



2026:UHC:2618

Judgment Reserved on: 13.02.2026
Judgment Pronounced on: 10.04.2026

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Jail Appeal No.63 of 2021

Harilal

.....Appellant

Vs.

State of Uttarakhand

.....Respondent

Presence: Mr. Pooram Singh Rawat, learned Amicus Curiae for the Appellant
appearing through V.C.
Mr. J.P. Kandpal, learned Brief Holder for the State.

Hon'ble Ashish Naithani, J.

The present Criminal Jail Appeal has been preferred by the Appellant, Harilal, under Section 374(2) of the Code of Criminal Procedure, assailing the judgment and order dated 09.09.2021 passed by the learned District and Sessions Judge, Rudraprayag in Sessions Trial No. 04 of 2020, arising out of Case Crime No. 08 of 2020, whereby the Appellant has been convicted under Sections 307 and 326 of the Indian Penal Code and sentenced to undergo rigorous imprisonment of eight years each, along with fine of Rs. 5,000 on each count, with default stipulations.

2. As per the case of the State, an incident is alleged to have occurred on the night of 29.06.2020 at about 10:00 PM at Ukhimath, District Rudraprayag, where the injured, namely Parmeshwar, along with the Appellant and another person, was present in a room. It is alleged that after having dinner, a dispute arose between the Appellant and the injured over playing music on a mobile phone. The altercation escalated, and it is alleged that the Appellant, in a fit of anger, inflicted a knife blow on the abdomen of the injured and thereafter fled from the spot.



3. It is further the case of the State that the injured was initially taken to the Primary Health Centre at Ukhimath and thereafter referred to higher medical centres in view of the seriousness of the injury. The First Information Report came to be lodged on 30.06.2020 at about 13:15 hours at Police Station Ukhimath, District Rudraprayag. Upon investigation, charge sheet came to be submitted against the Appellant under Sections 307 and 326 IPC.

4. The case being triable by the Court of Sessions, it was committed, and charges were framed accordingly. The State, in order to bring home the guilt of the Appellant, examined the injured witness and other prosecution witnesses, including witnesses relating to recovery and investigation. The defence of the Appellant, as emerges from the record, was one of denial and false implication.

5. Upon appreciation of the evidence on record, the learned trial court recorded a finding of conviction against the Appellant under Sections 307 and 326 IPC and imposed the aforesaid sentence, which is under challenge in the present appeal.

6. Learned Amicus Curiae appearing for the Appellant submits that the impugned judgment suffers from serious infirmities and the conviction recorded by the learned trial court is liable to be set aside.

7. It is contended that the case of the State rests primarily upon the testimony of the injured witness; however, the same is not wholly reliable. It is submitted that in his cross-examination, the injured has made material statements indicating that the expenses of his treatment were borne by the family of the Appellant and that he does not wish to



pursue action against him. According to learned Counsel, these aspects create doubt regarding the prosecution version.

8. It is further submitted that the alleged recovery of the weapon of offence is doubtful inasmuch as the independent witness of recovery has not supported the case of the State. In the absence of reliable recovery, the connection between the alleged weapon and the Appellant remains unestablished.

9. Learned Counsel for the Appellant also submits that there is delay in lodging the First Information Report, which has not been satisfactorily explained, thereby affecting the credibility of the prosecution case.

10. It is also urged that the essential ingredients of Section 307 IPC are not made out. It is submitted that the incident arose out of a sudden quarrel without any premeditation, and only a single blow is alleged to have been inflicted. It is argued that in such circumstances, intention to cause death cannot be attributed to the Appellant.

11. It is lastly contended that the learned trial court has not properly appreciated the evidence on record and has recorded findings which are contrary to the material available, and therefore, the Appellant is entitled to benefit of doubt.

12. Learned Brief Holder appearing for the State supports the impugned judgment and submits that the learned trial court has rightly appreciated the evidence on record and recorded a well-reasoned finding of conviction.



13. It is submitted that the testimony of the injured witness is cogent, consistent, and trustworthy. The presence of the injured at the place of occurrence is not in dispute, and his testimony clearly attributes the role of inflicting injury to the Appellant.

14. Learned Counsel for the State further submits that the medical evidence corroborates the ocular version and establishes that the injury sustained by the injured was caused by a sharp-edged weapon and was of a serious nature.

15. It is contended that minor discrepancies or omissions do not affect the substratum of the case of the State. The non-support of the recovery witness, according to learned Counsel, is not fatal in the presence of direct evidence of the injured witness.

