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28-11-2025	06-12-2025	0 Y, 0 M, 8 D
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In the Court of the Sessions Judge, Ambedkar Nagar

Present: Chandrodoy Kumar, H.J.S., J.O. Code: UP06553

Sessions Trial No. 14/2017

State of Uttar Pradesh – Prosecution

v.

Virendra Yadav (Accused), son of Sant Ram Yadav, age about 26 years, resident of Village Khadarha, Police Station Mahrua, District Ambedkar Nagar.

Crime No.-119/2015

Sections: 308, 323, and 504 IPC

Police Station:- Mahrua

District:- Ambedkar Nagar

Prosecution Counsel: Sri Govind Srivastav, DGC (Criminal)

Defence Counsel: Sri Ramanuj Shukla, Advocate

JUDGMENT

1. The prosecution's case is that on the morning of 12.08.2015, the complainant, Satyaprakash Sharma (PW-1), went to the house of the accused, Virendra Yadav, to protest the accused's repeated telephone calls to his brother's wife (Bhabhi). PW-1 alleges that an altercation ensued, during which the accused hurled "bhaddi-bhaddi gaaliyan" (filthy abuses) at him and beat him with a hockey stick. As a result, PW-1's head was struck by the hockey and split open, causing profuse bleeding. Neighbours intervened to stop the assault. Immediately thereafter, PW-1 went to the

police station, filed a written report (Exhibit Ka-1), and was sent for a medical examination. The initial report at the station charged the accused under Sections 323 and 504 of the IPC; later, the police upgraded the case to Sections 308, 325, and 504 of the IPC based on medical findings and submitted a charge sheet. In this trial, the accused pleaded not guilty and claimed the case was fabricated.

2. The prosecution examined several factual witnesses, including PW-1 Satya Prakash Sharma (the complainant), PW-2 Lovlesh Sharma (the nephew of the complainant), and PW-3 Ravi Prakash Sharma (the brother of the complainant), along with formal witnesses PW-4 Constable Shiv Kumar (head moharrir), PW-5 Dr Vikas Chandra Tiwari (who examined the injured and prepared medical report), PW-6 Dr Gulrez Ahmad (the radiologist), and PW-7 Retired Sub-Inspector Anil Kumar Singh (the investigating officer). The defence examined one factual witness, DW-1 Singari Devi (the accused's mother), and offered no documentary evidence. Based on the evidence on the record, the following points for determination are framed:

Points for Determination

1. Whether the accused attempted to cause the complainant's death (Section 308 IPC)?
2. Whether the accused voluntarily caused grievous hurt to the complainant on 12.08.2015 (Section 325 IPC)?
3. Whether the accused voluntarily caused simple hurt to the complainant on 12.08.2015 (Section 323 IPC)?
4. Whether the accused intentionally insulted the complainant with the intent to provoke a breach of the peace (Section 504 IPC)?

Summary of Prosecution Witnesses

3. **PW-1 Satya Prakash Sharma (the complainant)** deposed on 21.08.2017 that the incident had occurred on 12.08.2015 at approximately 07:00 a.m. He stated that the accused, Virendra Yadav, had repeatedly called his Bhabhi, Rekha Devi, on her mobile phone. He had warned the accused two or three times to stop, but the accused had persisted. On the date and time in question, when he had confronted the accused about the calls made to his Bhabhi, the accused had begun to verbally abuse him with filthy language and assaulted him with a hockey stick. As a result, he suffered a severe head injury and bled heavily. People present at the scene intervened. His nephew, Lovlesh Sharma, and his brother, Ravi Prakash Sharma, arrived during the incident and witnessed the assault. Subsequently, he went to the police station and submitted a written report of the incident,

based on which an NCR was registered. The police had him medically examined at the Primary Health Centre in Akbarpur. An X-ray was taken at the District Hospital, and a CT scan was performed at the District Hospital in Faizabad. To initiate an investigation of the NCR, he filed an application under Section 155(2) CrPC in court, which was located at pages 9A/1 to 9A/2 of the record and bore his signature. The written report (tehrir) had been marked as Exhibit Ka-1. He further deposed that Daroga Ji (Sub-Inspector) recorded his statement.

