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**In The Court of Sessions Judge, Ambedkar Nagar****Present: Chandroday Kumar, H.J.S.****J.O. Code: UP06553****Sessions Trial No.: 116/2013****State of Uttar Pradesh****---Prosecution****Versus****Premnarayan Majhi, son of Mithai Lal****Pradeep Kumar Majhi, son of Mithai Lal****Amit Kumar Majhi, son of Shauki Lal****Residents of: Mohalla Mubarakpur, Police Station Kotwali Tanda,  
District Ambedkar Nagar****---Accused Persons****Case Details****Crime Number: 108/2005****Sections:****Section 323 IPC – Causing simple hurt****Section 308 IPC – Attempt to commit culpable  
homicide/attempt to cause grievous injury****Section 325 IPC – Causing grievous hurt****Section 506 IPC – Criminal intimidation****Police Station: Kotwali Tanda****District: Ambedkar Nagar****Judgment****Introduction**

**1. Case Overview:** This judgment arises from Sessions Trial No. 116 of 2013, State vs. Prem Narayan Majhi and Others, concerning an incident that allegedly took place on March 13, 2005. The three accused – Prem Narayan Majhi, Pradeep Kumar Majhi, and Amit Kumar Majhi – all residents of Mohalla Mubarakpur, PS Kotwali Tanda, District Ambedkar Nagar, were sent up for trial on charges under Sections 323, 325, 308, and 506 of the Indian Penal Code (IPC). The charges stem from allegations that the accused, armed with lathis (wooden sticks), brutally assaulted one Radheshyam Majhi (the victim) over an old enmity, causing him serious injuries including a fractured leg, and threatened to kill him and those who intervened.

**2. FIR and Investigation:** A First Information Report (FIR) was promptly lodged at PS Kotwali Tanda on March 13, 2005 at 11:10 AM –

roughly 40 minutes after the 10:30 AM incident – on the written complaint of Smt. Kanchan (sister-in-law of the victim). In her report, Kanchan stated that all four assailants (the three accused and one Shauki Lal Majhi) attacked Radheshyam with lathis, rendering him unconscious and breaking his left leg, and fled after issuing death threats. The victim was transported to the police station in an unconscious state on a cart for lodging the report, and then sent for medical treatment. The police registered Crime No. 108/2005 under Sections 308, 325, and 506 IPC and took up investigation. During investigation, a site plan of the scene was prepared and witnesses' statements were recorded. An X-ray of the victim's left leg was conducted on March 15, 2005, confirming a fracture. Subsequently, the Investigating Officer (I.O.) added Section 323 IPC to the case (for additional simple injuries) and filed a charge-sheet against the accused under Sections 323, 308, 325, 506 IPC. (The fourth accused, Shauki Lal, passed away during trial, and proceedings against him abated.)

**3. Committal and Charges:** Given that an offence under Section 308 IPC is exclusively triable by the Court of Sessions, the case was committed to the Sessions Court by the Chief Judicial Magistrate on May 30, 2013. Charges were formally framed against the remaining three accused under Sections 323, 325, 308, and 506 of the IPC (all three accused jointly charged for each count). The accused pleaded not guilty and claimed trial.

**4. Prosecution Evidence:** In support of its case, the prosecution examined 11 witnesses in total. The material witnesses to the occurrence were:

**PW-1 Smt. Kanchan (w/o Jairam) – the informant/complainant (and sister-in-law of the victim).**

**PW-2 Radheshyam Majhi – the victim of the assault.**

**PW-3 Smt. Kanchan (w/o Radheshyam) – wife of the victim (an eyewitness who arrived during the incident).**

**PW-6 Shri Dinesh Yadav – a neighbour who witnessed and intervened in the incident.**

**PW-8 Shri Jiyalal – another neighbour present at the scene.**

**PW-9 Shri Satyendra Vishwakarma – a resident of the locality (witness to aftermath).**

**5.** Additionally, the prosecution produced formal witnesses: PW-4 Dr. R.P. Gupta (Radiologist) who conducted the X-ray; PW-5 Rajmani (Pharmacist) who produced medical records; PW-7 Jagat Narayan Tripathi (Retired Inspector) – the Investigating Officer; PW-10 Rajkesh

(Retired Head Constable) who registered the FIR; and PW-11 Dr. Rajeshwar Yadav who medically examined the victim's injuries. The documentary evidence included the X-ray report (Ex. Ka-1), Injury Reports (Ex. Ka-2 & Ka-2A), site plan of the place of occurrence (Ex. Ka-3), charge-sheet (Ex. Ka-4), written complaint/FIR (Ex. Ka-5 & Ka-6), and the General Diary entry (Ex. Ka-7).

