



2025:DHC:7120



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision: 11.08.2025

+ **CRL.A. 18/2017**

JITENDER @ JEET Appellant
Through: Mr. Vivek Gautam, Advocate

versus

STATE (NCT OF DELHI) Respondent
Through: Mr. Pradeep Gahalot, APP for State

+ **CRL.A. 19/2017**

YOGESH @ GHOGHA Appellant
Through: Ms. Tara Narula, Ms. Shivangi
Sharma and Mr. Harsh Vardhan Jain,
Advocates, Mr. Vivek Gautam,
Advocate

versus

STATE (NCT OF DELHI) Respondent
Through: Mr. Pradeep Gahalot, APP for State

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present appeals, the appellants seek to assail the judgment of conviction dated 26.11.2016 and the order on sentence dated 29.11.2016 passed by the learned ASJ (FTC), North-West District, Rohini Courts, Delhi in SC No. 52037/2016, arising out of FIR No. 380/2012



2025:DHC:7120



registered at P.S. Narela, Delhi under Sections 307/34 IPC and 25/27/54/59 of the Arms Act, 1959.

Vide the order on sentence, both the appellants were directed to undergo rigorous imprisonment for a period of four years for the offence punishable under Section 307/34 IPC along with payment of fine of Rs.50,000/-, in default whereof to undergo simple imprisonment for a period of six months. The benefit of Section 428 Cr.P.C. was extended to the appellants.

Notably, the third accused *Govind @ Chhottu* was additionally convicted under Sections 25 and 27 of the Arms Act. He had also preferred an appeal before this Court being CRL.A. 20/2017, however the same stood abated on account of his death.

2. As the impugned order of conviction and order on sentence are common, as well as common submissions have been addressed by the parties therefore, the above noted appeals are taken up together for consideration and are disposed of by this common decision.

3. Briefly put, the incident in question took place on 17.07.2012 at about 7:30 p.m. in Village *Bankner*, Delhi, where the complainant *Rajeev Rawat* (PW-8) was residing. On the evening of the incident, *Rajeev* was seated outside his house with his family members and neighbours, namely his mother *Vidhya Wati* (PW-14), his uncle *Kishore Singh* (PW-11), his aunt *Kamla* (PW-13), *Jaipal* (PW-16), and *Vinod Rawat* (PW-6). While they were sitting together, the three accused persons arrived at the spot riding a black colour motorcycle. They were armed with firearms, namely a pistol



and a country-made *katta* (improvised firearm). The motorcycle was being driven by appellant/*Yogesh @ Ghogha*, and with appellant/*Jitender @ Jeet* seated in the middle, and co-accused *Govind @ Chhottu* was sitting behind *Jitender @ Jeet*.

According to the prosecution, as soon as they reached, appellant *Yogesh* exhorted his co-accused, who had got down from the motorcycle, to shoot *Rajeev*, saying “*yeh baitha hai Raju, maar goli saale ko*”. Acting on this exhortation, *Govind @ Chhottu* fired from his *katta*, as a result of which *Rajeev* sustained a gunshot injury on his right hand and pellet injuries on his face. Thereafter, appellant *Jitender @ Jeet* also opened fire at *Rajeev*, but owing to the timely intervention of *Kishore Singh* (PW-11), *Jaipal* (PW-16), and *Vinod Rawat* (PW-6), the bullet did not hit him. During the scuffle that ensued, appellant *Jitender @ Jeet* struck *Vinod Rawat* (PW-6) on the head with the butt of his pistol, causing injury. The *katta* (country-made pistol) being wielded by *Govind @ Chhottu* fell on the ground. The accused persons then fled the spot together on the same motorcycle. Subsequently, *Vidhya Wati* (PW-14), the complainant’s mother, picked up the fallen *katta*. Later, when *Rajeev* and *Vinod* were taken to *Raja Harish Chander* Hospital for medical treatment, she handed over the recovered firearm to the police which has been exhibited as Ex. P-1. Upon inspection, the *katta* was found to contain one empty cartridge. An additional empty cartridge case of 9mm calibre was also recovered from the spot during investigation. The sketch of the *katta* along with the empty cartridge was prepared and proved as Ex. PW14/A, while the seizure memo of the *katta* and empty cartridge was



proved as Ex. PW14/B. Forensic examination confirmed that the seized *katta* was a functional firearm capable of firing standard ammunition.

