



and

IN THE COURT OF SESSIONS JUDGE, AMBEDKAR NAGAR

Present: Chandroday Kumar, HJS, JO Code UP6553

Session Trial Number: 110/2013

State of Uttar Pradesh

---- Prosecution

Versus

1. Ram Karan, son of Ram Khelawan
2. Ram Adhar, son of Baljor (deceased during the trial)
3. Manoj, son of Ram Adhar
4. Rupesh, son of Ram Adhar
5. Vinod, son of Ram Adhar
6. Amarjeet, son of Ram Karan
7. Ram Sahay, son of Punnvasi
8. Ram Kedar, son of Baljor (deceased during the trial)
9. Tihuli, son of Ram Kewal

Residents of the village Usraha, Police Station Jalalpur, District
Ambedkar Nagar

Accused

Case Crime Number: 226/2012

Sections: 147, 308/149, 323/149,
304/149, 325/149, 504, 506 IPC

Police Station: Jalalpur

District: Ambedkar Nagar

AND

Session Trial Number: 120/2013

State of Uttar Pradesh

---- Prosecution

Versus

1. Jairam, son of Ram Acharya
2. Rajman, son of Ram Acharya
3. Lalta Prasad, son of Ram Laut
4. Dayaram, son of Ram Laut
5. Phoolchandra, son of Jaishree
6. Anil Kumar, son of Ram Ratan

Residents of village Bighiya Mashmule Usraha, Police Station Jalalpur,
District Ambedkar Nagar

----Accused

Case Crime Number: 226A/2012

Sections: 147, 323/149, 325/149, and
324/149 of the Indian Penal Code

Police Station: Jalalpur, District:
Ambedkar Nagar

Assigning Sessions Trial No. 110 of 2013 as a leading case, Consolidated Judgment in Sessions Trial Nos. 120 of 2013 and 110 of 2013.

Introduction

- 1) These two cross-cases arise from the same incident – a violent clash that occurred on 19.08.2012 in the village Usraha, P.S. Jalalpur, District Ambedkar Nagar. Session Trial No. 110 of 2013 (State vs. Ram Karan & Others) and Session Trial No. 120 of 2013 (State vs. Jairam & Others) were tried together and are being disposed of by this consolidated judgment for the sake of coherence, convenience and avoiding conflicting decisions. Both cases stem from a fight between two rival groups, which occurred at the boundary place in between the houses of the two rival groups, on the issue of land boundary, resulting in one death and multiple injuries on both sides, including grievous injury.
- 2) In ST No. 110 of 2013, accused Ram Karan and nine others (his relatives and associates) were charged with offenses including rioting, culpable homicide not amounting to murder, attempt to culpable homicide not amounting to murder, grievous hurt, and criminal intimidation under Sections 147, 304, 308, 325, 323, 504, 506 of the Indian Penal Code, 1860 (IPC) (read with Section 149 IPC as per the charge). In the cross-case ST No. 120 of 2013, accused Jairam and six others were charged with rioting and causing hurt (simple and grievous, including by dangerous weapons) under Sections 147, 323, 324, 325 IPC (read with Section 149 IPC). During the pendency of the trials, **two of the accused (Ram Adhar and Ram Kedar from Ram Karan's side) passed away, and proceedings abated against them.**
- 3) **Background:** It is undisputed that there was bad blood between the two sides, reportedly over a land/property dispute. On the morning of 19.08.2012 at about 7:00 AM, an altercation escalated into a violent attack. Both sides armed themselves with lathis (sticks), dandas, and at least one Belchuk (a sharp-edged digging tool), among other makeshift weapons. A pitched battle ensued in the village lane, involving members of both families and their supporters. As a result, Shri Ram Laut (an elderly member of Jairam's side) sustained severe head injuries and later succumbed in hospital on 20.08.2012. Numerous persons from both sides suffered injuries, some grievous (including fractures) and others simple.
- 4) Given the nature of the incident where each side inflicted injuries on the other, the Court must assess criminal liability carefully. The incident is analysed as a sudden mutual free fight vis-à-vis a group aggressor. Accordingly, the usual principles regarding

common object (Section 149 IPC) and vicarious liability will have to be viewed in light of the law on free fights. The Court will first summarise the cases of both sides, then consider the evidence, and finally give findings with reasons.

Prosecution Case (ST No. 110 of 2013 – State vs. Ram Karan & Others)

- 5) In ST No. 110/2013, as per the complainant, PW-1 Rajman, of this case, the prosecution version is that **on 19.08.2012 at around 7:00 AM**, adjacent to his house, within his habitation area (**Abadi**), **Ram Karan**, son of Khelawan of the same village, **was excavating the foundation with the intention of illegal possession**. When he (PW-1) objected, the accused began abusing him, and upon summoning their family members, became prepared to assault. When he and his family declined to engage in any dispute, **Ram Karan, Ram Adhar, Manoj, Rupesh, Vinod, Amarjeet, Tihuli, Ram Kedar, and Ram Sahay** (hereinafter "**Group A**"), each armed with sticks, clubs and rods, began to beat them.
- 6) Upon hearing his cries, his family members – his brother **Jairam**, his sister-in-law **Lakhpatti Devi**, his son **Pappu** – and villagers **Lalta Prasad, Mithilesh Kumar, Samarathi (wife of Ram Laut), and Ram Laut** himself and their other associates (hereinafter "**Group B**") arrived to intervene; however, the accused assaulted all of them brutally with sticks and clubs. Ram Laut, who attempted to pacify and stop the altercation, sustained grievous injuries, became unconscious on the spot, and froth was observed coming from his mouth.
- 7) When other villagers arrived to intervene, the aforementioned persons fled while issuing threats to life and property and throwing bricks and stones towards them.
- 8) The injured were then taken for medical treatment. Ram Laut was referred to the Trauma Centre in Lucknow, given the severe head injuries. Tragically, Ram Laut succumbed to his head injuries the next day (20.08.2012) at about noon, while under treatment. The prosecution claims that Ram Karan and his accomplices intentionally caused these injuries in pursuit of their common object to settle scores over the land dispute. Initially, the FIR (Crime No. 225/2012 at P.S. Jalalpur) was registered for offences including attempted culpable homicide, but after Ram Laut's death, Section 304 IPC (culpable homicide) was added.
- 9) During the investigation, the investigating officer prepared site plans, and recorded witness statements. A charge sheet was filed against nine accused of Group A (Ram Karan's side). The charges framed by the Court included rioting (Section 147 IPC), unlawful assembly with the common object of causing harm (Section 149 IPC applied to other charges), culpable homicide not amounting

to murder (Section 304 IPC), attempt to commit culpable homicide (Section 308 IPC) for injuries to others, voluntarily causing grievous hurt (Section 325 IPC) and simple hurt (Section 323 IPC), as well as uttering abuses i.e. intentional insult with intent to provoke breach of the peace (Section 504 IPC) and criminal intimidation (Section 506 IPC). The prosecution relies on eyewitness testimony (mostly members of Group B), medical evidence (injury reports and post-mortem report of Ram Laut), and other material evidence to substantiate that Ram Karan's group attacked and caused the death of Ram Laut and injuries to multiple victims.

10) Combined Prosecution Evidence Table

Category	PW No.	Name/ Designation	Exhibit No.	Description of Document Proved
Oral Evidence	1	Rajman	Ka-1, Ka-2	<u>Written complaint & death information of Ram Laut</u>
	2	Lalta Prasad	—	<u>Oral testimony only</u>
	3	Jaiaram	—	<u>Oral testimony only</u>
	4	Mithilesh Kumar	—	<u>Oral testimony only</u>
	5	Santlal Yadav (Retd. Sub-Inspector)	Ka-3, Ka-4	<u>Chik FIR & carbon copy of GD entry</u>
	6	Pappu Kumar	—	<u>Oral testimony only</u>
	7	Dr R.K. Verma	Ka-5 to Ka-12	<u>Injury reports of Mithilesh Kumar, Lalta Prasad, Samarathi, Pappu, Lakhpatti Devi, Rajman & Jaiaram</u>
	8	Dr Sunil Kumar Singh	Ka-13 to Ka-19	<u>Post-mortem, police papers, panchayatnama, photo-nash, GD carbon copy, police report, challan</u>
	9	Lakhpatti	—	<u>Oral testimony only</u>
	10	Dr. Parmanand Yadav	Ka-20	<u>X-ray report of Lakhpatti</u>
	11	Umapati	—	<u>Oral testimony only</u>
	12	Parshuram Singh (Retd. Circle Officer)	Ka-21, Ka-22, Ka-23	<u>Charge sheet, supplementary charge sheet, site plan</u>

11) Consolidated Medical Injury Report (Dated 19.08.2012) Table Proved By PW-7 Dr R.K. Verma posted at CHC Jalalpur

Name of Injured	No. of Injuries	Detailed Description (Size, Place, Nature)	Nature of Injuries	Referral / Medical Advice
<p>10:25 AM</p> <p>Mithilesh Kumar</p> <p>Exhibit Ka-5</p>	5	<p>1. Reddish contusion 8 × 2 cm on left arm (deltoid)</p> <p>2. Reddish contusion 6.5 × 5.5 cm on left elbow (outer)</p> <p>3. Reddish contusion 5 × 1.2 cm at mid right forearm</p> <p>4. Reddish contusion 4 × 1 cm outer right forearm</p> <p>5. Abraded contusion 2.7 × 0.7 cm on the outer left knee joint</p>	<p>All simple except injury no. 2, possibly caused by a hard and blunt object.</p> <p>Duration-Fresh</p>	<p>Injury No.2 was referred to the District Hospital, Ambedkar Nagar, for specialist opinion</p>
<p>10:40 AM</p> <p>Lalta Prasad</p> <p>Exhibit Ka-6</p>	7	<p>1. Reddish abrasion 2.5 × 0.3 cm on the left temporal region</p> <p>2. Reddish abraded contusion 5.5 × 1.5 cm on the right temporal region</p> <p>3. Reddish abrasion 2.5 × 0.3 cm over left shoulder</p> <p>4. Reddish contusion 5 × 2 cm on the right deltoid region</p> <p>5. Reddish contusion 4 × 4 cm on the outer right elbow joint</p> <p>6. Reddish contusion 7 × 2.5 cm below the right scapula region</p> <p>7. Reddish contusion 8 × 3.5 cm in the lumbar region of the back</p>	<p>All simple, possibly caused by a hard and blunt object,</p> <p>Duration Fresh</p>	<p>No referral required</p>
<p>09:40 AM</p> <p>Ram Laut (Deceased)</p> <p>Exhibit Ka-7</p>	7	<p>1. Reddish contusion 11 × 8 cm on the left parietal skull region; semi-conscious, unable to lift right limbs (paralysis)</p> <p>2. Reddish Abraded contusion 5 × 4 cm on the right parietal eminence</p>	<p>Injury No.1, 4 & 7 serious; others simple, possibly caused by a hard and blunt object,</p> <p>Duration Fresh</p>	<p>CT Scan advised for Injury No.1 + X-ray for Injury 4 & 7, referred to District Hospital, Ambedkar Nagar</p>

Name of Injured	No. of Injuries	Detailed Description (Size, Place, Nature)	Nature of Injuries	Referral / Medical Advice
		<p>3. Blackening over the upper eyelid of the left eye</p> <p>4. Reddish contusion 5 × 3 cm on the lateral left forearm (X-ray advised)</p> <p>5. Abrasion 1.5 × 1 cm dorsum of the left hand near the index base</p> <p>6. Abrasion 2 × 1 cm on the outer right elbow joint</p> <p>7. Reddish Bluish contusion 6 × 3.5 cm on the dorsum of the right palm (X-ray advised)</p>		
<p>09:55 AM</p> <p>Samarathi (female)</p> <p>Exhibit Ka-8</p>	7	<p>1. Lacerated wound 1.5 × 0.2 cm on the left parietal region, scalp deep, bleeding present</p> <p>2. Lacerated wound 2.5 × 0.3 cm deep to bone, on the upper occipital region</p> <p>3. Lacerated wound 1.2 × 0.2 cm beneath the skin tissue deep on the right parietal scalp</p> <p>4. Reddish contusion 16 × 10 cm on the left scapular region (Advised X-ray of chest and scapula)</p> <p>5. Reddish contusion 24 × 2 cm on the right side of the back</p> <p>6. Reddish contusion 12 × 1.5 cm on the back in the mid of the right scapula</p> <p>7. Reddish contusion 2 × 1.5 cm on the outer left forearm</p>	<p>Injury No.4 was grievous; others were simple, caused by a hard and blunt object</p>	<p>X-ray + Specialist opinion recommended for injury no. 4; referred to District Hospital, Ambedkar Nagar</p>

Name of Injured	No. of Injuries	Detailed Description (Size, Place, Nature)	Nature of Injuries	Referral / Medical Advice
11:25 AM Pappu Exhibit Ka-9	4 (+1 complaint of pain)	<ol style="list-style-type: none"> 1. Reddish contusion 4 × 3.5 cm on the outer right elbow joint 2. Pain complaint in the right thumb (no external mark) 3. Reddish contusion 5 × 4 cm below the right scapula region 4. Reddish contusion 12 × 2 cm on the right side of the back 	All simple except injury no.4	Injury No.4 was considered severe
10:55 AM Lakhpatti Devi (female) Exhibit Ka-10	3	<ol style="list-style-type: none"> 1. Lacerated wound 3 × 0.2 cm scalp deep, on the right side of the frontal region 2. Reddish contusion 3 × 0.5 cm on the upper right forearm 3. Reddish contusion 4 × 3 cm on the lower right forearm posterior/internal side 	Injury No.3 serious; others are simple	Injury No.3 referred for X-ray + Specialist opinion, referred to District Hospital, Ambedkar Nagar
11:10 AM Rajman Exhibit Ka-11	4	<ol style="list-style-type: none"> 1. Lacerated wound 4 × 0.5 cm skin deep on the right frontal scalp 2. Lacerated wound 1 × 0.2 cm on the upper right forehead (bone deep) 3. Abraded Reddish contusion 6 × 0.5 cm right deltoid region 4. Pain in the left hand (no visible mark) 	All simple	No referral required
11:35 AM Jairam Exhibit Ka-12	2	<ol style="list-style-type: none"> 1. Lacerated wound 1.2 × 0.2 cm skin deep on the left side of the scalp 2. Pain complaint on the left side of the neck 	Both simple	No referral required

- 12) Post mortem of deceased Ram Laut was conducted by PW-8 Dr Sunil Kumar Singh, posted at Doctor Ram Manohar Lohiya Hospital, Gomti Nagar, Lucknow, on 20.08.2022 at 04:00 PM. The PMR, Exhibit Ka-13, is as follows:

External Examination:

During the external examination, the doctor found the deceased to be of average height and build. The eyes were closed, the mouth was half open, and rigor mortis was present only in the upper limbs. Post-mortem staining was present on the back. A tracheostomy tube was present in the trachea, and hospital Leukoplast taping was present on the left side of the forehead.