16. With regard to the delay in lodging the FIR, it is submitted that the same stands sufficiently explained as the immediate concern was to provide medical aid to the injured, who was referred to higher medical centres.

17. Learned Counsel for the State thus submits that the conviction recorded by the learned trial court does not warrant interference and the appeal deserves to be dismissed.

18. This Court has heard learned counsel for the parties and perused the entire lower court record with due care.

19. The present appeal arises from a conviction recorded by the learned trial court under Sections 307 and 326 IPC. The principal question for consideration is whether, on the basis of the evidence



available on record, the conviction under Section 307 IPC is sustainable, and whether the findings recorded by the learned trial court call for interference in appellate jurisdiction.

20. The case of the State is founded primarily upon the testimony of the injured witness. The evidentiary value of an injured witness is well settled. His presence at the place of occurrence ordinarily cannot be doubted, and his testimony is entitled to great weight. However, such testimony must still inspire confidence and must be assessed in light of the surrounding circumstances.

21. In the present case, the injured witness has supported the case of the State insofar as the occurrence and the role attributed to the Appellant are concerned. However, certain aspects emerging from his cross-examination assume significance. The injured has admitted that the expenses of his treatment were borne by the family members of the Appellant and that he does not wish to pursue action against him. Though such statements do not by themselves demolish the case of the State, they do introduce an element of caution in evaluating his testimony.

22. The alleged recovery of the weapon of offence also does not inspire confidence. The independent witness to the recovery has not supported the case of the State. In such circumstances, the recovery cannot be said to have been proved in a reliable manner. The evidentiary value of the alleged weapon is, therefore, considerably weakened.

23. As regards the delay in lodging the First Information Report, the incident is stated to have taken place in the night and the FIR was



lodged on the next day. The explanation offered is that the injured was taken for medical treatment and referred to higher centres. In the facts of the case, such delay stands reasonably explained and is not fatal to the case of the State.

24. Coming to the nature of the occurrence, it is evident from the record that the incident arose out of a sudden quarrel between the Appellant and the injured over a trivial issue relating to playing music. There is no material to suggest any premeditation on the part of the Appellant.

25. It is also not in dispute that the case pertains to a single blow. There is no allegation of repeated assault. The circumstances in which the incident occurred are, therefore, of considerable relevance in determining the applicability of Section 307 IPC.

26. The essential ingredient of Section 307 IPC is the intention or knowledge to cause death. The nature of the weapon used, the part of the body targeted, and the circumstances in which the act was committed are all relevant factors in determining the existence of such intention.

27. In the present case, although the injury is on a vital part of the body and is caused by a sharp-edged weapon, the surrounding circumstances, namely the sudden quarrel, absence of premeditation, and the fact that only a single blow was inflicted, do not conclusively establish the intention or knowledge required to bring the act within the ambit of Section 307 IPC.

28. The learned trial court appears to have placed undue emphasis on the nature of the injury and the weapon used, without adequately



considering the surrounding circumstances and the mental element necessary to constitute the offence under Section 307 IPC.

29. This Court is, therefore, of the considered view that the State has not been able to establish beyond reasonable doubt that the Appellant had the requisite intention or knowledge to cause death. Consequently, the conviction under Section 307 IPC cannot be sustained and is liable to be set aside.

30. However, the factum of injury and the role of the Appellant in causing such injury stand clearly established. The testimony of the injured witness, to the extent it attributes the act to the Appellant, is corroborated by the medical evidence, which shows that the injury was caused by a sharp-edged weapon and is of a serious nature.

31. Even in the absence of reliable recovery, the ocular testimony of the injured witness, supported by medical evidence, is sufficient to establish that the Appellant caused grievous hurt by means of a sharp weapon.

32. The offence, therefore, clearly falls within the ambit of Section 326 IPC. The conviction recorded by the learned trial court under Section 326 IPC does not suffer from any infirmity and is liable to be affirmed.

33. As regards the sentence, having regard to the facts and circumstances of the case, particularly the sudden nature of the quarrel and absence of premeditation, this Court is of the view that the sentence awarded under Section 326 IPC warrants modification.



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ORDER

34. The appeal is partly allowed.

35. The conviction of the Appellant under Section 307 IPC, as recorded by the learned trial court vide judgment and order dated 09.09.2021, is set aside.

36. The conviction of the Appellant under Section 326 IPC is affirmed.

37. The sentence awarded to the Appellant under Section 326 IPC is modified to the period already undergone.

38. The fine imposed by the learned trial court shall remain unaltered.

39. The Appellant shall be released forthwith, if not required in any other case.

(Ashish Naithani J.)

10.04.2026

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