Thus, the prosecution case, in essence, is that all three accused arrived at the complainant's house armed with deadly firearms, acted in concert with the common intention to kill him, and in execution of this plan, opened fire at him, thereby causing gunshot injuries.

4. The prosecution examined 28 witnesses and has primarily relied upon the testimony of the injured complainant *Rajeev Rawat* (PW-8) and injured eyewitness *Vinod Rawat* (PW-6), both of whom have categorically deposed about the manner in which the accused persons arrived together on a motorcycle, armed with firearms, and at the exhortation of *Yogesh*, shots were fired. PW-8 has narrated in detail that co-accused *Govind @ Chhottu* opened fire from a country-made pistol (*katta*), causing him gunshot injuries on his hand and face, and that appellant *Jitender @ Jeet* also fired at him, which however did not strike due to timely intervention by his relatives. PW-6 *Vinod* has corroborated this version and has further deposed that appellant *Jitender* struck him on the head with the butt of his pistol, thereby causing a lacerated wound. Their version has been supported by PW-11 *Kishore Singh* and PW-13 *Kamla*, as well as PW-14 *Vidhya Wati*, who also testified that she had picked up the *katta* which had fallen from *Govind's* hands and later handed it over to the police at the hospital.

5. The testimonies of these witnesses have remained consistent. Although PW-16 *Jaipal* resiled from his earlier statement and was declared hostile, he nevertheless admitted that the complainant had received firearm injuries and that the *katta* was picked up by *Rajeev's* mother. The ocular



version stands corroborated by the medical evidence of Dr. *Manoj*, examined as PW-7, who proved the MLCs noting gunshot injuries on *Rajeev* and a lacerated wound on *Vinod*, and by the ballistic experts Dr. *N.P. Waghmare* (PW-18) and *Puneet Puri* (PW-19), who confirmed that the recovered *katta* was a functional firearm. The *katta* and cartridge were sent to the Forensic Science Laboratory (FSL), where Dr. *N.P. Waghmare*, Ballistic Expert, opined that it was a functional firearm under the Arms Act, capable of firing standard 8 mm/.315 calibre ammunition. Test cartridges were successfully discharged, and the firing pin and breach marks matched the cartridge case recovered from the weapon. Separately, an empty 9 mm cartridge case lifted from the spot was examined by Sh. *Puneet Puri*, who confirmed it to be a fired cartridge. FSL expert Dr. *Rajendra Kumar* (PW-26), further corroborated the prosecution case. The IO, SI *Pradeep* (PW-25), proved the prompt recording of the complainant's statement, seizure of the weapon, lifting of bloodstains, and arrest of the accused, while sanction under Section 39 of the Arms Act was accorded by DCP M.A. *Rizvi* (PW-28).

6. In their statements under Section 313 Cr.P.C., the appellants denied the incriminating circumstances and claimed false implication. Appellant *Jitender @ Jeet* took a plea of alibi, claiming he was in *Kolhapur*, but only examined his mother, *Smt. Sharbati* (DW-1), who failed to provide any particulars of his absence. However, no documentary or independent evidence was led to substantiate the plea, which was rejected by the Trial Court.



7. Vide order dated 09.01.2017, passed during the pendency of the appeal, the sentence of the appellants was suspended.

8. Learned counsel for the appellant assailed the judgment of conviction primarily on the ground that the appellant has been falsely implicated on account of previous enmity with the complainant party. It was urged that the prosecution version is riddled with material contradictions and does not inspire confidence, particularly when one of the cited eyewitnesses, PW-16, did not support the case and was declared hostile. It was further submitted that though the alleged incident had occurred in a busy residential locality, no independent public witness was examined and the case rests solely on the testimonies of interested relatives. Insofar as appellant *Jitender @ Jeet* is concerned, it was contended that he was not even present in Delhi on the date of the incident and had, in fact, travelled to *Kolhapur*, a plea of alibi sought to be substantiated through the testimony of his mother, examined as DW-1. The recovery of the country-made pistol (*katta*) was also questioned as doubtful. Attention was also drawn to the fact that the MLC of the complainant does not mention the names of the assailants, which, according to counsel, is unnatural.

