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**In the Court of the Sessions Judge, Ambedkar Nagar**

**Present: Chandroday Kumar, H.J.S., JO Code: UP06553**

**Session Trial No. 19 of 2017**

**(Arising out of Case Crime No. 403 of 2008, P/s Jahangirganj, Distt. Ambedkar Nagar)**

**State of Uttar Pradesh**

**...Prosecution**

**Versus**

- 1. Pawan Kumar alias Madhu, son of Harishchandra**
- 2. Harishchandra alias Khedu, son of Ambika**
- 3. Shravan Kumar alias Matru, son of Harishchandra**

All residents of Village Kesharpur, Police Station Jahangirganj, District Ambedkar Nagar.

**...Accused Persons**

**Offences Charged:** Under Sections 323/34, 332/34, 333/34, 325/34, 427, 504, and 506 of the Indian Penal Code, 1860.

**Police Station:** Jahangirganj

**District:** Ambedkar Nagar

Counsel for the prosecution: Shri Govind Srivastav, DGC (Criminal)

Counsel for the accused: Shri N.N. Singh, Advocate

### **Judgment**

- 1. The present trial involves a grave allegation of a premeditated assault upon a public servant, a Postman, while he was in the lawful discharge of his official duties. The accused persons, namely Pawan Kumar alias Madhu, Harishchandra alias Khedu, and Shravan Kumar alias Matru, stand charged with having voluntarily caused grievous hurt to deter a public servant from his duty, simple hurt, criminal intimidation, and intentional insult with intent to provoke breach of peace. This judgment addresses the accused's culpability under the various sections of the Indian Penal Code (IPC) as presented by the prosecution and contested by the defence during the trial.**

## **I. The Factual Matrix and Prosecution Narrative**

2. The prosecution's case is based on a written report submitted by the informant, Raj Bahadur Mishra (now deceased), at the Jahangirganj Police Station. The informant stated that he was a resident of Village Kesharpur and served as a Postman at the Alaupur Post Office. On the morning of September 3, 2008, at approximately 10:15 AM, the informant was travelling toward the Jahangirganj Post Office to deliver official mail. Due to a physical disability—specifically, being handicapped in one leg—he was being transported on a motorcycle by his son, Pradeep Kumar Mishra (PW-1).
3. The journey was intended to fulfil a critical link in the postal service, carrying communication from the rural branch to the main post office. However, as the motorcycle reached the "khadanja" (brick-paved) road in front of the residence of one Ram Ujagir, the victims were intercepted. According to the prosecution, the accused persons, fueled by a long-standing land dispute and former enmity, had laid an ambush (ghaat lagakar baithe the). As soon as the victims arrived, the accused began hurling filthy and provocative abuses (bhaddi bhaddi gaaliyan).
4. The assault began when Pawan Kumar and Shravan Kumar struck the victims with lathis, targeting their legs to force the motorcycle to a halt. Both Raj Bahadur and Pradeep Kumar fell onto the brick road. It is alleged that Harishchandra, the patriarch of the accused family, acted as the instigator, exhorted the others with a shout (lalkaar), saying, "Do not let them go alive today; kill them!" Following this command, Pawan and Shravan inflicted a series of blows with their lathis upon the fallen victims. The assault resulted in multiple injuries across the bodies of both the father and the son. Crucially, Raj Bahadur Mishra sustained a severe blow to his arm, which was later diagnosed as a fracture of the ulna bone—a grievous injury under the law.
5. The violence was interrupted by the arrival of villagers and passers-by who were alerted by the screams and alarms (halla gohar) of the victims. Witnesses such as Raj Mangal Tiwari (PW-2), Prema Devi, and Amrita Devi are cited as having arrived at the scene and intervened to save the victims' lives. As the accused persons fled the scene, Pawan Kumar allegedly brandished a country-made pistol (tamancha) and threatened to shoot anyone who dared to follow them, thereby concluding the episode with a display of criminal intimidation.

