



CNR No.-UPKJ010020092021

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In the Court of Sessions Judge, Kannauj (U.P.)

Presided by: Chandroday Kumar, H.J.S. (Sessions Judge, Kannauj)  
Sessions Trial No. 465 of 2021

State of Uttar Pradesh – Prosecution  
vs

- 1. Chhote Bhaiya s/o Rameshwar Singh
- 2. (Late) Rameshwar Singh s/o Uggar Singh – [Proceedings abated]
- 3. Vishwanath @ Dhirendra Singh s/o Rameshwar Singh
- 4. Papuiya s/o Rameshwar Singh
- 5. Puttan s/o Rameshwar Singh
- 6. Lallu @ Satyendra s/o Rameshwar Singh – Accused Persons

F.I.R. No.: 454/2013, P.S. Tirva, District Kannauj  
Charges: Sections 147, 148, 323, 452, 308, 504, 506 of the Indian Penal Code, 1860 (IPC) and Section 7 of the Criminal Law Amendment Act, 1932 (CLA Act)

Appearances:

- For the Prosecution: Shri Tarun Chandra, District Government Counsel (Criminal)
- For the Defence: Smt. Anita Singh, Advocate

Date of Judgment: 09 July 2025

JUDGMENT

1. Introduction and Jurisdiction

This Sessions case arises from Crime No. 454/2013 registered at Police Station Tirva, District Kannauj. The case was committed to the Court of Session by the Learned Chief Judicial Magistrate, Kannauj, after the filing of the charge-sheet (Ex. Ka-8) against six accused persons, namely Chhote Bhaiya, Rameshwar Singh, Vishwanath @ Dhirendra Singh, Papuiya, Puttan, and Lallu @ Satyendra. The charge-sheet was filed for offences punishable under Sections 147, 148, 323, 452, 308, 504, 506 IPC and Section 7 of the Criminal Law Amendment Act, 1932. During the pendency of the trial, accused **Rameshwar Singh s/o Uggar Singh** (Accused No.2) died, and

accordingly, the case abated against him. The trial proceeded against the remaining five accused (Accused Nos. 1, 3, 4, 5, 6). This Court has taken cognisance and framed charges as above on 25.03.2021, to which all the surviving accused pleaded not guilty and claimed trial.

## 2. Prosecution Case

Briefly, the prosecution story as unfolded in the written complaint (Ex. Ka-1) lodged by the informant **Ayub** (PW-1) is as follows: On the night of **16/10/2013 at about 12:00 midnight**, a celebratory function (ladies' sangeet) was underway at the informant's house in village \_\_\_\_ (within P.S. Tirva) in view of Ayub's forthcoming marriage on 20/10/2013. The women of the family were singing and playing the **dholak** (hand drum) inside the house. At that time, the accused *Chhote Bhaiya*, who is Ayub's neighbour, allegedly started shouting abuses at Ayub's family for the noise. When Ayub and his relatives objected to the abuse, **Chhote Bhaiya**, joined by his father **Rameshwar** and other family members, **Vishwanath @ Dhirendra, Papuiya, Puttan, and Lallu @ Satyendra**, allegedly formed an unlawful assembly ("नाजायज़ मजमा") and **forcibly entered** the informant's house. The FIR alleges that the accused were armed with **lathis (sticks)**, **danda** and even a **kulhari (axe)**, and that they brutally assaulted Ayub's father **Bhura** (PW-2), Ayub's paternal uncle **Islam** (PW-6), and Ayub's cousin sister **Najma** (PW-5) inside the house. It is stated that all three sustained severe injuries to the head and body. Neighbours gathered upon hearing the commotion, and the injured were taken to Tirva Medical College Hospital in a serious condition for treatment. On the basis of this written complaint filed by Ayub on **17/10/2013** (the next day at about 11:30 AM), FIR No. 454/2013 was registered at P.S. Tirva under the aforementioned sections against all six named accused.

## 3. Investigation and Committal

PW-7 **Sub-Inspector Samar Bahadur**, who took up the investigation, testified that he visited the scene of occurrence, prepared a **site plan** (Ex. Ka-7) of the place of incident, recorded statements of witnesses under Section 161 CrPC, and upon completion of the investigation, filed the charge-sheet (Ex. Ka-8) against the accused in the court of the CJM, Kannauj. As the offences under Sections 308 and 452 IPC are triable exclusively by the Court of Session, the case was committed to this Court for trial.

## 4. Charges and Plea of the Accused

This Court framed charges against accused **Chhote Bhaiya, Vishwanath @ Dhirendra, Papuiya, Puttan and Lallu @ Satyendra** for offences under Sections **147** (rioting), **148** (rioting armed with deadly weapon), **452** (house-trespass after preparation to hurt), **308** (attempt to commit culpable homicide not amounting to murder), **323** (voluntarily causing hurt), **504** (intentional insult to provoke breach of peace), **506** (criminal intimidation) of the IPC read with Section **34** IPC (common intention), and Section **7** of the Criminal Law Amendment Act, 1932. The accused persons denied all charges and claimed that they had been falsely implicated due to enmity

and a misunderstanding in the village. In their statements recorded under Section 313 CrPC, the accused reiterated their innocence, stating that no such unlawful assembly or assault took place and suggesting that any injuries to the complainant party were accidental or self-inflicted in the melee. They attributed the prosecution to a **long-standing neighbourhood rivalry** and a **misconception** arising from the events of that night. The defence did not present any defence evidence.

## 5. Points for Determination

From the rival contentions and the charges framed, the principal points for determination in this case are:

**Point (a):** Whether on the night of 16/10/2013, all or any of the accused formed an unlawful assembly (five or more persons) armed with deadly weapons, and in prosecution of the common object of that assembly committed **rioting** and **house-trespass** by unlawfully entering the house of the informant with intent to cause hurt, thereby committing offences under **Section 147/148 IPC** and **Section 452 IPC**?

**Point (b):** Whether the accused persons (or any of them), in furtherance of their common intention, **voluntarily caused hurt** to Ayub's family members – namely Bhura (PW-2), Islam (PW-6) and Najma (PW-5) – and if so, whether the act was done with such intention or knowledge as to amount to an attempt to commit culpable homicide not amounting to murder, thus attracting **Section 323 IPC** (voluntarily causing hurt) or the more serious charge under **Section 308 IPC** (attempt to commit culpable homicide)?

**Point (c):** Whether the accused persons intentionally **uttered abusive insults** to the complainant's family with intent and knowledge that such provocation would likely cause a breach of the peace (offence under **Section 504 IPC**)?

**Point (d):** Whether the accused persons **criminally intimidated** the complainant or his family members by threatening them with injury to their person or life, with the intent to cause alarm (offence under **Section 506 IPC**)?

**Point (e):** Whether the accused committed any other offence under **Section 7 of the Criminal Law Amendment Act, 1932**, as alleged in the charge-sheet (the nature of which will be discussed in light of the evidence)?

**Point (f):** If any of the above points are proved, what should be the **findings** and consequent **conviction or acquittal** of the accused on each charge? If the accused or any of them are found guilty of any offence, what sentence should be imposed, keeping in view the facts and circumstances and the provisions of law (including the Probation of Offenders Act, if applicable)?

