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

CNR No. DLHC010454452026

+ **CRL.REV.P. 563/2026 & CRL.M.(BAIL) 1813/2026**

VISHWAKARMA MEHTO AND ANR.

.....Petitioners

Through: Mr. Vijay Kumar Ravi, Mr. Sanjay Singh, Advs.

versus

THE STATE THROUGH SHO PS RANHOLA (W) DISTRICT DELHI

.....Respondent

Through: Mr. Rajkumar, APP, with Mr. Yogesh Mishra and Mr. Balendo Shukla, Advs. for the State.
SI Udit, PS Ranhola.

CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

ORDER

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25.09.2026

1. This hearing has been done through hybrid mode.
2. By way of the present petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the 'BNSS'), the Petitioners are seeking to set aside the judgment dated 07.03.2026 passed by the learned ASJ-08, West District, Tis Hazari Courts, Delhi, the judgment of conviction dated 05.09.2024 and the order on sentence dated 25.04.2025 passed by the learned JMFC-08, West District, Tis Hazari Courts, Delhi in connection with **FIR No. 133/2013** for the offences punishable under Sections 323, 325 and 34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), registered at P.S. Ranhola, Delhi.



FACTUAL MATRIX

3. Petitioner No.1 and the complainant were neighbours and resided opposite each other across a lane. As per the prosecution case, Petitioner No.1 had objected to the complainant carrying on vending of eggs from his cart. On 05.05.2013, at about 11:30 p.m., when the complainant was winding up his cart and proceeding towards his house, Petitioner No.1, Petitioner No.2 and other Co-accused Sonu were allegedly present and armed with *dandas*. It is alleged that they assaulted the complainant, his son, and his brother.

4. The co-accused Sonu was also named in the FIR. He is the other son of Petitioner No.1, and the brother of Petitioner No. 2. The present revision petition, however, has been preferred by Petitioner no. 1 and Petitioner no. 2.

5. The FIR was formally registered on 22.05.2013. The complainant alleged that his neighbour/ present Petitioner No. 1, along with his sons and other family members, assaulted him with *lathis*, fists and kicks after he objected to the nuisance being created in the neighbourhood. It is further alleged that, upon hearing the commotion, the complainant's son and brother came to his rescue and were also assaulted by the accused persons. The complainant and his son sustained injuries and were thereafter taken to DDU Hospital, where their medical examination was conducted. The police reached the hospital, recorded the complainant's statement and, on the basis of the complaint and medical opinion, registered the **FIR No. 133/2013**.

6. Vide judgment dated 05.09.2024, the learned Trial Court convicted the Petitioners for offences punishable under Sections 323, 325, and 34 IPC.

7. Vide order on sentence dated 25.04.2025, the Petitioners were



sentenced to undergo six months' simple imprisonment for the offence under Section 323 IPC and two years' rigorous imprisonment for the offence under Section 325 IPC, to run consecutively. A fine of Rs.50,000/- each was imposed in respect of the victims, the complainant's son Anil and the complainant's brother Birbal. Further, compensation of Rs.1,00,000/- was directed to be paid to the complainant.

8. Aggrieved by the aforesaid judgment of conviction and order on sentence, the Petitioners preferred Criminal Appeal. The learned Appellate Court, *vide* judgment dated 07.03.2026, dismissed the appeal preferred by the Petitioners. Hence, the present revision petition.

Submissions on behalf of the Petitioners

9. Learned counsel for the Petitioners submits that the Petitioners are father and son and are presently not in custody. It is submitted that they are poor persons and had gone to their native place to arrange the requisite amount. Learned counsel submits that the Petitioners are willing to deposit the amount and surrender before the learned Trial Court.

10. Learned counsel for the Petitioners submits that the FIR named three persons, Petitioner No.1, Petitioner No.2, and co-accused Sonu. It is submitted that the FIR attributed participation in the assault to all three persons. Learned counsel submits that Sonu was neither ultimately charged nor examined during trial. He submits that this circumstance is relevant as Sonu was stated to be an eyewitness and his non-examination creates doubt



regarding the prosecution version and the individual role attributed to the Petitioners.

11. Learned counsel for the Petitioners further submits that there was a delay of about 17 days in registration of the FIR. It is submitted that the parties were neighbours and had previous disputes concerning the complainant's egg cart and cleanliness, and the said dispute furnished a reason for false implication of the Petitioners.

12. Learned counsel for the Petitioners submits that the Petitioners were not present in Delhi on the date of the alleged incident and had gone to their native village.

13. Learned counsel for the Petitioners further submits that Sonu, who, according to the Petitioners, was an eyewitness and was himself named in the FIR, was not examined by the prosecution. It is also submitted that other family members and persons residing in the vicinity were not examined, though they could have thrown light on the occurrence.

