



2025:DHC:9363



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

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Reserved on: 25th September, 2025

Pronounced on: 27th October, 2025

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CRL.L.P. 162/2019

STATE OF NCT OF DELHI

.....Petitioner

Through:

Mr. Ajay Vikram Singh, APP for the State
with SI Shubham, PS Naraina.

versus

1. **AFSAR @ DINESH**

S/o Sh. Satpal,
R/o WZ-503, Naraina Village,
New Delhi

.....Respondent No.1

2. **MOHIT**

S/o Sh. Surender Kumar,
R/o WZ-504, Naraina Village,
New Delhi

....Respondent No. 2

3. **MONU @ ANIL**

S/o Sh. Ramesh,
R/o WZ-504, Naraina Village,
New Delhi

....Respondent No. 3

Through:

Mr. VPS Raghav, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

CRL.L.P. 162/2019

1. Criminal Leave Petition under Section 378(1) of the Code of Criminal Procedure, 1973, has been filed on behalf of the Petitioner against the Order/Judgment dated 07.09.2018 of learned ASJ-04, Patiala House Courts, New Delhi. Hence, the Leave to Appeal is sought.



2. For the reasons stated in the Leave Petition and the submissions made, the same is allowed.

CRL.A...../2025 (to be numbered)

3. Criminal Appeal under Section 378 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C.'*) has been filed on behalf of the Appellant/State against the Order/Judgment dated 07.09.2018 whereby the learned ASJ-04, Patiala House Courts, New Delhi, has **acquitted** the Respondents, in the Case FIR No. 52/2014 under *Section 308/323/341/34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC')* registered at Police Station Naraina.

4. The **Prosecution's Case** is that on 16.02.2014, the Complainant, Jai Singh, was returning from his work at Gurudwara, C Block. When he reached near Sarvodaya Vidyalaya, Naraina Gas Godown, he was allegedly intercepted by four known individuals from Valmiki Samaj - Mohit, Sandeep, Monu, and Afsar - all residents of Naraina Village. They allegedly stopped him and began to assault him with the intent to snatch his purse, gold chain, and gold ring. When he resisted, they allegedly hit him on the head with a stick and a glass bottle, and snatched his chain, ring, and a purse containing approximately Rs. 5,000/-.

5. The Complainant called the PCR. Meanwhile, Virender, a known acquaintance, arrived at the scene and was also allegedly struck with a *danda* (stick). Both were taken to the hospital, where their MLCs (Medico-Legal Certificates) were prepared. Due to panic, the Complainant was unable to give a statement immediately; his formal statement was recorded the following day, i.e. 17.02.2014.



6. Based on his statement, the FIR was registered, and initial investigations were undertaken by Head Constable Sukhwant, the Investigating Officer. During the investigation, Head Constable Sukhwant noted that the incident appeared to be a quarrel, rather than a case of snatching. The MLC of the injured was collected. Upon completion of investigations, the Chargesheet was filed in Court.

7. *Charges under Section 308/323/341/34 IPC were framed against all four accused (the Respondents), to which they pleaded not guilty and claimed trial.*

8. The Prosecution, to support its case, examined **11 Prosecution Witnesses.**

9. The most material witness was **PW-2/Jai Singh**, the Complainant, who testified about the incident and proved his Complaint as Ex.PW-2/A. The CD of recorded conversations, allegedly containing a threat by the Respondent, Mohit, to the Complainant, is Ex.PW-2/B.

10. **PW-3/Virender Singh**, the Complainant's brother, corroborated the testimony of the Complainant/PW-2.

11. **PW-5/Head Constable Sukhwant**, prepared the rukka (initial report) Ex.PW-5/A, on which **PW-9/ASI Babu Lal**, recorded the FIR, Ex.PW-9/A.

12. **PW-6/Dr. Ramesh, S.R. Casualty, DDU Hospital**, examined the injured, Virender, who had been brought to the Casualty by the PCR with an alleged history of physical assault. On examination, he found a **CLW (Contused Lacerated Wound) over the right lobule of size 1.5 X 0.5 cm with swelling.** He sutured the wound and proved the MLC as **Ex.PW-6/A.**



13. **PW-11/Dr. Nishu Dhawan, Sr. Medical Officer, DDU Hospital,** proved the MLC of the Complainant, Jai Singh, which was prepared by Dr. Shweta Aggarwal, as **Ex.PW-11/A**.

14. **PW-8/Sanjay Tomar,** the final **Investigating Officer (IO),** prepared and filed the **Chargesheet** against the four Respondents in the Court.