**6. Defence Case:** The accused were examined under Section 313 of the Code of Criminal Procedure, where they denied all incriminating evidence. Their defence was that Radheshyam sustained his injuries by accidentally falling into a deep concrete drain (nali) near his house due to intoxication, and that the case was a false implication owing to a land dispute (enmity) between the families. They alleged that the complainant (PW-1) colluded with a friendly neighbour (PW-6 Dinesh) and the police to lodge a fabricated report. In defence evidence, DW-1 Pradeep Kumar Majhi (accused No.2 himself) testified to support this theory, though no independent or documentary evidence was adduced.

**7. Arguments:** Learned DGC (Criminal) for the State argued that the prosecution's evidence cogently establishes that on 13.03.2005 the accused formed an unlawful assembly (or, at least, acted in concert) and beat the victim Radheshyam with lathis, causing multiple injuries, including a fractured left leg, and further intimidated him with death threats. It was urged that the ingredients of Sections 323, 325, and 506 IPC are fully satisfied by the evidence, and that the accused should be convicted accordingly. The defence counsel contended, per contra, that the FIR was ante-timed and concocted "after due deliberation" to implicate the accused due to enmity falsely. He pointed out contradictions in the witnesses' statements and emphasised that no truly independent witness corroborated the prosecution (asserting that all eyewitnesses were relatives or interested persons). He argued the lack of a proven motive and the implausibility of the prosecution's narrative, submitting that the evidence is unreliable and, at best, indicates an accidental injury (as claimed by the accused), warranting acquittal.

**8.** Having heard the rival submissions and carefully examined the entire evidence on record, this Court now proceeds to formulate the points for determination.

### **Points for Determination**

- 1. Whether the accused persons on 13.03.2005 at about 10:30 AM in village Mubarakpur voluntarily caused hurt and grievous hurt to Radheshyam Majhi by assaulting him with lathis, and thereby committed offences punishable under Sections 323 and 325 of the IPC?**

2. **Whether in the course of the same transaction, the accused persons did any act with such intention or knowledge and under such circumstances that, if that act caused death, they would be guilty of culpable homicide not amounting to murder, and thereby committed an offence under Section 308 of the IPC (attempt to commit culpable homicide)?**
3. **Whether the accused persons, at the time of committing the alleged assault, threatened to kill or cause death to the victim (and the intervening witnesses), with intent to cause alarm, thereby committing criminal intimidation punishable under Section 506 of the IPC?**
4. **If the above points are proved, what sentences should be imposed on the convicted accused?**

### **Appreciation of Evidence**

**9. Eyewitness Testimonies:** The star witness is PW-2 Radheshyam Majhi, the victim himself. He deposed that around 10:30 AM on 13.03.2005, while he was standing at his doorstep, the four named assailants (the three accused and the deceased Shauki Lal) suddenly arrived, each armed with a lathi, and started beating him in front of his house. He stated that he cried out in pain, upon which his neighbours, PW-6 Dinesh Yadav and PW-8 Jiyalal, as well as his brother's wife, PW-1 Kanchan (the complainant), came running to intervene. According to Radheshyam, the accused continued to assault him until more people gathered, at which point the accused fled, not before issuing a threat "to kill (jaan se maar denge)" him and those who came to help. Radheshyam testified that as a result of the beating, he sustained multiple injuries and lost consciousness at the spot, and that he later regained consciousness in the hospital. Crucially, he stated that the blows broke his left leg. He also disclosed the background of enmity: a long-standing land dispute with accused Prem Narayan Majhi, which presumably motivated the attack.

**10. Under cross-examination,** PW-2 Radheshyam's credibility remained intact on material points. He candidly admitted that he was unconscious during the FIR lodging and therefore did not himself name the assailants at that time. He denied the defence's suggestion that he was intoxicated or that he fell into a drain, firmly asserting that his injuries were not from any accidental fall. He maintained that about 15-20 villagers had gathered during the incident, none of whom (including the rescuers) sustained injuries while rescuing him. Minor discrepancies elicited (such as estimates of distances or the exact layout of the houses and drains) do not shake his core testimony. For instance, he estimated Dinesh's house to be about 100+ meters away (not very far), clarifying that several houses lay in between. Such minor variations are natural

and expected after a significant lapse of time (the testimony was recorded in 2023, almost 18 years after the incident). His account that all the named accused participated in assaulting him with lathis, and that he sustained a fractured leg and other injuries as a direct result, remains unshaken.

