4" X muscle deep over right occipital region, caused by hard blunt object, opinion reserved till coming of X-Ray and C.T Scan of Skull.

5. On the same day at 8:45 PM, he examined Awadh Yadav and found following injuries on his person:-

Lacerated wound - 1" X 1" X muscle deep over right parietal region near vertex, caused by hard and blunt substance, opinion is reserved till X-ray & CT scan report.

PW-6 has proved all above injury reports respectively as Ext. 2, 2/1, 2/2, 2/3 and 2/4.

C.T scan & X-ray report of all injured is as follows:-

(1) X-ray skull report of Vibha Kumari shows no bony



lesion. CT Scan of skull of Vibha Kumari Shows extra calvarial. Scalp hematoma in right parietal region, thus injury is simple in nature.

(ii) Supplementary report from IGE medical system, vide symbol no. 410 dated 27-05-2014 and C.T. Scan report from same centre vide ID No. 99 dated 26-05-2014 are as follows:-

(iii) X-ray Skull fracture in the frontal region. C.T scan report shows thin extra axial acute blood collection over right frontal bone fracture of the left side of frontal bone, extending to left parietal bone, thus the injury no. 1 is grievous in nature.

(iv) Supplementary report of Arun Kumar, report of C.T. Scan shows acute extra dural hematoma is seen over left parietal lob causing compression over underlying brain parenchyma. Compression over left lateral Ventricle mild mid line shift towards right fracture of left parietal bone. Report (X-ray) vide symbol no. 412 plain X ray Skull no bony lesion. Thus the injury no. 2 is grievous in nature and others are simple in nature.

(V) Supplementary report of Tulsi Devi- X-Ray of Skull shows fracture of occipital region. Thus injury no. 1 is found grievous in nature.

(VI) Supplementary report of Awadh Yadav- Plain X-ray of Skull shows no bony lesion. CT scan shows no significant abnormality in skull, thus the injury no. 1 is found simple in nature.

The abovenoted all supplementary reports are in my pen and signature i.e. marked as Ext. 3 to 3/3.



17. From the perusal of medical evidence of PW-6, it is crystal clear that there are five injured persons and only Tulsi Devi, Arun Kumar Yadav and Vijay Kumar Yadav have been examined as PW-1, PW-2 and PW-5 respectively. Other two injured persons have not been examined on behalf of the prosecution.

18. PW-7 Surendra Rai is Investigating Officer of the case. He has stated that he visited the place of occurrence. Place of occurrence is eastern side of bathan situated at Village Parshurampur, Tola-Lohrajan. PW-7 has further stated that he has recorded the statement of Rina Devi, Ashok Choudhary, Devant Kumar and Suresh Yadav, who have supported the occurrence. He has recorded the re-statement of informant/PW-5. He has also recorded the statement of witness Awadh Yadav, Tulsi Devi/PW-1 and Ajay Yadav. PW-7 has further stated that he obtained injury report of injured Awadh Yadav, Vijay Yadav(PW-5), Tulsi Devi (PW-1), Arun Yadav (PW-2) and Vibha Kumari and mentioned the same in the case diary. PW-7 has further stated that on the direction of his superior police officer, he submitted charge sheet. During cross examination, PW-7 has stated that after perusal of FIR, it is learnt that there was land dispute between two brothers. He has further stated



that said occurrence took place on account of land dispute.

19. After going through the evidence of prosecution witnesses, it is clear that PW-5/ informant, PW-1 (injured witness), PW-2 (injured witness) have supported the prosecution case on the point of manner of occurrence, place of occurrence as well as on the point of assault. PW-6, who is doctor has examined five injured persons, out of whom three injured persons have been examined on behalf of the prosecution as PW-1, PW-2 and PW-5. PW-7 is the Investigating Officer of the case. He has identified the place of occurrence. He has recorded the statement of injured witness Tulsi Devi (PW-1) and obtained the injury report of injured Awadh Yadav, Vijay Yadav(PW-5), Tulsi Devi (PW-1), Arun Yadav (PW-2) and Vibha Kumari who have supported the case of the prosecution. In this way, the prosecution has proved its case beyond reasonable doubt.

20. 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 in respect of appellants/ Rajkishore Yadav, Dharendra Yadav @ Dharendra Kumar Yadav and Balindar Yadav in Cr. Appeal (SJ) No. 1120 of 2025 is justified and legal and hence, same is



upheld. So far as appellants/ Rina Devi and Geeta Devi in Cr. Appeal (SJ) No. 1132 of 2025 is concerned, they have been convicted for the offences punishable under Sections 147, 323 of the IPC and they have been extended the benefit of Section 3 of Probation of Offenders Act and have been released after due admonition. Hence, I find no reason to interfere with the impugned judgment in respect of appellants/ Rina Devi and Geeta Devi in Cr. Appeal (SJ) No. 1132 of 2025.

21. 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.



22. So far as order of sentence in respect of appellants/ Rajkishore Yadav, Dharendra Yadav @ Dharendra Kumar Yadav and Balindar Yadav in Cr. Appeal (SJ) No. 1120 of 2025 is concerned, from perusal of record it is evident that occurrence is of the year 2014 and appellants have already suffered 11 years in litigation and they have sufficiently been punished. They have no criminal antecedent. The occurrence took place on account of digging plinth upon a joint property and appellants and informant are agnates. There is case and counter case between the parties for the same date of occurrence, as is evident from the deposition of PW-5. The appellants have already suffered near about five months in judicial incarceration. 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.

23. With the aforesaid modification in sentence, these appeals stands dismissed.

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

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



for record.

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

(Alok Kumar Pandey, J)

shahzad/-

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