4. In cross-examination on 21.08.2017, PW-1 stated that he resided in Baleipur village, PS Mahrua, while the accused Virendra was from Khadarha village, approximately 4-5 kilometres away. The incident occurred at the accused's house. He had known Virendra for about 10-15 days before the incident. On the morning of the incident, he had arrived at Virendra's house at around 6:45 a.m. Upon arrival, he spoke with Virendra's father, then told Virendra's mother that Virendra should not call his Bhabhi. While talking to her, Virendra had begun to abuse him verbally. He further deposed that he reached the police station after 7:00 a.m., accompanied by his nephew, Lovlesh, and his cousin, Ravi Prakash. His brother had prepared the written complaint that was given to the police station. After leaving the police station, the police had sought medical treatment about an hour later. He had returned home after receiving treatment, assisted by his nephew. He had travelled alone on his motorcycle while his nephew and brother had ridden on a separate motorcycle. His X-ray was performed the same day. The Sub-Inspector had recorded his statement approximately one month after the incident. During the assault by Virendra, there had been a commotion, and about 10-15 people were present, but he could not identify any of them. Virendra had fled the scene before anyone could intervene. The witness had refuted claims that he had gone to Virendra's house to beat him due to a prior bicycle collision or that he had chased Virendra into the house where an injury occurred.
5. Following the Court's order dated 17.03.2022, PW-1 Satya Prakash Sharma had given further testimony on 19.01.2021. He stated that he belonged to Baleipur village, PS Mahrua, District Ambedkar Nagar. He had been living in Dimapur, Nagaland, for business purposes and had an Aadhaar card issued with that address. He had owned a shop named Sharda Motors near the Golaghat Road Public Ground. About 5-6 years prior, he had closed his business and returned to Baleipur, but he had not updated his Aadhaar card with his current address. Concerning the incident, he had submitted a written application to the police

station, which was recorded at page 39B/2, in his handwriting and signature. It was marked as Exhibit Ka-9. He confirmed that the mobile number in that application belonged to him, and the FIR had been registered based on it.

6. In cross-examination on 19.01.2021, PW-1 confirmed that he resided in Baleipur, PS Mahrua, District Ambedkar Nagar. He stated that he had personally written the FIR and did not rely on any other person's information. He was the injured party. His brother, Ravi Prakash, and nephew, Lovlesh, had accompanied him when the FIR was being prepared.
7. **PW-2 Lovlesh Sharma** testified on 19.12.2017 that Satya Prakash (PW-1) was his maternal uncle. He stated that the incident had occurred on 12.08.2015 at around 07:00 a.m. The accused, Virendra, had frequently spoken on the phone with the witness's mother, Rekha Devi, causing annoyance. Upon learning this, Satya Prakash went to Virendra's house to address the matter. Five to seven minutes after Satya Prakash had left, he and Ravi Prakash had arrived at Virendra's house and witnessed the accused abusing their uncle and hitting him on the head with a hockey stick, after which he had fled the scene. At that time, the uncle had been unconscious and bleeding heavily. They had taken their uncle to the police station, where Satya Prakash had the FIR prepared. Regarding the incident, Daroga Ji took his statement.
8. In cross-examination on 19.12.2017, PW-2 stated that he also had gone to the police station and confirmed that the FIR had been written by his uncle Satya Prakash. He and Ravi Prakash were unsure whether the paper for the FIR had come from the police station or had been brought from elsewhere. During further questioning on 14.09.2018, Lovlesh acknowledged that he had not known the accused, Virendra, before the incident and had first seen him that day. The distance from his house to the accused's house was about 5 kilometres. They were unfamiliar with the accused's mobile number and only knew about the phone calls from their uncle. He mentioned that the fight lasted about 5-7 minutes and that his uncle arrived at the scene first. He could not identify any other individuals present during the incident, and although many people gathered, only Ravi Prakash had been with him. The police station was approximately 2-3 kilometres from the scene. After taking Satya Prakash to the police station, they subsequently went for medical treatment. Lovlesh, his injured uncle, and a constable had gone to the hospital on the same motorcycle, arriving around 8:00 a.m. The treatment had taken about three hours, after which they had returned home. Lovlesh confirmed that Virendra was the only

person involved in the assault and that no one else participated. Daroga Ji had recorded his statement days later, though he could not recall the exact number of days. While the witness had mentioned the names Harendra and Sant Ram in his statement, he was unaware of why those names were omitted. Satya Prakash regained consciousness after about 3 to 4 minutes. His nickname was Dabbhu. He had refuted claims that a prior incident of a bicycle collision had occurred, as well as allegations that they had entered Virendra's house or assaulted his mother. He maintained that Virendra had struck his uncle from behind.