## 6. Evidence Led by the Prosecution

### Ocular Testimony

The prosecution examined a total of **7 witnesses** in support of its case:

- **PW-1 - Ayub** (informant and an eyewitness, though not injured).
- **PW-2 - Bhura** (injured victim, father of PW-1 Ayub).
- **PW-3 - Dr. Dilip Singh** (Medical Officer who examined the injured).
- **PW-4 - HCP Mahesh Pratap Dubey** (Head Constable, who registered the FIR and prepared the GD entry).
- **PW-5 - Najma** (injured victim, daughter of PW-6 and cousin of PW-1).
- **PW-6 - Islam** (injured victim, paternal uncle of PW-1).
- **PW-7 - SI Samar Bahadur** (Investigating Officer).

7. **PW-1 Ayub**, the complainant, deposed in line with his FIR account. He stated on oath that at about midnight on 16/10/2013, while ladies of the house were singing with a dholak inside, **accused Chhote Bhaiya (a next-door neighbour)** started hurling **abuses** (“गाली-गलौज”) towards their family. When Ayub and his relatives objected to the abusive language and asked him to stop, Chhote Bhaiya, along with his father Rameshwar and other family members – *Vishwanath, Papuiya, Puttan, Lallu @ Satyendra, and one Dhirendra* – **collectively forced their way inside** Ayub’s house. According to PW-1, all these accused **started beating** him and his family members **with lathis, sticks and the blunt side of a kulhari (axe)**. He specifically testified that **Bhura** (PW-2, his father), **Islam** (PW-6, his uncle) and **Najma** (PW-5, his cousin) were **severely injured** in the attack, sustaining head injuries and bodily injuries. PW-1 states that the injuries were grave enough that those three had to be taken and admitted to the Medical College at Tirva for treatment. He further deposed that many people from the village gathered on hearing the commotion and witnessed parts of the incident. PW-1 confirmed that **Ex. He dictated Ka-1 (the written complaint)** (got written by another person outside the police station) and lodged it at the police station the next day (17/10/2013) around noon. After the FIR was lodged, the police visited the spot, prepared the site map at his instance, and recorded his statement.

8. During cross-examination, PW-1 Ayub admitted some **inconsistencies and delays**: he conceded that he actually went to the police station on 17th October 2013 around 11:30 AM (not immediately at midnight), and stayed there for about 2-3 hours to get the complaint written and lodged. He stated he went **alone** to lodge the report (his family remained home or at the hospital). He could not recall whether he signed or thumbprinted the written complaint, and he did not remember its exact contents, implying that it was drafted by a scribe on his behalf. PW-1 also clarified that there was **no DJ or loudspeaker**, only a dholak being played, and that the marriage was scheduled a few days later on 20th October. He stated that the accused persons’ house is adjacent to his. He denied knowledge of any serious illness in the family of the accused that night (it was suggested by the defence that one “Patte @ Amrendra”, brother of some accused, was gravely ill and that *Chhote Bhaiya* had objected to the late-night noise due to this). PW-1 maintained that about **6-7 family members** of his were present

during the incident, and no outside guests or neighbours (apart from those who gathered upon commotion) were initially involved; the altercation lasted 5-7 minutes. He also candidly admitted **he did not suffer any injury** – he was trying to intervene and break up the fight. All injuries were sustained by his relatives (Bhura, Islam, Najma). He noted that the police recorded his statement on 18 October 2013 (the day after the FIR was filed). The defence highlighted these aspects to suggest the possibility of a **delayed FIR** and perhaps a **concocted version**, but nothing material could be extracted to discredit his core testimony that an assault by the accused took place that night.

9. **PW-2 Bhura**, aged around 50, is Ayub's father and one of the injured victims. His testimony, however, **did not support** the prosecution's version; in fact, he recanted and provided a completely different account that exonerated the accused. PW-2 stated that on 16/10/2013, around 11–12 PM, while the women were singing inside, he heard an **altercation** outside between accused Chhote Bhaiya and some villagers over some issue. Hearing shouts, PW-2 Bhura (followed by his brother Islam and niece Najma) hurried towards the main door to see what was happening. In the darkness and confusion, they **tripped over** a stack of large **cooking vessels (bhagonas)** that had been brought by the tent-house for the wedding feast. The vessels toppled, and in the process, Bhura, Islam and Najma **fell and sustained injuries** from the fall. PW-2 specifically asserted that **their injuries were accidental**, caused by this stumble, and that **none of the accused attacked or beat them**. He further testified that his son Ayub (PW-1) was not at home at the exact time of the incident – Ayub had gone to Kannauj city for wedding work and returned late. According to PW-2, when Ayub returned and saw his father and others injured, he misunderstood the situation (perhaps misled by the onlookers' conjecture). He mistakenly believed that a quarrel with the accused had led to the injuries. Acting under this misconception and possibly on the say-so of some villagers, Ayub went and lodged a **false report** against the accused. PW-2 firmly denied that any of the accused persons entered their house or assaulted them with lathis, dandas or otherwise. He stated that the accused are their neighbours and no such beating occurred. He also mentioned that the Investigating Officer **never recorded any statement from him** under Section 161 CrPC; thus, he disowned any such statement that may exist in the police papers. He was confronted with his purported 161 CrPC statement (where he had named the accused as assailants), but he denied having ever told the police those things, expressing ignorance about how such statements got recorded. The prosecution declared PW-2 **hostile** and cross-examined him. In cross-examination by DGC, he refuted suggestions that he was turning hostile due to pressure or a settlement with the accused. He reiterated that *no marpeet (beating) by the accused* took place and the injuries were purely accidental. He admitted that the wedding function was indeed happening at their house and they rushed out upon hearing the noise, but insisted that the night was dark and they did not see any altercation, except for hearing some shouting. Notably, PW-2's testimony supports a **defence theory** that there was

commotion related to the noise and an ill person at the accused's house, leading to a scramble in which the victims fell. This account directly contradicts PW-1's version, raising a serious **doubt** about the manner of occurrence.

10. **PW-3 Dr. Dilip Singh** is the Medical Officer who conducted the medico-legal examination of the injured persons. He proved the **injury reports** of Bhura (Ex. Ka-2), Islam (Ex. Ka-3) and Najma (Ex. Ka-4). He deposed that all three injured were brought for examination on **18/10/2013 in the morning** (around 9:00–9:10 AM) with an alleged history of assault on 16/10/2013 at midnight. The salient injuries recorded are as follows:

- **Bhura (PW-2):** (i) Lacerated wound on the top of the head, 8 cm, located ~8 cm above the left ear; kept under observation and **X-ray advised** (to rule out fracture). (ii) Abrasion 1×1 cm on the back of the neck. (iii) Abrasion 1×1 cm with swelling 9×5 cm on the dorsal side of the right forearm, ~4 cm above the wrist. The doctor opined that all injuries were **caused by a blunt object** ("hard and blunt weapon") and were **fresh** (within a day old). Injuries (i) and (iii) were kept under observation pending X-ray to check for bony injury.
- **Islam (PW-6):** (i) Incised-looking wound (cut) on the forehead, left side, 2×0.5 cm, and another adjacent cut 4×0.5 cm on the forehead right side – about 2 cm apart from each other. (It appears the doctor observed two minor cuts on the forehead.) (ii) Abrasion 4×3.5 cm on right side of chest, 3 cm above the nipple line. (iii) Swelling (contusion) 6×5 cm around the right eye (periorbital swelling); this injury was kept under observation, and X-ray was **advised** (suspecting a possible fracture around the orbit). The doctor again opined that these injuries were **fresh and caused by a blunt object**. Injuries (i) and (iii) were kept under observation for X-ray.
- **Najma (PW-5)** (aged ~16 years): (i) Lacerated wound 4×1 cm on the forehead (left side) ~4 cm above the left eyebrow. This was the sole injury recorded on her; it was kept under observation for X-ray. The doctor opined it was **fresh and caused by a blunt object**.

