



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

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Date of Decision: 07.11.2025

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CRL.A. 1027/2019

CHANDRA PRAKSH

.....Appellant

Through: Mr.S.S. Ahluwalia and Ms.Rimpy
Rohilla, Advocates

Versus

STATE NCT OF DELHI & ORS.

..... Respondents

Through: Mr Pradeep Gahalot, APP for State
Ms.Gayatri Nandwani, Advocate for
respondent No.2

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of the present appeal filed under Section 372 Cr.P.C, the appellant/complainant seeks to set aside the judgement dated 04.12.2018 passed by District & Sessions Judge(East), Karkardooma, Delhi, in SC No. 2306/2016 in proceedings arising out of FIR no. 616/2015 registered at P.S. Ghazipur, Delhi whereby the Trial Court acquitted respondent Nos. 2 and 3 under Sections 308/34 IPC.

2. Briefly put, the case of the prosecution is that on 12.06.2015, information was received vide DD No. 12A regarding a quarrel at House No. B-112, Sunarwali Gali, Kondli, Delhi. Pursuant thereto, HC *Danveer* and Ct. *Lokesh Kumar* reached the spot and learnt that the injured had been taken to LBS Hospital. Upon reaching there, the injured, *Chander Prakash*, did not make any statement and was referred to GTB Hospital, where again he did not give any statement. Consequently, the DD entry was kept pending.



Subsequently, on 25.06.2015, the police visited the house of the injured, recorded his statement, and on the basis thereof, the present case was registered. As per his statement, on 12.06.2015 at 7:00 AM while he was watering the plants on his rooftop, his elder brother, *Kanwarjeet*, objected, alleging that water is damaging the roof. In the midst of verbal altercation, *Kanwarjeet's* sons, *Deepak* and *Aashish @ Ashu*, assaulted the appellant with *dandas* on his head and body, while *Kanwarjeet* caught hold of him. The wife of the appellant is said to have called the police, and he was taken to a hospital thereafter.

3. The prosecution examined 8 witnesses in support of its case. The material witnesses included the injured, *Chander Prakash*, examined as PW-1, and his wife, *Kanti Kaushal*, examined as PW-2, who deposed broadly on similar lines as PW-1, claiming to be an eyewitness to the incident. She also informed the police and identified respondent No. 2 and 3 as the assailants. The remaining witnesses were formal in nature and deposed with respect to various aspects of the investigation.

The statements of the Respondent nos. 2 and 3 were recorded under Section 313 Cr.P.C., wherein they denied all the allegations against them and claimed false prosecution as the appellant had falsely implicated them in order to grab the property purchased by the respondent no. 2.

4. Learned counsel for the appellant submits that the learned Trial Court erred in acquitting the respondents by placing undue emphasis on minor contradictions in the testimonies of PW-1 and PW-2. It is further submitted that the delay in recording the statement of the injured has been sufficiently explained, as he was unable to give his statement earlier on account of the injuries sustained by him.



5. *Per contra*, learned APP for the State, alongwith the learned counsel for the respondent no.2 and 3, supports the impugned judgment, arguing that the contradictions detailed by the Trial Court are material and go to the very genesis of the occurrence in question. It is further submitted that there was a delay of nearly two weeks in recording the statement of PW-1, and that no weapon of offence was recovered from the respondents. It is argued that the Trial Court's view is reasonable and supported by the evidence on record.

6. I have considered the submissions advanced by the learned counsel for the appellant, the learned APP for the State, as well as the learned counsel appearing for the respondents and examined the evidence on record.

7. The injured, *Chander Prakash*, was examined as PW-1, who deposed that on 12.06.2015 at about 7:00 AM, he was sprinkling water in the pots kept on the rooftop of his house when his elder brother, *Kanwarjeet*(Respondent no.2), came there and, while abusing him, stated that "*Paani daal daal kar tune chhat ko gala diya hai*" (you have damaged the roof by pouring water). At that moment, *Deepak*(Respondent no.3) and *Ashish @ Aashu*, sons of *Kanwarjeet*, also arrived at the spot and started quarrelling with him. Both were armed with *dandas* and inflicted *danda* blows on his head and other parts of the body, while *Kanwarjeet* caught hold of him. Seeing blood oozing from his injuries, all of them went downstairs. His wife, *Kanti Kaushal*, then reached the spot and called the police at 100, pursuant to which he was taken to LBS Hospital and thereafter referred to GTB Hospital. He further stated that he could not give his statement to the police earlier due to severe injuries, and that his statement was subsequently recorded at his residence on 25.06.2015.



8. The wife of the injured, *Kanti Kaushal* was examined as PW-2, deposed that on 12.06.2015 at about 7:00 AM, she had gone to fetch milk from a nearby shop. Upon returning home, she saw her husband pouring water into pots kept on the roof. She then heard noises of a quarrel and went upstairs, where she saw her *Kanwarjeet* and his sons, *Deepak* and *Ashish*, quarrelling with her husband. She stated that *Kanwarjeet* had caught hold of her husband while *Deepak* and *Ashish* were beating him with fists and kicks. Thereafter, *Deepak* brought a *danda*, which *Ashish* snatched from his hands and used to strike her husband on the head, causing him to fall unconscious. She further deposed that the accused were saying, “*Meri chhat gala di paani dal dal ke*,” and after beating her husband, all three accused fled from the spot. She then called the police at 100, and upon their arrival, her husband was taken to LBS Hospital, where she also accompanied him. After receiving first aid at LBS Hospital, he was referred to GTB Hospital, as he was unable to speak due to the injuries sustained. She further stated that she had brought her husband home on the same day and that his statement was recorded by the police on 25.06.2015.

