



2025:DHC:11688



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

%

Date of Decision: 12.12.2025

+

CRL.A. 85/2017

ANIL

.....Appellant

Through: Mr. Krishna Kumar, Advocate
alongwith appellant

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Pradeep Gahalot, APP for State
with SI Sagar Navadeep, PS
Gokulpuri

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present appeal under Section 374(2) Cr.P.C., the appellant seeks to assail the judgment of conviction dated 17.11.2016 and the order on sentence dated 21.11.2016 passed by ASJ-01(North-East), Karkardooma Courts, Delhi, in Sessions Case No. 44842/2015 arising out of FIR No. 207/2012 registered at P.S. Gokal Puri, Delhi whereby the appellant was convicted for the offence punishable under Section 332/353/307 IPC and Section 184 Motor Vehicles Act ("MV Act").

2. Vide the impugned order on sentence, the appellant was sentenced to undergo: RI for a period of 1 year for the offence punishable under Section 332 IPC; RI for a period of 1 year for the offence punishable under Section 353 IPC; RI for a period of 3 years alongwith fine of Rs. 5,000/-, and in



2025:DHC:11688



default thereof, to undergo SI for a further period of 1 month under section 307 IPC; SI for a period of 6 months alongwith fine of Rs.1,000/-, and in default thereof, to undergo SI for a further period of 7 days for the offence punishable under Section 184 MV Act. The benefit under Section 428 Cr.P.C. was extended to him.

The sentence of the appellant was thereafter suspended vide order dated 08.11.2017 passed by this Court.

3. Briefly stated, the case of the prosecution was that on 10.06.2012 at about 4:30PM, the complainant/injured HC *Gurmail Singh*, while posted on traffic duty at Bhajanpura red-light, Khajuri Khas Circle, noticed a Santro car bearing registration no. HR-38QT-9508 stationed at the red light even after the signal turned green. Upon approaching the vehicle, the complainant noticed the appellant was seated inside the car and instructed him to move the vehicle to the side of the road. The appellant suddenly started the vehicle, hitting him at the Brijpuri red-light.

4. In support of its case, the prosecution examined 13 witnesses. The most material witness was the injured/complainant, HC *Gurmail Singh*, examined as PW-1, who narrated the incident in detail. Ct. *Rakesh Kumar*, who was on duty with PW-1 and witnessed the incident, was examined as PW-6. *Yogesh*, the registered owner and *superdar* of the offending Santro car, was examined as PW-2. Dr. Parmeshwar Ram proved the MLC of the injured, examined as PW-10. The remaining witnesses were formal in nature and deposed regarding various stages of investigation.



The statement of the appellant was recorded under Section 313 Cr.P.C., wherein he denied the incriminating circumstances and claimed false implication.

5. Learned counsel for the appellant submits that the incident was not premeditated and arose suddenly during a routine traffic checking. It is contended that the injuries suffered by the complainant were simple in nature and that there was no intention or knowledge on the part of the appellant to cause death. It is therefore argued that even if the prosecution case is accepted in its entirety, the offence would fall under Section 323 IPC rather than Section 307 IPC.

6. *Per contra*, learned APP for the State submits that the testimony of the injured witness is consistent and duly corroborated by PW-6, the medical evidence, and surrounding circumstances. It is contended that the appellant deliberately used the vehicle to assault a public servant on duty and endangered human life.

7. The complainant/injured was examined as PW-1, who deposed that on the date and time of the incident, he was posted on traffic duty at *Bhajanpura* red-light along with other traffic personnel. He stated that while performing his official duties, the appellant, who was driving the offending vehicle, failed to comply with traffic instructions and acted in a manner which led to the incident in question. PW-1 narrated the sequence of events leading up to the alleged act and attributed the role of driving the vehicle in a rash and negligent manner to the appellant.

8. An eyewitness to the incident, examined as PW-6, was on duty along with PW-1 at the relevant time. PW-6 corroborated the testimony of PW-1



with regard to the presence of the appellant at the spot, the conduct of the appellant, and the manner in which the incident occurred. He supported the version of PW-1 insofar as the sequence of events and the involvement of the appellant are concerned.

9. As per the MLC of the appellant (Exhibited as Ex. PW-8/A), no external fresh injuries were noted and smell of alcohol was found in the breath of the appellant.

As per the MLC of the Victim (Exhibited as Ex. PW-10/A), no visible external injuries were found on him, however, there was pain on right knee and right elbow. The nature of injury was opined as simple.

