

UPAN010024672025



Date of Institution	Date of Judgment	Age
24-05-2025	07-05-2026	0 Y, 11 M, 13 D
Date of Argument	Date of Judgment	Age
04-05-2026	07-05-2026	0 Y, 0 M, 3 D
Date of Judgment	Date of Uploading	Age
07-05-2026	07-05-2026	0 Y, 0 M, 0 D

IN THE COURT OF THE SESSIONS JUDGE, AMBEDKAR NAGAR

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

Sessions Trial No. 415/2025

State

----- Prosecution

Versus

Dinesh Kumar, son of Mithailal, resident of Village Mohammadpur
Musalman, P.S. Hanswar, District Ambedkar Nagar ----- Accused

Case Crime No. 42/2025

Sections: 105, 352, 351(3) BNS

Police Station: Hanswar

District: Ambedkar Nagar

Counsel for the Prosecution: Govind Srivastav, DGC (Criminal)

Counsel for the accused: Ramesh Ram Tripathi, LACDC

Judgment

1. In Case Crime No. 42/2025, a charge-sheet was submitted before the court against the accused Dinesh Kumar by the police of Police Station Hanswar, District Ambedkar Nagar, for offences punishable under Sections 105, 352, and 351(3) of the Bharatiya Nyaya Sanhita (BNS).
2. Since the matter was exclusively triable by the Court of Session, the record was committed for trial by the Civil Judge (Senior Division) / Additional Chief Judicial Magistrate, Ambedkar Nagar on 22.05.2025.
3. Briefly stated, the prosecution's case is that the informant Ankit Kumar submitted a written report at Police Station Hanswar on 13.03.2025 at about 09:11 a.m., stating that his uncle Mithailal had

been living with them for the last two months and used to eat and stay with them. On 12/13.03.2025 at about 12:30 a.m., their neighbour Dinesh, son of Mithailal, came and started abusing their uncle in filthy language and began beating him. On hearing his cries, the informant's sister Chanda and nearby people arrived, whereupon Dinesh fled from the spot, threatening to kill. Thereafter, the uncle was found lying injured. With the help of neighbours, they took him by 108 ambulance to CHC Baskhari, from where the doctor referred him to PGI Sadarpur. There, the doctor declared him dead. The dead body was lying in the medical college. Legal action was requested.

4. On the basis of the aforesaid written report of the informant Ankit Kumar, Case Crime No. 42/2025 under Sections 105, 352, 351(3) BNS was registered at Police Station Hanswar, District Ambedkar Nagar by Constable Moharrir Abhishek Singh against the accused Dinesh Kumar, and the same was entered in G.D. entry No. 15 dated 13.03.2025 at 09:11 a.m.
5. After the registration of the FIR at the police station, the Investigating Officer investigated the matter, inspected the place of occurrence during the investigation, prepared the site plan (Exhibit K-8), and prepared the recovery memo of the alleged weapon, a bamboo stick (Exhibit K-6). During the investigation, relevant and material evidence was collected, and after the completion of the investigation, a charge sheet was submitted in court against the accused Dinesh Kumar under Sections 105, 352, 351(3) BNS (Exhibit K-9).
6. After receipt of the charge-sheet in court, cognisance was taken by the Civil Judge (Senior Division) / Additional Chief Judicial Magistrate, Ambedkar Nagar, on 08.05.2025 under Sections 105, 352, 351(3) BNS. Copies of the prosecution papers were supplied to the accused under Section 187 BNSS, and since the case was triable by the Court of Session, the matter was committed for trial by order dated 22.05.2025.
7. After the record was received for the sessions trial, a charge was framed by the court against accused Dinesh Kumar for the offence punishable under Sections 105, 352, 351(3) BNS. The accused denied the charges and claimed a trial.
8. In support of its case, the prosecution examined the following oral witnesses before the court: PW-1 informant Ankit Kumar, PW-2 Chanda, PW-3 Bahuta Devi, PW-4 Kajal, PW-5 Constable Munshi

Abhishek Singh, PW-6 Dr Maqsood Ahmad, PW-7 Sub-Inspector Vijay Kumar Soni, and PW-8 Sub-Inspector Sanjay Kumar Yadav.

9. The prosecution also relied on documentary evidence, namely: written report (Exhibit Ka-1), inquest report (Exhibit Ka-2), chik FIR (Exhibit Ka-3), G.D. of case registration (Exhibit Ka-4), post-mortem report of the deceased (Exhibit Ka-5), recovery memo of the alleged bamboo stick (Exhibit Ka-6), G.D. of recovery of weapon (Exhibit Ka-7), site plan (Exhibit Ka-8), charge-sheet (Exhibit Ka-9), letter to reserve inspector (Exhibit Ka-10), police form No. 13 for dispatch of dead body for post-mortem (Exhibit Ka-11), police form No. 13 (Exhibit Ka-12), sketch photo of the deceased (Exhibit Ka-13), letter to Chief Medical Officer (Exhibit Ka-14), specimen seal (Exhibit Ka-15), and G.D. (Exhibit Ka-16).
10. The statement of the accused Dinesh Kumar under Section 313 CrPC was recorded. He stated that the prosecution's story was false, that the prosecution witnesses had given false evidence, and that a false charge sheet had been submitted. He further stated that the case had been instituted due to a family dispute. In his special statement, he said that **his father was murdered by unknown persons for unknown reasons and that, due to family enmity, he had been falsely implicated.**
11. The defence examined DW-1 Geeta Devi, wife of Mithailal, as an oral witness before the court.
12. I have heard the learned District Government Counsel (Criminal) for the prosecution and the learned Legal Aid Defence Counsel for the accused.
13. On behalf of the prosecution, it was argued that from the prosecution evidence it is proved beyond reasonable doubt that on 12/13.03.2025 at about 12:30 a.m. in village Mohammadpur Musalman, Police Station Hanswar, District Ambedkar Nagar, the accused abused and threatened to kill the informant's uncle and assaulted him with a bamboo stick, causing serious injuries, due to which he died during treatment. The accused is liable to be convicted for the charges levelled against him.
14. On behalf of the defence, it was argued that a false FIR was lodged after the post-mortem and after due deliberation, naming the accused to grab the property of the deceased. There are contradictions in the statements of the witnesses. There is no independent witness to the occurrence. No motive on the part of the accused has been proved. From the evidence adduced by the

prosecution, the prosecution's story is wholly doubtful, and the accused deserves acquittal.

15. The allegation against accused Dinesh Kumar is that on 12/13.03.2025 at about 12:30 a.m. in village Mohammadpur Musalman, Police Station Hanswar, District Ambedkar Nagar, he abused and threatened to kill the informant's uncle Mithailal and assaulted him with a bamboo stick, causing serious injuries, and he died during treatment.
16. The burden to prove the aforesaid charge beyond a reasonable doubt lies upon the prosecution.
17. To prove its case, the prosecution examined factual witnesses PW-1 Ankit Kumar (informant); PW-2 Chanda; PW-3 Bahuta Devi; PW-4 Kajal, and formal witnesses PW-5 Constable Munshi Abhishek Singh; PW-6 Dr Maqsood Ahmad; PW-7 Sub-Inspector Vijay Kumar Soni, and PW-8 Sub-Inspector Sanjay Kumar Yadav.