11. PW-3 clarified that none of the X-rays ultimately revealed any fractures or internal bony injury – **all X-ray reports were normal**, indicating that the head injuries were superficial despite bleeding. In his cross-examination, PW-3 stated that the injured persons actually first came to the hospital on 17/10/2013, but **without police papers** or MLC requisition, so their examination was deferred. They were formally examined on 18 October 2013 after submitting proper request letters for a medico-legal examination. He noted that all the injured were fully conscious, ambulatory, and oriented when they arrived; none had any life-threatening injuries. He specifically mentioned that **Bhura had a clotted blood patch on one head wound** and **Najma had clotted blood on her forehead wound**, suggesting some bleeding had occurred, but those wounds were **simple** in nature and not deep. He further opined that all injuries were "**simple**" (**not grievous**) and

could possibly occur even by **falling on a hard surface** (if someone trips and hits a hard object, such blunt injuries can result). The doctor's evidence is crucial as it establishes that **no grievous injury** was found – no fractures, no permanent damage. The injuries, though on the head in two cases, were mild lacerations/contusions. This medical evidence will be significant in assessing the charge under **Section 308 IPC (attempt to culpable homicide)**, which requires proof of a potentially deadly assault. Here, the medical evidence leans towards **simple hurt**, not a dangerous assault – a fact corroborated by the doctor's expert opinion that if someone simply falls on a hard object, such injuries are possible. Indeed, PW-3's testimony tends to **corroborate PW-2's version** (fall on utensils) to an extent, or at least does not rule it out, since there were no injuries clearly attributable to sharp weapons like an axe (no deep incised wounds), and all wounds were consistent with blunt force. This will be discussed further in appreciation of evidence.

12. **PW-4 HC Mahesh Pratap Dubey** was the Head Constable who was posted as duty clerk at P.S. Tirva on 17/10/2013. He proved that he registered the **formal FIR** (Ex. Ka-5) based on Ayub's written complaint, and made the corresponding GD entry (General Diary entry) (Ex. Ka-6) at the police station on the stated date and time. He identified the FIR and GD copies on record and affirmed their correctness. His evidence establishes the registration of the case and the timing (the FIR was lodged on 17th October 2013 at around noon).

13. **PW-5 Najma**, aged about 16 at the time of the incident (now ~28), is an injured eyewitness (daughter of PW-6 Islam and niece of PW-2 Bhura). Her testimony supports the occurrence of an assault, though with some variance in details from PW-1's version. PW-5 stated that on the night of **20/10/2013, around 9-10 PM** (she appeared slightly mistaken on date/time – likely intending to refer to the *Haladi* ceremony night around 16/10/2013), a *haladi* ceremony for her cousin Ayub was going on at Bhura's house (the venue of the incident). She was actually at her own house next door, resting, when she heard **sounds of a fight** from Bhura's house. Within about 5 minutes of hearing the noise, she and her father, Islam (PW-6), rushed to Bhura's house. There she saw **accused Chhote Bhaiya and Ayub in a scuffle** – they were grappling with each other and quarrelling. A brawl was ongoing. PW-5 states that when she and her father tried to **intervene to stop the fight, accused Puttan and his brothers** (referring to the co-accused) joined in and **assaulted them**. She specifically alleges that one of the accused (Puttan) hit her father, Islam, on the head from behind with a **lathi**, and another blow (from possibly a different accused) struck Najma herself on the back of her head. She could not see which accused hit her because the blow came from behind, but she attributes it to Puttan or his brothers, who were all present. She described that there was a lot of **"chipta-chiptoya"** (a local expression for a close melee or grappling) going on, even on the roof/terrace at one point, until villagers gathered and separated the parties. According to PW-5, **the police arrived at the scene very shortly after the fight (someone from the village may have alerted them) – perhaps within minutes – and** called an ambulance. The ambulance took her, her father, Islam, and her uncle,

Bhura, to Tirva Medical College, where they were admitted for treatment. PW-5 said she remained hospitalised for about **3 days**. She confirmed that the police later took a statement from her regarding the incident. During her cross-examination, PW-5 admitted that it was a dark night, making it somewhat difficult to identify who did what in the commotion. She reiterated that *only family members* (Ayub, Bhura, Islam, and herself) were present at the start of the incident, but within minutes, as the fight broke out, the **entire village gathered** at the spot. She stated she did not herself go to the police station at any point (her statement was taken at the hospital). She mentioned hearing later from her uncle Bhura that he (Bhura) and her father went to lodge the FIR, though in fact the FIR was lodged by Ayub, which indicates some confusion. She also mentioned hearing from Bhura that initially *five people* were named in the complaint (possibly she referred to five accused, omitting one; it's unclear, but she might have been mistaken in numbers). Crucially, Najma **denied** the defence's suggestion that the accused's family had an ill member and that Chhote merely requested them to stop the music, leading to a panic. She insisted that the story of "illness and resultant stampede injuries" is false. She maintained that a lathi from behind indeed struck her. However, she admitted that aside from the head injury, she had **no other injuries** on her body (which aligns with the medical report showing only one laceration on her forehead). Her narration of who assaulted whom is a bit generalised (she names Puttan for hitting her father, but is not entirely sure who hit her). The defence highlighted these uncertainties and the darkness to question her identification of the assailants. Nonetheless, PW-5 remained firm that the **accused persons were all present and actively involved in the fight**. Her testimony broadly corroborates that Chhote Bhaiya initiated a quarrel and that the other accused family members joined in a physical altercation, during which lathi blows hurt her and her father.