Antemortem Injuries:

1. A bluish contused wound measuring 18 cm × 12 cm was present on the left side of the forehead, 2 cm above the left ear.
2. On the left side of the head, 2 cm above the left ear, there was a sutured wound measuring 25 cm, with 25 stitches. The wound was semicircular in shape. Surgical craniotomy had been performed over the left parietal and left temporal bones. A hematoma was present around the brain. According to the doctor, no bone fracture in the head was found. There was a swelling on the left side of the brain.

Internal Examination:

During the internal examination, the doctor found that the brain and its membranes were congested. Both lungs were congested. The pericardium was congested. The left side of the heart was empty, and the right side was full. The walls of the abdomen and the peritoneum were congested. About 120 ml of liquid was present in the stomach. The small intestine contained partially digested food and gas. The large intestine contained faecal matter and gas. The liver was congested, the gall bladder was half full, and the pancreas, spleen, and both kidneys were congested. The urinary bladder was empty.

According to the doctor, the death of the deceased occurred due to head injuries leading to coma. The deceased had one upper tooth.

- 13) No oral evidence was presented by the accused in their defence. However, in the documentary evidence, certified photocopies have been submitted, including: from List 192-B/1, the First Information Report of Case Crime No. 226A/2012, the chargesheet, the site plan of the incident, and the injury reports of injured people Amrawati, Kamalawati, Manoj Kumar, Ram Karan, Ram Piyari, Ram Adhar, Shweta, Rupesh, Shakuntala, Amarjeet, Vinod Kumar, Shakuntala Devi, and Ram Kedar.

- 14) In the cross-case, ST No. 120/2013, the roles are reversed. Here, the complainant, **Ram Adhar**, is from Group A. PW-1 Ram Adhar (since deceased during the trial; his testimony recorded before his demise) was the head of Ram Karan's family. He lodged the FIR (Crime No. 226A/2012) alleging that on 19.08.2012 at around 7 a.m., he was digging the foundation on his land situated in the residential area (Abadi). At that time, **Ram Laut**, son of Jhulai; **Jairam** and **Rajman**, sons of Ram Acharya; **Lalta** and **Dayaram**, sons of Ram Laut; **Rakesh**, son of **Jairam**; **Phoolchand**, son of **Jayshree**; and **Anil**, son of **Ram Ratan** – all from his own village – objected and told him that the land belonged to them. When he did not stop digging the foundation, the aforesaid persons began to beat him with sticks and clubs.
- 15) When the villagers and his family members – **Ram Kedar**, **Amarjeet**, **Kamalawati**, **Amarawati**, **Manoj Kumar**, **Shakuntala**, **Shweta**, **Vinod**, **Ram Piyari**, **Smt. Shakuntala** (daughter of **Ram Asare**), **Rupesh** and **Ram Karan** came forward to intervene; they too were beaten badly. His son **Vinod** received an injury caused by a sharp-edged weapon. When other villagers tried to intervene, the accused left the scene while issuing threats.
- 16) The same investigating officer investigated this cross-case as well, prepared a site plan (which is notably the same location as in the other case), collected medical reports of the injured from Group A, and then filed a charge-sheet against the six accused of Group B. The Court framed charges under Sections 147 (rioting), 323/149, 324/149, and 325/149 of the IPC against **Jairam** and the others. The prosecution's evidence here similarly consists primarily of testimonies of the injured persons from Group A, the medical evidence of their injuries (including X-ray reports confirming fractures), and the investigation records. Essentially, each side's prosecution story mirrors the other, except for swapping the roles of aggressor and victim.

17) **Combined Prosecution Evidence Table**

PW No.	Name / Designation	Exhibit No.	Description of Document Proved
PW-1	Ram Adhar (Informant / Injured)	Exh. Ka-1	Written report / Tehrir lodged by informant
PW-2	Vinod Kumar (Injured)	—	Oral testimony as injured eyewitness

PW No.	Name / Designation	Exhibit No.	Description of Document Proved
PW-3	Kamalawati Devi (Injured)	—	Oral testimony as injured eyewitness
PW-4	Dr. Pawan Kumar (Medical Officer, CHC Jalalpur)	Exh. Ka-2	Injury report of injured Amrawati
		Exh. Ka-3	Injury report of injured Shakuntala (wife of Mahendra)
		Exh. Ka-4	Injury report of injured Shweta
		Exh. Ka-5	Injury report of injured Ram Adhar
		Exh. Ka-6	Injury report of injured Ram Piyari
		Exh. Ka-7	Injury report of injured Amarjeet
		Exh. Ka-8	Injury report of injured Shakuntala (daughter of Ram Asrey)
		Exh. Ka-9	Injury report of injured Rupesh
		Exh. Ka-10	Injury report of injured Ram Karan
		Exh. Ka-11	Injury report of injured Manoj

PW No.	Name / Designation	Exhibit No.	Description of Document Proved
			Kumar
		Exh. Ka-12	Injury report of injured Ram Kedar
		Exh. Ka-13	Injury report of injured Vinod
		Exh. Ka-14	Injury report of injured Kamalawati
PW-5	Ram Piyari @ Piyari (Injured)	—	Oral testimony as injured eyewitness
PW-6	Rana Pratap Singh (Retd. Sub-Inspector / FIR Scribe)	Exh. Ka-15	Chik First Information Report
		Exh. Ka-16	General Diary (GD) entry of case registration
PW-7	Rupesh Kumar (Injured)	—	Oral testimony as injured eyewitness
PW-8	Amarjeet (Injured)	—	Oral testimony as injured eyewitness
PW-9	Amrawati (Injured)	—	Oral testimony as injured eyewitness
PW-10	Shakuntala (Injured)	—	Oral testimony as injured eyewitness
PW-11	Ram Karan (Injured)	—	Oral testimony as injured eyewitness

PW No.	Name / Designation	Exhibit No.	Description of Document Proved
PW-12	Shweta (Injured)	—	Oral testimony as injured eyewitness
PW-13	Shakuntala @ Shweta (Injured)	—	Oral testimony as injured eyewitness
PW-14	Dr. Parmanand Yadav (Radiologist)	Exh. Ka-17	X-ray report of injured Ram Adhar
PW-15	Manoj Kumar (Injured)	—	Oral testimony as injured eyewitness
PW-16	Parshuram Singh (Retd. Circle Officer / Investigating Officer)	Exh. Ka-18	Charge-sheet
		Exh. Ka-19	Site plan (Naksha Nazri)

18) Consolidated Medical Injury Report (19.08.2012) Proved By PW-4 Dr Pawan Kumar posted at CHC Jalalpur

S.No.	Name of Injured	No. of Injuries	Size & Detailed Descriptions (Place-wise)	Nature of Injuries (Simple/Grievous)	Remarks / Referral
1	Amaravati (female) Exhibit Ka-2	2	1) 4×3 cm reddish contusion on the left outer elbow 2) Pain in the lower back	Both are simple, caused by a hard and blunt object, Duration Fresh	No referral
2	Shakuntala (wife of Mahendra) Exhibit Ka-3	5	1) 4×3 cm lacerated wound on the frontal scalp 2) 4×1.5 cm reddish contusion left frontal 3) 5×3 cm reddish contusion on the outer right arm 4) 5×2 cm reddish	All simple, caused by a hard and blunt object, Duration Fresh	No referral

S.No.	Name of Injured	No. of Injuries	Size & Detailed Descriptions (Place-wise)	Nature of Injuries (Simple/Grievous)	Remarks / Referral
			contusion on the outer left arm 5) Pain in the back region		
3	Shweta (female) Exhibit Ka-4	2	1) 4×3 cm reddish contusion on the outer lower left leg 2) 3×2 cm reddish contusion on the left foot paw	Both simple, caused by a hard and blunt object, Duration Fresh	No referral
4	Ram Adhar Exhibit Ka-5	8	1) 6×2 cm laceration with bleeding 2) 4×1 cm laceration on the back of the right hand 3) 4×2 cm reddish contusion on the right hand 4) 3×2 cm laceration on the outer back of right leg 5) 5×2 cm laceration, right leg bone exposed 6) 6×3 cm reddish contusion lower right leg 7) 4×3 cm contusion outer left leg 8) Pain in the back of the left chest	Injuries 1,2,3,5,6 serious Others are simple, caused by a hard and blunt object	X-ray advised, referred to the hospital
5	Ram Piyari (female) Exhibit Ka-6	4	1) 4×3 cm Reddish contusion left shoulder 2) Pain in the left chest area 3) 4×3 cm reddish contusion on the left lower waist 4) 3×1 cm lacerated wound, inner left leg bleeding	Injuries 3 & 4 were serious, caused by a hard and blunt object, Duration Fresh	X-Ray referral issued to the District Hospital, Ambedkar Nagar
6	Amarjeet Exhibit Ka-7	1	1) 3×1 cm contusion on the outer right wrist	Simple, caused by a hard and blunt object, Duration Fresh	No referral

S.No.	Name of Injured	No. of Injuries	Size & Detailed Descriptions (Place-wise)	Nature of Injuries (Simple/Grievous)	Remarks / Referral
7	Shakuntala (daughter of Ram Asre) Exhibit Ka-8	2	1) 6×3 cm Reddish contusion lower right waist 2) 5×4 cm contusion right hip joint	Injury No.1 simple, caused by a hard and blunt object, Duration Fresh	Injury No.2 referred to the District Hospital, Ambedkar Nagar for X-Ray
8	Rupesh Exhibit Ka-9	3	1) 6×2 cm laceration right frontal scalp 2) 6×3 cm contusion left shoulder joint 3) Pain in left waist	Injury No.2 grievous , caused by hard and blunt object, Fresh	X-Ray advised, referred to the District Hospital, Ambedkar Nagar
9	Ram Karan Exhibit Ka-10	5	1) 5×3 cm contusion left parietal region 2) 3×2 cm rough contusion lower chin 3) 5×3 cm Reddish contusion right chest 4) 8×3 cm Reddish contusion inner right thigh 5) 5×2 cm Reddish contusion outer left leg	Injury No.3 grievous , caused by hard and blunt object, Fresh	X-Ray suggested, referred to the District Hospital, Ambedkar Nagar
10	Manoj Kumar Exhibit Ka-11	7	1) 2×1 cm laceration upper nose 2) 3×2 cm contusion left eyebrow 3) 4×3 cm contusion left lower arm 4) 2×1 cm contusion right index finger 5) 8×4 cm contusion left elbow joint inner 6) 4×3 cm contusion ankle joint 7) 5×1 cm abrasion right clavicle	All simple injuries	No referral
11	Ram Kedar Exhibit Ka-12	3	1) 3×2 cm laceration left parietal region 2) 2×1 cm	All simple	No referral

S.No.	Name of Injured	No. of Injuries	Size & Detailed Descriptions (Place-wise)	Nature of Injuries (Simple/Grievous)	Remarks / Referral
			contusion right index finger 3) 3×1 cm abrasion outer left leg		
12	Vinod Exhibit Ka-13	8	1) 5×3 cm laceration central scalp 2) 5×1 cm incised left eyebrow 3) 4×3 cm contusion near left eye 4) 3×2 cm laceration left upper lip 5) Loose tooth in upper left jaw 6) 4×3 cm contusion left hand 7) 3×2 cm contusion right hand outer 8) Lower back pain	Injury 2 (sharp edged weapon) & Tooth Injury No.5 serious Others simple, caused by hard and blunt object	No.5 sent to Dental Surgeon
13	Kamalawati Exhibit Ka-14	3	1) 10×3 cm contusion left collar area 2) 4×3 cm contusion left shoulder 3) 3×2 cm contusion left jaw	All simple	No referral

19) No oral evidence was presented by the accused in their defence. In the documentary evidence, certified copies have been filed, including: from List 181-B/1, the First Information Report of Case Crime No. 226/2012, the chargesheet in the case State vs. Ram Karan, and the certified statements of PW-1 Rajman, PW-2 Lalta Prasad, PW-3 Jairam, PW-3 Mithilesh, and PW-6 Pappu.

Defence Versions

20) The accused in both trials pleaded not guilty and claimed innocence. The defence of each set of accused centres around the assertion that the other side was the aggressor and that they have been falsely implicated due to enmity. **No formal alibi is taken by any accused;** it is admitted that both sets of accused were indeed present at the scene (the presence of injuries on some of them also confirms this). Instead, the defence has focused on highlighting contradictions in the witnesses' accounts and the

lack of independent corroboration of who started the fight. Learned counsel of both sides urge the Court to view the incident as a self-defence and to extend the benefit of the doubt to all accused, especially given the cross-cases and political/village-faction context. In sum, both groups claim to have acted in self-defence, effectively pleading that any blows were either in self-defence or without the requisite mens rea for serious offences.