9. The case of the prosecution rests entirely on the testimonies of PW-1 and PW-2. However, both witnesses have made materially contradictory statements which go to the root of the prosecution case. While, PW-2 deposed that she had accompanied her husband to the hospital, the MLC of the injured does not record her as the person who had brought the injured to the hospital, which is contrary to her deposition. Further, PW-1 in his examination-in-chief stated that after receiving injuries, he started bleeding from the head and fell down, and thereafter his wife arrived and called the police at number 100, whereas, PW-2 claimed to be an eyewitness to the



incident, though she admitted in her cross-examination that at the time of occurrence, she had gone to fetch milk from a nearby shop. These statements are mutually inconsistent and cast serious doubt on her presence at the scene of occurrence. Moreover, while PW-1 deposed that the accused had assaulted him with *danda* blows, PW-2 stated that respondent no.2 and *Ashish* were initially beating the complainant with fists and kicks, and that respondent no.2 later brought a *danda* which was snatched by *Ashish*, who then struck PW-1 on the head. In contrast, PW-1 made no mention of any fist or kick blows and alleged that both sons had assaulted him with *dandas*.

10. Further, it is noted that the incident took place on 12.06.2015, the statement of the injured was recorded only on 25.06.2015, after a delay of nearly 2 weeks. Even if the appellant was initially unable to give his statement due to the injuries sustained, there is no satisfactory explanation for such prolonged delay, particularly when the injury suffered by PW-1 was opined to be simple in nature, and as per the testimony of PW-2, his wife, she had brought PW-1 home on the very same day. Further, PW-2, who claims to be an eyewitness, also failed to make any statement to the police after the incident, and her statement was recorded only on 24.10.2015, after an unexplained delay of nearly five months.

11. Moreover, the MLC of PW-1 does not mention the names of any assailants, and even the DD entry recorded on the morning of the incident reflects that the injured did not make any statement, nor were the names of the accused disclosed at that stage. It was only after a considerable delay that the injured named the respondents, despite respondent no.2 being his real brother and respondent no.3 his nephew.

12. At this stage, it is also apposite to note that an order of acquittal



carries with it a double presumption of innocence and the benefit of doubt extended to the respondent in the present case is not liable to be interfered with unless the Trial Court's view is perverse. The law pertaining to double presumption of innocence operating in favour of an accused at the appellate stage, after his acquittal by the Trial Court, is settled. A gainful reference may be made to the Supreme Court's decision in Ravi Sharma v. State (NCT of Delhi), reported as (2022) 8 SCC 536, wherein it was observed, as hereunder:

"8. ...We would like to quote the relevant portion of a recent judgment of this Court in Jafarudheen v. State of Kerala [Jafarudheen v. State of Kerala, (2022) 8 SCC 440] as follows : (SCC p. 454, para 25)

"25. While dealing with an appeal against acquittal by invoking Section 378CrPC, the appellate court has to consider whether the trial court's view can be termed as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."

13. At this juncture, it is also deemed apposite to refer to the decision of the Supreme Court in Anwar Ali v. State of H.P., reported as (2020) 10 SCC 166, wherein it has been categorically held that the principles of double presumption of innocence and benefit of doubt should ordinarily operate in favour of the accused in an appeal to an acquittal. The relevant portions are produced hereinunder:

"14.1. In Babu [Babu v. State of Kerala, (2010) 9 SCC 189 : (2010) 3 SCC (Cri) 1179] , this Court had reiterated the principles to be followed in an appeal against acquittal under Section 378 CrPC. In paras 12 to 19, it is observed and held as under: (SCC pp. 196-99)



“ ...

13. *In Sheo Swarup v. King Emperor [Sheo Swarup v. King Emperor, 1934 SCC OnLine PC 42 : (1933-34) 61 IA 398 : AIR 1934 PC 227 (2)] , the Privy Council observed as under: (SCC Online PC: IA p. 404)*

‘... the High Court should and will always give proper weight and consideration to such matters as (1) the views of the trial Judge as to the credibility of the witnesses; (2) the presumption of innocence in favour of the accused, a presumption certainly not weakened by the fact that he has been acquitted at his trial; (3) the right of the accused to the benefit of any doubt; and (4) the slowness of an appellate court in disturbing a finding of fact arrived at by a Judge who had the advantage of seeing the witnesses.’

...

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.’

14. Considering all the aforesaid, this Court is of the considered view that the contentions put forth by the appellant are not convincing enough to warrant setting aside of the impugned judgment, and the same is accordingly upheld.

15. The present appeal is dismissed.

16. A copy of this judgement be communicated to the Trial Court.

**MANOJ KUMAR OHRI
(JUDGE)**

NOVEMBER 7, 2025/dh