



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

CRIMINAL APPEAL NO. 353 OF 2023

Gajanan Pundlik Waghmare,
Aged 62 years, Occ. Agriculturist,
R/o Khirsana, Taluka Nandgaon
Khandeshwar, District Amravati.

...**Appellant**

// VERSUS //

The State of Maharashtra,
through Police Station Officer of Police
Station Loni (Takli), Taluka Nandgaon
Khandeshwar, District: Amravati

... **Respondent**

Ms F.N.Haidari, Advocate for the appellant.
Ms Sonia Thakur, APP for the respondent no.1/State.

CORAM : NIVEDITA P. MEHTA, J.

**Reserved on : 7th October, 2025.
Pronounced on : 15th October, 2025.**

JUDGMENT :

Challenge in this appeal is to the judgment and order of conviction dated 16th June, 2022 passed by the learned Additional Sessions Judge, Amravati in Sessions Trial No. 14 of 2017, whereby the appellant was convicted for the offence punishable under Section 307 of the Indian Penal Code, 1860 (for short, "IPC") and sentenced to suffer rigorous imprisonment for a period of ten years and to pay a fine of ₹10,000/-, in default of which, to suffer simple imprisonment for one month.

2. The prosecution's case, in brief, is that on 6.10.2016, at around 8:30 p.m., while the informant Chhaya Waghmare (P.W.1) was cooking at her residence, she

heard her husband using abusive language. Upon stepping outside, she saw her husband engaged in a verbal altercation with Sunil Waghmare in the courtyard of the latter's house. When she inquired, her husband informed her that Sunil Waghmare is abusing his mother in filthy language, and hence the informant's husband had approached him to pacify the situation.

As the informant attempted to escort her husband back home, the elder brother of Sunil Waghmare, namely the present appellant, allegedly came out with a knife, confronted her husband regarding the altercation with his brother, and attacked him with knife blows. When the informant attempted to intervene, she also sustained injuries. Subsequently, when her husband tried to shield her, the appellant inflicted a knife injury to his chest.

The injured Vilas Meshram (P.W.2) was initially taken to Irwin Hospital and thereafter referred to a hospital in Nagpur, but due to financial constraints, was admitted to the clinic of Dr. Pankaj Bagde. The informant Chhaya Waghmare was treated at the Government Hospital, Loni, where she lodged an oral report (Exh. 27), based on which a First Information Report (FIR) bearing Crime No. 338/2016 came to be registered under Section 307 IPC against the appellant on 7.10.2016.

3. Pursuant to the registration of the FIR, investigation commenced. The appellant was arrested. The police prepared a spot panchnama and seizure panchnama, and recorded statements of witnesses. Upon completion of the investigation, a charge sheet was filed before the Trial Court. The Trial Court

framed a charge under Section 307 IPC, to which the accused pleaded not guilty and claimed to be tried.

4. During the course of trial, the prosecution examined ten witnesses, including P.W.1 Chhaya Vilas Meshram (informant and injured) (Exhibit 26), P.W.2 Vilas Uttamrao Meshram (injured) (Exhibit 30), P.W.3 Smt. Renuka Mahadevrao Pohane (pancha witness) (Exhibit 33), P.W.4 Vijay Uttamrao Meshram (brother of P.W.2) (Exhibit 44), P.W.5 Dr. Amit Gajananrao Kshar (Exhibit 47), P.W.6 Rajesh Sarvaraj Pille (Exhibit 52), P.W.7 Sk. Yunus Sk. Yusuf (pancha witnesses) (Exhibit 57), P.W.8 Dr. Rahul Kishor Hantodkar (Exhibit 70), and P.W.9 Dr. Raju Tukaramji Banarse (medical officers) (Exhibit 73), and P.W.10 Vishal Murlidhar Khalase (Investigating Officer) (Exhibit 78).

5. Upon closure of prosecution evidence, the appellant was examined under Section 313 of the Code of Criminal Procedure, brought before this court through Exhibit No. 89, wherein he denied all incriminating circumstances and claimed false implication.

6. After appreciation of the evidence on record, the learned Sessions Judge concluded that the appellant had assaulted both P.W.1 and P.W.2 with a knife. It was observed that the appellant initially inflicted injuries on both hands of P.W.2. When P.W.1 intervened, she was assaulted on her right arm. Thereafter, when P.W.2 attempted to protect P.W.1, the appellant stabbed him in the chest. Further, it was established that the appellant threatened the crowd that gathered at the spot, declaring that both victims ought to die.

7. Considering the nature of the weapon, the manner and location of injuries, and the conduct of the accused, the Trial Court concluded that the appellant had the requisite intention and knowledge to cause death, and accordingly convicted him for the offence punishable under Section 307 IPC.

The present appeal is thus directed against the conviction and sentence imposed by the Trial Court.

