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CNR No-UPKJ010017272024

In The Court of Sessions Judge, Kannauj

Presiding Officer- Shri Chandroday Kumar (HJS)-UP06553

Session Trial Number-564 of 2024

State of Uttar Pradesh

... Prosecution

Versus

- 1. Bhoop Singh, son of Ramdin, and
- 2. Ankit, son of Bhoop Singh,

Both residents of the village- Sarai Dayamganj, Kotwali Chhibramau, District Kannauj ... Accused.

Crime Number- 828/2023
Under Sections 302, 325, 323 IPC
Police Station- Chhibramau,
Distt. Kannauj.

Prosecution Counsel: Shri Tarun Chandra, DGC (Criminal),

Defence Counsel: Shri R.N. Sharma, Advocate.

JUDGMENT

INTRODUCTION

Bhoop Singh and Ankit have been charged with and tried for offences punishable under sections 302, 325, and 323 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 December 24, 2023, the first informant, Vishram Singh, submitted written information (Tahrir Exhibit Ka-1) to the Station House Officer (SHO) of the Chhibramau police station in Kannauj District. He reported that four days earlier, some dispute had arisen with his uncle regarding the boundary of their farm, which led to a grudge.
- 3. According to Vishram, on December 24, 2023, at about 8:00 AM, his father, Sher Singh, and mother, Smt. Mamta had left their home to go to their farm. At that time, Bhoop Singh,

son of late Ram Deen, Ankit and Dilip, sons of Bhoop Singh, who were sitting at their doorstep, attacked them with sticks and batons due to that grudge. His father fell down on the spot. When he and his brother, Phul, arrived at the scene, they found their parents lying on the ground, being assaulted. Upon seeing Vishram and Phul, the attackers fled the scene.

4. Thereafter, he and Phul took their parents to the Community Health Centre, where doctors declared their father dead. Their mother sustained a fractured leg and chest injuries and was subsequently referred to the District Hospital in Kannauj. The informant requested that strict action be taken against the perpetrators of this violence and that justice be provided.

FIR

5. Based on the Tahrir, a First Information Report (FIR) was registered at the Police Station in Chhibramau, District Kannauj, two kilometres away from the occurrence, under Sections 302, 325, and 323 of the Indian Penal Code (IPC). This FIR, assigned Crime No. 828 of 2023, was filed against the accused individuals, Bhoop Singh, Ankit, and Dilip, on December 24, 2023, at 11:52 AM.

6. At the same time, the same extract was entered into General Diary (GD) No. 36, dated December 24, 2023. The investigation of this case was assigned to Inspector Jitendra Pratap at Police Station Chhibramau.

INQUEST

7. SI Rajesh Kumar visited the Community Health Centre, Chhibramau and conducted an inquest regarding the death of Sher Singh. After the inquest proceedings, the report (Panchayatnama) was prepared. Panchayatnama mentioned the cause of death as injuries sustained from beating with sticks and batons. To know the exact cause of death, a postmortem was suggested. In furtherance, a letter to CMO Exhibit Ka-7, Photo Corpse Exhibit Ka-8, and Challan Corpse Exhibit Ka-9 was prepared.

MEDICAL EXAMINATION

8. On the same day, i.e. December 24, 2023, Dr Amit Yadav conducted the post-mortem between 03:25 pm and 04:10 pm and prepared the post-mortem report, Exhibit Ka-10. The findings of the postmortem are as follows:

Injury No. 1 - A lacerated wound measuring 5 x 1 cm is present on the left parietal region 10 cm above the left ear, and an underlying bone fracture is present.

Injury No. 2 - A contused swelling measuring 10 x 8 cm is present on the left occipital region.

Injury No. 3 - A lacerated wound measuring 3 x 3 cm is present on the anterior aspect of the right leg, 14 cm below the knee.

Internal examination- Clotted blood was present in the brain. Both lungs were congested. The heart's right chamber was full, and the left was empty. The stomach contained 80 ml of semi-solid food, the small intestine contained gaseous and pasty matter, and the large intestine contained gaseous and faecal matter. The liver, spleen and both kidneys were congested. The bladder contained 25 ml of urine. The probable time of death was half a day ago, which is likely to cause shock and haemorrhage due to antemortem injury.

INVESTIGATION

9. The IO, Jitendra Pratap Singh, visited the scene, prepared the site map Exhibit Ka-11, collected inquest and postmortem reports, and recorded witnesses' statements. Upon completing the investigation, the IO submitted a charge sheet against the accused, Bhoop Singh and Ankit, under sections 302, 325 and 323 of the IPC in the Court of Chief Judicial Magistrate (CJM), Kannauj.

COGNISANCE AND COMMITAL

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).

CHARGES

11. This court registered the case as Session Trial Number 564 of 2024 and framed the charge against the accused, Bhoop Singh and Ankit, under sections 302, 325 and 323 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, Vishram Singh, the first informant and son of the deceased,

PW2, Smt. Mamta, the injured wife of the deceased,

PW3, Rubi; daughter-in-law of deceased,

PW7, Shailendra; eye witness, and

PW10, Phul Singh, son of the deceased.

Formal witnesses:

PW4, HC Dharmendra Mishra; proved FIR and GD,

PW5, Dr Prem Prakash Bajpai, treated the injured Smt. Mamta,

PW6, SI Rajesh Kumar Rawat; prepared Panchayatnama, Letter to CMO for postmortem, Photo Corpse, and Challan Corpse,

PW8, Dr Amit Yadav, conducted the post-mortem of the deceased.

PW9, Inspector Jitendra Pratap Singh, prepared the site map and baton recovery memo and submitted the chargesheet.

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, Injury report of injured Smt Mamta; proved by PW5,

Exhibit Ka-5, Discharge Slip of injured Smt Mamta; proved by PW5,

Exhibit Ka-6, Panchayatnama; proved by PW6,

Exhibit Ka-7, Letter to CMO for postmortem; proved by PW6,

Exhibit Ka-8, Photo Corpse; proved by PW6,

Exhibit Ka-9, Challan Corpse; proved by PW6,

Exhibit Ka-10, Postmortem report; proved by PW8,

Exhibit Ka-11, Site Map; proved by PW9,

Exhibit Ka-12, Memo of the recovery of the baton on the behest of the accused, as proved by PW9,

Exhibit Ka-13, Chargesheet; proved by PW9.

DEFENCE VERSION

14. During the examination conducted under Section 313 of the Criminal Procedure Code, the accused individuals asserted that the deceased Sher Singh and his wife, Smt Mamta and their family members came to their house with sticks, beat them and ran away. These people got injured after falling into the drain on the road. Sher Singh died due to those injuries, and Smt. Mamta got injured.

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 material available on the record and written arguments filed by the learned defence counsel with all anxiety.

17. The Learned District Government Counsel (DGC) (Criminal) argued that eyewitnesses clearly testified that the accused individuals murdered Sher Singh and grievously injured his wife in broad daylight. The motive behind the incident was a dispute over a farm boundary. There are no significant contradictions in the witnesses' testimonies, leaving no doubt about the conviction of the accused under Sections 302 and 325 of the Indian Penal Code (IPC). Therefore, they should be convicted and punished for offences under Sections 302 and 325 of the IPC.

18. The defence counsel argued that the deceased, Sher Singh, and his wife went to the accused's house with the intention of assaulting them. After the assault, they fell into a manhole, resulting in injuries that led to Sher Singh's death and serious injuries to his wife, as shown in the video evidence. The counsel emphasised that no dangerous weapon was used in the incident, nor was there any specific intention or knowledge of causing harm. Furthermore, there are significant contradictions in the testimonies of the witnesses, including interested witnesses, which raises concerns about their reliability. Therefore, the defence contends that the accused should be acquitted.

EVIDENCE

The examination-in-chief of the PW1, Vishram, the complainant and eyewitness of the incident:

19. **PW1**, Vishram, testified during his **examination-in-chief** on August 29, 2024, that the incident occurred on December 24, 2023, at approximately 8:30 a.m. Four days before the incident, his younger brother Phool Singh disagreed with their uncle, Bhoop Singh, regarding the boundary of their field, leading Bhoop Singh to harbour a grudge.

20. On the day of the incident, their father, Sher Singh, and mother, Mamta, left their home to go to their farm. When they were a short distance past Bhoop Singh's house, they were surrounded by Bhoop Singh, his sons Ankit and Dilip, and his daughters Priyanka and Ragini, who were sitting at the doorway. They began to verbally abuse Sher Singh and Mamta. Bhoop Singh and his sons were armed with sticks and started to beat Sher Singh and Mamta. As a result, their father

sustained injuries and collapsed on the spot, while their mother was severely injured, suffering a broken leg.

21. He (Vishram) and Phool Singh, who were returning from the field after tending to their farm ram, heard the commotion and rushed to the scene. Upon their arrival, they found their parents being badly beaten. When the assailants saw them approaching, they fled the scene.

22. He (Vishram) and Phool Singh then took their injured parents to the 100-bed hospital in Chhibramau, where doctors declared their father, Sher Singh, dead. They referred their mother, Mamta, to Tirwa Medical College for further treatment, where she underwent X-rays.

23. Afterwards, he (Vishram) went to the police station, where he had a local boy help him write an application regarding the incident. After reviewing the application, he signed it and submitted it to the police to register the case. The written application, labelled as paper number 4A/3, was shown to him, and he confirmed his signature on it. This document was marked as Exhibit Ka-1.

24. Following the registration of the case, the police officer, Daroga Ji, visited the 100-bed hospital to prepare the panchayatnama (inquest report) of Sher Singh's deceased body. He (Vishram) and other individuals present were made witnesses to this process, and Vishram signed the panchayatnama papers, numbered 8A/24 and 8A/25, which are included in the file. He asserted that his father, Sher Singh, was murdered by his uncle Bhoop Singh and Bhoop Singh's sons Ankit and Dilip, as well as Bhoop Singh's daughters Priyanka and Ragini, due to their anger over his refusal to cut the ridge farm ram.

25. The investigator took his statement concerning the incident, and a boy from the village even recorded a video of the occurrence, which he (Vishram) provided to Daroga Ji on a pen drive.

The cross-examination of the PW1, Vishram, the complainant and eyewitness of the incident:

26. During his cross-examination, PW1 stated that his father, the late Sher Singh, had two brothers. Sher Singh was the elder brother. The accused, Bhoop Singh, has two sons and also owns five bighas of land, the same as his father. Sher Singh had previously sold a plot of land located on Chhibramau Tajpur Road, about 300 to 400 meters from their village. While there was no enmity regarding the plot itself, there was ongoing conflict over the boundaries of their fields, which had persisted for about 2 to 3 years.

27. Bhoop Singh had filed two complaints against him with the Superintendent of Police and at the local police station. Following these complaints, the police came to question him. The police organised a panchayat (a village council meeting) at the police post, but the dispute remained unresolved. He has two brothers, both of whom are married. On the day of his younger brother's wedding, the police detained him at the police post.

28. The distance between his home and Bhoop Singh's house is approximately 50 meters. Bhoop Singh's house is on the main road, while his own house is in a street behind Bhoop Singh's. Both houses are ancestral properties and have been divided among the family members.

29. On the day of the incident, December 24, 2023, he had gone to work in the fields around 6:00 AM. There was no fight that day; in fact, the last altercation had taken place four days prior. Bhoop Singh called the police by dialling 112, and they arrived, inquired about the matter, and then left without taking either party to the police station.

30. On the day of the incident, his younger brother, Phool Singh, had gone to a shop to buy some goods. As he returned home with the items, Bhoop Singh and his sons assaulted him. When Phool Singh came home and reported the incident, their parents did not go to Bhoop Singh's house to confront him.

31. In front of Bhoop Singh's house is a cemented road with drains built on both sides for water drainage. This road runs from north to south. Mahesh Chandra's house is located across from Bhoop Singh's house, and Mahesh owns a shop on the south side of his house. This shop opens at 6:00 AM, but he is not aware of what time it closes. The shop is well-frequented by local residents seeking household items.

32. A lane next to Mahesh's shop leads to Satyapal's house, allowing access to nearby fields. The distance from his house to his farm is around 300-400 meters. Suresh Verma's house is situated south of Bhoop Singh's residence.

33. It is incorrect to claim that his parents went to Bhoop Singh's house, verbally abused him, and that they got injured by falling into a drain. It is also false to say that his father died as a result of injuries sustained from falling into that drain. On the day of the incident, he and his brother left for the fields at 6:00 AM and returned by 8:00 AM. He asserts that when the incident occurred, he and his brother were at home.

34. Upon arriving at the scene, he witnessed his parents being assaulted by Bhoop Singh and the others. It is untrue to say that he did not see the incident unfold and was in the field at that time. He did not call Mahesh as a witness because Mahesh had closed his shop and left.

35. Neither party filed a case regarding the boundary dispute. He is unsure whether Bhoop Singh lodged any complaints with the police station or the sub-divisional magistrate about the disputed boundary. Before the incident, the police came to mediate the boundary dispute, but Bhoop Singh refused to accept the resolution proposed by the police. It is incorrect to assert that they did not accept the settlement.

36. Post-incident, he initially attempted to call 112 for assistance, but the call did not go through. Consequently, he and his brother transported their parents to the hospital using a tractor, along with his wife and village members like Shailendra and Adesh. The nearest 100-bed hospital is approximately three kilometres from their village. He carried his father on a cot from the place of the incident to the tractor trolley. Since he was driving the tractor, he cannot definitively say whether his father passed away en route or at the hospital. Upon arriving at the hospital, the doctor was notified.

The examination-in-chief of the PW2, Mamta, the eyewitness of the incident:

37. On September 26, 2024, Mamta, PW2, the injured witness and wife of the deceased Sher Singh, testified during the examination-in-chief that she is not educated. She stated that the accused, Bhoop Singh, is her husband's brother, and that Ankit and Dilip are Bhoop Singh's sons. A few days before the incident, they had a dispute with Bhoop Singh over the boundary of their farm field, leading him to hold a grudge against them.

38. On the 24th of Poosh month, around 8:30 in the morning, her husband, Sher Singh, left their house to go to the field. On the way, Bhoop Singh and his sons, Dilip and Ankit, were sitting at their door when they suddenly attacked Sher Singh with sticks, intending to kill him over the ongoing dispute regarding the field boundary. She (Mamta, PW2) attempted to intervene and save her husband, but in doing so, she too was beaten with sticks and sustained serious injuries. She fell to the ground, with her leg bone broken, which later required surgery to insert an iron rod. Additionally, one finger on her right hand was also broken.