15. The **incriminating evidence** was presented to the Respondents in their **Statements under Section 313 Cr.P.C.,** which they denied entirely. They asserted that the Complainant had falsely implicated them purely out of **revenge**. They contended that the Complainant had earlier engaged in a **heated argument** with one of the Respondents, Mohit and was now seeking vengeance through this false implication.

16. In their defence, the Respondents presented **DW-1/Sh. Pavitra Mohan Chauhan,** who deposed that he had owned a shop dealing in wooden planks near the scene of the incident in Naraina Village, for 17-18 years. He deposed that he was present at his shop from 09:00 AM to 08:00 PM and recognised the Respondents as he had seen them pass by his shop. Crucially, he deposed that he did **not notice any quarrel** involving the accused persons with any other villager or person in Naraina Village, on the date of the incident between the hours of 09:00 AM and 08:00 PM.

17. The learned Trial Court considered all the Prosecution evidence and found material contradictions in the testimony of the Complainant/ PW-2 and the other eyewitness PW-3 concerning the narration of the incident and the time it took place. Furthermore, the Court found no corroboration regarding the weapon of offence and contradictions were noted in the MLCs (Medico-Legal Certificates). It was also concluded that there was a false allegation of robbery, as revealed during the investigations. Considering the



totality of circumstances, the Trial Court extended the benefit of doubt to the Respondents, leading to their acquittal.

18. Aggrieved by this acquittal, the *State has filed the present Appeal*, challenging the judgment *on the grounds* that the learned Trial Court reached wrong conclusions on the facts and circumstances, which were not based on the factual matrix. The Court failed to appreciate the principle that even if there were some lacunas in the investigation, a Prosecution case that is otherwise proved, should not have been discarded and the benefit given to the accused. The testimony of PW-2 and PW-3 fully supported the Prosecution Case and that no contradictions could be brought out in their cross-examination. Furthermore, the MLC fully corroborated that PW-2 and PW-3 received injuries.

19. The State has contended that the Trial Court's appreciation of the MLC, as it wrongly concluded that only the injured/PW-2 provided the history of assault even though the MLC of both the injured stated the history of assault. Further, MLC of injured recorded that history of assault was given by both, the injured and the person who brought him, thereby showing that the injured was fit for statement to the Police on the same day, was incorrect. It has also not been appreciated that the accused persons had threatened the Complainant on the phone during the investigations, which was recorded in a CD and submitted to the Police by the Complainant.

20. The State contended that it is the settled law that minor contradictions or lacunas in the statements of witnesses, cannot be held fatal to the Prosecution's case. Ultimately, it is asserted that the oral and documentary evidence collected during the investigations was not properly appreciated,



and the Respondents were wrongly given the benefit of doubt leading to their acquittal.

21. *Hence, it is prayed that the impugned Judgment be set-aside.*

22. The learned Additional Public Prosecutor for the State, has argued on the similar grounds as have been taken in the Appeal.

23. ***Learned counsel for the Respondents*** has forcefully argued that the testimony of PW-2 and PW-3 contains inherent and material contradictions, specifically regarding the time of the incident, as deposed by them. Pertinently, the FIR was registered on the day following the alleged incident, despite the fact that the Complainant was medically fit to give his statement immediately after the incident. Further, the initial allegations of robbery levelled against the Respondents were proven to be false during the course of the investigation itself.

24. The Complaint and the testimony of the prosecution witnesses, reflects material improvements, a fact rightly acknowledged by the learned ASJ.

25. Furthermore, the weapon of offence, specifically, the alleged glass of broken bottle, has not been recovered. There is no corroborative evidence supporting the assertion that a '*danda*' (stick) was used in the alleged assault. The non-recovery of any alleged weapon of offence, significantly weakens the Prosecution's case.

26. Finally, the learned ASJ correctly appreciated the testimony of the defence witness. In light of these contradictions and discrepancies in the Prosecution's case, the respondents have been rightly acquitted. *There is no merit in the Appeal, which is liable to be dismissed.*

**Submissions Heard and the Record Perused.**

27. The foundation of the Prosecution's case rests on the testimony of PW-2, *Jai Singh, the Complainant*. He deposed that on 16.02.2014, while returning from C-Block, Godown, and turning near the Sarvodaya Kanya Bal Vidyalaya, he was confronted by the three Respondents and a fourth person. He identified them as Mohit, Monu, Sonu, and Afsar. According to PW-2, Mohit, who was holding a glass bottle, asked him as to what he was carrying, to which the Complainant replied it was a glass bottle. Mohit first threatened him and then struck him on the head with the bottle, due to which, he fell. The other three accused persons then allegedly snatched his gold chain, gold ring, and a purse containing Rs.5,000/-. The Complainant managed to run from the spot to save himself and on the way, met his brother, Virender/PW-3.