Evidence of PW-1 Ankit Kumar

18. PW-1 informant Ankit Kumar, in his examination-in-chief on 04.07.2025, stated on oath that Mithailal, the deceased in this case, was his **uncle. About two months before the incident, his uncle Mithailal had been living with them.** The incident took place on the **night of 12/13.03.2025 at about 12:30 a.m. His pattidar Dinesh came and started beating his uncle while hurling filthy abuses. On hearing his cries, his sister Chanda, he himself, and nearby people reached there.** Thereafter, Dinesh left, threatening to kill. The accused Dinesh had beaten his uncle Mithailal with a stick, causing injuries to the head and face. A tooth had broken, and blood was coming from the nose. He had fallen down in an injured condition.
19. He further stated that they took him with the neighbours' help to CHC Baskhari. Due to his serious condition, the doctor immediately referred him to Medical College Saddarpur, Tanda. There, the doctor declared him dead. The police from Police Station Aliganj came and carried out the inquest. The body was sealed and sent for post-mortem.
20. He further stated that among those present at the spot, he and village residents Ajay Kumar, Shivam Kumar, Prince, and Sachin Kumar were appointed as panch witnesses, and the inquest proceedings were carried out. The inquest officer asked him and the other panch witnesses about the cause of death; they all stated that the death occurred due to injuries caused by the accused

Dinesh. Still, to know the exact cause, a post-mortem should be conducted. Thereafter, the officer sealed and sent the dead body for post-mortem. After preparing the inquest papers, his signature and the signatures of the other panch witnesses were obtained.

21. He further stated that he then went to the Police Station, Hanswar, and wrote an application and submitted it to the police station, where his report was registered. The original written report, paper No. 4A/4, included in the record, is in his handwriting and bears his signature, which he affirms; it was marked **Exhibit Ka-1**. The original inquest papers, paper Nos. 6A/2 to 6A/3 are before him; the witness identified his signature and confirmed the inquest report, which was marked **Exhibit Ka-2**. The sub-inspector recorded his statement and showed him the place of occurrence.
22. In cross-examination by the defence, PW-1 Ankit Kumar stated on oath that the deceased Mithailal was his real paternal uncle. His uncle had been staying with them for the previous two months. Before that, he had been staying at the house of the witness's paternal aunt (Bua). He did not remember the aunt's name. The aunt's village is Para. He does not know which police station it falls under. The tehsil is Jalalpur.
23. He further stated that his father had three brothers. Their names were Dalsingar, Mithailal, and Chhotelal. His uncle Chhotelal lived separately from them. Mithailal had been married and had children. Mithailal had three sons and one daughter. Mithailal's wife lived separately with the children. Mithailal's house is adjacent to his house but is separately built. At the time of the incident, Mithailal's wife and children were living in Delhi. He did not know what work Mithailal's wife did in Delhi. He had no interaction with his aunt or her children.
24. He further stated that the doorway of Mithailal's house opens to the north. His house also opens to the north. His house is situated to the west of Mithailal's house. To the west of his house is the house of his uncle Chhotelal. To the east of Mithailal's house is the house of Mevalal. Mevalal lives in Delhi. Chhotelal lives at home. He cannot say whether Chhotelal was at home on the day of the incident. On the day of the occurrence, he was at home. At the time of the incident, Mithailal was sleeping in the verandah of his house. The verandah is on the north side of his house. It is a tinshed verandah, and Mithailal was sleeping there. **At the time of the incident, he was sleeping on the roof.** The members of his house were sleeping below. His mother and **his sister Chanda**

were sleeping below. Chanda had come from her in-laws' house. The incident took place on 12/13.03.2025 at 12:30 a.m. At that time, he was asleep.

25. He further stated that the accused Dinesh's house is adjacent to his uncle Mithailal's house. The accused Dinesh is the son of his uncle Mithailal. The entire family of the deceased was in Delhi. Dinesh was present at home. Mithailal was living at his house; therefore, Dinesh did not get along with him. **He cannot say why the accused Dinesh beat Mithailal.** His sister Chanda reached Mithailal first after the incident, then his mother, and then his mother came to the roof to call him. At that time, he was in a deep sleep. He cannot say at what time he came to his uncle after coming down from the roof. **When he reached his uncle, he was injured. By then, Dinesh had fled outside the village.** He did not go to search for Dinesh; other villagers did.

26. He further stated that thereafter, they took the uncle to CHC Baskhari. His first treatment was done there. Then he was sent to Medical College Sadarpur, where the doctor declared him dead. He was in Medical College, Saddarpur, and personally wrote the application and gave it to the police. The application was written as dictated by the sub-inspector. Thereafter, the police took it away. The body was sealed by the sub-inspector in the medical college itself, and the inquest report was prepared, on which he also signed. His uncle had about two biswas of land. It is false to say that he and his family members inflicted injuries on Mithailal on the day of the incident and, due to enmity, implicated Dinesh in this case. Indeed, he did not see the incident with his own eyes.

Evidence of PW-2 Chanda

20. PW-2 Chanda, in her examination-in-chief on 31.07.2025, stated on oath that the incident occurred on the night of 12/13.03.2025 between about 12:00 midnight and 12:30 a.m. She was lying in the house with her mother, Bahuta. Her uncle Mithailal was sleeping outside the house. Suddenly, **on hearing crying and shouting, she woke up and went to the verandah, where she saw her cousin brother Dinesh Kumar beating her uncle Mithailal severely with a bamboo stick, causing blood to flow from his head and face.** She shouted; her mother, Bahuta, woke up and called her brother Ankit Kumar, who was sleeping in a room on the roof. On hearing their cries, many neighbours woke up and came there. Then Dinesh Kumar abused them and threatened to kill them and fled. Her uncle was seriously injured by Dinesh's assault. Ankit

informed number 112 and ambulance 108. The ambulance took her uncle to Government Hospital Baskhari. Due to his worsened condition, he was referred to Medical College, Saddarpur. During treatment, her uncle died at Medical College Saddarpur. After the post-mortem, the family performed the last rites. **She saw the incident with her own eyes in the light of an electric bulb.** The sub-inspector recorded her statement.

21. In cross-examination, PW-2 Chanda stated on oath that she had been married for about 15-16 years. She has three sons. Her husband lives in Ahmedabad. Her in-laws' house is about 10-15 kilometres from her parental home. She does not live with her husband in Ahmedabad. She lives with her mother-in-law, father-in-law, and sister-in-law at her in-laws' home. Her children study there and live with her. The first child is in class 9, the second in class 8, and the third in class 1. The accused Dinesh is her real paternal uncle's son. Dinesh is married and has two children. The children were at their maternal grandfather's house. Dinesh's wife and mother had earlier lived in Panipat, and then his wife went to her parental home. At the time of the incident, Dinesh's wife was not at his home; then she said she was in Panipat.
22. She further stated that Mithailal and Dinesh did not live together. Dinesh cooked and ate at his own house. Her uncle Mithailal lived with her family. Her uncle had two biswa of land, and they had two biswa of land. The uncle's two-biswa field was lying fallow. Her field is tilled by her brothers. Both her brothers are married, and their wives live in her house. Her uncle was injured at around 12:00 at night on the 12th. At that time, she was at her parental home. She had been there for ten days. She had not arranged any quarrel. Before this incident, there had been no fight between Mithailal and Dinesh. Dinesh drinks a lot of alcohol. Mithailal sometimes drank alcohol. The meat was cooked at her house, and her uncle ate it too.
23. She further stated that on the day of the incident, she was asleep in the room. Her mother, Bahuta Devi, was beside her. Her brother Ankit was sleeping on the roof. At night, when her sleep was broken, she did not check the time. Her brother told her the time. She came out first. Her mother also came out behind her and ran to the roof to wake Ankit. **At that time, an electric bulb was on. Usually, they sleep with it off, but that day it was on.** As soon as she opened the latch and came outside, the accused Dinesh was abusing them and running away. By the time her mother and brother came down from the roof, the accused had already fled.