## **II. Procedural History: From Investigation to Committal**

6. The legal machinery was set in motion when the informant reached the police station in a wounded state. Initially, a Non-Cognizable Report (NCR) No. 120/2008 was registered under Sections 323, 504, 506, and 427 IPC on the same day, September 3, 2008, at 13:10 hours. Following this, the victims were sent to the Community Health Centre (CHC) Jahangirganj for medical examination.
7. The severity of the injuries, particularly the suspected fracture in Raj Bahadur's arm, prompted the informant to petition the Superintendent of Police, Ambedkar Nagar, for the addition of more stringent sections. Recognising the gravity of an assault on a public servant and the medical findings, the police leadership directed the Station House Officer (SHO) of Jahangirganj to amend the case. Consequently, the case was converted into a formal First Information Report (FIR) under Case Crime No. 403/2008, and the investigation was expanded to include Sections 332, 333, and 325 of the IPC. Later on, the Judicial Magistrate also permitted it under section 155(2) of the CrPC.
8. The investigation was initially handled by Sub-Inspector Ram Singh, who visited the site of the occurrence, recorded statements of witnesses under Section 161 CrPC, and prepared the site map (Nazri Naqsha). Upon the transfer of SI Ram Singh, the investigation was taken over and completed by SI Brahmjeet Singh (PW-6). After finding sufficient evidence against the accused, two separate charge sheets were filed: Exhibit Ka-8 against Harishchandra and Shravan Kumar, and Exhibit Ka-13 against Pawan Kumar.
9. The case was committed to the Court of Sessions by the Judicial Magistrate on December 16, 2016, as the offence under Section 333 IPC (voluntarily causing grievous hurt to deter a public servant) is exclusively triable by this court. The charges were formally framed by this court, to which the accused pleaded 'not guilty' and claimed trial.
10. Prosecution produced the following witnesses and documents to prove its case:  
PW-1 Pradeep Kumar Mishra (Injured Eyewitness), PW-2 Raj Mangal Tiwari (Relative Eyewitness), PW-3 Sonmati (Branch Post Master), PW-4 Dr Pradeep Kumar Rai (Medical Examiner), PW-5 SSI Firtu Ram Yadav (IO), PW-6 SI Brahmjeet Singh (IO), PW-7 Dr AK Singh (Radiologist).  
Ex. Ka-1 Application u/s 155(2) CrPC, Ex. Ka-2 Application to SP Ambedkar Nagar, Ex. Ka-3 Medicolegal Report of Injured Raj Bahadur, Ex. Ka-4 Medicolegal Report of Injured Pradeep Kumar

Mishra, Ex. Ka-5 Attested Photocopy of NCR, Ex. Ka-6 GD of Registration of Case, Ex. Ka-7 Carbon Copy of GD Sections Alteration, Ex. Ka-8 Charge Sheet against Harishchandra @ Khedu and Shrawan Kumar Matru, Ex. Ka-8A X-ray Report of Injured Pradeep Kumar Mishra, Ex. Ka-9 X-ray Report of Injured Raj Bahadur Mishra, Ex. Ka-11 Site Map (Nari Naksha), Ex. Ka-12 Search Memo, Ex. Ka-13 Charge Sheet against Pawan Kumar @ Madhu.

11. The accused were examined under Section 313 CrPC, wherein they said that they had been falsely implicated due to land enmity. Accused Shrawan Kumar has pleaded alibi in Surat. Defence examined DW-1 Prahalad to prove the alibi of Harishchandra and Shrawan Kumar.

12. I have heard the arguments presented by the learned counsel for the defence, as well as those made by the learned DGC (Criminal). I have examined the records thoroughly. The defence counsel has pointed out that this case is based on a Non-Cognizable Report (NCR). All the accused are members of the same family. It is noteworthy that the NCR was filed without disclosing the names of the witnesses. Furthermore, it does not mention the presence of a "tamancha" (firearm). There is also no documentary evidence of damage to the motorcycle. The Medical Legal Certificate (MLC) indicates that the injuries were sustained approximately half a day prior, which raises concerns since they should be fresh. During cross-examination, Raj Mangal admitted that he did not identify the accused and did not witness the assault. Additionally, the prosecution has discharged two female witnesses.

