

(2026) 08 PAT CK 2542

In the Patna High Court

Case No : CRIMINAL APPEAL (DB) No.324 of 2024

Nageshwar Prasad

APPELLANT

Vs

The State Of Bihar & Ors.

RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Criminal Procedure Code, 1973 — Section 372, 313, 378
Indian Penal Code — Section 307/34, 504, 506, 323, 504 and 506, 341, 307, 379, 34,
506 and 307, 504/506/307/34, 341/34, 323/34, 504/34 and 506/34
Probation of Offenders Act

Citation : (2026) 08 PAT CK 2542

Hon'ble Judges : Rajeev Ranjan Prasad, J;Ramesh Chand Malviya, J

Bench : Division Bench

Advocate : Mr. Praveen Kumar, Mr. Ajay Mishra

Final Decision : Dismissed

Judgement

(Per: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA)

Date : 03-08-2026 Heard learned counsel for the appellant and learned Additional Public Prosecutor for the State.

2. The present criminal appeal under Section 372 of the Criminal Procedure Code, 1973 arises out of the judgment of conviction dated 24.01.2024 (hereinafter referred to as the 'impugned judgment') and the order of sentence dated 25.01.2024 (hereinafter referred to as the 'impugned order') passed by learned Additional District and Sessions Judge-IV, Barh, District- Patna (hereinafter referred to as the 'learned trial'), in Sessions Trial No. 621 of 2016 along with 621A of 2016 (arising out of Hatidah P.S. Case No. 254 of 2015), whereby and whereunder Respondent Nos. 2 to 5 have been acquitted of the charges under Section 307/34 of the Indian Penal Code (in short 'IPC'), while Respondent Nos. 2, 3 and 5 have been acquitted of the charges under Section 504 and 506 of the IPC, while Respondent No. 4 Santosh Mahto has been convicted for offence punishable under Sections 323, 504 and 506 of the IPC and

has been released on probation for a period of one year and Respondent No. 4 has further been directed to pay a sum of Rs. 20,000/- (Twenty Thousand Only) by way of compensation.

Prosecution Case

3. The prosecution case is based on the written application of the informant Nageshwar Prasad, submitted on 21.06.2015, who happens to be an advocate by profession, practising in the local Barh Court (appellant herein), wherein he has alleged that on 21.06.2015 at 3:30 PM the informant along with his younger brother, due to previous land dispute had gone to Hathidah Police Station to give a written report and during course of returning, in front of his house, accused persons, namely, Santosh Mahto, Bajrangi Mahto, Birbal Mahto and Dhiru Mahto, who were present from before with lethal weapons, assaulted them by rod and lathi on head, Santosh Mahto assaulted on head and left hand by means of rod. It is further alleged that Birbal Mahto took Rs. 2000/- from his pocket.

4. On the basis of the written application of the informant (PW-3), Hathidah P.S. Case No. 254 of 2015, came to be registered for the offences punishable under Sections 341, 323, 504, 506, 307, 379, 34 IPC against the Respondents 2 to 5. After the investigation, the police submitted a chargesheet bearing Chargesheet No. 62 of 2015 dated 03.07.2015 under Sections 341, 323, 504, 506, 34 of the IPC. The charges came to be framed against the Respondents Nos. 2 to 5 for the offences punishable under sections 307/34, 504, 506 of the IPC.

5. Learned Magistrate vide order dated 04.08.2015 took cognizance of the offences and issued summons to all the accused persons under Sections 323, 504, 506 and 307 of the IPC. Thereafter, learned Magistrate committed the case records to the Court of Sessions in relation to the accused persons in attendance, namely, (1) Santosh Mahto, (2) Birbal Mahto and (3) Dhiru Yadav, giving a direction to open a separate file against the absent accused person, Bajrangi Mahto.

