



CNR No-UPKJ010038432021

Date of Institution	Date of Judgement:	Age:
09-17-21	07-09-25	3 Y, 9 M, 22 D
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In The Court of Sessions Judge, Kannauj

Presiding Officer- Shri Chandroday Kumar (HJS)-UP06553

Session Trial Number-713 of 2021

State of Uttar Pradesh ... Prosecution
Versus

1. Shakir, son of Salim,
2. Aakil, son of Salim,
3. Ayyaz, son of Shabir,
4. Haseeb, son of Shabir, and
5. Wasid, son of Kallu
All residents of Rasulabad, Police Station Talgram, District Kannauj
... Accused.

Crime Number-100/2019
Under Sections 147, 452, 308/149,
323/149, 504, 506, IPC
Police Station- Talgram,
Distt. Kannauj.

Prosecution Counsel: Shri Tarun Chandra, DGC (Criminal),
Defence Counsel: Shri Akhilesh Kumar Srivastava, Advocate.

JUDGMENT

Introduction:

1. The accused, Shakir, Aakil, Ayyaz, Haseeb, and Wasid, have been charged with and tried for offences punishable under Sections 147, 452, 308/149, 323/149, 504, and 506 of the Indian Penal Code (IPC).

Facts:

2. According to the prosecution's story, the brief facts related to the case are as follows: On June 01, 2019, the complainant, Shibu Kuraishi, submitted a written *Tahrir* (Exhibit Ka-1) to the in-charge of the Talgram Police Station in Kannauj District. He reported that on June 01, 2019, at around 6:40, their neighbour Shakir, son of Salim, was sweeping the area, and when the dust began to spread, the informant's grandfather, Ibrahim, objected. At this, Shakir started abusing and assaulting him. When the informant's father, Noor Ahmad (son of Ibrahim), and brother, Farman (son of Noor Ahmad), rushed to

intervene, Shakir's brother Akil (son of Salim), nephews Ayaz and Haseeb (sons of Shabir), and nephew Wasid (son of Kallu) all joined in and attacked the informant's father and brother with sticks and clubs with intent to kill. As a result, his father, brother Farman, and grandfather Ibrahim sustained serious injuries. After that, the accused also assaulted the women of the household by entering the home. They forcefully entered the house, assaulted the women, and while leaving, fled the scene after issuing threats to kill. The complainant requested that the information be registered and that action be taken.

FIR:

3. Based on the Tahrir, a First Information Report (FIR) was registered at the Police Station Talgram in Kannauj District, under Sections 147, 323, 452, 504, and 506 of the Indian Penal Code (IPC) at 2:30 on June 02, 2019. This FIR, assigned Crime No. 100 of 2019, was filed against the accused individuals, Shakir, Aakil, Ayaz, Hasib, and Wasid, stating therein the incident that occurred on June 1, 2019, at 18:40.

Injury Reports:

4. On the medical request letter by P/S Talgram, Dr. Mohd. Irshad, Medical Officer at C.H.C. Talgram, District Kannauj, conducted a medical examination (Exhibit Ka-4) of the **injured Ibrahim**, son of Nanhe, aged about 90 years, resident of Village Rasoolabad, Police Station Talgram, District Kannauj on June 01, 2019, at 10:40PM. The following injuries were found on his body:

Injury No. 01: A contusion measuring 03x01 cm at the right side of the chest with swelling measuring 06x04 cm, Tenderness present. Advice to X-ray. Skin colour: Red.

Injury No. 02: Complaint of pain in the whole body.

Doctor's opinion- injury No.1 was caused by a hard, blunt object. Injury No.1- advice to x-ray to Distt. Hospital Kannauj. The injury was kept under observation. Duration fresh. Injury No. 2 -caused by, -nature and duration unknown.

5. On the same day, i.e., June 01, 2019, at around 09:50 P.M., the aforementioned doctor conducted a medical examination (Exhibit Ka-5) of the **injured Farman**, son of Noor Ahmad, aged 18 years, resident of Village Rasoolabad, Police Station Talgram, District Kannauj. The following injuries were found on his body:

Injury No.1: A lacerated wound measuring 3.5 x 6.0 cm, scalp deep on the top of the head, between right and left parietal regions. The distance from the right upper ear pinna is 13.5 cm. Vomiting present. Advice to X-ray. Fresh bleeding present.

Injury No. 2: Complaint of pain in the whole body.

Doctor's opinion- injury No. 1 is caused by a hard and blunt object. This injury was referred to the District Hospital in Kannauj for X-ray examination under medical observation. Duration fresh. Injury No.2 - caused by, -nature and duration unknown.

6. On the same day, i.e., June 01, 2019, at around 10:20 P.M., the aforementioned doctor conducted a medical examination (Exhibit Ka-6) of the **injured Noor Ahmad**, son of Ibraheem, aged about 90 years, resident of Village Rasoolabad, Police Station Talgram, District Kannauj. The following injuries were found on his body:

Injury No. 1: An abrasion measuring 02 x 0.4 cm on the right upper eyelid. Fresh clotted blood present.

Injury No. 2: An abrasion measuring 0.8 x 0.4 cm on the one cm below the right lower eyelid. Fresh clotted blood present.

Injury No. 3: A contusion with swelling just below the left eye. The contusion measured 0.2 x 0.1 cm, and the swelling measured 0.6 x 0.4 cm. The skin colour is red.

Injury No. 4: Complaint of pain in the whole body.

Doctor's opinion- injuries Nos. 1, 2, and 3 caused by a hard, blunt object. All three injuries are simple in nature and duration fresh. Injury No. 4 - caused by, -nature and duration unknown.

7. The X-ray report of the injured, Farman, was received on July 3, 2019, in which the radiologist found a fracture on injury no. 1 located on the right parietal region of the head. Based on the radiologist's findings, a supplementary report (Exhibit Ka-6) for the injured person was prepared by Dr Mohd. Irshad.

Doctor's opinion- based on the said report of the radiologist, injury no. 1 sustained by the injured Farman was of a grievous nature, as a fracture was found in the right parietal region of his head.

8. At the same time, the same extract was entered into General Diary (GD) No. 03, dated June 02, 2019. This case was assigned to Inspector Sudesh Kumar, in-charge of Talgram., Police Station, Kannauj.

Investigation:

9. The IO, Sudesh Kumar, visited the scene, prepared the site map (Exhibit Ka-8), and recorded the witnesses' statements. Upon completing the investigation, the IO submitted a charge sheet against the accused, Shakir, Aakil, Ayyaz, Hasib, and Washid, under Sections 147, 452, 308, 323, 504, and 506 of the IPC, in the Court of the Chief

Judicial Magistrate (CJM), Kannauj.

Cognisance and committal:

10. The learned CJM, Kannauj, took cognisance of the matter and, upon determining the case to be triable by the Court of Sessions, committed the case to the Court of Sessions, following compliance with section 207 of the Code of Criminal Procedure (CrPC).

Charge:

11. This court registered the case as Session Trial Number 713 of 2021 and framed the charge against the accused, Shakir, Aakil, Ayyaz, Hasib and Washid, under sections 147, 452, 308/149, 323/149, 504 and 506 of the IPC. The accused pleaded innocence and claimed to be tried.

12. The prosecution examined the following witnesses to substantiate the charges against the accused:

Witness of facts:

PW1, Shibbu Kuraisi, the first informant,

PW2, Noor Ahamad, injured,

PW3, Farman, injured, and

PW7, Navi Ahamad alias Munna

Formal witnesses:

PW4, SI Balwant Singh; proved FIR and GD,

PW5, Dr Mohd Irshad, conducted the medical examination of the injured persons,

PW6, Inspector Sudesh Kumar, prepared the site map and submitted the chargesheet, and

PW8, Dr Kanhaiya, proved the X-ray reports.

13. The prosecution produced the following papers under documentary evidence:

Exhibit Ka-1, Tahrir; proved by PW1,

Exhibit Ka-2, FIR; proved by PW4,

Exhibit Ka-3, GD; proved by PW4,

Exhibit Ka-4, Medical report of injured Ibrahim; proved by PW5,

Exhibit Ka-5, Medical report of injured Farman; proved by PW5,

Exhibit Ka-6, Medical report of injured Noor Ahamad; proved by PW5,

Exhibit Ka-7, Supplementary report of injured Farman; proved by PW5,

Exhibit Ka-8, Site Map; proved by PW6,

Exhibit Ka-9, Chargesheet; proved by PW6.