**11. PW-3 Smt. Kanchan (Victim's Wife):** Another crucial eyewitness is the victim's wife, Kanchan (not to be confused with PW-1 of the same first name). She corroborated her husband's account in all significant respects. PW-3 testified that upon hearing Radheshyam's cries, she, along with her devarani (younger brother-in-law's wife, i.e. PW-1) and neighbours Dinesh and Jiyalal, rushed to the spot. She saw the four accused beating Radheshyam with lathis, and by the time they intervened, Radheshyam had already suffered severe injuries and fallen unconscious. She specifically stated that the accused threatened "to kill us" before fleeing. According to her, Radheshyam's left leg was broken due to the assault. In **cross-examination**, PW-3 Kanchan refuted the defence's alternate narrative. She testified that it was false to suggest her husband was drunk and fell into a gutter; she noted there is a drain in front of the house, but it is covered and not the cause of injury. She also affirmed that it took them about 20 minutes to reach the police station by cart, during which her husband remained unconscious (even upon arrival at the hospital). She did not waver on having witnessed the assault. Minor inconsistencies, such as slight differences between her description of the courtyard's orientation versus the site plan, are trivial. She had no hesitation in denying any suggestion of a false case due to land rivalry, reinforcing that the complaint was genuine and prompt.

**12. PW-6 Shri Dinesh Yadav:** Dinesh is a neighbour with no familial relation to the victim, an independent eyewitness who lends substantial weight to the prosecution's story. He deposed that on the morning of 13.03.2005, he heard loud cries and commotion from Radheshyam's house. He immediately went there and witnessed Prem Narayan, Pradeep, Amit, and Amit's father, Shauki Lal, assaulting Radheshyam with lathis. He stated that he, along with others, tried to stop the assault. His testimony mirrors the victim's narrative: the accused fled upon the intervention of neighbours, not before threatening to kill those present. Dinesh's description of the incident and the identities of the assailants align perfectly with PW-2 and PW-3. In cross-examination, the defence highlighted that Dinesh lived some distance away (he estimated roughly 125 meters, though at one point he approximated it as one kilometre, which appears to be a lapse in estimation). This inconsistency in distance is not of much consequence – whether 125 meters or more, Dinesh clearly was within earshot of the commotion and promptly arrived at the scene. He confirmed being present when the written report was

dictated at the police station (explaining why his name appears as one who intervened). The defence could not impeach his core testimony that he saw the accused beating Radheshyam. No suggestion was made that Dinesh bore any personal grudge against the accused; indeed, his presence was natural, and his reaction – rushing to help a neighbour – was instinctive. His evidence thus comes across as reliable and unbiased.

**13. Other Witnesses (PW-1, PW-8, PW-9):** The prosecution faced some setbacks as two witnesses became hostile/unsupportive. PW-1 Smt. Kanchan (Informant), the victim's sister-in-law and the author of the FIR, surprisingly did not support the prosecution in court. On the stand, she claimed she did not actually see the assault and even denied having written or signed the FIR, alleging someone forged her signature. She was declared a hostile witness by the prosecution. In cross-examination by the prosecutor, PW-1 admitted that she went to see Radheshyam's injuries after the incident and did see that his leg was broken. However, she persisted that she did not witness the beating and maintained that she had strained relations with the victim's family. It appears that, due to intra-family discord or the passage of time, the informant retracted her earlier account. Similarly, PW-8 Jiyalal, a neighbour who was named as an eyewitness, turned hostile. In his testimony, he feigned ignorance of the incident, stating he did not see the accused beat Radheshyam and that nothing happened in front of him, directly contradicting his earlier police statement. The court permitted the prosecution to cross-examine him, but he did not revert to his original version.

**14.** PW-9 Satyendra Vishwakarma did not meaningfully advance the prosecution's case either. He was a peripheral witness who essentially testified that he only heard about a quarrel between the families but did not witness the incident firsthand. Thus, PW-9's testimony added little of substance.

