



2025:DHC:8853



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

% Reserved on: 25.09.2025
Pronounced on: 06.10.2025

+ **CRL.A. 70/2019 and CRL.M.(BAIL) 123/2019**

HUSSAIN AHMAD & ORS.Appellant
Through: Mr. Avneesh Saran, Advocate for
Appellant No. 1
Ms. Pallavi Garg, Advocate
(DHCLSC) with Ms. Sanjana
Sharma, Advocates for Appellant No.
3 with Appellant No. 3 in person.

versus

STATERespondent
Through: Mr. Pradeep Gahalot, APP for State
with SI Nitin.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present challenge pertains to the judgment dated 19.11.2018 and the order on sentence dated 29.11.2018 rendered by the Additional Sessions Judge-04 & Special Judge (NDPS), South-East, Saket Courts, New Delhi, in Sessions Case No. 2294/2016, convicting the appellants under Sections 307/34 IPC and sentencing them to undergo rigorous imprisonment for 3 years each with a fine of Rs.5,000/- each, and in default thereof, to undergo simple imprisonment for 3 months each.



2. Though the present appeal was preferred by all the three convicts, appellant no. 2/*Irfan @ Pappu* has since expired, and the appeal qua him was abated vide order dated 25.09.2025.

3. The underlying incident is the occurrence of a quarrel that took place on 18.06.2011 at the shop of the complainant/*Nafis Ali*. The first information regarding a knife injury was recorded the same day at 10:25 P.M. In his statement under Section 161 Cr.P.C., the complainant alleged that on the previous day, i.e., 17.06.2011, at about 9:00 P.M., *Irfan @ Pappu*/appellant no. 2 and his brother *Hussain*/appellant no. 1 had come to his photo studio and demanded that he return a memory card given to him. The complainant denied having received any memory card, on which an argument ensued; however, both the said persons left when local persons intervened. On the next day, both the aforesaid persons, along with *Shahzad*/appellant no. 3, came to the complainant's studio at about 10:20 P.M. They started abusing and beating the complainant. *Shahzad* was carrying an iron chain, while *Hussain* was carrying an *ustra*. At that time, *Vakil Ahmed*, the brother-in-law of one *Sajid* who used to work at the complainant's shop, tried to intervene. At that point, *Pappu* exhorted to deal with *Vakil Ahmed* first and hit him with a *chhuri* on the left side of his neck. The other accused also assaulted *Vakil Ahmed* all over his body. The complainant informed the police at 100 number. *Sajid* rushed *Vakil Ahmed* to Holy Family Hospital, while the complainant was taken to AIIMS Trauma Centre by the PCR van. The complainant stated that he and *Vakil Ahmed* were attacked by the accused persons with an intention to kill. The Trial Court accordingly framed charges against the accused persons under Sections 307/34 IPC.



4. The prosecution examined 13 witnesses in total. The appellants, denying their involvement in the incident, examined two witnesses in support of their defence.

5. It is contended on behalf of the appellants that the first information about the incident neither names the appellants, despite their names being known, nor mentions the injuries caused to *Vakil Ahmed*. It is further contended that the Court deposition of the complainant/*Nafis Ali* is full of material improvements, inasmuch as there is no reference to any beatings on 17.06.2011 in his statement recorded under Section 161 Cr.P.C. Further, though it is claimed that *Shahzad* had inflicted injuries with an iron chain, no corresponding injuries attributable to a chain are noted in the MLC. It is argued that the complainant party were the aggressors, as the appellants had also received injuries, a fact admitted by the police witnesses. Reference in particular is made to the statement of Ct. *Rajinder* (PW-9). It is contended that the non-explanation of the injuries of the appellants casts a shadow of doubt on the prosecution case.

6. The aforesaid contentions are disputed by the learned APP for the State, who submits that the occurrence of the incident and the involvement of the appellants in inflicting injuries upon the two injured persons stand proved in the light of the testimony of the said two injured persons, i.e., *Nafis Ali* and *Vakil Ahmed*, as well as *Sajid Ali*, an independent witness, who had removed the injured *Vakil Ahmed* to Holy Family Hospital. He highlights that the injuries were established through the MLCs of both injured persons, which were duly proved by the testimonies of the concerned doctors. Dr. *Mala Saini*, Sr. CMO, Holy Family Hospital (PW-12), and Dr.



Pradeep Chaddha, Head of Surgery, Department of Surgery, Holy Family Hospital (PW-6), proved the MLC of PW-2/*Vakil Ahmad* (Ex. PW-12/B) and gave their opinion on the nature of the injuries. *Rajender Singh*, Record Clerk, AIIMS, New Delhi (PW-11), exhibited the MLC of *Nafis Ali* (Ex. PW-11/A).

7. The complainant/*Nafis Ali* was examined as PW-1, who first stated about the incident on 17.06.2011 when appellant no. 1/*Hussain Ahmad* visited his shop and talked about a memory card. *Irfan @ Pappu*, brother of *Hussain Ahmad*, also reached there, and both of them started beating him. On the intervention of public persons, both of them left, only to come back the next day along with appellant no. 3/*Shahzad*. He deposed that *Shahzad* was carrying an iron chain in his hand and *Hussain Ahmad* was carrying an *ustra*. *Vakil Ahmed* tried to intervene, and thereafter *Pappu* also joined the other two accused persons, carrying a knife. All three started beating him over the issue of a “SIM card”. While *Pappu* gave a *chhuri* blow on the neck of *Vakil Ahmed*, an injury on the left side of his face was inflicted by *Hussain Ahmad* with an *ustra*. *Shahzad* also inflicted injuries on him as well as *Vakil Ahmed* with the iron chain. He was removed to AIIMS by the police van, where his statement was recorded.