### III. Points for Determination

13. In accordance with the mandates of the Code of Criminal Procedure and the settled principles of judicial decision-making, the court frames the following points for determination to structure the evaluation of the evidence and the application of the law :

Point No.	Description of the Issue for Determination
Point 1	Whether the victims, Raj Bahadur Mishra and Pradeep Kumar Mishra, sustained injuries at the time, date, and place alleged by the prosecution.
Point 2	Whether the accused persons intercepted the victims and committed the acts of assault in furtherance of a common intention (Section 34 IPC).

Point No.	Description of the Issue for Determination
Point 3	Whether Raj Bahadur Mishra was a "public servant" as per Section 21 IPC and was in the discharge of his official duties as a Postman at the time of the incident.
Point 4	Whether the injury to Raj Bahadur Mishra (ulna fracture) constitutes "grievous hurt" within the meaning of Section 320 IPC.
Point 5	Whether the accused committed the offences of intentional insult (Section 504) and criminal intimidation (Section 506).
Point 6	Whether the prosecution has proved beyond a reasonable doubt that the accused caused damage to the motorcycle exceeding fifty rupees (Section 427 IPC).
Point 7	Whether the defence of alibi raised by Shravan Kumar and the claim of hospitalisation of Harishchandra are substantiated by the evidence.

#### IV. Prosecution Evidence: Oral and Documentary

14. The prosecution produced seven witnesses to prove its case. These witnesses can be categorised into eyewitnesses, official witnesses regarding the victim's duty, and medical experts.

#### V. Ocular Testimony of PW-1 and PW-2

15. Pradeep Kumar Mishra (PW-1) is the primary injured eyewitness. His testimony is critical as it provides the direct account of the assault. He identified the accused and described the "ghaat" (ambush) near Ram Ujagir's house. He detailed how Pawan and Shravan used lathis to hit his legs, causing the motorcycle to crash and repeated blows. He specifically attributed the instigating role to Harishchandra. He also deposed that all the accused threatened to kill. His testimony is "stamped" by the injuries he sustained, which PW-4 medically verified. Minor contradictions are inevitable among witnesses unless they are parroting. No material contradictions emerged during his cross-examination.

16. Raj Mangal Tiwari (PW-2) is a relative of the victims who provided corroborative eyewitness testimony. He stated that he was returning from Jahangirganj on a cycle when he saw the accused beating the victims, saying "maaro saalo ko". He described the accused as being armed with lathis and mentioned the specific threat issued by Pawan Kumar with a tamancha as they retreated. The claim of the learned defence lawyer that the chance and the relative witness should not be believed. It is well settled that

merely being a relative witness, a witness should not be disbelieved unless he is interested in the outcome of the trial. The defence counsel argued that the Tamancha was not included in the written NCR and was added later to lend colour to the case. Furthermore, the police did not recover the Tamancha. In my opinion, the Tamancha may have been exaggerated. Still, while individual testimonies cannot be completely dismissed, the principle of "falsus in uno, falsus in omnibus" does not apply in India. The witnesses did not disclose what kind of filthy abuses were uttered. Mere "maaro saalo ko" is a common phrase in rural areas and does not typically attract Section 504 IPC unless there is a specific context. Furthermore, PW-2 is not completely reliable. During cross-examination, he admitted that he had gone to a doctor for treatment and had purchased medicines. He witnessed the incident while returning from the doctor's office; however, he could not provide the prescription or the medication receipt. He is also in a dilemma regarding Tamancha. The witness is also not fully correct regarding the location of injuries on the bodies.

#### **VI. Evidence of Official Duty (PW-3)**

17. Smt. Sonmati (PW-3), the Branch Postmaster of Alaupur, provided essential evidence regarding the victim's status. She testified that Raj Bahadur was indeed the Postman at her office and that on the day of the incident, he had left the office at 10:00 AM with official mail destined for Jahangirganj. This testimony establishes the nexus between the victim and his official capacity as a public servant. The defence claimed that the testimonies of PW-3 and PW-1 are contradictory regarding the incident that occurred while returning to Alaupur after collecting the mail and while going to collect the mail. In my opinion, this contradiction is not significant. In both scenarios, the Postman will be considered on duty.