Arguments

- 21) I have heard the arguments of both sides and perused the record with due diligence. The defence counsels for both groups are different persons. They have argued that their clients acted in self-defence. This has also been argued by the defence counsels that the accused who were not injured were not present at the scene and did not participate in the fight. The prosecution's side in both the "Groups" argued that the opposing group was the aggressor. In both cases, the Investigating Officer and the Prosecuting Officer (DGC Criminal) are the same person. Being the same prosecuting person, he is, in fact, placing contradictory arguments that both parties were aggressors. As a result, his argument automatically becomes a free-fight.

Points for Determination

1. **Unlawful Assembly and Common Object:** Whether at the time of the incident, the accused (both groups together or separately) formed an unlawful assembly with a common object of using force or causing hurt (Section 147 IPC).
2. **Voluntary Causing Hurt (Group A as offenders):** Whether the accused in ST 110 (Ram Karan's group) voluntarily caused hurt (simple or grievous) to the victims of the other party in prosecution of the common object, attracting liability under Secs.323, 324, 325 read with Section 149 IPC.
3. **Voluntary Causing Hurt (Group B as offenders):** Whether the accused in ST 120 (Jairam's group) voluntarily caused hurt to Group A members in furtherance of the assembly's common object, attracting liability under Secs.323, 324, 325 read with Section 149 IPC.
4. **Culpable Homicide (Group A):** Whether the accused in ST 110 caused the death of Ram Laut (and/or his aunt Samarthi) without intention to commit murder (culpable homicide not amounting to murder) in furtherance of the common object of the assembly, attracting Section 304 read with Section 149 IPC.

5. **Liability under Free-Fight Doctrine:** Whether the incident being a mutual “free fight” precludes conviction under Sections 147/149 or limits liability to individual acts.
6. **Appropriate Charges:** If the above offences are made out, under which provisions are the accused guilty?

Eyewitness accounts– Sessions Trial No. 110 of 2013

- 22) PW-1 Rajman (complainant of case 110, and incidentally an accused in case 120) admitting date, time and place of occurrence deposed under examination-in-chief that the **accused—Ram Adhar, Ram Karan, Rupesh, Manoj, Vinod, Amarjeet, Tihuli, Ram Kedar, and Ram Sahay**—were digging a foundation on his land with the intention of encroaching upon it. They were digging the foundation using spades and pickaxes. When he and the members of his family objected, **all the accused started beating him with the lathis, sticks, and iron rods they were carrying.** When he cried out for help, his family members and his uncle, Ram Laut, came to save him. The accused also beat them with lathis and sticks, causing them injuries. His uncle Ram Laut died the next day at the Trauma Centre, Lucknow, and his aunt Samarthi also died after 20 days due to those same injuries. The police had conducted their medical examination. He had lodged the report of the incident the same day at the Police Station, Jalalpur. This witness proved the written report (Tahreer) paper no. 4A/2, Exhibit Ka-1, and confirmed his signature on it. He stated that he had given the information about the death of his uncle Ram Laut on 20.08.2012 at Police Station Jalalpur, which was available on the record as paper no. 5A/4. Suresh Maurya wrote the said application, and the witness confirmed his signature on it, upon which Exhibit Ka-2 was marked. The investigating officer recorded his statement. **In defence, some people from his side had also used lathis and sticks, due to which some of the accused persons had also sustained injuries.**
- 23) Under cross-examination, PW-1 stated that the land in question was general residential land (“aabadi”) predating consolidation proceedings. He admitted that **the land was not in anyone’s exclusive possession** and that no prior litigation or settlement existed regarding it. The accused people were allegedly digging a foundation adjacent to his wall in an area approximately “three hands” wide. According to PW-1, the accused had been digging for approximately 30 minutes before he arrived at the spot with several family members. Although the accused possessed spades and pickaxes, PW-1 asserted that these tools were not used for assault. He claimed that he and his party were empty-handed.

- 24) PW-1 maintained that a quarrel ensued when he objected to the digging. He asserted that he was the first to suffer injuries and fell on the spot. **He could not identify which person struck whom during the incident, nor could he specify the number of blows inflicted upon him.** PW-1 further stated that the women from the accused's side sustained injuries, **acknowledging that his side used lathis during the intervention, which may have caused those injuries.** He admitted that members of both sides were medically examined at the hospital and that the accused's side also had injured persons. **PW-1 asserted that he did not see how the accused were injured and could not confirm whether persons from his side inflicted those injuries.** PW-1 conceded that an **unknown person** outside the police station drafted the written report (tahrir). He could not explain certain omissions, such as: non-mention of land measurements, non-mention of alleged prior possession, absence of any reference to earlier disputes or settlements and lack of details regarding his uncle Ram Laut's physical condition (e.g., unconsciousness, foam from mouth).
- 25) He acknowledged that he did not show the exact location of the assault to the investigating officer and could not explain discrepancies between his oral testimony and his recorded statement. PW-1 categorically denied defence propositions that: the accused were digging on their own land, the complainant's side initiated the assault, injuries on the accused's side were due to defensive action, he was deposing falsely to counter or avoid a cross-case, and no incident occurred in the manner he described.
- 26) **PW-2 Lalta Prasad**, in his chief examination on 31.07.2014, admitting date, time and place of occurrence stated on oath that next to his house lies his residential land. Upon this land, Ram Karan, along with his entire family, was digging a foundation with the intention of taking illegal possession. When his cousin brother Rajman objected to the digging, Ram Karan became angry, abused him, and called his family members, becoming prepared for a fight. When his brother Rajman objected to the abuses, **Ram Karan, Manoj, Rupesh, Vinod, Ram Adhar, Ram Kedar, Tihuli, Ram Sahay, and Amarjeet—who all belong to the same family—acting with common intention, began beating his brother with lathis, sticks, and rods.**
- 27) On Rajman's cries, his family members—Jairam, Lakhpatti, Mithilesh, Ram Laut, Samarthi, Pappu—and he himself reached to rescue him. The accused severely beat those people as well with lathis and sticks, hurled filthy abuses, and assaulted them with the intention to kill. His father, Ram Laut, sustained grievous injuries. Hearing our cries, villagers Sabhaapati and Umapati arrived and intervened. The accused were also pelting stones and bricks. Considering the critical condition of his father, Ram Laut, the doctor referred him to Lucknow for treatment, where he died the next day. His mother also died at home 15-20

days later due to those same injuries. The police had medically examined our injuries. The investigating officer recorded his statement regarding the incident.

- 28) Upon **cross-examination** by the defence, PW-2 Lalta Prasad denied knowing that several accused persons (Ram Karan, Manoj, Rupesh, Vinod, Ram Adhar, etc.) were injured. He claimed ignorance of injuries to women (Shakuntala, Ram Piyari, Sweta). He admitted Ram Adhar had a leg injury, but did not know how it occurred. PW-2 admitted being an accused in the *connected cross-case* (State vs Jairam & Others, ST 120/2013). He also revealed that the accused Ram Adhar filed a case against him and others, including the deceased Ram Laut. PW-2 admitted that the disputed land (west of the wall) was *not in their possession*. He supported earlier testimony that land was general aabadi. The accused dug "two lattha east" of the stored wood/grass near the shed, but he did not know when digging had begun or how many people were digging. He also refused to know who had spades or pickaxes. PW-2 stated that he could not identify who held which weapon and could not say who struck whom. He admitted he was unable to distinguish the blows or the actions of each accused. He stated that, before he arrived, only Rajman had been injured. Others, including his father, were injured after his arrival. He could not say how many persons assaulted his father or how many blows were given. He admitted his father became unconscious and foam came from his mouth at the spot, and confessed that he did not tell this to the IO. He could not explain why the IO recorded it.
- 29) PW-2 denied knowing that several accused persons (Ram Karan, Manoj, Rupesh, Vinod, Ram Adhar, etc.) were injured. He claims ignorance of injuries to women (Shakuntala, Ram Piyari, Sweta). He admits Ram Adhar had a leg injury, but does not know how it occurred. His testimony weakens the prosecution's version because the injuries on the accused remain unexplained and supports the defence contention of a mutual fight or that the accused may have been attacked. The courts treat unexplained defence injuries as a major contradiction under criminal jurisprudence.
- 30) PW-3 **Jairam**, under Chief Examination, on 18.12.2014, deposed that the incident took place on 19.08.2012 at about 7:00 a.m. The accused in this case—Ram Karan, Ram Adhar, Manoj, Rupesh, Vinod, Amarjeet, Tihuli, Ram Kedar and Ram Sahay—are residents of his village. His residential land is next to his house. On the day of the incident, Ram Karan was digging a foundation on his land with the intention of taking possession. When his brother Rajman went to stop him, Ram Karan started abusing him, calling the other accused, and all the accused, sharing a common intention, began beating his brother Rajman with lathis, spears, and iron rods.
- 31) On Rajman's cries, he, along with Lakhpatti, Pappu, Samarthi, Ram Laut, Lalta, and Mithilesh, ran to save him. The accused—Ram Karan, Ram Adhar, Manoj, Rupesh, Vinod, Amarjeet, Tihuli, Ram Kedar and Ram Sahay—beat them with lathis and

sticks, used ballam (spear-like weapon), and even threw bricks and stones. In the assault, his uncle Ram Laut and aunt Samarthi sustained serious injuries, due to which Ram Laut became unconscious, and he died the next day at the Government Hospital in Lucknow. Sabhaapati and Umapati witnessed the incident and intervened. His injuries were medically examined at the Government Hospital, Jalalpur. The Investigating Officer recorded his statement."

- 32) Upon cross-examination 21.06.2016 by the defence, PW-3 Jairam stated on oath that Ram Laut was his uncle. On the day of the incident, he was preparing vegetables to take to the market. Mithilesh and his wife, Lakhpatti, were helping him. North of Rajman's shed lies an unpaved east-west path. There was a brick foundation filled in. Three feet west of his shed, he had left some open land, but there was no written agreement regarding this between him and the accused.
- 33) On the west side of Rajman's shed is general aabadi land, where sugarcane residue was kept, which belonged to Ram Karan. To the south of Ram Adhar's house is Ram Karan's house. To the south of the residue heap lies Ram Asre's shed. It is correct that Rajman had laid the foundation, and at that time, there was no dispute between the parties.
- 34) When Ram Karan and others were digging a foundation adjoining the western side of Rajman's wall, the quarrel occurred. It is correct that Rajman's shed and house, and Ram Laut's house, are in the residential abadi. Rajman's house is very old. He is not aware of any estate patta documents. He does not know the plot number of the land. The disputed land is claimed by Ram Karan and others as theirs, and Ram Laut and others claim it as theirs. No civil case is pending regarding the disputed land.
- 35) Before he reached the spot, about 20-25 people had gathered. I do not know how many people were injured before he reached there. He did not see who was beating whom. Ram Laut was lying injured on his back to the west of the foundation, and Samarthi Devi was lying next to him. Ram Laut was conscious; no one was unconscious. He does not know where the injured persons on Ram Karan's side had fallen, nor how many people on their side were injured.
- 36) They went to the police station about 40 minutes after the assault; it took about 50 minutes to reach the police station. After half an hour, the written report (tahrir) was prepared by an unknown person; he cannot name him. The report was written as per his narration and not at anyone else's instruction. The scribe did not read the report to him; Rajman himself read it. He told the names of the accused, but did not specify who had which weapon. He had said to the scribe the date of the incident; if it was not written, he could not explain the reason.
- 37) He showed the Investigating Officer the place of occurrence from where he had seen the incident. If that place is not shown in the site plan, he cannot explain why. It is correct that Ram Adhar filed a case against them, which is pending in this very court, and

he is an accused in it. Including Ram Adhar, a total of 13 persons on his side were injured, but he cannot say how they sustained their injuries.

- 38) It is wrong to say that the injured on Ram Adhar's side received injuries from his side's beating and that he is concealing this. It is wrong to say that injuries were caused to their side by them. It is wrong to say that he is giving false testimony to escape the cross-case.
- 39) **PW-4 Mithilesh Kumar** stated 19.02.2018 on oath in his chief examination that the incident took place on 19.08.2012 at about 7:00 in the morning. Rajman is his uncle. On his land, Ram Adhar, Ram Kedar, Tihuli, Ram Sahay, Manoj, Vinod, Rupesh, Ram Karan, and Amarjeet, all from his village, were digging a foundation with the intention of taking possession of the land. When his uncle stopped them from digging the foundation, all the accused started beating his uncle and his family members with lathis, sticks and iron rods. On hearing the hue and cry, he reached the spot, and at that time, the accused Amarjeet and Rupesh also beat him with lathis. Due to the beating by the accused, he, Lalta Prasad, Ram Laut, Samarathi, Pappu, Lakhpatti and Jairam sustained injuries. Because of the injuries received in the incident, his grandfather Ram Laut died the next day at the Trauma Centre, and due to those same injuries, his grandmother Samarathi Devi died 20 days later. Rajman lodged the incident report. During the investigation, the investigating officer recorded his statement. His medical examination was conducted at C.H.C. Nagpur.
- 40) Upon cross-examination (19.02.2018) by the defence, PW-4 Mithilesh stated on oath that Rajman is his uncle. On the day of the incident, he was at home. On Rajman's cry for help, he reached the place of occurrence; before he arrived, 6-7 people had already reached there. Before he reached, people had already been injured. Those who were injured included Ram Laut, Samarathi Devi, Lalta Prasad, Jairam, Rajman and Pappu. He did not see who, on Ram Karan's side, had sustained injuries; no one was injured in front of him. It is wrong to say that he is not correctly stating the facts about Rajman's injuries. Two to four minutes after he arrived, Sabhaapati and Umapati reached there.
- 41) He was beaten by Amarjeet and Rupesh only, and by no one else; He received three lathi blows from Rupesh and two lathi blows from Amarjeet. At the time he was being beaten, no one intervened to rescue him. After being injured, he did not fall. All the injured persons were taken in a Maruti van. He did not see any injuries to the accused at the hospital. The incident took place on his uncle's land. It is correct that Ram Karan was digging the foundation on the west side of the boundary. That day, Ram Karan had been digging the foundation from 7:00 a.m.; it was one foot deep. At the time the foundation was being dug, only his uncle from his family was present there, and no one else. The foundation, 15 feet long, was dug adjoining his uncle's wall. The dispute was over this very foundation-digging. The courtyard door of Ram Laut opens to the north. His uncle Ram

Karan had fallen on the ground in an injured condition. Leaving two to four feet, he had fallen to the west side. All persons had fallen at different places.

