



**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1206 of 2019**

Arising Out of PS. Case No.-147 Year-2007 Thana- MANIHARI District- Katihar

1. SK. Najmul S/o Sk. Ainul R/o Kumaripur, P.S-Manihari, Dist.-Kaithar
2. Shakila W/o Sk. Ainul R/o Kumaripur, P.S-Manihari, Dist.-Kaithar
3. Sk. Ainul S/o Late Lukman R/o Kumaripur, P.S-Manihari, Dist.-Kaithar
4. SK. Karim S/o Late Sk. Lukman R/o Kumaripur, P.S-Manihari, Dist.-Kaithar
5. Roshani Khatoon D/o Sk. Maimul R/o Kumaripur, P.S-Manihari, Dist.-Kaithar
6. Md. Rahim @ Sk. Rahim S/o Late Lukman R/o Kumaripur, P.S-Manihari, Dist.-Kaithar
7. Bibi Isharat W/o Sk. Rahim R/o Kumaripur, P.S-Manihari, Dist.-Kaithar
8. Guddu @ Saddam S/o Sk. Rahim R/o Kumaripur, P.S-Manihari, Dist.-Kaithar
9. Sk. Maimul S/o Late Sk. Lukman R/o Kumaripur, P.S-Manihari, Dist.-Kaithar
10. Bibi Wamahine Wali W/o Sk. Maimul R/o Kumaripur, P.S-Manihari, Dist.-Kaithar
11. SK. Hussain S/o Sk. Maimul R/o Kumaripur, P.S-Manihari, Dist.-Kaithar

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjeev Kumar Singh, Advocate
For the Respondent/s : Ms. Abha Singh, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT**

Date : 05-08-2026

Heard learned counsel appearing for the appellants
and learned Additional Public Prosecutors appearing for the
State.

2. This appeal has been filed challenging the
judgment of conviction and order of sentence 13.03.2019 passed





by the learned A.D.J., F.T.C 1st, Katihar in Sessions Trial No. 44 of 2010 in connection with G.R. No. 2192 of 2007 whereby and whereunder appellant no. 6 has been convicted under Section 324 IPC and sentenced to undergo rigorous imprisonment for three years and all the appellants, including appellant no. 6, have been convicted under Sections 323, 341 IPC and sentenced to undergo rigorous imprisonment for one year for committing offence under Sections 323 IPC and rigorous imprisonment for one month under Section 341 IPC. All the sentences are directed to run concurrently.

3. According to the written report lodged by Sheikh Suvedan, the occurrence took place on 03.12.2007 in village Kumhari Pur, Police Station Manihari, District Katihar. The prosecution alleged that on the date of occurrence the accused persons, all belonging to one family, came together in furtherance of their common intention. The dispute arose over cultivation and possession of agricultural land. It is alleged that the accused persons demolished the boundary/fencing of the informant's land, entered upon the land and assaulted the informant's family members with *lathi*, *danda* and sharp cutting weapon (*hasua*). Co-accused Sheikh Nijamuddin allegedly assaulted the informant on the head with a sharp weapon





causing bleeding injury. Several other accused assaulted the remaining injured persons by fists, kicks and *lathis* and during the occurrence accused Sheikh Karim (appellant no. 4) allegedly committed theft by removing cash kept in a box/locker, initially stated to be about Rs.12,000/- and subsequently alleged to be around Rs.50,000/-. While leaving, the accused threatened the informant with dire consequences.

4. In this case, on the basis of the written report, the police instituted the case and after investigation submitted charge-sheet. Charges were framed against all the accused persons under Sections 341, 323, 324, 307/34 IPC, whereas, Sheikh Karim (appellant no. 4) was separately charged under Section 380 IPC.