**15. Assessment of Hostile Witnesses:** The retraction by PW-1 and PW-8 undoubtedly introduces some inconsistency in the narrative. However, their volte-face does not fatally wound the prosecution's case. The law is well settled that the testimony of a hostile witness is not entirely effaced from the record; the Court can rely on so much of a hostile witness's testimony as is corroborated by other reliable evidence (K. P. TAMILMARAN Versus THE STATE BY DEPUTY SUPERINTENDENT OF POLICE: 2025 INSC 576). Here, PW-1 Kanchan's hostile turn is mitigated by the fact that she lodged an extremely prompt FIR naming all the accused within minutes of the incident, and that version is fully supported by other evidence. Even though in court she denied seeing the assault, her immediate conduct in

taking the injured to the police station and initiating the complaint (as affirmed by PW-10, the officer who took the FIR) speaks volumes. Moreover, she did acknowledge the critical fact that Radheshyam's leg was broken that day. As for PW-8 Jiyalal, his earlier presence and seeing the assault is corroborated by PW-2, PW-3, and PW-6, who all placed him at the scene attempting to rescue the victim. His denial in court appears to be a classic case of a witness succumbing to pressure or simply not wanting to remain involved after so many years – a not uncommon phenomenon. The Court thus separates the grain from the chaff, accepting the credible portions of the hostile witnesses' pre-trial statements (to the extent corroborated by true eyewitnesses) while discarding their in-court fabrications.

**16. Medical Evidence:** The medical evidence robustly supports the occurrence and the nature of injuries sustained. PW-11 Dr Rajeshwar Yadav, who examined Radheshyam on 13.03.2005 at the Community Health Centre, found multiple injuries on his body. The injury report (Ex. Ka-2) documents numerous contusions, abrasions, and lacerations on the victim's neck, face, arms and legs. Significantly, there were lacerated wounds and bruises on the left leg around the ankle and below the knee, corresponding to the area of the fracture. Dr Yadav noted signs of a possible fracture in the left lower leg and referred the patient for radiological examination. PW-4 Dr R.P. Gupta, the radiologist at the District Hospital, Faizabad, testified that on 15.03.2005, he took X-ray plates of Radheshyam's left leg in his supervision (X-ray plate nos. 1577 and 1578) and prepared the X-ray report (Ex. Ka-1). He confirmed that the X-ray revealed a fracture of a bone in the left leg (as recorded in his report) – thus medically classifying the injury as a grievous hurt (fracture of bone) within the meaning of Section 320 IPC. PW-5 Rajmani (Pharmacist) produced the Medico-Legal Register entry for the victim (MLC No. 96/2005) dated 13.03.2005, and a certified copy of the injury report (Ex. Ka-2 & 2A). These documents, duly proved, show the contemporaneous medical findings, leaving no doubt that Radheshyam suffered serious bodily harm, including a fractured left fibula/tibia, consistent with being beaten by blunt objects like sticks. The medical evidence categorically rules out a mere trivial fall: the sheer number and distribution of injuries (including on the face, arms, both legs, and even a laceration on the gum near the teeth) are indicative of an assault. It would strain credulity to suggest that a single accidental fall in a drain could cause such multiple injuries on different body parts, including a clean leg fracture. The doctors further deposed that none of these injuries were self-inflicted; they were caused by impact with or blows from a hard, blunt object, consistent with lathi blows. There is also

evidence that Radheshyam remained unconscious for some time due to pain and shock, reinforcing the severity of the beating.

**17. Delay or FIR Manipulation:** The defence attacked the FIR as being delayed or concocted after “due deliberation”. This argument is plainly untenable. The incident occurred at around 10:30 AM, and by 11:10 AM, the FIR was registered, as corroborated by PW-10, HC Rajkesh, and the FIR itself. The victim – severely injured and unconscious – was brought directly to the police station by family and neighbours within roughly 30-40 minutes, which by rural standards is impressively prompt. There was hardly any time for tutoring or fabrication; the names of all the accused were given then and there, while the blood was still fresh and the occurrence was still unfolding (they came straight from the scene). A prompt FIR not only lends credibility to the prosecution's version but also negates the possibility of an afterthought or embellishment in naming the accused. In fact, the FIR was lodged even before the victim was taken to the hospital, underscoring its spontaneity. Furthermore, PW-10 (the duty officer) confirmed that he prepared the written FIR as narrated by the informant Kanchan, obtained her signature, and immediately sent the victim for medical examination by dispatching him to the hospital on the same cart with a constable. These facts rebut the defence's insinuation that the FIR was a result of a conspiracy with the police.