39. Hearing her screams, her son, Vishram Singh, and several neighbours rushed to the scene and witnessed the assault. Seeing the crowd, the accused fled the area. Mamta and her husband were loaded onto a tractor and taken to the 100-bed hospital in Chhibramau, where doctors pronounced Sher Singh dead upon arrival. Due to the severity of her leg injury, she (Mamta, PW2) was subsequently referred to the district hospital, where she underwent surgery and had an iron rod inserted.

40. Mamta also indicated that Bhoop Singh's daughters, Priyanka and Ragini, participated in the assault on her and her husband with sticks. She was hospitalised for several days after the incident, which prevented her from attending her husband's last rites. Police from the district hospital came to take her statement, and she recounted the events as described. On the day of the incident, her son, Vishram Singh, filed a report at the police station. After regaining consciousness in the hospital, Mamta informed both the police and her son about Priyanka and Ragini's involvement in the attack. She confirmed that they were fully complicit in the incident. This is her statement.

The cross-examination of the PW2, Mamta, the injured eyewitness of the incident:

41. During cross-examination, PW2 stated that her husband had two brothers, Bhup Singh and Sher Singh. She has four children: Vishram, Phool Singh, Kiran, and Jyoti, who are all married and live with her. Bhup Singh has five children: Babli, Ankit, Dilip, Ragini, and Priyanka. Babli and Ankit are married, while Dilip, Ragini, and Priyanka are unmarried. Ragini passed away on September 10, 2024. A murder report for Ragini was filed by Bhup Singh's wife, Javitri Devi, against her sons, Vishram Singh and Phool Singh, as well as her daughters-in-law, Shashi and Ruby.

42. Javitri stated that she and Bhup Singh each own separate houses and have divided their home, land, and fields. She and her husband, along with Bhup Singh, own approximately five bighas of land each. Her husband sold a plot of land, the size of which she is unsure about. For the past year, there has been a rivalry with the accused concerning her field, which did not exist previously. She emphasised that there was no serious rivalry before this incident. The accused, Bhup Singh, is her husband's brother, and Ankit is Bhup Singh's son. She confirmed that no previous conflicts led to the current situation.

43. On the day of the incident, Phool Singh, her son, went to the village shop around 7:00 AM to buy goods. While there, he was attacked by the accused. He returned home and informed his father about the incident, but did not tell her. Following this, she, along with her daughters-in-law Shashi and Ruby, and her husband Sher Singh, did not go to confront Bhup Singh or his son with sticks and did not physically harm them. She clarified that she and her husband were not fleeing after beating them, nor did they fall into a drain, and they did not sustain any injuries.

44. She further stated that in the incident, the finger on her right hand was broken, and she sustained head injuries as well as a broken right leg with a protruding bone. Describing the scene, she mentioned a place to tie buffaloes to the east of

the incident site, with houses to the west, including Bhup Singh's house. There are several other houses to the north, including Brijesh's, and to the south, there is a place for tying buffaloes and Suresh's house. A culvert is built on the road where water flows from both sides, leading toward the fields, and there are drains on both sides of the road.

45. On the day of the incident, while her sons typically left for the fields around 7:00 AM, her younger son was digging potatoes in someone else's field that day. He had gone to the shop to buy something when attacked, preventing him from working that day. Vishram Singh was already working in the fields and arrived at the scene after hearing screams. She was unconscious and did not know if the accused had fled the scene when Vishram arrived.

46. Furthermore, she cannot recall whether she and her husband were taken to the hospital or the police station first, nor does she remember when her husband died. She was unconscious for three days and does not know where she was admitted. Additionally, she is unsure how many days she has been home from the hospital. The police had interrogated her, but she does not know the date her statement was recorded. She mentioned that the police recorded her statement in the hospital while she was unconscious and again at home, but she cannot recall whose statements were taken apart from hers. She said to the police in her statement under Section 161 of the Criminal Procedure Code that "On December 24, 2023, my younger son, Phool Singh, went to the shop to buy some goods. Due to an old rivalry, at 8:15 PM, Ankit and Dilip, Bhoop Singh's sons, and Bhoop Singh himself, my brother-in-law's son, attacked my son, Phool Singh. After the incident, both Ankit and Dilip went to Bhoop Singh's house to confront him."

The examination-in-chief of the PW3, Rubi, the eyewitness of the incident:

47. PW3, Rubi, testified during her examination-in-chief on October 15, 2024, that she has no formal education and can only write her name. She cannot read or write anything else. The deceased, Sher Singh, was her father-in-law; he was murdered approximately 10 months ago on the 24th of the previous year during the winter months.

48. On the day of the incident, around 8:00 AM, her father-in-law, Sher Singh, was going to work in the field with her mother-in-law. At that time, Mamta, Bhoop Singh, and the other accused surrounded her father-in-law in front of her at their doorstep and attacked him with sticks, intending to kill him. The accused began beating her father-in-law, and when her mother-in-law, Mamta, tried to intervene and save him, they also assaulted her.

49. Upon hearing the screams, she (PW3), her sister-in-law Shashi, her husband Vishram Singh, brother-in-law Phool Singh, and other neighbours rushed to the scene. They found the accused continuing to beat her mother-in-law and father-in-law with sticks, which caused them to fall to the ground after sustaining injuries. As more villagers arrived, the accused fled the scene, threatening them with dire consequences.

50. In the process of trying to protect her family, she (PW3) also sustained minor injuries from the attackers. After the assault, her husband, Vishram Singh, brother-in-law Phool Singh, and other villagers took her injured parents-in-law to the 100-bed Hospital in Chhibramau. Unfortunately, the doctors declared Sher Singh dead upon arrival, and her mother-in-law, Mamta, was referred to the Medical College in Tirwa for urgent treatment, where she received care for several days.

51. Her husband filed a report of the incident at the police station. The police arrived at the scene, completed the necessary paperwork, and took her statement. The account she is providing in court today is consistent with what she relayed to the police.

The cross-examination of the PW3, Rubi, the eyewitness of the incident:

52. During cross-examination, the prosecution's witness, PW-3, stated that the incident occurred on the 24th, but she is unsure of the year because she is not educated. The incident took place at 8:00 a.m. Her husband, Vishram Singh, has two brothers: Phool Singh and the deceased Sher Singh, who was her father-in-law. Accused Bhoop Singh is the biological brother of her father-in-law, and Ankit and Dilip are her cousin brothers-in-law.

53. Her husband, Vishram, and Phool Singh have not divided the property between themselves, nor do they live separately. Both own houses in two different locations but choose to live together. Her mother-in-law and father-in-law lived with her as well. She is unable to estimate the distance between the two houses they own. Her husband and brother-in-law farm together, but she does not know how far their fields are from her village. Although she visits the fields, she remains uncertain about their distance from the village.

54. Her father-in-law owns five bighas of land and previously sold a plot along the roadside, but she cannot recall to whom it was sold. She is also unaware of the dimensions of the road connected to the sold plot or details regarding another plot sold to Samar Singh. She mentioned that her husband would know about these matters. Additionally, she is not aware if the first plot her father-in-law sold had a 10-foot path leading

behind it or a 15-foot path behind it later on. She only knows that the dispute concerns the boundary lines.

55. There are three houses between her house and Bhoop Singh's. Since her house is behind, she has to take a detour to reach the main road, which is in front of Bhoop Singh's house. The road outside Bhoop Singh's house is substantial, with drains on both sides and a cross-drain in the middle of the culvert. She noted that the end of the cross-drain is slightly open, and water does not flow through it.

56. Four days prior to the incident, there was a confrontation with Bhoop Singh, during which Bhoop Singh reported the matter to the police. The police intervened and facilitated a compromise. After the police left, Bhoop Singh threatened that he would kill her family within four days. The police did not arrest her husband, Vishram; they merely helped them reach a compromise.

57. In the days leading up to the incident, there was only a minor dispute between her family and Bhoop Singh's family. On the day of the incident, her husband was not working in the fields; he was in the village, though she did not know his exact location. On that day, while she was cooking, she heard a commotion. When she went outside, she found her mother-in-law and father-in-law lying on the ground. She and her sister-in-law, Shashi, had gone to the location together.

58. She does not know whether her brother-in-law, Phool Singh, was in the field or in the village. Her husband had already arrived by the time she picked up her mother-in-law and father-in-law. He took her mother-in-law and father-in-law to the hospital on a tractor, and she accompanied them and others from the village. Her mother-in-law was referred to the hospital in Kannauj, while her father-in-law was admitted. Later, the doctor declared him dead. Both her mother-in-law and father-in-law were unconscious during their transportation to the hospital. After her father-in-law was declared dead, they brought him back home.

59. An inquest into her father-in-law's death was conducted at the hospital, and he was then taken to the post-mortem house, where the autopsy was performed the same day. Police kept arriving, and they took her statement.

60. In her examination-in-chief today, she stated, "On the day of the incident, around 8:00 AM, when my father-in-law, Sher Singh, was going to work in the field with my mother-in-law, Mamta, Bhoop Singh and the other accused surrounded my father-in-law in front of their door and attacked him with sticks, intending to kill him." She asserted that it is false to claim she did not tell the police about this and that she is mentioning it for the first time in court.

61. The witness was shown her statement recorded under Section 161 of the Criminal Procedure Code (CrPC) and was asked to confirm its content: "On 24.12.2023, my brother-in-law, Phool Singh, was beaten by my uncle, Bhoop Singh, and his sons, Ankit and Dilip, due to an old enmity. When my brother-in-law returned home and informed my parents-in-law, my mother-in-law and father-in-law, Sher Singh, went to inquire about the situation at around 8:15 AM, at which point my uncle, Bhoop Singh, and his sons, Ankit and Dilip, severely beat my parents-in-law with sticks." She admitted that she did not provide this specific statement to the police because she lacked that information.

62. She also mentioned the names Priyanka and Ragini in her examination-in-chief and referenced their names in her earlier statements to the police. If the police did not include their names in her statements, she cannot explain why. Furthermore, it is incorrect to say that her in-laws were injured by falling into a drain or that they were not attacked by the accused. It is also false to assert that she was at home during the incident and did not witness what happened with her own eyes.

The examination-in-chief of the PW4, HC 95 Dharmendra Mishra, who Registered the First Information Report (FIR):

63. Prosecution witness PW4, HC 95 Dharmendra Mishra, stated under examination-in-chief that he was posted at Police Station Chhibramau on December 24, 2023. On that day, he was on duty at the Police Station. During his duty, the complainant, Vishram Singh, son of Sher Singh and a resident of Village Sarai Daimganj, accompanied by Badam Singh, son of the late Rameshwar Dayal, also from the same address, came to the police station. They presented a written application in Hindi regarding an attack on the complainant's father, Sher Singh, by the accused: Bhoop Singh, Ankit, and Dilip. This attack was due to an old rivalry and resulted in the death of Sher Singh, while the complainant's mother, Mamta, suffered a broken leg.

64. Upon receiving this complaint, and following the written order of the then SHO, he registered FIR No. 828/2023 against Bhoop Singh and others under sections 302 and 323. Constable clerk Badal, who was working with him, typed the complaint word for word on the computer and ensured it precisely matched the complainant's written complaint.

65. When the papers numbered 4A/1 and 4A/2 in the file were shown to the witness, he confirmed that they were the original computerised copy of the FIR that he had dictated to Constable Badal. He also confirmed the signature of the then SHO, Jitendra Pratap Singh, and the seal of the police station. Exhibit Ka-2 was marked on this.

66. The witness reported this case in G.D. Report No. 36 at 11:52 a.m. He had also instructed Constable Badal to type the G.D. Report. When paper No. 6A/1 in the file was presented to the witness, he confirmed that it was the original G.D. Report that he had arranged to be typed by Constable Badal. This document was certified with the seal of the police station and was also signed by him. Exhibit Ka-3 was marked. The investigating officer had taken his statement.

The cross-examination of the PW4, HC 95 Dharmendra Mishra, who Registered the First Information Report (FIR):

67. During the cross-examination, the witness, PW4, stated that on December 24, 2023, he was posted as Head Constable at Police Station Chhibramau, with duty hours from 10:00 am to 10:00 pm. The complainant arrived at the police station around 8:00 am, and PW3 was serving as the Head Constable at that time. The Head Mohrrir's duty is round-the-clock at the police station. When the Head Mohrrir is not present and an FIR is to be registered, the on-duty Head Mohrrir is called to the station.

68. The duty schedule for the police station's clerks varies. PW3 was present at the police station as Head Mohrrir for 24 hours. The constable clerk's duty is typically 12 hours. When the complainant came to the police station to file his report, PW3 was present. The complainant was accompanied by an individual whose name PW3 did not know. The complainant had prepared a written complaint, and the name of the individual who assisted in drafting the complaint is mentioned in it. A written order from the Station House Officer (SHO) was also included with the complaint.

69. PW3 registered the case on the same day, with the FIR recorded at 8:30 am. He also entered the case in the General Diary (GD) on that day under Sections 302 and 323. The complainant's mother was sent to the hospital before the report was written. The complainant arrived at the police station with his mother at approximately 7:45 am. After providing a medical letter, they sent his mother, Mamta Devi, to the hospital for treatment. The complainant did not bring his father to the police station. When asked about his father, the complainant stated that he had taken him to a 100-bed hospital in an ambulance.

70. The complainant's case was registered under the House Officer's (HO) direction. PW3 registered the FIR on the same day at 8:30 am and recorded the case in the GD that day. It is incorrect to claim that the complainant did not bring his mother to the police station. Inquest proceedings were conducted following the FIR registration, and an order for investigation was issued to the officer-in-charge of the police station. The investigating officer took PW3's statement, which

he recorded in the GD at 8:25 am, after writing the FIR. It is false to assert that he did not enter the case in the GD at that time.

The examination-in-chief of the PW5, Dr. Prem Prakash Bajpai, the Injuries Medical Examiner:

71. During his examination-in-chief, prosecution witness PW5 Prem Prakash Bajpai stated that on December 24, 2023, he was serving as an Assistant Professor in the Orthopaedic Department of the Medical College. On that day at 11:23 A.M., a patient named Mamta, the wife of Sher Singh, approximately 45 years old and a resident of village Sarai Daimganj, police station Chhibramau, district Kannauj, was admitted to the emergency department under his supervision.

72. He conducted an examination of the patient's injuries, which included a wound on the right side of her head, two small wounds below the right knee, and a wound on the ring finger of her right hand. After bandaging these wounds, the patient was sent for a head X-ray and CT scans. The CT scan report was normal, while the X-ray reports revealed a fracture below the knee and a fracture in the ring finger.