6. Upon commitment, Sessions Trial No. 621 of 2016 was registered in the court of Additional Sessions Judge II, Barh, where charges were read over and explained to (1) Santosh Mahto, (2) Birbal Mahto and (3) Dhiru Yadav on 02.06.2017, to which they denied and claimed to be tried. Accordingly, the charges were framed under Sections 307/34, 504 and 506 IPC against the accused persons. A separate file, registered as Sessions Trial No. 621A of 2016, was opened against the absconding accused Bajrangi Mahto, in which charges were read over and explained Bajrangi Mahto to which he denied and claimed to be tried. Accordingly, charges were framed on 29.03.2019 under Sections 504/506/307/34 IPC.

7. In course of trial, the prosecution examined as many as eight witnesses and got exhibited various documentary evidence. The description of the prosecution witnesses and the list of documents exhibited on behalf of prosecution are

provided here under for ready reference in a tabular form:-

List of Prosecution Witness

Prosecution witness No.	Name of Witness	Description
PW-1	Shankar Prasad	Other Witness
PW-2	Ajit Mandal	Other Witness
PW-3	Nageshwar Prasad	Informant
PW-4	Ram Lakhan Baitha	Investigation Officer

PW-5	Dr. Rakesh Kumar Sinha	Doctor
PW-6	Sundarkant Jha	Investigation Officer
PW-7	Raman Mahta @ Raman Mandal	Other Witness
PW-8	Ramakant Yadav	Other Witness

List of Exhibits

Exhibit No.	Description
Exhibit- 1	Written application of informant
Exhibit-2	Injury report of Mahendra Das
Exhibit-3	Injury report of Rajesh Das
Exhibit-4	Forwarding report on Fardbeyan
Exhibit-5	Registration of the FIR written on the margin of the written application
Exhibit-6	Complete Formal FIR

8. Thereafter, the statement of the Respondent Nos. 2 to 5 was recorded under Section 313 of the Cr.P.C. in which they denied the allegations and pleaded innocence.

9. The defence has produced two witnesses but has not produced any documentary evidences to prove its case.

List of Defence Witnesses

Defence Witness No.	Name of Witness	Description
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DW-1	Bipin Kumar	Other Witness
DW-2	Yogendra Mahto	Other Witness

Findings of the learned Trial Court

10. Learned trial court examined the evidence of eight prosecution witnesses (PW-1 to PW-8) on the point of facts. PW-1 Shankar Prasad and PW-2 Ajit Mandal are eyewitnesses to the occurrence; PW-3 Nageshwar Prasad is the informant himself; PW-4 Ram Lakhan Baitha is the Investigating Officer; PW-5 Dr. Rakesh Kumar Sinha is the medical witness; and PW-6 Sundar Kant Jha is the police officer who took the injured for treatment. PW-7 Raman Mahato and PW-8 Ramakant Mahato, being close relatives of both parties, gave vague statements and were declared hostile at the instance of the prosecution.

11. Learned trial court found from the evidence of PW-3 Nageshwar Prasad (informant) that on 21.06.2015, while returning after lodging an application at Hathidah police station, he and his brother Shankar Prasad were surrounded by the accused persons near their house, and that accused Santosh Mahto struck him twice with a rod on the forehead and left hand, causing him to bleed. He further stated that Birbal Mahato took ₹ 2,000 from his pocket. This version was corroborated by PW-1 Shankar Prasad and PW-2 Ajit Mandal, both of whom deposed that Santosh Mahato dealt the blows with a rod while the remaining accused assaulted with sticks.

12. Learned trial court found from the evidence of PW-5 Dr. Rakesh Kumar Sinha that the informant had sustained two lacerated wounds, one measuring 3"×1" on the forehead and the other 1"×½" on the left hand, both being simple in nature and caused by a hard and blunt object. Learned trial court noted that the medical evidence did not record any injury attributable to the other accused, and that no independent witness spoke of any fatal or murderous assault, the entire occurrence having lasted only two to three minutes in the presence of numerous villagers and in close proximity to the police station.

13. Learned trial court, on a comprehensive appraisal of the testimony of the informant, his brother, the investigating officer and the medical witness, held that the injuries were attributable solely to accused Santosh Mahato, and that the involvement of the remaining accused, though they may have been present at the spot, was not established by any specific injury or corroborative evidence. It is further found that the allegation of threat and incitement to breach the peace against Santosh Mahato stood proved from the informant's own testimony, while no such specific allegation was made out against the other accused.