I now proceed to consider the present appeal preferred by the appellant, which is directed against the judgment and order of conviction and sentence passed by the Trial Court under Section 307 of the IPC.

8. Learned counsel for the appellant contended that the medical evidence on record does not support the prosecution's case of grievous and life-threatening injuries. In particular, it was submitted that P.W.5-Dr. Amit Gajananrao Kshar, who initially examined Vilas Meshram (P.W.2) on 6.10.2016, did not specifically opine that the injuries sustained by P.W.2 were grievous in nature. The medical certificate issued by P.W.5, marked as Exhibit 48, fails to clarify the severity or the potential fatality of the injuries.

9. Learned counsel further submitted that P.W.8-Dr. Rahul Hantodkar, who subsequently treated P.W.2, did not specify the duration of hospitalisation, which is a material omission in establishing the seriousness of the injury. It was also argued that the statement of the victim recorded under Section 161 of the Code of Criminal Procedure at 2:30 a.m. on 7.10.2016, which the prosecution has treated as a dying

declaration, does not mention whether the victim was conscious or medically fit for giving such a statement at that odd hour.

10. It was argued that the assault was not premeditated but occurred in the heat of the moment, and therefore, the essential ingredients of Section 307 IPC, particularly the intention or knowledge to cause death, were absent.

11. With respect to the injuries of P.W.1 – Chhaya Meshram, it was pointed out that P.W.9 – Dr Raju Banarse, who examined her at PHC Loni, recorded a single lacerated wound on the right elbow joint measuring 3 cm x 2 cm x 1 cm, which was found to be caused by a sharp object. The healing period was estimated to be 5 to 6 days, thereby clearly indicating that the injuries were simple in nature and not grievous.

12. Learned counsel also drew the Court's attention to the alleged contradictions and omissions in the testimony of P.W.1, both in her deposition before the Court and in her Section 164 CrPC statement, thereby urging the Court to treat her version with caution.

13. It was further submitted that the appellant has no criminal antecedents and has already undergone 3 years and 5 months of imprisonment. The appellant is also stated to be a senior citizen aged about 65 years. In support of the plea for reduction of sentence, reliance was placed on the judgment of the Hon'ble Supreme Court in State of *Himachal Pradesh v. Shamsher Singh (Criminal Appeal No. 476 of 2015)*. It was clarified that the appellant is not seeking acquittal, but is praying for a lesser sentence, considering the mitigating circumstances.

14. Per contra, the learned Additional Public Prosecutor submitted that the injuries sustained by P.W.1 and P.W.2 were clearly serious and life-threatening, and the manner and sequence of the assault clearly establish that the appellant acted with the requisite intention and knowledge to commit murder, thereby attracting the rigours of Section 307 IPC.

15. The prosecution relied upon the Chemical Analysis Report, which revealed that the blood found on the knife recovered from the appellant matched the blood group “B”, which is also the blood group of Vilas Meshram (P.W.2). It was submitted that this constitutes clinching forensic evidence connecting the appellant to the offence.

16. The learned Addl.P.P. further argued that both injured witnesses, P.W.1 Chhaya and P.W.2 Vilas, gave a consistent and cogent account of the incident, which remained unshaken during cross-examination. Their ocular testimonies were further corroborated by the medical evidence adduced by the three medical witnesses (P.W.5, P.W.8, and P.W.9).

17. As regards the plea of absence of criminal antecedents, the learned Addl.P.P. submitted that the gravity of the offence and the nature of the injuries inflicted cannot be diluted merely on that ground, particularly when the intention to kill is evident from the use of a deadly weapon and the targeting of vital parts of the body.

18. Before arriving at a final analysis and conclusion, it is necessary to carefully evaluate the depositions of the prosecution witnesses and the evidence led before the trial court. The credibility, consistency, and reliability of the testimonies must be

scrutinised in light of the facts presented. Particular attention must be given to whether the witnesses were able to give a coherent and truthful account of the events in question, and whether their testimonies were corroborated by any documentary or physical evidence. Any contradictions, inconsistencies, or material omissions must also be weighed in assessing the overall strength of the prosecution's case.

19. PW1-Smt. Chhaya Vilas Meshram is the wife of the injured victim PW2-Vilas Uttamrao Meshram. In her deposition, she stated that on 06/10/2016, between 8:00 p.m. and 8:30 p.m., while she was cooking at home, a verbal altercation ensued involving her husband. Upon hearing the commotion, she stepped outside and found her husband in the yard of one Sunil Waghmare. Her husband informed her that he had intervened as Sunil was allegedly assaulting his own mother. During this time, the accused, Gajanan Waghmare, elder brother of Sunil, arrived at the spot armed with a knife. The accused questioned the victim regarding his involvement and accused him of abusing Sunil. In the course of the confrontation, the accused stabbed the victim on both hands and on the chest. When PW1 attempted to intervene, she was also assaulted and sustained a stab injury on her right wrist. The victim bled profusely and collapsed at the scene. The witness stated that her attempts to assist her husband were obstructed by the accused. Subsequently, the witness informed her brother-in-law, PW4 Vijay Meshram, who accompanied her and arranged for the victim to be transported to the hospital. PW1 also reported the matter to the police the same night. She confirmed her signature on the First Information Report, which is marked as Exhibit 28, and identified her statement

recorded under Section 164 of the CrPC, marked as Exhibit 29. During the investigation, her bloodstained saree was seized by the police. She also identified the accused during the course of the trial.