- 42) He had shown the investigating officer the place of occurrence. He does not remember how many days after the incident the IO recorded his statement. He had told the IO everything. It is wrong to say that no incident took place in the manner he has stated and that he did not receive injuries. It is wrong to say that, being the grandson of Ram Laut, he is giving false evidence at the instance of tutoring. He knows that the cross-case of this matter is also pending in this very court. It is wrong to say that he is giving false evidence to escape the cross-case.
- 43) **PW-6 Pappu Kumar** stated on oath in the Chief Examination on 29.11.2022 that the incident took place on 19.08.2012 at about 7:00 a.m. His neighbours were digging a foundation on his residential land with the intention of taking possession. Ram Karan was digging the foundation. When his father, Rajman, stopped him from digging, Ram Karan started abusing him and came along with his family members and supporters – Ram Adhar, Manoj, Vinod, Rupesh, Amarjeet, Tihuli, Ram Sahay, and Ram Kedar – and began assaulting. All the accused started beating his father with the lathis, sticks, and rods they were holding.
- 44) When his father raised a hue and cry, he, Lalta, Jairam, Mithilesh, Lakhpatti, Ram Laut, and Samarathi arrived, and the accused beat all of them and caused serious injuries. Due to the injuries received in the incident, his grandfather Ram Laut died during treatment, and Ram Laut and Samarathi were referred to the Trauma Centre, Lucknow, due to serious injuries. His mother, Lakhpatti, was sent to the district hospital for an X-ray. During treatment, both his grandfather Ram Laut and Samarathi died. Information about Ram Laut's death was given at the police station, but no information about Samarathi's death was given. While fleeing, the accused also threw bricks and stones at them. Rajman had lodged the report of the incident. Their medical examinations were conducted at C.H.C. Jalalpur. The Investigating Officer recorded his statement.
- 45) Upon cross-examination by the defence on 29.11.2022, PW-6 stated on oath that the place where the foundation was being dug is his residential land. The accused claim that the land is theirs. The scene of occurrence is just west of his sitting platform. He does not know what was kept on the vacant land at the time of the incident. None of them were present when the digging began. His father, Rajman, was the first to see the digging. At that time, he was not at home; all of them were in the fields, including himself. He does not know what conversation took place between his father and the accused.
- 46) The field where they were working was about 100 metres south of the place of occurrence. All their family members were working in the same field. They came running from there. When they arrived, his father had not yet been injured. There was no crowd at the spot. People from the village had not arrived. The foundation was being dug only by Ram Karan and his sons. They

were digging with pickaxes and spades. Apart from the pickaxes and spades, they had no other weapons in their hands. He does not know how long after they arrived the assault took place.

- 47) It is correct that during the assault, no villagers came. After they arrived, other family members came, but he did not know how long. He did not see who among Ram Karan's group sustained injuries. It is not true that he is deliberately hiding the injuries of Ram Karan and others. He does not know that a case, State vs. Jairam, was filed by Ram Adhar. He does not know whether Ram Kedar and others came to intervene and whether they sustained injuries.
- 48) It is wrong to say that he is intentionally concealing their injuries. He did not see what weapon was in whose hand. He did not see who was hitting whom. He did not see who received injuries. He did not sustain any injuries. He does not know how long after the incident his family went to the police station. The Investigating Officer questioned him on the day of the incident. He did not give any witness's name to the IO. If the IO has recorded any witness's name in his statement, he cannot explain the reason.
- 49) He does not know whether Ram Karan belongs to the same family as Ram Adhar. It is wrong to say that the accused were digging the foundation on their own land, and when his family objected, and they did not stop, his family beat them, causing injuries. It is also wrong to say that when they tried to intervene, his family beat them and caused them injuries. It is also wrong to say that he is intentionally hiding injuries on the accused side. It is also wrong to say that no such incident occurred, as he has stated. It is wrong to say that he did not see the incident. It is also wrong to say that he has given false evidence to support his father and family.
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- 53) **PW-9 Lakhpatti** stated on oath in the Chief Examination on 29.09.2023 that the incident took place on 19.08.2012 at about 7:00 a.m. On the day of the incident, Ram Karan of her village was digging a foundation on her residential land with the intention of taking possession. Her brother-in-law (devar) Rajman went to stop him, upon which they began abusing him and, after calling their other brothers, co-sharers and family members, became ready to fight. Hearing the noise and cries, the members of her family also reached there, and when they told them not to quarrel, the accused—Ram Karan, Ram Adhar, Manoj, Vinod, Rupesh, Ram Kedar, Amardeep, Ram Sahay, and Tihuli—started beating them with lathis, sticks, and addha (half brick).
- 54) On hearing the cries of her brother-in-law Rajman, she, her husband Jairam, Samarathi, Ram Laut, Lalta, Phoolchand, Anil Kumar, Mithilesh, Pappu, etc., ran to rescue him, but all the accused beat everyone, abused them, and threatened to kill them. Ram Laut received serious injuries. When the villagers arrived and intervened, the accused fled while throwing bricks and threatening to kill them. Her husband lodged the report of the incident. Their medical examination was done at the Government Hospital, Nagpur. Because of the serious injuries,

Ram Laut was treated at Lucknow, where he died during treatment. Later, Samarathi also died at home. Accused Ram Sahay and Tihuli had struck her right arm, due to which it was fractured; its X-ray was done at the district hospital. The Investigating Officer recorded her statement.

- 55) During the Cross-Examination on 09.10.2023, she stated that she does not know the exact date and time of the incident. Her boundary wall is constructed. Beyond that, her family has no land in its name. She does not know the length or width of the disputed land. It is correct that Harijan people are in possession of that land. All the accused belong to the same community and family. The disputed land is claimed by Ram Karan as his; the remaining accused have land beyond that. The foundation had been dug for 20-25 minutes before the incident. She does not know how many people were digging. Again, she said, two to four people were digging, including Ram Adhar and Ram Karan, and all of them had spades.
- 56) At that time, in her family, only Rajman, Lalta, and her husband were present; no one else. The rest of the family arrived 15-20 minutes later. Her family members were empty-handed; they had nothing in their hands. On further Cross-Examination on 20.11.2023, Lakhpatti added that she did not see any injury to anyone from the side of the accused Ram Karan. Rajman and Lalta are my brothers-in-law; Ram Laut and Jairam belong to her family. It is correct that the case filed by Ram Adhar against Jairam and others is pending in this same court, and today is also its date. she did not see Amrawati and others being medically examined in the hospital. There was a big crowd; in the crowd, she could not see who was beating whom. After being injured, she stepped back. She could not know whether people on the other side were also injured or not.
- 57) She saw injuries on her side; all had bleeding injuries. She did not see whether her family members threw bricks in the scuffle. Women on the other side were throwing bricks and stones; She saw that. A four-foot deep foundation was dug, and it had been dug for one hour before the fight. She has no documents for the land. It is correct that four hands (about six feet) beyond the boundary, the land belongs to Ram Karan and others, and no written agreement existed regarding leaving that four-hand space.
- 58) The Investigating Officer did not question her. If the IO has written any statement as her, she cannot explain why. It is wrong to say that no incident occurred, as she has stated. It is also wrong to say that Ram Adhar and others were digging the foundation on their own land, and when her family objected, and they did not stop, her family assaulted them. It is wrong that their people were intervening and got injured. It is wrong to say that she has given false evidence to save her family or to escape the cross-case.
- 59) **PW-11 Umapati** stated on oath in his chief examination on 28.02.2024 that the incident took place on 19.08.2012 at around

7:00 a.m. A physical altercation had occurred between Rajman and Ram Karan of his village over a land dispute, during which Ram Adhar, Ram Karan, Rupesh, Vinod, Tihuli, Ram Sahay, Amarjeet, and Ram Kedar had beaten and injured Lakhpatti, Jairam, Mithilesh, Lalta Prasad, Ram Laut, Rajman, Samarathi, and Pappu. Among them, Ram Laut was referred to the Trauma Centre, Lucknow, and PW-11 had accompanied him there. On the next day, i.e., 20.08.2012, Ram Laut died due to the injuries inflicted by the above-named persons.

- 60) He further stated that upon receiving information from the hospital, the Lucknow police arrived, and he, along with Dayaram, Lal Bahadur, Bhonu Prasad, and Vijay Kumar, was appointed as a *panch* for conducting the inquest over the body of Ram Laut. In the inquest proceedings, he had stated that the land dispute arose when the accused refused to stop forcibly digging the foundation and escalated the quarrel; thereafter, Ram Adhar, Ram Karan, Vinod, Rupesh, Manoj, Ram Sahay, Tihuli, Amarjeet, and others had beaten the victims with lathis and sticks, causing serious injuries. In the injured condition, Ram Laut had been taken to the Trauma Centre Medical College, where he died during treatment.
- 61) After completion of the inquest proceedings, the investigating officer obtained their signatures and sent the sealed body for post-mortem. PW-11 stated that the investigating officer recorded his statement. The witness identified his signature on the inquest report marked Exhibit Ka-15.
- 62) During cross-examination 05.03.2024, PW-11 stated that he had reached the spot upon hearing the commotion after the incident. He had not seen injuries on anyone other than Ram Laut. He stated that Ram Karan and others were digging a foundation adjoining the wall constructed by Jairam. He did not know how long the foundation had been under excavation.
- 63) He further stated that Jairam had constructed his wall, and to its west lived Ram Karan, whereas Jairam lived on the east side; both parties were in possession of their respective lands. He had accompanied Ram Laut to the hospital, where police and other villagers were also present. Ram Laut died in Lucknow. He had seen an injury on the back of Ram Laut's head, but did not remember any other injuries.
- 64) He denied the suggestion that he was giving false testimony at the instance of Jairam due to being his supporter. He also denied the suggestion that he was not present at the time of the inquest.
- 66) The IO and the doctor are formal witnesses. Both detailed their investigation and medical examinations of the injured. Nothing extraordinary appeared in their testimonies.

- 67) After a careful, comprehensive appreciation of the testimonies of all prosecution witnesses (PW-1 to PW-11), the medical evidence, the inquest proceedings, and the surrounding circumstances, this Court finds significant and material deficiencies in the prosecution case of "**Group A**" as the aggressor party.
- 68) The foundational fact upon which the prosecution rests—namely, that the accused party trespassed upon land exclusively belonging to the complainant party—remains wholly unsubstantiated. Multiple prosecution witnesses, including PW-1, PW-2, PW-3, PW-4, PW-6 and PW-9, have conceded in cross-examination that the disputed land was general aabadi, that no documentary title or boundary demarcation was produced, that both sides claimed possession, and that no civil litigation had ever been instituted prior to the incident. PW-11 further corroborates that both Rajman and Ram Karan were in occupation of adjoining lands. These admissions collectively negate the prosecution's assertion of exclusive possession or wrongful encroachment and establish that the incident arose from a pre-existing, unresolved land dispute.
- 69) It is further evident that none of the prosecution witnesses witnessed the incident from its inception. PW-1, PW-2, PW-3, PW-4, PW-6, PW-9 and PW-11 all arrived at different stages after the quarrel began, and their versions are confined only to portions of the fight already in progress. Their testimonies lack direct knowledge of the initial assault and the identity of the first aggressor. The prosecution has thus failed to present a single witness capable of offering a complete, coherent, and consistent account of how and by whom the assault commenced.
- 70) Equally significant is the prosecution's failure to explain the numerous injuries admittedly sustained by members of the accused party. PW-1, PW-2, PW-3, PW-9 and others acknowledged in cross-examination that the accused or their family members were injured, yet no explanation is forthcoming from the prosecution. The existence of a cross-case instituted by the accused (admitted by PW-2, PW-3, PW-4, PW-9 and reflected in the record) clearly indicates that the accused party also suffered injuries in the same transaction. The settled law is that when the prosecution suppresses the genesis of the occurrence or fails to explain injuries to the accused, the credibility of the prosecution's version is substantially eroded, and a free fight or mutual assault becomes the most plausible inference.
- 71) The prosecution witnesses further contradict each other on material particulars: the weapons carried by the accused, the roles attributed to individual accused persons, the state of consciousness of the deceased, the extent of the injuries, the presence or absence of villagers, and the manner in which the quarrel escalated. PW-6 denies seeing any weapons other than agricultural tools, while others allege the presence of lathis, rods, belchuk spear and brick-bats. PW-3 states the deceased was conscious, whereas others assert he was unconscious. PW-9

states she could not see who struck whom in the crowd. Such contradictions go to the root of the prosecution's case and render the purported eyewitness account unreliable as to the accused's alleged aggression, but if the whole evidence is taken cumulatively, there is no doubt that it was a free fight.