#### **Medical and Radiological Evidence (PW-4 and PW-7)**

18. Dr. Pradeep Kumar Rai (PW-4) conducted the initial Medico-Legal Case (MLC) examination. He recorded four injuries on Raj Bahadur Mishra and five injuries on Pradeep Kumar Mishra, all consistent with blunt force impact, which are as follows:

#### **Raj Bahadur Mishra- on 03.09.2008 at 1:25 PM**

1. Contusion, 13 cm x 2 cm, on the left side of the back, below the left shoulder joint.
2. Contusion, 7 cm x 2 cm, on the right upper arm, 16 cm below the shoulder joint.
3. Contusion, within a circumference of 14 cm, at the right wrist joint.
4. Contusion, 13 cm x 3 cm, on the right buttock, 5 cm below the iliac crest.

**Pradeep Mishra- on 03.09.2008 at 1:45 PM**

1. A contusion, 3 cm x 2 cm, located on the head, 6 cm above the right ear.
2. A contusion, 26 cm in circumference, located on the left upper arm, extending from the shoulder joint to the elbow joint.
3. A contusion, 12 cm in circumference, located on the right forearm, 6 cm above the wrist joint.
4. A contusion (swelling), 14 cm in circumference, located on the outer aspect of the right thigh, extending from the iliac crest to a point 16 cm below the right knee joint.
5. A lacerated wound, 1.5 cm x 0.1 cm, extending to the depth of the bone, located on the posterior aspect of the left thumb, 0.2 cm below the left elbow joint.

The doctor clarified that the injuries occurred within half a day and that half a day means injuries that occurred within 12 hours of the event. He also clarified that the blueness begins soon after the injury and that a fresh injury occurs within six hours. Although the word "fresh " was not used by the doctor, his testimony does not show that the injuries were not fresh.

19. Dr. A.K. Singh (PW-7), the Radiologist, provided the most conclusive evidence for the charge of grievous hurt. He produced the X-ray plates (Material Ex. 1 to 4) and the report (Ex. Ka-9), which confirmed a fracture of the lower end of the right ulna in Raj Bahadur's arm.

**VII. Documentary Evidence Table**

20. The prosecution relied on the following key documents to build the evidentiary chain:

<b>Exhibit No.</b>	<b>Document Description</b>	<b>Signatory/Witness</b>	<b>Legal Relevance</b>
Ex. Ka-1	Petition under Section 155(2) CrPC	Raj Bahadur Mishra	Request for investigation.
Ex. Ka-3	MLC Report of Raj Bahadur Mishra	Dr. P.K. Rai (PW-4)	Proof of bodily injury.
Ex. Ka-4	MLC Report of Pradeep Kumar Mishra	Dr. P.K. Rai (PW-4)	Proof of bodily injury.
Ex. Ka-5	Certified Copy of Chick NCR	SSI Phirturam Yadav (PW-5)	Initial reporting of the crime.

Exhibit No.	Document Description	Signatory/Witness	Legal Relevance
Ex. Ka-7	Carbon Copy of GD (Amendment)	SSI Phirturam Yadav (PW-5)	Documentation of added charges.
Ex. Ka-9	X-ray Report (Raj Bahadur)	Dr. A.K. Singh (PW-7)	Proof of "Grievous Hurt" (Fracture).
Ex. Ka-11	Nazri Naqsha (Site Map)	SI Ram Singh (proved by PW-6)	Establishes the place of occurrence.

### Appreciation of Evidence and Judicial Reasoning

#### VIII. The Credibility of the Injured Witness

21. The testimony of an injured witness, Pradeep Kumar Mishra (PW-1), is the cornerstone of this case. In criminal jurisprudence, an injured witness is accorded a special status. The Hon'ble Supreme Court, in [State Of U.P vs Kishan Chand & Ors on 20 August, 2004, 2004 \(7\) SCC 629](#) and [Abdul Sayeed vs State Of M.P on 14 September, 2010, \(2010\) 10 SCC 259](#), has reiterated that the evidence of an injured witness is highly reliable because their injuries serve as a "built-in guarantee" of their presence at the scene of the crime. It is fundamentally improbable that a victim who has suffered physical pain and trauma would deliberately exempt the real culprits and falsely implicate innocent individuals, particularly in a village setting where identities are well-known.