5. In this case, in order to bring home guilt of the accused persons, the prosecution has examined altogether seven witnesses. P.W. 1, Dr. Mahatabuddin Ahmad is the doctor who examined the injured informant (P.W. 4) and found cut injury over his left parietal region of scalp caused by sharp cut weapon and swelling over the right ring finger. He admitted that the cut injury caused to P.W. 4 could also result from a fall on hard surface. He also examined another injured female (P.W. 6) and found simple injury over her right elbow. P.W. 2, Kailash





Sharma is the eye witness of the occurrence and identified the accused persons in Court. His evidence discloses that the occurrence took place amidst land dispute and there were admitted litigation between the parties. P.W. 3, Sheikh Rahim, is one of the injured witnesses who also supported the allegation of theft. P.W. 4, Shiekh Sukh, is the injured informant who supported the prosecution case. P.W. 5, Sheikh Manu @ Sheikh Mahabuddin and P.W. 7, Sheikh Suvedan also supported the prosecution case and identified the accused. P.W. 6, Bibi Hena, is the injured witness who sustained simple injuries.

6. On the other hand, the defence has not produced any oral or documentary evidence.

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

8. Learned counsel appearing for the appellants assails the order of conviction and sentence on multiple grounds. He contends that from bare perusal of the F.I.R., it is apparent that specific accusation of assault is against co-accused Sheikh Nijamuddin and there is absolutely no allegation of any specific overt act against these appellants. He further contends that in this case, the Investigating Officer has not been examined and





non-examination of the Investigating Officer has caused great prejudice to the defence of the appellants as he was not able to contradict the evidence of the witnesses and the place and manner of occurrence could not be proved. It is further contended that P.W. 1 is the doctor who examined the injured and deposed that injuries sustained by the injured were simple in nature and it does not support the allegation of life-threatening injuries, thereby, weakening the prosecution case regarding Section 307 IPC. He contends that the trial court has wrongfully convicted the appellants ignoring material contradictions and hence, the impugned order of sentence and conviction are fit to be quashed and set aside on the basis of facts and circumstances. Learned counsel for the appellants lastly contends that the incident took place in the year 2007 and after the conviction, the appellants were taken into custody on 13.03.2019 after cancelling their bail bonds but they were released on provisional bail on the same day i.e., on 13.03.2019 and since then there is no complaint of misconduct of the appellants.

9. On the other hand, learned Additional Public Prosecutor for the State has submitted that there is no need of any interference in this appeal since the prosecution witnesses have supported the prosecution story. He submits that there is no





ground to differ with the findings of the learned trial court and the judgment of conviction and order of sentence are justified and legal.

10. On going through the rival submissions, evidences and upon perusal of the records, this Court finds that in this case, during trial, the Investigating Officer has not been examined by the prosecution and no independent witness was examined by the prosecution either. Non-examination of the Investigating Officer has caused great prejudice to the defence as the defence could not explain the material discrepancy and contradict the witnesses. However, this Court finds that the evidences are completely trustworthy and there is no reason to disbelieve the evidence that it was co-accused Sheikh Nijamuddin who caused injury to injured informant. It is also not in dispute that doctor has opined the nature of injuries to be simple. This Court further finds that the incident took place in the year 2007 and during the aforesaid period, there is no complaint against the appellants.

11. Keeping in view the aforesaid facts and circumstances of the case, I feel that ends of justice would be met if the sentence is reduced to the period already undergone by the appellants during trial.





12. Accordingly, the impugned judgment of conviction dated 13.03.2019 passed by the learned A.D.J., F.T.C 1st, Katihar in Sessions Trial No. 44 of 2010 in connection with G.R. No. 2192 of 2007 is upheld, however, the order of sentence is modified to the period appellants have already undergone.

13. In that view of the matter, appellants, above named, are discharged from the liability of the bail bonds in connection with this case.

14. Accordingly, this appeal stands disposed of.

15. Interlocutory application/s, if any, also stands disposed of.

(Prabhat Kumar Singh, J)

Navya/-

AFR/NAFR	NAFR
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