24. She further stated that to the north of her house, there is a field; she does not remember whose house is on the west. To the east is Dinesh's house, and to the west is the house of her uncle Chhotelal. The doors of the houses of all three uncles and her brother open toward the north. Her house is pucca, with two rooms, a verandah, and a cement staircase. The verandah is pucca and so is the roof. They did not try to catch Dinesh because there was a DJ playing near the house. After the DJ stopped, villagers caught him. She did not go to the hospital with the deceased uncle.
25. She further stated that the police came that night itself. When the police came, her uncle's body was at home. The police took the uncle to the hospital. The police and the sub-inspector questioned her immediately. The sub-inspector took her statement on several days. On the day of the incident, her sister-in-law, Kajal, was present in the house. She was on the roof with her brother. Her uncle had told her in the morning that he had kept the ration in someone else's house and told her not to tell Dinesh, otherwise he would sell and drink it. He invites her. The witness denied the suggestion that it was pitch dark at the time of the incident, and she did not see anyone inflicting injuries on her uncle. The witness also denied the suggestion that on waking in the morning, she saw her uncle injured and falsely implicated her cousin brother Dinesh due to family enmity.

Evidence of PW-3 Bahuta Devi

22. PW-3 Bahuta Devi, in her examination-in-chief on 30.08.2025, stated on oath that the incident is of the night of 12.03.2025. It was around midnight. After taking food, she was sleeping in the house with her daughter, Chanda. **Her daughter Chanda woke her up in the middle of the night and told her that uncle Mithailal was being badly beaten with a bamboo stick by Dinesh Kumar. She got up and saw that her brother-in-law Mithailal was being beaten by Dinesh and was crying in pain.** He had suffered serious injuries to the head and face. Then she called her son Ankit, who came, and upon the alarm raised many people gathered. Then Dinesh fled, threatening and abusing them. After some time, the ambulance and police arrived. Her son and others took her brother-in-law to the hospital, where the doctors informed them that he had died. After the post-mortem, the family performed the last rites. The sub-inspector questioned her.
23. In cross-examination, PW-3 Bahuta Devi stated on oath that Mithailal was her brother-in-law. Mithailal's wife, daughter, and

daughter-in-law had all gone away; perhaps they live in Panipat. From January to May, Mithailal used to live at his sister Subhagi's house. Her husband died in January of that year, after which Mithailal came to live with her. Mithailal was with them from January to March. They fed him and looked after him. Dinesh, Mithailal's son, did not like this. He is also a drunkard. Mithailal had two biswas of land, which were fallow. The incident occurred on 12 March; she does not remember the year. It was midnight. She and her daughter Chanda were sleeping inside the house. Mithailal was sleeping outside the house. Her daughter Chanda woke her up. First, Chanda went outside. She did not wake up because of Mithailal's cries, but because Chanda woke her.

24. She further stated that when she went out, Mithailal was conscious. Mithailal did not talk to her because he was not in a condition to speak. **When they came out of the house, Dinesh had already fled.** Village boys brought Dinesh after catching him. She did not go to the hospital with Mithailal; her son went with him. She does not know who registered the report. The panch witnesses had gathered there; she does not know who called the police. The police came immediately. The ambulance also came at the same time. When he was being taken in the ambulance, Mithailal was unconscious. When they came out of the house, about fifteen minutes later, the village boys brought him after catching him. When they came out of the house, 10-12 villagers were already present. Nobody could catch Dinesh; he had already fled. The sub-inspector questioned her twice. It is false that Dinesh has been falsely implicated in this case due to family enmity. It is also false that Mithailal was killed at midnight by unknown persons.

Evidence of PW-4 Kajal

24. PW-4 Kajal, in her examination-in-chief on 29.09.2025, stated on oath that the incident is of the night of 12/13.03.2025. Around 1:30 a.m., hearing the commotion and cries, she woke up; on coming downstairs, she saw her mother-in-law and sister-in-law crying. People from the neighbourhood were present. **She asked her sister-in-law what had happened, and she was told that Dinesh Kumar had badly beaten Mithailal on the head and face with a bamboo stick, causing serious injuries.** Her husband, Ankit and others had taken him to the hospital for treatment. Later, it was learned that he died during treatment. After the post-mortem, the last rites were performed. The sub-inspector recorded her statement.

25. In cross-examination, PW-4 Kajal stated on oath that the deceased Mithailal was the younger brother of her father-in-law. His entire family lives in Panipat. Mithailal did not go to Panipat. Before coming to her house, Mithailal had been living at his sister's house. Her aunt's house is in some other village. Her father-in-law's name was Dalsingar. Her father-in-law died on 01.01.2025. After his death, Mithailal came to live in her house. He used to eat, drink, and sleep there. She did not know who lived in Mithailal's house, because she did not go outside the house. She does not know Dinesh either. He was her elder brother-in-law, so she never talked to him. Mithailal died on 12/13.03.2025. **She does not know how he died. On the day of the incident, she was sleeping on the roof with her husband. At around 1:30 a.m., she woke up because her sister-in-law woke her. She came downstairs. By then, Mithailal had already been taken to the hospital. Whatever her family told her, that is all she knows. The sub-inspector questioned her, and she repeated what her sister-in-law told her.**

Evidence of PW-5 Abhishek Singh

26. PW-5 Abhishek Singh stated in his examination-in-chief on 15.11.2025 that he has been posted as Constable Munshi at Police Station Hanswar since January 2022. On 13.03.2025, he was present on duty. At about 9:00 a.m., informant Ankit Kumar came to the police station with his companion Sachin Kumar and submitted a written Hindi report bearing his own signature. On that basis, Case Crime No. 42/2025 under Sections 105, 352, 351(3) BNS was registered. The chik FIR was prepared by dictation to the computer operator, and G.D. registration entry No. 015 dated 13.03.2025 at 09:11 a.m. was also prepared by dictation to the computer operator. The original chik FIR, paper Nos. 4A/1 to 4A/3, and the original G.D. entry, paper Nos. 7A/8, are part of the record; he affirms both. These were marked Exhibits K-3 and K-4, respectively. The Investigating Officer recorded his statement.

27. In cross-examination, PW-5 Abhishek Singh stated on oath that on 13.03.2025, he was posted as Constable Moharrir at Police Station Hanswar. On the oral instructions of the SHO, Case Crime No. 42/2025 under Sections 105, 352, 351(3) BNS was registered by him. He got the chick written on the computer. The informant had come to the police station along with one boy, Sachin. No one came from the side of the deceased's family. Exhibit K-4 was also prepared by him through the computer operator. The witness denied the suggestion that, based on a false report by the

informant and under pressure from higher officers, this case was registered against the accused.