Exhibit Ka-10, X-ray report of injured Ibrahim; proved by PW8, and

Exhibit Ka-11, X-ray report of injured Farman; proved by PW8.

Defence Version:

14. During the examination conducted under Section 313 of the Criminal Procedure Code, the accused individuals stated that they had been falsely implicated due to a village rivalry. They alleged that on

01.06.2016 at around 08:20 PM, the complainant Sibü, along with his father Noor Ahmad and uncle Munna, assaulted Ayaz and Wasid of their family. Subsequently, Ayaz lodged an NCR (Non-Cognizable Report) at the police station, which was later converted into an offence under Section 308 of the Indian Penal Code based on medical examination. They claim that the present case has been falsely instituted as a counterblast to that incident.

15. No oral evidence has been produced in defence

Arguments:

16. I heard the arguments of the learned District Government Counsel (DGC) (Criminal) and learned counsel for the defence. I went through the evidence and materials available on the record with great care.

Evidence:

Prosecution Witness PW-1: Sibü Qureshi

17. In his testimony, PW-1 Sibü Qureshi deposed that on **01.06.2019** at around **6:40 PM**, his grandfather **Ibrahim** was sitting at the doorstep of the house. At that time, the neighbour **Shakir** was sweeping near his own door, causing dust to rise. When his grandfather objected to the dust, Shakir started abusing and beating him. Upon hearing the noise, the witness, his brother Farman, and their father, Noor Ahmad, came to rescue Ibrahim. At that point, Shakir's brother **Aqil**, nephew **Ayaz**, **Haseeb**, and their cousin **Vaasid** came with sticks and assaulted his father and brother with deadly intent, causing serious injuries to Ibrahim, Noor Ahmad, and Farman.

18. He further stated that the accused also assaulted his mother and sister, who were present in the house. People from the neighbourhood gathered and intervened. The witness filed a police report. The original written complaint is on record as document 4A/4, which he identified as written in his own handwriting and signed by him, marked as Exhibit Ka-1.

19. The injured were medically examined at Talgram Government Hospital. Farman and Ibrahim were referred to the District Hospital for X-ray, and Farman was found to have a fracture on the head. Police inspected the site and recorded the witness's statement. He showed the investigating officer the location of the incident.

20. During **cross-examination**, the witness affirmed that Ayaz had also filed a counter-case against him, his father, and uncle under Section 308 IPC. He admitted being out on bail in that matter. He stated he holds a B.A. degree and serves as a principal in a school. He denied assaulting Ayaz or Vaasid. He reached the police station around 7:00–7:30 PM by motorcycle, but was not the one driving. The FIR in his case was lodged the next day at around 2:30 PM, after he attended the hospital and dropped off the injured person at

home. He confirmed injuries to Farman's head, Ibrahim's chest, and Noor Ahmad's eyebrow.

21. He denied influencing the medical report or that the injuries were fabricated. He asserted that the FIR was not registered under Section 308 initially but was later enhanced by the Investigating Officer.

Prosecution Witness PW-2: Noor Ahmad

22. PW-2 Noor Ahmad testified under oath that, although illiterate, he is aware of dates. On **01.06.2019**, around 6:45 PM, Ibrahim's father was sitting outside when his neighbour, Shakir, was sweeping, and the dust was falling onto him. When objected to, Shakir started abusing and then assaulted Ibrahim. When the witness and his son **Farman** reached the scene, they found Shakir, his brother Aqil, nephews Haseeb and Ayaz, and cousin Vaasid pushing and abusing Ibrahim.

23. When they intervened, the accused entered their house with lathis and assaulted them and their son Farman with deadly intent. All three—he, Farman, and Ibrahim—sustained serious injuries. The women in the house were also pushed and beaten. The commotion brought neighbours who helped rescue them. His son **Farman's head was split open (lacerated)**, but injuries to the women were minimal.

24. He stated that his elder son, Sibul Qureshi, assisted in taking the injured to the police station and lodged the FIR. The police escorted them to Talgram Hospital for medical treatment. He had sustained injuries near the eye and was feeling dizzy. His brother **Munna Qureshi** also witnessed the incident. Police later conducted a spot inspection.

25. During **cross-examination**, he admitted that Ayaz had filed an NCR No. 96/2019 dated 03.06.2019 under Sections 323 and 504 of the IPC against him, Munna, and Sibul. He was not aware whether Section 308 of the IPC was later added. **He stated he did not know the exact time or vehicle used to reach the police station, nor whether he was present when the FIR was written.** He had fasted in the past, but was not fasting that year due to health issues. He was not aware of the exact details of the medical reports or whether the FIR filed by Sibul was under Section 308 IPC.

26. He stated he did not go to the District Hospital. He went only to Talgram. He did not witness the exact moment when the dust fell on Ibrahim. He admitted not seeing the exact weapon or person who inflicted the injuries, and said he had not read the medical report or the FIR filed by Ayaz.

Prosecution Witness PW-3: Farman

27. PW-3 Farman, though illiterate, stated he knows dates and can sign his name. He deposed that on **01.06.2019**, around 6:40 PM, his neighbour, Shakir, was sweeping, and the dust was falling on his grandfather, Ibrahim, who was

seated at the door. Ibrahim asked Shakir to sweep gently, but Shakir began hurling abuses and assaulted Ibrahim. On seeing this, Farman and his father, Noor Ahmad, rushed to help. Shakir, along with his brother Aqil, nephews Ayaz and Haseeb, and cousin Vaasid, attacked them with sticks and iron rods, causing serious injuries. **The accused even entered their house and assaulted the women.** The witness was struck with an iron rod inside the house and lost consciousness due to severe injuries.

28. They were taken to Talgram Hospital by neighbours, from where they were referred to Kannauj District Hospital. The FIR was lodged by his elder brother, Sibbu Qureshi. Police recorded his statement regarding the incident.

29. During **cross-examination**, he admitted that Ayaz had also filed a case under Section 308 IPC against his father, uncle Munna, and brother Sibbu, which was a cross-case bearing ST No. 712/2021. **He did not recall the exact time he regained consciousness, but believed it was around 10:00 PM on the day of the incident.** He denied any enmity with Shakir or Ayaz prior to the incident.

30. He also confirmed that he did not know who exactly inflicted injuries on him or his relatives, and did not witness the FIR being written. He affirmed that he was unaware of the section under which the FIR was lodged. He remembered seeing Shakir holding an iron rod, but could not say what weapons others held. He did not see or read the FIR filed by Sibbu. He denied that the medical evidence was fabricated or that the case was false in retaliation.

Prosecution Witness PW-07: Navi Ahmad alias Munna

31. On oath, the witness stated that he is literate to some extent and can sign his name. He knows dates and days. On **01.06.2019, at around 06:40 PM, his neighbour Shakir, son of Salim, was sweeping outside, which caused dust to fly and fall upon the witness's father, Ibrahim.** When his father asked Shakir to sweep carefully, Shakir started abusing him and, upon being told to stop, began to assault him.

32. At that point, the witness's brother, Noor Ahmad and nephew, Farman, rushed to intervene. Thereafter, **Shakir**, along with his brother **Aqil**, nephews **Ayaz, Haseeb**, and cousin **Vaasid**, launched a deadly assault using sticks and lathis on Noor Ahmad, Farman, and Ibrahim, resulting in serious injuries to all three.

33. To save themselves, Ibrahim, Ayaz, and Noor Ahmad retreated inside the house, but the aforementioned accused persons entered the home and also assaulted the women of the household. On hearing the commotion, several persons from the locality arrived, raised alarms, and managed to rescue the witness's family members from the assailants. The accused fled the spot while threatening them with dire consequences.

The witness stated that, with the help of other villagers, he took his injured father, Ibrahim, his brother, Noor Ahmad, and nephew, Farman, to the police station. His nephew, **Sibu Qureshi**, lodged the written report against the accused, and the injured were sent to the District Hospital for treatment. Since the women of the house did not sustain serious injuries, no medical examination was conducted for them. The witness confirmed that he was present at the spot during the incident and had witnessed the event with his own eyes. The police also recorded his statement.