73. The patient was admitted to the ward following the general surgeon's assessment. On December 27, 2023, surgery was performed to fix the fracture in her leg with a plate and the fracture in her hand with a wire. After being treated until that date, the patient was discharged on January 2, 2024, at 11:45 A.M.. At the time of discharge, the patient was stable.

74. The patient's bedhead ticket was prepared by J.R., Dr. Vinod Kumar, and the discharge ticket was filled out by Dr. Sawed Khan using the standard proforma. Documents numbered 9A/1 to 9A/5 and 9A/7 to 9A/17 in the file were written and signed by Dr. Vinod; these are photocopies of the original bedhead tickets and match the originals. He certifies these documents by verifying his signature; Exhibit Ka-4 has been marked on it. Document number 9A/18 in the file is in Dr. Sawed Khan's handwriting and signature, which he also confirms. Exhibit Ka-5 has been marked on this document.

The cross-examination of the PW5, Dr. Prem Prakash Bajpai, the Injuries Medical Examiner:

75. During the cross-examination, PW5 stated that he was appointed as an Assistant Professor on December 24, 2023. The injured individual, Mamta, was referred from the 100-bed Hospital in Chhibramau on the same day. Mamta underwent a medical examination and had injuries on her head, below the knee on her right leg, and on the ring finger of her right hand. These injuries had already been bandaged. Mamta's overall condition was normal; she was fully conscious, and there was

no bleeding from her nose, ears, or mouth. The neurovascular status of the patient was stable.

76. He recommended an X-ray of the chest, hand, and right leg and a CT scan of the head. The radiologist conducted the X-ray, which revealed fractures in the ring finger of the right hand and in the right leg below the knee. The CT scan of the head showed normal results. He performed surgery on the finger and foot. After approximately ten days in the hospital, Mamta was discharged in good condition. He could not provide any information regarding how the injuries occurred.

The examination-in-chief of the PW6, Sub Inspector Rajesh Kumar Rawat, the Inquest Officer:

77. Prosecution witness PW6, Sub Inspector Rajesh Kumar Rawat, stated under oath during his examination-in-chief that on December 24, 2023, he was assigned to Chhibramau Police Station. On this day, an FIR was filed regarding the murder of Sher Singh, son of Ramdin, a resident of Saraidayamganj Police Station, by the deceased's son, Vishram. This case was registered as Crime No. 828/23 against Bhup Singh and others.

78. After the FIR was documented, the then SHO, Jitendra Pratap, along with other police officers, left the police station and arrived at the 100-bed hospital in Chhibramau with a bound inquest form and other necessary documents. The body of Sher Singh was kept in the mortuary of Saushaiya Hospital. Outside the mortuary, a large number of family members and relatives of the deceased were gathered.

79. With the assistance of fellow police personnel, the body was taken out of the mortuary and inspected. A Panchan (witness) was appointed on the spot, and inquest procedures were conducted under the supervision of the SHO, which included noting the opinion of the appointed Panchan in the inquest report. The Panchan signed the report, and Sub Inspector Rawat also affixed his signature.

80. Subsequently, the body was sealed and stamped on-site and handed over to Dharamveer and P.R.D. Satish Chandra for transport to the post-mortem examination. Mohan prepared the sample seal. When documents numbered 8A/24 and 8A/25, which were included in the file, were presented to him, the witness confirmed that these were the original inquest report he had prepared as instructed by his SHO and verified his handwriting and signature on them. Exhibit Ka-6 was marked accordingly.

81. Additionally, he prepared other documents included in the file: 8A/29 (a letter to the Chief Medical Officer), 8A/30 (a sketch of the body), and 8A/31 (a challan for the corpse)—all in his own handwriting at the scene. He confirmed his

handwriting and signature on these documents, which were marked as Exhibit Ka-7, Exhibit Ka-8, and Exhibit Ka-9, respectively. The investigating officer recorded his statement during the investigation.

The cross-examination of the PW6, Sub Inspector Rajesh Kumar Rawat , the Inquest Officer:

82. During the cross-examination, the prosecution witness, PW6, testified that on December 24, 2023, he was assigned to the Chhibramau police station. The complainant filed a First Information Report (FIR) on the same day under Crime No. 828/2023, citing Sections 302, 323, and 325 of the Indian Penal Code. After the FIR was lodged, he proceeded to the 100-bed hospital to conduct the inquest proceedings, arriving at 12:15 PM.

83. He had appointed Panchas to assist him. The complainant, Vishram Singh, was present along with Brijesh, Badam, Samarpal, and Arjun, all residents of Saraidamanganj, which falls under the Chhibramau police station. Acting on the Station House Officer (SHO)'s instructions, he carried out the inquest at the scene. The SHO accompanied him to the location.

84. Family members, relatives, and villagers were gathered around the body, which was placed in the mortuary of the 100-bed hospital. He carefully recorded the condition and appearance of the body, documenting the injuries present. The deceased had three injuries: one on the head, one on the ear, and one on the right leg. Aside from these injuries, no other visible injuries were observed on the body. He also inspected the deceased's clothing but noted that he did not find any blood on it. The entire inquest proceedings took about one hour and five minutes to complete. His statement was taken by the investigator on the same day, and his opinion aligned with that of the Panchas.

The examination-in-chief of the PW7, Shailendra Kumar Kumar, the eyewitness of the incident:

85. Prosecution witness PW7 Shailendra Kumar testified under oath during the examination-in-chief that he knew the deceased, Sher Singh, because they both lived in the same village. Sher Singh's house is in the middle of the village, while Shailendra's house is on the outskirts.

86. Sher Singh was murdered on December 24, 2023, between 8:00 and 9:00 AM by Bhoop Singh, who was also from the village, along with his sons Ankit and Dilip, and his daughters Ragini and Priyanka. On the day of the incident, Sher Singh was heading to his fields and had stopped to buy bread and biscuits for his children from the shop in front of Bhoop Singh's house. Shailendra looked back and saw Sher

Singh entering the lane ten steps west of Bhoop Singh's house on his way to the fields.

87. The accused—Bhoop Singh, Ankit, Dilip, Ragini, and Priyanka—surrounded Sher Singh with sticks, clearly intending to kill him before he could enter the lane. They brutally attacked him with the sticks, causing him to fall to the ground. Even after he was down, they continued to beat him. Sher Singh's wife, Mamta, who was accompanying him to the farm, attempted to save him but was also severely beaten by the accused, resulting in her falling to the ground as well.

88. Seeing the violence, Shailendra and other bystanders tried to intervene and assist Mamta and Sher Singh, but the accused threatened them, declaring that anyone who approached would be harmed too. As a result, no one dared to help.

89. Witnessing this alarming scene, a large crowd from the village and the surrounding area gathered. However, the accused, seeing the crowd grow, retreated to their homes, threatening all the while, and began throwing stones from the rooftops, causing the crowd to disperse. Despite the danger, Shailendra and the villagers managed to lift Sher Singh and Mamta, who were in critical condition, and placed them onto a tractor to take them to the 100-bed Hospital in Chhibramau. Upon arrival, the doctor declared Sher Singh dead and referred Mamta to Medical College Tirwa due to her serious injuries.

90. Shailendra witnessed the entire incident unfold right in front of him. Bhoop Singh and Sher Singh were actually real brothers, and there had been an ongoing dispute between them regarding the boundary of their fields. Two to four days prior to the incident, the accused had also issued threats to kill Sher Singh. Vishram filed a report on the incident. The police conducted an inquest and arranged for a post-mortem examination. They later visited the scene, inspected the area, and questioned bystanders, but Shailendra was not present at that time, so they did not take his statement.

The cross-examination of the PW7, Shailendra Kumar, the eyewitness of the incident:

91. During his cross-examination, PW7 testified that he is a resident of the same village as the accused, Bhoop Singh and Sher Singh. He clarified that he is not a family member of either but belongs to their community. From the gas godown, his house is the first one you encounter before reaching the houses of the accused and Sher Singh, which are located deeper within the village. There is a distance of about 20 houses between his house and those of the accused.

92. After his house, the sequence of houses includes those of Neeraj, Charan Singh, Bhavnesh, Awadhesh, Ramraheem, and Jagdish, followed by a lane leading to the settlement of Dhaniram, Dr. Prakash, Girish Chandra, and Dhirendra. Beyond that, there is a vacant area, followed by Satyapal's settlement. After another small lane, you reach Ram Mahesh's house, which is opposite Bhoop Singh's house. The complainant, Vishram, lives approximately six or seven houses away from Bhoop Singh's home.

93. The witness also mentioned that he engages in electrical work and farming, although he does not own a shop; he performs electrical work in the field and travels to other villages for work. His farm is located both near and far from those of Vishram and Bhoop Singh. He stated that he is unaware if Sher Singh has sold two plots, one to Samar Singh and the other to a soldier, as this is a personal matter, and he is not familiar with it.

94. In his opinion, the death of the deceased occurred about half a day before the postmortem due to excessive bleeding and shock due to pre-mortem injuries. Papers No. 8A/1 and 8A/11 included in the file were prepared on the prescribed format by him after dictating to the computer operator. He confirmed his signature on this. Exhibit Ka-10 was marked on it. After the postmortem, a total of 20 forms, including 09 inquiry papers and 11 postmortem reports, along with the postmortem body, were handed over to Constable Dharamveer and sent to Police Station-Chhibramau.

95. He visits Sher Singh's house and is friends with Sher Singh's son, Vishram Singh. Although he does not have any issues with Bhoop Singh currently, he recounted an earlier incident where Bhoop Singh had a confrontation with his father, during which Bhoop Singh struck his father with a stick. However, the stick ended up hitting his younger brother instead. He described Bhoop Singh as a dangerous person but insisted he has never had a direct fight or quarrel with him.

96. The witness confirmed that he did not go anywhere to buy electrical goods on the day of the incident. Following this incident, he submitted an affidavit in court. When shown paper number 17B/10, he acknowledged that he provided this affidavit to the Superintendent of Police; the photo on it is his, and his signature appears on the second page. The affidavit states that on December 24, 2023, at 8:30 a.m., upon hearing about the incident from others, he went to the hospital. When he arrived, he learned that Sher Singh and his wife Mamta had left for the field and that as they passed in front of Bhoop Singh's house, they were attacked by Bhoop Singh, his two sons (Ankit and Dilip), his wife Savitri, and his two daughters (Priyanka and Ragini). He stated that Sher Singh died on the

spot, and Mamta suffered a fractured leg, a broken finger, a fractured skull, and injuries to other parts of her body.

97. He confirmed that when the affidavit was drafted, what he wrote was true and accurate. The police had questioned him regarding the contents of this affidavit. When presented with paper number 13A/39, which contained a statement affirming that he was not present at the scene of the incident and did not witness any fight, he denied having provided this statement to the police. He clarified that he did not observe any previous altercation over property boundaries, and the statement he gave to the police was made voluntarily.

98. He attended court to have the affidavit prepared, which he submitted to the Superintendent of Police. He stated that the police did not question him prior to his giving the affidavit, nor did he provide information to them at that time. He is aware that the land owned by Bhoop Singh and Sher Singh has been divided, noting that this division was mutually agreed upon. Although he knows that the houses of Bhoop Singh and Sher Singh have been separated and they are real brothers, he is unsure whether they lived together before the incident.

99. He acknowledged that there had been a verbal dispute between them a few times about the division of property, but claimed he did not know anything about any serious quarrels. He mentioned that there was a disagreement regarding the boundary between 10 and 15 days before the incident. Finally, he refuted the suggestion that he did not see any incident and that he provided the statement during his examination in chief on the advice of his lawyer. Additionally, he denied that his friendship with Vishram or Vishram's influence led him to testify in favour of Vishram in court.

The examination-in-chief of the PW8, Dr. Amit Singh Yadav, the post-mortem Doctor:

100. During his examination-in-chief, Prosecution Witness PW8, Dr. Amit Singh Yadav, testified under oath that on December 24, 2023, he was serving as a medical officer at the Aunty PHC in Kannauj. On that day, his duty involved working at the post-mortem house in Kannauj. Around 3:20 PM, Police Constable Dharamveer and PRD Satish from Police Station Chhibramau brought the body of the deceased, Sher Singh, a 47-year-old male and resident of Sarai Daimganj, to the post-mortem facility along with an inquiry paper.

101. The body was identified by Vishram Singh, the son of Sher Singh, and Badam Singh, the son of Rameshwar Dayal, both residents of Sarai Daimganj, Police Station Chhibramau, District Kannauj. Dr. Yadav conducted the post-mortem on that body, starting at 3:25 PM and completing it at 4:10 PM.

102. General Examination: The individual had average height, with rigor mortis evident in the hands and partially present in the legs. Post-mortem staining was observed on the anteroposterior and dependent limbs. The eyes were closed, and the mouth was slightly open.

103. Antemortem Injuries-

1. A lacerated wound measuring 5 x 1 cm is present on the left side of the head (in the parietal region), located 10 cm above the left ear, with an underlying bone fracture.

2. A contused swelling, measuring 10 x 8 cm, is present in the left occipital region.

3. A lacerated wound measuring 3 x 3 cm is located on the front part of the right leg, 14 cm below the knee.

104. A sealed bundle of seven clothes recovered from the deceased was made and sent to the SHO of Chhibramau.

105. Internal Examination Findings:

- A blood clot was found in the brain.
- The dental status was 15 out of 16 teeth present.
- Both lungs showed signs of congestion.
- The right chamber of the heart was full, while the left chamber was empty.
- The stomach contained 80 ml of semi-digested food.
- Gases and peristalsis were observed in the small intestine, along with gases and faecal matter in the large intestine.
- The liver, spleen, and both kidneys were congested.
- The gallbladder was half full.
- There were 25 ml of urine present in the urinary bladder.

106. In his opinion, the death of the deceased occurred approximately half a day before the postmortem due to excessive bleeding and shock resulting from antemortem injuries. He prepared documents labelled as Paper Nos. 8A/1 and 8A/11 in the prescribed format after dictating them to a computer operator. He confirmed his signature on these documents, and Exhibit Ka-10 was marked accordingly. After the postmortem, 20 forms were compiled, including 9 inquest papers and 11 postmortem reports. Along with the postmortem body, these documents were handed over to Constable Dharamveer and sent to the Chhibramau Police Station.