14. **PW-6 Islam**, aged ~50, is another injured eyewitness (brother of PW-2 Bhura). His account aligns closely with PW-5 Najma's in many respects, reinforcing the occurrence of an assault by the accused. PW-6 testified that around **midnight of 16/10/2013**, he was at his home (next door to Bhura's) when he heard loud **sounds of fighting** from Bhura's house. He rushed over and saw **Chhote Bhaiya (the accused) quarrelling and fighting with his nephew**, Ayub. Almost immediately, as he arrived, his daughter Najma (PW-5) followed behind him to the scene. PW-6 states that he attempted to **pacify and separate** Chhote and Ayub. At that moment, **accused Puttan** (one of Chhote's brothers) allegedly picked up a **brick** and struck Islam (PW-6) on the forehead. Then **accused Virendra** (it appears this name refers to one of the accused, possibly Vishwanath @ Dhirendra, or another brother – the witness used the name Virendra, which could be a confusion with "Dhirendra") hit Islam on the head with a **danda** (stick). Accused **Vishwanath** (also known as Dhirendra) then started **kicking and punching** him as well. Meanwhile, accused **Chhote Bhaiya** himself was assaulting Ayub during this fracas. PW-6 further stated that when Najma tried to intervene, **she was also beaten up by the accused**, resulting in injuries to

her. According to PW-6, as a result of the multiple blows, he **lost consciousness** at the spot. He later regained consciousness at the hospital (Tirva Medical College) the next day, indicating he was admitted and perhaps was unconscious for some hours due to the head injury. PW-6 recalled that he remained hospitalised for about **4-5 days** and later continued treatment privately for about a month. In cross-examination, PW-6 clarified that he **did not go to the police station** at all (contrary to a suggestion that he might have accompanied Ayub). He was, in fact, unconscious and taken straight to the hospital, regaining consciousness only the next day. He could not comment on the FIR process. He described having **three injuries** on his person – two of which bled (presumably the head wounds) and one which did not bleed (perhaps the chest abrasion). These match the medical findings (forehead cuts bled, eye contusion would not bleed externally). He confirmed that the wedding rituals (Haldi) were taking place that evening, but asserted that there was no excessive noise, such as a **DJ**, only normal singing. He noted that by the time the fight occurred, the singing program had actually concluded (around midnight). Defence counsel put the alternative theory to him as well: that no fight occurred and that the accused's elder brother was gravely ill, leading to Chhote objecting to the noise and some chaos in which the victims fell. PW-6 staunchly **denied** this narrative as false. He insisted that the accused did commit a **"maar-peet" (beating)**. He also denied that a *false case was lodged at the instigation of villagers*. Importantly, PW-6's testimony is quite detailed in attributing specific acts to specific accused (Puttan, Virendra, Vishwanath, Chhote), which bolsters the prosecution's case that this was a concerted assault. Despite being an interested witness (related to the complainant), his version remained largely unshaken in cross. He refused to accept the suggestion that their injuries were self-inflicted in a panic.

15. **PW-7 SI Samar Bahadur** is the Investigating Officer (IO). He described the steps of investigation: visiting the scene on 17/10/2013, preparing the **Site Plan (Ex. Ka-7)** of the place of occurrence on pointing of Ayub, and collecting evidence. He confirmed that he had recorded statements from witnesses, including the informant and victims. He admitted that he did not specifically examine the X-ray technician or collect detailed reports beyond noting that X-rays showed no fractures. He then proved the **charge sheet (Ex. Ka-8)** that he had submitted against the accused, having found sufficient material for trial. In cross, the defence confronted him with the fact that one major victim (Bhura PW-2) was not supporting the case; however, as IO, he could only say he recorded what was told to him during the investigation. He acknowledged that *no recovery of any weapons* (lathi/axe) was made from the accused. He also did not specifically explain on what basis **Section 308 IPC** was invoked, given that the injuries were simple. (This is a notable omission: the IO apparently added Section 308 IPC, perhaps due to head injuries, but without a clear medical basis for a life-threatening attack.) The IO's evidence mainly formalised the investigation process; any contradictions between the site plan and witness accounts were not highlighted by the defence beyond minor points.

## 16. Documentary Evidence

The prosecution also tendered various documents as exhibits: the **written complaint (Tehrir)** (Ex. Ka-1) proved by PW-1 Ayub; the **injury reports** of Bhura, Islam, and Najma (Ex. Ka-2, Ka-3, Ka-4 respectively) proved by PW-3 Dr. Dilip; the **FIR (Chik FIR)** (Ex. Ka-5) and the **GD Entry** (Ex. Ka-6) proved by PW-4 HC Mahesh; the **Site Plan** (Ex. Ka-7) and the **Charge-sheet** (Ex. Ka-8) proved by PW-7 SI Samar Bahadur. These documents corroborate the oral evidence regarding the incident's reporting, the nature of the injuries, and the investigative steps taken.

## 17. Appreciation of Evidence and Discussion

Having carefully perused the entire evidence on record and heard the arguments of the learned counsels, I now proceed to analyse the evidence with respect to each point for determination. The case involves an alleged midnight brawl in a familial/neighbourhood setting, with conflicting versions from the victims themselves. The Court must assess the credibility of the **eyewitness testimonies**, the **medical evidence**, and the circumstances to determine which offences, if any, are proved beyond a reasonable doubt.

## 18. Common Unlawful Assembly vs. Individual Liability (Sections 147, 148 IPC)

The prosecution has charged the accused with **rioting** (Section 147 IPC) and **rioting with deadly weapons** (Section 148 IPC), which require proof that the accused were members of an **unlawful assembly** (of five or more persons) sharing a **common object** to commit an offence (here, assaulting the victims). In the present case, five of the accused are currently before the Court (the sixth has since passed away). Numerically, an unlawful assembly is possible since at least five people participated. However, simply having five persons present is not enough; the prosecution must prove **beyond a reasonable doubt** that these persons had a **common object** (as defined in Section 141 IPC) to commit an offence and **acted in pursuance of that object**. The evidence on record does not unequivocally establish a prior meeting of minds or a shared motive on the part of all the accused to attack the victims. Instead, the picture that emerges is of a **sudden quarrel** that escalated into a violent confrontation.

19. Notably, **PW-2 Bhura's testimony absolves the accused entirely**, attributing the injuries to an accident. While PW-2's version appears motivated (perhaps by a desire to maintain village amity or due to a compromise), it introduces a significant doubt about the exact sequence of events. On the other hand, PW-5 and PW-6 (Najma and Islam) do assert that **all the accused were present and involved** in the scuffle, indicating a group action. Even PW-1 Ayub in the FIR and examination named all the accused as participants. Thus, there is evidence of **concerted action**, but was it an "unlawful assembly" with a **pre-conceived common object** or simply a spontaneous group fight? The distinction is crucial. Common object can be formed on the spur of the moment, but the prosecution must still prove that the accused shared that object **consciously**. Here, the genesis (as per

prosecution) was abuse over noise by Chhote Bhaiya and immediate retaliation by family members joining him. This suggests a **spontaneous group assault** rather than a pre-planned assembly.

20. Moreover, for **Section 148 IPC** (rioting armed with a deadly weapon), it must be shown that one or more members of the assembly used or carried a deadly weapon likely to cause death. The FIR alleged use of a **kulhari (axe)**. However, the medical evidence clearly shows **no incised or sharp weapon injuries** – all wounds were blunt. PW-5 and PW-6 mention lathis and possibly a brick, but no witness, except PW-1, vaguely mentioned an “axe”, and even he did not describe any axe blows in his deposition. **The doctor found no axe injury or any other deadly weapon injury**. In fact, PW-3 explicitly noted that all injuries were from a blunt object, and no chop/cut wounds were present. This **contradiction** undermines the allegation of the use of a deadly weapon. Thus, the ingredient for Section 148 is not proved: there is no credible evidence that any accused was armed with a weapon so deadly as to likely cause death (like a sharp axe) during the incident. The presence of lathis/dandas (wooden sticks) is alleged, but these, while dangerous, are not per se “deadly weapons” unless used on vital parts with the intent to kill.