22. In the present case, the defence has attempted to discredit PW-1 by pointing to minor contradictions in his testimony and the long-standing land dispute between the families. However, the Hon'ble Supreme Court has clarified that "mere contradictions on trivial matters could not render his deposition untrustworthy". PW-1's account of the ambush, the use of lathis, and the specific roles of the accused remained consistent under cross-examination. While the land dispute provides a motive for the assault, it also, as noted in [Yogesh Singh vs Mahabeer Singh & Ors on 20 October 2016, 2017 \(11\) SCC 195](#), acts as a "double-edged sword". While it could, in theory, motivate false implication, it is more likely to provide the *causal link* to the act of violence. Given the corroborative medical evidence, the court finds PW-1 to be a "sterling witness" whose testimony is truthful and reliable. The argument of motorcycle accidental injuries is not tenable in light of the injuries sustained.

#### IX. Corroborative Eyewitness and the "Related Witness" Argument

Citations are hyperlinked.

23. The testimony of PW-2, Raj Mangal Tiwari, further strengthens the prosecution's case. The defence argued that PW-2 is a "related witness" and his testimony should be discarded. This argument is legally untenable. The law of evidence distinguishes between a "related witness" and an "interested witness". A witness is "interested" only if they have a motive to see the accused falsely convicted. A relationship with the victim does not inherently make a witness interested. As held in [\*Brahm Swaroop & Anr vs State Of U.P on 26 October, 2010, 2011 \(6\) SCC 288\*](#), the testimony of a relative cannot be discarded if it is otherwise cogent and credible. However, keeping contradictions in mind, as mentioned earlier, this witness is not fully reliable.

24. It is well settled that the quality of a witness, not quantity, matters. Though PW-2 is not entirely reliable, his testimony corroborates PW-1's deposition to some extent. He may have observed some of the sequence of the incident.

#### **X. Proof of Grievous Hurt and the Role of Medical Experts**

25. To sustain a conviction under Section 333 IPC, the prosecution must prove "grievous hurt" as defined in Section 320 IPC. Clause (7) of Section 320 specifically includes the "fracture or dislocation of a bone". The medical evidence in this trial is robust. PW-4 (Dr. P.K. Rai) identified the clinical signs of trauma, and PW-7 (Dr. A.K. Singh), the Radiologist, provided the objective confirmation.

26. The defence cross-examined the medical witnesses on the possibility of such injuries resulting from a fall from a motorcycle. While the doctors admitted that a fall *could* cause injuries, they emphasised that the specific location and nature of the fracture (the lower end of the right ulna) are more consistent with a direct blow received while the arm is raised in a defensive posture (a "defence wound") rather than a general tumble. Furthermore, the presence of multiple contusions on different parts of the body (back, buttocks, head) strongly indicates a repeated assault with weapons rather than a single accidental fall. The production and exhibition of the original X-ray plates (Material Ex. 1-4) satisfy the stringent requirements set by the courts for proving fractures.

#### **XI. Public Servant Status and Deterrence of Duty**

27. The accused are charged under Sections 332 and 333 IPC, which pertain to assaults on public servants. The essential ingredients are: (i) the victim is a public servant; (ii) they were discharging their official duty; and (iii) the hurt was caused to deter them from such duty.

28. Section 21 of the IPC provides an exhaustive list of who qualifies as a public servant. A Postman, appointed by the Central

Government to perform essential communications services, falls within the ambit of this section. PW-3 (Smt. Sonmati), the Branch Postmaster, provided the necessary documentary context, confirming that Raj Bahadur was on duty and carrying mail to Jahangirganj at 10:15 AM.

29. The defence argued that the victim was on a private motorcycle and not an official vehicle. This is irrelevant. The law protects the *person* of the public servant while they are engaged in their duty, regardless of the mode of transport. The ambush occurred on the very path the victim had to take to reach the main post office. By assaulting him and causing a fracture, the accused directly prevented the delivery of mail and deterred the public servant from completing his task. The nexus between the assault and the official duty is clearly established.

## XII. Application of Common Intention (Section 34 IPC)

30. Section 34 IPC embodies the principle of vicarious liability, stating that when a criminal act is done by several persons in furtherance of a common intention, each is liable as if he did it alone.