The cross-examination of the PW8, Dr. Amit Singh Yadav, the post-mortem Doctor:

107. The said witness has stated during cross-examination that on 24.12.2023, he was posted at the post-mortem house, and on the same day, he did the post-mortem of the deceased Sher Singh. The forms that came with the body were nine plus 11. He does not remember whether the First Information Report was in those forms or not. The body of the deceased came to the post-mortem house on 24.12.2023 at around 03.20 pm, and he did the post-mortem of the body on the same day. He signed and put his seal on the forms that came with the body.

108. The date and time of death of the deceased were mentioned on the forms that came. The probable time of death that he wrote on the post-mortem form was written after looking at the condition of the body, and he did not write it after looking at the forms that came. The probable time of death of the deceased Sher Singh was within about twelve hours. He looked at the body of the deceased Sher Singh from all sides. There were no injuries to the body of the deceased except for three injuries. The first injury was a lacerated wound on the head. The second injury was a contused swelling on the left side of the back of the head, and the third injury was a fourteen-centimetre lacerated wound on the left knee. Apart from these injuries, there were no other injuries on the body of the deceased. These injuries can also occur due to hitting any hard object, or falling into a drain, or colliding with a drain. He had made a bundle of the deceased's clothes, sealed it and sent it to the investigating officer.

The examination-in-chief of the PW9, Jitendra Pratap Singh, the investigating Officer:

109. Prosecution witness PW9, Jitendra Pratap Singh, stated during cross-examination-in-chief that on December 24, 2023, he was serving as the Station House Officer (SHO) Inspector in charge of Chhibramau. On that day, FIR No. 828/23 under Sections 302, 323, and 325 of the IPC against Bhoop Singh and others was registered at the police station, and he conducted the investigation.

110. After receiving a copy of the report and other necessary documents from the police station office, he commenced the investigation. On the same day, he prepared CD1, which included copies of the general diary (GD) and FIR, and recorded the statements of the FIR writer, Head Constable Dharmendra Mishra, and the complainant, Vishram Singh. He also obtained and reviewed the post-mortem report. Subsequently, he recorded the statements of Sub-Inspector Rajesh Kumar Rawat, who prepared the inquest report, Constable Ramveer, and PRD Satish Kumar. On December 25,

2023, he prepared CD2, which documented the inspection of the incident site, guided by the complainant. The juvenile offender, Dilip, son of Bhoop Singh, who was named in the case, was taken into custody, with his statement recorded and his educational certificate reviewed. The headmaster, Shri Vikrant, also provided a statement.

111. While examining document number 7A/1 in the file, the investigating officer confirmed that it was the site map he had prepared at the scene at the complainant's request. He confirmed that it was in his handwriting and signed it. This was marked as Exhibit Ka-11.

112. On December 27, 2023, the accused, Bhoop Singh and Ankit, were arrested, an entry for which was made in CD No. 03. Following the pointing out by the accused, the murder weapon, a stick, was recovered. The recovered stick was sealed and stamped in the presence of witnesses at the scene, and a sample stamp was prepared. The recovery memo was drafted on-site by Sub-Inspector Suresh Chandra under the light of a torch and was read aloud at the scene, with the signatures of the witnesses and accused Bhoop Singh and Ankit collected on the memo. Information regarding the arrest was also conveyed to the accused's family.

113. The Hon'ble Supreme Court procedures and Human Rights rules were adhered to during the arrest. After reviewing documents numbered 11A/1 to 11A/3 in the file, the investigating officer confirmed that these were the original reports he had dictated to Inspector Suresh Chandra under the torchlight at the scene. He verified his signature on these documents, which were marked as Exhibit Ka-12.

114. The recovered materials related to the case are currently in the court in a sealed bundle, which was opened with the court's permission. Among the sticks found, a bamboo stick was identified as the same one recovered at the direction of the accused, Bhoop Singh. This stick has been marked as Material Exhibit-1, while the sealing cloth was marked as Material Exhibit-2.

115. Additionally, a square-shaped stick from a wooden bed found in the second bundle was identified as the same stick recovered at the direction of the accused, Ankit. This stick was marked as Material Exhibit-3, and the sealing cloth was marked as Material Exhibit-4. The statements from the accused, Ankit and Bhoop Singh, were recorded. They claimed that they killed the deceased, Bhoop Singh, by hitting him with these sticks and injured his wife, Mamta.

116. CD 04 was created on January 2, 2024, and includes the inquest report and the post-mortem report. CD 05 was prepared on January 6, 2024, and documents the acceptance of a 14-day remand for the juvenile offender. CD 06 pertains

to remand. On January 12, 2024, CD 07 was prepared, recording the statement of Dr. Prem Prakash Bajpai along with a copy of the medical report for Mamta.

117. CD 08 was generated on January 14, 2024, containing the statement of Dr. Amit Yadav, who conducted the post-mortem examination. On January 15, 2024, CD 09 recorded the statements of five witnesses: Vishram Singh, Badam Singh, Brijesh, Samarpal, Arjun, and the injured Mamta, Ruby, and Phool Singh. CD 10 was prepared on January 18, 2024, relating to remand.

118. CD 11 was completed on January 19, 2024, noting that some affidavits and a pen drive with an application were received from the complainant party. These were observed, mentioned, and attached to the CD. CD 12 was prepared on January 22, 2024, and relates to remand. CD 13, dated February 2, 2024, and CD 14, dated February 5, 2024, are also related to remand proceedings.

119. On February 6, 2024, CD 15 was prepared to document the submission receipt of the recovered goods to the forensic science laboratory. CD 16 was created on February 7, 2024, which included the statements of deponents Brijesh, Mamta, Shashi, Phool Singh, Vishram Singh, Ruby, Samarpal, Arjun, Shailendra Kumar, and Vimala.

120. On February 9, 2024, CD 17 recorded the statements of independent witnesses Surjeet Kumar and Sukhrani Devi. Based on the evidence collected during the investigation, including the recovery of the murder weapon, the spot inspection, the post-mortem report, medical reports, and witness statements, the charges under sections 302 and 323 against the accused Bhoop Singh (son of Ramdin), Ankit (son of Bhoop Singh), and the juvenile offender Dilip (son of Bhoop Singh) were well substantiated.

121. Consequently, charge sheet number 52/24 was submitted to the Hon'ble Court against the accused individuals. When papers 3A/1 to 3A/4, included in the file, were shown, the witness confirmed after reading them that this is the original charge sheet he had prepared on the computer in the prescribed format and sent to the court. He acknowledged his signature on it, and Exhibit Ka-13 was marked accordingly.

The cross-examination of the PW9, Jitendra Pratap Singh, the investigating Officer:

122. During cross-examination, the witness stated that on December 24, 2023, he was serving as the Inspector in Charge at Chhibramau Police Station and that this case was registered under his supervision. He received the inquest report on the same day, after which he reviewed the First

Information Report (FIR). In the FIR, the complainant mentioned having a dispute with his uncle over the boundary of a field, which served as the motive for the incident. No prior grievances were noted in the FIR. The witness was unsure whether the complainant had submitted a complaint application regarding the dispute with his uncle, as mentioned four days prior.

123. The complainant did not bring his father and mother to the police station initially; instead, he took them directly to the hospital. The time of arrival at the police station is recorded in the FIR as well as in the General Diary (GD), but the witness could not recall the specific time at that moment. The complainant formally lodged the FIR after his father's death and visited the hospital on the same day. The inquest report was prepared under his direction. Since the complainant brought his parents to the hospital directly from the scene of the incident, a medical requisition letter was not issued.

124. The witness refuted the claim that the complainant first went to the police station with his mother. The police station is approximately 3 kilometres from the scene of the incident. The scene was not inspected on the day of the incident but was examined later, although he could not remember the exact date; it is recorded in the case diary. He did not recall if he collected samples of blood-soaked or plain soil from the scene.

125. Sher Singh, the deceased, and Bhoop Singh, the accused, are brothers, and the complainant is Bhoop Singh's nephew. He prepared the site map based on the indications of the complainant, Vishram Singh. The complainant's house is far from the incident site and was not included in the site map. The route to the incident site goes through the gas godown to Tajpur Road.

Question: A short distance from the incident site, there is a culvert and a drain crossing the road; why was it not included in your site map?

Answer: There is no culvert or drain crossing the road within 50 steps of the incident site. It is incorrect to say that a cross-drain or culvert exists there.

126. The accused's house is situated to the east of the incident site. There is a house and a shop to the west, but he was unaware of their ownership. The witness did not take statements from the shopkeeper.

127. There are roads to the north and south of the incident site. He took the complainant's statement on December 25, 2023. The complainant stated that his father, Sher Singh, and mother, Mamta, left their house to go to the field when the

accused began to assault them with sticks in front of their home. The complainant further noted that the accused fled upon seeing him, his brother, and others approaching. The FIR and the complainant's statements did not mention Priyanka and Ragini participating in the assault.

128. The juvenile offender, Dilip, was a minor. The accused was arrested at the GT Road underpass. The FIR was prepared on site while recovering the murder weapon, based on information provided by the accused. While preparing the memo, the witness attempted to secure a public witness but was unable to do so. He could not recall the date on which he recorded the statement of the injured, Mamta.

129. The injured victim stated that her younger son, Phool Singh, went to the shop to buy goods when the accused assaulted him, and she and her husband went to inquire about the incident. The complainant stated that the assault was carried out using sticks and a baton. Mamta similarly stated that they were attacked with sticks and a club. The complainant indicated in his FIR that his parents were going to the fields when they were assaulted, and the injured party confirmed this in her statement.

130. Mamta also mentioned in her statement that when Phool Singh left for the shop to buy goods, he was attacked. She and her husband then went to Phool Singh's location to inquire about the situation. Both Phool Singh and Ruby provided the same account. Ten individuals submitted affidavits regarding the incident.

Question: Shashi has written in her affidavit that her father-in-law, Sher Singh, and her mother left for the farm. As they reached Bhoop Singh's door, Bhoop Singh, along with his two sons, Ankit and Dilip, his wife Savitri, and their two daughters, Priyanka and Ragini, who were already lying in wait, attacked them with sticks and started beating them.

Answer: According to Section 1 of the Indian Evidence Act, a statement given under oath is not admissible during the investigation. The affidavits submitted are attached to the case diary. Arjun, Samarpal, Shailendra Kumar, and Vimla Devi also provided affidavits. Afterwards, he recorded their statements, with all of them stating that they were not present at the scene of the incident.

The examination-in-chief of the PW10, Phool Singh, the eyewitness:

131. Prosecution witness PW10, Phool Singh, testified that the deceased, Sher Singh, was his father. His mobile number is 77*****77. On December 24, 2023, at around 8:30 AM, Sher Singh left the house with his mother, Mamta Devi, to work in the field. As they reached the road near his uncle Bhup

Singh's house, they were surrounded by Bhup Singh, his sons Ankit and Dilip, and his daughters Ragini and Priyanka, who attacked them with sticks.

132. Phool Singh recounted that his parents screamed for help. Hearing their cries, he, along with his brother Vishram Singh, Vishram's wife Ruby, and his wife Shashi, rushed to the scene. When they arrived, he saw Ankit and Dilip beating his father with sticks, causing him to fall to the ground, seriously injured. Meanwhile, Ragini and Priyanka were attacking his mother with sticks, leaving her severely injured as well.

133. As the family members moved to assist their parents, the accused climbed onto their roofs and began throwing bricks and stones at them. They managed to help their parents and, with the assistance of villagers, transported them on a tractor trolley to a 100-bed hospital. There, the doctors declared Sher Singh dead and referred Mamta Devi to Kannauj Medical College. Her leg was broken in three places, requiring rods to be inserted, and her fingers were also broken.

134. Phool Singh explained that there had been an ongoing rivalry with his uncle Bhup Singh over the boundary of their fields, which motivated this attack. Vishram Singh, his brother, subsequently filed a report about the incident at the police station. The police later arrived at the 100-bed hospital to prepare the inquest report for Sher Singh and sent his body for a post-mortem examination. They also inspected the crime scene and interviewed witnesses. Phool Singh's statement was recorded during this process.

The cross-examination of the PW10, Phool Singh, the eyewitness:

135. The witness testified during cross-examination that his father had two brothers. His father, Sher Singh, was the elder brother, while the accused, Bhoop Singh, was the younger. The witness has two brothers named Vishram Singh and Phool Singh, both of whom are married and have children. They all used to live together, although they have separate houses and a bungalow where his brother resides. The witness lives in their family's house, and the food for everyone is cooked in the same place.

136. The land between them and Uncle Bhoop Singh has been divided, and the houses have also been separated. When his brother got married in 2012, their property was divided between their uncle and brother. Both houses are ancestral, belonging to him and his uncle. They live in one house, while their uncle lives in another. Uncle Bhoop Singh has five children: Babli, Ankit, Dilip, Ragini, and Priyanka. Babli and Ankit are married, while Ragini, Priyanka, and Dilip are unmarried. Notably, Ragini has passed away, and Bhoop Singh's wife, Javitri Devi, has lodged a report against them.

137. His father and uncle each own five bighas of land. His father sold a plot to an army man, but he does not know the exact dimensions of the path his father provided for the army man to access the plot. He clarified that there is no path being created in Bhoop Singh's field. The only issue between them was regarding the boundary, which had led to several disputes in the past.

138. The witness mentioned that Bhoop Singh had previously filed a complaint against his brother, resulting in both parties being taken to the police station. On the day of his brother's wedding, his brother was detained at the police station.

139. On the day of the incident, the witness went to a shop to buy biscuits around 8 o'clock. This shop is located opposite Bhoop Singh's house. After leaving the shop with the biscuits, Bhoop Singh, Ankit, Dilip, Ragini, and Priyanka assaulted him. He reported this to his father, who said he would inform the Pradhan Ji. The witness then headed toward the farm. The road to the farm is in front of Bhoop Singh's house, and he mentioned that it is unclear when he goes to the farm for work.

140. He did not go to the farm on the day of the incident; in fact, he did not go anywhere that day. There was no fight involving his beating. His father was on his way to the farm when these individuals attacked him, while he remained at home. He arrived at the scene when a commotion was already taking place. Upon his arrival, the attackers did not flee; they were instead engaged in the fight, wielding sticks. He understands the difference between types of sticks: a stick is larger, while a baton is smaller. Bhoop Singh held a stick, whereas Ankit had sticks as well, and Priyanka, Ragini, and Dilip were carrying smaller sticks.