14. Learned counsel for the Petitioners submits that the allegations in the FIR are vague and do not specify as to which accused assaulted which injured person or the particular role played by each accused. It is submitted that the allegation is broadly that the accused persons came armed with *dandas* and assaulted the complainant and others, without specific attribution of the individual acts of assault.

15. Learned counsel further submits that the Petitioners had sought to rely upon their defence evidence and that family members, persons from the vicinity and persons connected with the Gram Panchayat were available to support their version. It is contended that the evidence was not properly



appreciated and that the matter may, if necessary, be remanded to the learned Trial Court for examination of the relevant witnesses.

16. On the point of sentence, Learned counsel submits that the Petitioners are poor persons and that the fine and compensation imposed upon them are on the higher side. It is submitted that the Petitioners are willing to comply with the directions of this Court and deposit the amount as may be directed.

Submissions on behalf of the Respondent:

17. Learned APP for the State submits that the learned Trial Court has considered the matter at length and has rightly passed the judgment of conviction and the order on sentence. He submits that there is no ground warranting any interference or modification of the same.

18. He further submits that the convicted petitioners had inflicted grievous injuries upon the complainant, his son and his brother, and that the nature and gravity of the injuries caused by the petitioners do not warrant any interference with the judgment of conviction or the order on sentence.

Analysis

19. This Court has considered the submissions advanced on behalf of the Petitioners and perused the material placed on record.

20. At the outset, it is required to be borne in mind that the present proceedings arise from a judgment of conviction which has already been subjected to appellate scrutiny. The Petitioners have undergone a full-fledged trial, during which the prosecution evidence was recorded, their statements under Section 313 CrPC were recorded, and they were afforded an opportunity to lead defence evidence. The learned Trial Court thereafter returned findings of conviction, which have subsequently been affirmed by



the learned Appellate Court. The jurisdiction of this Court in revision is, therefore, not co-extensive with that of an appellate court. Interference with concurrent findings of fact would be warranted where such findings suffer from patent illegality, perversity, material irregularity or result in manifest failure of justice.

21. The first submission concerns the plea of *alibi* raised by the Petitioners. The legal position in this regard is well settled. In ***Binay Kumar Singh & Ors. v. State of Bihar, (1997) 1 SCC 283***, the Hon'ble Supreme Court held that once the prosecution has satisfactorily established the presence of the accused at the place of occurrence, the accused taking the plea of *alibi* is required to establish the same by cogent evidence so as to exclude the possibility of his presence at the place of occurrence. The said principle has subsequently been reiterated by the Hon'ble Supreme Court in ***Kamal Prasad & Ors. v. State of Madhya Pradesh, 2023 INSC 895***, wherein the Supreme Court observed as under: —

“18. Another defence taken by the convict-appellants is that of the plea of alibi. This Court in Binay Kumar Singh v. State of Bihar, (1997) 1 SCC 283, has noted the principle as: “23. The Latin word alibi means “elsewhere,” and that word is used for convenience when an accused takes recourse to a defence line that when the occurrence took place he was so far away from the place of occurrence that it is extremely improbable that he would have participated in the crime.”
19. The principles regarding the plea of alibi, as can be appreciated from the various decisions



of this Court, are:—

19.1 It is not part of the General Exceptions under the IPC and is instead a rule of evidence under Section 11 of the Indian Evidence Act, 1872.

19.2 This plea being taken does not lessen the burden of the prosecution to prove that the accused was present at the scene of the crime and had participated therein.

19.3 Such plea is only to be considered subsequent to the prosecution having discharged, satisfactorily, its burden.

19.4 The burden to establish the plea is on the person taking such a plea. The same must be achieved by leading cogent and satisfactory evidence.

19.5 It is required to be proved with certainty so as to completely exclude the possibility of the presence of the accused at the spot of the crime. In other words, a standard of ‘strict scrutiny’ is required when such a plea is taken.

21. In our considered view, both these defence witnesses do not conclusively establish the plea of alibi, based on the principle of preponderance of probability, as their statements stand unsupported by any other corroborative evidence.

22. We find that for the plea of alibi to be established, something other than a mere ocular statement ought to have been present.”

22. Applying the aforesaid principles to the facts of the present case, the Petitioners have raised a plea that they were not present in Delhi on the date of the alleged occurrence and had gone to their native village. However, the Petitioners have not placed before this Court any material which would



completely exclude the possibility of their presence at the place of occurrence. No circumstance has been demonstrated to show that the findings of the Courts below regarding their presence and participation suffer from perversity or material illegality. The plea of *alibi*, therefore, does not create any ground for interference with the finding of guilt recorded by the learned Trial Court and affirmed by the learned Appellate Court.