31. In this case, the prosecution has proved:

1. **Prior Meeting of Minds:** The accused were lying in wait together (ghaat lagakar). This indicates premeditation.
2. **Shared Participation:** Pawan and Shravan inflicted the physical blows, while Harishchandra provided the "lalkaar" (instigation).
3. **Unity of Action:** They arrived together, acted in a coordinated manner, and fled together.

32. The defence's argument that there was no "prior meeting of minds" is rebutted by the fact that they were all armed and positioned at a strategic point on the victims' known route. Even if the intention to cause *grievous* hurt developed on the spur of the moment during the assault, all three are equally liable under Section 34 IPC.

## XIII. Rejection of the Defence of Alibi

33. The accused, Shravan Kumar, raised an alibi, claiming he was in Surat at the time of the incident. Harishchandra claimed he was in a hospital for an operation. The defence produced DW-1 (Prahlad) to support these claims.

34. The legal standard for proving an alibi is "absolute certainty". Section 103 of the Evidence Act places the burden on the person who wishes the court to believe in a specific fact. In [\*Binay Kumar Singh vs The State Of Bihar on 31 October, 1996, 1997 \(1\) SCC 283\*](#), the Supreme Court held that once the prosecution establishes the presence of the accused through reliable evidence (like an injured

witness), the burden on the defence to prove an alibi is "rather heavy".

35. In the present case, the defence failed to produce any documentary evidence. There were no railway tickets, no employer certificates from Surat, and no hospital discharge papers or surgery records for Harishchandra. DW-1 is a "chance witness" who admitted he was not at the crime scene and was testifying only because Pawan Kumar asked him to. An uncorroborated oral statement from a single witness cannot displace the consistent testimony of two eyewitnesses and the medical record. Therefore, the plea of alibi is rejected as a fabricated defence.

#### XIV. Reasons for Acquittal under Section 427 IPC

36. The accused were also charged under Section 427 IPC for committing mischief and damaging the motorcycle. The essential ingredients of this section include: (i) the intent to cause wrongful loss; and (ii) damage amounting to fifty rupees or more.

37. While PW-1 and the informant mentioned that the motorcycle was damaged, the prosecution failed to produce a "Nuksanon Panchanama" (damage assessment report) or a mechanical inspection report. In cases involving vehicle damage, the court cannot guess the monetary value of the loss. Without an expert estimate or technical report showing that the damage exceeded the statutory threshold of fifty rupees, a conviction under Section 427 IPC cannot be maintained. Consequently, the accused are entitled to the benefit of the doubt regarding this specific charge.

#### XV. Findings on Charges

38. Based on the detailed appreciation of evidence, the court records the following findings on each point for determination:

1. **Point 1 (Injuries):** Proved. The MLC reports (Ex. Ka-3, Ka-4) and the testimony of PW-1 and PW-4 establish the fact of the injuries.
2. **Point 2 (Assault/Common Intention):** Proved. The coordinated action of the three accused armed with lathis satisfies Section 34 IPC.
3. **Point 3 (Public Servant/Duty):** Proved. The testimony of the Postmaster (PW-3) confirms the victim was a Postman in the discharge of official duty.
4. **Point 4 (Grievous Hurt):** Proved. The ulna fracture is a bone fracture under Section 320 of the IPC, as proved by PW-7.
5. **Point 5 (Insult/Intimidation):** Partially Proved. The utterance "Maaro Saalon Ko" (PW2) is not sufficient to prove Section 504. However, a threat to kill in the context of multiple injuries satisfies Section 506 IPC.

6. **Point 6 (Section 427):** Not Proved. The lack of an expert damage report for the motorcycle renders valuation impossible.
7. **Point 7 (Alibi):** Rejected. The defence provided no documentary evidence to support their claims.

## **XVI. Verdict of Conviction**

39. This court finds the prosecution has successfully established the guilt of the accused persons beyond a reasonable doubt for the offences under sections 333, 323 and 506 of the IPC, except mischief and intentional insult with intent to provoke a breach of peace. Section 332 of the IPC is a lesser charge than Section 333; therefore, the accused need not be convicted under this section. Since the accused individuals have been convicted under section 333, they need not be convicted under section 325. Section 323 applies because the accused caused minor injuries to Pradeep Kumar Mishra. Section 504 does not apply as the evidence does not show the kind of filthy abuses.