21. Additionally, the **identification of each accused’s role** in the assembly is in issue. PW-5 and PW-6 identified some specific acts (Puttan hitting with a lathi, etc.), but the incident occurred in darkness and was chaotic (“chipta-chiptoya”). No independent neutral witness from the village was examined to corroborate that all the accused were active participants in the rioting. Given that one primary victim (Bhura) turned hostile and denied any assault by the accused, the Court must be cautious in imputing **common object** to all accused in the face of such divergent testimony. It is a settled principle that **mere presence** at the spot is not enough to convict someone for unlawful assembly; there must be proof of **intentional participation** with knowledge of the common object.

22. In the **Supreme Court decision “[Kishore vs The State Of Punjab on 7 February, 2024: 2024 INSC 91](#)”**, it was reiterated that if the number of accused falls below five or if evidence against some is not sufficient, the charge of unlawful assembly cannot be sustained. While in our case, five remain, the spirit of that ruling is that the Court must **individually assess** each accused’s involvement. Here, considering that at least one accused (Rameshwar) is deceased and could not be tried, and one key eye-witness (Bhura) does not implicate any accused, the **threshold of certainty** for an unlawful assembly is not met. The evidence suggests a **free-for-all brawl** rather than a disciplined assembly with a common object. Therefore, I find that the prosecution has **failed to prove beyond a reasonable doubt** that the accused formed an unlawful assembly with the specific common object of attacking the victims. **Benefit of doubt** on this score must go to the accused. Consequently, **Sections 147 and 148 of the IPC are not established** against the accused, and they are liable to be acquitted of those charges.

### 23. House-Trespass after Preparation (Section 452 IPC)

Section 452 IPC punishes house-trespass having made preparation for hurt, assault, or wrongful restraint. The prosecution alleges the accused **unlawfully entered the house** of PW-1 with the intent to assault (which would qualify as house-trespass and an aggravation since they allegedly came armed/prepared). PW-1 did state that the accused “**ghus aaye**” (**barged in**) to his house and beat them. However, this is directly contradicted by PW-2, who claims the altercation (or rather the accident) happened near the door as they themselves were coming out. Even PW-5 and PW-6 describe the fight starting within the courtyard/house of Bhura, but their focus was on the melee, not on how entry was made. It is undisputed that the accused are immediate neighbours, and there is no clear evidence of forced entry (like breaking the door, etc.). In fact, if we partly believe PW-2’s version, the victims ran out and collided with objects – which suggests no unlawful entry by accused at that point.

24. Crucially, **no independent witness** testified about the initial trespass into the house. The entire scenario might have taken place in the courtyard or just at the threshold. For Section 452, the prosecution must show that the accused **trespassed into a dwelling house** after having made preparation for causing hurt, etc. Here, the evidence of “preparation” is weak – while it’s alleged they armed themselves with sticks (and an axe, unproven), there’s no recovery or conclusive proof of such preparation. The incident seems to have erupted quickly rather than a deliberate armed invasion.

25. Given the internal contradictions, PW-2 states that there was no entry/assault at all, while PW-5 and PW-6 indicate that the fight occurred at least partly inside the premises, but also mention moving up and down (even onto a roof) during the struggle. Even blood from victims was oozing out, as the nature of the injury suggests, even then, IO did not trace any blood inside the house. It is therefore difficult to determine the exact geography. The **benefit of doubt** must be given to the accused on the charge of house-trespass. It is quite possible the fight began at the doorway when Ayub confronted Chhote outside (as implied by Bhura’s statement of hearing a quarrel outside). If the fight started outside and spilt in, or vice versa, is not firmly established. Without reliable evidence that the accused unlawfully entered the house *with the intent* to commit an offence (as opposed to, say, a quarrel that began at the common boundary), **the charge under Section 452 IPC fails**. The prosecution has not proven the **essential ingredient of “house-trespass”** beyond a reasonable doubt in these circumstances. The accused are therefore entitled to acquittal on this count as well.

### 26. Voluntarily Causing Hurt vs. Attempted Culpable Homicide (Sections 323 and 308 IPC)

This is the core of the case – whether the accused caused harm to the victims, and if so, with what intent/knowledge. There is **no doubt that three persons (Bhura, Islam, and Najma) sustained injuries** around the time of

the alleged incident. The medical evidence (PW-3's testimony and injury reports) confirms the injuries. The **cause** of those injuries is disputed: PW-2 says accidental; PW-5 and PW-6 say intentional assault by the accused. We must evaluate which account is more credible and determine whether the requirements of Section 323 IPC (voluntarily causing hurt) are met. If the circumstances escalate, we must also consider whether it could be classified under Section 308 IPC (attempt to commit culpable homicide).

27. Firstly, on the **fact of hurt being caused**: We have two injured witnesses (PW-5 Najma and PW-6 Islam) unequivocally testifying that the accused persons **beat them with sticks/brick**, causing injuries. Their testimony is **partially corroborated** by PW-1 Ayub (eyewitness), who saw the accused beating his family. The only dissenting voice is PW-2 Bhura, whose hostile stance appears motivated. Bhura is the father of the groom (Ayub) and an elder; it is plausible that he later chose to downplay the incident to restore peace with his neighbours (indeed, by trial time, nearly 12 years had passed, allowing time for rapprochement). It is telling that Bhura's version of "falling on pots" is not supported by any other evidence – no one else mentions the victims tripping except him. The site plan or investigation did not note a mess of fallen vessels at the scene either. His testimony, while creating doubt, reads more like a cover story to shield the accused (perhaps out of sympathy or a desire for settlement). In contrast, **Najma and Islam had no discernible reason to falsely implicate their own neighbours/relatives unless something did happen – they themselves suffered injuries which needed hospitalisation**. Their accounts, though not identical in every detail, consistently point to the accused group as the cause of those injuries. Najma and Islam were also subjected to thorough cross-examination, but their claim that lathi blows injured them remains intact. Minor inconsistencies (like Najma mentioning the wrong date or not recalling who exactly hit her) are understandable given the frenzy of the moment and the passage of time. The Court finds **PW-5 and PW-6 to be credible and reliable** regarding the assault, more so than PW-2's convenient about-face.

28. The medical evidence strongly supports that these injuries were due to **blunt force impact**, consistent with lathi blows or a scuffle, and not purely a self-inflicted fall. Notably, if three people simply tripped over utensils, it would be a remarkable coincidence for all three to sustain bleeding head wounds and contusions in one go. Dr. Dilip (PW-3) did concede that such injuries are "possible" by a fall on a hard surface, but probability favours that a physical assault occurred, given the two victims' direct allegations (Please see [State vs Kamlesh Bahadur on 12 September, 2023: Neutral Citation: 2023: DHC: 6678](#)). Therefore, I conclude that it is proved beyond a reasonable doubt that on 16/10/2013, the accused persons did **voluntarily cause hurt** (as defined in Section 321 IPC) to Bhura, Islam, and Najma by hitting them. Even PW-2's injuries, despite his denials, align with being hit on the head and arm (laceration, swelling) rather than a simple fall on utensils, but since he himself turned hostile, I focus on Najma and Islam's injuries, which are clearly from assault as per their testimony.