9. **PW-3 Ravi Prakash Sharma** testified on 15.11.2018 that the incident had taken place on 12.08.2015 at around 07:00 a.m. At that time, he had been travelling from his home to Mahrua when he reached Khadarha and saw Satya Prakash Sharma (from his village) in an altercation with Virendra Yadav of Khadarha. Virendra had begun to beat Satya Prakash with a hockey stick while verbally abusing him, inflicting a head injury. Lovlesh Sharma had also been present at that time. Villagers and others had intervened, and Satya Prakash had been taken to the police station. The quarrel had arisen from Virendra's frequent phone calls to Satya Prakash's Bhabhi. The Sub-Inspector had taken Ravi Prakash's account regarding the incident.
10. In cross-examination on 15.11.2018, PW-3 stated that Satya Prakash was his cousin's son. He had arrived at the scene after the beating began. If the FIR did not indicate his arrival, he was uncertain why. He could recognise the accused if he saw him again. He had not been acquainted with Virendra before that day. He confirmed that the front of Virendra's house faced west, with a well near the door, and that the fight had occurred south of the well. The altercation lasted about 10 minutes, and Satya Prakash was taken to the police station on a motorcycle driven by him. While the FIR was prepared at the police station, he was present but did not know who had written it. They had remained at the police station for about half an hour. He had not taken Satya Prakash to the hospital. Villagers had helped Satya Prakash; he did not know their names. He had heard from others that Virendra used to call Satya Prakash's Bhabhi, but he had not seen it himself. No FIR had been filed previously regarding Virendra's phone call. He did not know the accused's phone number. They had not captured Virendra and beaten him, nor had Virendra attacked anyone else. After assaulting Satya Prakash, Virendra had fled, and they had not pursued him or attempted to catch him. Everyone present had helped Satya Prakash. He denied claims that he had not seen the incident with his own eyes or that he was testifying falsely.

11. **PW-4 Constable Shiv Kumar** deposed on 13.12.2018 that on 12.08.2015, he had been serving as a Constable at PS Mahrua, Ambedkar Nagar. On that day, based on Satya Prakash Sharma's written complaint, he lodged NCR No. 126/2015 under Sections 323 and 504 of the IPC. This NCR had been recorded at 08:10 a.m. and documented on page 25A of the record, bearing his signature. This document had been marked as Exhibit Ka-2. The Investigating Officer had recorded his statement during the investigation.
12. In cross-examination on 13.12.2018, PW-4 stated that Satya Prakash had come to file the NCR alone, already having the written complaint prepared. No one had accompanied him, and about ten minutes after submitting the complaint, he had been taken for medical examination.
13. PW-4 Shiv Kumar was recalled to the stand on 17.03.2020. He stated that approximately one year had elapsed since his previous testimony. At that time, he had been posted at PS Bhati and was currently serving as Constable Mohrrar at PS Mahrua. He had verified that he registered NCR No. 126/2015 under Sections 323 and 504 IPC based on Satya Prakash's petition at 08:10 a.m. on 12.08.2015. He had recorded the incident in General Diary entry number 7 at 08:10 a.m. on that date, with the original GD copy at page 8A/2 of the record, which he had confirmed. It was marked as Exhibit Ka-9.
14. In cross-examination on 17.03.2020, PW-4 indicated that he wrote the NCR. He had observed the head injury but could not assess its severity. Satya Prakash had been speaking and walking, which led him to prepare the NCR. Satya Prakash had presented an application; whether he had written it himself or had someone else write it, he did not know. Based on that application, he had registered the NCR and handed a copy to Satya Prakash.
15. **PW-5 Dr Vikas Chandra Tiwari (Medical Officer, PHC Akbarpur)** testified on 13.12.2018 that he had been serving as the Medical Officer at PHC Akbarpur on 12.08.2015. On that day, the injured Satya Prakash, approximately 43 years old, son of Jairam and a resident of Baleipur, PS Mahrua, had been brought in by Home Guard 0713 Madhur Dubey for medical examination. The examination had occurred around 09:15 a.m., revealing two injuries: (1) a lacerated wound of about 5.0 cm x 0.6 cm on the right parietal bone of the head, penetrating the skull and located approximately 10 cm above the right ear; and (2) a red abrasion of roughly 0.5 cm x 0.2 cm on the middle finger of the right hand. The injured had reported pain throughout his back and body. The first injury had been referred for X-ray, while the second was deemed simple. Injury No.1 had appeared to be caused by a