In her cross-examination, the witness remained consistent and unshaken. She denied all suggestions that the incident had not taken place in the manner alleged or that any prior animosity with the accused had prompted a false implication. The defence was unable to extract any material contradictions or omissions to discredit her version. Since her testimony is natural, coherent, and corroborated by other prosecution witnesses and medical evidence, the evidence of PW1 inspires confidence, and this Court finds her to be a reliable and truthful witness. The defence has failed to dent the credibility of her testimony in any meaningful manner.

20. PW2-Vilas Uttamrao Meshram, is the injured victim in the present case. In his deposition (Exhibit 30), he deposed that on 06/10/2016, while returning home from Anjangaon-Bari, he heard Sunil Waghmare abusing his own mother. In an effort to prevent further violence, the witness entered Sunil's yard to intervene. However, this act led to a verbal confrontation wherein Sunil Waghmare also abused the witness. Hearing the commotion, the witness's wife (PW1) came out of their house, inquired about the matter, and both she and the witness proceeded to return to their residence. At that moment, the accused, Gajanan Waghmare (elder brother of Sunil), arrived at the spot armed with a knife. He accused the witness of abusing his brother and, without provocation, stabbed the witness twice, once on the right wrist and once on the left shoulder. When the wife attempted to intervene, the

accused stabbed her on the right arm. The witness further stated that when he tried to help his injured wife, the accused stabbed him again in the chest, causing him to fall to the ground. Both sustained serious bleeding injuries. PW2 stated that his wife immediately informed his brother, PW4 Vijay Meshram, who reached the scene and arranged for the victim's transportation to Irwin Hospital, Amravati. Due to financial constraints, he was subsequently shifted to the hospital of Dr. Pankaj Bagde. The witness identified the accused in Court. He also identified the greenish shirt (Article A), vest (Article B), and the knife (Article C) used in the offence, all of which were recovered and duly marked during the trial. The police seized his bloodstained clothes, and his statement was recorded during the course of the investigation.

During cross-examination, the witness denied the suggestions that he was intoxicated at the time of the incident or that he was the aggressor. He also denied that the complaint was falsely lodged. The defence failed to extract any material contradictions or omissions in his testimony. The witness categorically confirmed that the injuries were caused by the accused using the knife (Article C), which he recognised in Court. The version of PW2 is consistent with that of PW1 and is further corroborated by the medical evidence on record. His testimony is direct, cogent, and shows no indication of exaggeration.

21. PW3-Mrs. Renuka Mahadevrao Kodane, appeared as a Panch witness in the present case and deposed as per Exhibit 33. She stated that she was called by the police to act as a Panch for the preparation of the Panchnama at the incident site located at Khirsana Jhoppadpatti. Although PW3 did not receive any prior police

notice regarding the incident, she accompanied the police to the spot and observed the presence of blood stains at the scene. However, the witness could not recall the exact date of the visit nor the specific items seized by the police at that time. PW3 admitted that she did not read the Panchnama document before affixing her signature, but recognised her signature on the said document, which is marked as Exhibit 34. As the witness turned hostile, the learned APP sought permission to cross-examine the witness. During cross-examination, she candidly stated that signing such documents without reading them is a routine practice in her professional capacity as a Panch witness. She also recognised her signature on the police notice dated 07/10/2016, marked as Exhibit 35, which bears Article D. The witness confirmed that she followed the instructions of the police and accompanied them to the location for preparation of the Panchnama. She described the layout of the incident site and noted the presence of blood stains thereon. She further testified that the complainant had identified the scene for the police. The witness refuted any allegations of providing false testimony and stated that she had not read the Panchnama or police notices before signing. Notwithstanding minor lapses in recollection regarding dates and seized items, PW3's testimony is consistent with the procedural requirements of site inspection and Panchnama preparation.