9. Learned APP for the state, supported the judgment of the Trial Court and submitted that the prosecution had established its case. He emphasised that the testimonies of the injured complainant, PW-8 and PW-6, duly corroborated by PW-11, PW-13 and PW-14, clearly demonstrated that the appellants had arrived together armed with firearms and shared a common intention to eliminate the complainant. It was urged that the injury could have proved fatal but for the quick reflexes of the complainant and his



relatives, and that the presence of the injured at the scene was beyond dispute. Learned APP further relied on the ballistic report, which confirmed that the recovered *katta* was a functional firearm, and submitted that the ocular and scientific evidence, taken together, left no room for doubt about the guilt of the appellants.

10. The Trial Court, upon a detailed appreciation of the evidence led by the prosecution, came to the conclusion that the testimonies of the injured witnesses, which were consistent and trustworthy, stood duly corroborated by the medical evidence, the reports of the forensic experts, and the testimonies of the investigating officers. The Court observed that the ocular account of the injured complainant, PW-8, and PW-6 not only established the presence of the accused at the scene of occurrence but also proved that they had acted in concert and shared a common intention to harm the complainant. The medical evidence confirmed the gunshot injuries suffered by complainant, while the ballistic reports established that the weapon recovered at the spot was a functional firearm which had been discharged. On the basis of this collective evidence, the Trial Court rightly held that the prosecution had proved its case beyond reasonable doubt and accordingly convicted all three accused under Section 307/34 IPC, with accused *Govind @ Chhottu* being additionally convicted under Sections 25 and 27 of the Arms Act for unlawful possession and use of the country-made pistol.

11. At this stage, learned counsel for the appellants, on instructions from the appellants who are present in Court, submits that the appeal is not pressed on merits. The appellants are willing to deposit the fine, and considering that they were not convicted under the Arms Act and are



2025:DHC:7120



presently focusing on their family lives, pray that a lenient view may be taken and the appellants be released on period undergone.

11. Learned APP for the State points out that, as per the nominal rolls, the appellants had previous involvements, as mentioned in the order on sentence, however, all were before the year 2018.

12. The nominal roll dated 07.08.2025 in respect of appellant/*Jitender @ Jeet* records that as on 16.01.2017, he has undergone 3 years, 3 months and 21 days of incarceration, including remission, leaving an unexpired portion of 8 months and 9 days; his conduct in jail has been satisfactory with no misconduct reported. Similarly, the nominal roll dated 06.08.2025 concerning appellant/*Yogesh @ Ghogha* reflects that as on 16.01.2017, he has undergone 3 years, 2 months and 23 days of incarceration, including remission, leaving an unexpired portion of 9 months and 7 days and his conduct in jail has been satisfactory. Fine in both cases remains unpaid.

13. The appellants have faced trial for over last 13 years. The appellant/*Yogesh @ Goga* is aged 34 years and engaged in dairy business, is unmarried and lives with his parents and one younger brother. The appellant/*Jitender @ Jeet*, aged 44 years and a dairy owner by occupation, is married and has three children and a widowed mother. The other involvements are stated to be prior to 2018, in which they are stated to be on bail. Considering their roles and the nominal roll, while upholding their conviction, this Court is of the considered view that the ends of justice would be met if the sentence is reduced to the period already undergone by them. The sentence of fine is however maintained as it is. In case of non-



2025:DHC:7120



payment, the appellants shall undergo the default sentence. Let the fine be deposited within 4 weeks.

14. The appeal is partially allowed to the aforesaid extent. The pending applications, if any, stand disposed of in the above terms.

15. Let a copy of this order be communicated to the Trial court and concerned jail superintendent.

MANOJ KUMAR OHRI
(JUDGE)

AUGUST 11, 2025

k/ry

(corrected & released on 20.08.2025)