sharp-edged object, while the second could have resulted from a blunt object. All injuries were fresh and aligned with having been inflicted around 07:00 a.m. on 12.08.2015. The injured's thumb impression had been taken on the medical report, prepared in his handwriting, which is paper number 6A/4 of the record. He had confirmed the report, which had been marked as Exhibit Ka-3.

16. In cross-examination, Dr Tiwari stated: "A sharp-edged weapon caused Injury No.1. This injury could not have been inflicted by a hockey stick. Daroga Ji had only recorded two injuries in the injury report. A Home Guard brought the patient. The hospital operated from 08:00 a.m. to 02:00 p.m. in the summer and 10:00 a.m. to 04:00 p.m. in the winter; however, the emergency department remained open 24 hours."

17. **PW-6 Dr Gulrez Ahmad (Radiologist, District Hospital Faizabad)** testified on 17.10.2019 that he had been working as a Radiologist at the District Hospital, Faizabad, and had conducted a CT scan of the injured Satya Prakash (approximately 43 years old, son of Jairam, resident of Baleipur, PS Mahrua), who had been referred to him for the scan. He had personally overseen the CT scan and prepared a report indicating a fracture in the frontal bone of the skull. The original CT scan report, recorded in his handwriting, is available at paper number 6A/3 of the record, which he had confirmed. This report had been marked as Exhibit Ka-4.

18. In cross-examination on 27.11.2019, Dr Ahmad stated: "From the CT scan, it was impossible to determine the age of a skull fracture. I had prepared the CT scan report based on the images. I did not ask the patient any questions, nor did he provide additional information. The patient had been conscious during the CT scan."

19. **PW-7 Anil Kumar Singh (Retired Sub-Inspector and Investigating Officer)** deposed on 03.03.2020 that on 07.11.2015, he had been serving as a Sub-Inspector at PS Mahrua, Ambedkar Nagar. He confirmed that the NCR 126/2015 was registered under Sections 323 and 504 IPC in his presence. After receiving an investigation order from the honourable court, he commenced the investigation of that NCR. He collected relevant papers from the police station and made entries in the case diary. On 07.11.2015, he prepared page 1 of the case diary, and on 08.11.2015, he documented the Second paper by recording the injured Satya Prakash's injury report obtained from the PS records. On 10.12.2015, he had recorded paper three following Dr Vikas's statement about the medical examination of the injured at PHC Akbarpur. On 11.12.2015, he prepared page 4 after recording statements from the complainant, Satya Prakash, and the witnesses, Lovlesh Sharma and Ravi Prakash. Following the

complainant's indication, he inspected the scene and prepared a sketch map on page 5A of the record, which he had confirmed as accurate, and it was marked Exhibit-5. On 17.12.2015, he had reviewed the entire investigation, including medical reports and the CT scan, documenting that the grievous injury to the injured's head had involved a fracture of the frontal bone. A doctor had characterised the injury as grievous, which might be fatal, prompting him to elevate the charge to Section 308 IPC. The details of this action had been noted in the case diary report No. 19 at 14:00 hours on 17.12.2015 at PS Mahrua, Ambedkar Nagar. He had documented a carbon copy when preparing the final case diary. The carbon copy of case diary report No. 19 is paper 8A/1, which he confirmed, and it was marked as Exhibit-6. On 17.12.2015, he issued a notice to the accused, Virendra, under Section 41A CrPC and recorded the accused's statement in the case diary. After concluding the investigation, having assessed the statements of the complainant and witnesses, the scene inspection, as well as medical and CT reports, he had determined that the offences under Sections 323, 504, and 308 IPC were sufficiently established. Consequently, charge-sheet No. 53 dated 17.12.2015 was submitted to the court, which is documented as paper 3A of the record in his handwriting, confirmed by him, and it was marked as Exhibit-7. Following the addition of Section 308, NCR 126/2015 had been amended to FIR No. 119/2015 under Sections 323, 504, and 308 IPC. He had also sent a letter to the Medical Officer at PHC Akbarpur, Ambedkar Nagar, seeking his opinion on the nature of the injuries; that letter is paper 6A/1 on the record, with the doctor's written opinion, which is marked Exhibit-8.