In the brief cross-examination, the witness denied the suggestion that the accused persons had been falsely implicated due to enmity over the possession of a memory card. He further denied that *Hussain* had ever given him any memory card, or that the accused had to give him money, which became the reason for their false implication.



8. *Vakil Ahmed*, the other injured, was examined as PW-2. He deposed that on 18.06.2011 at about 10:00–10:30 P.M., he went to the shop of *Nafis Ali*, where his brother-in-law *Sajid Ali* was an employee. At around 10:30 P.M., he heard some noise and saw the three appellants quarrelling with *Nafis Ali*. He tried to intervene, whereupon the accused persons said, “*pahle esi ko nipta do*”. Thereafter, *Pappu* struck him on the left side of his neck with a *chhuri* and caused grievous injuries. He fell down, and *Shahzad* and *Hussain* also beat him. He received injuries on his forehead over the left eyebrow and on the chest as well. When he became unconscious, he was removed to Holy Family Hospital by *Sajid Ali*.

In cross-examination, he denied the suggestion that he had been called to the spot after the incident. He stated that he had seen the incident for a short duration during which he received a knife blow on his neck. He denied the suggestion that the appellants were falsely implicated over a money dispute. He clarified that the injury received by him was inflicted with a *chhuri* and not with a razor.

9. The independent eyewitness *Sajid Ali*, examined as PW-7, stated in his testimony that at about 10:00 P.M. on 18.06.2011, on hearing commotion, when he came out from the shop, the appellants were beating *Vakil Ahmed*. *Pappu* had inflicted injuries on the neck of *Vakil Ahmed* with an *ustra*. At that time, *Nafis Ali* also received injuries due to the beatings by the appellants when he tried to save *Vakil Ahmed*. He then removed *Vakil Ahmed* to the hospital.

In cross-examination, he denied the suggestion that accused *Shahzad* had visited injured *Vakil Ahmed* to take back Rs. 5,000/-, which *Vakil* owed



him. He denied the suggestion that *Vakil Ahmed* wanted to escape his liability, whereupon a quarrel was initiated with *Shahzad*. He further denied the suggestion that *Shahzad* was first slapped by the injured and that thereafter *Irfan @ Pappu* had intervened in the matter to save *Shahzad*. He also denied the suggestion that the appellants were falsely implicated in this case.

10. The MLC of *Vakil Ahmed* was proved through the testimony of Dr. *Mala Saini* (PW-12), who, while identifying the signatures of Dr. *Yusuf*, stated that the patient remained admitted till 21.06.2011 with a history of stab injury on the neck. She further deposed that, as per the MLC, the injury was opined to be simple. Dr. *Pradeep Chaddha* (PW-6) gave his opinion (Ex. PW-6/A) on the nature of the injury sustained by *Vakil Ahmed* and stated that the injuries sustained by him were not sufficient to cause death in the ordinary course of nature.

11. The MLC of *Nafis Ali* was proved through the deposition of *Rajender Singh*, Record Clerk, AIIMS, New Delhi (PW-11). He stated that, as per the MLC, the injury was opined by the concerned doctor to be simple blunt.

12. The two defence witnesses, namely, *Faheem Ahmed* (DW-1) and *Mohd. Ahmad* (DW-2), deposed that on the day of the incident they had informed the police that appellant no. 2/*Irfan @ Pappu* and appellant no. 1/*Hussain Ahmad* respectively were not present at the spot.

13. The MLC of *Vakil Ahmed* (Ex. PW-12/B) records cut marks over both eyebrows, a cut mark at the base of the neck on the left side, a cut mark on the chin, a cut mark on the chest, as well as bruises on the body.



14. The appellants have claimed that they were also injured in the incident and that it was the complainant party who were the aggressors; however, no suggestions to that effect were put during the cross-examination. The injuries suffered by PW-1 and PW-2 have been proved through their respective MLCs, and the injuries of both were opined to be simple in nature. Insofar as the stab injury on the neck of *Vakil Ahmed* is concerned, the testimony of PW-6 reveals that the same was not sufficient to cause death in the ordinary course of nature.

15. Keeping in view the aforesaid discussion, in particular the testimony of PW-6, the conviction of the appellants under Sections 307/34 IPC is altered to one under Sections 324/34 IPC. As stated earlier, the appeal qua appellant no. 2/*Irfan @ Pappu* already stands abated. As regards appellant no. 1/*Hussain Ahmad* and appellant no. 3/*Shahzad*, considering that the incident pertains to the year 2011 and that they have undergone the ordeal of a protracted trial, this Court is of the considered view that their substantive sentences be modified to the period already undergone by them.

However, the sentence of fine is maintained. In case of default in payment, they shall undergo the sentences in default of payment of fine as directed by the Trial Court.

16. The present appeal is partly allowed in the above terms. The appeal, along with the pending application, is disposed of.

17. The personal bonds furnished by the appellants stand cancelled and their sureties are discharged.



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18. A copy of this judgment be communicated forthwith to the Trial Court as well as the concerned Jail Superintendents.

**MANOJ KUMAR OHRI
(JUDGE)**

OCTOBER 06, 2025
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