- 72) The pattern of evidence that emerges shows that both sides were involved in the physical altercation, that both sides participated in assaultive acts, that both sides received injuries, and that the incident was sudden, unanticipated, and unpremeditated, arising spontaneously out of a land-related confrontation. In these circumstances, the prosecution has failed to establish any premeditated common intention or unlawful assembly acting with a shared object of planned attack. However, evidence shows that when some members initially tried to take possession and control over the abadi land situated between the houses of both parties, all the accused joined the group one by one, shared the common object of causing grievous injuries and causing death in order to take possession of the land during the fight. In this peculiar fight between two groups, it was not possible to identify the exact role or weapon of each accused. On the totality of evidence, this Court is constrained to hold that the occurrence in question was a mutual and free fight between two groups arising out of a land dispute, in which both parties acted aggressively, and both parties suffered injuries. The prosecution has not been able to prove beyond a reasonable doubt that the accused were the aggressors.

Eyewitness accounts in Sessions Trial No. 120/2013 titled State vs. Jairam & Others

- 73) PW-1 **Ram Adhar** stated on oath on 06.06.2014 in his chief examination that the incident occurred about one year and ten months earlier, at around 7:00 a.m. On the day of the incident, he was digging a foundation on his own land. Several persons of his village—namely Ram Laut, Jairam, Lalta, Dayaram, Rakesh, Phoolchand, and Anil Kumar—came and forbade him from digging the foundation. When he did not stop, the aforesaid persons began beating him with lathis and sticks, and also assaulted him with other weapons. When his villagers and family members—Ram Kedar, Amarjeet, Kamalawati, Amarawati, Manoj Kumar, Shakuntala, Shweta, and Ram Karan—arrived to intervene, they too were beaten by the accused persons with lathis, sticks, and sharp weapons, resulting in injuries. When the villagers intervened, the accused fled after issuing threats to life and property.
- 74) He stated that the police conducted the medical examination of the injured individuals. The witness confirmed the contents of the written report at paper no. 4A/2 and identified his thumb impression on it, which was marked as Exhibit Ka-1. The police recorded his statement, and he showed the Investigating Officer the spot of the incident.

- 75) In cross-examination on 04.07.2014, PW-1 stated that there was no road on the northern side of his house, only a ridge over which people passed. Further north of the ridge was barren land with trees, in the possession of Motilal Yadav and others. After the incident, he remained at the spot for about half an hour before going to the police station. His brother Ram Karan, his brother's wife, and their sons accompanied him to the police station.
- 76) He stated that he narrated the entire incident to the Investigating Officer, and on that basis, the report was written. He became unconscious at the place of occurrence and regained consciousness only after receiving treatment in the hospital. From the hospital, he went to the police station, where he learned that Rajman had lodged a case against them. He had no prior enmity with Rajman or Jairam.
- 77) He stated that sugarcane residue was kept to the east of his house, but it was not lying exactly on the boundary of his land. It had been placed there four or five months before the incident. His house had doors opening both east and west, and therefore, both directions were used for movement. He went alone to dig the foundation. When he began digging, Ram Karan arrived immediately, and 10-15 minutes later, Manoj, Vinod Kumar, Amarjeet, Tihuli, Ram Kedar, and Ram Sahay came from the fields, all empty-handed. He was digging with a spade.
- 78) On 08.07.2014, PW-1 further stated that no one had sustained injuries in the incident. When Vinod Kumar, Amarjeet and others arrived, he stopped digging the foundation. While bending to dig, someone struck him, causing him to fall, after which he became unconscious. He could not say when he regained consciousness or what happened during the period he remained unconscious.
- 79) He acknowledged that Rajman had lodged a case against him, Ram Karan, Manoj Kumar, Rupesh Kumar, Vinod Kumar, Amarjeet, Tihuli, Ram Kedar, and Ram Sahay for allegedly assaulting Mithilesh, Lalta, Samarathi, Pappu, Lakhpatti, Rajman, Jairam, and Ram Laut and causing injuries which allegedly resulted in the deaths of Ram Laut and Samarathi. He stated that among those who assaulted him were Vinod and Amarjeet; Tihuli also came later.
- 80) He described the presence of mango, guava, banana, jackfruit, and jamun trees, bamboo clumps, and a government handpump at the spot. He received his injury in that orchard, in which both he and Ram Karan had shares. Tihuli had no land there; his share was in the residential area west of Ram Adhar's house.
- 81) He stated that those accompanying him arrived only after he fell due to the injury. He confirmed that Ram Laut died the next day and Samarathi died 27 days later due to injuries. He denied having heard that any of the persons from the opposite side—namely Mithilesh, Lalta, Pappu, Lakhpatti, Rajman, or Jairam—were injured. When he regained consciousness in the hospital, he saw them there and also saw them receiving treatment.

- 82) He stated that the foundation he was digging was adjoining Rajman's wall. Rajman and others had not stopped him from digging, nor had they objected before. The land he was digging was at a lower level, and Rajman and others had earlier filled and levelled it; that land was the subject of dispute between him and Rajman. He claimed the land as his, and Rajman claimed it as his. No one forbade him from digging the foundation.
- 83) He denied suggestions that no such incident occurred, or that he and others assaulted the opposite party, or that the injuries caused the deaths of Ram Laut and Samarathi. He admitted that Rajman had filed a case against them. He denied that he filed a false counter-case to escape the earlier prosecution. He stated the incident occurred at 7:00 a.m., and no incident had occurred prior to it. He did not know whether any other report related to this incident had been lodged. On hearing the noise, many people from both families gathered. He denied the suggestion that he was beating Rajman and others and fell due to getting entangled in a peg, which caused his injuries.
- 84) **PW-2 Vinod Kumar** (Chief Examination dated 21.08.2014) stated that the incident occurred more than two years earlier at about 7:00 a.m. His father, Ram Adhar, was digging a foundation on land situated to the east of their house. Persons from the opposite party – namely Ram Laut, Rajman, Jairam, Dayaram, Lalta, Anil Kumar, and Phoolchand – came armed with lathis, sticks, and sharp-edged weapons such as axes and crowbars and forbade his father from digging. When his father stopped digging, the accused persons began assaulting him.
- 85) Seeing his father being beaten, PW-2, his brother Manoj Kumar, the women of the house – Amrawati, Shakuntala, Shweta, Ram Piyari – along with Amarjeet, Rupesh, his uncle Ram Karan, Manoj Kumar, and Ram Kedar ran to save him. The accused assaulted them as well with lathis, sticks, and axes. They fled afterwards. The injured went to the police station, where the Investigating Officer recorded statements, and medical examinations were performed.
- 86) PW-2 Vinod Kumar (Cross-Examination dated 05.09.2014) stated that when the digging began, he was at home. His father and uncle Ram Karan had gone to dig the foundation. When he reached the spot, the assault was already ongoing. Those from his side who were injured were lying on the ground. Many villagers had gathered. He did not see whether Mithilesh, Lalta, Samarathi, Pappu, Lakhpatti, Rajman, or Jairam were injured.
- 87) He admitted that in the same incident, Ram Laut and Samarathi sustained injuries from which they later died. He stated that he was also injured in the commotion; his tooth was broken, his lip was cut, and he sustained head injuries. He denied that he saw anyone from his side assaulting the persons of the opposite party.
- 88) He stated that both sides claimed the land where his father was digging the foundation as their own. He denied that he and others beat the accused persons (the opposite party in the cross-case). He admitted that he was arrested in the case filed by

Rajman and that it was pending in the same court. He denied giving false evidence to escape liability.

- 89) **PW-3 Kamalawati** in Chief stated that the incident occurred on 19.08.2012 at about 7:00 a.m. Her father, Ram Adhar, was digging a foundation and she was present there. Persons from the opposite side – namely Ram Laut, Jairam, Dayaram, Phoolchand, Rajman, Anil, Lalta, and Rakesh – arrived and forbade her father from digging, stating the land belonged to them. When her father refused to stop, they began beating him with lathis and sticks. She then corrected herself and stated that they began beating her “younger father” (apparently referring to another family elder). She and her family members ran to intervene, but the other side assaulted them as well. She received a blow from a wooden club (gumma) and sustained head and shoulder injuries. Her medical examination was conducted at CHC Jalalpur. Her uncle Ram Adhar had given the information to the police. The Investigating Officer recorded her statement.
- 90) PW-3 Kamalawati (Cross-Examination dated 08.09.2019) stated that Rajman’s house lies to the north and west of Ram Karan’s house. To the east of Rajman’s thatched structure (chappar) lies the house of Ram Adhar. The path runs east-west. The foundation belonging to Rajman extended up to the path. She denied that the bamboo clumps were in barren land; according to her, the land was recorded in the revenue records (khatauni) in the names of Ram Adhar and Ram Karan.
- 91) She stated that the land dispute was very old. She reaffirmed that Ram Adhar was digging the foundation adjoining Rajman’s wall. At that time, Ram Karan, Ram Adhar, Manoj, Amarjeet, Tihuli, Ram Kedar, and Ram Sahay were all present at home. Rajman forbade them from digging, but Ram Adhar did not stop. On hearing the noise, many people arrived. Injuries were sustained by Mithilesh, Lalta, Samarathi, Pappu, Lakhpatti, Rajman, Jairam, and Ram Laut. Medical treatment was administered at Nagpur hospital.
- 92) Because Ram Laut’s condition deteriorated, he was sent to Lucknow, where he died on the third day. Samarathi died one week later. Rajman filed a case against Ram Karan, Ram Adhar, Rupesh, Manoj, Vinod, Amarjeet, Tihuli, Ram Kedar, and Ram Sahay. She reiterated that she also sustained injuries and that some of her family members, including her uncle and her son, became unconscious for three hours. She denied that the accused assaulted the opposite party or that she was giving false testimony.
- 93) **PW-5 Ram Piyari @ Piyari** (Chief Examination dated 13.07.2022) stated on oath in her chief examination that the incident occurred about ten years earlier at around 7:00 a.m. Her husband, Ram Adhar, was digging a foundation on their residential land when several persons of her village – namely Ram Laut, Jairam, Lalta, Rajman, Phoolchand, Dhani, Rakesh, and Dayaram – arrived carrying lathis, sticks, and belchaks (crowbars) and forbade him from digging. Her husband replied that he was digging a

foundation on his own land, whereupon all the accused persons began assaulting him.

- 94) She further stated that she and her family members—Rupesh, Manoj, Amarjeet, Ram Karan, Ram Sahay, Amarawati, Shakuntala, Shweta, Ram Kedar, Vinod, and Kamalawati—ran to save him, but the accused persons assaulted all of them as well, causing everyone to become blood-stained. Upon hearing the cries, many villagers arrived, at which point the accused fled while issuing threats to kill them.
- 95) She stated that all of them, being injured, went to the police station, where a report was lodged, and the police took them to the Government Hospital at Jalalpur for medical examination. The Investigating Officer recorded her statement.
- 96) PW-5 Ram Piyari @ Piyari (Cross-Examination dated 13.07.2022) stated that no measurement of the land had ever been done. She did not know whether her husband dug the foundation without any prior measurement. She asserted that the land where the foundation was being dug belonged to them and that it was adjoining the wall (sariya) of Rajman.
- 97) She stated that Phoolchand and Anil were from their own extended family. She acknowledged that Rajman had lodged a case against the members of her family, in which Ram Karan, Ram Adhar, Manoj, Vinod, Rupesh, Amarawati, Ram Kedar, and Ram Sahay were named as accused. That case was pending in the same court as State vs. Ram Karan.
- 98) She denied the suggestion that Ram Laut, Samarathi Devi, Lalta, Mithilesh, Pappu, Lakhpatti, Rajman, and Jairam were beaten by the accused persons in the cross-case. She stated that she did not know whether their medical examinations had been done. She stated that she herself sustained injuries on her hand, back, and leg. She stated that Samarathi Devi had not received any injury. Ram Laut died two days after the incident. All persons on her side were sent to jail.
- 99) PW-5 in further Cross-Examination dated 10.08.2022 stated that the incident occurred at 7:00 a.m. Her husband had gone to dig the foundation at the time of the incident. Her husband had told the other side two or four days earlier that the foundation would be dug on 19.08.2012. The assault took place at the very spot where the foundation was being dug.
- 100) She denied the suggestion that the accused had forbidden her husband from digging the foundation and that her husband was forcibly digging it. She denied the suggestion that her husband was digging the foundation armed with lathis and sticks or that her family members began assaulting the other side when they objected.
- 101) She rejected the suggestion that no such incident occurred in the manner she described or that she was giving false testimony to protect her family members.
- 102) PW-7 **Rupesh Kumar** (Chief Examination dated 27.09.2022) stated on oath in his chief examination that the incident took place on 19.08.2012 at about 7:00 a.m. His father, Ram Adhar, was digging a foundation on their residential land. At that time,

persons from his village—namely Ram Laut, Jairam, Dayaram, Lalta Prasad, Rajman, Rakesh, Phoolchand, and Anil—came together, armed with lathis, sticks, clubs (gumma), and knives, and, while hurling abuses, forbade his father from digging the foundation. When his father asserted that the land belonged to them and that he would dig the foundation, all the said accused persons began beating his father with the weapons they were carrying.