141. After the incident, the police took his statement at Tirwa Medical College and other locations. It is incorrect to claim that his parents abused and assaulted Bhoop Singh at his doorstep and that they were fleeing the scene when they fell into a drain. It is also false to suggest that his father's injuries from falling into the drain caused his death. He arrived at the location two minutes after the incident began; the fight had already been ongoing for about two to three minutes by the time he got there. Additionally, it is not true that his parents were lying near the drain when he arrived, nor did he fail to witness any event occurring.

142. After the incident, his brother, along with his sister-in-law, wife, and some villagers, helped take their parents to the hospital. The villagers arrived after the fight, but his family assisted in getting them to the hospital. Upon arrival, the doctor declared his father dead and referred his mother to Tirwa Medical College for further treatment.

143. He did not tell the police in his statements that, on December 24, 2023, he had been beaten by his uncle, Bhoop Singh, along with his sons Dilip and Ankit, due to an old feud regarding the boundary of a field. When he informed his parents of this, they went to Bhoop Singh's house to complain and ended up being badly beaten. He is unsure whether the police properly recorded his statement and does not recall if his statement was taken correctly. He did not report being attacked by Ragini and Priyanka; instead, he mentioned being hit with bricks and stones. If the police did not document this, he cannot explain the reason for it.

144. The police conducted the inquest at the 100-bed hospital, but it was not done in his presence, as he was at Tirwa Medical College with his mother. His elder brother lodged the report, but he does not know when it was lodged because he was with his mother at the medical facility.

145. If anyone were to detour between his house and the house of the accused, Bhoop Singh, the distance is about thirty to forty meters. There is no direct path, but three routes are available: one leads from the village to the street, another goes through the middle of the village, and the third leads towards the fields. Mahesh's shop is near the incident spot and operates from 6 a.m. to 8 p.m., with people frequently buying items throughout the day, including children. To the east of the incident site, there is a tin shed; to the west, a lane and a shop; and roads to the north and south.

146. He comes from the road that runs alongside the village, passing in front of the Kotedaar's house. Mahesh, Ram Autar, Sudesh, Kailash Chandra, Kanhaiya, and Suresh typically travel from their house to Bhoop Singh's house via the tin shed, but none of them witnessed the event. It is inaccurate to claim that his parents and family members attacked Bhoop Singh and his sons during the fight, resulting in injuries on both sides. Furthermore, it is untrue that a report against the accused was not filed at the police station due to his father's death.

147. Court Witness CW1 Vishram, son of Sher Singh, testified during the examination that the incident took place on December 24, 2023, at approximately 8:30 AM. When he arrived at the scene, several villagers, including Shailendra, Brijesh, Adesh, and Raghurai, were present. All the accused were seen assaulting their parents, resulting in their father being injured and falling to the ground. He and the others attempted to intervene and save his parents. When the accused ignored their pleas, he took out his mobile phone and handed it to Shailendra, asking him to record the incident. Shailendra proceeded to make a video of the events.

148. During the investigation, Vishram had the video transferred from his mobile phone to a pen drive by Nanhe

Sharma, a shopkeeper at a mobile shop located at Farrukhabad crossing in Chhibramau. He provided the video to the investigator on a 16 GB HP pen drive. The investigator included this pen drive in the case file and submitted it to the court along with the charge sheet. The pen drive is currently part of the case file.

149. When the video was played in court, the witness confirmed that it was the same video that Shailendra had recorded during the incident. In the video, a man named Dilip, wearing a grey hoodie and standing on the staircase in front of the house, was seen holding a stick that was approximately 3 to 4 feet long. Another individual, wearing a black jacket with a red stripe and identifiable by name, was seen at the door above the staircase holding a stick that was about 4 to 5 feet long. Bhoop Singh was visible inside the house and was not holding anything.

150. Additionally, Ragini and Priyanka were both depicted in the video with sticks that were 3 to 4 feet long, all of which appeared to be made of bamboo. The deceased, Sher Singh, was shown lying on the ground with his eyes closed and mouth open, with a bamboo stick also lying on him. A woman in a blue sari, identified as his mother, Mamta, was seated near the deceased, supported by two to three individuals.

151. Vishram brought his mobile phone to court, confirming the authenticity of the video on the pen drive. Material Exhibit 5 was marked on the pen drive. He demonstrated the video from his mobile device, which confirmed that the video was recorded on his phone on December 24, 2023, at 8:34 AM. The video was found saved in the mobile's internal storage at the path: Internal storage/DCIM/Camera/Vid_20231224-083424.mp4, with the location being 5G83+4G6, Dayamganj Sa, Uttar Pradesh 209721, India. A screenshot of the video details was taken from his mobile, and a printout was prepared, which the witness certified with his signature, marked as Exhibit Ka-14.

152. Witness PW7 Shailendra, who recorded the video, was also in court. Six screenshots were captured when the video was played, and colour printouts were taken, which were labelled as Material Exhibit-6 to Material Exhibit-11.

153. During the cross-examination, the witness stated that when his parents went to work in the field on December 24, 2023, they did not carry any scabbard, spade, or similar tools. In the video, his uncle Bhup Singh and Bhup Singh's sons, Ankit and Dilip, along with his uncle's daughters, Priyanka and Ragini, are not seen abusing or surrounding the parents. Ankit and Dilip are seen holding sticks in the video, but they are not shown hitting either parent. Similarly, Priyanka and Ragini are seen with sticks but not depicted hitting anyone.

154. In this case, the witness had provided an affidavit to the Superintendent of Police. This affidavit does not mention his presence at the scene, despite telling Daroga Ji about the incident. He claimed to have witnessed the accused being beaten up, but could not explain why this was omitted from his statements. He did not remember when he made this statement to Daroga Ji and had failed to name Ragini and Priyanka in his account. Although he claimed to have seen Priyanka and Ragini being beaten, he stated that Javitri was not present at the scene. His wife informed him about Priyanka and Ragini hitting the accused about 7-8 days after the incident, which he believed without witnessing it himself.

155. When asked if Daroga Ji inquired why the application he submitted did not include the names of the accused's daughters, Priyanka and Ragini, the witness replied that he was not in his right mind then. Later, he provided an affidavit to add their names once he became informed. He reaffirmed that he had given this statement to Daroga Ji.

156. When the complaint was shown in Exhibit Ka-1, the witness noted that it did not mention the video. He stated that he had informed Daroga Ji on December 24, 2023, about making the video, though he did not specify that Shailendra was the one who recorded it. The witness could not explain why Daroga Ji failed to note the video's creation in his statements. He clarified that no fighting occurred when he handed his mobile to Shailendra to record the video. He admitted that he did not make a video during the fight.

157. Ankit had swung a stick at him, but he moved back and was not struck. This incident was not included in the First Information Report (FIR), and he did not inform Daroga Ji about it in his statements. He did confirm that Ankit used a stick on him in front of the accused's house, towards the west. However, he did not mention this specific location to Daroga Ji when creating the site map, stating that Ankit swung the stick from about five feet away to the east. Ankit struck him while the accused were at the gate preparing to enter. Before Ankit hit him with the stick, his parents had already been assaulted by the accused. His wife was present at the scene; she moved ahead toward the crime scene, and he followed her. Shailendra was already there when he arrived, and there was no assault on Shailendra during this incident.

158. It is incorrect to claim that Shailendra was also beaten on the day of the incident and that he is lying about it. It is also false to say that after Shailendra was beaten, he and his parents went to the accused's house to retaliate. He showed Daroga Ji the location where his father was assaulted. The main door of the accused's house is oriented toward the west, while the door faces south, with the staircase on the north side. In the video, Vishram's father is seen lying on the ground

to the south of the accused's house, approximately 15 steps away. He observed the incident from about 30 meters away from where his father's body was lying, and he is not seen in the video during the fight. He first saw his father's deceased body around 8:30 PM.

159. The video shows an old bamboo stick lying near his father's hand, but he did not mention it in the report or inform Daroga Ji about it during his statements. He filed the report at the police station between 11:00 and 12:00 PM. The police station is about 2 km from the incident site, and upon arriving at the station, he explained everything to Daroga Ji before officially filing the report. Daroga Ji asked him to wait while the report was being prepared, and he was unsure if Daroga Ji had sent officers to the incident site then. He did not see any police officers arrive in his presence at the incident location. He transported his father's body to the 100-bed Hospital using his tractor trolley, which he drove himself, but he cannot recall the exact time he arrived at the hospital. He estimates that he reached the hospital about 20 minutes after the incident. He does not know who removed the bamboo stick that was near the deceased, as shown in the video.

160. When Daroga Ji arrived at the scene, he was at the hospital. The inquest was conducted in his presence at the 100-bed hospital. Bhoop Singh is seen in Material Exhibit 9, with Priyanka on his right side, neither holding a stick. Ankit is on the left side of this exhibit and does not appear to have a stick. In Material Exhibit 6, Dilip enters the gate, with Priyanka beside him and Ragini standing beside her. A stick is visible with Ragini in this exhibit. In Material Exhibit 11, Bhoop Singh is in the centre, Ankit is on his left, and neither is holding a stick.

161. When Daroga Ji conducted the inquest at the hospital, he informed him of his father's time of death, stating it was at 8:30 PM. However, he does not know why Daroga Ji recorded the time of death as 24.12.2023 at 11:52 on the inquest memo. At the time of the incident, his mobile number was 76*****848, and the video was recorded on this mobile device. He handed the mobile to Shailendra after 8:30 PM to record the video. The mobile remained with him until the video was transferred to a pen drive. He does not remember when he had the pen drive created, but can confirm that the shop owner who moved the video was Nanhe Sharma. The report did not mention the pen drive because he provided it to the investigator during the investigation. There was no documentation regarding the pen drive or any signature accompanying it. He showed the original recording from his mobile to the investigating officer. He requested that it be transferred to a pen drive while he retained his mobile and ensured the video was not deleted. The original mobile phone

was not taken into custody by Daroga Ji, and no paperwork was completed on it.

162. He has studied up to high school and only knows he possesses a 16 GB pen drive, but he is unaware of what an HP 16 GB entails. He submitted this pen drive, along with an affidavit, to the office of the Superintendent of Police. He does not know whether Daroga Ji completed any paperwork concerning it. It is incorrect to assert that he did not witness any incident. In the video, no one is seen attacking his mother, Mamta. His wife has mentioned that the accused threatened to assault her, but she did not indicate that she was physically harmed. It is false to claim that he, his wife, or his brothers Phool Singh and Shailendra were not at the scene during the incident. It is equally untrue that he fabricated witnesses and provided false testimony.

163. Court Witness CW2, Shailendra Kumar, the son of Jadunath, testified during his examination that he was present at the scene on December 24, 2023, at approximately 8:30 AM when the incident occurred. Along with him, the complainant, Vishram Singh, and other villagers, including Raghurai, were also present. He witnessed the incident firsthand.

164. Before this testimony, his statement had been recorded in court, where he provided a detailed account of the incident. During the occurrence, he recorded a video using the complainant Vishram Singh's mobile phone. When the witness was shown Material Exhibit 5 on the court's computer screen, he confirmed that it was the same video he had made with Vishram Singh's mobile phone regarding the incident.

165. In the video, Vishram Singh's father is seen lying on the ground, while the accused, Bhoop Singh, along with his daughters Ragini and Priyanka and his sons Ankit and Dilip, are also present. In this video, all individuals, except for Bhoop Singh, are seen carrying sticks. Raghurai from the village is shown lifting the injured mother of the complainant, Vishram Singh. After recording the video, Shailendra Kumar returned the mobile phone to Vishram Singh.

166. During the cross-examination, the witness stated that when verifying the affidavit, he did not tell Daroga Ji, "I was not present at the scene of the incident, and I did not see anyone fighting. When I received information about the incident, I went to the 100-bed hospital where Sher Singh and his wife, Mamta, were treated. Sher Singh was declared dead by the doctors." He denied making this statement to Daroga Ji and could not explain why Daroga Ji recorded it.

167. Regarding document number 19B/20, which is present in the file, the witness confirmed that he submitted this affidavit to the Superintendent of Police on January 18, 2024. His photo

and thumb impression were on it, along with his signature. An oath commissioner verified this affidavit.

168. Item 2 of this affidavit states, "The incident occurred on December 24, 2023, at around 8:00 AM. Upon receiving information from witnesses, I reached the hospital and learned that Sher Singh, son of the late Ramveer, and Mamta, wife of Sher Singh from my locality, had left for the farm. As soon as they exited Bhup Singh's premises, Bhup Singh, son of the late Ramdin, along with his two sons Ankit and Dilip, his wife Savitri, and their two daughters Priyanka and Ragini, who were already lying in ambush, attacked them with sticks and started beating them indiscriminately. As a result, Sher Singh died on the spot, and Mamta suffered a leg fracture, a broken finger, and head injuries, among other injuries to her body."

169. The affidavit does not mention that Ruby and Phool Singh were present at the incident scene. The witness did not inform Daroga Ji in his statements that he recorded the entire incident using Vishram Singh's mobile, nor did he mention this in the affidavit. Daroga Ji did not ask him where he was at the time of the incident, nor did he include this information in the affidavit.

170. It is accurate to state that he did not mention, either in his statements or his affidavit, that Vishram and Raghurai witnessed the incident. In the video, Raghurai is seen lifting Vishram's mother, but Vishram himself is not visible. Vishram Singh does not appear anywhere in the video.

171. Additionally, a woman is seen in the video wearing a red sari and a red shawl. Her face is not visible; only her hand can be seen. Based on her hands, feet, and clothing as depicted in the video, this woman is identified as Ruby. Ruby is holding a stick in her hand during the recording. However, he has not mentioned to Daroga Ji in his statements or affidavit how Ruby arrived at the scene with a stick.

172. He has observed a stick lying near the deceased. Ruby is the daughter-in-law of the deceased, Sher Singh, and the wife of Vishram Singh. It is important to note that Ruby did not approach the deceased's house; she can be seen standing 15 steps away from the accused's home in the video. The wall of Bhoop Singh's house, made of red bricks, is also visible in the video. Ruby stands in front of the deceased's wall. Therefore, claiming he was not at the scene during the incident is incorrect.

173. CW3, Brijesh Sharma, stated during the examination that he is educated. He has been running a mobile shop at the Chhibramau crossing in Farrukhabad for 6 to 7 years. He operates this shop alone and handles all aspects of the business himself. His shop offers mobile repair services and recharges and sells various mobile accessories such as pen

drives, OTGS, mobile covers, and tempered glass. He can repair almost all types of mobile phones, although he does not repair iPhones. He has learned mobile repair skills independently, as he has no formal degree or diploma. He has completed his education up to the intermediate level.