**18. Motive and Enmity:** The presence of prior enmity (land/property dispute) between the victim's family and accused Prem Narayan was testified by prosecution witnesses and is indeed the backdrop of this crime. Enmity is a double-edged sword in criminal law: it often acts as a motive for the accused to commit assault, but it can also be a reason put forth by the defence to allege false implication. In the present case, the enmity is a proven fact and explains why the accused would seek to harm Radheshyam. There is no evidence of any other perpetrators; thus, the suggestion that the victim's family would falsely implicate these particular accused out of enmity, while the real cause was an “accident”, rings hollow. No family would self-inflict such grave injury (a broken leg) and also other injuries on one of their own merely to frame opponents. Moreover, the consistent eyewitness accounts and immediate reporting neutralise the theory of a planted case. The Court is mindful that witnesses related to the victim might harbour animus against the aggressors; hence, their testimony is scrutinised with caution. However, a relationship per se is not a valid ground to discredit a witness. As recently reaffirmed by the Hon'ble Supreme Court, in the case of [Baban Shankar Daphal vs The State Of Maharashtra on 22 January, 2025: 2025 INSC 97](#), that “merely if a witness is a relative, their testimony cannot be discarded on that ground alone”. Here, PW-2



(victim) and PW-3 (wife) are indeed interested in seeing the culprits punished, but they were the natural witnesses to the crime, and their presence at the scene is unquestionable. They withstood cross-examination well, and their accounts are supported by independent evidence (medical and PW-6's testimony). The Hon'ble Supreme Court has drawn a distinction that an "interested" witness is one who has a direct stake in falsely implicating someone, whereas a "related" eyewitness who happened to be at the scene should not be presumed untruthful solely due to the relationship. In the instant case, no cogent evidence suggests that the victim's wife or the victim himself had any intent to implicate innocents; to the contrary, their narrative is plausible and consistent with physical evidence. Indeed, as observed in [Dalip Singh And Others vs State Of Punjab on 15 May, 1953: 1953 AIR 364](#), a close relative of a victim is usually the last person to want to let the real offender go free and implicate an innocent one.

**19. Minor Discrepancies:** The defence highlighted certain minor discrepancies (such as exact measurements of distances, whether the drain was open or covered, the precise orientation of the victim's courtyard in the site plan, etc.). These have been considered and found to be trivial aspects that do not touch the core of the prosecution's case. Human memories after a long gap are bound to falter on fine details. What is critical is that the core facts remain steady: all key witnesses uniformly stated that the accused assaulted the victim with the lathis, causing a broken leg and other injuries, and that the accused uttered threats while fleeing. The law is well-established that "minor contradictions or inconsistencies in testimony do not necessarily render it unreliable, as long as the core facts remain intact. The role of the court is to discern the truth by considering the evidence in its totality and not by isolating individual inconsistencies to discredit an entire narrative." Viewed holistically, the minor variations here actually lend a natural texture to the testimonies – they indicate the witnesses were not reciting a parroted script, but recalling events from memory, with the inevitable imperfections of honest observation.

**20. Defence Theory (Accidental Fall):** The defence version that Radheshyam fell into a drain and injured himself is not supported by any convincing evidence. The accused who testified (DW-1 Pradeep) had a vested interest, and his self-serving statement carries little weight against the strong prosecution evidence. Not a single neutral witness from the locality was produced to back up the claim of an accident. Tellingly, the Investigating Officer PW-7 stated that none of the witnesses he examined ever suggested that the victim's fracture came from a fall in a drain, and that the drain was in fact covered, not an open ditch as implied. PW-3 also confirmed the drain outside their house is

covered and that her husband does not consume alcohol, countering the insinuation that a drunken Radheshyam stumbled into it. Furthermore, had the incident been an accident, one would expect the accused (who are neighbours) to assist, perhaps, or at least there would be no reason for an immediate accusation of assault. Instead, we have a contemporaneous FIR detailing a deliberate attack. The sheer gravity of the victim's injuries (a complete leg fracture) and the presence of multiple bruises and wound marks are far more consistent with repeated blows by sticks than a single fall. It is also noteworthy that the accused fled the village after the incident and were arrested the next day (per IO's testimony), conduct more consistent with guilt than innocence. In sum, the defence story is an afterthought devoid of any credibility. It appears to be a desperate attempt to exploit the existence of a drain near the scene – a theory thoroughly discredited by prosecution evidence and even the site map (which notes the drain but shows the incident took place in the courtyard). The Court, therefore, rejects the defence theory as false.