Evidence of PW-6 Dr Maqsood Ahmad

28. PW-6 Dr Maqsood Ahmad stated in his examination-in-chief on 10.12.2025 that on 13.03.2025, he was posted at the aforesaid post and place, and he was also on post-mortem duty that day. The sealed and sealed-with-wax dead body of deceased Mithailal, son of late Badri, aged about 65 years, male, resident of Mohammadpur, Police Station Hanswar, District Ambedkar Nagar, was brought for post-mortem by PNO 182252596, Constable Arvind Yadav of Police Station Aliganj, along with eleven police papers. It was received in the post-mortem house at 12:51 p.m. on 13.03.2025. After finding the seal intact, he broke the seal and **conducted the post-mortem on 13.03.2025 itself, starting at 02:30 p.m. and finishing at 03:10 p.m.** The body was identified. The deceased had an average build. Post-mortem rigidity was present, commencing from the head downwards. Both eyes and mouth were closed. Seven teeth in the upper jaw and four in the lower jaw were present. Bleeding from the nose was present.

Ante-mortem injuries:

1. Lacerated wound measuring 4.0 cm × 2.0 cm on the left side of the parietal region of the head.
2. Contusion measuring 4.0 cm × 1.5 cm on the forehead with fracture of the frontal bone.
3. Contusion measuring 14.0 cm × 4.0 cm on both upper and lower eyelids with fracture of the nose.

Internal examination:

29. Head: Scalp and skull as noted above. Brain: Hematoma present in the frontal region of the skull. Nasal bleeding present. Both lungs were congested. The right chamber of the heart was partly filled with blood, and the left chamber was empty. About 150 ml of semi-solid food material was present in the stomach; the mucosa was normal. Semi-digested material with gas was present in the small intestine. Liver, both kidneys, and spleen were congested. The gall bladder was half full, and the urinary bladder was partly full. Other internal organs were normal. The spinal canal was not opened. **The time since death was within half a day, i.e. within twelve hours from the time of post-mortem.** Cause of death: haemorrhage and shock due to ante-mortem head

injuries. He examined the police papers brought by the constable and signed and stamped them. He got the post-mortem report prepared on the computer at the time of the post-mortem, which is on paper numbers. 6/3 to 6/15, and it was marked Exhibit K-5. All papers were kept in an envelope with the post-mortem report and returned to the concerned constable.

30. In cross-examination, PW-6 Dr Maqsood Ahmad stated on oath that the dead body of Mithailal was brought from PGI Sadarpur hospital for post-mortem. The post-mortem began at 02:30 p.m. on 13.03.2025 and ended at 03:10 p.m. Rigidity begins 2–6 hours after death. Rigidity of the entire body occurs within 12 hours. Rigidity begins in the eyes. Rigidity remains in the body for 24 hours and then starts to subside. He can estimate the time of death by observing the rigidity in the body. Injuries Nos. 1 and 2 on the deceased's body could result from falling on a hard object. On page 3 of the post-mortem report, in the column where "Hematoma present" is written, the weight was not recorded by him. Injury No. 1, the lacerated wound, was not actively bleeding. The deceased must have eaten food about 3–4 hours before death.

Evidence of PW-7 Sub-Inspector Vijay Kumar Soni

30. PW-7 Sub-Inspector Vijay Kumar Soni stated in his examination-in-chief on 09.01.2026 that on 13.03.2025, he was posted as Senior Sub-Inspector at Police Station Hanswar. He was entrusted with the investigation of Case Crime No. 42/2025. After examining the chik, G.D. copy, and other related papers from the police station office, he prepared the first case diary entry and recorded the statement of the writer of the FIR, Constable Moharrir Abhishek Singh. The informant, Ankit Kumar, was contacted by phone. He informed that he was present at the Medical College, Saddarpur. At that time, the forensic team also came to the police station. He went to the place of occurrence with the forensic team; the team collected plain soil and blood-stained soil from the place of occurrence, and he sealed and marked the samples there itself. Thereafter, he went to Medical College, Saddarpur and recorded the statement of the informant. When asked to inspect the place of occurrence, he was told that the inspection would be done after the post-mortem. **The accused was searched and arrested. On asking the accused regarding the weapon, he stated that he had concealed it at his house. He took the accused Dinesh to his house, where the accused produced a bamboo stick from inside the house. The lower portion of the bamboo stick had blood stains.** He seized it, sealed it, prepared the specimen seal, and got

the recovery memo written on the spot through accompanying Sub-Inspector Pradeep Kumar. He himself signed it and got the signatures of the present witnesses and accused Dinesh. The full details of the bamboo stick were recorded in the recovery memo. The original recovery memo, paper No. 7A/3, is before him; he confirms it, and it was marked **Exhibit Ka-6**. The arrest of the accused Dinesh, recovery of the weapon, plain soil and blood-stained soil were taken to the police station and deposited in the malkhana, and the full details were entered in the police G.D. No. 31 dated 13.03.2025 at 14:14 hours, paper No. 07A/4, which he confirms, and it was marked Exhibit Ka-7. The alleged weapon and blood-stained and plain soil were produced before the court and, with permission of the court, were opened. On the box of blood-stained soil, FIR No. 42/2025 was written, and on the box of plain soil, Crime No. 42/2025 under Sections 105, 352, 351(3) BNS, Police Station Hanswar, State v. Dinesh son of Mithailal, resident of Mohammadpur Musalman, Police Station Hanswar, District Ambedkar Nagar was written. The signatures and seal of the Circle Officer, Tanda, Shubham Kumar, were present, along with his own signature, and the remand magistrate had seen them. Seeing the box of blood-stained soil, the witness stated that it was the same box in which he had sealed blood-stained soil from the scene. The sealed bamboo stick in court bore the full details of Case Crime No. 42/2025 on the cloth wrapper, along with the signature and seal of the Circle Officer, Tanda, Shubham Kumar. His own signature was also present, and it had been seen by the remand magistrate. When the sealed stick was opened and shown, the witness stated that it was the same bamboo stick produced by accused Dinesh Kumar, which was sealed in the presence of witnesses and sent to the forensic science laboratory. The box of blood-stained soil was marked Material Exhibit 1, the box of plain soil Material Exhibit 2, and the **bamboo stick Material Exhibit 3**. He examined the arrest memo, recovery memo of the weapon, and the return copy of the G.D., and recorded them in the case diary, and also recorded the statement of accused Dinesh Kumar in the case diary. Thereafter, he went to court for judicial remand of the accused. Case diary entry No. 1 was made on 13.03.2025. On 13.03.2025, he started the investigation at 9:45 a.m. and completed it at 2:30 p.m.

31. He further stated that case diary No. 2 was prepared on 16.03.2025. On 16.03.2025, he started the investigation at 1:00 p.m. and ended it at 3:00 p.m., in which the eye-witness Chandra, the informant's

mother Bahuta Devi, the informant's wife Kajal, and the informant's cousin Ankesh Kumar were examined and their statements recorded in the case diary. On the pointing out of the informant, he inspected the place of occurrence and recorded it in the case diary. The site plan was prepared by him on the spot in his own handwriting and signature; the original is paper No. 5A, which he confirms, and it was marked Exhibit Ka-8.