29. Now, the crucial question: does this conduct amount only to “**hurt**” (Section 323 IPC) or was it an “**attempt to culpable homicide**” (Section 308 IPC)? Section 308 IPC applies if an accused does any act with such **intention or knowledge** that if it caused death, he would be guilty of culpable homicide not amounting to murder ([Sunder vs State on 9 February, 2010: 2010 \(1\) JCC 700](#)). In simpler terms, the prosecution must show that the accused **intended to cause death or such grievous injury likely to cause death**, or knew their act was likely to cause death. Still, death did not occur, thereby making it an attempt to commit culpable homicide. The nature of injuries and the manner of assault are pivotal here.

30. In the present case, all injuries were **simple**. No weapon, like a knife or firearm, was used; at best lathis and one thrown brick. None of the blows caused fractures, deep cuts, or any life-threatening conditions. The victims were conscious (**except Islam briefly fainted, but recovered by the next day**). Dr. Dilip explicitly found **no serious internal injury**. He did not find unconsciousness of any victim. The head wounds were superficial lacerations, not even large gaping ones (4 cm, etc.). If the accused truly had an intention to kill or fatally injure, they likely would have caused far more severe harm (considering they allegedly outnumbered the victims and had weapons). The fact that all injuries healed without complication indicates the assault, while unlawful and reprehensible, was **not carried out with deadly intent**. It appears more of a **sudden quarrel** where tempers flared, rather than a calculated attempt on life.

31. Our Indian courts have consistently held that where an attack results in **simple injuries**. **There is no evidence of a deliberate attempt on vital parts sufficient to cause death**; a charge under Section 308 IPC would not be sustainable ([Raju @ Rajpal & Ors. vs The State Of Delhi on 17 July, 2014: 2014 \(3\) JCC 1894](#)). The **Delhi High Court** in a 2023 case (State vs. Kamlesh Bahadur *Supra*) altered a conviction from 308 to 323 IPC noting that there was *no premeditation, the incident happened on the spur of the moment, and injuries were opined to be simple – hence ingredients of Section 308 IPC were not attracted and the case fell within Section 323 IPC*. It was emphasised that Section 308 IPC requires proof of intention or knowledge of the **likelihood of causing death**, which is absent when the quarrel is trivial. Injuries are minor. Likewise, in *Raju @ Rajpal & Ors. vs. State (Delhi HC, 2014)*, the Court modified a 308 charge to **323/34 IPC** because the nature of the injuries was simple and not inflicted with any object or knowledge that could cause death. These pronouncements squarely apply here.

32. In the case at hand, there is **no evidence of any prior enmity or motive to kill** between the parties (they are neighbours who likely had a normal relationship except this noise dispute). The quarrel arose out of a **trivial matter (music at a wedding)** and escalated spontaneously. The High Court in *Kamlesh Bahadur* (*supra*) noted similar facts – a trivial origin and a spontaneous fight mean no intention to kill. Moreover, if the accused truly intended grievous harm, one would expect at least one serious injury (like a broken bone or a deep wound). None is present. The most significant injury

was a swelling around Islam's eye (which could have been a punch or a fall during the scuffle). This does not reflect an intention to cause death or even *"knowledge that their act was likely to cause death"*.

Therefore, I hold that the prosecution has **failed to establish the charge under Section 308 IPC**. The acts of the accused, as proven, amount to **voluntarily causing hurt**, punishable under Section 323 of the IPC. The accused persons are to be held responsible for injuring the victims, but **not** for any attempted culpable homicide, as the essential mens rea for the latter is not demonstrated. The evidence at best shows a case of hurt caused in the course of a sudden quarrel.

33. It is also noted that the Investigating Officer (PW-7) himself could not articulate why Section 308 IPC was added – likely it was a knee-jerk reaction to head injuries, but as discussed, head injury per se is not culpable homicide unless accompanied by fatal intention. As a matter of law, **simple hurt on the head does not escalate to 308 IPC without evidence of murderous intent or likely fatal consequence**.

34. **Common Intention (Section 34 IPC):** Although the Court has disbelieved an "unlawful assembly" with a common object, the facts still establish that multiple accused together participated in causing hurt. Hence, their liability can be correctly attributed under Section 34 IPC, which deals with acts done by several persons in furtherance of a common intention. Section 34 IPC is not a substantive offence but a principle of joint liability – if two or more persons intentionally cooperate in a criminal act, each is liable as if he did it himself. Here, even if the assault was spontaneous, the accused clearly acted in concert during those moments – for example, as per PW-6, one hit with a brick, another with a stick, another with kicks, simultaneously. There was a meeting of minds to beat up the victims (even if formed on the spur of the moment). Thus, the accused shared a common intention to cause hurt to the victims. The Supreme Court has clarified that common intention can form even at the spur of the moment; a lengthy pre-plan is not necessary, as long as the participants consciously engage in a joint enterprise of crime. Therefore, the injuries inflicted by the individual accused can be collectively fastened on all present and participating, by virtue of Section 34 IPC. This is why in the analogous case of [Raju @ Rajpal & Ors. vs The State Of Delhi on 17 July, 2014: 2014 \(3\) JCC 1894](#) the Court convicted under 323/34 IPC for a group attack causing simple injuries. In the present case, I find that all five accused before the Court were part of the group that caused hurt, as per the credible testimony of PW-1, PW-5, and PW-6. Even if some did not personally strike a blow (though evidence suggests most did), their presence and active participation in the unlawful act render them constructively liable under Section 34 IPC.

35. In conclusion on this point: the prosecution has successfully proved that accused Chhote Bhaiya, Vishwanath @ Dhirendra, Papuiya, Puttan, and Lallu @ Satyendra, in furtherance of their common intention, voluntarily caused hurt to Bhura, Islam, and Najma on 16/10/2013, thereby committing an offence under Section 323 read with Section 34 IPC. Conversely, the

prosecution has not proved that the accused acted with any intention or knowledge of likely causing death; hence, they are not guilty under Section 308 IPC.

### 36. Intentional Insult to Provoke Breach of Peace (Section 504 IPC)

The informant, Ayub (PW-1), did allege that abusive insults from the accused Chhote Bhaiya triggered the incident. The FIR and PW-1's deposition mention that Chhote started "**gali galauj**" (abusing) towards the family. However, crucially, neither in the FIR nor in testimony did PW-1 specify the **actual words** used or the nature of the insult. No other witness testified in detail about the abusive language; PW-5 and PW-6 focused on the fight, rather than any verbal exchanges. Section 504 IPC requires the prosecution to prove that the accused (i) intentionally insulted someone, (ii) that the insult was of such a nature and delivered with such intent that it was likely to provoke the person insulted to break the public peace or commit an offence. **Mere use of abusive or foul language** is not sufficient to attract Section 504 unless it is shown that it was done **with the intention to incite a breach of peace**, and that it indeed caused or was likely to cause such provocation ([Chandan Bose vs State Of Bihar And Anr on 22 April, 2024: CRIMINAL MISCELLANEOUS No.40723 of 2016](#)).