20. In cross-examination on 03.03.2020, PW-7 stated: "The incident had taken place on 12.08.2015. The sketch map I had prepared on 11.12.2015 showed the front of the accused's door, with only a hand pump noted and no well. I was informed that the incident arose from the accused's daily calls to the complainant's Bhabhi, which prompted the complainant to confront him. I did not ascertain from which phone number or to which number the accused had been calling, nor did I conduct any surveillance. The original written application of the complainant's FIR is absent from the case record. I did not find it necessary to record the statement of the accused's mother, Singari Devi, nor did I gather any witnesses from Khadarha village. While the complainant resided in Baleipur, Khadarha village was situated about 6-7 kilometres away. No prior reports had been filed with the police regarding the accused's calls to the complainant's sister-in-law. I did not know whether the complainant had come alone to file the

case or with someone else. I was not present when the case was filed, nor did I see the injured's wounds at the police station. The NCR bore no witness names. The petition under Section 155(2) CrPC filed in court (order dated 09.09.2015) mentioned the names Virendra, Harendra, and Sant Ram, yet the NCR registered that date named only Virendra Yadav. It is inaccurate to claim that the complainant had assaulted the accused's mother, Singari Devi, or caused her injury and that on the call, villagers came and that while fleeing, the complainant had hit his head on the door latch, injuring himself, and then the complainant lodged a false NCR. I am not aware that a complaint case had been filed by Singari Devi (the accused's mother), naming Satyaprakash Sharma, wherein the accused people have been summoned."

Defence Evidence

21. **DW-1 Singari Devi (the Mother of the Accused)** deposed in her examination-in-chief that on 11.08.2015, her son, Virendra Kumar, and the complainant's nephew had collided with their bicycles while on their way to school, resulting in damage to Virendra's bicycle. The next day, around 06:00 a.m. on 12.08.2015, Satya Prakash (the complainant), along with two unidentified men, had come to her house with the intent of assaulting Virendra. They had entered her home and begun to attack Virendra physically. She had attempted to protect her son and had shouted for help, which drew the villagers' attention. During the altercation, Satya Prakash had tried to flee but had injured himself by hitting his head on the iron latch (Kundha) at the top of the door. He had been cursing and threatening to kill Virendra before fleeing with the two unknown men. Singari Devi claimed that she herself had suffered injuries during the incident and had gone to the police station. She had remained with the accused at the police station throughout the day, but the police had not registered a report or provided her with medical care. To relieve her injury, she had applied a paste of turmeric, onion, and alum as advised by villagers. She had informed the Superintendent of Police through a registered letter, but no action had been taken. Subsequently, she had filed a private complaint (parivad) against Satya Prakash, numbered 97/2016, which was currently pending in the Junior Division court, with the next hearing scheduled for 27.02.2021, and the summons had been issued.

22. In cross-examination, DW-1 stated: "My name is Singari Devi, and Virendra is my son. I have come to depose in Virendra's favour. He had brought me to court that day. No summons had been issued to me for this case. The incident had occurred on the

12th of the month, but I could not recall the year; it had been about five years. I was illiterate and could not read the clock. The incident occurred around 06:00 a.m. Satya Prakash had come to my home with another man whose name I did not know, and had started beating my child. I had tried to intervene, but Satya Prakash had pushed me with a boxing fist and struck me twice. I had shouted for help and later filed a case against Satya Prakash, though I could not recall exactly when that had happened; it had been one or two months after the incident. Daroga Ji had recorded my statement. I had told him the truth. The case I had filed in court was related to the incident that occurred in my verandah. I could not recall the name of the court or the specific details of the case; Babu (perhaps son or clerk) had managed it for me. Satya Prakash was my nephew and resided in Baleipur, about 15 kilometres from my house. Satya Prakash had been injured in the scuffle, and the police had not arrived promptly. No one else had been present in my house during the incident. Satya Prakash had managed to leave on a vehicle on his own by putting his hand on his head. I did not know if Virendra had been calling Satya Prakash's Bhabhi. Virendra had been studying in Kota and had not been living at home. I had previously filed a case regarding falling on the road. I am testifying to what Virendra had told me. I could not provide the case number, the name, or the date of the hearing. It was incorrect to claim that I was giving false evidence as instructed by Virendra."