- 103) Upon seeing his father being beaten, he (Rupesh), along with Vinod, Manoj, Amarjeet, Ram Karan, Piyari Devi, Kamalawati, and Vimla, went to rescue him, whereupon the accused persons also beat them, causing injuries. On hearing the cries, villagers arrived and intervened, and the accused fled while issuing threats to kill them. His father lodged the report of the incident. Their medical examinations were conducted at the Government Hospital, Nagpur. Vinod sustained a knife injury. The Investigating Officer recorded his statement. He stated that he had seen the incident and that he too was injured by the blows of the accused.
- 104) PW-7 Rupesh Kumar (Cross-Examination dated 27.09.2022) stated that he is an accused in the case State vs. Ram Karan, along with eight other accused persons. He stated that Rajman built a wall, erected a thatched roof (chappar), and resides there. In the same line as that wall, to the north, Rajman's foundation is filled. His father was digging the foundation one hand's distance away from that foundation.
- 105) He stated that prior to digging, a compromise had taken place between them and the accused (of the present case). The accused had forbidden his father from digging the foundation. The land dispute was with Jairam, Lalta, and Rajman. Phoolchand and Anil had no share in this land, whereas Lalta and Jairam had a share. At the place where his father was digging the foundation, there was no construction belonging to Jairam and Lalta. Even after the accused forbade him, his father continued to dig the foundation. The compromise had been made two to four days earlier. On that day, the accused did not forbid him in advance. His father had not told them that he would dig the foundation specifically at 7:00 a.m. on 19.08.2012. His father was digging alone. He had been digging for about half an hour and had dug a foundation about two to three feet long and one foot deep.
- 106) He further stated that he did not see who struck Vinod with a knife, nor could he say who hit whom. He did not tell the Investigating Officer that the opposite party also received injuries in the fight. At the police station, he met members of the opposite party—Dayaram, Jairam, Rakesh, Phoolchand, and Anil. He went to the hospital, and the opposite party had reached there before him. He had not seen Samarathi and Ram Laut in the hospital. He did not know that Ram Laut died the next day. He knew that he was an accused in the murder case relating to the deaths of Ram Laut and Samarathi.
- 107) He denied the suggestion that he, along with Ram Karan, Ram Adhar, Manoj, himself (Rupesh), Vinod, Amarjeet, Ram Sahay,

Ram Kedar, etc., had collectively beaten Mithilesh, Lalta Prasad, Ram Laut, Samarathi Devi, Pappu, Lakhpatti, Rajman, and Jairam. He stated that he did not know how these people received injuries. He denied the suggestion that the land belonged to Ramjanam or that they were forcibly digging the foundation with the intention to commit murder. He further denied that when the accused and their family members forbade them from digging, they started beating them. He denied that he was giving false evidence to save himself and his family, or that no incident had occurred in the manner he had described.

- As per [Dalip Singh And Others vs State of Punjab on 15 May 1953: 1953 AIR 364](#), the testimony of interested witnesses must be carefully scrutinised and accepted only when corroborated by independent evidence. Here, no such corroboration exists. Instead, contradictions and omissions weaken him.
- Mismatch with medical evidence makes his testimony unreliable, as held in [Ram Narain Singh vs The State Of Punjab on 15 July, 1975: 1975 AIR 1727](#).

- 108) PW-8 Amarjeet (Chief Examination dated 17.10.2022) stated on oath that the incident took place on 19.08.2012 at about 7:00 a.m. His uncle, Ram Adhar, was digging a foundation on his land along with the witness's father. Their neighbours—Jairam, Rajman, Lalta, Rupesh, Phoolchand, and Anil—forbade them from digging the foundation, and when they refused to stop, the accused persons began to beat them.
- 109) He further stated that when the beating was occurring, he reached the spot a little later. In the assault, his uncle Ram Adhar, his uncle Ram Karan, Rupesh, Vinod, Manoj, and he himself sustained injuries. He did not see any injury to any woman. All the accused were abusing and threatening to kill them. After the incident, they went to the police station, and the police then took them to the hospital, where they were medically examined. The Investigating Officer recorded his statement.
- 110) PW-8 Amarjeet (Cross-Examination dated 17.10.2022) stated that he is an accused in State vs. Ram Karan, which is the cross-case of State vs. Jairam. About ten minutes before the incident, his father and uncle had been digging the foundation. The foundation was being dug adjoining the wall of the accused Rajman. Rajman forbade them from digging, but when they continued, the fight began. He did not know whether Ram Laut became unconscious due to the injuries. He did not see the injuries of Mithilesh, Lalta, Samarathi, Lakhpatti, Rajman, or Jairam. He did not remember how many days after the incident Ram Laut died.
- 111) He stated that both parties claimed the disputed land as their own. He did not remember whether any measurement of the land had been done. He did not know who hit whom. Phoolchand and Anil were not members of Rajman's household but were co-sharers. They had no concern with the disputed land. He did not go to the spot carrying a lathi or stick to

intervene. He denied the suggestion that they beat the injured persons in the cross-case and lodged a false report to escape that case. He further denied that the land where his father and uncle were digging the foundation belonged to Rajman, or that they were digging with the intention to commit murder, or that, after the accused forbade them, they assaulted the accused's family. He also denied that any incident had occurred as he had described.

- 112) **PW-9 Amarawati** (Chief Examination dated 29.11.2022) stated on oath that she is illiterate. The incident occurred about ten years earlier at around 7:00 a.m. Her neighbour, Ram Adhar, was digging a foundation on his residential land. His co-sharers—Jairam, Rajman, Lalta, Phoolchand, Anil, Ram Laut, and Dayaram—came and forbade him from digging. When Ram Adhar did not stop digging, all the co-sharers began to beat him with lathis and sticks.
- 113) On Ram Adhar's cries, she, along with Ram Karan, Vinod, Rupesh, Vinod (repeated), Kamalawati, Shakuntala, Shweta, Ram Piyari, Shakuntala daughter of Ram Asre, Amarjeet, and many others, reached to save him. The accused persons then beat them also, causing injuries to all. Due to the blows given by the accused, Ram Adhar, Vinod, Manoj, Rupesh, and Ram Karan sustained serious injuries. All the accused also assaulted them with bricks and wooden planks (addha). Ram Adhar lodged the report of the incident. The Investigating Officer recorded her statement. She stated that she had seen the incident with her own eyes.
- 114) **PW-9 Amarawati** (Cross-Examination dated 29.11.2022) stated that a case titled State vs. Ram Karan is pending in the same court, in which Ram Karan, Ram Adhar, Manoj, Rupesh, Vinod, Amarjeet, Ram Sahay, and Ram Kedar are accused. She stated that Ram Adhar was digging the foundation adjoining the wall of Rajman. She did not know how long the foundation had been dug before they objected. When she reached the spot, the quarrel had already ended. She admitted that she had not seen the incident with her own eyes. She denied the suggestions that she was giving false evidence under tutoring or that no incident occurred in the manner she had stated.
- 115) **W-10 Shakuntala** (Chief Examination dated 12.12.2022) stated on oath that the incident occurred about ten years earlier at about 7:00 a.m. Her co-sharer, Ram Adhar, was digging a foundation on his residential land. Persons from her village—namely Ram Laut, Rajman, Jairam, Dayaram, Lalta, Anil, Phoolchand, and Rakesh—forbade him from digging the foundation. When Ram Adhar did not stop, all the accused began beating him with lathis, sticks, and sharp-edged weapons.
- 116) She further stated that she, along with Vimla, Kamalawati, Kismatti, Ram Piyari, Vinod, Manoj, and Rupesh, ran to intervene, but they too were beaten. On seeing villagers arriving, all the accused fled while issuing threats to kill them. Suryabhan from the village had informed the police. The police arrived and took them to the Government Hospital at Nagpur, where

medical examination was conducted. Ram Adhar lodged the report of the incident. The Investigating Officer recorded her statement.

- 117) PW-10 Shakuntala (Cross-Examination dated 12.12.2022) stated that a case titled State vs. Ram Karan is pending in the same court, in which Ram Karan, Ram Adhar, Manoj, Rupesh, Vinod, Amarjeet, Tihuli, Ram Kedar, and Ram Sahay are accused, and that all of them had gone to jail. In the same incident, Ram Laut subsequently died. Ram Laut had also come to intervene.
- 118) She denied the suggestion that no foundation was being dug adjoining the wall of the thatched structure. She did not know whether any measurement of the land had ever been carried out. On the day of the incident, four persons—Ram Adhar, Ram Karan, Vinod, and Manoj—were digging the foundation. She could not say how long before the incident the digging had started. She could not say whether Mithilesh, Lalta Prasad, Ram Laut, Samarathi, Pappu, Lakhpatti, or Rajman went to the hospital.
- 119) She stated that she could not say who hit whom. Rajman's foundation (north-south) had been filled along the line of the thatched structure four days prior to the incident. She had reached the spot a minute or so after the assault began. When she arrived, many villagers had already gathered, but she could not say who all were present.
- 120) She denied that, upon being forbidden from digging, the accused of the cross-case—Ram Karan, Ram Adhar, Manoj, Rupesh, Vinod, Amarjeet, Tihuli, Ram Kedar, and Ram Sahay—started beating the opposite party or that the injuries to Mithilesh, Lalta Prasad, Ram Laut, Samarathi, Pappu, Lakhpatti, Rajman, and Jairam were caused by them. She denied that, because her family members are accused in the cross-case, she was giving false evidence, or that no incident occurred in the manner she had described.
- 121) **PW-11 Ram Karan** (Chief Examination dated 12.12.2022) stated on oath that the incident took place on 19.08.2012 at about 7:00 a.m. His co-sharer, Ram Adhar, was digging a foundation on his residential land. Persons from his village—namely Ram Laut, Rajman, Jairam, Dayaram, Lalta, Anil, Phoolchand, and Rakesh— forbade him from digging. When Ram Adhar did not stop and continued digging, all the accused began beating him with lathis, sticks, and sharp-edged weapons.
- 122) He further stated that he and the members of his household and neighbours ran to save him, and the said persons then beat them as well. All the accused also assaulted them with pieces of brick. On hearing the cries, many villagers arrived, and the accused fled while issuing threats to kill them. He stated that he did not see any injury suffered by the other side.
- 123) He stated that Ram Adhar lodged the report of the incident. In the incident, he, Ram Adhar, Manoj, Vinod, Rupesh, Amarjeet, Shakuntala (daughter of Ram Asre), Ram Piyari, Shweta, Shakuntala (wife of Mahendra), Amarawati, and Kalawati were injured. All of them went to the police station, and after the

report was written, the police got all of them medically examined. Ram Kedar was also injured. The Investigating Officer recorded his statement.

- 124) PW-11 Ram Karan (Cross-Examination dated 30.05.2023) stated that a case titled State vs. Ram Karan is pending in the same court, in which he, along with Ram Adhar, Vinod, Rupesh, Manoj, Ram Sahay, Tihuli, Amarjeet, and Ram Kedar, is an accused. He stated that the disputed land had been measured two years earlier, but even after the measurement, it could not be clearly determined whose land was where. The disputed land was claimed by both- their (Harijan) side and the "Maurya" side.
- 125) He stated that he, along with Ram Adhar, Vinod, and Manoj, was digging the foundation. A case regarding the correction of the map (naksha durusti) concerning this land was also pending and had not yet been decided. They themselves had gone to dig the foundation. The accused (of the present case) had forbidden them from doing so, but they did not stop digging even after being forbidden. Thereafter, the fight commenced.
- 126) He stated that Ram Laut arrived about ten minutes later. Ram Laut had not become unconscious at the spot; he died two days later. First, he was taken to Nagpur/Jalalpur for medical treatment, from where he was referred to Lucknow. A sharp-edged weapon was carried by Ram Acharaj, and he used it to hit Ram Adhar in the manner a stick would be used. The foundation was being dug adjoining their wall.
- 127) He denied the suggestion that they had beaten the injured persons of the cross-case—namely Ram Laut, Samarathi Devi, Lakhpatti Devi, Mithilesh, Lalta Prasad, Pappu, Rajman, and Jairam—or that they had lodged a false report and got false medical examinations done to escape the cross-case, or that they had filed a false case to grab the land of accused Rajman, or that no incident had occurred in the manner he had stated.
- 128) W-12 Shweta (Chief Examination dated 17.08.2023) stated on oath that the incident took place on 19.08.2012 at about 7:00 a.m. In her village, Ram Adhar was digging a foundation on his land. Their neighbours—Jairam, Dayaram, Rajman, Lalta, Rakesh, Phoolchand, Anil, and Loutu—forbade him from digging the foundation. Ram Adhar did not stop and said that he was digging on his own land. Thereupon, all of them began beating him with lathis, sticks, and belchaks (crowbars). He was hit with a belchak due to which his leg fractured.
- 129) On hearing Ram Adhar's cries, she, along with Manoj, Rupesh, Vinod, Ram Sahay, Tihuli, and her elder mother (badi maa), went to save him, and they too received injuries. Even when villagers arrived to intervene, the accused continued to throw bricks and stones. All the injured went to the police station. Ram Adhar lodged the report. All of them were medically examined by the police at the Government Hospital, Nagpur. The Investigating Officer recorded her statement.
- 130) PW-12 Shweta (Cross-Examination dated 17.08.2023) stated that she did not know that a case titled State vs. Ram Karan was pending in the same court. She did not know whether the land

had ever been measured. She stated that her grandfather had gone to jail in that case. To the east of the place where the foundation was being dug was the house of Manoj, and to the west was the house of Rajman.

