

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRAA No. 7/2015

Reserved on: 16.04.2026

Pronounced on: 23.04.2026

Uploaded on: 23.04.2026

Whether the operative part of Judgment is
Pronounced?

State Through P/S Pulwama

.....Appellant(s)

Through: Mr. Allauddin Ganai, AAG

V/s

Ghulam Ganai and Ors

..... Respondent(s)

Through: Ms. Nida Nazir, Advocate vice
Mr. S. T. Hussain, Sr. Advocate

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR-JUDGE

HON'BLE MR. JUSTICE SANJAY PARIHAR-JUDGE

J U D G E M E N T

(Per Sanjay Parihar-J)

1. The present appeal has been preferred by the appellant—State against the judgment dated 09.05.2015 passed by the learned Principal Sessions Judge, Pulwama, in a case titled *State through Police Station Pulwama versus Ghulam Ganai and others*, arising out of FIR No. 249/2011, whereby the respondents were acquitted of offences under Section 302/34 RPC. However, respondent No. 3, namely Nazir Ahmad Ganai, was convicted under Section 304 Part II RPC, while respondents Nos. 1 and 2 were convicted under Section 323 RPC.
2. The case of the prosecution, in brief, is that on 16.08.2011, the deceased Danish Farooq, while proceeding to school, was allegedly ambushed and assaulted by the respondents due to a prior dispute relating to construction of a boundary wall. It is alleged that respondent No. 3,

Nazir Ahmad Ganai, inflicted a blow with a Danda on the head of the deceased, while the other respondents also participated in the assault. On the complaint of the father of the deceased, FIR No. 25/2011 came to be registered, and after investigation, the accused were charge-sheeted for offences under Section 302/34 RPC.

3. The Trial Court, upon appreciation of the evidence, returned a finding that the prosecution had failed to establish the offence of murder under Section 302 RPC. It was held that the deceased had sustained only a single injury on the head caused by a blunt object, without any fracture or grievous internal damage. Accordingly, respondent No. 3 was held guilty under Section 304 Part II RPC, while respondents Nos. 1 and 2 were convicted under Section 323 RPC.
4. Learned counsel for the appellant contended that the Trial Court erred in law and on facts in not appreciating that the injury inflicted was on a vital part of the body and was sufficient in the ordinary course of nature to cause death. It was argued that the evidence of eyewitnesses, duly corroborated by medical evidence, clearly established a case of murder and common intention, warranting conviction under Section 302/34 RPC.
5. Per contra, learned counsel for the respondents submitted that the impugned judgment does not call for interference. It was contended that the medical evidence unequivocally shows that the deceased sustained only one injury, which neither caused fracture nor severe internal damage. It was further argued that the occurrence was a result of a sudden quarrel without premeditation, and the ingredients of Section 302 RPC are not made out. It was also brought to the notice of this Court that respondent No. 3 had already challenged his conviction in CRA No. 15/2016, which stood dismissed by this Court vide judgment dated 09.05.2023, and the said judgment has attained finality. It was further submitted that all the respondents have already undergone the sentence awarded to them.
6. We have heard learned counsel for the parties and perused the record.

7. The medical evidence, particularly the testimony of the Medical Officer, clearly establishes that the deceased sustained only one injury in the nature of a hematoma on the skull. No other external or internal injuries, including fracture of the skull, were found. The injury is stated to have been caused by a blunt object such as a wooden Danda.
8. It is an admitted position that the injury was inflicted by respondent No. 3 by a single blow. The evidence further reveals that though an attempt was made to inflict another blow, the same was prevented as the weapon was snatched away. There is nothing on record to indicate premeditation or intention to cause death.
9. In the aforesaid circumstances, the Trial Court rightly concluded that the case falls within the ambit of culpable homicide not amounting to murder, punishable under Section 304 Part II RPC. The finding that the act was committed with knowledge but without intention to cause death is borne out from the evidence on record.
10. As regards respondents Nos. 1 and 2, the evidence only indicates their presence at the spot and participation by way of fist and kick blows. In the absence of any corroborative medical evidence of multiple injuries or use of any weapon by them, the Trial Court rightly convicted them under Section 323 RPC.
11. It is a settled principle of law that an appellate court should not interfere with an order of acquittal unless the findings recorded by the Trial Court are perverse or based on misappreciation of evidence. In the present case, no such infirmity has been demonstrated.
12. Furthermore, it is not disputed that the conviction and sentence of respondent No. 3 under Section 304 Part II RPC has already been upheld by this Court in earlier proceedings, and the said judgment has attained finality. The respondents have also undergone the sentences awarded to them.
13. In view of the above, we find no merit in the present appeal. The judgment passed by the learned Trial Court does not warrant any interference.

14. Accordingly, the appeal is **dismissed**. The judgment of the learned Principal Sessions Judge, Pulwama, is upheld.
15. **Order accordingly.**

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR
23.04.2026
“Imtiyaz”