Appreciation of Evidence

We consider each issue in turn, in light of the evidence and applicable law.

23. Attempt to cause death (Section 308 IPC). The charge under Section 308 IPC alleged that the accused intended or knew that his act was likely to cause the death of the victim. To prove Section 308, the prosecution must establish that the accused did "any act with such intention or knowledge" that if death were caused, it would be culpable homicide. In other words, mere grievous injury is not enough; the State must show the accused's mens rea to commit culpable homicide. A conviction under Section 308 requires proving "requisite intention or knowledge" of causing death.
24. In this case, although the head injury was serious, the evidence does not establish that the accused intended or knew he would kill PW-1. Nowhere did PW-1 or other witnesses clearly testify that the accused said he intended to kill or that he used a weapon in a manner plainly aimed at death. The radiologist has not

mentioned the nature of the fracture in the frontal bone. There is no mention that the fracture was depressed or fatal. The nature of the injuries attributes the force applied. The injured person remained conscious throughout. In this scenario, it cannot be said that the accused had the intention or the requisite knowledge to attract section 308. All evidence suggests the accused acted in anger and brutality, not with premeditated intent to kill. The victim's head was struck, but the injuries – though grievous – were not medically shown to be fatal in the ordinary course. The medical officers did not certify that death was imminent or that the fracture would necessarily be fatal. They only noted the injuries. The prosecution argues that a blow to the skull could be life-threatening, but without proof that the accused anticipated this result, Section 308 is not made out.

25. Here, the accused had no history of violence toward the victim and no apparent motive to kill. He reacted to being confronted about harassing phone calls. The witnesses did not say the accused threatened to kill or used the stick in a manner clearly calculated for death. Indeed, when PW-1 went to the police immediately after, he was alive and conscious (able to give a statement). Under these circumstances, the mens rea of culpable homicide is lacking. It cannot be inferred beyond a reasonable doubt that by hitting the victim's head, the accused intended or knew he could cause death. Thus, injury to the head alone is insufficient to presume the intent or requisite knowledge to kill. A conviction under Section 308 cannot stand without specific proof of intent or knowledge. No such proof exists here. The prosecution has only shown that hurt was caused to the finger and head with some fracture (without nature of fracture, coma, haemotoma or unconsciousness), not that the act was done in the knowledge or intention of causing death. Consequently, the offence under Section 308 IPC is not made out, and the accused is entitled to acquittal on that count.

26. Grievous hurt (Section 325 IPC). PW-1 (complainant) testified in chief that on 12.08.2015 at about 7:00 a.m., he confronted Virendra Yadav at the latter's house about phone calls to his Bhabhi. The accused immediately began abusing him and then struck him on the head repeatedly with a hockey stick. PW-1 stated: "मुझे हॉकी से मारना पीटना शुरू कर दिया जिससे मेरा सिर फट गया और काफी खून बह गया" ("he started beating me with a hockey, splitting my head and causing heavy bleeding"). This account was corroborated by PW-2 Lavesh Sharma (PW-1's nephew) and PW-3 Ravi Prakash Sharma (PW-1's cousin). PW-2 and PW-3 also saw the accused assaulting PW-1 with a hockey and confirmed that PW-1 fell unconscious with blood pouring from his head. So far as the

presence of PW-2 and PW-3 on the spot is concerned, it is contended that their names do not find place in the FIR. PW-4 negated the presence of PW-2 and PW-3 at the time of lodging the FIR, and they are interested witnesses as they are relatives of the accused. It is a settled legal position that FIR is not an encyclopedia, and the relative witnesses shall not be treated as interested witnesses unless they have an interest in the outcome of the case. There is nothing on the record to show that PW-2 and PW-3 had an interest in the outcome of the case. There was no enmity between PW-2, PW-3 and the accused. Minor omissions in the FIR, which do not go to the root of the case, are immaterial. It may be that PW-4 faded his memory, or that PW-2 and PW-3 waited outside the police station. DW-1 has also admitted the occurrence, but she described it as an accidental injury while fleeing. Also, the timing stated by the DW-1 is inconsistent. DW-1's deposition is not reliable for another reason, that is, if her son was in Kota, how the cycle accident took place in Ambedkar Nagar. DW-1 is the accused's mother, and she has an interest in the accused's acquittal. At one place, she has admitted that she is testifying to what Virendra (accused) had told her. Hence, DW-1's testimony is not reliable.