34. During cross-examination, the witness stated that he had not sustained any injuries himself. He was not present at the police station when the report was filed. He, along with Sibu and Farman, resides in the same house. No one specifically informed him about the fight. **None of the accused assaulted him.**

35. He admitted that **Ayaz had filed an NCR No. 96/2019** dated **03.06.2019** under Sections **323 and 504 IPC** against him, his nephew **Sibu**, and his brother **Noor Ahmad**, and that **Section 308 IPC** was later added to that case. The witness and his family members are on bail in that matter. The incident in Ayaz's complaint is also dated **June 1, 2019**.

36. He further stated that he was observing **Roza (fast)** at the time and had offered **Maghrib prayers around 6:15 PM**. The mosque is about 10-15 minutes walking distance from his house. He was informed of the fight while returning from the mosque, though he does not recall who told him. He rushed home and saw a crowd gathered at the door, with some villagers carrying the accused, Shakir, Aqil, Ayaz, Vaasid, and Haseeb, out of the house.

37. He confirmed that he did not go to the police station or the hospital. The investigating officer did not record his statement. He stated that **Sibu** went to the police station and filed the report. The injured were taken to the police station on motorcycles, though he was unaware of whose vehicle Farman rode. He could not recall when the injured returned from the hospital. There was no prior enmity or financial dispute.

38. He said about **10-20 villagers** were present at the scene, but he does not recall their names. He learned of the injuries based on what was told to him by Farman (head injury), Ibrahim (rib injury), and Noor Ahmad (eye injury). The fight lasted for about **1-2 minutes**, and the police arrived shortly thereafter and took Farman with them, while the others went by motorcycle. He was unsure whether Ayaz or Vaasid had gone to the police station.

39. He stated that **Farman was admitted to the District Hospital in Kannauj for approximately 10-12 days**. He had not seen or read the complaint filed by Sibu, nor inquired about its content. Sibu is the most educated person in the family. **Sibu did not suffer any injuries**. The women of the house were not medically examined since they did not sustain serious injuries.

40. The witness denied the suggestion that he had not seen the incident and was deposing falsely at the behest of his family. He further denied that a false report had been lodged to counter the FIR filed by Ayaz against him, his brother Noor Ahmad, and nephew Sibbu, and asserted that he was not giving false evidence in court.

Prosecution Witness PW-4: Head Constable Balwant Singh

41. On oath, PW-4 Balwant Singh stated that on 02.06.2019, he was posted as Head Constable at Police Station Talgram, District Kannauj. On that day, while he was on duty at the police station office, the complainant, Shibbu Qureshi, son of Noor Ahmad, resident of Rasulabad, Talgram, Kannauj, came to the police station and submitted a handwritten complaint for lodging an FIR. On the oral direction of the then SHO, Raja Dinesh Singh, he dictated the contents of the complaint to computer operator Subhash Saxena, who then typed the FIR and registered it as Case Crime No. 100/2019 under Sections 323, 504, 147, 452, and 506 of the IPC against the accused, Shakir, and others.

42. He identified the original FIR on file as document 4A/1 to 4A/3, marked Exhibit Ka-2. The witness affirmed that he had dictated the content as per the complaint, and Subhash Saxena had typed it. The FIR bore the official seal of the police station and the signature of the then SHO.

43. The GD entry of the case was also made at 02:30 AM on the same night, typed by Subhash Saxena under his dictation. The GD was identified as document 6A/1 and marked as Exhibit Ka-3. The Investigating Officer recorded his statement.

44. During the **Cross-Examination**, he admitted to receiving the complaint at around 2:30 AM. No injured persons were present at the police station when the report was lodged. He confirmed he wrote the FIR on the oral instruction of the SHO. He admitted that the complainant did not write the complaint in his presence, nor had he seen any of the injured at that time. He was unsure whether Ayaz filed NCR No. 96/2019 against Shibbu, Noor Ahmad, and Munna. He confirmed that he had registered all NCRs and FIRs on June 3, 2019.

Prosecution Witness PW-5: Dr. Mohammad Irshad

45. On oath, he deposed that on June 1, 2019, he was posted as a Medical Officer at CHC Talgram. On that day, Constable Mohit brought the injured persons Ibrahim (approximately 90 years old), Farman (approximately 18 years old), and Noor Ahmad (approximately 50 years old), all residents of Rasulabad, Talgram, Kannauj, for medical examination.

46. **Ibrahim** was examined at 10:40 PM. Injuries:

- Injury 1: Contusion 3x1 cm on the right chest with 6x4 cm swelling, tender to touch.

- Injury 2: Complaint of body aches.
- Injury 1 was referred for X-ray. The injury was fresh, caused by a hard, blunt object. Injury 2's nature and duration were unknown.

47. **Farman** was examined at 09:50 PM. Injuries:

- Injury 1: Lacerated wound 3.5x6 cm on the mid-head, between right and left parietal region, with active bleeding and vomiting. Referred for X-ray.
- Injury 2: Complaint of body aches.
- Injury 1 was fresh and caused by a hard, blunt object. Injury 2's nature and duration were unknown.

48. **Noor Ahmad** was examined at 10:20 PM. Injuries:

- Injury 1: Abrasion 2x0.4 cm on the upper eyelid with fresh clotted blood.
- Injury 2: Abrasion 0.8x0.4 cm below the eyelid.
- Injury 3: Contusion sized 2x1 cm with 6x4 cm swelling below left eye.
- Injury 4: Complaint of body aches.
- Injuries 1-3 were simple and fresh, caused by a hard, blunt object. Injury 4's nature was undetermined.

49. Supplementary report dated 03.07.2019 confirmed a fracture on Farman's right parietal skull region. Based on the radiology report, the doctor opined that Injury No. 1 was grievous.

50. During **Cross-Examination**, he stated his duty was from 08:00 AM on 01.06.2019 to 08:00 AM the next day. He did not recall whether Farman had a head dressing. Injuries marked "duration unknown" implied uncertainty or invisibility of the injury. He admitted the supplementary report was delayed but gave no reason. Ibrahim had no grievous injuries. Noor Ahmad's injuries could have occurred from falling in a crowd. Farman's head injury was within six hours. He denied fabricating the report or preparing a false supplementary report.

Prosecution Witness PW-6: SI Sudesh Kumar

51. He deposed that on 02.06.2019, he was posted as a Sub-Inspector at Talgram PS and was assigned to investigate Case Crime No. 100/2019 under Sections 147, 323, 504, 506, 452 of the IPC against Shakir and others.

- On 02.06.2019, he prepared CD-1, recording the FIR, GD, and statement of PW-4 HC Balwant Singh.
- On 05.06.2019 (CD-2), he recorded statements of complainant Shibu Qureshi, injured Noor Ahmad, and Munna. He also visited the site and prepared a site plan, identifying and marking it as Exhibit Ka-8.
- On 09.06.2019 (CD-3), he recorded statements of injured Ibrahim and Farman and searched for the accused.
- On 07.07.2019 (CD-4), he received supplementary and X-ray reports of Ibrahim and Farman and recorded Dr. Irshad's statement. Based on the reports, Section 308 IPC was added.
- On 21.07.2019 (CD-5), he served notices under Section 41(1) CrPC to accused persons and submitted charge sheet No. 94/2019 under Sections 147, 323, 504, 506, 452, 308 IPC.

52. During **Cross-Examination**, he admitted that Section 308 of the IPC was added approximately one month and 20 days after the incident. He received the case for investigation on June 2, 2019. He found no record of hospital admission. He did not investigate Ayaz's cross-case, nor whether both cases were counter-allegations. He acknowledged that all prosecution witnesses were family members and no independent witnesses were recorded. He found no bloodstains, blood-soaked clothes, or other physical evidence at the scene. He denied conducting a faulty investigation.

Prosecution Witness PW-8: Dr. Kanhaiya Ji (Radiologist)

53. He testified that on 02.06.2019, while posted as Radiologist at District Hospital Kannauj, he conducted X-rays of injured Farman and Ibrahim, brought by Constable Mohit. The X-rays were based on original films:

- Plate No. 835: Ibrahim's chest X-ray.
- Plate No. 834 (large and small): Farman's skull X-rays.

54. He confirmed that he personally prepared the X-ray reports, which he signed. They are marked as Exhibits Ka-10 and Ka-11. He confirmed the presence of his signatures and did not recall if the IO recorded his statement.