174. The shop operates under his name; however, no sign indicates the shop's name. Instead, there are banners for Airtel and other companies. He does not issue bills for mobile repairs or accessories, but does provide receipts for the new phones he sells. These receipts are printed under the name "New Sant Mobile."

175. He also has a second shop near the Bakri Mandi Reliance Petrol Pump, New Sant Mobile. Like his first shop, it does not have a sign indicating its name; instead, it displays banners from various companies. His elder brother, Ravi, manages this second shop. This shop sells mobiles, SIM cards, mobile recharges, and accessories. Only Ravi works at that shop, while he focuses on his shop.

176. Both shops are permanent locations, and while he does not know the owner's name for the shop he operates, he pays rent to the owner. He cannot recall the owner's name. Neither of his shops has a GST number. On average, 20 to 30 customers visit his shop daily, although mobile sales fluctuate; sometimes, he may sell a mobile only once a week or even once a month. While he provides receipts for the mobiles he sells, these receipts also do not include a GST number.

177. His shop has no laptop; he only has one broken computer. The pen drives he sells are not checked on the computer or OTG before being sold; he sells them without testing. He does not transfer customer data when requested and refuses any customer seeking data transfer services. He does not recognise all the customers who come to his shop, primarily because it is on a busy road with a constant flow of people. When he saw the complainant, Vishram Singh, in court, he said he did not recognise him. To his knowledge, Vishram Singh has never visited his shop for mobile repair or data transfer services. He insisted the complainant had never come to him for any work, even in a crowd.

178. When the witness was shown a video on the complainant's mobile phone—this video had been provided to the police on a pen drive by the complainant—he asserted that he did not transfer this video to the pen drive and give it to Vishram Singh. He confirmed that he got married on March 2, 2025. He stated it is untrue to suggest that he avoids involvement in this serious case due to his recent marriage. Furthermore, it is incorrect to say that he is not telling the truth in court because of fear, pressure, or influence from anyone.

179. During the cross-examination, the witness confirmed that the police never questioned him regarding this case, nor did they take his statement. He did not provide any certificates to the police in connection with this matter. He is unsure whether the complainant, Vishram Singh, gave the mobile phone to the police. Additionally, the police never approached him with the mobile, nor did Vishram Singh bring it to him.

ISSUES

1. **Whether the death of Sher Singh was homicidal and caused by the actions of the accused, Bhoop Singh and Ankit, amounting to the offence of murder under Section 302 of the Indian Penal Code (IPC).**
2. **Whether the accused voluntarily caused grievous hurt to Smt. Mamta (wife of the deceased), during the same incident, constituted an offence under Section 325 IPC.**
3. **Whether the accused voluntarily caused simple hurt to the victims (apart from the grievous injuries) during the incident, constituting an offence under Section 323 IPC.**

FINDINGS

180. **Issue 1 (Homicidal Death as Murder):** Sher Singh's death is found to be *homicidal*, caused by multiple injuries inflicted with sticks. The Court finds that Bhoop Singh and Ankit unlawfully assaulted Sher Singh with the intention of causing death and having knowledge that such bodily injury would cause death, thereby committing **murder** within the meaning of Section 300 IPC (punishable under Section 302 IPC). The death was a direct result of the brutal beating by the accused.

181. **Issue 2 (Grievous Hurt to Mamta):** It is established that Smt. Mamta (the deceased's wife) sustained a fractured leg and other serious injuries while trying to save her husband. These injuries, including bone fractures, constitute *grievous hurt* as defined in Section 320 IPC. The Court finds that Bhoop Singh and Ankit intentionally caused grievous hurt to Mamta, attracting culpability under **Section 325 IPC**.

182. **Issue 3 (Simple Hurt during the incident):** The evidence shows that the accused also caused additional hurts of a lesser nature during the assault. For instance, Mamta suffered a broken finger, and PW3 Ruby (the daughter-in-law) received minor injuries when she intervened. Since simple hurt was part of the same transaction wherein the accused people have been found guilty under Section 325 IPC, a separate conviction under **Section 323 IPC** for these injuries are not required.

DISCUSSION (REASONING AND ANALYSIS)

183. A. Homicidal Nature of Death and Medical Evidence:

At the outset, it is not disputed that Sher Singh died on December 24, 2023, around 8:30-9:00 AM, and that Smt. Mamta sustained injuries in the same incident. The post-mortem report (Exhibit Ka-10) confirms that Sher Singh suffered multiple ante-mortem injuries: a lacerated wound with an underlying skull fracture on the left parietal region of the head, a large contusion on the occipital region, and a laceration on the right leg. Internally, there was clotted blood in the brain, and the medical officer opined that death was caused by shock and haemorrhage due to these injuries. These findings leave no doubt that the death was homicidal (not due to natural causes). The severity and location of the wounds, particularly the skull fracture, are consistent with an assault by blunt weapons (such as sticks or lathis) and **not** with a mere accidental fall. The Court, therefore, concludes that Sher Singh's death resulted from a violent physical attack.

184. B. Eyewitness Testimonies and Identification of Accused:

The prosecution presented five eyewitnesses to the occurrence (PW1 Vishram Singh, PW2 Smt. Mamta Devi, PW3 Ruby, PW7 Shailendra, and PW10 Phool Singh). Their accounts have been carefully scrutinised and found to be broadly consistent on all material particulars. All eyewitnesses unequivocally depose that **Bhoop Singh and Ankit** were among the assailants who attacked the victims with lathis/sticks.

Testimonies of Family Members (PW1/CW1 Vishram, PW3 Ruby, PW10 Phool Singh):

185. Vishram Singh, the son of deceased Sher Singh and the first informant, testified that on December 24, 2023, his parents (Sher Singh and Smt. Mamta) left home for their field around 8:00 AM. Shortly thereafter, he heard commotion and rushed towards the scene with his brother Phool Singh. He saw his father and mother being brutally assaulted by his uncle Bhoop Singh and Bhoop's sons (Ankit and Dilip) using lathi sticks. He also stated that Bhoop's daughters, Priyanka and Ragini, were among the attackers – an accusation not initially mentioned in his FIR. Vishram recounted that as he and others approached, the assailants fled. He and his brother then arranged transport and took the injured parents to the hospital, where Sher Singh was declared dead and Mamta was admitted with serious injuries. He identified Exhibit Ka-1 as the written complaint (tahrir) he lodged with police soon after the incident. Vishram further testified that a local boy had recorded a video of the attack on a mobile phone, and he

handed over this video footage to the investigating officer (“Daroga Ji”) on a pen drive for the evidence.

186. On cross-examination, Vishram clarified the family relations and admitted a prior boundary dispute with the accused. He specifically refuted the defence’s suggestion that his parents had actually gone to Bhoop Singh’s house to quarrel and then accidentally fallen into a roadside drain. He insisted that Sher Singh’s fatal injuries were not from any fall but from the deliberate beating by the accused. He testified that he and Phool had been at home (having returned from early morning farm work by 8 AM) when the attack began. Upon hearing the screams, they ran to the spot and witnessed the assault in progress. Vishram stated that one neighbour, Mahesh (who owns a shop opposite Bhoop’s house), was not available to witness as he had closed his shop and left by then. He also described how the accused, after beating the victims, climbed to their roof and pelted stones to deter villagers from intervening. Despite intense questioning, Vishram remained firm that he saw the accused attacking his parents and that his father’s death was a direct result of that beating, not a self-inflicted accident. Minor discrepancies were elicited (such as the exact sequence of events earlier that morning), but no substantial contradiction could shake his core version that Bhoop Singh and his sons were the perpetrators. Notably, he acknowledged that his initial FIR did not list Bhoop’s daughters as assailants, explaining that in the panic of the moment, he focused on naming the primary aggressors (his uncle and cousins). He denied any fabrication or exaggeration, asserting that the truth of the attack remained the same.

187. The Court is mindful that PW1, PW3, and PW10 are close relatives of the deceased (sons and daughter-in-law). Case laws caution that such witnesses may be “interested” in seeking justice for their kin. Yet, it is well-settled that a relationship by itself is not a ground to doubt a witness’s credibility. Hon’ble The Supreme Court has stressed that unless there is tangible evidence of false implication, the testimony of related witnesses, if consistent and credible, can be safely relied upon. In the present case, the familial witnesses stood firm under cross-examination, and their presence at the scene is entirely natural – they rushed over upon hearing the commotion involving their own parents. Vishram (PW1) and his brother Phool (PW10) were returning from their field when they heard cries; they arrived within minutes to witness their parents under attack. Vishram narrated that he saw his father lying injured and his mother gravely hurt, and that the assailants (including the accused) fled upon being seen by him and others. Phool Singh (PW10) similarly testified that on reaching the spot, he personally observed Ankit beating his father with a stick, and Bhoop Singh was present among the attackers (he also saw other

members of Bhoop's family involved). Ruby (PW3), who is Vishram's wife, testified that she too ran to the scene with other family members and neighbours, and witnessed the accused continuing to beat Sher Singh and Mamta with sticks until both fell to the ground. She even sustained minor injuries herself while trying to shield her in-laws. Minor discrepancies in these narratives (such as slight differences in timing, who arrived first or from where) are trivial and do not shake the core truth that Bhoop Singh and Ankit were the principal aggressors at the scene. All the eyewitnesses consistently name Bhoop Singh (the paternal uncle of PW1 and PW10) and his son Ankit as active participants in the assault on Sher Singh and Mamta. Their accounts are furthermore bolstered by the medical evidence and by each other's presence (each witness either saw the incident or the immediate aftermath, and all accounts dovetail on the essential facts).

Testimony of Injured Witness (PW2 Mamta):

188. As an injured eyewitness and the widow of the deceased, Mamta's testimony carries significant weight in law (State of U.P. v. Kishan Chand (2004) 7 SCC 629. Mamta recounted that on the fateful morning, as she accompanied her husband, Sher Singh, towards their fields, they were suddenly ambushed by Bhoop Singh and his sons (including Ankit) armed with sticks. She stated that **Bhoop Singh and Ankit attacked Sher Singh with sticks with the intention to kill**, and when she tried to save her husband, she was mercilessly beaten, resulting in a broken leg and a broken finger. She fell to the ground due to the severity of her injuries. Her testimony vividly describes the deliberate and brutal nature of the assault, and it is corroborated by her medical reports (Ex. Ka-4 injury report & Ex. Ka-5 discharge summary), which confirm the fractures requiring surgical intervention (rod insertion).

Testimony of Independent Witness (PW7/CW2 Shailendra):

189. Shailendra is an **independent eyewitness**, in the sense that he is not part of the deceased's immediate family. This ordinarily lends his testimony an aura of impartiality, as he ostensibly has no personal stake in the outcome. Indeed, Shailendra's account of the incident was highly detailed and, on its face, corroborative of the core prosecution story. He described essentially the same sequence of events as the family members did: the ambush attack on Sher Singh in front of Bhoop's house, the participation of multiple assailants (he even named the same family members of Bhoop Singh that PW-1 and PW-10 later named), the brutal manner of assault with sticks, Mamta's intervention and injury, and the subsequent retreat of the accused after villagers gathered. There is a striking consistency between Shailendra's narration

and that of the other eyewitnesses on critical points – for example, both Shailendra and Phool (PW-10) testified that the assailants, after beating the victims, climbed onto the roof and threw bricks/stones to scatter the crowd. Such consistency on an unusual detail strengthens the credibility of both accounts, as it is unlikely to be a coincidental fabrication. Shailendra's testimony is also consistent with the medical evidence: he said Sher Singh was beaten on the head and body until he fell, which aligns with the head injuries recorded in the post-mortem and the fact that Sher Singh died on the spot from haemorrhage and shock. He observed Mamta being struck and falling with a broken leg, which matches her hospital records showing a fracture of the tibia (necessitating rod fixation). Moreover, Shailendra provided context, mentioning the prior boundary dispute and even that threats had been issued a few days before, which dovetails with the motive suggested by the prosecution (and even acknowledged in the FIR).

190. However, Shailendra's credibility was vigorously challenged based on his conduct during the investigation. The defence highlighted that Shailendra's statement was not recorded immediately by police and that he even submitted an affidavit which indicated he *had not* personally witnessed the crime. This raises a red flag: if indeed Shailendra was an eyewitness, why would he initially claim only hearsay knowledge of the event? On this point, the investigating officer (PW-9) admitted that several villagers, including Shailendra, gave affidavits during the inquiry, but later, when questioned, those individuals stated they were not present at the scene. In Shailendra's case, the affidavit to the SP (on 17B/10) recounted the incident but portrayed him as arriving after the fact, essentially as a hearsay witness. Subsequently, a police statement was recorded (document 13A/39), and he outright denied witnessing the incident. It appears that Shailendra did not come forward as a direct eyewitness at the investigation stage. It was only later, at trial, that he for the first time asserted seeing the murder occur in front of him. Such a turnaround can indeed undermine a witness's reliability – it suggests the possibility that his trial testimony was an "improvement" or that he was persuaded by the victim's family to fully implicate the accused after initially being hesitant.

191. Shailendra offered an explanation for this inconsistency. He testified that he never told police he was not present, and implied that the police might have recorded that (perhaps to avoid complicating the case with additional assailants or because they found the affidavits legally inadmissible). He maintains that his affidavit, while phrased as if he arrived later, did list all the assailants because that is what he *knew* happened. The Court notes that the police indeed showed a lapse by not promptly recording statements of such

eyewitnesses on the day of the occurrence (the IO conceded he did not even know the shopkeeper or others to the west, and did not take their statements). It appears villagers like Shailendra approached higher officials with affidavits out of concern that their voices be heard. The IO also correctly pointed out that any statement given on affidavit to police is not admissible evidence in court (being hit by the bar of Section 162 CrPC) – which meant that unless Shailendra testified in court, his knowledge would not become part of the trial record. This context suggests that Shailendra's role as a witness was in flux: initially not officially recognised, then he gave an affidavit to spur action, then perhaps due to intimidation or other reasons he was recorded as saying he wasn't present, and finally he testified in court detailing what he claims to have actually seen.