10. In order to sustain a conviction under Section 307 IPC, the prosecution must establish that the act was done with such intention or knowledge that if death had been caused, the offence would amount to murder. The presence of intention or knowledge is *sine qua non*. When assessing whether an offence committed falls under the provisions of Section 307 IPC, the intention to commit the offence can be gathered from the nature of injury as well as other attending circumstances like the seat of the injury, the nature of the weapons used and the severity with which the blows were inflicted. The act may not even result in an injury. As such, it is the intention or knowledge with which the act was committed which is to be considered. The ingredients of the section are satisfied if the prosecution is able to prove the intent and for its execution, commission of some overt acts (Ref: State of Maharashtra v Balram Bama Patil¹). The Supreme Court, in the case of Sivamani v. State,² modified the sentence imposed from 307 IPC

¹ (1983) 2 SCC 28

² 2023 SCC OnLine SC 1581



to 323 IPC, while discussing the law prevailing around Section 307 IPC in the following manner:-

9. In State of Madhya Pradesh v. Saleem, (2005) 5 SCC 554, the Court held that to sustain a conviction under Section 307, IPC, it was not necessary that a bodily injury capable of resulting in death should have been inflicted. As such, non-conviction under Section 307, IPC on the premise only that simple injury was inflicted does not follow as a matter of course. In the same judgment, it was pointed out that '...The court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section.' The position that because a fatal injury was not sustained alone does not dislodge Section 307, IPC conviction has been reiterated in Jage Ram v. State of Haryana, (2015) 11 SCC 366 and State of Madhya Pradesh v. Kanha, (2019) 3 SCC 605. Yet, in Jage Ram (supra) and Kanha (supra), it was observed that while grievous or life-threatening injury was not necessary to maintain a conviction under Section 307, IPC, 'The intention of the accused can be ascertained from the actual injury, if any, as well as from surrounding circumstances. Among other things, the nature of the weapon used and the severity of the blows inflicted can be considered to infer intent.

11. In the present case, as per the testimony of the complainant, the appellant was intercepted while he was driving the offending Santro car at Bhajanpura red-light during routine traffic regulation. The interaction between the parties arose suddenly and was not pre-planned or preceded by any prior enmity. The material on record does not suggest that the appellant approached the complainant with any pre-meditated intention to cause death. The incident occurred in the heat of the moment when the appellant, instead of complying with traffic instructions, acted rashly. Notably, it is not the case of the prosecution that the appellant attempted to cause any further harm after the vehicle was stopped.



The overall facts and circumstances, including the absence of grievous or fatal injuries, lack of premeditation, and the nature of the act, lead this Court to the conclusion that the offence proved against the appellant does not attract Section 307 IPC.

12. Having considered the record in its entirety, the submissions advanced by learned counsel for the parties, and the evidence led before the Trial Court, this Court finds that the prosecution has successfully proved beyond reasonable doubt that the appellant was driving the offending vehicle at the relevant time, that the complainant was a public servant discharging official traffic duties, and that the appellant voluntarily used criminal force against him, thereby obstructing and deterring him from the lawful discharge of his duties, causing him hurt. The testimony of the complainant is found to be consistent, cogent and trustworthy and is duly corroborated by the testimony of PW-6, an eyewitness. However, this Court finds that the material on record does not establish the requisite intention or knowledge to cause death, which is the sine qua non for sustaining a conviction under Section 307 IPC. The evidence does not indicate that the appellant attempted to inflict fatal injuries or acted in a manner from which an intention to cause death can be safely inferred.

In view of the aforesaid circumstances, while the conviction of the appellant under Sections 332 and 353 IPC and Section 184 of the Motor Vehicles Act is upheld, the conviction under Section 307 IPC is modified to a conviction under Section 323 IPC, the offence of voluntarily causing hurt.

13. Coming to the question of sentence, looking into the mitigating circumstances, this Court notes that the appellant was 30 years of age at the time of the incident, has no past criminal antecedents, comes from an



2025:DHC:11688



economically weak background and is the sole breadwinner member of his family. The case pertains to the year 2012 and nearly 13 years have elapsed of the appellant facing trial. The nominal roll of the appellant records that he has undergone 5 months of sentence and his overall jail conduct is stated to be satisfactory. The fine imposed upon the appellant stands paid. As per the status report handed over in the court, which is taken on record, the appellant is stated to be not involved in any other case.

14. Accordingly, the substantive sentence imposed upon the appellant is reduced to the period already undergone.

15. The appeal is, therefore, partly allowed in the above terms. Pending applications, if any, also stand disposed of.

16. The bail bonds furnished by the appellant stands cancelled and the surety discharged.

17. A copy of this order be transmitted to the learned Trial Court and the Jail Superintendent for information and compliance.

MANOJ KUMAR OHRI
(JUDGE)

DECEMBER 12, 2025

dh