27. If witnesses are not parroting, minor inconsistencies are bound to occur in all cases, as in this case as well. When the IO took the statements of witnesses, who wrote the tehrir or the identity of the accused by PW-2 and PW-3, these concerns are likely due to fading memory, and these are the least concerned. Though IO should investigate the eve-teasing with CDR, and the prosecution has to produce the Bhabhi of the complainant, which would strengthen the prosecution's case. However, non-investigation of eve teasing does not ipso facto weaken the prosecution's case.
28. All prosecution witnesses consistently described the accused striking the victim's head and noted the serious injury. The testimony of an injured person carries greater weight. The testimony of an injured person carries greater weight. Conviction may be awarded based on the injured witness's testimony if it inspires confidence. There is no evidence that PW-1 provoked a fight or that others injured him. The defence merely denied the facts and alleged a conspiracy, but offered no evidence to rebut the eyewitness testimony.
29. Medical evidence confirms that PW-1 suffered a grievous head injury. Dr Vikas Tiwari (PW-5), who examined the victim at 9:15 a.m. on 12.08.2015, found two injuries: an incised wound (5.0 cm × 0.6 cm) on the right parietal bone of the skull (bone-deep) and a small contusion on the right middle finger. Dr Tiwari opined that

a sharp weapon caused the head wound (a cut to bone) and was fresh, consistent with a morning injury. The victim's back and whole body were in pain, and he was referred for an X-ray of the skull. PW-6 Dr Gulrez Ahmad performed a CT scan on 14.08.2015 and reported a fracture of the frontal bone of the skull. Thus, the medical reports show that PW-1's head suffered a deep incision and a skull fracture. Yes, no doubt, there is significant inconsistency - sharp-edged weapon versus blunt object (hockey), and that is the main point which the defence counsel pressed. Generally, hockey does not inflict a cut injury, but if a sharp edge is attached to the base of the hockey, the cut injury cannot be ruled out. It is IO's fault that hockey could not be recovered; otherwise, the picture would have been clearer. The frontal fracture is possible if a hockey puck with a sharp edge is hit on the temporal region. Considering the skull's structure, it is quite likely that force on the temporal region may cause a fracture in the frontal region.

30. Under Section 320 IPC, grievous hurt includes injuries such as a fracture of a bone. A simple fracture of the skull qualifies as "grievous hurt". The evidence shows the accused deliberately swung a hockey at the victim's head with force, inflicting an injury that bled heavily and produced a skull fracture. Constable Shiv Kumar (PW-4), who took PW-1's report, also noted that the victim came to the police station with visible head injuries and bleeding: "चोटहिल की सिर की चोटों को मैंने देखा था...वह बोल रहा था, चल फिर रहा था इसलिए मैंने एन.सी.आर. लिखा" ("I saw the victim's head injuries... he was speaking and walking, so I wrote the report"). This corroborates that PW-1's injury was severe and apparent immediately after the assault.
31. No defence evidence negates this proof of injury. The medical and eyewitness evidence remains largely uncontradicted. I therefore find that the accused did voluntarily cause grievous hurt to PW-1 by striking his head with a hockey stick. Section 322 IPC defines "voluntarily causing grievous hurt", and Section 325 prescribes punishment when one voluntarily causes grievous hurt. Here, there is clear proof that the accused knowingly and intentionally attacked the complainant's head, causing an open skull wound and fracture. No exception applies. The accused's act squarely falls under Section 325 IPC and is proved beyond a reasonable doubt.
32. Intentional insult (Section 504 IPC). Section 504 IPC requires proof that the accused intentionally insulted the complainant and intended or knew it was likely that the insult would provoke a breach of the peace. Mere use of abusive language is not enough; the words and context must be established. In this case, PW-1 did say the accused used "भद्दी-भद्दी गालियाँ" and abuses, but neither the FIR

nor any testimony specifies what exactly was said. There is no record of the exact words used or any act demonstrating intent to disturb public order.