23. The next submission concerns the delay in registration of the FIR. The legal position in relation to delayed registration of an FIR is also well settled. The Hon'ble Supreme Court in ***Adalat Yadav ETC v. State of Bihar 2026 SCC OnLine SC 660***, held as under:

“9. The next argument is that there is a delay in filing the FIR, which leads to the doubt of suppression of the original version. Delay in lodging FIR

*(i) A three-judge bench of this Court in State of H.P. v. Gian Chand (2001) 6 SCC 71, held: “12. Delay in lodging the FIR cannot be used as a ritualistic formula for doubting the prosecution case and discarding the same solely on the ground of delay in lodging the first information report. Delay has the effect of putting the court on its guard to search if any explanation has been offered for the delay, and if offered, whether it is satisfactory or not. If the prosecution fails to satisfactorily explain the delay and there is a possibility of embellishment in the prosecution version on account of such delay, the delay would be fatal to the prosecution. **However, if the delay is explained to the satisfaction of the court, the delay cannot by itself be a ground for***



disbelieving and discarding the entire prosecution case...

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(iii) In *Ramdas v. State of Maharashtra* (2007) 2 SCC 170, “24. ... The proposition is too broadly stated to merit acceptance. It is no doubt true that mere delay in lodging the first information report is not necessarily fatal to the case of the prosecution. However, the fact that the report was lodged belatedly is a relevant fact of which the court must take notice. This fact has to be considered in the light of other facts and circumstances of the case, and in a given case the court may be satisfied that the delay in lodging the report has been sufficiently explained. In the light of the totality of the evidence, the court of fact has to consider whether the delay in lodging the report adversely affects the case of the prosecution. That is a matter of appreciation of evidence. There may be cases where there is direct evidence to explain the delay. **Even in the absence of direct explanation, there may be circumstances appearing on record which provide a reasonable explanation for the delay.** There are cases where much time is consumed in taking the injured to the hospital for medical aid and, therefore, the witnesses find no time to lodge the report promptly. There may also be cases where, on account of fear and threats, witnesses may avoid going to the police station immediately. The time of occurrence, the distance to the police station, mode of conveyance available, are all factors which have a bearing on the question of delay in lodging of the report. It is also possible



to conceive of cases where the victim and the members of his or her family belong to such a strata of society that they may not even be aware of their right to report the matter to the police and seek legal action, nor was any such advice available to them. ...In the ultimate analysis, what is the effect of delay in lodging the report with the police is a matter of appreciation of evidence, and the court must consider the delay in the background of the facts and circumstances of each case. Different cases have different facts, and it is the totality of evidence and the impact that it has on the mind of the court that is important. No straitjacket formula can be evolved in such matters, and each case must rest on its own facts. It is settled law that however similar the circumstances, facts in one case cannot be used as a precedent to determine the conclusion on the facts in another. (See *Pandurang v. State of Hyderabad* [(1954) 2 SCC 826 : (1955) 1 SCR 1083: AIR 1955 SC 216].) **Thus mere delay in lodging of the report may not by itself be fatal to the case of the prosecution, but the delay has to be considered in the background of the facts and circumstances in each case and is a matter of appreciation of evidence by the court of fact.**

(iv) *Ashok Kumar Chaudhary v. State of Bihar* (2008) 12 SCC 173, “16. It is trite that mere delay in lodging the first information report is not by itself fatal to the case of the prosecution. **Nevertheless, it is a relevant factor of which the court is obliged to take notice and examine whether any explanation for the delay has been offered and if offered, whether it is satisfactory or not. If no satisfactory explanation is**



forthcoming, an adverse inference may be drawn against the prosecution. However, in the event, the delay is properly and satisfactorily explained; the prosecution case cannot be thrown out merely on the ground of delay in lodging the FIR. Obviously, the explanation has to be considered in the light of the totality of the facts and circumstances of the case.”

24. Applying the aforesaid principles to the present case, the alleged incident took place on 05.05.2013, whereas the FIR came to be formally registered on 22.05.2013, resulting in a delay of approximately 17 days. The delay, therefore, requires consideration in the context of the surrounding circumstances.

25. It is, however, material that, as placed before this Court, a PCR call had already been made on 05.05.2013, *i.e.* on the very date of the alleged incident. Thus, the occurrence had already been brought to the notice of the police contemporaneously. The existence of such contemporaneous information is a relevant circumstance while assessing the effect of the subsequent delay in formal registration of the FIR.

26. In the facts of the present case, therefore, the delay in formal registration of the FIR, when considered along with the contemporaneous PCR call, does not, by itself, render the prosecution case doubtful or furnish a ground for interference with the concurrent findings recorded by the learned Trial Court and the learned Appellate Court.

27. Regarding the co-accused Sonu, the mere fact that Sonu was named in the FIR and was subsequently neither charged nor examined does not, by itself, render the testimony of the prosecution witnesses unreliable. No



specific material has been demonstrated before this Court to show that the prosecution case against the present Petitioners depended exclusively upon the testimony of Sonu or that his non-examination rendered the evidence otherwise relied upon by the Courts below incapable of sustaining the conviction. The culpability of the present Petitioners is required to be assessed on the basis of the evidence led against them.