22. PW4-Vijay Uttamraj Meshram, deposed as per Exhibit 44, stated that on the evening of 06/10/2016, he was informed by Chhaya Vilas Meshram, the wife of the victim, that the accused had stabbed her husband. Thereupon, PW4, accompanied by Pravin Tapre and Arvind Ugale, proceeded to the incident site by auto-rickshaw. Upon arrival, they observed the accused holding a weapon and found the victim,

Vilas Uttamrao Meshram, bleeding profusely from a chest wound, lying on the ground. PW4 further stated that they transported the injured victim to Irwin Hospital, Amravati, and subsequently to Dr. Pankaj Bagde's hospital for further treatment as advised by the medical professionals. The witness identified the accused in court and confirmed that they resided in the same village. Although PW4 did not personally witness the assault, he affirmed the account of the victim's wife, PW1, and his presence at the hospital corroborates the gravity of the victim's injuries. He denied making any false statements or being influenced by the victim's wife in providing his testimony. The statement of PW4 was recorded by the police during the course of the investigation and marked as evidence. The deposition of PW4 remains unshaken in the trial and is materially consistent with the testimonies of PW1 and PW2. Accordingly, the Court finds the testimony of PW4 to be credible and reliable, serving as corroborative evidence to the prosecution's case regarding the occurrence of the assault and the subsequent medical emergency faced by the victim.

23. PW5, Dr Amit Gajananrao Kshar, Medical Officer at Irwin Hospital, Amravati, deposed as per Exhibit 47. He examined the victim, Vilas Uttamrao Meshram, who was brought by police from P.S. Loni on the date of the incident. Upon examination, PW5 recorded the following injuries :

- (i) a stab injury measuring 3 cm on the left side of the chest, deep and associated with air leakage,
- (ii) an incised wound on the left arm measuring 3 cm by 2 cm, and
- (iii) an incised wound on the right palm measuring 2 cm by 1 cm.

All injuries were fresh and consistent with being inflicted by a sharp object. The medical requisition and related documents were marked as Exhibit 48. PW5 further stated that on police requisition, he examined the victim and opined that the victim was not medically fit to provide a statement on that day, which opinion was endorsed and marked as Exhibit 49. He also verified his entries in the police information book, marked Exhibit 50. Subsequently, on 30/10/2017, PW5 received the suspected weapon, a 28.5 cm iron knife, marked as Article-C for examination. He confirmed that the injuries sustained by the victim were consistent and could have been caused by the said knife. The weapon query report prepared by him was marked as Exhibit 51.

During cross-examination, PW5 denied that the injuries could have been caused by a fall or any other accidental cause, affirming that the wounds were compatible with sharp force trauma inflicted by the knife. His testimony and findings were uncontroverted and remained intact during the trial. The Court finds PW5's evidence to be credible, medically sound, and corroborative of the prosecution's case. The medical evidence aligns consistently with the injuries described by the eyewitnesses and the circumstances of the assault. Hence, the deposition of PW5 is accepted and given due weight in the adjudication of the matter.

24. PW6, Rajesh Sarvraj Pillay, deposed that on 08/10/2016 at approximately 11:00 a.m., while serving as Patwari at Loni, he was called to Loni Police Station in connection with the present case. In his presence, the accused, Gajanan Waghmare, gave a confession statement admitting knowledge of the location where the clothes

and the knife used in the incident were concealed. The confession was recorded by the police and signed by the witness, marked as Exhibit 53. Accompanied by the second Panch, Vijaysingh Bais, police officials, and the accused, PW6 proceeded to a farm owned by Manoj Prabhakar Bhende near Khirsana village. There, the accused retrieved a bag and a shirt hidden beneath a palm tree. A Panchnama of the seizure was prepared on the spot, signed by PW6 and others, and marked as Exhibit 54. In Court, PW6 identified the seized articles as a bag (Article-C) and a white-red-black checked shirt (Article-E) and positively identified the accused. During cross-examination, PW6 denied any falsehood in his testimony, confirmed the occurrence of the confession and subsequent seizure, but admitted to not reading the documents before signing them. The Court notes that PW6's testimony is consistent with other evidence on record and remains unshaken. The confession, recovery, and seizure of relevant articles are duly corroborated by this witness, lending credibility to the prosecution's case. Accordingly, the deposition of PW6 is accepted as reliable and is accorded due weight in the adjudication of the matter.

25. PW7 deposed that he was summoned by the police to Loni Police Station, where a saree was seized in his presence. Although he could not recall the precise date of the seizure, he affirmed that he would be able to identify the saree if shown to him. The government counsel informed the witness that the saree had not been produced before the court. The seizure slip prepared at the time of seizure, bearing the signature of the witness, was verified by him and is marked as Exhibit 58. Further, the police seized the blood sample of the accused in the presence of the witness. The seizure slip about this sample, also bearing his signature, is marked as

Exhibit 59. Another blood sample was seized in his presence. The seizure slip for this sample, signed by the witness, is marked as Exhibit 60. The learned APP sought permission to cross-examine the witness as he was unable to identify the person from whom the sample was drawn. In cross-examination, the witness confirmed that the blood sample of the injured, Vilas Uttamrao Meshram, was seized in his presence. After reading the seizure form, he signed it, and it is marked as Exhibit 61. Additionally, on 25/11/2016, the police seized the blood sample of Mrs. Chhaya Vilas Meshram in his presence. The seizure form bearing his signature in this regard is marked as Exhibit 62.