33. The Hon'ble Supreme Court in [Om Prakash Ambadkar vs The State Of Maharashtra on 16 January, 2025: 2025 INSC 139](#) held that to attract Section 504, the prosecution must prove the actual abusive words and that they were of such a nature as to provoke a breach of the peace. If the FIR simply states that "abusive language was used" without stating the words, Section 504 cannot be sustained. Here, like in Ambadkar, the evidence mentions only that insults were hurled, not their content or specific effect. There is no evidence that PW-1 lost his temper or that any breach of peace ensued. No public disturbance is shown. Crucially, no witness produced the text of the insult. As the Court stated, "in the absence of these words, it is not possible to decide whether the ingredient of intentional insult is present".
34. Given the lack of specific proof of insulting words and intent, the ingredients of Section 504 IPC are not satisfied. The evidence does not show that the accused's abuses were meant to provoke PW-1 to violence, nor does it show the effect of those words on any person. Therefore, the charge under Section 504 IPC must also fail. The accused is accordingly acquitted of that offence as well.

Findings

35. The offence of attempt to commit culpable homicide (Section 308 IPC) is not proved. Though grievous hurt resulted, there is no proof that the accused acted with intention or knowledge of causing death.
36. The accused has been proved guilty of voluntarily causing grievous hurt (Section 325 IPC) to the complainant by beating him with a hockey, causing a skull fracture and heavy bleeding. The injury is thus classifiable as grievous hurt and was inflicted intentionally by the accused.
37. As the accused has been found guilty under Section 325 of the IPC, which is a graver form of Section 325 IPC, there is no need to hold the accused guilty under Section 323 also.
38. The offence of intentional insult to provoke breach of peace (Section 504 IPC) is not proved. The evidence establishes no specific insulting words or intent.
39. The accused, Virendra Yadav, is acquitted of the offences under Sections 308 and 504 of the IPC. He is convicted under Section 325 IPC. The accused is on bail. His bail bond and sureties are discharged. The accused shall be taken into custody. Having convicted the accused of grievous hurt, the Court must now

impose a sentence. Put up on 06.12.2025 for a hearing on the quantum of punishment.

Chandroday Kumar)
Sessions Judge, Ambedkar
Nagar.
05.12.2025

06.12.2025

Section 325 prescribes imprisonment for a term which may extend to seven years and/or a fine. Considering the facts, this Court finds the following factors relevant to sentencing: the injury was serious (a head fracture), the attack was intentional and violent, and the accused's conduct was aggravated by the fact that he had been harassing women (the victim's Bhabhi) by telephone prior to the incident. These are aggravating considerations. On the other hand, the accused is a young man (about 26 years old), has no previous convictions on record (PW-7's case diary confirms first offender status and police report shows that no criminal case has been registered against the accused after the incident), and cooperated with the investigation.

The accused sought the benefit of probation. Prosecution submitted that two cases were registered against the convicted Virendra Yadav after the occurrence of this case. One is Crime Number 141/2014, under Sections 279, 337, 338 of the IPC, PS Maharua, District Ambedkar Nagar, and the other is Crime Number 126/2023, under Sections 352, 504, 506 of the IPC, PS Maharua, District Ambedkar Nagar. Considering the cause of the attack, the underlying root of eve teasing and the case under Sections 352, 504, 506 of the IPC against the accused, it will not be appropriate to release him on probation even though a long time has passed since the occurrence.

Balancing these factors, I impose a sentence sufficient for deterrence but mindful of the accused's first-offender status. The accused, Virendra Yadav, is sentenced to undergo four (4) years' rigorous imprisonment under Section 325 of the IPC. In addition, he shall pay a fine of ₹10,000 (ten thousand rupees), of which ₹5,000 is to be directed to the victim under Section 357(3) Cr.P.C. (if not paid, the fine amount shall carry default simple imprisonment for six months). The period spent in custody from the date of arrest till today (if any) shall be set off under Section 428 Cr.P.C.

The accused is thus punished for voluntarily causing grievous hurt. As no other offence is made out, he stands acquitted of Sections 308 and

504 IPC. The conviction warrant shall be prepared to serve out the sentence.

Order: Conviction under Section 325 IPC; acquittal under Sections 308 and 504 IPC. Sentence as above.

The Judgement is signed, dated and pronounced in the open court by me today.

(Chandroday Kumar)
Sessions Judge, Ambedkar
Nagar.
06.12.2025