

2025:PHHC:098130



104.

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-S-607-2025 (O&M)

Date of decision: 29.07.2025

Ganesh Dhak

.... Appellant

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Simranjeet Singh Sarwara, Advocate, for the appellant.

Mr. Mohit Kapoor, Senior DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant Criminal Appeal has been preferred by the appellant-accused, Ganesh Dhak, assailing the judgement of conviction and order of sentence passed by learned Sessions Judge, Patiala, on 28.03.2024, convicting the appellant under Section 326-B of IPC, in case FIR No.263, dated 24.10.2020, registered at Police Station Kotwali, Patiala, for having thrown corrosive substance on his estranged wife, Nanda.

2. The prosecution case in brief is as follows:

On 24th of October, 2020 at about 6:30 PM, complainant (wife of the accused-Ganesh Dhak) was returning home from work along with her daughter, PW3-Sneha, when, near their residence, an unknown assailant hurled acid upon her, causing severe chemical burns to her head, face, neck, breast, and upper torso. As per the statement given by the complainant to

the police and recorded at Rajindra Hospital, Patiala by PW1-SI Mewa Singh, she immediately recognised the assailant as her husband, Ganesh Dhak (hereinafter referred to as accused), who threw the substance from a bottle and fled the spot.

3. The complainant further disclosed that her husband, a Goldsmith by profession, and an alcoholic by habit, frequently subjected her to physical abuse. Due to constant violence, she had started living separately with her daughter and was employed in a private job, earning about Rs.5,000/- per month. Despite her refusal to cohabit with the accused, he persistently harassed and pressurised her to take him back. The assault on 24th of October, 2020 was alleged to be a culmination of this coercive conduct.

4. The statement of the complainant was recorded at the hospital without delay on the basis of which FIR (Exhibit PW1/P4) under Section 326-A IPC was registered. After completion of the investigation, the challan was filed and the case was committed to the Court of Sessions. The accused was formally charged under Section 326-A IPC, to which he pleaded not guilty and claimed trial.

5. To prove its case, the prosecution examined the following witnesses:

- (i) PW1-Sub Inspector, Mewa Singh, the Investigating Officer, who recorded the statement of the complainant and proved various documents, including the FIR (Ex.PW1/P4), site

plan (Ex.PW1/P5), and the opinion of the doctor (Ex. PW1/P9);

- (ii) PW2-complainant, Nanda, who narrated the entire incident and clearly identified the accused as the assailant;
- (iii) PW3-Sneha, daughter of the complainant as well as the accused, who was an eyewitness to the incident and corroborated her mother's account, identifying the appellant as the person, who threw the corrosive substance;
- (iv) PW4- Dr. Sumit Kukreja, who medically examined the victim and proved the MLR (Ex.PW4/P1). He described injuries as chemical burns over the face, scalp, eyes, ears, neck, chest, abdomen, and back;
- (v) PW5-Urmil Puri, a formal witness;
- (vi) PW6-Dr. Anshu Saini; and
- (vii) PW7-Dr. Akanksha Sharma, who supported the nature and extent of injuries and endorsed the medical findings.

6. The MLR recorded about 25% chemical burns, mostly on visible parts of the body including the face. Surgery and specialised dermatological/ophthalmological treatment were advised.

7. In a statement recorded under Section 313 Cr.P.C., the accused denied all allegations and pleaded false implication. He claimed that on 24th of October 2020, he was working in a *karyana* shop and only later received a call from one Paramjit Singh informing him that his wife was hospitalised

on account of accidental injuries. He also submitted that his daughter, PW3-Sneha, had told him that his wife had sustained injuries while at home. The accused alleged that he had been falsely implicated by the complainant, who wished to divorce him. In his defence, the accused did not examine any witness nor produced any documentary evidence in support of the plea of innocence or alibi.

8. After considering the material on record, the learned Trial Court held the accused-appellant guilty of an offence punishable under Section 326-B IPC and sentenced him as follows:

Sr. No.	Name of Convict	Under Section	Sentence
1.	Ganesh Dhak	326-B IPC	Rigorous Imprisonment for Five years and fine Rs.20,000/-. In default of payment of fine, he shall further undergo R.I. for One year.