During cross-examination, the witness denied the defence's suggestions that his signatures had been taken on blank papers, that blood samples were not seized in his presence, or that his testimony was untruthful. The trial Court record reflects that the evidence of PW7 has not been considered or discussed in detail. Given the importance of the witness as a Panch and the documentation presented, the absence of an evaluative discourse on his testimony renders the trial Court's approach to PW7 inconclusive.

26. PW8 – Dr. Rahul Kishor Hantodka (Exh 70) was serving as a Consultant Surgeon at City Multi-Speciality Hospital, Amravati, in the year 2016. He deposed that on 07.10.2016, one Vilas Uttamrao Meshram was admitted to the hospital with a stab injury. The hospital owner, Dr. Pankaj Bagade, informed the police about the incident, and the police intimation memo, duly signed by him, was exhibited as Exh.71. Dr. Hantodka examined the patient and issued a Medico-Legal Certificate, describing the following injuries: A lacerated wound measuring 4 cm x 3 cm,

piercing the left pleura cavity, exposing muscles, bones, and pleura at the 2nd and 3rd costochondral junction, with continuous air flushing and active bleeding; A traumatic swelling with a deep lacerated wound (1 cm x 0.5 cm) on the right hand; smaller lacerations near the left subcostal margin and shoulder. He opined that the injuries were grievous and dangerous in nature. The Medico-Legal Certificate, dated 24.12.2016, was identified and marked as Exh. 72.

During cross-examination, the witness admitted that the patient had initially received treatment at another hospital before admission but denied the suggestion that he issued Exh. 72 without personally examining the patient or that the certificate was based on another doctor's report. The credibility of his deposition remained intact and was corroborated by the medical documents on record. His testimony was not effectively challenged during cross-examination.

27. PW9 – Dr. Raju Tukaramji Banarse (Exh 73) was serving as a Medical Officer at the Primary Health Centre, Loni (Takli), in the year 2016. He deposed that on 07.10.2016, while on duty along with the late Dr. V.P. Satange, one Smt. Chhaya Vilas Meshram was brought for medical examination. Dr Satange examined his presence and issued a medical certificate (Exh 74), which was in Dr. Satange's handwriting and bore his signature. The certificate recorded a lacerated wound on the right elbow joint measuring 3 cm x 2 cm x 1 cm, estimated to be about four hours old, likely caused by a sharp object, and expected to heal in 5–6 days.

In cross-examination, PW9 denied the suggestions that neither he nor Dr. Satange were present during the examination, or that the certificate (Exh 74) was

not issued in their presence. He also denied any lack of knowledge regarding the basis of issuance of the said certificate. His deposition remained consistent and was corroborated by the contemporaneous medical record, thus not shaken in cross-examination. Accordingly, the medical evidence of PW8 and PW9 supports the prosecution's case and inspires confidence. Their testimonies, being corroborated by documentary evidence, stand unimpeached during cross-examination.

28. PW-10 – Vishal Murlidhar Khalse (Exh 78) was serving as a Hawaldar at Police Station, Loni, in the year 2016. He deposed that on 06.10.2016, between 8:30 p.m. and 9:00 p.m., an incident occurred, for which information was received at the police station around 9:30 p.m. A formal First Information Report was registered at 3:36 a.m. on 07.10.2016, on the basis of a report lodged by Smt. Chhaya Vilas Meshram. On the same day, PW-10 issued notices (Exhibit-79) to Smt. Renuka Mahadev Kahane and Shri Sachin Govindrao Gomase to act as panch witnesses and thereafter prepared the spot panchnama (Exhibit-80). The accused was arrested, and the arrest form was prepared. He also seized plain soil and blood-stained soil from the scene of the offence (Exhibit-82). On 08.10.2016, the clothes of the injured victim, Vilas Meshram, were seized (Exhibit-83). Pursuant to a voluntary disclosure statement made by the accused under Section 27 of the Indian Evidence Act (Exh.53), a knife and clothes were recovered from Januna village, which were seized and documented under a recovery panchnama (Exh.54). Additionally, the following items were seized during the course of investigation: Blood samples of the accused (Exh.-59); Saree of the complainant (Exh-58); Blood sample of injured Vilas (Exh.-61); Blood sample of the complainant (Exh.-62). On 02.11.2016, the

seized articles were forwarded to the Chemical Investigation Office (CIE), Amravati, along with the relevant forwarding documents (Exh.-84, Exh-85, Exh-86). On 21.10.2016, a communication (Exh-87) was addressed to the Judicial Magistrate requesting that the statements of certain witnesses be recorded under Section 164 of the Code of Criminal Procedure. Upon completion of the investigation, a charge sheet was duly filed before the competent court. The accused was present in court during the deposition. During cross-examination, PW-10 categorically denied all suggestions put forth by the defence that the panchnamas or seizures were fabricated or manipulated. His deposition remains unshaken and stands corroborated by contemporaneous documentary evidence on record. The credibility of the investigation, as deposed by PW-10, is duly supported by the chain of custody, recovery proceedings, and procedural compliance.