14. Learned trial court accordingly acquitted accused Birbal Mahato, Dhuru Yadav and Bajrangi Mahato of the charges under Sections 307/34, 504 and 506 IPC, and acquitted accused Santosh Mahato of the charge under Section 307 IPC for want of evidence of any murderous assault, but convicted him under Sections

323, 504 and 506 IPC. On the point of sentence, the learned trial court, extending the benefit of the Probation of Offenders Act, directed the accused Santosh Mahato to furnish a bond of one year with two sureties for keeping the peace and to pay a sum of ₹ 20,000 as compensation to the informant and disposed of the case accordingly.

Submissions on behalf of the Appellant

15. Learned counsel for appellant submits that the impugned judgment of acquittal, to the extent it acquits Respondent Nos. 2, 3 and 5, and acquits Respondent No. 4 under Section 307 IPC, is bad in law, erroneous on facts, based on perverse findings, and fit to be set aside. It is submitted that the learned trial court erred in relying upon the medical evidence to hold the injury to be simple in nature, without appreciating that the injury was inflicted on the head, a vital part of the body, and that the deliberate targeting of a vital part by the accused clearly manifested an intention to kill, thereby attracting Section 307 IPC.

16. Learned counsel submits that the appellant, being an Advocate, was waylaid and assaulted at a time when he had gone to lodge the FIR against Respondent Nos. 2 to 5, which circumstance the learned trial court failed to appreciate, and that the medical evidence is fully consistent with the oral testimony regarding the manner of assault levelled against the accused persons. Learned counsel submits that all the prosecution witnesses have supported the case of the prosecution, and that the oral, documentary and medical evidence led by the prosecution fully establishes the charges as framed, so that the sentence awarded against Respondent No. 4, as also the acquittal of Respondent Nos. 2, 3 and 5, cannot be sustained, and the defence version led by the accused is not liable to be accepted.

17. It is submitted that the judgment of the learned trial court be upturned and Respondent Nos. 2 to 5 be convicted and sentenced for the charges framed against them under Sections 307/34, 504 and 506 IPC and the present appeal be allowed.

Submissions on behalf of the State

18. Learned Additional Public Prosecutor for the State submits that the impugned judgment of the learned trial court is based on a correct and comprehensive appraisal of the oral, documentary and medical evidence on record, and does not suffer from any illegality, perversity or error warranting interference by this Hon'ble Court.

19. Learned APP submits that the learned trial court, upon examining the evidence of PW-3 Nageshwar Prasad (informant), PW-1 Shankar Prasad and PW-2 Ajit Mandal, along with the medical evidence of PW-5 Dr. Rakesh Kumar Sinha, rightly found that the injuries sustained by the informant were confined to two simple lacerated wounds, one on the forehead measuring 3"×1" and the

other on the left hand measuring 1"×½", both caused by a hard and blunt object, and that no injury whatsoever was found attributable to Respondent Nos. 2, 3 and 5.

20. It is submitted that the learned trial court correctly held that had the other accused also assaulted the informant as alleged, corresponding injuries would necessarily have been reflected in the medical evidence, and since no such injuries were found, the involvement of Respondent Nos. 2, 3 and 5 in causing any hurt was rightly held not to be established, even though they may have been present at the spot.

21. Learned APP submits that the learned trial court rightly held that the entire occurrence took place within a span of two to three minutes in the presence of numerous villagers and in close proximity to the police station, which circumstances themselves militated against any intention on the part of the accused to commit murder, and that the injuries being simple in nature, no case under Section 307 IPC was made out against any of the accused, including Respondent No. 4.

22. It is submitted that the learned trial court, on a fair reading of the entire evidence, including that of PW-7 Raman Mahto and PW-8 Ramakant Mahto, who were declared hostile, rightly observed that a minor incident arising out of a dispute had been exaggerated by both sides, and that the defence evidence regarding the underlying dispute over construction of a wall in the street was not without basis.