37. In this case, aside from the generic term "gaali" (abuse), the prosecution offered no evidence of what was said or how it affected the complainant. There is no mention that the complainant or his family were provoked into any retaliatory violence by the abuse alone – instead, they simply asked the accused to stop abusing. The actual breach of peace occurred when the accused allegedly stormed in to assault, not because the complainant reacted violently to an insult. The absence of **specifics** is fatal to the charge under Section 504. As the Patna High Court in Chandan Bose (supra) observed, **"merely using some abusive or untoward words, without more, cannot be said to amount to intentional insult likely to provoke breach of peace"**. There must be evidence that the insults were of a kind that would naturally **ignite a violent reaction** or that the accused intended such provocation. Here, we do not even know what was uttered – it could have been a simple admonishment to lower the volume. In fact, considering the context (accused complaining about noise), it's plausible that the "abuse" was part of that complaint. Without clearer proof, the Court cannot hold the accused guilty under Section 504 IPC. Accordingly, all accused are found **not guilty of the offence under Section 504 of the IPC, due to the insufficiency of evidence on this point**.

### 38. Criminal Intimidation (Section 506 IPC)

The charge under Section 506 IPC pertains to **criminal intimidation**, which involves threatening someone with injury to their person, reputation or property, with the intent to cause **alarm** to that person (Section 503 IPC defines the offence). In the present case, the FIR did invoke Section 506 of the IPC, but notably, none of the witnesses mentioned any **specific threat** issued by the accused during or after the incident. PW-1 did not say that the

accused threatened to kill him or his family, or threatened them with dire consequences in the future. He only mentioned abuse and then the physical attack. PW-5 and PW-6 likewise did not testify about the accused threatening them; they described only the physical acts. It appears Section 506 was added perhaps as a routine or as an afterthought in the FIR, without a substantive basis in evidence.

39. For a conviction under Section 506, it must be shown that the accused **uttered or conveyed a threat** to cause injury to the person, etc., **with the intention** to cause alarm, or to compel the person to do or omit something. Additionally, courts have held that “**mere threats** which are not intended to actually cause alarm, or are not shown to have caused any alarm, do not constitute criminal intimidation”. The Supreme Court of India in [Manik Taneja v. State of Karnataka: 2015 \(7\) SCC 423](#) held that “*before an offence of criminal intimidation is made out, it must be established that the accused had an intention to cause alarm... Mere threats not given with that intent would not constitute the offence.*” In our case, since no particular threat was proved at all, the question of intent to cause alarm does not arise. There is simply a **vacuum of evidence** on intimidation. No witness said “the accused threatened us saying, e.g., ‘we will kill you’ or ‘we will burn your house’” or any such menacing words. The prosecution did not bring out any such aspect in the trial.

40. Thus, it is abundantly clear that the charge under Section 506 IPC is not made out. The accused are also entitled to acquittal under Section 506 of the IPC as well. Their alleged actions, as established, were spontaneous physical aggression, not premeditated intimidation by threat of future harm. There was no **communication of threat with the intention to terrorise** the victims in a manner contemplated by Section 506.

#### 41. Offence under Section 7, Criminal Law Amendment Act, 1932

The charge-sheet also mentions Section 7 of the Criminal Law Amendment (CLA) Act, 1932. This is a somewhat obscure provision in the context of this case. Section 7 of the CLA Act, 1932, generally criminalises certain acts, such as promoting enmity or doing acts prejudicial to the maintenance of order (for instance, it was historically used to punish goondas or those who assembled after dispersal orders, etc.). In many FIRs in Uttar Pradesh, Section 7 of the CLA Act is added as a general provision alongside rioting charges, often to cover situations where an assembly contravenes an order or commits violence in a group. However, **no evidence whatsoever** has been led in this trial to explain how Section 7 of the CLA Act is attracted. The prosecution did not clarify whether any notification or condition existed that the accused had violated, or which specific limb of Section 7 applied. Typically, Section 7 of the CLA Act can cover being part of an unlawful assembly that refuses to disperse or carrying weapons in disturbance of public peace (it prescribes punishment for certain offences against public order not covered elsewhere).

42. Given that no independent overt act is alleged under the CLA Act, this charge cannot stand on its own. The IO's invocation of the CLA Act appears to be an instance of over-charging without a **substantive basis**. Since **no ingredient of Section 7 CLA** (whatever clause was intended – likely something to do with public disturbance) is proved by the evidence, the accused must be **acquitted of the charge under Section 7 of the CLA Act, 1932** as well.

#### 43. Findings

In view of the above analysis of evidence and legal provisions, the findings on the points for determination are as follows:

- **Point (a) – Unlawful Assembly (Sections 147/148 IPC): Not Proven.** The prosecution failed to establish beyond a reasonable doubt that five or more accused persons formed an unlawful assembly with a common object to commit the offence. The evidence of common object and use of deadly weapons is insufficient and contradictory. All accused are **found not guilty** under Sections 147 and 148 IPC.
- **Point (b) – Hurt vs Culpable Homicide (Sections 323/34 IPC vs 308 IPC):** The prosecution has **proved** that the accused persons **voluntarily caused hurt** to the victims in furtherance of their common intention. However, it is **not proved** that the accused acted with the intention or knowledge requisite for culpable homicide. Thus, the accused are **convicted under Section 323 IPC read with Section 34 IPC**, and **acquitted of the charge under Section 308 IPC**.
- **Point (c) – Intentional insult (Section 504 IPC): Not Proven.** There is no convincing evidence of any specific intentional insult by the accused aimed at provoking a breach of peace. Mere allegations of abuse without details do not meet the threshold for Section 504. All accused are **found not guilty** under Section 504 IPC.
- **Point (d) – Criminal intimidation (Section 506 IPC): Not Proven.** The prosecution led no evidence of any threat uttered by the accused or any intent to cause alarm. Mere presence and assault do not amount to criminal intimidation in the absence of a communicated threat. All accused are **found not guilty** under Section 506 IPC.
- **Point (e) – Offence under Section 7 CLA Act: Not Proven.** No ingredient of any offence under the Criminal Law Amendment Act, 1932, is established. All accused are **found not guilty** under Section 7 of the CLA Act.

44. Accordingly, the accused, Chhote Bhaiya, Vishwanath @ Dhirendra Singh, Papuiya, Puttan, and Lallu @ Satyendra, are hereby **convicted for the offence punishable under Section 323 IPC (voluntarily causing hurt) read with Section 34 IPC** for acting in furtherance of their common intention. They are **acquitted of all other charges (Sections 147, 148, 452, 308, 504, 506 IPC and Section 7 CLA Act)** by granting the benefit of doubt, since those

**charges have not been proved beyond a reasonable doubt as required by law.**

The bail bonds of the accused (who have been on bail during the trial) are **cancelled**. The accused are taken into custody, and their sureties stand discharged from their obligations.

#### 45. Hearing on Sentence

*(Proceedings on 09.07.2025, post-conviction, for arguments on sentence.)*

I have heard the Learned District Government Advocate (Prosecution) and the Learned Defence Counsel on the question of **sentence** for the convicts under Section 323/34 IPC. The offence of voluntarily causing hurt (Section 323 IPC) is punishable with up to one year's imprisonment, or a fine up to ₹1000, or both.