- 131) She stated that there was no thatched roof or wall of Rajman to the east of the spot where the foundation was being dug. She did not know whether any measurement had been done of that land. The accused were claiming the land where the foundation was being dug as their own and were forbidding Ram Adhar from digging. She could not say who hit whom. She stated that Ram Laut was injured in the fight and died due to those injuries, but she did not have knowledge of this. She did not see the accused of the cross-case—Ram Karan, Ram Adhar, Manoj, Rupesh, Vinod, Amarjeet, Ram Sahay, Ram Kedar, and Tihuli—being beaten by anyone.
- 132) She did not know whether Rajman had shown her the report in State vs. Ram Karan. She denied the suggestion that the injuries to the injured of the cross-case—namely Mithilesh, Lalta Prasad, Ram Laut, Samarathi, Pappu, Lakhpatti, Rajman, and Jairam—were caused by their assault. She stated that about 20 people had already arrived at the spot before she reached there. She denied that, because her family members are accused in the cross-case, she was giving false testimony, or that no incident occurred in the manner she had stated.
- 133) **PW-13 Shakuntala Shweta** (Chief Examination dated 17.08.2023) stated on oath that the incident occurred about 11 years earlier at around 7:00 a.m. Her uncle, Ram Adhar, was digging a foundation on his residential land. Persons from her village—namely Jairam, Rajman, Lalta, Ram Laut, Dayaram, Phoolchand, Anil, and Rakesh—forbade him from digging the foundation. When Ram Adhar did not stop, all the said accused began beating him with lathis, sticks, and belchaks.
- 134) On seeing the assault, she, along with Kalawati, Amarawati, Shakuntala, wife of Mahendra, Shweta, Ram Piyari, Ramjeet, Ram Karan, Manoj, Vinod, Rupesh, and Ram Kedar, went to intervene, whereupon all the accused also beat them. Ram Adhar and Vinod sustained serious injuries. When many villagers gathered, the accused fled while issuing threats to kill them. Ram Adhar lodged the report of the incident. The police got all the injured medically examined at the Government Hospital, Nagpur. The Investigating Officer recorded her statement.
- 135) **PW-13 Shakuntala Shweta** (Cross-Examination dated 09.10.2023) stated that the land over which the dispute arose was claimed by both sides as their own. No measurement of the disputed land had been carried out. She had not seen the actual digging of the foundation.
- 136) She stated that Jairam had struck Ram Adhar with a sword, Rajman had struck Ram Karan with a lathi, and Lalta Prasad had struck Vinod with a wooden plank (addha). She initially stated that she had not seen Phoolchand beating anyone, but then corrected herself to say that Phoolchand had beaten Manoj with a lathi and stick. She stated that Anil had hit her with a wooden

plank, Loutu had struck Piyari Devi with a lathi, Anil had struck Kalawati, and Rakesh had struck Kismatti.

- 137) She stated that she was beaten for about half an hour and that the accused beat others also for about half an hour. She had told the Investigating Officer who hit whom with what weapon; if those details were not recorded in her statement, she could not say why. Her house is situated about two biswas to the south of the place of occurrence.
- 138) She stated that Mithilesh, Lalta, Ram Laut, Samarathi Devi, Pappu, Lakhpatti, Rajman, and Jairam had not been beaten by Ram Karan, Ram Adhar, Manoj, herself (Rupesh is separately named), Vinod, Amarjeet, Tihuli, Ram Kedar, or Ram Sahay. She did not know where Ram Laut died. She stated that his medical examination was done. The injured persons went to the hospital before they did, and she had not seen them going to the hospital. She reached the spot about five minutes after the fight started.
- 139) She did not know that a murder case against Ram Karan and others was pending in the same court. She denied that she was giving false evidence to save her family, or that she had not seen any incident, or that no incident occurred in the manner she had stated.
- 140) On a careful scrutiny of the testimonies of PW-1 Ram Adhar and the witnesses examined thereafter on his side, a clear and consistent picture emerges on certain broad features of the occurrence, even though there are conspicuous contradictions and embellishments on material details.
- 141) It is the categorical case of PW-1 Ram Adhar that on the date and time of the incident, he was digging a foundation on land which he claims as his residential land, though he fairly admits that the said parcel of land was also claimed by Rajman and his family and that there existed a long-standing land dispute between the parties. PW-1 further admits that the land had been measured earlier, but even after such measurement, it could not be clearly determined whose land lay where, and that a case relating to the correction of the map (naksha durusti) was pending and undecided. PW-11 Ram Karan corroborates this position, stating that both the "Maurya side" and their own side claimed the disputed plot, and that despite the accused (of the present case) objecting to the digging, they continued to dig the foundation. PW-7 Rupesh similarly accepts that both sides claimed the disputed land and that a compromise had taken place a few days earlier, yet his father continued with the digging even after objections.
- 142) From this, the Court is satisfied that the land in question was **admittedly disputed**, that **both sides asserted title and possession**, and that any act of foundation digging by one side would naturally be perceived as provocative by the other. The

incident, therefore, did not arise from a one-sided trespass but from a **pre-existing boundary/ownership dispute** where neither side could demonstrably establish exclusive and undisputed possession.

- 143) As regards the manner of occurrence, all these witnesses broadly depose that when PW-1 Ram Adhar was digging foundation, members of the opposite party (Rajman, Jairam, Lalta, Ram Laut and others) arrived armed with lathis, sticks, belchak, clubs and in some versions knives or swords, forbade him from digging and, upon his refusal, allegedly started assaulting him. On his cries, other members from his side – including PW-2 Vinod, PW-7 Rupesh, PW-8 Amarjeet, PW-3 Kamalawati, PW-5 Ram Piyari, PW-9 Amarawati, PW-10 Shakuntala, PW-12 Shweta and PW-13 Shakuntala Shweta – state that they reached the spot to rescue him and were also beaten and sustained injuries. They consistently state that they thereafter went to the police station, that a report was lodged at the instance of Ram Adhar, and that their medical examinations were conducted at the government hospital.
- 144) At the same time, these witnesses, when tested in cross-examination, reveal significant weaknesses and contradictions which dilute the probative value of their evidence as a coherent narrative of unilateral aggression:
- 145) Several witnesses (including PW-8 Amarjeet, PW-9 Amarawati, PW-10 Shakuntala, PW-12 Shweta, and PW-13 Shakuntala Shweta) admit that **they did not witness the entire incident from its inception**, with some expressly stating that they reached after the quarrel had already started or even after it had ended, and some conceding that they had not seen the foundation actually being dug or the first blow being struck.
- 146) PW-7 Rupesh and PW-11 Ram Karan candidly acknowledge that **members of their side, including themselves, are accused in the cross-case** relating to the death of Ram Laut and injuries to the complainant side, and that all of them have gone to jail in that case. PW-2 Vinod also admits his incarceration in the case filed by Rajman. This establishes the existence of a **cross-version of the incident** and demonstrates that **both sides lodged criminal cases against each other**, each attributing the role of aggressor to the other.
- 147) There are internal inconsistencies among these witnesses regarding **who was present, who was armed with which weapon, and who caused which injury**. PW-7 Rupesh admits he did not see who stabbed Vinod with a knife and could not say who hit whom. PW-8 Amarjeet states he does not know who assaulted the complainant side or how they sustained injuries.

PW-10 Shakuntala also concedes she cannot say who hit whom. PW-9 Amarawati goes so far as to admit in cross-examination that she had **not actually seen the incident with her own eyes**, directly contradicting her claim in chief.

- 148) There is noticeable **selective ignorance** about the injuries and deaths on the opposite side. Various defence-side PWs either profess no knowledge of injuries to Mithilesh, Lalta, Pappu, Lakhpatti, Rajman, Jairam and others, or deny such injuries altogether, despite admitting that Ram Laut and Samarathi later died and that they themselves are facing a murder case over those very deaths. Such evasiveness and non-explanation of the serious injuries and deaths on the complainant side **casts doubt on the completeness and fairness** of their account.
- 149) While in chief examination a number of these witnesses attribute multiple blows and specific weapon use to individual members of the opposite party, in cross-examination their ability to identify such overt acts greatly weakens: some admit they cannot say who struck whom, cannot specify the exact role of particular accused, or rely on general statements that “all accused beat all of us”.
- 150) Taken together, the testimonies of PW-1 Ram Adhar and the subsequent defence-side witnesses cannot be accepted as a wholly reliable and complete version establishing that the complainant party was the sole aggressor and that the defence party acted purely in self-defence. Their evidence is clearly **interested**, suffers from **material contradictions**, and is marked by **omissions and evasions**, particularly in regard to the serious injuries and eventual deaths on the complainant side.
- 151) However, these very witnesses do substantially corroborate some critical, neutral features which the Court cannot ignore:
- **The land was disputed and claimed by both sides**, with measurement and map-correction proceedings having failed to conclusively settle the boundary.
 - **Both parties assembled at or near the disputed site** when one side was digging a foundation and the other objected.
 - **Both parties admit that a violent clash took place**, involving multiple persons on both sides.
 - **Members of the present defence side suffered injuries**, which were medically examined, and **a cross-case was lodged by them**, demonstrating that the occurrence was not one-sided.
 - The death of **Ram Laut (and later Samarathi)** is not denied; instead, there is an attempt by these witnesses to distance themselves from the fatal injuries, which further confirms that **violence of a serious nature occurred between the two factions at the same time and place**.

In the ultimate analysis, therefore, while the evidence of PW-1 Ram Adhar and the witnesses examined thereafter on his side is not of such quality as to exonerate them completely or to displace the prosecution case in the cross-matter, it **strongly reinforces the conclusion that the incident arose out of a long-standing land dispute, that both sides actively participated in the assault, that both sides suffered injuries, and that both sides set the criminal law in motion against each other.**

152) Accordingly, from the standpoint of overall appreciation of evidence, the testimonies of PW-1 Ram Adhar onward:

Do **not** establish a case of unilateral aggression by the complainant side;

Do **affirm** the existence of a **mutual, free fight** between two rival factions over disputed land; and

153) These witnesses, therefore, while unreliable to sustain a conviction on their own narrative, i.e. opposite parties as aggressors, significantly support the Court's broader conclusion that the occurrence was a **free fight arising out of a land dispute**, in which liability must be assessed with caution and with full regard to the mutual nature of the aggression. The witnesses of ST 110/2013 are not reliable on charges under sections 308, 504 and 506.

154) Putting together the evidence led by both sides:

1. Nature of Dispute and Background

From the evidence led by **both the prosecution and the defence**, it is proven beyond a reasonable doubt that the incident arose out of a **long-standing land dispute** between the parties. Almost **every witness from both sides** admits that both parties claimed the disputed land. No clear or final measurement (पैमाइश) had conclusively settled the boundary. The foundation was being dug **adjacent to the existing wall/structure** of the opposite party. Several witnesses (PW-7 Rupesh, PW-11 Ram Karan, PW-12 Shweta, PW-13 Shakuntala Shweta) admit that, despite objections, digging was continued. This establishes that the dispute was **civil in nature**, which suddenly escalated into a physical confrontation.

2. Genesis of the Incident – Not Clearly Established

A crucial requirement in cross-version cases is to determine **who was the initial aggressor**. On careful scrutiny, **no witness from either side has credibly witnessed the very beginning of the occurrence**. Many witnesses expressly admit that they arrived **after the altercation had already started** (PW-8 Amarjeet, PW-10 Shakuntala, PW-12 Shweta, PW-13 Shakuntala Shweta). A crowd had already gathered when they reached the spot. Even witnesses who claim to have been present at an early stage give

contradictory accounts of who objected first, who used force first, and who carried which weapon. Thus, the **origin and first blow remain shrouded in uncertainty**, making it unsafe to hold either side as the sole aggressor.

3. Presence of Injuries on Both Sides

The medical and oral evidence conclusively establishes that **both parties sustained injuries**. The **prosecution side** suffered injuries, including grievous injuries and eventual deaths of Ram Laut and Samrathi. The **defence side** also sustained multiple injuries, duly proved by injury reports (Exh. Ka-2 to Ka-14, Ka-17). Oral testimonies of injured defence witnesses' admissions by prosecution witnesses that they could not deny injuries on the opposite side. Importantly, **neither side satisfactorily explains the injuries to the opposite party**. Several witnesses outright deny seeing injuries on the other side, despite medical proof. As laid down in **Lakshmi Singh v. State of Bihar**, failure to explain injuries on the opposite side – especially when serious – indicates **suppression of the true genesis** and strongly suggests **mutual combat**.

4. Conduct of Witnesses and Credibility

Most witnesses on both sides are **closely related, interested, and partisan**. Their testimonies suffer from material contradictions, exaggerations, inconsistent attributions of specific blows, and the introduction of weapons not uniformly supported by other evidence. Notably, some witnesses give **overly detailed blow-by-blow accounts despite acknowledging the crowd and chaos**, which appears unnatural. Others take a completely vague stand, stating they cannot identify who hit whom. Such evidence does not inspire confidence to fix **individual criminal liability**.

5. Cross-Cases and Mutual Allegations

The existence of **cross-cases arising from the same incident** is an admitted position. Each side alleges assault by the other. The accused in one case are the injured witnesses in the other. Both sides have faced arrest and incarceration. This factual matrix strongly supports the inference that **both groups came prepared to assert possession and resorted to violence when opposed**.

6. Suddenness and Lack of Premeditation

The evidence does not disclose any prior meeting of minds, any pre-planned attack, **or any specific intention to cause death**. Instead, it shows sudden confrontation, **escalation due to tempers flaring, use of readily available implements, and loss of control on both sides**. Such circumstances are **classic indicators of a free fight**.

155) Legal Position on Free Fight

Hon'ble Supreme Court in the case of Gajanand And Ors. vs State Of Uttar Pradesh Ceveator, on 18 March, 1954: AIR1954SC695, has defined the "free fight" as - A free fight is when both sides mean to fight from the start, go out to fight, and there is a pitched battle. The question of who attacks and who defends in such a fight is wholly immaterial and depends on the tactics adopted by the rival commanders. When one party, after preparation and armed with a deadly weapon, went to the other party's house, it could not be said in these circumstances that both parties were pre-determined for a trial of strength and had a free fight; rather, the first party was the aggressor. In the Hon'ble Supreme Court in the case of Mariadasan And Ors. vs State Of Tamil Nadu on 17 January, 1980: AIR 1980 (SC) 573, wherein the word "sudden fight" has been defined in the following manner: Sudden fight- When no party attacks the members of the opposite party at the commencement of the occurrence and there is no evidence regarding formation of unlawful assembly with a particular common object and the fight takes place as a result of heated passion and without premeditation, it can be said to be a "sudden fight". **No unlawful assembly can be said to have been formed in such cases, and the accused cannot be convicted under this Section.** All persons must be held responsible for their individual acts and not vicariously liable for the acts of others .