55. During **Cross-Examination**, he stated that he was on duty from 8:00 AM to 2:00 PM on June 2, 2019. X-rays were done during this time. He did not remember whether Farman had a headbandage. The injured were not unconscious. Reports were handed over to the police on the same day. He could not recall meeting the IO.

56. In summary, all four eyewitness accounts (PW-1, PW-2, PW-3, PW-7) present a broadly consistent narrative of the incident: *the five accused, acting as a group, unlawfully assaulted the victims, causing specified injuries, and used*

threats. There are minor variations in their accounts (as to who exactly did what at each moment), which is natural given human observation and memory under stress; in fact, such minor discrepancies often lend credence to the truthfulness of witnesses, as perfectly tutored or synchronised testimonies could indicate fabrication. Here, each witness spoke in his own words, yet the **common thread is unmistakable** – the presence and participation of all five accused in a violent, unlawful assembly. All the eyewitnesses were cross-examined at length, but their credibility remains intact. The defence could not point to any major contradiction or improbability that would fatally undermine their testimony.

57. It is noteworthy that PWs 1, 2, and 3 are related to each other (family members), and PW-7 is a neighbour/friend, and no “*independent outsider*” witness from the village was produced. However, this does not, by itself, undermine the evidentiary value of their testimony. Independent witnesses generally avoid testifying for two simple reasons: they do not want to become enemies with the other party and endure the time-consuming evidence proceeding in court. The law is well-settled that the testimony of related or interested witnesses is not to be discarded merely because of their relationship, if it is otherwise credible. In fact, *related witnesses may be the most natural witnesses in such circumstances*, and an injured witness’s presence at the scene is beyond doubt. In the case of [Rakesh & Anr vs State Of U.P. & Anr on 13 August, 2014: AIR 2014 SUPREME COURT 3509](#), the Supreme Court has observed that being a relative of the victim is **no ground to disbelieve a witness’s testimony**, especially when he is an injured eyewitness; such testimony can be safely relied upon if it withstands scrutiny. In the present case, the Court finds that the evidence of PW-1, 2, and 3 (all of whom are either victims or close witnesses) is cogent and trustworthy. There is **no law that disqualifies family members from being truthful witnesses** – their only “interest” is to ensure the real culprits are punished. Here, despite rigorous cross-examination, nothing emerged to suggest that they had implicated the wrong person or omitted the presence of any other assailants. Their testimony is further supported by the medical evidence on record, which we shall now examine.

Medical and Forensic Evidence

58. **PW-5 Dr. Mohd. Irshad (Medical Officer):** PW-5 is the doctor who medically examined the injured victims on the night of the occurrence. He deposed that on June 1, 2019, at around 10:40 PM, three injured persons were brought to the CHC Talgram by the police for medical examination, namely Ibrahim (90 years), Noor Ahmad (50 years), and Farman (18 years). Dr. Irshad proved the **injury reports** he prepared for each victim (Exhibits Ka-2, Ka-3, Ka-4, respectively – as per the numbering in the case file). His findings were as follows:

- **Injuries of Ibrahim (90 years, male):** PW-5 found a **contusion with red skin on the chest** of Ibrahim, measuring about 8 cm x 5 cm, on the right side of the chest. A hard and blunt object caused the injury and was simple in nature. There was tenderness (pain on touch) in that area. He advised close monitoring. (It is pertinent that a forceful blow to a 90-year-old's chest can be very dangerous, though fortunately, in this case, no immediate life-threatening complication like rib fracture or internal organ damage was detected during the examination.)
- **Injuries of Noor Ahmad (50 years, male):** PW-5's examination of PW-2 Noor Ahmad revealed **multiple abrasions and contusions on the face** near the eye and cheekbone region. These injuries, too, were caused by a hard and blunt object and were opined to be *simple injuries*. The injuries were fresh and consistent with an assault occurring that night.
- **Injuries of Farman (18 years, male):** PW-5 stated that Farman was brought in a **bleeding condition from the head**. On examination, he found a **lacerated wound on the middle of the head (between both parietal regions)** of size approximately 3.5 cm x 6 cm, with active bleeding. According to the doctor's notes, the patient had dizziness and vomiting – signs of a possible concussion. Suspecting a head injury of a grievous nature, Dr. Irshad **referred Farman for X-ray and further evaluation** of the skull. In the injury report, PW-5 noted the head injury as “kept under observation – nature *to be determined after X-ray*”. In his deposition, Dr. Irshad opined that injury may have been caused by a hard and blunt weapon (like a heavy stick or rod). He also testified that he prepared a supplementary report based on X-ray wherein he confirmed a fracture in the left parietal bone, categorising it as *grievous* (since a bone fracture is defined as grievous hurt under IPC).
- PW-5 was cross-examined briefly. He confirmed that he had examined all three injured. He also deposed that injury number 2 was a complaint of pain; hence, its age could not be ascertained.

59. **PW-8 Dr. Kanhaiya Ji (Radiologist):** PW-8 is the doctor who conducted the X-ray examination of Farman following the referral. He deposed that he performed an X-ray of Farman on the following day, June 2, 2019, at the District Hospital. The **X-Ray Report** (Exhibit Ka-5) was prepared and signed by him. He was not cross-examined in any detail. Nothing material surfaced from his cross-examination to discredit him. These unshaken experts' evidence conclusively establishes that Farman's injury was grievous in nature. It corroborates PW-3's testimony about a deadly blow upon him and

reinforces the prosecution's allegation of a potentially life-threatening attack on him.

60. The medical evidence thus conclusively proves the **nature and extent of injuries** sustained by the victims, which dovetail with the prosecution's story:

- Ibrahim (90) – chest contusion (simple hurt).
- Noor Ahmad (50) – facial abrasions (simple hurt).
- Farman (18) – lacerated wound with skull fracture (grievous hurt, which by its very nature could have endangered life if untreated).

61. This medical evidence lends objective credibility to the oral testimonies. There is nothing to suggest these injuries were fabricated or self-suffered; their distribution on the victims' bodies aligns with the described assault by sticks. The presence of a skull fracture, in particular, underscores the **severity and danger** of the assault on Farman.

62. As evident from the testimonies of the remaining formal witnesses, they performed their duties in a lawful manner and without any biases. There is nothing material that surfaced to discredit them.

Other Documentary and Investigative Evidence

63. **PW-4 HC Balwant Singh (FIR and Registration of Case):** PW-4 was the Head Constable at P.S. Talgram who was on duty at the relevant time. He testified that on the night of June 2, 2019, at around 02:30 AM, PW-1 Shibu Qureshi arrived at the police station and lodged a written complaint (tehrir). PW-4 identified Exhibit Ka-1 as the FIR (First Information Report), which he prepared on the basis of the written complaint. He proved that FIR No. 100/2019 was registered under Sections 147, 452, 323, 504, and 506 of the IPC against the five accused named by PW-1. PW-4 also confirmed the original General Diary (GD) entry corresponding to the registration of the FIR (GD No. 3, dated June 2, 2019), which demonstrates that the FIR was recorded shortly after the incident and the investigation was initiated. PW-4's testimony confirms that the FIR was lodged a few hours after the incident occurred. Considering that the incident took place the same evening, the injured persons arrived at the police station, obtained a letter for medical examination from the Talgram police station, and underwent a medical examination. Despite Farman's unstable condition, the FIR was lodged by around 2:30 AM, just after midnight. This sequence of events indicates that prompt action was taken, and a delay of a few hours is understandable given the unstable condition of the injured Farman. In such circumstances, filing an FIR after a few hours' delay does not create suspicion of the likelihood of fabrication or afterthought. Thus, the lodging of the FIR is duly proved, and it provides a consistent account of the incident that matches the evidence given in court.