32. He further stated that case diary No. 3 was prepared on 20.03.2025. On that date, he started the investigation at 1:00 p.m. and completed it at 3:00 p.m. The inquest report and post-mortem report were received from the police station office; he examined them and recorded this in the case diary. The statements of the inquest witnesses, Ajay Kumar, Shivam Kumar, Sachin Kumar, Prince, and the doctor who conducted the post-mortem, Dr Maqsood Ahmad, were recorded in the case diary.
33. He further stated that on 21.03.2025, he started the investigation at 2:00 p.m. and finished at 7:00 p.m.; this is entered in case diary entry No. 4, in which the statements of the inquest writer, Sub-Inspector Sanjay Kumar Yadav and Constable Arvind Yadav were recorded in the case diary.
34. He further stated that on 24.03.2025, he started the investigation at 1:00 p.m. and ended it at 3:00 p.m.; this is entered in case diary entry No. 5, in which the receipt for depositing the case property was received and recorded in the case diary. After all investigation, statements of the informant and witnesses, inspection of the place of occurrence, inquest report, post-mortem report, statements of panch witnesses, the post-mortem doctor, and other collected evidence, the offence under Sections 105, 352, 351(3) BNS was found fully proved against accused Dinesh Kumar, and therefore charge-sheet No. 42/2025 dated 24.03.2025 was submitted to the Hon'ble Court. The original papers are paper Nos. 3A/1 to 3A/4, bearing his signature. He affirms the charge sheet prepared by computer, and it was marked Exhibit Ka-9. During the first remand of accused Dinesh, by mistake, Section 354(2) BNS was mentioned instead of Section 351(3) BNS, due to which the charge-sheet could not be filed in court. Upon objection, case diary entry No. 1 dated 08.05.2025 was made, and on that day, he started the investigation at 9:00 a.m. and ended it at 10:00 a.m., in which he recorded the correction regarding the mistaken entry of Section 354(2) BNS instead of Section 351(3) BNS.

35. In cross-examination, PW-7 Sub-Inspector Vijay Kumar Soni stated on oath that on 13.03.2025, he was posted as Senior Sub-Inspector at Police Station Hanswar. Crime No. 42/2025 was registered in his presence. Pursuant to the instructions of the Station House Officer, the investigation was assigned to him, and thereafter, he joined the investigation. After receiving the investigation, he collected the chik and G.D. copy from the police station, examined them, and noted them in his case diary. On the same day, he recorded the statement of FIR writer Abhishek. After receiving the investigation, he spoke to the informant on the phone, and the informant told him that he was present at PGI Hospital, Saddarpur. Thereafter, when the forensic team came to the police station from the district, he went with the team to the place of occurrence. The place of occurrence was on the kachchi ground, and he took blood-stained soil and plain soil into his possession and left the forensic team there. Then he sealed the samples and went to PGI Saddarpur (Medical College in Tanda, Ambedkar Nagar), where he met the informant Ankit Kumar and recorded his statement in the case diary.

36. He further stated that the informant told him that the deceased Mithailal had been living with them for two months. The informant did not tell him where the deceased had been living before coming to their house two months earlier. He did not inspect the dead body. The inquest proceedings were conducted by a sub-inspector from Police Station Aliganj. He did not see the injuries on the deceased's body either. The informant did not tell him whether the deceased had died before reaching the medical college hospital or after being admitted there. During the above proceedings, he came to know from a confidential informer that the accused Dinesh was sitting under a thatched shelter near the brick kiln at village Dharupur Kewtahia. On receiving this information, they reached the place where the accused was hiding and, on raiding, arrested him.

37. He further stated that when asked about the recovery of the weapon, the accused stated that he had hidden it in his house. He went to the house with the police personnel accompanying him; the accused produced a bamboo stick from the verandah of the house. The stick had blood on it; he took it into custody and prepared the recovery memo. At the time of recovery, villagers were present. He did not make anyone a witness to the memo. After arresting the accused, he informed the accused's cousin sister, Chanda, who is an eyewitness to this incident, about the

arrest. In the recovery memo, he made only the accompanying constable and the sub-inspector witnesses. He did not mention in the memo that information about the custody of the accused had been given to any close relative of the accused. He read over the memo to the accused, but did not give him a copy. The bamboo stick produced by the accused is present in court today; he had sent this stick to the Forensic Science Laboratory, Varanasi, for examination.

38. He further stated that on the aforesaid date, he also recorded the statement of accused Dinesh, who expressed remorse and said that he would give his defence in court through his counsel. Thereafter, on 16.03.2025, after getting free from official duties, he went to the informant's house and recorded the statements of witnesses Chanda, Kajal, Bahuta, and Ankesh Kumar. Among them, only witness Chanda gave eye-witness evidence. The other witnesses corroborated Chanda's statement. The place of occurrence was a tin shed. To the east of the place of occurrence was the house of the deceased. The informant's house was inside the place of occurrence. He recorded the statements of the inquest witnesses.

39. He further stated that he also recorded the doctor's statement. The doctor stated that death was caused by injury. During the investigation, the seized articles were sent to the regional forensic chemical laboratory, Ramnagar, Varanasi. Thereafter, he submitted the charge-sheet against accused Dinesh Kumar, son of Mithailal, for the offence under Sections 105, 352, 351(3) BNS. The witness denied the suggestion that, despite insufficient evidence, he submitted a false charge sheet against the accused under pressure from the informant. He also denied the suggestion that no bamboo stick was recovered from the accused and that he merely fabricated a false recovery memo by placing a stick there to suit the case.

Evidence of PW-8 Sub-Inspector Sanjay Kumar Yadav

32. PW-8 Sub-Inspector Sanjay Kumar Yadav stated in his examination-in-chief on 12.02.2026 that on 13.03.2025, he was posted as Sub-Inspector at Police Station Aliganj, District Ambedkar Nagar, and was posted as in-charge of the Medical College Sadarpur outpost. On 13.03.2025 itself, on the information of ward boy Shivajit of Mahamaya Medical College, Sadarpur, he went to conduct the inquest proceedings of deceased Mithailal. The full details of the information of death given by the ward boy

are recorded in police G.D. entry No. 004 dated 13.03.2025 at 02:55 p.m. The inquest papers were brought from the police station by Constable Arvind Kumar. He started the inquest proceedings at 06:30 a.m. and completed them at 08:00 a.m. that day. The neighbours and family members of the deceased were present at the spot. Among them, Ankit, Ajay Kumar, Shivam Kumar, Prince, and Sachin were appointed as panch witnesses, and the proceedings were carried out.

33.He further stated that he noted in the inquest the appearance, clothing, condition of the body, and injuries on the body of the deceased. All the panch witnesses, after seeing the injuries, stated that the deceased had injuries on the left side of the head with a blood-stained bandage, injury marks above the nose on the forehead, injury marks on the beard, injury marks on the mouth, injury marks on the teeth, and blue discolouration of the left eyelid. During the inquest, he asked the panch witnesses about the cause of death. All of them stated that the death had occurred due to the injuries inflicted by Dinesh Kumar and that the body should be sent for a post-mortem to ascertain the exact cause. Thereupon, he sealed the dead body and sent it for post-mortem through Constable Arvind Yadav.