40. Accordingly, the accused **Pawan Kumar alias Madhu, Harishchandra alias Khedu, and Shravan Kumar alias Matru** are hereby **CONVICTED** for the following offences:

- Under **Section 333 read with Section 34 IPC** (Voluntarily causing grievous hurt to deter a public servant from his duty).
- Under **Section 323 read with Section 34 IPC** (Punishment for voluntarily causing hurt).
- Under **Section 506 IPC** (Punishment for criminal intimidation).

41. The accused are **ACQUITTED** of the charge under **Section 427** for want of evidence regarding property damage valuation, **332** for a lesser section in the same transaction, **325** for a lesser section in the same transaction and **504 IPC** for want of evidence regarding filthy abuses.

## **XVII. Order on Sentence**

42. The court heard the convicts and their learned counsel on the question of sentence.

## **XVIII. Arguments on Sentencing**

43. The Learned Counsel for the convicts submitted that the accused are first-time offenders with no prior criminal record. It was highlighted that the incident occurred in 2008, and the convicts have faced the rigours of a protracted trial for over fifteen years. They have families to support and have maintained good conduct during the trial. Leniency was requested, suggesting that a heavy fine and a minimal jail term would serve the ends of justice.

44. The Learned District Government Counsel (DGC) countered by emphasising the need for deterrence. An attack on a public

servant—especially a physically challenged postman performing a vital service—is an attack on the authority of the State. The use of lathis and the resulting fracture demonstrate a high degree of violence. The DGC argued that a lenient sentence would send the wrong message to society and encourage further interference with public functions. He also argued that in 2017, Pradeep Kumar Mishra filed an FIR under Section 506 of the IPC against the accused for pressuring him into a compromise, and that the police have submitted a charge sheet in that case. The prosecution has submitted the certified copies of the FIR and the charge sheet.

### XIX. Judicial Reasoning for Sentencing

45. In determining the appropriate sentence, the court must balance the reformatory and deterrent theories of punishment. While the long duration of the trial is a mitigating factor, the nature of the crime—ambushing a disabled public servant with lathis, beating the father in front of the son and the son in front of the father and pressuring the witness for compromise—is an aggravating circumstance.

46. Section 333 of the IPC is a serious offence punishable by up to 10 years' imprisonment. The act of causing a fracture to a postman and thereby stopping him from delivering mail is a direct challenge to the rule of law. However, given the convicts' ages and their lack of prior criminal history, the court deems a middle-path sentence just.

### XX. Sentencing Table

Conviction Section	Sentence Awarded (Each Convict)	Fine Amount	Default Imprisonment
Section 333/34 IPC	5 Years Rigorous Imprisonment	₹ 10,000	5 Months Imprisonment
Section 323/34 IPC	6 Months Rigorous Imprisonment	₹ 500	15 Days Imprisonment
Section 506 IPC	1 Year Rigorous Imprisonment	₹ 1,000	1 Month Imprisonment

### XXI. Final Directions

1. **Concurrent Sentences:** In accordance with Section 31(1) of the CrPC, all the substantive sentences of imprisonment awarded above shall run **concurrently**. The longest term to be served is three years.

2. **Set-off:** The period of detention already undergone by the convicts during the investigation or trial stages shall be set off against the substantive sentences of imprisonment as provided under Section 428 CrPC.
3. **Compensation:** Out of the total fine amount realised, 50% shall be paid to the legal heirs of the deceased Raj Bahadur Mishra and 30% to Pradeep Kumar Mishra (PW-1) as compensation under Section 357 CrPC for the physical and mental trauma suffered. The remaining amount shall be deposited in the treasury.
4. **Custody:** The convicts are present in the court. Their bail bonds and surety bonds are hereby cancelled. They are taken into custody to serve their sentences. Warrants of commitment shall be prepared accordingly.
5. **Free Copy:** A copy of this judgment and order of sentence shall be provided to the convicts free of cost immediately in compliance with Section 363 CrPC.

**Judgment signed, dated, and pronounced by me in open court today,  
March 28, 2026.**

**Date:** March 28, 2026

**(Chandrodaya Kumar)  
Sessions Judge  
Ambedkar Nagar**