29. In a case involving charges of attempt to murder and voluntarily causing hurt with a dangerous weapon, the burden lies squarely on the prosecution to prove the guilt of the accused beyond a reasonable doubt, primarily through credible eyewitnesses, medical and forensic evidence, and a lawful investigation process. In the present case, the prosecution has examined ten witnesses, each of whom plays a significant role in building a consistent and reliable narrative. One of the grounds of this appeal is that the learned trial court has erred as it has convicted the accused based on the testimony of PW1 and PW2 injuries. The legal consensus, as reflected in multiple judgments, indicates that the testimony of a single injured witness can be sufficient for conviction if it is credible, trustworthy, and corroborated by other evidence. The testimony of an injured witness is given particular weight because

such a witness is less likely to falsely implicate an accused, especially if the testimony is consistent and supported by medical or other evidence. In the case of ***Mano Dutt v. State of U.P., (2012) 4 SCC 79***, the Honourable Supreme Court observed the stand in the position of law in paras 30 & 31 of the judgment. The relevant para is reproduced-

“30 ...Normally, an injured witness would enjoy greater credibility because he is the sufferer himself and thus, there will be no occasion for such a person to state an incorrect version of the occurrence, or to involve anybody falsely and in the bargain protect the real culprit. We need not discuss more elaborately the weightage that should be attached by the Court to the testimony of an injured witness. In fact, this aspect of criminal jurisprudence is no more res integra, as has been consistently stated by this Court in uniform language.”

30. The law was also clarified in ***Abdul Sayeed v. State of M.P. [(2010) 10 SCC 259]*** where the Honourable Supreme Court held as under:

“28. The question of the weight to be attached to the evidence of a witness that was himself injured in the course of the occurrence has been extensively discussed by this Court. Where a witness to the occurrence has himself been injured in the incident, the testimony of such a witness is generally considered to be very reliable, as he is a witness who comes with a built-in guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone. ‘Convincing evidence is required to discredit an injured witness....’

30. ...The law on the point can be summarised to the effect that the testimony of the injured witness is accorded a special status in law. This is as a consequence of the fact that the injury to the witness is an inbuilt guarantee of his presence at the scene of the crime and because the witness will not want to let his actual assailant go unpunished merely to falsely implicate a third party for the commission of the offence. Thus, the deposition of the injured witness should be relied upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies therein.”

31. Therefore, the contention of the defence that the conviction was based on the testimony of the injured witness is dismissed. As mere injury is not sufficient to discard the testimony of the witness, especially if the corroborative evidence, coupled with the testimony of the witness, is present. The most crucial witnesses are PW1, Smt. Chhaya Vilas Meshram and PW2, Vilas Uttamrao Meshram, are the injured eyewitnesses. PW1, the wife of the injured victim, deposed that on 06/10/2016, between 8:00 and 8:30 PM, a verbal altercation escalated when the accused, Gajanan Waghmare, armed with a knife, stabbed her husband on his hands and chest and also injured her on the wrist. Her evidence is vivid, detailed, and withstands cross-examination without material contradictions. Her FIR (Exh. 28) and statement under Section 164 CrPC (Exh. 29) are consistent with her deposition in court, lending high credibility to her testimony. PW2, the injured victim, independently corroborates his wife's version. He not only described the sequence of events leading to the assault but also identified the accused and the weapon used (Article-C). He sustained multiple stab injuries on his chest, wrist, and shoulder, and his clothes were seized during the investigation. His injuries were medically confirmed and consistent with his version of the incident. The consistency between the two primary witnesses on material facts such as time, location, motive, the assailant's identity, and the nature of the assault strongly supports the prosecution's version.

32. The corroborative statement of PW4, Vijay Uttamrao Meshram, the brother of the injured victim, testified to having been informed by PW1 immediately after the assault and reaching the scene to find his brother grievously injured. He further

corroborated the hospitalisation of the victim and identified the accused as being present at the scene, holding a weapon. Although he is not an eyewitness to the assault itself, his testimony lends credibility to the chain of events. It was argued that the learned trial court had committed an error as it had convicted the accused on the testimony of a related witness. However, it is also well settled principle of law that the creditworthiness of a related witness cannot be disregarded. The said principle was observed by the Honourable Supreme Court in the case of ***Ashok Kumar Chaudhary v. State of Bihar, (2008) 12 SCC 173*** in para 8, which is reproduced below-

“8. Insofar as the question of creditworthiness of the evidence of relatives of the victim is concerned, it is well settled that though the court has to scrutinise such evidence with greater care and caution but such evidence cannot be discarded on the sole ground of their interest in the prosecution. The relationship, per se, does not affect the credibility of a witness. Merely because a witness happens to be a relative of the victim of the crime, he/she cannot be characterised as an “interested” witness. It is trite that the term “interested” postulates that the person concerned has some direct or indirect interest in seeing that the accused is somehow or the other convicted, either because he had some animus with the accused or for some other oblique motive.”