23. It is submitted that the learned trial court, having found the specific role of causing hurt and criminal intimidation to be established only against Respondent No. 4 Santosh Mahto on the basis of the informant's own testimony, rightly convicted him alone under Sections 323, 504 and 506 IPC, and rightly acquitted Respondent Nos. 2, 3 and 5 of all charges and Respondent No. 4 of the charge under Section 307 IPC, for want of evidence.

24. Learned APP submits that the learned trial court, while sentencing Respondent No. 4, took into account that he was in public service with no prior criminal antecedents, had expressed remorse, and accordingly extended to him the benefit of the Probation of Offenders Act with a direction to furnish a bond and pay compensation of ₹ 20,000/- to the informant, which order of sentence is just, fair and does not call for enhancement. Learned APP, accordingly, submits that the impugned judgment of conviction and order of sentence dated 24.01.2024 and 25.01.2024 respectively does not suffer from any infirmity, and prays that the present appeal, being devoid of merit, be dismissed.

Consideration

25. We have heard learned counsel for the parties and perused the trial court records. The prosecution examined eight witnesses. PW-3 Nageshwar Prasad (informant) and PW-1 Shankar Prasad, both being direct witnesses to the

occurrence, deposed consistently that accused Santosh Mahto dealt two blows with a rod, one on the forehead and one on the left hand, while the remaining accused assaulted with sticks; this version found corroboration from PW-2 Ajit Mandal. PW-4 Ram Lakhan Baitha, the Investigating Officer, and PW-6 Sundar Kant Jha, the police officer who had taken the injured for treatment, deposed to the formal aspects of investigation. PW-5 Dr. Rakesh Kumar Sinha, who examined the informant on the date of occurrence, found two simple lacerated wounds, one measuring 3"×1" on the forehead and the other 1"×½" on the left hand, both attributed to a hard and blunt object. PW-7 Raman Mahto and PW-8 Ramakant Mahto, being close relatives of both sides, did not support the prosecution case and were declared hostile.

26. The defence examined two witnesses, Bipin Kumar and Yogendra Mahto, who spoke of an underlying dispute between the parties over the construction of a wall in the street, and relied on documents pertaining to a land dispute and an earlier proceeding between the parties.

27. Learned trial court, on a comprehensive appraisal of the aforesaid evidence, found that although the informant and his brother had named all four accused, the medical evidence disclosed only two simple injuries, both attributable to the assault by accused Santosh Mahto alone, and that no injury corroborative of an assault by the remaining accused was found on the informant's person. Learned trial court further found that the occurrence lasted barely two to three minutes, occurred in the presence of numerous villagers, and at a place in close proximity to the police station, circumstances which militated against any intention to commit murder. On this basis, learned trial court acquitted Respondent Nos. 2, 3 and 5 of all charges, acquitted Respondent No. 4 Santosh Mahto of the charge under Section 307 IPC, and convicted him alone under Sections 323, 504 and 506 IPC, sentencing him to a bond under the Probation of Offenders Act together with compensation of ₹ 20,000/- to the informant.

28. Learned counsel for the appellant/informant submits that the impugned judgment is erroneous inasmuch as the injury was inflicted on the head, a vital part of the body, which by itself discloses an intention to kill within the meaning of Section 307 IPC; that the appellant, being an Advocate, was waylaid precisely when he had gone to lodge the FIR against the respondents; and that the oral, medical and documentary evidence fully supports the prosecution case in its entirety, warranting conviction of all the respondents under Sections 307/34, 341/34, 323/34, 504/34 and 506/34 IPC.

29. Learned Additional Public Prosecutor for the State, per contra, submits that the trial court's finding that the medical evidence discloses only simple injuries with no corroboration of any assault by Respondent Nos. 2, 3 and 5; and that the short duration of the occurrence, the presence of a crowd, and the proximity of the police station, taken together with the nature of the injury, rule out any intention to commit murder, so that the view taken by the learned trial court is a plausible one calling for no interference.