**21.** Having analysed the evidence, the Court finds that the prosecution has proved beyond a reasonable doubt that all three accused, acting in concert, voluntarily caused hurt and grievous hurt to Radheshyam and criminally intimidated him on 13.03.2005. However, the evidence does not establish the ingredients of an attempt to commit culpable homicide under Section 308 IPC, as discussed below.

### **Legal Provisions and Case Law**

**22. Voluntarily Causing Hurt (Sec. 323 IPC) & Grievous Hurt (Sec. 325 IPC):** Section 323 IPC punishes voluntarily causing hurt (simple injuries), whereas Section 325 IPC punishes voluntarily causing grievous hurt (as defined in Section 320 IPC) when done not under sudden grave provocation. To secure a conviction under these provisions, the prosecution must prove that the accused intentionally caused bodily pain, injury or infirmity to the victim (for hurt), and that the hurt caused was of a grievous nature (for Section 325), such as a fracture of a bone. In the present case, the medical evidence (Ex. Ka-1, Ka-2) confirms that Radheshyam sustained a fracture of the left leg bone, which is explicitly classified as "grievous hurt" under Section 320 IPC ("fracture or dislocation of a bone" is grievous by definition). Additionally, he suffered multiple contusions, lacerations, and abrasions, which constitute simple hurt. The intent to cause hurt can be inferred from the deliberate beating administered by the accused. There was no lawful justification or sudden provocation; instead, it appears motivated by prior enmity. Thus, all the legal ingredients of Sections 323 and 325 IPC are satisfied. Each accused is vicariously liable for the

injuries caused by the others as well, since the evidence demonstrates they acted in furtherance of a common intention to assault (all came together, armed and participating in the joint beating). Although Section 34 IPC (common intention) was not separately charged, the principle is embedded in our assessment of their collective conduct. Notably, there is no requirement of recovery of the weapon (lathi) for conviction – the testimonies and injury patterns sufficiently establish that lathis (or similar blunt weapons) were used.

**23. Attempt to Commit Culpable Homicide (Sec. 308 IPC):** Section 308 IPC applies when a person does an act with such intention or knowledge and under such circumstances that, if death were caused, the act would amount to culpable homicide not amounting to murder. It essentially criminalises an attempt to commit culpable homicide. The emphasis is on the offender's mental state – the prosecution must prove that the accused had a requisite intention or knowledge of the kind required for culpable homicide (as defined in Section 299 IPC) while performing the act. To secure a conviction under Section 308 IPC, it must be shown that the accused acted with the intent or knowledge that their act was likely to cause death (though death did not actually result). If the act causes hurt, the severity and nature of injuries can be a guide to infer intent, but not every grievous hurt is an attempted homicide. There is a subtle distinction: under Section 308, the injury must be such as is likely to cause death, whereas if the injuries are not life-threatening, the offence may lie only in hurt provisions. In [Bishan Singh & Anr. vs. State on 9 October, 2007: 13 SCC 65](#), the Supreme Court observed that before an accused can be held guilty under Section 308 IPC, the court must find that the ingredients – particularly the intention or knowledge to cause culpable homicide – are present. Likewise, Section 308 “postulates doing an act with such intention or knowledge and under such circumstances that if by that act death was caused, the offender would be guilty of culpable homicide not murder,” and it distinguished this from cases where only hurt is intended. Acts resulting in “simple hurts can be punished under Sections 323/324, and grievous hurts under Sections 325/326 IPC” – qualitatively, these offences differ from an attempt on someone's life.