Hence, the testimony of the PW4 cannot be discredited merely because he is the brother of the complainant. It remained unshattered during the cross-examination. PW4 denied making false statements or being influenced by Vilas, affirming Chhaya’s account and his presence at the hospital. The defence has failed to find a dent in the testimony. Further, his testimony is corroborated by other evidence. Hence, this court does not see any reason why the said witness should be disregarded merely because he is an “interested” witness.

Another question raised by the defence counsel is regarding the examination of an independent witness. The position of law is very clear in this regard: whenever an incident happens and there is a failure to examine the independent witness and conviction based on the testimony of the injured witness, it is held to be correct in law. This is because most of the public is hesitant to testify in court. In ***Ashok Kumar Chaudhary v. State of Bihar (Supra)***, the Honourable Supreme Court in para 7 clearly observed as under-

“7. We are not impressed with the argument. Though it is true that the incident having taken place near the market around 6 p.m. on 17-7-1988, the prosecution should have attempted to secure public witnesses who had witnessed the incident, but at the same time one cannot lose sight of the ground realities that the members of the public are generally insensitive and reluctant to come forward to report and depose about the crime even though it is committed in their presence. In our opinion, even otherwise it will be erroneous to lay down as a rule of universal application that non-examination of a public witness by itself gives rise to an adverse inference against the prosecution or that the testimony of a relative of the victim, which is otherwise creditworthy, cannot be relied upon unless corroborated by public witnesses.”

PW6 and PW7, Panch witnesses, testified regarding the seizure of the blood-stained saree, blood samples, and recovery of the weapon and clothes based on the accused's confession under Section 27 of the Indian Evidence Act. These recoveries, which include Article-C (knife) and Article-E (shirt), were conducted in their presence and duly documented under Exhibits 53 and 54. Their testimonies were not discredited during cross-examination, and while PW7's evidence was not elaborately discussed in the trial Court, it remains unshaken and supports the forensic linkage between the crime and the accused. PW3 only remembered the signature on the panchanama.

33. The prosecution has produced three medical witnesses, each of whom provides critical corroboration. PW5, Dr Amit Kshar, conducted the initial medical examination of the victim at Irwin Hospital and noted multiple fresh, sharp weapon injuries on vital parts of the body, including a chest wound that led to air leakage, a sign of lung puncture. He further examined the weapon (Article-C) and opined that the injuries were consistent with it. PW8, Dr Rahul Kishor Hantodka, described the injuries as *grievous* and *life-threatening*, with specific reference to the depth of the chest wound penetrating the pleural cavity, continuous bleeding, and exposed bones and muscles. He categorically denied that such injuries could occur from a fall. PW9, Dr Raju Banarse, confirmed the examination and injury report of PW1 (Smt. Chhaya), who also suffered a laceration caused by a sharp object, consistent with her testimony. The medical evidence unambiguously confirms the nature, extent, and cause of the injuries and fully supports the depositions of PW1 and PW2.

The Honourable Supreme Court has time and again clarified nature of injury would not absolve the accused from his conviction under section 307 IPC. In the case of *S.K. Khaja v. The State of Maharashtra, 2023 LiveLaw (SC) 715*, the Honourable Apex Court expressly observed in para 8 as follows-

“8. As rightly submitted by the learned counsel appearing on behalf of the respondent – State, merely because the injuries sustained by the complainant – Mohammad Khan Pathan (PW-2) were very simple in nature, that would not absolve the appellant/accused from being convicted for the offence under Section 307 of the IPC. What is important is an intention coupled with the overt act committed by the appellant/accused...”

As observed above, the nature and the extent of injury caused are such that it was life-threatening and enough to bring home the guilt of the accused.

34. PW10, the Investigating Officer, narrated the steps taken during the course of the investigation from registration of FIR, collection of blood-stained clothes and soil, recovery of the weapon and clothes worn by the accused, collection of blood samples, and filing of the charge sheet. The sequence of events and documentation (Exhs. 53, 54, 58, 59, 61, and 62) have not been discredited in cross-examination. His procedural compliance strengthens the evidentiary value of the recoveries.

35. Each material prosecution witness remained steadfast during cross-examination. There is no evidence of previous enmity that could have motivated false implication. The depositions of the injured witnesses are natural and credible, supported by prompt FIR lodging, forensic recoveries, consistent medical records, and corroborative testimonies from family members, Panch witnesses, and medical professionals. No significant omissions or contradictions were elicited during the trial to discredit the prosecution's case. The defence has not led any substantive evidence to rebut the prosecution's claims, nor has it provided any plausible alternative explanation for the injuries suffered or the presence of blood at the scene.