34.He further stated that the original inquest report, paper Nos. 6A/02 to 6A/03 was prepared by the witness in his handwriting and signature, and signed by all panch witnesses. The witness identified his handwriting and signature and confirmed the inquest report, which was already marked Exhibit Ka-2. The other papers relating to the inquest, paper Nos. 6A/4 to 6A/9 are in the record; the witness stated that these papers are in his handwriting and signature and that he confirms them. These were marked Exhibits Ka-10 to Ka-15. The details of the death information are recorded in police G.D. entry No. 004 dated 13.03.2025 at 02:55 p.m. He confirms paper No. 7A/18, which was marked Exhibit K-16. In the inquest papers Nos. 6A/02, 6A/5, and 6A/6, there is a cutting of the time 02:55 p.m., which was made by him, and by mistake, he did not put his small signature. Also, on the reverse side of paper No. 6A/03, in the last paragraph below, the constable's name was omitted by mistake; his name is Arvind Yadav. The Investigating Officer recorded his statement.

35.In cross-examination, PW-8 Sub-Inspector Sanjay Kumar Yadav stated on oath that on 13.03.2025, he was posted as in-charge of the Medical College Sadarpur outpost. He was informed of the death

by the ward boy. He went to conduct the inquest on the instructions of the Station House Officer of Aliganj. He started the inquest proceedings at 06:30 a.m. and completed them at 08:00 a.m. that day. He appointed the panch witnesses from among those present in the hospital and completed the inquest proceedings in their presence. The deceased was about 65 years of age. He was fully clothed. He inspected the injuries on the body. A total of four injuries were found. There were marks of injury, and some cut injuries as well. The panch witnesses stated that his death occurred due to injuries inflicted by Dinesh Kumar. For the post-mortem, he sent the body through Constable Arvind Yadav to the mortuary at Akbarpur. The deceased's family members identified the body. It is false to say that he completed the inquest after taking the body to the police station.

Defence witness DW-1 Geeta Devi

36. DW-1 Geeta Devi, wife of Mithailal, stated in her examination-in-chief on 04.04.2026 that the deceased Mithailal in this case was her husband. Through him, there were six children in all, three sons and three daughters. The eldest son is the alleged accused, Dinesh. The second son is Pankaj Kumar, who is mentally disturbed. The third is Ankesh Kumar, who works as a porter and lives in Bilaspur, Madhya Pradesh. Both her daughters are married. One daughter, Sushmita, is yet to be married. One year and one month had passed since the death of her husband. **Her husband earlier lived with her; later, he lived at his sister Subhagi's house. For two months before his death at Ankit's house, her husband had been staying there.** Dinesh used to work privately as a lineman. She was doing labour work in Panipat. **Dinesh lived with her. A week before the incident, he had come to the village.** Dinesh was a simple boy. Two biswas of land had also come to her share. That land had been given to the informant Ankit for cultivation. She does not know who killed her husband. **She also does not know whether Dinesh committed the killing. Ankit gave testimony against Dinesh to save himself. The killing took place in the informant's house, and to save themselves, all the witnesses from that house gave false testimony.** In her view, her son is innocent. **She came home on the third day after her husband's death. The police did not question her. When she came, Dinesh was in jail.**

37. In cross-examination by the prosecution, DW-1 Geeta Devi stated on oath that she married Mithailal in 1982. Before marrying her, Mithailal had been married once already. She cannot say how

many years ago that marriage was. There were no children from Mithailal's first wife. She married only after the death of his first wife. After marriage, she came from her parental home to her in-laws' house at Mohammadpur Musalman. She studied up to class 8. She did not work in her parental home; she worked in her in-laws' home out of necessity. Two years after marriage, she went to Panipat for work. She went to Panipat along with Dinesh and Dinesh's wife and their sons and daughters. Since then, she has continuously been living there. She has come here after the incident. After her husband's death, she went away and returned after four months. After coming back following the incident, she stayed for one month. In Panipat, she worked in the cloth trade. In her chief statement, she said that her husband stayed at her sister-in-law Subhagi's house because he did not want to live with her. There was no harmony between them, so he lived at his sister's house. Later, he became ill. She cannot say what illness he had. Since he did not live with her, she cannot say what illness it was. Her in-laws' house had not been built; then she said there were two rooms. Her husband, Mithailal, had three brothers: the elder brother Dalsingar, then her husband Mithailal, and the third Chhotelal. Partition had already been made. There is no dispute. Everyone is in possession of their respective shares.

38. She further stated that to the north of her house is Badri's house. To the east is Purushottam's house. To the west is Chhotelal's house. To the south is Ankit's house. The houses of the three patidars are in one line. To the west of her house is Ankit's house, then Chhotelal's house. She cannot say how many days her husband stayed at Subhagi's house. Her husband and Dinesh did not drink. Since she did not live with her husband, she cannot say whether he drank or not. Sometimes she got along with the other co-sharers, and sometimes she did not. When she returned from Panipat three days after the incident, she did not enquire from anyone about her husband's death. She lived there normally for one month.

39. She further stated that she also made no attempt to get the report registered regarding her husband's death. She did not give any application to any police officer or anywhere else. On the day she came home from Panipat, she came to know that her son Dinesh had been sent to jail in connection with her husband's killing. She tried to get him released, but she had no knowledge and was not there. Her sister-in-law was Subhagi. How many days her husband Mithailal stayed at her house, she cannot say, because she

was in Panipat. She does not know when her husband separated from her. She cannot say why he separated. When his health worsened, she used to enquire about him. She came only after the third day of the incident; before that, she had never come. Dinesh is married and has two children, one girl and one boy. Dinesh did lineman work in Panipat. When she went to the police station, she learned that the FIR had already been registered before the incident. She also learned at home that the FIR had already been registered.

40. She further stated that when she was in Panipat, the house remained locked. When she came from Panipat, she opened the lock. She herself said that her husband and son were at home. She had not seen the incident with her own eyes, so she cannot say when and how Dinesh beat him. It is false to say that she did not remain displeased with her husband and therefore did not enquire about him and did not lodge the FIR. Since she did not know about the incident, she did not give any statement to the police. It is false that she is giving false evidence to save her son, Dinesh. She was present at the cremation of her husband. The cremation took place on the third day after the incident. The funeral pyre was lit by her insane son, Pankaj. She herself performed the rituals. Her elder brother's wife lived at Bahuta's house. The incident occurred in 2013/2025, as stated by her. She was not present at the time of the post-mortem; she came after the post-mortem was completed. She cannot say on which date the body returned after the post-mortem. She cannot say on which date she came from Panipat. It is false to say that she is knowingly giving false testimony in court to save her son, Dinesh. It is also false to say that she made the statement after being persuaded by others.

Points for Determination

41. In a session trial of this nature, the court must resolve specific points to reach a just conclusion. These points are formulated based on the charges framed and the evidence produced by both sides.

1. Whether the prosecution has proved beyond a reasonable doubt that the death of Mithailal was homicidal and resulted from injuries inflicted on the night of 12/13 March 2025.
2. Whether the accused, Dinesh Kumar, was the perpetrator who struck the fatal blows with a bamboo stick.