9. Learned counsel for the accused-appellant has vehemently contended that the learned Trial Court failed to appreciate the evidence in its correct perspective and proceeded on conjectures and inferences rather than firm proof. He further submitted that the story of the prosecution was inherently improbable and motivated by matrimonial discord between the complainant and the accused. Still further, it was asserted that as per PW4-Dr. Sumit Kukreja, it could not be conclusively proved whether acid or any other substance was used, and no forensic test was conducted on the substance alleged to have been thrown. It was also argued that the police

failed to seize the clothes of the complainant, which could have provided crucial corroborative evidence; there was no independent witness associated with the investigation despite the alleged incident occurring in a public place. A prayer was, therefore, made for setting aside the impugned order and acquitting the appellant.

10. *Per contra*, learned State counsel, while supporting the judgement of conviction, submitted that the case rested on direct testimony of the complainant-PW2-Nanda and her daughter, PW3-Sneha, both of whom unequivocally identified the accused as the perpetrator. It was also argued that the incident occurred in broad daylight at 6:30 PM in October and, therefore, there was no room for mistaken identity. While referring to the MLR (Ex.PW4/P1), it was further argued that the medical evidence fully corroborated the ocular testimony; the MLR described chemical burns consistent with corrosive material being thrown. It was argued that the absence of a chemical examination report or seizure of clothes was not fatal, given the strength of direct evidence and if at all, the clothes were not seized or the Chemical Examiner report was not received. The complainant could not be made to suffer on account of cryptic and shoddy investigation, more so, when PW4-Dr. Kukreja clearly described the injuries and the use of a corrosive substance, which fell within the ambit of 'acid' under Explanation-1 to Section 326-A IPC. It was lastly asserted that the facial burns received by the complainant had a lasting effect, particularly

devastating for a woman, and, therefore, the accused did not deserve any leniency.

11. Having heard learned counsel and thoroughly examined the record, this Court is of the considered view that the instant appeal is devoid of merit and the conviction of the accused under Section 326-B IPC warrants no interference for the reasons to follow:-

12. The case of the prosecution hinges upon the testimonies of PW2-Nanda (victim) and PW3-Sneha, daughter of PW2, who too was present with her at the time of occurrence. PW2-Nanda, who is the victim, gave a vivid and detailed account of the sequence of events. She categorically stated that she saw her husband (accused) approaching and hurling a substance from a bottle directly onto her face and torso. PW3, her daughter, who was working with her, also corroborated the sequence and identified the accused as the person, who committed the act.

13. Both depositions are consistent, natural, and withstood for cross-examination. There is no material discrepancy to doubt their credibility. In cases involving intimate and domestic violence, often the victim and family members are the only witnesses. Their testimony cannot be discarded solely for lack of independent corroboration.

14. The injuries described in the MLR and affirmed by PW4-Dr. Sumit Kukreja include chemical burns over scalp, face, neck, chest, and upper abdomen; redness, blistering and trickle patterns consistent with

liquid corrosive contact; facial scarring and risk to vision, warranting specialist intervention.

15. The nature and pattern of injuries squarely support the version given by the victim, PW2-Nanda. The contention that the substance was not chemically identified is immaterial. Section 326-B IPC read with Explanation 1 to Section 326-A IPC includes within its scope 'any corrosive substance' not just acid *per se*. The description by the doctors and the visible injuries are sufficient to establish that the accused used a corrosive substance with the intent to cause harm to the complainant.

16. The accused-appellant has taken a vague defence of false implication due to matrimonial discord. However, no evidence has been led to support this factum. The absence of independent defence evidence, despite ample opportunity, reinforces the case of the prosecution. The suggestion that the injuries were accidental and caused by a floor cleaner was neither supported by any material nor made plausible in the face of direct eyewitness testimony and medical evidence.

17. While the ideal course of investigation includes seizure of clothes and sending samples for forensic examination lapses and investigation do not always vitiate trial –especially where direct, reliable and unimpeached evidence is available. Defective investigation cannot be a ground for acquittal if the case is otherwise proved.

18. This Court, therefore, finds no perversity or infirmity in the appreciation of evidence by the learned Trial Court. The conviction of the

appellant under Section 326-B IPC is well founded on unimpeachable ocular and medical evidence. The act of throwing corrosive substance on the face of a woman is not only an offence against the person but a direct assault on her dignity and identity.

19. The appeal is, accordingly, dismissed and the judgement of conviction and sentence passed by learned Sessions Judge, Patiala, is hereby affirmed.

(MANJARI NEHRU KAUL)
JUDGE

July 29, 2025
sanjeev

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No