28. After being informed of the incident, his brother/PW-3 went to the location where he was also assaulted. The Complainant then called the PCR, and the Police arrived and took both injured brothers, to Deen Dayal Hospital. His Statement, Ex.PW-2/A, was recorded the following day, 17.02.2014, which led to the registration of the FIR.

29. The Respondents, in the cross-examination suggest to PW-2 that a prior altercation had occurred between them and the Complainant, who admitted that an earlier altercation with Mohit in front of his house, on 12.02.2014.

30. A further suggestion was put in his cross-examination to the Complainant by the Respondents that about two months prior to this incident, the Respondent, Mohit, while passing in front of the Complainant's residence, his bike's handle struck the Complainant's hand, leading the



Complainant to threaten to “*teach him a lesson.*” This specific prior incident, however, was denied by the Complainant.

31. The testimony of PW-2 was corroborated by his brother, PW-3, Virender Singh who also deposed that on 16.02.2014, between 04:00 and 05:00 p.m., while returning from a walk near Gas Godown, he saw four boys beating his brother, Jai Singh. Upon shouting at the boys, he too was attacked with bricks and *dandas*, resulting in an injury on his left ear, which left him stunned. The Respondents then ran away. He saw his brother lying on the road in a pool of blood; he lifted him, and called the PCR. They were taken to DDU Hospital for treatment and discharged the same day.

32. In his cross-examination, PW-3 clarified that his brother, Jai Singh, was beaten by the accused persons in his presence, and he was hit on the ear when he tried to intervene and save his brother.

Contradictions and Corroboration:

Timing and the happening of Incident:

33. The ***first material contradiction*** in the testimony of both PW-2 and PW-3, which weighed with the Ld. ASJ, was *regarding the time of the incident*. PW-2 stated in cross-examination that the incident occurred around 06:15 PM while PW-3, Mr. Virender Singh, mentioned the time as between 04:00 to 05:00 p.m. The Rukka, Ex.PW5/A, however, recorded the time as 05:40 p.m. The learned ASJ deemed the timing as a material contradiction.

34. However, it is significant to observe that the incident admittedly happened in the evening hours on 16.02.2014. The timeframe of 04:00 p.m. to 06:15 p.m. provided by the witnesses is somewhat similar, centring around 05:00 p.m. to 06:00 p.m. It cannot be overlooked that the incident occurred in February 2014 while the witnesses deposed on 17.01.2018; a



memory lapse is bound to occur. In fact, this slight variation in timing might reflect the authenticity and genuineness of their testimony; had they been tutored, they would have given the time with exact precision.

35. Crucially, the Rukka, Ex. PW5/A, prepared soon after the incident, recorded the time as 05:40 p.m. This is further corroborated by the MLC of Virender Singh Ex.PW-6/A, which records the injured being brought by PCR at about 06:30 p.m. Similarly, the MLC of the Complainant, Jai Singh Ex.PW-11/A, gives the time as 06:50 p.m. The documents prepared soon after the incident clearly support the time of the incident as 05:40 p.m. on 16.02.2014. Therefore, there were no material contradictions in the time of the incident, contrary to the learned ASJ's observation.

36. The ***second aspect*** is whether there are material contradictions in the testimony regarding the assault on the two injured. While PW-2 stated in his cross-examination that his brother, Virender Singh, was not beaten in his presence, while PW-3, Virender Singh, deposed that upon seeing his brother being beaten, he went to the spot where he also got beaten up by the Respondents. When these two statements are read together, the sequence of events becomes clear; the Complainant was beaten first, and thereafter, Virender Singh, having seen or being told about the incident, rushed to the spot, where he was also assaulted by the Respondents. There is no inherent contradiction in their testimonies.

37. Furthermore, the happening of the incident is corroborated by the MLCs, Ex.PW-6/A and Ex.PW-11/A, of Virender Singh and Jai Singh, respectively, which were prepared between 06:32 p.m. and 06:50 p.m. and recorded a history of assault.



38. Moreover, PW-5/Head Constable Sukhwant, the initial Investigating Officer, deposed that he received information around 06:00 p.m. on which DD No. 30A was recorded, regarding a quarrel near Gas Godown, Naraina Vihar. He and Constable Shashi reached the spot, but were informed that the injured had been taken to DDU Hospital. They proceeded to the hospital and collected the MLCs, as the injured had already been discharged.