46. The Learned Prosecutor argued for imposing a **strict sentence**, contending that assault on neighbours in their home is a serious matter and should be met with deterrent punishment. Conversely, the Learned Defence Counsel fervently prayed that the convicts be treated leniently and, if possible, be released on **probation** under the Probation of Offenders Act, 1958, without a jail term. The defence highlighted several mitigating factors:

- The incident took place almost **12 years ago** in 2013. The convicts have faced the ordeal of trial for an extended period, which itself has been a punishment of sorts.
- The fight arose from a **trivial dispute** (noise during a wedding festivity), and there was **no extreme malice or cruelty** involved. It was a spur-of-the-moment clash.
- The convicts and the victims are from the **same village and are neighbours**. In fact, they have been residing peacefully in the same locality **since the incident, with no further reports of friction**. This suggests that they have maintained peace and presumably reconciled their relations.
- None of the convicts has any **prior criminal record** or involvement in any other offence either before or after this incident. They appear to be otherwise law-abiding citizens who had an unfortunate altercation.
- All the victims recovered from their simple injuries. There is no lasting damage. Also, notably, the **principal victim (Bhura PW-2)** himself does not desire punishment for the convicts – he had turned hostile, possibly out of a reconciliatory approach. This suggests that even the aggrieved parties are not pressing for the incarceration of the convicts.

47. The defence thus submitted that this is a fit case to extend the beneficial provisions of the **Probation of Offenders Act, 1958** (Sections 4 and 5 in particular).

48. After considering the submissions and the circumstances, I am inclined to agree that a **lenient view** is appropriate. The objective of criminal law

includes the **reform and rehabilitation of offenders**, especially first-time offenders guilty of minor offences. The Supreme Court in [Hari Kishan & Anr vs Sukhbir Singh & Ors on 25 August, 1988: 1988 AIR 2127](#) observed that in cases of this nature (hurt cases stemming from trivial altercations), the court can **withhold a sentence of imprisonment and release the offenders on probation of good conduct**, at the same time compensating the victims, to meet the ends of justice ([K. Bhaskaran vs Sankaran Vaidhyan Balan And Anr on 29 September: AIR 1999 SUPREME COURT 3762](#)). In that case, even though the conviction was for a hurt offence, the Supreme Court upheld the grant of probation and emphasised that the payment of compensation to victims should be encouraged in such scenarios.

49. In the present case, jailing the convicts after 12 years would likely serve little constructive purpose; it may instead reignite bitterness. The convicts have family responsibilities and have lived peacefully for over a decade post-incident. They have learnt their lesson through the process itself. Rather than incarceration, it would be more purposeful to bind them to **good behaviour** and ensure they compensate the injured parties for the harm caused. This approach finds support in law – Section 4 of the Probation of Offenders Act empowers the court in appropriate cases to release the convicted person on entering into a bond with conditions of good conduct, and Section 5 allows the court to require the offender to pay **compensation to victims** from such offenders, even as they are released on probation.

50. Having regard to the *age, character, and antecedents of the convicts, as well as the circumstances of the case, I find it expedient to release them on probation rather than sentencing them to imprisonment* (Section 4, Probation of Offenders Act). All five convicts are relatively mature individuals; no adverse information is on record regarding their character, apart from this incident. The nature of the offence (simple hurt in a sudden quarrel) and the aforementioned mitigating factors make them suitable for a second chance under supervision. They appear capable of reform and are unlikely to repeat such behaviour if kept under the watch of the law for a period.

#### 51. Order

**Accused (Convicts):** Chhote Bhaiya, Vishwanath @ Dhirendra Singh, Papuiya, Puttan, and Lallu @ Satyendra.

**Offence:** Convicted under **Section 323/34 of the IPC** (voluntarily causing hurt in furtherance of common intention). Acquitted of all other charges.

**Sentence:** Rather than impose immediate imprisonment, the Court invokes the provisions of the **Probation of Offenders Act, 1958**. It is hereby ordered that each of the convicts be **released on probation of good conduct for a period of one (1) year**, subject to the following terms and conditions, and further subject to payment of **compensation** (monetary reparations) to the victims as specified below (per Section 5 of the Probation of Offenders Act):

1. **Good Conduct Bond:** Each convict shall enter into a personal bond of ₹20,000/- (Twenty Thousand Rupees) with one surety each in the like

amount, binding themselves to **maintain peace and be of good behaviour** for a period of **one year** from today. They shall not indulge in any criminal offence or breach of law during this period. They shall also commit to fostering amity with the victims and not resuming any dispute.

2. **Supervision:** During the probation period, the convicts shall remain under the supervision of the Probation Officer of the area (as appointed by the State). They shall cooperate with the Probation Officer, if any guidance or reporting is required, and shall abide by any additional conditions that the Probation Officer may impose in writing to ensure good conduct.
3. **Appearance:** The convicts shall appear before this Court or the Probation Officer as and when directed. They shall keep the Court informed of any change of address. If any of them is found to violate the bond conditions or commit any offence during the probation period, they will be liable to be called back and sentenced for the original offence.
4. **Compensation (Reparation to Victims):** As a condition of probation (per Section 5 of the Probation of Offenders Act, 1958), each convict is ordered to pay a sum of **₹1,500/- (One Thousand Five Hundred Rupees)** – making a total of **₹7,500/-** to be realized from the five convicts – as compensation to the injured victims. The total amount, upon collection, shall be disbursed as follows: **₹3,000/-** to injured **Bhura (PW-2)**, **₹3,000/-** to injured **Najma (PW-5)**, and **₹1,500/-** to injured **Islam (PW-6)**, in view of the injuries they suffered. This compensation is deemed adequate and reasonable in the circumstances (considering minor injuries and passage of time). The convicts shall deposit their respective amounts in court within **one month** from today. If any of the convicts fails to make the deposit, the Probation Officer/Court may take steps to enforce the bond as per the law.

52. This approach not only serves as an admonition and deterrent to the convicts (as the conviction is on record), but also provides **some solace to the victims** in the form of monetary compensation. The Court believes this will meet the ends of justice by balancing the rehabilitation of the convicts with the interests of the victims.

53. The convicts are hereby **released** on executing the aforesaid bonds. Their sureties (for probation) will remain in effect for the bond period. The previous bail bonds are discharged; instead, bonds under probation are to be executed.

54. Let a copy of this judgment be given **free of cost** to each of the convicts forthwith. Also, a copy shall be forwarded to the **District Probation Officer, Kannauj**, for monitoring compliance. The Probation Officer is directed to keep vigilance on the conduct of the convicts and report any breach to this Court.

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The convicts are informed that if they violate the bond conditions or commit any offence during the probation period, they will be liable to be sentenced for the original offence (Section 8, Probation of Offenders Act). Conversely, if they comply and complete the period, they will hear no more of this matter and may even earn a discharge of conviction as per law.

**55. Compliance and Closure:** Upon the successful completion of the probation term and compliance with the conditions, the Probation Officer shall submit a closure report, and the bonds shall be discharged. If compensation is deposited, the amounts shall be released to the victims as directed, after the appeal period or as per any appellate order.

**Announced in open Court today, 09th July, 2025.**

**(Chandroday Kumar)**

Sessions Judge, Kannauj.