**24.** Applying these principles to the case at hand, the Court finds that the evidence does not establish the specific intent or knowledge requisite for Section 308 IPC. The accused certainly intended to cause hurt (even grievous hurt) to the victim, but there is insufficient proof that they intended or knew that their actions were likely to cause his death. Several factors lead to this conclusion:

25. The attack, though vicious, was directed mostly at the victim's limbs (legs and arms) and perhaps his back – there is no evidence of any stab or penetrating wounds, or of targeted blows to vital areas like the head or torso that would ordinarily indicate an intention to kill. The most severe injury was the broken left leg. While painful and serious, a fractured leg is ordinarily not an injury likely to cause death. There is no medical testimony suggesting that the injuries were life-threatening. In fact, the victim, after treatment, recovered from the fracture.

26. The accused, despite inflicting a fracture, ceased their attack when people intervened and fled rather than persisting until the victim's life was in imminent peril. Had they intended to kill or fatally injure, they could have continued the assault on an unconscious man or used more lethal force. Their verbal threats "to kill" are noted, but those alone cannot elevate the nature of the act to an attempt to homicide – such words are covered under the intimidation charge. The actual conduct of the accused and the resultant injuries are the primary considerations for Section 308. Here, the conduct shows an intention to beat up and terrify the victim, but not to end his life.

27. The prosecution did not specifically demonstrate that the accused knew that their act would likely cause death. No doubt beating someone with a lathi can, in extreme cases, cause death (e.g. if vital organs are hit), but in the present case, the manner and outcome of the assault suggest the aim was to hurt grievously, not to kill. The surrounding circumstances – a feud and a daytime attack in a residential area – point more toward an act of violent retribution or intimidation rather than a premeditated attempt to eliminate the victim.

28. Given this analysis, this Court is persuaded by the ratio of the above-cited cases that Section 308 IPC is not made out. The acts of the accused, reprehensible as they are, amounted to causing grievous hurt and criminal intimidation, but did not rise to the level of an attempt to culpable homicide.

**29. Criminal Intimidation (Sec. 506 IPC):** Section 506 IPC punishes the offence of criminal intimidation as defined in Section 503 IPC. The definition entails threatening another with injury to the body, life, or property with the intent to cause alarm or to compel that person to do or omit to do any act. In the instant case, the evidence is clear that as the accused were retreating, they shouted that they would kill the victim and those who came to help. Both PW-2 and PW-3 unequivocally testified about the death threats issued ("jaan se maar dene ki dhamki"), and PW-6 confirmed hearing the accused threaten to kill while fleeing. These utterances were not empty words in a vacuum – they were made in the midst of an assault, thus intending to instil extreme fear. The

victim and his family members indeed would have been alarmed by such dire threats, especially since the accused had demonstrated violence. There is no suggestion that these words were not uttered or that they were trivial. Therefore, the ingredients of Section 506 IPC are satisfied. Given that the threats involved killing (death) – which is “injury to life” – this would fall under the aggravated form (commonly referred to as Section 506 Part II IPC), carrying up to 7 years’ imprisonment. No separate sanction or charge is needed, as Section 506 was already part of the charge. The conviction under Section 506 IPC thus squarely follows from the testimonies.

**30. Corroborative and Precedential Support:** It is worth noting that the prosecution's overall story finds reassuring support in circumstantial consistency and the parties' conduct. The prompt FIR, the medical reports, and the immediate arrests (three of the accused were arrested the very next day, March 14, 2005, per PW-7 IO's evidence) all corroborate the direct evidence. Jurisprudence instructs that when the core of eyewitness testimony is credible and corroborated by medical evidence, convictions should not be overturned for minor lapses. If the eyewitness accounts inspire confidence and are consistent on material particulars, a conviction can be based thereon even if there are some discrepancies or technical lapses in the investigation. In this case, the Court is fully convinced of the accused's guilt for the offences of causing hurt/grievous hurt and intimidation. On the other hand, guided by the legal standards discussed, the Court is not convinced of the guilt under Section 308 IPC – to hold otherwise on these facts would be to overstretch the penal provision beyond its intent.

## **Findings**

In light of the foregoing discussion, the Court records its findings on the Points for Determination as follows:

**31. Points 1 & 3 (Hurt, Grievous Hurt & Criminal Intimidation): Proven.** The prosecution has established beyond a reasonable doubt that the accused Prem Narayan Majhi, Pradeep Kumar Majhi, and Amit Kumar Majhi, on 13.03.2005, in furtherance of their common intention, voluntarily caused hurt and grievous hurt to Radheshyam Majhi by assaulting him with lathis, and further criminally intimidated the victim (and the witnesses who intervened) by threatening to kill them. The accused are accordingly found guilty of offences punishable under Sections 323, 325, and 506 of the IPC.