192. The Court must therefore treat Shailendra's evidence with caution and seek corroboration. Encouragingly, much of Shailendra's testimony is corroborated by the other eyewitnesses (Vishram, Mamta, Phool) on material particulars, as discussed. He is largely consistent with them except for some embellishments (like adding Savitri, the wife of Bhoop, as one of the attackers in his affidavit – a detail no other witness mentioned). The presence of Priyanka and Ragini, which he asserted, is confirmed by Phool Singh (PW-10), who also saw those two hitting Mamta, though Mamta herself did not mention her nieces' involvement. Such discrepancies can arise from different perspectives: Mamta was being attacked and may not have registered who all joined in, whereas those watching from a few steps away (like Shailendra and Phool arriving) saw the whole group. Importantly, Shailendra's identification of **Bhoop Singh and Ankit** as participants is uniformly corroborated by every other witness; on that, there is no divergence. Thus, even if the Court were to discount Shailendra's statements about the others for being an "improvement," his testimony against the two accused on trial remains supported by independent evidence.

193. Furthermore, Shailendra's demeanour and partial frankness lend some credibility. He did not conceal that he is on friendly terms with Vishram's family and that he regarded Bhoop as a dangerous person due to a past incident. By volunteering this, he allowed the Court to fully weigh his potential bias rather than attempting to appear completely neutral. Despite his friendship with the complainant, there was no suggestion that he had any personal enmity or ulterior motive against the accused beyond a general apprehension of Bhoop's aggressive tendencies. It is unlikely that he would risk perjuring himself in a murder trial merely to settle a tangential score from an old village quarrel. The fact that Shailendra came to court and testified under oath, exposing himself to rigorous cross-examination, suggests he wanted to ensure the truth as he saw it was placed before the Court. This conduct is

inconsistent with the defence's portrayal of him as a "planted" witness – had he truly never seen the incident, it would have been difficult for him to withstand detailed cross-examination about the scene, timing, and events. Yet his testimony remained largely coherent and in harmony with the established facts (apart from the noted prior inconsistency).

194. The Court also takes note of the possibility that Shailendra's initial reluctance to assert his eyewitness status could have stemmed from fear. This case involves intra-family violence in a village setting; tensions and fear of reprisals can run high. It would not be surprising if a villager initially hesitated to directly implicate an entire family (including women) of his neighbour, especially if local police were not actively encouraging witnesses. The subsequent decision to speak the whole truth in court might be due to a change of heart or assurance of protection. In such scenarios, the Supreme Court has directed courts to be mindful of the "*environment of fear*" that might cause witnesses to suppress the truth initially, and not discard their testimony solely due to delayed disclosure, provided it rings true and is corroborated on critical points (See, e.g., *Rameshwar v. State of Rajasthan*, AIR 1952 SC 54, on appreciating testimony even after some delay). Here, Shailendra's description of the assault is too detailed and concordant with other evidence to be a mere concoction fed to him. He mentioned specific incidents like the stone-throwing from the roof and the exact composition of the group of assailants, which matched or at least did not conflict with other witnesses' accounts. If he had been a tutored witness, any divergence on such details would have been exploited by the defence – yet none significant could have been found.

195. In light of the above, the Court finds that Shailendra Kumar's testimony is substantially reliable on the core occurrence and the involvement of the accused Bhoop Singh and Ankit. The shadow cast by his earlier inconsistent affidavit/statement cannot be ignored; therefore, the Court exercises caution by seeking corroboration. Fortunately, his version is amply corroborated by the direct evidence of the victims' family members and supported by medical evidence. Hence, the Court is prepared to rely on Shailendra's evidence to the extent it is consistent with the other reliable evidence. Inconsistencies regarding peripheral matters (such as whether Savitri was present, or whether Shailendra arrived at the scene vs. the hospital) are not central to determining the guilt of the two accused before me and do not negate the veracity of what he witnessed those accused doing. The Court, in effect, will "separate the grain from the chaff," accepting the truthful core of Shailendra's testimony and discarding any embellishments.

Testimony of Brijesh Sharma (CW3):

196. Brijesh is another independent witness, whose importance lies primarily in authenticating the video evidence. Unlike the others, he was not at the spot but rather a transferor of an audio-video clip from a phone to a pen drive. The audio-video clip is purported to be a recording of a part of the incident. The witness has blatantly denied transferring an audio-video clip from the phone to a pen drive. Needless to say, no phone shopkeeper would invite trouble himself by deposing in favour of his customer or against anyone.

197. The defence's implicit challenge is that the video could be manipulated. Therefore, the crux rests on the *electronic evidence* produced. The Court notes that electronic evidence must be approached with care to ensure its authenticity and admissibility. According to the Indian Evidence Act, a video recording is considered an "electronic record" and can be proved either by producing the original recording device (primary evidence) or by furnishing a certified copy in compliance with Section 65B of the Evidence Act (secondary evidence). In this case, the video was initially handed to the police on a pen drive (i.e. a copy, not the original recording device). Strictly speaking, for that pen drive video to be admissible per Section 65B, a proper certificate identifying the manner of production and authenticity of the electronic record should have accompanied it. It appears that no such certificate was obtained at the time the police received the pen drive. The investigating officer's diary simply notes that an application and pen drive were received from the complainant's side on January 19, 2024, and made part of the case file, but this is not equivalent to a Section 65B(4) certificate. Defense counsel rightly objected that a mere pen drive, without certification or the testimony of its creator, ordinarily cannot be read in evidence as proof of its content (as held by the Supreme Court in *Anvar P.V. v. P.K. Basheer*, (2014) 10 SCC 473, and reaffirmed in *Arjun Panditrao Khotkar v. Kailash Gorantyal*, (2020) 7 SCC 1).

198. The court, anticipating potential objections, recorded the testimonies of Vishram (PW1), Shailendra (PW7), and Brajesh (Nanhe) Sharma as CW1, CW2, and CW3, respectively. In this context, Vishram (CW1) stated that he attempted to save his parents when he arrived at the scene. When the assailants did not relent, he handed his mobile phone to Shailendra (CW2) so that he could film the incident. Shailendra CW2 have supported Vishram on this point. Vishram (CW1) **produced the original device** (his mobile phone) on which the video was recorded and confirmed that the video stored on it is the same as that copied to the pen drive and shown to the Court. By allowing the original device's snapshots to be exhibited and the video to be played from it, the Court has treated this as **primary evidence** of the electronic record, thereby sidestepping the need for a 65B certificate. In line with the precedent of *Arjun Panditrao*, if the original electronic record

itself is presented (here, the phone with the video file), the requirement of a certificate for admissibility does not apply – the device and its output can be directly examined as evidence. The defence was allowed to inspect the video and cross-examine Vishram regarding the video, chain of custody and integrity. Having observed the video in the open Court and heard Vishram and Shailendra's explanations, the Court is satisfied that the footage is authentic to the extent it purports to show the later part of the incident in question.

199. The *source* of the phone video is clear: Its data's properties reveal that Vishram's phone camera recorded it at the scene on the morning of the crime. The pen drive was delivered to the police about 3-4 weeks after the incident, which is not ideal (a prompt seizure would have been preferable), but the delay alone does not imply fabrication. Notably, nothing surfaced in the cross-examination to indicate that any alteration was made to the file between December 24, 2023 and January 19, 2024. Vishram retained the original the entire time, providing a check against the copy. The defence brought no forensic expert or contradictory evidence to suggest the video was doctored – their challenge remained theoretical. On careful viewing of the video, the Court did not detect any obvious signs of editing; the flow of events in the footage appears natural and continuous. If the video had been tampered with, it would have obviously been doctored to make the accused persons appear more clearly guilty. But this is not so; rather, the video is natural. The content of the video is also in harmony with the testimonial evidence, which bolsters its authenticity. It shows, for instance, several people wielding sticks at the door of a house in fighting mode and an elderly person lying on the ground without any movement, likely dead. There was a commotion consistent with an attack, and subsequent panic, all of which match the witnesses' descriptions. Had the video shown something radically different or bizarre, one might suspect it was not of the same event, but here it is essentially a silent (or unwitnessed) witness to the crime, confirming it took place as described. In essence, the video is **cumulative evidence**: it corroborates the oral testimony but does not add entirely new facts.

200. **Admissibility:** Given that Vishram produced the primary source and confirmed its accuracy, the Court admits the video recording as evidence. Vishram and Shailendra's testimony fulfils the conditions of authenticity – They personally recorded it and identified the accused in it. For the sake of completeness, the Court treats Vishram's statements about the video as a form of the certification required under Section 65B(4), even though not in the typical certificate format. He provided all necessary particulars: the device (his smartphone), the process of saving and copying the file, and an affirmation of no alteration. This substantially complies with the purpose of the law, which is to ensure the electronic

evidence is reliable. Superior Courts rulings have held that when the person responsible for the electronic record gives direct evidence in court, that can suffice in place of a formal certificate (especially after the original device is examined).

201. **Probative Value:** The video's probative value lies in its visual corroboration of the crime. It provides an unbiased recording of a portion of the incident. However, it must be noted that the video did not capture the entire incident from start to finish, nor does it have perfectly clear audio or close-up imagery of every assailant's face (as is often the case with spontaneous phone videos). It is helpful evidence but not conclusive on its own. The video shows at least **two male attackers** Sher Singh (one of whom is reasonably identifiable as Bhoop Singh given his face, build and age) and also shows, at another moment, two women striking another figure who is on the ground (purportedly Mamta) – which tends to confirm that female members were involved.

202. In effect, the video aligns with the prosecution's narrative. Because it corroborates the participation of the accused and also reveals the involvement of others, the defence attempted to use it to argue that the *investigation was incomplete or biased* (since not all those visible were prosecuted). That argument does not diminish the probative force of the video against the two accused on trial. The video plainly captures the accused Bhoop Singh and his family members at the scene during the unlawful attack – a fact that, on its own, demolishes his defence of non-involvement. It also likely shows Ankit, though his face is less clearly captured, Vishram and Shailendra witnesses identified one of the stick-wielding young men as Ankit. The presence of others in the video (like Dilip or the daughters) does not exonerate Bhoop and Ankit; rather, it confirms that the assault was a group act. If anything, it underscores the *common intention* and concerted nature of the crime. The non-prosecution of some participants might be a lapse by the investigating agency, but it is a well-accepted principle that the court's duty is to see whether the guilt of the persons actually on trial is proved – the fact that some culprits escaped trial cannot be a ground to let off those who are rightly facing trial if evidence of their guilt is credible. Hon'ble The Supreme Court in *Masalti v. State of Uttar Pradesh*, AIR 1965 SC 202, cautioned that in mob attacks, witnesses might rope in several persons and the prosecution sometimes errs on whom to send up, but the courts must sift evidence to ensure **each** accused's guilt is established beyond doubt, not necessarily to account for every person involved. Here, the video and witnesses together establish the roles of Bhoop and Ankit beyond doubt, even if Priyanka and others seen in the video were not tried.

203. In assessing reliability, the Court attaches significant weight to the fact that the electronic evidence is supported by

direct witness testimony. Even hypothetically excluding the video entirely, the oral evidence (as discussed) is sufficient to sustain the prosecution's case. The video has been used as a corroborative aid – a piece of evidence that lends credence to the witnesses' versions. It was not the sole basis for any critical fact, but it bolsters the finding that the accused were present and actively involved in the assault. Therefore, the Court finds the video recording to be a reliable corroborative evidence, duly admitted in accordance with law, and giving further assurance of the truth of the prosecution's story.

Corroboration by Medical and Forensic Evidence

204. Aside from eyewitness testimony and the video, the prosecution's case is corroborated by medical and forensic evidence, which the Court briefly highlights as part of the evidentiary mosaic reinforcing its conclusions:

- **Medical Reports:** Dr. Prem Prakash (PW-5) and Dr. Amit Yadav (PW-8) provided the medical findings. Dr. Yadav's post-mortem of Sher Singh noted multiple ante-mortem injuries: a 5×1 cm laceration with skull fracture on the left parietal region, a large contused swelling on the back of the head, and a 3×3 cm laceration near the right knee. The cause of death was opined to be shock and haemorrhage due to these injuries. These findings strongly support that Sher Singh was beaten with a blunt object (like a stick); a fall into a drain would not typically cause both a fracture and a separate contusion on opposite sides of the head, plus a knee wound. The injuries are more consistent with multiple blows. Smt. Mamta's injury report (Ex. Ka-4) showed a comminuted fracture of her left leg (tibia) and a fracture in one finger, along with bruises. This is classified as *grievous hurt* (fracture of a bone) under Section 320 IPC. Her injuries corroborate her testimony that she was struck by a lathi; such fractures are unlikely from a mere slip. Notably, Mamta's discharge summary (Ex. Ka-5) confirms she required surgery (nailing of the fractured leg). The medical evidence, therefore, demolishes the defence's theory that the victims simply fell: both suffered multiple serious injuries far too severe and varied to be explained by a single fall or mishap. The doctors also found no injuries on the accused (which one might expect if there had been a scuffle or if the accused were acting in self-defence). This lack of any defence injury reinforces that the victims were the ones assaulted without retaliating.
- **Recovery of Weapon:** During investigation, two wooden batons (lathis) were recovered allegedly at the instance of accused Bhoop Singh and Ankit (Recovery Memo Ex. Ka-12. Upon arrest, the IO (PW-9) stated that Bhoop Singh and Ankit led the police to the hiding spot of

the sticks used in the crime, which was then seized. The recovery was made not far from the scene. The recovery spot was bushes near the secretariat wall in Dayamganj Sarai. However, the Court does note the recovery suffered from the usual drawback - no independent witness from the public signed the seizure memo, as the IO admitted. The lack of a public witness (despite IO's attempt to secure one) somewhat reduces the evidentiary weight of this recovery, since it is essentially uncorroborated testimony of the police themselves. Moreover, no forensic analysis (such as blood or tissue on the stick) was produced to tie it to the crime. Though the photocopy of the FSL report is on record showing disintegrated blood on the weapon lathis (wooden part of the cot and a piece of bamboo), photocopies are not admissible as evidence. Therefore, while recovering the lathies from Bhoop Singh and Ankit's alleged hiding spot does lend some credence to the prosecution's narrative (indicating consciousness of guilt on Bhoop Singh and Ankit's part to hide evidence), the Court places limited reliance on it. Even if the recovery is disregarded, the prosecution's case is proven through direct evidence.