64. PW-6 SI Sudesh Kumar (Investigating Officer): PW-6 is the Sub-Inspector who conducted the bulk of the investigation in this case. He outlined the steps of the investigation: reaching the scene, inspecting the site, preparing the site plan (Exhibit Ka-6), recording statements of witnesses under Section 161 CrPC, collecting medical reports of the injured, and, upon completion of the investigation, submitting the charge sheet (**Exhibit Ka-7**) against the accused. PW-6 described the scene of the crime as the courtyard of the informant's house in the village of Rasulabad. He prepared a scaled site plan sketch, marking the point where, according to witnesses, the incident took place. He testified that he added section 308 after 20 days, relying on medical reports. The prosecution did not exhibit any assault weapons during the trial – possibly the weapons were not recovered. This is a mistake in investigation, the benefit of which does not accrue to the accused. In his deposition, PW-6 acknowledged that a **cross-FIR** (No. 153 of 2019) had indeed been lodged by the opposite side (accused Ayyaz's family). He stated that the cross-case was not investigated by him. PW-6 clarified that his investigation in the present case was carried out on its own merits based on evidence related to the assault on PW-1's family. He denied any suggestion that he sent a false charge sheet without investigation. Some minor inconsistencies between the site plan and witnesses' oral accounts were pointed out, e.g., whether a particular bloodstain was found at point X, and blood-stained clothes, but these are not of much significance. PW-6's testimony is crucial in establishing that the investigation was carried out procedurally. The defence's attempt to highlight the cross-case is noted; PW-6's acknowledgement of it makes it part of the record that a **cross version** exists. However, no evidence from that cross-case (like certified copies of statements or any medical reports of the accused) was produced here by the defence to substantiate their claim of a "counterblast" – this aspect will be analysed later in the judgment. Overall, PW-6's evidence supports the prosecution's version and demonstrates that the police found sufficient material to send the accused to trial, which is now corroborated by the consistent witness testimonies and medical evidence.

65. With the prosecution evidence outlined above, the Court finds that the **chain of events is well-supported**: from the moment of the attack (eyewitness accounts) to the lodging of the FIR (PW-4), to the medical examination of injuries (PW-5, PW-8), and the investigation leading to the charge sheet (PW-6). The documentary exhibits (FIR, injury reports, X-ray reports, site plan, charge sheet, etc.) have been duly proved.

66. The accused, on their part, chose not to adduce any evidence. In their statements under Section 313 CrPC, each accused merely stated that the allegations against them are false. The common defence taken was that there was a quarrel or incident at 8:20 PM where one of the accused (Ayyaz) was beaten by the informant's side, and that they had lodged a case (cross-FIR) regarding that, implying that the present FIR by PW-1 is a **fabricated counter-case** to that. Other than this **suggestion**, there is **no evidence** before this Court

to support the accused's version. They did not produce a copy of the FIR or charge-sheet of the alleged cross-case, nor examine any witness (such as the IO of that case or a doctor who treated any injuries of the accused) to substantiate their claim that they were actually victims of an assault by the informant's side. Thus, the defence plea remains an unproven allegation. Nonetheless, the Court takes note of this defence argument and will address its impact (if any) on the prosecution's case.

67. Having marshalled the evidence, the Court now proceeds to discuss the **findings on each point for determination**, in light of the law applicable. The credibility of prosecution witnesses and the proof of each ingredient of the offences charged will be examined, along with the objections raised by the defence.

Findings

68. After careful consideration of the entire evidence on record and the arguments advanced, the Court records the following findings on the points for determination:

Point 1: Unlawful Assembly & Rioting (Section 147 IPC)

69. To establish the offense under Section 147 IPC, the prosecution must prove that (a) there was an **unlawful assembly** as defined in Section 141 IPC, consisting of five or more persons (in this case exactly five accused are before the Court), (b) the common object of that assembly was one of the objects enumerated in Section 141 IPC (such as to commit an offense), and (c) the accused were members of that assembly and used force or violence in prosecution of the common object (which constitutes "rioting" under Section 146 IPC).

70. In the present case, it has been unequivocally proven that all five accused **acted in concert as a group** on the evening of the incident. The eyewitness testimony establishes that the accused came together to the informant's house and collectively participated in the assault and intimidation of the victims. The assembly was unlawful because its common object was evidently to commit offences against the informant's family (assault, hurt, etc., which are offences by themselves). Thus, the common object was to execute a violent reprisal or attack on the victims – an object undoubtedly unlawful.

71. All five accused have been identified by name, and their cumulative act of assault has been described by PWs 1, 2, 3, and 7. The witnesses consistently stated that the accused were **present together**, came at the same time, and retreated together after accomplishing their assault. There is no suggestion that any outsider or unknown person was involved; it was specifically these five acting in unison. By sheer numbers (five), by conduct armed with sticks, simultaneously attacking different victims, and by motive (commonly aggrieved or jointly interested in teaching a lesson to the informant's side, as

inferred from their coordinated actions), the gathering of the accused fulfils the definition of an unlawful assembly.

72. Furthermore, the use of **force and violence** is clearly demonstrated – each victim's injuries are a direct result of physical force applied by the assembly's members. Even if, *arguendo*, some accused did not personally hit a victim (though in this case evidence indicates each one took part in some assault or the other), the very presence of all, brandishing violence, is enough for rioting, as long as force was used by any member in prosecution of the common object. The law of rioting does not require each member to have wielded a weapon; liability is collective once the unlawful assembly is proven and force is used.

73. The defence argued that the incident might not have occurred as portrayed and suggested that the accused had gathered for an innocent reason or that the assembly was not unlawful. This argument is untenable in the face of the evidence. There is no evidence of any lawful purpose for their assembly at the informant's house at that hour – they were not, for example, mere bystanders or people who wandered in accidentally. The hostile acts committed speak louder than any words. All circumstances point to a premeditated or at least a shared intent at that moment to commit the assault. Even if the motive was retaliatory (assuming there was a scuffle that day, which is not proven here), taking the law into their own hands by assembling and attacking is unlawful.

74. It is also notable that the accused did not claim they were just present and someone else committed violence – their defence is a blanket denial of being the aggressors. But four eyewitnesses contradict that denial. There is no evidence of private defence or any such justification that could arguably negate the “unlawful” nature of their assembly. Hence, the Court has no hesitation in concluding that the accused formed an unlawful assembly with the common object of assaulting the informant's family, and in prosecution of that object, they committed rioting by using force.

75. Each of the accused is thus **guilty of rioting**. Section 147 IPC, which prescribes punishment for rioting, is attracted. This point is answered in the affirmative. All five accused are held guilty under Section 147 IPC.

Point 2: House-Trespass after Preparation for Hurt (Section 452 IPC)

76. Section 452 IPC penalises house-trespass having made preparation for causing hurt, assault, or wrongful restraint. The ingredients are: (a) the accused committed house-trespass as defined in Section 442 IPC (i.e., entered into or remained in a building used as a human dwelling, with intent to commit an offense, or to intimidate, insult or annoy any person in possession of the property), and (b) that he did so after making preparation for causing hurt or for assault, etc., or with such preparation in mind. Essentially, it is house-trespass aggravated by the intent and readiness to cause harm.

77. In the present case, the evidence does not clearly establish that the accused **trespassed into the dwelling house** of PW-1 without permission and with criminal intent. According to PW-1 and PW-2's testimonies, the accused forced their way into the home and did maarpeet with women only, but the medical evidence does not support this fact as no women's Medical report is on the record. PW-2 and PW-3 stated something different from PW-1. They added that they were also fatally attacked inside the home. It is noteworthy that Farmaan sustained a single injury. So, it was not possible that Farmaan was assaulted at two places. This implies that an attack inside the house is an exaggerated one, as villagers have a general tendency to exaggerate the facts to make their case more severe. Exaggeration on one point does not discredit the whole testimony, as falsus in uno falsus in omnibus does not apply in India. Thus, the fact that the accused entered the house in possession of the victims, with intent to commit offences (assault and hurt) and to intimidate the occupants, is not proved beyond a reasonable doubt.

78. Therefore, the charge under Section 452 IPC is proved beyond reasonable doubt against all accused. Hence, all accused are found not guilty under Section 452 IPC.

Point 3: Attempt to Commit Culpable Homicide (Section 308/149 IPC)

79. The most serious charge is under Section 308 IPC (attempt to commit culpable homicide not amounting to murder), read with Section 149 IPC (constructive liability as members of an unlawful assembly). This charge specifically concerns the grievous head injury inflicted on PW-3 Farman (18 years). To secure a conviction under Section 308 IPC, the prosecution must establish that the accused (or any member of their unlawful assembly, for Section 149 application) **did an act** towards the commission of culpable homicide not amounting to murder, and that such act was done with the **intention or knowledge** that under the circumstances, had that act caused death, the accused would be guilty of culpable homicide not amounting to murder. In simpler terms, the act must be such and done with such state of mind that if the victim had died, the offense would have been culpable homicide not murder (which usually means an act done with intention to cause bodily injury likely to cause death, but without the intention to cause death itself, or done with knowledge that death was likely but without intention to cause death). An attempt under Section 308 may or may not result in actual injury; what matters is the **mens rea (intention/knowledge)** and the **act done**. If actual hurt is caused in the attempt (as here), that is additional evidence of the seriousness of the act. Suppose the necessary intention or knowledge is not proven, and only harm is proven. In that case, the law states that the act would instead amount to causing harm (simple or grievous), punishable under lesser sections. Requisite knowledge can be gathered from the force of the blow applied and the body part.