**32. Point 2 (Attempt to Culpable Homicide): Not Proven.** The evidence falls short of proving that the accused acted with the intention or knowledge of causing death to Radheshyam. While grievous injuries

were inflicted, the requisite mens rea for Section 308 IPC is not established beyond a reasonable doubt. The accused are therefore acquitted of the charge under Section 308 IPC.

Having found the accused guilty of the substantive offences of hurt, grievous hurt, and intimidation, the Court must now decide the appropriate sentence.

### **33. Sentencing (Order on Quantum of Sentence)**

The convicts were heard on the question of sentence. The Court has taken into account the nature of the offence, the circumstances of the case, and the character of the offenders. Notably, the incident occurred in 2005 – over 20 years ago. The convicts have faced the rigours of a protracted trial for nearly two decades. During this prolonged period, no further misconduct by them has been reported, and they have been reported to have maintained good behaviour in the community. They are first-time offenders with no prior criminal record, brought to the Court's attention. All three are residents with stable family ties. Given these factors – the age of the case, the clean antecedents of the convicts, and the fact that they have already undergone the stress of lengthy litigation – the Court is of the opinion that incarcerating them at this stage would serve little purpose. Instead, it would be more expedient to afford them an opportunity to reform.

**34.** Accordingly, the Court decides to extend the benefit of the Probation of Offenders Act, 1958, to the convicts. Section 4 of the said Act empowers the court, upon considering the circumstances of the case and the nature of the offender, to release a convict on probation of good conduct instead of sentencing him to immediate punishment, on entering a bond. Exercising this power, each of the three convicts is released on probation of good conduct under Section 4 of the Probation of Offenders Act, 1958. They shall not be sent to prison for the above convictions, provided they abide by the following conditions:

**35.** Each convict shall furnish a personal bond in the sum of ₹50,000/- (Rupees Fifty Thousand) with one surety in the like amount, to appear and receive sentence when called upon during a period of two years, and in the meantime to keep the peace and be of good behaviour. The bond shall be executed forthwith before the Probation Officer. The convicts are warned that if they violate the bond conditions or are found involved in any criminal offence during the probation period, they will be liable to be brought back to court and sentenced for the original offences.

**36.** In addition, in exercise of the powers under Section 5 of the Probation of Offenders Act, 1958, read with Section 357(1) of the CrPC, the Court

orders each convict to pay compensation of ₹10,000/- (Rupees Ten Thousand only) to the victim Shri Radheshyam Majhi for the pain, suffering, and losses caused by the offence. This compensation is deemed reasonable in view of the grievous hurt caused. The amount shall be deposited in Court for disbursal to the victim (or paid directly to the victim under proper acknowledgement) within three months from today. If the convicts default in payment of the compensation, the amount shall be recovered from them as if it were a fine, as per law. Section 357(1) CrPC enables the Court to apply fines towards compensation for the injury to the victim; in the present case, even though no fine is formally imposed, this compensation order is made to ensure some reparative justice to the victim for the serious injuries he suffered.

**37.** The convicts are thus given a chance to reform and avoid incarceration, but they must strictly adhere to good conduct. A copy of this judgment, along with a Probation Release Order, shall be furnished to the District Probation Officer, who shall monitor the convicts' conduct during the probation period and report any violations to this Court. Further, as provided by Section 12 of the Probation of Offenders Act, 1958, the convicts shall not suffer disqualification, if any, attaching to a conviction (for instance, in matters of employment) because of this order of release on probation.

**38. Conclusion:** The case stands disposed of with the above conviction, probation order, and compensation direction. The bail bonds of the convicts (if any in this case) shall continue for the period of probation and stand discharged thereafter, subject to compliance with this order.

The convicts are directed to cooperate in the execution of bonds and payment of compensation. In default of compliance, appropriate steps shall be taken as per law.

The accused are on bail. Their bail bonds are cancelled, and sureties are discharged.

**39. Copy to District Magistrate:** In compliance with Section 365 CrPC, a certified copy of this judgment be sent to the District Magistrate, Ambedkar Nagar, for information.

The Judgment is signed, dated and pronounced in open court on this 2<sup>nd</sup> day of December, 2025.

(Chandroday Kumar)  
Sessions Judge, Ambedkar Nagar (U.P.)  
J.O. Code: UP06553