- **Inquest and Site Inspection:** The inquest (panchayatnama) was conducted on the day of the incident, and Vishram and others acted as witnesses. The inquest report noted that Sher Singh's death was due to assault injuries and not an accident, which was forwarded for post-mortem. The site map (Exhibit Ka-11) drawn by the IO shows the location of the incident. IO deposed that blood stains were found on the occurrence. Not picking up bloodstains is a lack of IO, and the benefit does not go to the accused. As per the site map, the positions relevant to the incident are consistent with occurring on the road outside Bhoop's house. Sketches of the corpse were prepared (Ex. Ka-8). These might be formal pieces of evidence, but they align with the oral testimony regarding where and how the incident took place (for instance, the site map corroborates that there are drains on either side of the road but no large open culvert exactly at the spot of the attack, negating the defence claim of a "drain crossing" causing injury. A small drain pit seen near the place where the body was lying in the video negates any possibility that both of the victims could slip into it.

Defence Version and Rebuttal:

205. The accused Bhoop Singh and Ankit, in their statements under Section 313 CrPC, denied the prosecution's allegations in their entirety. They claimed that they were innocent and that Sher Singh's death was an accident. The defence put

forth a theory (through suggestions in cross-examination) that on the fateful morning, Sher Singh and Mamta had come to Bhoop's house and engaged in a verbal altercation, during which they allegedly slipped or fell into a roadside drain, sustaining injuries, and that Sher Singh's fatal injury was due to this fall, not a beating. It was also hinted that Sher Singh's side initiated any scuffle and that the accused were falsely implicated due to the family land dispute.

206. Having evaluated the entire evidence, the Court finds the defence version not only implausible but directly refuted by overwhelming evidence. The notion that both Sher Singh and Mamta would coincidentally fall into a drain with such force as to break bones and cause a skull fracture stretches credulity. All eyewitnesses unequivocally denied that any accidental fall took place. Mamta herself, the injured wife, testified that she was beaten and that her husband was attacked intentionally – she categorically refuted the suggestion that they tumbled into a drain or suffered self-inflicted injuries. Independent witness Shailendra also debunked the drain theory, affirming that the injuries were from the beating and that the victims were not lying near a drain as alleged. The site map confirms there was no open culvert at the precise spot of the incident that could cause such trauma. Moreover, the medical evidence, as discussed, is incompatible with an accidental fall. For instance, the skull fracture on the left side of Sher Singh's head and a contusion on the back of his head indicate multiple blows from different angles, rather than a single impact one might expect from a fall. Mamta's multiple fractures also suggest deliberate targeting.

207. The defence did not produce a single witness or any evidence to substantiate their alternative narrative. On the contrary, the prosecution's witnesses preemptively addressed and demolished the defence claims: Vishram and Phool both insisted their parents did not go to Bhoop's doorstep to quarrel at all, and that the only reason their parents were near Bhoop's house was because that was the path to the fields (or possibly to inquire about an earlier assault on Phool, which still would not legally justify the lethal attack on them). Even if, *arguendo*, Sher Singh and Mamta had confronted Bhoop about an earlier incident that morning, there is absolutely no evidence that they initiated any physical fight. A few angry words (if at all) by the victims would not privilege the accused to respond with deadly force. There is no claim of self-defence made by the accused; the suggestion is purely one of accident, which finds no support in evidence. In fact, the systematic nature of the injuries and the subsequent conduct of the accused (fleeing to the roof and pelting stones at helpers) bespeaks a guilty mind, not an accident. If it had been truly an accident, Bhoop Singh's natural reaction would have been to assist his injured brother and sister-in-law or call for medical help. Instead, by all accounts, the accused fled

and tried to prevent others from helping. Such conduct is inconsistent with innocence and consistent with their culpability.

208. Thus, the Court rejects the defence theory as a feeble afterthought. The prosecution's evidence, in contrast, presents a coherent and credible account of intentional assault. The minor contradictions and discrepancies highlighted by the defence (such as whether an earlier minor altercation with Phool occurred, or the varying lists of assailants given by different witnesses) do not dent the substance of the prosecution's case. Our legal system recognises that discrepancies that do not go to the root of the prosecution's story are to be overlooked. A case is not thrown out for immaterial inconsistencies as long as the "ring of truth" is present and the main story is consistent and corroborated. In this case, the *core story* – that Bhoop Singh and Ankit, fueled by a land dispute, attacked Sher Singh and Mamta with lathis in front of Bhoop's house on the morning of December 24, 2023, causing Sher Singh's death and Mamta's grievous injury – emerges clearly and convincingly from the record. All the critical witnesses (including the injured Mamta and eyewitness Phool, in addition to the three discussed in detail) have supported this core story with remarkable consistency on material points. The alleged contradictions are either explainable or pertain to side issues. For example, whether or not Phool Singh (PW-10) was beaten up slightly before the main incident is not decisive of the unlawful nature of the subsequent attack on Sher and Mamta; even if one witness downplayed that prelude and another emphasised it, it does not change the fact that Sher Singh was brutally killed in the presence of multiple eyewitnesses. The law is clear that even if part of a witness's testimony is doubtful or exaggerated, the Court can rely on the other part that is found truthful (the maxim "*falsus in uno...*" as noted, is not rigidly applied). Here, none of the witnesses faltered in asserting the involvement of the present two accused in the murderous assault. The Court finds that portion of their testimony to be wholly credible and supported by each other, by the medical evidence, video, and circumstantial evidence. Any embellishment regarding additional participants does not create a reasonable doubt about the guilt of Bhoop Singh and Ankit; at most, it indicates that the crime may have been committed by a larger group than initially thought.

Legal Findings and Conclusion:

209. Based on the comprehensive evidence discussed above, the Court arrives at the following legal findings:

- **Offence of Murder (IPC S.302):** It is conclusively proven that Sher Singh died as a result of a deliberate

assault inflicted by the accused. Both Bhoop Singh and Ankit were armed with lethal weapons (wooden sticks) and attacked the unarmed Sher Singh, delivering blows to vital parts of the body (head, etc.). The ferocity of the attack, evidenced by the skull fracture and multiple injuries, and the fact that the assailants continued beating even after Sher Singh fell, demonstrate an intention to cause death or, at the very least, knowledge that such bodily injury as was sufficient to cause death. There is direct evidence of the accused participating in this assault (eyewitness accounts and video evidence). The act of beating an elderly man (Sher Singh was the elder brother) with heavy sticks on the head is imminently dangerous and shows knowledge that it will cause death in the ordinary course of nature. Therefore, the act amounts to **murder** as defined in Section 300 of IPC (at the very least under the clause of doing an act with the knowledge that it is so imminently dangerous that it must in all probability cause death or such bodily injury as likely to cause death, without any excuse for incurring that risk). No exceptions to murder (such as grave and sudden provocation, self-defence, etc.) are applicable here – the attack was unilateral and unprovoked by any unlawful conduct of the victims. Accordingly, both accused are found guilty of the offence of murder punishable under **Section 302 of the IPC**.

- **Offence of Causing Grievous Hurt (IPC S.325):** The evidence establishes that Smt. Mamta (the wife of the deceased) sustained grievous injuries in the same incident. Her left leg was fractured in multiple places, and her finger was broken. These injuries squarely fall under the category of “grievous hurt” (Section 320 IPC includes fracture of bone or dislocation as grievous). Mamta’s testimony, corroborated by others, proves that she sustained these injuries when she tried to save her husband, and the accused struck her with sticks. Bhoop Singh and Ankit are directly implicated in attacking Mamta as well, even though Mamta in her statement named only Bhoop and his son(s), generally, other witnesses specifically saw Ankit hitting Sher Singh and likely one of the daughters hitting Mamta. Regardless of who struck the exact blow that fractured Mamta’s leg, all the assailants acting in concert are constructively liable. The accused shared the common intention to assault not just Sher Singh but also anyone who intervened (which included Mamta). Under Section 34 IPC, when a criminal act is done by several persons in furtherance of the common intention of all, each of them is liable for that act as if he had done it himself. Here, the common intention to attack and cause harm is evident from the coordinated assault. Thus, both Bhoop Singh and Ankit are vicariously liable for the grievous hurt caused to

Mamta. The offence committed is punishable under **Section 325 IPC** (voluntarily causing grievous hurt). The prosecution has proved this charge beyond a reasonable doubt, given the unchallenged evidence of Mamta's grave injuries and the circumstances in which they were inflicted.

- **Offence of Causing Simple Hurt (IPC S.323):** Since simple hurt was part of the same transaction wherein the accused people have been found guilty under Section 325 IPC, a separate conviction under **Section 323 IPC** for these injuries are not required.

210. In reaching these conclusions, the Court has also considered the legal provisions and case law regarding common intention and joint liability. Although the charge was framed simply under the substantive sections (302, 325, 323 IPC), the facts clearly disclose that Bhoop Singh and Ankit acted in furtherance of their **common intention** to harm the victims. Under Section 34 IPC, it is not necessary to frame a separate charge for common intention when the facts showing such common intent are established – the section can be read with the substantive charges. Here, by virtue of the pre-planned waylaying of Sher Singh and the joint assault by father and son (and others), the commonality of purpose is evident. Both accused are thus equally liable for the acts committed by each other during the execution of their plan. For instance, even if Bhoop Singh delivered the fatal head blow, Ankit would be equally guilty of murder via Section 34, and vice versa. The Court also keeps in mind illustration (a) to Section 34: when several persons attack a man with sticks and he dies, all are liable for murder if it was in furtherance of the common intention of all. That is exactly the scenario here.

211. **Reference to Precedents:** The prosecution's reliance on the testimony of related and interested witnesses (like Vishram, Mamta, Phool) is legally permissible, and such evidence has been found reliable by courts as long as it withstands scrutiny. The Supreme Court in *State of Rajasthan v. Kalki*, AIR 1981 SC 1390, held that the mere fact that a witness is a wife or close relative of the victim is not a valid reason to disbelieve them; their evidence must be judged on its own merits, and if found credible, can form the sole basis of conviction. In this case, the evidence of the injured eyewitness, Mamta, is particularly weighty. As an injured witness, her presence at the scene is unquestionable, and her suffering attests to the veracity of her account. Mamta's testimony corroborates that of her son, Vishram, on all major points regarding the attack by Bhoop and his sons. This Court gives due regard to her statements in line with the principle that *"Evidence of injured eyewitnesses is entitled to greater weight and credence because they are witnesses who had no reason to falsely implicate"*. Furthermore, minor

inconsistencies between witnesses (for example, Mamta not naming the daughters while others did, or slight differences in timing) are resolved by the Court by trusting the consistent heart of the story, per the guidance that “*courts must separate reliable evidence from exaggerations*”. The consistent heart here is that **Bhoop Singh and Ankit** attacked and injured the victims, and all witnesses agree, and there is no contradiction.

212. In conclusion, the prosecution has marshalled credible, coherent and convincing evidence that nails the culpability of both accused. The depositions of CW-1 Vishram Singh, CW-2 Shailendra Kumar, and CW-3 Brijesh Sharma (along with the other PWS like Mamta, Phool, etc.) have been translated and considered in their entirety. Their testimonies, tested by cross-examination, have a ring of truth. Any contradictions or inconsistencies identified are either not material or have been satisfactorily explained in context. The Court finds that all three of these witnesses spoke to what they directly experienced, and their accounts reinforced each other on material facts. The video recording provided an additional layer of objective corroboration. After careful scrutiny, the Court is satisfied with its admissibility and authenticity, thereby using it to complement the oral evidence. The evidentiary value of that video has been weighed, and it decidedly supports the prosecution's case rather than detracting from it. Legally, all requirements for accepting the electronic evidence were met through the testimony of its maker, and the chain of custody was adequately explained.

213. Having sifted through the evidence on record with the required caution and analytical rigour, this Court has no hesitation in holding that the accused Bhoop Singh and Ankit are guilty of the charges under Sections 302 and 325 of the IPC. The witnesses have proven, beyond a reasonable doubt, that the accused, in furtherance of their common intention, committed the murder of Sher Singh and voluntarily caused grievous hurt to Smt. Mamta. The defence's attempts to impeach the witnesses' credibility or offer an alternative explanation have failed. The chain of events, from motive and preparation (lying in wait with sticks) to the occurrence witnessed, the immediate aftermath, and the medical findings, all point to the accused's guilt. The Court thus finds that the prosecution has established its case to the hilt. Consequently, the accused Bhoop Singh and Ankit are hereby convicted of the offences under Sections 302 and 325 IPC. Both Accused Bhoop Singh and Ankit are in jail. The next date fixed is April 18, 2025, for a hearing on the quantum of punishment.

Date: April 15, 2025.

(Chandroday Kumar)
Sessions Judge,
Kannauj

April 18, 2025,

Bhoop Singh and Ankit, the convicts, and their legal counsel appeared in court. I have reviewed the quantum of punishment.

The convicts have stated that this is their first offence and have no prior or subsequent criminal history. They are the earning members of their family and bear responsibilities toward their kith and kin.

The learned Deputy Government Counsel (Criminal) submitted that the convicts were responsible for the brutal murder of the complainant's father, Sher Singh, as well as for grievously injuring his mother, Mamta. As a father and son duo, both convicts should receive the maximum punishment to convey a stern message to society.

After considering all mitigating and aggravating factors, along with the case's facts and circumstances, I believe this is not a "rarest of the rare" case. I am of the view that upon conviction under Section 302 of the Indian Penal Code (IPC), the appropriate punishment for Bhoop Singh and Ankit is life imprisonment, with a fine of Rs. 1 lakh each. Furthermore, upon conviction under Section 325 of the IPC, I impose five years of rigorous imprisonment and a fine of Rs. 25000 each, which would serve the ends of justice.

ORDER

Upon conviction under Section 302 of the IPC in Case Crime No. 828 of 2023, Police Station Chhibramau, District Kannauj, both convicts, Bhoop Singh and Ankit, are hereby sentenced to life imprisonment and a fine of Rs. 1,00,000 (One Lakh) each. If they default on payment of the fine, both convicts shall face an additional six months of imprisonment.

Upon conviction under Section 325 of the IPC, both convicts are sentenced to five years of rigorous imprisonment and a fine of Rs. 25000 (Twenty-Five Thousand) each. If they fail to pay this fine, both convicts will serve an additional three months of imprisonment.

The period spent in jail shall be set off against the sentences. All sentences will run concurrently. A conviction warrant shall be prepared, and the convicts will be sent to prison to serve their sentences. The dependents of the deceased will receive eighty per cent of the fines as compensation.

A copy of this judgment will be provided to the convicts free of cost. The case is referred to the District Legal Services Authority (DLSA) for consideration under the Victim

Compensation Scheme. The records will be stored in the record room as per legal requirements.

Date: April 18, 2025.

(Chandroday Kumar)
Sessions Judge,
Kannauj

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

Date: April 18, 2025.

(Chandroday Kumar)
Sessions Judge,
Kannauj