39. This testimony is fully corroborated by PW-7, Constable Shashi, who accompanied PW-5/and deposed that they reached DDU Hospital between 07:00 p.m. and 07:30 p.m.

40. The happening of the quarrel is thus, proved not only from the testimony of the two injured witnesses, PW-2 and PW-3, but is also corroborated by the investigations undertaken immediately thereafter.

41. The learned ASJ's conclusion that the happening of the incident itself was doubtful, is incorrect. Had there been no quarrel, as claimed by the Respondents, neither the DD entries nor the MLCs would have been recorded or prepared.

Weapon of Offence and Nature of Injuries:

42. The *third aspect* for consideration is the *weapon of offence*. As per PW-2, the Respondent Mohit hit him on his head with a glass bottle. PW-3, Virender Singh, asserted that he was attacked with *dandas* and sustained an injury on his left ear. The testimony of these two witnesses, must be appreciated in light of their respective MLCs. The MLC Ex.PW-6/A of PW-3/Virender Singh reflects a *CLW over the right lobule of size \$1.5 X 0.5 cm with swelling*. This is consistent with his testimony of having been hit with a *Danda*. The *doctor's opinion* also states the injury was caused by a blunt object and was certified as '*simple*'. Merely because the *danda* was not



recovered from the spot, cannot lead to an inference that it was not used or cast doubt on the testimony of PW-3.

43. Similarly, PW-2 deposed that Mohit hit him with a glass bottle. However, his MLC, Ex.PW-11/A reflects a *CLW of 4 x 0.5 cm over the left temporal region with swelling on the right preorbital area and an abrasion over the left knee*. The kind of weapon used is stated to be blunt, and the injury was certified as '*simple*'. The nature of the injuries reflects they were caused by a blunt object, not a glass bottle, as claimed by the Complainant. The testimony coupled with the MLC, also proves that he suffered a simple injury. *Though his claim of a glass bottle being used is not corroborated by the investigation or the MLC, the evidence establishes beyond reasonable doubt that the Respondents caused simple injury to the Complainant and his brother.*

Delay in FIR and Defence Evidence:

44. Another factor which weighed with the learned ASJ was the fact that PW-2 failed to make a Complaint on the same day, and his statement was recorded on the next day, i.e. 17.02.2014. The Complainant sufficiently explained this in his testimony, stating that due to the injury, he was in extreme pain and not in *a fit state* to give a statement to the Police. While the MLC may have certified him as "fit for statement," but it cannot be ignored that a person who has undergone the trauma of being beaten by four individuals, may not feel mentally fit to give a statement immediately after the incident. The Complainant giving his statement on the next day, in the given circumstances, cannot be termed an inordinate delay or an afterthought, to falsely implicate the Respondents especially when the



happening of incident and the consequent injuries, was proved and corroborated by independent evidence as well.

45. Much emphasis was also placed by the learned ASJ on the evidence of *DW-1, Pavitra Mohan*, who deposed that he had a shop near the place of the incident and did not see any quarrel take place. However, he is a defence witness. Overwhelming evidence was collected by the Police during the investigations, supported by the independent evidence of the MLCs, to prove the Prosecution's case. This witness is an interested witness and his testimony is not trustworthy and cannot inure to the benefit of the Respondents, given that the Prosecution has proved its case beyond reasonable doubt.

46. It was argued by the learned counsel for the Respondents that the falsity of the Complainant's allegations is evident from the fact that the allegations of theft of a gold chain, ring, and money were found to be false during the investigations, which casts a doubt on the entire statements of the two witnesses. It is admitted that the Respondents lived in the same area and were known to the Complainant and his brother. It is also not disputed that there had been a prior altercation with the Respondent Mohit. The Complainant may have added some exaggeration in his Complaint, but this does not render the entire Statement doubtful, especially when it stands corroborated by independent investigations.

Conclusion:

47. It is hereby, concluded that the incident of quarrel and of the Complainant and his brother having been inflicted with *simple injuries* by the Respondents in furtherance of common intention, stands proved beyond reasonable doubt.



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48. The impugned Judgment dated 07.09.2018 is hereby **set-aside**.
49. ***The Respondents are convicted*** for the offence under Section 323/34 IPC.
50. Be listed for Sentencing on 13.11.2025

(NEENA BANSAL KRISHNA)
JUDGE

OCTOBER 27, 2025/RS