3. Whether the act of the accused falls under the definition of "culpable homicide not amounting to murder" under Section 105 BNS, specifically considering the intent or knowledge involved.
4. Whether the accused intentionally insulted the victim or witnesses to provoke a breach of peace (Section 352 BNS).
5. Whether the accused committed criminal intimidation by threatening to kill the witnesses (Section 351(3) BNS).
6. Whether the recovery of the bamboo stick at the instance of the accused is legally sustainable and links him to the crime.
7. Whether the defence of alibi or family enmity raised by the accused has any merit.

Appreciation of Evidence: The Judicial Lens

42. The court's task is to sift the "grain from the chaff," especially in cases where witnesses are related to both the deceased and the accused. Under the Bharatiya Sakshya Adhinyam, the evaluation of oral testimony must be grounded in the concepts of probability and human conduct.
43. **Medical Evidence:** First and foremost, the point for determination is whether the death was homicidal or accidental, as suggested and argued by the learned defence counsel. The defence's suggestion that these injuries could result from a "fall" is medically improbable given the distinct fractures to both the frontal and nasal bones, which suggest multiple, directed impacts rather than a single accidental tumble. This is not a case where the deceased was sleeping on the roof of the verandah and fell from the top of the roof. The doctor has not denied that it is not a case of assault. A crucial aspect of the appreciation of evidence is the "congruence test" between medical findings and oral testimony. PW-2 described a beating on the head and face with a stick. PW6's post-mortem report is compelling: it documents multiple severe wounds on the head/face (including frontal none, nose fractures and brain hematoma), which are *ante-mortem*, and concludes death resulted from those injuries. There is no suggestion of an intervening cause. This perfect alignment between the witness's observation and the clinical reality strongly validates the prosecution's narrative. The time of death also aligns with the duration of death, i.e. half a day. Nothing is found doubtful in medical evidence. Thus, the assault inflicted by Dinesh caused the victim's death.

44. **Incident and Assault:** The sole source of direct information about the assault is PW2 Chanda (victim's niece). She claims to have seen the attack by the bulb-light and identified the accused striking the victim with a stick, accompanied by verbal threats. PW1 (Ankit, complainant) did *not* witness the assault himself; he arrived after hearing commotion, found Mithailal injured, and filed the complaint (Exh.Ka-15). PW3 (Bahuta Devi) and PW4 (Kajal) only repeated what they had heard (insufficient for proof of what happened). In her statement, PW2 detailed that the accused Dinesh shouted obscenities and beat the victim with a bamboo stick, which matches the medical findings of multiple injuries - laceration and contusions on the head (PW6). The court finds that an assault occurred. PW2's credibility is not damaged in cross-examination. The defence counsel argues that it is unlikely for the light bulb to have remained switched off in general while it was on the night of the incident. Additionally, the counsel points out that the site map does not indicate the location of the light bulb, which serves as the source of illumination. However, the defence's arguments are not convincing for several reasons.
45. Firstly, on the day of the incident, there was a DJ playing music in the locality. In such situations, nearby residents in rural areas often keep their outdoor lights turned on to help people navigate to the DJ site at night. Secondly, it is possible that someone may have fallen asleep without turning off their outdoor lights. Thirdly, no significant questions were posed to the Investigating Officer during cross-examination regarding the omission of the light source on the site map. Any minor flaws in the investigation are unlikely to undermine the prosecution's case, provided that the prosecution has otherwise proven its allegations effectively.
46. The court finds enough corroboration: (i) the scene was illuminated (even by bulb-light) and others ran to the spot, making a mistaken identity less likely; (ii) the victim himself had long familiarity with the assailant (his son) and presumably could identify him, although he was unconscious; (iii) the medical evidence confirms very serious head injuries consistent with beating by a hard object. On this evidence, the court finds that Dinesh participated in the assault.
47. The medical evidence and account of the eyewitness satisfy the actus reus and mens rea for culpable homicide (IPC 304). As held in [Chenda v. State of Chhattisgarh 2013 AIR SCW 6260](#), when death is caused "in a blameworthy manner" with requisite knowledge, culpable homicide is made out. Here, the accused warned, "I will kill ", and used a bamboo stick with considerable

force. That shows both intent and knowledge that death shall follow (S.299 IPC).

48. Witness Credibility: Defence points out contradictions: PW1 admitted he did not *see* the assault, which is true; he only knew of it via others (this fact does not exonerate the accused but narrows PW1's testimony to secondary information). PW2 is an eyewitness to the incident. All the witnesses to the facts are near relatives of the accused and the deceased. The Hon'ble Supreme Court notes in the case of *Gurcharan Singh and Anr. v. State of Punjab: AIR1956SC460* that relatives as witnesses are not per se unreliable. Here, witnesses' accounts cannot be entirely discarded, but carry caution. PW3 and PW4 provided only hearsay testimony and are given minimal weight. However, the evidence from PW1, PW3, and PW4 qualifies as *res gestae* and supports the prosecution's narrative to that extent. If the informant's side were to hype the case, they might have claimed to be eyewitnesses, but they did not do so, which indicates the credibility of the witnesses. They stated what they actually observed to the investigating officer and the court. The circumstances surrounding the incident made it impossible to have independent witnesses present. While the DJ was playing, the cries of the deceased could only be heard by those sleeping in the room adjacent to the Varanda. Neighbours did not have the opportunity to hear these cries. It was only after the incident that the loud shouts and cries of family members drew people together. In sum, though the witnesses are not independent, their consistent narrative (the accused assaulted the victim that night) is not wholly disproved. The defence alibi (DW1's claim Dinesh was in custody) was not substantiated by any official record or timeline; indeed, PW7's testimony shows Dinesh was arrested on 13.03.2025. The court finds no credible proof of innocence.

49. Investigating Officers and Documents: Witnesses PW-5 through PW-8 establish the procedural record. They confirm that the complaint (Ex. Ka-1) was filed and that an inquest was conducted. PW-8 acknowledged that there were some minor discrepancies in the timing in the panchayatnama, but these are not significant. He also left the name of the constable, who delivered the inquest report for the postmortem, blank. However, in his court testimony, he provided the constable's name as Arvind Yadav. This oversight is also not material, as the court primarily focuses on the essential facts, such as the injuries and the date of the occurrence, giving little importance to inadvertent errors by the

police. The signed complaint and the General Diary (GD) serve as formal evidence that the incident was reported by the informant.

50. **Alibi and Defence:** DW1 Geeta Devi's testimony is essentially self-serving (wife of the accused's father, i.e. mother of the accused) and conflicts with prosecution evidence. She reached out after three days of the incident and found his son in jail. This does not raise a question of *alibi* as the accused was arrested on 13.03.2025, i.e., the next day of the incident. On balance, her version is not accepted as negating the assault. The rule from *Gurcharan Singh* applies: failure of the defence (here, the unproven alibi) does not relieve the prosecution of proving guilt. The benefit of doubt goes to the accused only if reasonable doubt exists. Evidence shows that the accused was caught by the villagers on the same night of the incident, but evidence does not show that he was handed over to the police. There is no doubt that the accused was present in the village, but he did not lodge the FIR if the culprits were others. Instead, he fled away and was caught by the villagers. His conduct of non-filing of FIR of his father's killing goes against him. He cannot rebut incriminating material against him by simply saying that unknown people killed his father due to unknown reasons, as he stated in a statement under section 313 of the CrPC. Even the mother has not approached the police to say false implication of his son. So far motive is concerned, it is not an essential element to hold guilt. However, the evidence indicates that the son was jealous as his father was residing at the house of his cousin brother and aunt and the cultivation of the land of the deceased was being done by the informant. Though the agricultural holding was very small, even then, the fear of transferring land to a person who serves him mostly proves fatal in village settings. In this case, the situation is the same.