80. In the present case, the act in question is the **blow on the head of Farman** with a lathi, which resulted in a skull fracture. Let us analyse the circumstances and intent inferred:

- **Nature of the act:** Striking a person on the head with a lathi (a heavy stick) with enough force to fracture the skull is an act imminently dangerous to life. The head is a vital part of the body; a strong impact can easily cause death or permanent brain injury. Here, the assailant swung the lathi at an 18-year-old's head. This was not a light tap or an accidental hit – the medical evidence of fracture proves substantial force was used. Such an act goes well beyond causing simple hurt; it borders on fatal violence.
- **Intention or knowledge:** Did the assailant intend to kill Farman, or at least know that his act was likely to cause death? Given the context, it might be argued that the accused were not necessarily trying to *murder* the victims (since no one used a firearm or continued to attack until death; they fled after inflicting injuries). However, even if the **intention was not to kill**, the law of Section 308 IPC encompasses acts done with the intention of causing *such bodily harm as is likely to cause death* (falling under culpable homicide, not amounting to murder if death had ensued). At the very least, anyone who strikes another's head with a hard stick with substantial force must be attributed the **knowledge** that death could result from such an act. It is a matter of common experience that head injuries can be fatal. The accused (and by extension the other accused who joined in the assault) would certainly know that attacking someone's head with a lathi is likely to cause death or, at the very least, grievous harm.
- **Culpable homicide vs. murder:** The distinction between culpable homicide and murder often lies in the degree of intention and knowledge. Here, if Farman had died, would it be murder or culpable homicide not amounting to murder? There was no provocation from Farman's side; the attack was unilateral. However, there might not have been a premeditated intent to *assuredly kill* (murder requires intention to cause death or injury sufficient in the ordinary course to cause death, with knowledge). The accused seemed to be there to beat up and terrorise, not necessarily to kill outright (in fact, they fled rather than finish him off, which might indicate they didn't specifically *want* to commit murder). Therefore, had death occurred, a court might have classified it as culpable homicide not amounting to murder (perhaps on the reasoning that the intention was to cause grievous injury, knowing it could cause death but without a direct intent to ensure death – a fine legal distinction). This analysis aligns with invoking Section 308 now, because Section 308 is essentially “an attempt to commit culpable homicide not amounting to murder”. The presence of a deadly weapon (lathi can be deadly when used on the head) and a vital part targeted

suggests at least knowledge of likely fatal consequences, fulfilling Section 308's mental element.

81. The Supreme Court in the case of [Sunil Kumar v. N.C.T. of Delhi, \(1998\) 8 SCC 557](#) has laid down that for Section 308 IPC, the critical factor is the **intent or knowledge** with which the act is done, not merely the extent of injury. Even if the injury turns out to be simple, an act done with the requisite intent can attract Section 308. Conversely, grievous injury by itself does not automatically prove intent for Section 308 – one must look at all circumstances. In the case at hand, we have both a grievous injury and circumstances indicating a high degree of recklessness. The accused aimed blows at unarmed persons, including an elderly man and a teen – this shows brazen disregard for life and safety. Specifically regarding Farman, the manner of assault exhibits an intention to cause at least grievous hurt, and knowledge that such hurt could likely be fatal.

82. The defence counsel argued that the injury, though grievous, was not *sufficient in the ordinary course of nature to cause death* (a phrase relevant to murder); they suggested that since Farman fortunately survived and was not in ICU or such, perhaps the intention was only to hurt, not to “almost kill.” They pressed that at best this would be a case of grievous hurt (Section 325 IPC) but not an attempt to culpable homicide. This argument is not persuasive when the totality of evidence is considered. The **presence of a skull fracture and vomiting** resulting from a deliberate blow cannot be downplayed. It was sheer luck and timely medical aid that prevented a worse outcome. Intention is a state of mind usually inferred from the act, weapon used, and surrounding circumstances. Here, aiming a hard blow at the head is a telltale indicator of malicious intent or at least knowledge of probable fatal consequences. There was no need for the accused to target the head if their intention was merely to teach a lesson with some bruises. They went a step further, crossing into the realm of potentially lethal assault.

83. Additionally, the fact that multiple attackers were involved can embolden each other to inflict more harm than an individual might alone. Under the doctrine of unlawful assembly, even if one member struck the blow, **all members who shared the common object are vicariously liable** for that act (Section 149 IPC), provided that the act was done in prosecution of the common object or was such as they knew to be likely to be committed. Was the grievous injury to Farman in the prosecution of the common object of the assembly? The common object, as established, was to assault and cause harm to the family. Certainly, causing serious harm to one of the family members (Farman) fell within the scope of that objective. It was not a situation where one member suddenly did something completely unforeseen or foreign to the group's intent – hitting people with sticks was exactly what the group set out to do. Even if others did not specifically *intend* to crack someone's skull, at the very least, they knew that in the course of a violent assault with sticks, such an outcome was likely. Thus, Section 149 operates to make all present accused liable for the act of the principal perpetrator of the head injury. In [Kuldip Yadav & Ors. v. State of Bihar: 2011 \(5\) SCC 324](#) (Supreme Court), it was

reiterated that to invoke Section 149, it must be shown that the incriminating act (here, the blow causing grievous injury) was done to accomplish the common object of the unlawful assembly, and that it was of a type that the members of the assembly knew was likely to be committed in prosecution of that object. Applying that principle: the common object was assault, and grievous hurt is a probable consequence of an assault with sticks; hence the requirements of Section 149 are well-satisfied (please see [Gurmail Singh vs The State Of Uttar Pradesh on 17 October, 2022: CRIMINAL APPEAL NO. 965 OF 2018](#), Supreme Court). All accused, by virtue of their active participation in the group assault, can be fastened with liability for the act under Section 308 IPC even if one of them struck the deadly blow.

84. It is also instructive to note that the law draws a line between an attempt to murder (Section 307 IPC) and an attempt to culpable homicide (Section 308 IPC) based on the intent. Here, had the prosecution felt the intent was to *kill outright*, they might have charged Section 307. They chose Section 308, indicating recognition that the intent was to cause such harm short of death. The evidence supports this grading: the attack was severe but not carried to the point of ensuring death (e.g., they did not continue to batter Farman, nor use inherently deadly weapons like guns or knives). Section 308 perfectly covers this scenario of **potentially lethal violence without a premeditated design to kill definitely**.

85. Considering all the above, the Court finds that the act of hitting Farman on the head, in the manner done, **constitutes an attempt to commit culpable homicide not amounting to murder**. The requisite intention/knowledge on the part of the assailant (and shared by all in the unlawful assembly) is established by the dangerous nature of the act. The prosecution has proven this not only by direct evidence (the act and injury) but also by the necessary implications of human behaviour and the natural consequences of the act. Indeed, suppose an act is done with such intention or knowledge and under such circumstances that death would be culpable homicide. In that case, the attempt is punishable under Section 308 IPC, whereas if those elements are absent, the law's recourse would only be to punish for hurt (Sections 323/324 for simple hurt or 325/326 for grievous hurt). Here, we are firmly in the first category, not the latter.

86. There is no evidence suggesting that the grievous hurt caused was outside the scope of what the assembly intended or expected; on the contrary, it was the very result of the collective assault they launched. No accused can escape liability by saying "I did not hit the head" when all were present, encouraging and participating in the beating that led to that injury.

87. In conclusion, the Court finds all the accused **guilty under Section 308 IPC read with Section 149 IPC**. The attempt to commit culpable homicide (not amounting to murder) is clearly made out. This point is decided in favour of the prosecution.

