



\$~10

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

+ CRL.L.P. 412/2018

STATE (GNCT OF DELHI)

.....Petitioner

Through: Mr. Aashneet Singh, APP with SI  
Pooja, PS Bhalswa Dairy

versus

DEVENDER & ANR

.....Respondents

Through: Mr. Shivansh Saxena, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE JASMEET SINGH**

**ORDER**

**30.01.2025**

%

1. This is an application seeking leave to appeal challenging the judgement dated 26.02.2018 passed by the learned Special Judge (NDPS), North District, Rohini Courts, Delhi in SC No. 57409/2016 arising out of FIR No. 112/2014 dated 09.03.2014 registered at PS Bhalaswa Dairy under Sections 308/34 IPC.

2. The brief facts of the case are that on 08.03.2014 at about 8 pm, Allaudin (PW-1), the complainant and injured party had received a call from his friend Pankaj (PW-2), who asked him to accompany him to K-Block, Jahangir Puri, to collect rent on behalf of his maternal uncle.

3. Upon arrival at K-Block, the respondent No.1 (the tenant) informed PW-2 that he did not have the rent money but would get it from his brother. Respondent No.1 then took them to his brother's house in G-Block, Bhalaswa Dairy, where his bhabhi stated that she also did not have the money, as her husband was not at home. After some time, respondent No.2 arrived, and when asked about the rent, he began to abuse PW-2. When PW-1 intervened, both respondents attacked him with sticks, striking him on the head.



4. On 09.03.2014, on the statement of the complainant, an FIR under Sections 308/34 of IPC was registered and the matter was investigated. The respondents were arrested.
5. After completing the investigation, charges were framed under Sections 308/34 of IPC to which the respondents pleaded not guilty and claimed trial.
6. The prosecution examined a total of 16 witnesses and the respondents chose not to lead evidence in their defence.
7. After the conclusion of the trial, *vide* the impugned judgement dated 26.02.2018, the learned Trial Court acquitted the respondents under Sections 308/34 of IPC. Hence the present appeal is filed by the State.
8. Mr. Singh, appearing on behalf of the petitioner challenges the impugned judgement and submits that the impugned judgment is perverse and manifestly erroneous of misreading evidence and demonstrably unsustainable in the eyes of law as the learned Trial Court wrongly and erroneously acquitted the respondents under Sections 308/34 IPC.
9. Mr. Saxena, appearing on behalf of the respondents supports the impugned judgement and submits that the prosecution has failed to establish and lead clear and cogent evidence. Hence, the prosecution has failed to prove the case beyond reasonable doubt against the respondents.
10. I have heard learned counsels of both the parties and perused the material on record.
11. In the present case, the respondents have been acquitted for offences under Sections 308/34 IPC on the ground that the testimonies of PW-1 and PW-2 who are the eye-witnesses do not support the case of the prosecution.
12. Learned Trial Court has found that respondent No. 2 was not correctly



described by PW-2. Additionally, the Trial Court was of the view that the delay in registration of FIR has not been explained by the prosecution.

13. In the present case, the statements of PW-1 and PW-2 who are the eye-witnesses to the incident duly mention and named respondent Nos. 1 and 2. Further, the statement of PW-1 is corroborated by the MLC which duly shows the injuries suffered by PW-1 i.e. 22 stitches on PW-1's head along with his leg fractured.

14. Additionally, as regards the delay in registration of FIR is concerned, the incident is of 11:30 PM on 08.03.2014 and the rukka was dispatched at 03:40 AM on 09.03.2014. During the said period the complainant was in the hospital receiving treatment for the injuries suffered by him during the alleged incident. For the said reasons, *prima facie*, there is no delay in registration of FIR.

15. In my view, the issue needs consideration and the appeal needs to be heard. For the said reasons, the application seeking leave to appeal to challenge the judgement dated 26.02.2018 is allowed.

**CRL.A. /2025**

16. The registry is directed to number the appeal.

17. Issue notice.

18. Mr. Saxena, learned counsel appearing on behalf the respondents accepts notice for respondent Nos. 1 and 2.

19. List the appeal for hearing in due course.

**JASMEET SINGH, J**

**JANUARY 30, 2025/DM**