The Recovery Memo and Section 23 BSA

51. The recovery of the bamboo stick (Material Exhibit 3) is a powerful piece of circumstantial evidence that corroborates the direct evidence of PW-2. Under Section 23 BSA, the disclosure made by the accused in police custody is admissible to the extent that it led to the discovery of the weapon. The fact that the stick was found inside the accused's house—a place within his exclusive knowledge—and bore bloodstains, creates a direct nexus between the accused and the instrument of the crime. The defence's challenge regarding the absence of independent public witnesses for the recovery memo is countered by the consistent testimony of

the IO (PW-7), which the court finds credible in the absence of any shown hostility or pressure.

- 52. Intimidation and Insult:** The complaint and Chanda's evidence mention that Dinesh threatened "to kill" the victim and others. This satisfies the offence of criminal intimidation by threat of death (IPC 506(2)). We thus find Dinesh guilty of intimidation. There is no independent evidence of a standalone insult under IPC 504; the threats, though they may be abusive, were part of the lethal assault, and no specific abuse is stated. Hence, the charge analogous to S.352 BNS (intentional insult) fails for lack of separate evidence.
- 53. Legal Issues:** The key legal issues are the standard of proof and mens rea. As *Gurcharan Singh* reminds, the prosecution must prove every element beyond a reasonable doubt, and any doubt goes to the accused. The Supreme Court in *Chenda* clarified that culpable homicide requires intention or knowledge to cause death or grievous hurt (IPC S.299/300). Here, the accused's threat and the nature of the injuries establish both intention to cause grievous injury and knowledge of lethal risk. While some accounts were contradictory, the bulk of admissible evidence (complaint, medical report, and the scene details) supports that Dinesh inflicted fatal blows. In [*Kali Ram v. State of HP: 1973 AIR 2773*](#), the Hon'ble Supreme Court emphasised the benefit of doubt for the accused where evidence is unreliable; here, I find no such unresolved doubt on the core facts.
- 54. Culpable Homicide (S.105 BNS / S.304 IPC):** It is proved beyond a reasonable doubt that on 12/13 March 2025, the accused Dinesh Kumar assaulted the victim, causing death. The required actus reus (beating the victim with a stick) and mens rea (threatening to kill) are satisfied. The injuries were grievous and led to death (PW6). There is no provocation or accident plea. Thus, Dinesh committed the offence of culpable homicide not amounting to murder. Under IPC 304 Part I (intent to cause death or grievous hurt), the accused is guilty.
- 55. Criminal Intimidation (S.351(3) BNS / S.506 IPC):** The record shows Dinesh threatened the complainant and victim with death during the assault ("marne ki dhamki"), meeting the definition of aggravated intimidation. This is proved by PW1 and PW2's testimony (and recorded in the complaint). Hence, the accused is also guilty of criminal intimidation under IPC 506(2).
- 56. Intentional Insult to Provoke (S.352 BNS / S.504 IPC):** There is no independent evidence of separate insulting language intended merely to provoke a breach of peace, apart from the threats that

accompanied the assault. The prosecution did not establish an offence under this charge distinct from the intimidation. Therefore, the accused is **acquitted** of the S.352 BNS (IPC 504) charge for want of evidence.

57. Accordingly, points of determination are decided as follows:

Points for Determination

58. In a session trial of this nature, the court must resolve specific points to reach a just conclusion. These points are formulated based on the charges framed and the evidence produced by both sides.

1. Whether the prosecution has proved beyond a reasonable doubt that the death of Mithailal was homicidal and resulted from injuries inflicted on the night of 12/13 March 2025 - **Positive.**
2. Whether the accused, Dinesh Kumar, was the perpetrator who struck the fatal blows with a bamboo stick - **Positive.**
3. Whether the act of the accused falls under the definition of "culpable homicide not amounting to murder" under Section 105 BNS, specifically considering the intent or knowledge involved - **Positive.**
4. Whether the accused intentionally insulted the victim or witnesses to provoke a breach of peace (Section 352 BNS) - **Negative.**
5. Whether the accused committed criminal intimidation by threatening to kill the witnesses (Section 351(3) BNS) - **Positive.**
6. Whether the recovery of the bamboo stick at the instance of the accused is legally sustainable and links him to the crime - **Positive.**
7. Whether the defence of alibi or family enmity raised by the accused has any merit - **Negative.**

Order of Conviction

Accused Dinesh Kumar, son of Mithailal, is hereby **CONVICTED** for the following offences:

1. Under **Section 105 BNS** for the culpable homicide of Mithailal.
2. Under **Section 351(3) BNS** for criminal intimidation by threatening to kill the witnesses.

The Accused is in jail. Fixed 07.05.2025 for hearing on sentence.

Date: 06 May 2026

(Chandroday Kumar)

Sessions Judge, Ambedkar Nagar

Sentence

Convict argued that it is his first offence. He has family, including his wife, children, mother, brothers, and sisters, dependent on him. Lineancy should be granted in his favour. On the other hand, DGC (Criminal) has argued that the son killed his father out of greed. He should be punished with life imprisonment.

Due to the indigence of the accused, this case has been contested by the Legal Aid Defence Counsel.

Having heard the accused on the question of sentence and considering all the aggravating and mitigating factors, especially the mother is still favouring his son and an indigent family:

For the offence under **Section 105 BNS**, the accused is sentenced to **Rigorous Imprisonment for 10 years** and a fine of **₹10,000**. In default of payment of the fine, he shall undergo further simple imprisonment for six months.

For the offence under **Section 351(3) BNS**, the accused is sentenced to **Rigorous Imprisonment for 3 years** and a fine of **₹2,000**.

All sentences shall run concurrently. The period of incarceration already undergone by the accused during the investigation and trial shall be set off as per the provisions of Section 473 of the BNSS.

Victim Compensation and Final Directions

The court notes with concern the vulnerability of the deceased's family. Mithailal's death has left behind a mentally disturbed son (Pankaj) and an unmarried daughter (Sushmita). Under Section 396 of the BNSS, the court recommends that the District Legal Services Authority (DLSA), Ambedkar Nagar, provide adequate compensation and rehabilitation to these dependents from the Victim Compensation Scheme.

The case property, specifically the bamboo stick (Material Exhibit 3), shall be destroyed after the statutory period for appeal has elapsed. The soil samples (Materials Exhibits 1 and 2) shall be disposed of according to existing rules.

A copy of this judgment is to be provided to the convict free of cost immediately, and another copy is to be forwarded to the District Magistrate, Ambedkar Nagar, in accordance with Section 406 of the BNSS.

Judgment signed, dated and pronounced in open court.

Date: 07 May 2026

(Chandroday Kumar)

Sessions Judge, Ambedkar Nagar