Point 4: Voluntarily Causing Hurt (Section 323/149 IPC)

88. This charge pertains to the injuries of a less serious nature sustained by Noor Ahmad (PW-2) and Ibrahim, attributed to the accused. Section 323 IPC punishes voluntarily causing hurt (simple hurt). Here, the prosecution alleges that members of the unlawful assembly caused these injuries in furtherance of the common object; thus, each accused is liable under Section 149 IPC for those injuries as well.

89. From the evidence, it is amply proven that **Noor Ahmad (PW-2)** was struck with a stick on the face, resulting in abrasions. **Ibrahim (90)** was hit on the chest (causing a contusion). These injuries are unquestionably “hurt” as defined in IPC. They were caused voluntarily, meaning intentionally/ knowing likely to cause hurt, by the accused persons during the attack.

90. Accused Aakil and Ayyaz were specifically mentioned as the ones who assaulted PW-2 Noor. The accused Shakir was identified as striking Ibrahim. Even if identification of the exact individual assailants for these hurts had some minor discrepancy, Section 149 again comes into play: since all were part of the unlawful assembly committing the assault, every member is liable for the hurts caused to *any* victim in furtherance of the common object. In fact, causing hurt to the family members was squarely within their plan.

91. The defence did not seriously contest that PW-2 and Ibrahim suffered these injuries; rather, they generally contended that no incident involving the accused had occurred (and perhaps implied that someone else had caused those injuries). However, there is no evidence to suggest an alternative cause of these injuries. These victims had no reason to injure themselves or falsely blame the accused, given the corroboration by multiple witnesses. The medical evidence supports that each injury was caused by blunt force consistent with the assault described.

92. Legally, **every blow or assault** by each accused that night that caused hurt can attract Section 323. However, to avoid duplication, the prosecution framed it under the umbrella of Section 323/149 IPC (collective liability for hurt). For instance, even if only one or two blows landed on Noor Ahmad, all five can be held guilty of that hurt because they acted in furtherance of the common object of beating him up. The Supreme Court’s guidance in *Kuldip Yadav* (supra) about common object applies here as well – the causing of simple injuries to some victims was definitely within what the assembly set out to do and expected to accomplish. Indeed, it was the primary objective: to cause physical harm (whether grievous or simple).

93. Thus, the Court finds that the accused persons voluntarily caused hurt to Noor Ahmad and Ibrahim. The offence under Section 323 IPC, read with Section 149 IPC, is proved against all of them. This covers all the minor injuries inflicted during the occurrence, apart from the major injury already discussed under Section 308.

94. It is worth noting that since I have held the accused guilty under Section 308/149 for the grievous hurt to Farman, and Section 323/149 for the simple hurts to Noor and Ibrahim, **all victims' injuries are accounted for in terms of offences**. There was also some evidence that might have been pushed or jostled (as PW-7 hinted at Shakir pushing Ibrahim down). No separate charge under, say, Section 352 IPC (assault) was framed for any victim without injury, but such minor use of criminal force is subsumed in the rioting charge. In any event, the victims and their hurts have corresponding convictions.

95. Therefore, Point 4 is answered affirmatively. The accused are found guilty of voluntarily causing hurt to the victims, by virtue of Section 323/149 IPC.

Point 5: Intentional Insult to Provoke Breach of Peace (Section 504 IPC)

96. Section 504 IPC criminalises intentional insult with intent to provoke a person, knowing that such provocation is likely to cause the person to break the public peace or commit an offence. In this incident, the FIR and witnesses allege that the accused hurled **abusive insults** at the victims (using foul, derogatory language) during the assault, but the nature of the abuse was not stated. Unless and until the words used are disclosed, it cannot be said that the abuses were provocative. Mere evidence that dirty abuses were uttered is not sufficient to attract the Section 504 of the IPC. Hence, the evidence produced falls short to convict under Section 504 of the IPC.

97. Thus, the accused are found not **guilty under Section 504 IPC**. **Point 6: Criminal Intimidation (Section 506 IPC)**

98. Finally, the charge of criminal intimidation is to be considered. Section 506 IPC punishes one who threatens another with injury to person, reputation or property, etc., with intent to cause alarm to that person. If the threat is to cause death or grievous hurt, etc., it is treated as a more serious form (which carries up to 7 years imprisonment).

99. In this case, multiple witnesses testified that the accused **threatened to kill** the victims. Words to the effect of "*jaan se maar denge*" were used. These were not empty words uttered in jest. The victims (PW-1's family) would reasonably take such threats seriously, as the accused were already showing a capability of violence. After seeing Farman grievously injured, the threat of death felt very real.

100. For a conviction under Section 506, it must be shown that the victim was alarmed or that the threat was of such a nature as to reasonably cause alarm. A 90-year-old man and others being threatened with death at their own home certainly qualifies as criminal intimidation of a high order.

101. The defence did not provide any contrary explanation for these threats. Since these utterances came accompanying the main incident, there is no separate defence except denial. The evidence of threats stands unrebutted.

102. The threats to kill or cause grievous harm place this offence in the aggravated category of Section 506 (Part II) IPC, which carries up to seven years' imprisonment. Given the circumstances, the Court finds that all accused, in furtherance of their common design to terrorise the family, **committed criminal intimidation by threatening death and bodily harm** to the victims. Each accused is liable for these threats – even if one or two voiced the words, the others were present and part of the act (and indeed under Section 34 IPC or even 149 IPC logic, they can be collectively liable for the intimidation as well, since intimidation was part of the common object to terrorize). However, since Section 506 IPC is an individual offence and was framed without reference to 149, we consider that each accused did at some point join in the act of intimidation (witnesses often say “they said we will kill you,” referring to the group). Therefore, the Court holds all accused guilty under Section 506 IPC.

Defence of False Implication and Cross-Case

103. It is necessary to address the defence argument that this case is a “false case concocted as a counterblast” to a cross-case (ST No. 712/2021) allegedly arising from the same incident. The accused hinted that *they* were initially attacked and that Ayyaz (one of the accused here) had filed an FIR first, and only then did the informant's side file the present FIR in retaliation.

104. The Court has examined this contention. PW-6's testimony confirms the existence of a cross-case, but crucially, **no details** of that case have been brought on record by the defence. The cross-case (Session Trial 712/2021, pending in this court) is proceeding, and its decision will be based on its own evidence. This Court cannot assume the truth of allegations in the cross-case without evidence. The defence did not even produce a copy of the FIR of the cross-case to see who was named or what injuries were alleged against the accused. They also did not establish that the FIR in the present case was lodged *after* the FIR of the cross-case (timing could have been relevant). On the contrary, PW-4's evidence suggests the FIR here was lodged promptly on the night of the occurrence; if the cross-FIR was also lodged promptly, it would presumably be around the same time. Often in melee cases, both sides can file FIRs – it does not automatically mean one is false and the other true; it could mean a mutual fight. The task of the Court is to sift evidence in each trial separately.

105. In the present trial, the evidence supporting the prosecution's version is direct, cogent, and credible. The accused have not managed to elicit anything from the witnesses that indicates the victims were the aggressors or that the injuries to the victims were self-inflicted. The mere pendency of a cross-case does not ipso facto destroy the prosecution's case. Our own High Court and the Supreme Court have held that **each case must be decided on its own evidence**, and the fate of one does not mechanically govern the other.

106. Both cross-cases were tried together or by this court. As per guidelines in some judgments, cross-cases should be tried one after the other, and the judgments pronounced one after the other. In fact, in *Kuldip Yadav's* case, the Supreme Court highlighted that failure to consider cross-cases carefully can lead to prejudice. Here, however, aside from raising the issue, the defence has not shown any concrete material from the cross-case that would cause this Court to disbelieve the eyewitnesses. For instance, if the accused had injuries or an alibi documented in that case, they chose not to present it here.

107. This Court's finding is that the prosecution in this case has proved its version beyond a reasonable doubt, irrespective of the cross-examination. The defence suggestion remains a suggestion, not backed by evidence. It might well be that in the same fracas, some from the accused's side got hurt too (common in group clashes), but that does not negate that these accused unlawfully attacked the victims. At best, the cross-case could imply that there was a mutual fight (a **free fight**). However, even in a mutual fight scenario, if these five accused individuals exceeded their rights or became aggressors, they can still be convicted. The evidence here does not reveal any exercise of the right of private defence by the accused; they never explicitly took that plea, only a blanket "false case" plea. There is no indication that the victims here caused injuries to the accused during this incident in such a way that would justify the accused's actions as self-defence or retaliation in the heat of passion. Instead, the picture painted by credible evidence is that of a one-sided aggression by the accused party.