28. The contention regarding non-examination of other family members and persons residing in the vicinity also does not, by itself, warrant interference. No specific circumstance has been pointed out before this Court to demonstrate that the non-examination of such witnesses has caused prejudice of such a nature as to render the concurrent findings of the Courts below unsustainable.

29. The Petitioners have further contended that the allegations do not attribute any specific blow or individual act of assault to each accused. In this regard, the prosecution case, as considered by the Courts below, was that the Petitioners participated in a joint assault and the conviction has been recorded with the aid of Section 34 IPC.

30. Section 34 IPC embodies the principle of joint liability where a criminal act is done by several persons in furtherance of the common intention of all. Consequently, once common intention and participation are established from the evidence on record, the prosecution is not necessarily required to establish the precise individual blow attributable to each accused. The absence of an attribution of each individual blow, therefore, cannot, by itself, displace the finding of common participation where such participation has otherwise been found established by the Courts below.



31. The submission that the prosecution witnesses are interested or related witnesses also does not, by itself, furnish a ground for interference. Relationship with the complainant may require the testimony of a witness to be scrutinised with appropriate care and caution; however, such relationship does not render the witness inherently unreliable. The relevant consideration is whether the testimony, upon scrutiny, suffers from material contradictions or infirmities which render reliance upon it unsafe.

32. In the present case, no specific contradiction or material infirmity has been demonstrated before this Court which would render the testimony relied upon by the Courts below wholly unreliable. The mere fact that the witnesses are related to or acquainted with the complainant, therefore, does not warrant rejection of their testimony or interference with the concurrent findings of fact.

33. The submission that the Petitioners were not afforded an adequate opportunity to lead defence evidence is also not borne out from the procedural history placed before this Court. The petition itself records that, after recording of their statements under Section 313 CrPC, the Petitioners were afforded an opportunity to lead defence evidence. The Petitioners, therefore, did have an opportunity to place their defence before the learned Trial Court.

34. The prayer for remand of the matter for examination of further witnesses or reopening of the evidence also cannot be accepted at this stage. The Petitioners have already undergone a complete trial and thereafter availed of the statutory appellate remedy. No procedural illegality or failure of justice has been demonstrated which would justify reopening the evidentiary stage at the revisional stage. The revisional jurisdiction cannot ordinarily be converted



into an occasion for a fresh trial or re-opening of evidence in the absence of circumstances warranting such an exceptional course.

35. Upon an overall consideration of the aforesaid submissions, this Court finds that the grounds urged by the Petitioners essentially seek a re-appreciation of the evidence and a different assessment of factual circumstances which have already been considered by the learned Trial Court and the learned Appellate Court. No material has been demonstrated which would render the concurrent findings perverse, manifestly erroneous or otherwise unsustainable in law. This Court, therefore, finds no patent illegality, perversity or material irregularity warranting interference under Section 528 BNSS.

36. On the point of sentence, this Court has considered the submissions advanced on behalf of the Petitioners regarding their financial circumstances and their willingness to comply with the directions of this Court. The substantive sentence imposed upon the Petitioners comprises six months' simple imprisonment under Section 323 IPC and two years' rigorous imprisonment under Section 325 IPC, to run consecutively.

37. Having regard to the nature of the offences for which the Petitioners stand convicted, and in the absence of any ground warranting interference with the substantive sentence, the custodial sentence imposed upon the Petitioners does not call for modification. However, while considering the monetary components of the sentence, the financial circumstances of the Petitioners and their willingness to comply with the directions of this Court have been taken into consideration.

CONCLUSION



38. Accordingly, while maintaining the substantive sentence, this Court considers it appropriate to modify the monetary components of the sentence.

39. The fine of Rs. 50,000/- each imposed in respect of victims Anil and Birbal is reduced to Rs. 25,000/- each. The compensation directed to be paid to the complainant Jai Singh is also reduced from Rs.1,00,000/- to Rs.50,000/-

40. In view of the aforesaid discussion, the present revision petition is dismissed, subject to the aforesaid modification in the order on sentence.

41. The substantive sentence of six months' simple imprisonment under Section 323 IPC and two years' rigorous imprisonment under Section 325 IPC, to run consecutively, remains unchanged.

42. The Petitioners are directed to surrender before the learned Trial Court on 05.10.2026 to undergo the sentence imposed upon them.

43. Pending application(s), if any, stand disposed of.

44. A copy of this order be sent to the learned Trial Court for necessary information and compliance.

45. The order be uploaded on the website *forthwith*.

MADHU JAIN, J

SEPTEMBER 25, 2026/ys/yt