30. Before proceeding to examine the rival contentions, it would be apposite to notice the settled principles governing the scope of interference by an appellate court in an appeal against acquittal, including one preferred by a victim under the proviso to Section 372 CrPC. The Hon'ble Supreme Court in **H.D. Sundara v. State of Karnataka reported in (2023) 9 SCC 581**, has held in paragraph '8' as under:-

"8. In this appeal, we are called upon to consider the legality and validity of the impugned judgment rendered by the High Court while deciding an appeal against acquittal under Section 378 of the Code of Criminal Procedure, 1973 (for short "CrPC"). The principles which govern the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378CrPC can be summarised as follows:

8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappraise the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after reappraising the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible."

This position finds resonance in **Chandrappa v. State of Karnataka, (2007) 4 SCC 415**, and **Rajesh Prasad v. State of Bihar, (2022) 3 SCC 471**.

31. Applying the aforesaid principles to the facts of the present case, we find that the learned trial court has not ignored or misread any material evidence. The medical evidence of PW-5 clearly circumscribes the injury of two simple wounds, both attributable to accused Santosh Mahto, and there is no injury on record attributable to the remaining respondents; the mere presence of the respondents at the spot, without any corresponding injury or independent corroboration of their individual role, was rightly held insufficient to convict them. As regards the submission that the injury on the head, being on a vital part of the body, *ipso facto* discloses an intention to kill, we are of the view that intention under Section 307 IPC has to be gathered from the cumulative circumstances, including the nature of the weapon, the number of blows, the part of the body targeted, and the opportunity available to the accused to accomplish the act; here, the injuries being simple, the occurrence having lasted only two to three minutes in the presence of numerous villagers, and the spot being in close proximity to the police station, we find that the trial court's conclusion that no intention to kill was made out is a reasonable and possible view on the evidence, and not one which can be said to be perverse or based on a misreading of the record.

32. In a criminal appeal against acquittal, what the Appellate Court has to

examine is whether the finding of the learned court below is perverse and *prima facie* illegal. Once the Appellate Court comes to the finding that the grounds on which the judgment is based are not perverse, the scope of appeal against acquittal is limited considering the fact that the legal presumption about the innocence of the accused is further strengthened by the finding of the Court. At this point, it is imperative to consider the decision of the Hon'ble Supreme Court in the case of **Mrinal Das v State of Tripura** reported in **(2011) 9 SCC 479**, paragraphs '13' and '14' of which read as under:

"13. It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate court, it being the final court of fact, is fully competent to reappraise, reconsider and review the evidence and take its own decision. In other words, the law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent court. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the findings of acquittal.

14. There is no limitation on the part of the appellate court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate court can also review the conclusion arrived at by the trial court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be interfered with only when there are "compelling and substantial reasons" for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference....."

33. In the case of **Ghurey Lal versus State of Uttar Pradesh** reported in **(2008) 10 SCC 450** in paragraph '75', the Hon'ble Supreme Court reiterated the said view and observed as under:

"75.The trial Court has the advantage of watching the demeanour of the witnesses who have given evidence, therefore, the appellate court should be slow to interfere with the decisions of the trial court. An acquittal by the trial court should not be interfered with unless it is totally perverse or wholly unsustainable."

34. Thus, an order of acquittal is to be interfered with only for compelling and substantial reasons. In case, if the order is clearly unreasonable, it is a compelling reason for interference. But where there is no perversity in the finding of the impugned judgment of acquittal, the Appellate Court must not take a different view only because another view is possible. It is because the trial court has the privilege of seeing the demeanour of witnesses and, therefore, its decision must not be upset in absence of strong and compelling grounds.

35. For the reasons aforesaid, we do not find any patent perversity, misreading or omission of material evidence in the impugned judgment so as to warrant interference by this Court. The view taken by the learned trial court, both in

acquitting Respondent Nos. 2, 3 and 5 of the charges, in acquitting Respondent No. 4 of the charge under Section 307 IPC, and in convicting Respondent No. 4 alone under Sections 323, 504 and 506 IPC with the benefit of probation, is a possible view supported by the evidence on record, and does not call for interference in this appeal against acquittal under the proviso to Section 372 CrPC.

36. Let a copy of this judgment along with the trial court's record be sent down to learned trial court.

FOOTNOTES

1. *State of Karnataka v. H.K. Mariyappa*, 2010 SCC OnLine Kar 5591