- 156) A "free fight" is one where both parties **mutually assault each other**; there is no clear aggressor, and each side acts in its own perceived interest. The present case squarely falls within the principles laid down in Lakshmi Singh And Ors. vs State Of Bihar on 10 September, 1976: AIR1976SC2263, Raghavan Achari And Njoonjappan vs State Of Kerala on 12 October, 1992: AIR1993SC203. In a free fight, the court must be cautious in applying Section 149 IPC; individual liability must be based on **clear, cogent, and reliable evidence**, which is absent here.
- 157) Upon a holistic and careful appreciation of the **oral evidence of all prosecution and defence witnesses, the medical and documentary evidence, the admitted land dispute, the injuries on both sides, the absence of a clear aggressor, and the existence of cross-cases**, this Court is of the considered opinion that the incident in question was not a unilateral or premeditated assault by one side upon the other, but a sudden, mutual, and spontaneous free fight arising out of a land dispute, in which both sides actively participated and inflicted injuries upon each other. Accordingly, the evidence does not permit fixing exclusive blame on either side, and the occurrence must be legally classified as a **free fight**.

158) Having established the general occurrence of a mutual fight, the Court must pinpoint, as far as evidence permits, which accused caused which injury. The evidence in both cases does not pinpoint the accused's specific roles. In the case of *State of Rajasthan vs Shvi Charan & Ors* on 1 July, 2013: AIR 2013 SUPREME COURT 2342, the Hon'ble Supreme Court has held that with the aid of section 149 IPC, all the accused may be held liable. The relevant para is being quoted here as follows:

"16. The pivotal question of applicability of [Section 149](#) IPC has its foundation on constructive liability which is the sine qua non for its application. It contains essentially only two ingredients, namely, (I) offence committed by any member of any unlawful assembly consisting five or more members and; (II) such offence must be committed in prosecution of the common object ([Section 141](#) IPC) of the assembly or members of that assembly knew to be likely to be committed in prosecution of the common object. It is not necessary that for common object there should be a prior concert as the common object may be formed on spur of the moment. Common object would mean the purpose or design shared by all members of such assembly and it may be formed at any stage. Even if the offence committed is not in direct prosecution of the common object of the unlawful assembly, it may yet fall under second part of [Section 149](#) IPC if it is established that the offence was such, as the members knew, was likely to be committed. For instance, if a body of persons go armed to take forcible possession of the land, it may be presumed that someone is likely to be killed, and all the members of the unlawful assembly must be aware of that likelihood and, thus, each of them can be held guilty of the offence punishable under [Section 149](#) IPC. The court must keep in mind the distinction between the two parts of [Section 149](#) IPC, and, once it is established that unlawful assembly had a common object, it is not necessary that all persons forming the unlawful assembly must be shown to have committed some overt act, rather they can be convicted for vicarious liability. However, it may be relevant to determine whether the assembly consist of some persons which were merely passive witnesses and had joined the assembly as a matter of ideal curiosity without intending to entertain the common object of the assembly. However, it is only the rule of caution and not the rule of law. Thus, a mere presence or association with other members alone does not per se be sufficient to hold everyone of them criminally liable for the offence committed by the others unless there is sufficient evidence on record to show that each intended to or knew the likelihood of commission of such an offending

act, being a member of unlawful assembly as provided for under [Section 142](#) IPC. It may also not be a case of group rivalry or sudden or free fight or an act of the member of unlawful assembly beyond the common object.”

159) (i) Rioting (Section 147 IPC): The evidence, when viewed in totality, establishes that five or more persons from each group assembled and used force against the other side. They were armed with deadly weapons (sticks, stones, a spear “ballam-belchuk”, etc.) and did so publicly. This clearly constitutes an “unlawful assembly” (Sec. 141 IPC) and “rioting” (Sec. 146 IPC), punishable under Section 147. There is no doubt that every accused present participated in the tumult. Each side’s presence with weapons and active assault confirms that all the accused (in both ST 110 and ST 120) have committed the offence of rioting. In conclusion, all accused are guilty of rioting under Section 147 IPC.

160) (ii) Section 149 – Common Object and Vicarious Liability: Once rioting by an unlawful assembly is established, Section 149 imposes vicarious liability on each member for any offence committed by any member if it was in pursuit of the assembly’s “common object” or was a crime they knew was likely in furtherance of that object ([Kuldip Yadav & Ors vs State Of Bihar on 11 April, 2011: AIR 2011 SUPREME COURT 1736](#)). The common object need not be premeditated murder; it suffices if the assembly’s object was to resist by force (to assert land rights) or to “teach them a lesson.” Here, evidence shows the assembly’s object was a mutual violent attack. While Sudden and Free Fight cases caution against imputing a hidden common object (as in [Bachan Singh & Anr vs State Of Bihar on 11 September, 2008: 2008 AIR SCW 6050](#) and [Ananta Kathod Pawar & Ors vs The State Of Maharashtra on 14 August, 1997: AIR ONLINE 1997 SC 478](#), which hold that in pure free fights each is only liable for his own act), in this case **each accused voluntarily chose to join the fray** with knowledge of weapons and risk of fatal harm. The nexus between the assembly’s object (violent confrontation) and the offences committed is clear. In *Kuldip Yadav v. Bihar* (Supra), the Court emphasised that Section 149 must be strictly construed, but when proven, renders every member liable for offences any member commits in furtherance of the common object. Here, the background (active hostility over land, presence of about 14 combatants, carrying of lethal weapons) justifies concluding a common object of violent assault. Thus, Section 149 is attracted, making each accused vicariously liable for the acts of any other in the same assembly.

161) (iii) Offences of Hurt (Secs. 323, 324, 325 IPC with Section 149):

The medical and ocular evidence shows multiple injuries of varying gravity inflicted on both sides. These include simple hurt (swollen wounds, abrasions) and grievous hurt (fractures, head injuries). Section 325 defines grievous hurt (including “voluntarily causing grievous hurt” by any means), and Section 324 covers hurt by dangerous weapons. The evidence establishes that the accused from each group inflicted such injuries on members of the other group during the riot. For example, Ram Laut (Group A) sustained a grievous head injury from the belchuk wielded by someone in Group B; conversely, Ram Adhar (Group B) suffered a compound fracture likely from a heavy blow by Group A. The injuries on both sides occurred in the heat of the mob fight. Under Section 149, all those present in the assembly share liability for these offences. Thus, all accused in ST 110 are guilty of causing hurt (simple and grievous) to Group B victims (Sections 323/325/324 read with 149), and all accused in ST 120 are guilty of causing hurt to Group A victims (Secs.323/325/324 read with 149). The fact that injuries were reciprocally inflicted does not absolve any: each assailant’s actions fall within the collective objective of violent confrontation.

162) (iv) Culpable Homicide (Section 304 IPC with Section 149): The post-mortem reports show Ram Laut’s death was due to the head injury he suffered on 19.8.2012; Samarthi died days later from a brain haemorrhage, probably (as she suffered severe head injuries) due to the same assault. None of the accused persons has offered a lawful, cogent and proven justification (e.g. self-defence or plea of alibi) for these deaths. In law, a killing in a sudden fight without intention is *culpable homicide not amounting to murder*, not murder (Section 300 exceptions). Here, given the spontaneity and lack of specific intent to kill, the correct charge is culpable homicide (Section 304). In ST 110, at least one member of the assembly delivered the fatal blow to Ram Laut. Since they were all acting in furtherance of the fight, Section 149 applies: all members of the unlawful assembly are guilty under Section 304 IPC.

163) (v) Applicability of “Free-Fight” Doctrine: It is true that when two groups suddenly clash, courts have cautioned not to fix full liability on one side for acts of the other. However, this principle simply requires that each accused be held for his own act when no common design is proved. In this case, all the accused engaged knowingly in violence with deadly weapons; the fight was not a chance scuffle by a few passers-by but a frenzied assembly. Even if acceptance of a “free fight” aspect is inevitable,

given the reciprocal injuries, it does not exonerate them from rioting charges. Each group's willingness to fight removes any notion that some were mere bystanders. Every accused must bear the consequences of the assembly's criminal objective. In *Lakshmi Singh*, the Court also warned that omission to explain injuries on the accused side "demolishes the prosecution's case" of unilateral aggression; here, the complete non-explanation on both sides shows equal participation. On balance, I treat the encounter as an assault on each other where fault is shared. Therefore, each accused is convicted as charged, albeit the homicide is treated as culpable (not murder).

164) Findings

The accused in both cases are found guilty as follows:

ST No. 120/2013 (State vs. Jairam & Ors): The accused Jairam, Rajman, Lalta Prasad, Dayaram, Phoolchandra, and Anil Kumar are each convicted of Rioting (Section 147 IPC), Voluntary causing simple hurt (Section 323/149 IPC), Voluntary causing grievous hurt (Section 325/149 IPC), Voluntary causing hurt with dangerous weapon (Section 324/149 IPC).

ST No. 110/2013 (State vs. Ram Karan & Ors): The accused Ram Karan, Manoj, Rupesh, Vinod, Amarjeet, Ram Sahay, and Tihuli are each convicted of Rioting (Section 147 IPC), Voluntary causing simple hurt (Section 323/149 IPC), Voluntary causing grievous hurt (Section 325/149 IPC), Culpable homicide not amounting to murder (Section 304/149 IPC). The rest of the charges (308,504,506) are not proved beyond a reasonable doubt, hence the accused are acquitted of these charges.

All the convicts are on bail. Their bail bonds are cancelled, and sureties are discharged. They are taken into custody. The cases are fixed for hearing on sentencing on 13.12.2025.

Date:09.12.2025

(Chandraday Kumar)
Sessions Judge,
Ambedkar Nagar (U.P.)

11.12.2025

All the accused appeared in custody. Their counsels are also present. DGC (Criminal) is present. Heard on the quantum of sentence. All the accused pleaded that this was their first offence and that they had no criminal antecedents. They are family men and bear liabilities to their respective families. No further criminal case was lodged against them. Ram Karan's side sought the benefit of probation, but some members of Jairam's side, after some hesitation due to the death of a member of his party, finally agreed.

On the other hand, DGC (Criminal) argues that though the convicts do not have any criminal antecedents, villagers fight over land disputes and kill each other. To stop barbaric activities and to send a stern message to society, he seeks maximum punishment.

Though both parties have been suffering for 12 years, and perhaps tension between the two parties is no more, I do not find it proper to enlarge the convicts on probation. Considering all the mitigating and aggravating factors, the following sentences would be appropriate to meet the ends of justice:

In Session Trial Number 120/2013, State of Uttar Pradesh Versus Jairam and others, the convicts Jairam, Rajman, Lalita Prasad, Dayaram, Phoolchandra and Anil Kumar to rigorous imprisonment for one year and to a fine of Rs. One thousand each under section 147 of the Indian Penal Code; to rigorous imprisonment for nine months and Rs. One thousand fine each under section 323/149 of the Indian Penal Code; to rigorous imprisonment for five years and Rs. Five thousand fine each under section 325/149 of the Indian Penal Code; to rigorous imprisonment for two years, and Rs. Two thousand fine each under section 324/149 of the Indian Penal Code.

In Session Trial Number 110/2013, State of Uttar Pradesh Versus Ram Karan and others, the convicts Ram Karan, Manoj, Rupesh, Vinod, Amarjeet, Ram Sahay and to rigorous imprisonment for one year and Rs. One thousand fine each under section 147 of the Indian Penal Code; to rigorous imprisonment for nine months and Rs. One thousand fine each under section 323/149 of the Indian Penal Code; to rigorous imprisonment for five years and Rs. Five thousand fine each under section 325/149 of the Indian Penal Code; to rigorous imprisonment for ten years and Rs. Seven thousand fine each under section 304/149 of the Indian Penal Code.

Accordingly, in Session Trial Number 120/2013, State of Uttar Pradesh Versus Jairam and others, the convicts Jairam, Rajman, Lalita Prasad, Dayaram, Phoolchandra and Anil Kumar are sentenced to rigorous imprisonment for one year and to a fine of Rs. One thousand each under section 147 of the Indian Penal Code, and, in default of fine, one month's imprisonment; to rigorous imprisonment for nine months and Rs. One thousand fine each under section 323/149 of the Indian Penal Code, and, in default of fine, one month's imprisonment; to rigorous imprisonment for five years and Rs. Five thousand fine each under section 325/149 of the Indian Penal Code, and, in default of fine, five months' imprisonment; to rigorous imprisonment for two years, and Rs. Two thousand fine each under section 324/149 of the Indian Penal Code, and, in default of fine, two months' imprisonment.

In Session Trial Number 110/2013, State of Uttar Pradesh Versus Ram Karan and others, the convicts Ram Karan, Manoj, Rupesh, Vinod, Amarjeet, Ram Sahay and Tihuli are sentenced to

rigorous imprisonment for one year and Rs. One thousand fine each under section 147 of the Indian Penal Code, and, in default of fine, one month's imprisonment; to rigorous imprisonment for nine months and Rs. One thousand fine each under section 323/149 of the Indian Penal Code, and, in default of fine, one month's imprisonment; to rigorous imprisonment for five years and Rs. Five thousand fine each under section 325/149 of the Indian Penal Code, and, in default of fine, five months' imprisonment; to rigorous imprisonment for ten years and Rs. Seven thousand fine each under section 304/149 of the Indian Penal Code, and, in default of fine, seven months' imprisonment.

All the imprisonment shall run concurrently, and periods spent in jail shall be set off.

Accordingly, conviction warrants be prepared, and convicts be sent to jail to serve the sentences. Records shall be consigned to the record room as per the rules.

In compliance with Section 365 CrPC, a copy of this judgment shall be sent to the District Magistrate, Ambedkar Nagar, for information.

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

The copy of this judgment shall be placed on the record of ST No. 120/2013, State versus Jairam.

Date:11.12.2015

(Chandroday Kumar)
Sessions Judge,
Ambedkar Nagar.