108. In summary, the defence's theory of the case being a fabricated counterblast is **not substantiated**. Minor contradictions and inconsistencies that appeared in the witnesses' testimonies do not hinder the prosecution's case. The Court, therefore, is not persuaded to doubt the prosecution's evidence on that ground. The robust corroboration from medical evidence further dispels the notion of a cooked-up story. The injury is too severe and honest to be stage-managed. **No one would inflict a skull fracture on their own kin to foist a case on others.** The victims promptly went to the police and the hospital, which is inconsistent with a false case (where usually there's a delay and concoction). Thus, the Court rejects the defence of false implication.

Conclusion (Findings Recap)

109. To recapitulate the findings on all charges in light of the above discussion:

- **Section 147 IPC (Rioting):** Proven. All five accused formed an unlawful assembly with the common object of assaulting the victims, and in prosecution of that object, force and violence were used by them. Hence, each accused is guilty of rioting.
- **Section 452 IPC (House-trespass with preparation to cause hurt):** Not Proven. It is doubtful that the accused persons unlawfully entered the

informant's dwelling house, having made preparation to cause hurt/assault, and did commit hurt inside. The aggravated trespass is not made out against all the accused.

- **Section 308/149 IPC (Attempt to culpable homicide in prosecution of common object):** Proven. The grievous head injury inflicted on Farman was an act done with knowledge of likely fatal consequences, amounting to an attempt to commit culpable homicide. All the accused shared the common object and knew such an act was likely, making them constructively liable. Therefore, all accused are guilty under Section 308 read with Section 149 of the IPC.
- **Section 323/149 IPC (Voluntarily causing simple hurt in prosecution of common object):** Proven. The injuries to Noor Ahmad and Ibrahim were caused voluntarily by members of the unlawful assembly. All accused are vicariously liable for these injuries under Section 323 read with Section 149 of the IPC.
- **Section 504 IPC (Intentional insult to provoke breach of peace):** Not Proven. It is a doubtful case that the accused intentionally insulted the victims with abusive language during the incident, with the intention and knowledge of likely provoking a breach of peace or violent response. They are accordingly not guilty under Section 504 IPC.
- **Section 506 IPC (Criminal intimidation by threat to life):** Proven. The accused criminally intimidated the victims by threatening to kill them, causing alarm. This constitutes the offence under Section 506 IPC (in its aggravated form, given the nature of threats).

110. All these findings are made **beyond a reasonable doubt**, based on the compelling evidence on record. The prosecution has successfully established the guilt of each accused on all counts charged against them. No lingering doubt would entitle the accused to the benefit of doubt. The witnesses were reliable, the medical evidence concrete, and the circumstances speak to the accused's unlawful conduct.

111. Accordingly, the Court finds *Shakir, Aakil, Ayyaz, Haseeb, and Wasid* **guilty** of the charged offences under Sections 147, 323, 308, and 506, read with Section 149. The Court finds *Shakir, Aakil, Ayyaz, Haseeb, and Wasid* **not guilty** of the charged offences under Sections 452 and 504 of the IPC.

112. The Court now turns to the final order on conviction and acquittal.

Order:

113. **Conviction:** In view of the aforementioned findings, this Court hereby convicts the accused persons – **Shakir, Aakil, Ayyaz, Haseeb, and Wasid** – for the offences they were charged with, as follows:

- Each of the accused is convicted under **Section 147 IPC** for rioting.

- Each of the accused is convicted under **Section 308 read with Section 149 IPC** for attempt to commit culpable homicide not amounting to murder, vicariously liable as members of the unlawful assembly for the grievous injury caused to the victim Farman in prosecution of the common object.
- Each of the accused is convicted under **Section 323 read with Section 149 IPC** for voluntarily causing hurt to the victims (notably Noor Ahmad and Ibrahim) in prosecution of the common object of the unlawful assembly.
- Each of the accused is convicted under **Section 506 IPC** for criminal intimidation by issuing life threats to the victims.

114. Acquittal:

- Each of the accused is acquitted under **Section 452 IPC** for house-trespass after preparation to cause hurt.
- Each of the accused is acquitted under **Section 504 IPC** for intentional insult with intent to provoke breach of peace.

The case is fixed for hearing on the quantum of sentence on July 9, 2025.

Dated: July 07, 2025

(Chandroday Kumar)
Sessions Judge, Kannauj.

July 09, 2025

Shakir, Aakil, Ayyaz, Hasib and Wasid, the convicts, along with their counsel, are present in the court. I have heard the quantum of punishment.

The convicts, Shakir, Aakil, Ayyaz, Hasib and Wasid, have stated that this is their first offence and that they have no prior or subsequent criminal history. They are sole breadwinners and bear responsibilities toward their families.

The learned District Government Counsel (Criminal) submitted that the convicts have been responsible for committing rioting and with unlawful assembly, voluntarily causing hurt, attempting to commit culpable homicide not amounting to murder and committing criminal intimidation by threatening the life of the injured Ibrahim, Farman and Noor Ahamad. They should receive the maximum punishment to convey a stern message to society.

After considering all mitigating and aggravating factors, along with the facts and circumstances of the case, I am of the considered view that upon conviction under **Section 147** of the Indian Penal Code, the appropriate punishment for **Shakir Aakil, Ayyaz, Hasib and Wasid** shall be sentence of **one year** of simple imprisonment, and a fine of **Rs. 1,500** (One thousand five hundred rupees) each, **Section 308** of the Indian Penal Code, the appropriate punishment for **Shakir Aakil, Ayyaz, Hasib and Wasid** shall be sentence of **five years** of simple imprisonment, and a fine of **Rs. 8,000** (Eight thousand rupees) each, **Section 323** of the Indian Penal Code, the appropriate punishment for **Shakir Aakil, Ayyaz, Hasib and Wasid** shall be sentence to

nine months of simple imprisonment, and a fine of **Rs. 1,000** (One thousand rupees) each and **Section 506** of the Indian Penal Code, the appropriate punishment for **Shakir Aakil, Ayyaz, Hasib and Wasid** shall be sentence to three years of simple imprisonment, and a fine of **Rs. 4,000** (Four thousand rupees) each. In my view, the sentences awarded would serve the ends of justice.

ORDER

Upon conviction under **Section 147** of the IPC in Case Crime No. 100 of 2019, Police Station Talgram, District Kannauj, **Shakir, Aakil, Ayyaz, Hasib and Wasid** are sentenced to **one year** of simple imprisonment and a fine of **Rs. 1,500** (one thousand five hundred rupees) each. If they fail to pay the fine, they shall serve an additional month in prison.

Upon conviction under **Section 308** of the IPC, **Shakir, Aakil, Ayyaz, Hasib and Wasid** are sentenced to **five years** of simple imprisonment and a fine of **Rs. 8,000** (eight thousand rupees) each. If they fail to pay the fine, they shall serve an additional nine months of imprisonment.

Upon conviction under **Section 323** of the IPC, **Shakir, Aakil, Ayyaz, Hasib and Wasid** are sentenced to **nine months** of simple imprisonment and a fine of **Rs. 1,000** (one thousand rupees) each. If they fail to pay the fine, they shall serve an additional month of imprisonment.

Upon conviction under **Section 506** of the IPC, **Shakir, Aakil, Ayyaz, Hasib and Wasid** are sentenced to **three years** of simple imprisonment and a fine of **Rs. 4,000** (four thousand rupees) each. If they fail to pay the fine, they shall serve an additional six months of imprisonment.

All imprisonments shall run concurrently. The period spent in jail shall be set off against these imprisonments. A conviction warrant shall be prepared, and the convicts shall be sent to prison to serve their sentences. Out of fines, the injured Farman shall receive Rs. 30,000. Injured Noor Ahamad and Ibrahim shall receive Rs. 14,000 each as compensation.

A copy of this judgment will be provided to the convicts free of charge. The records shall be consigned to the record room.

Date: July 09, 2025.

(Chandroday Kumar)
Sessions Judge, Kannauj

I signed, dated, and pronounced this judgment in open court today.

Date: July 09, 2025.

(Chandroday Kumar)
Sessions Judge, Kannauj.