36. The accused has qualified the Equivocality test for attempt. The said testimony and the evidence point out the unequivocal intention of the accused to commit murder. It is merely by chance that the accused has failed in his commission.

37. This Court has carefully perused the entire record of the case, including the depositions of all prosecution witnesses, medical reports, documentary evidence,

and the findings of the learned trial court. Upon thorough consideration, it is evident that the prosecution has successfully established the guilt of the accused, Gajanan Waghmare, beyond a reasonable doubt.

38. The testimonies of PW1, the injured eyewitness and complainant, and PW2, the injured victim, are direct, consistent, and reliable. Their version of events is fully corroborated by medical evidence furnished by PW5, PW8, and PW9. The sequence of events, as narrated by these witnesses, is not only coherent but also supported by independent witnesses such as PW4 and the Panch witnesses. No material contradiction or omission could be elicited during cross-examination of any of the material witnesses.

39. The recovery of the knife and bloodstained clothes at the instance of the accused, under Section 27 of the Indian Evidence Act, has been duly proved through the testimony of PW6 and the Investigating Officer, PW10. The seized articles were identified in court and found to be consistent with the injuries inflicted. The procedural compliance in the conduct of spot panchnamas, recovery, seizure, and forwarding of forensic samples is evident from the record.

40. The defence failed to rebut the prosecution's case. No plausible explanation was offered for the presence of bloodstains at the scene, or for the recovery of the weapon from the place indicated by the accused. The suggestions put to the witnesses during cross-examination were vague, unsubstantiated, and did not shake the credibility of the prosecution witnesses. Further, no evidence of prior enmity or motive for false implication was brought on record.

41. The evidence on record clearly establishes that the accused, Gajanan Waghmare, assaulted the victim, Vilas Uttamrao Meshram, with a sharp-edged weapon, causing him grievous injuries, including a life-threatening stab wound to the chest. The act was committed intentionally and without provocation. The accused further caused hurt to Smt. Chhaya Vilas Meshram (PW1), when she attempted to intervene. The medical evidence corroborates the nature and gravity of the injuries. The intent and knowledge of the accused are evident from the circumstances, particularly the fact that he arrived at the scene armed with a knife.

42. Lastly, on the sentencing, this court is of the view that the conviction imposed by the learned trial court is correct and does not need any changes on the count of mitigating and aggravating circumstances. In cases, especially under Section 307 of the IPC, the nature of the injury, the use of a weapon, and the intention of the accused primarily determine the sentence. The 3-Judge Bench of Hon'ble Supreme Court, in special reference to the sentencing observed in para 17 of the case ***Hazara Singh v. Raj Kumar, (2013) 9 SCC 516-***

“17. We reiterate that in operating the sentencing system, the law should adopt the corrective machinery or deterrence based on a factual matrix. The facts and given circumstances in each case, the nature of the crime, the manner in which it was planned and committed, the motive for commission of the crime, the conduct of the accused, the nature of weapons used and all other attending circumstances are relevant facts which would enter into the area of consideration. We also reiterate that undue sympathy to impose an inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of the law. It is the duty of every court to award a proper sentence having regard to the nature of the offence and the manner in which it was executed or committed. The court must not only keep in view the rights of the victim of the crime but also the society at large while considering the imposition of appropriate punishment”.

The case cited by the defence counsel is not relevant to the present circumstance, as the evidence, injury caused to the victim and complainant, is enough to prove the guilt of the accused. Following the precedent of the Supreme Court, this court is unable to give undue sympathy to the accused. Further, the accused's senior age cannot be the sole ground for a reduction of sentence, especially when strong evidence and witnesses are pointing out the guilt of the accused. The criminal law always strikes a balance between the rights of the accused, rights of the victims and society's interest.

43. In view of the above, this Court finds no infirmity in the conviction recorded by the learned Sessions Court. The conviction of the accused under Section 307 of the Indian Penal Code for attempting to commit murder and under Section 324 of the Indian Penal Code for voluntarily causing hurt by a dangerous weapon is upheld. The sentence of rigorous imprisonment for 10 years under Section 307 IPC, and 1 year under Section 324 IPC, as imposed by the trial court, is found to be proportionate to the gravity of the offence and is therefore confirmed.

ORDER

The appeal stands dismissed. The sentences shall run concurrently. The appellant shall be entitled to set-off for the period already undergone in custody under Section 428 of the Criminal Procedure Code. All fines and conditions imposed by the trial court are also upheld.

A certified copy of this judgment be sent to the learned trial Court for compliance and for ensuring that the remainder of the sentence is carried out in accordance with law.

[NIVEDITA P. MEHTA, J.]