



2025:DHC:11447



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

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Date of Decision: 05.12.2025

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**CRL.A. 631/2016**

STATE

.....Appellant

Through: Mr. Pradeep Gahalot, APP for State

versus

NADEEM & ANR

.....Respondent

Through: Mr. Sagar Choudhary, Mr. B.S. Choudhary, Mr. Lakshmi, Mr. Manish and Ms. Monika, Advocates for Respondent 1&2.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**JUDGMENT (ORAL)**

1. By way of the present appeal filed under Section 378 Cr.P.C., the appellant/State seeks to set aside the judgment dated 31.10.2013 to the extent of acquittal of the respondents u/s 308 IPC passed by ASJ-03 (North District), Rohini Courts, Delhi, in proceedings arising out of FIR No. 286/2009, P.S. Narela, Delhi. The Trial Court acquitted the respondents of the offence under Sections 308/506 IPC, while convicting them under Sections 451/324/34 IPC. They were ordered to be released on probation for a period of two years on furnishing a bond in the sum of Rs. 10,000/- with one surety each in the like amount.

2. Briefly put, the case of the prosecution is that *Santosh* (complainant) alleged that on 13.09.2009, a quarrel arising out of a dispute between children led *Iqbal* to slap her tenant's child, and when she intervened, *Iqbal* abused her and entered her house. Hearing the commotion, her husband



*Rajender* arrived and questioned *Iqbal*, who allegedly threatened him; thereafter, the respondents/*Nadeem* and *Wasim* arrived and struck *Rajender* on the head with a baseball bat and also caused injuries to her and her son. The PCR then took them to the hospital. Based on her statement, the present FIR was registered. During the trial, accused *Iqbal* expired and proceedings against him were abated.

3. The prosecution examined 11 witnesses in support of its case. The material witnesses include *Santosh*, the complainant, examined as PW-2. *Suraj*, son of complainant, examined as PW-3 and *Rajender*, the injured and husband of the complainant, examined as PW-4. Dr. *Rajesh Kumar*, who proved the signatures on the MLCs was examined as PW-5. The rest of the witnesses were formal in nature and deposed as to various aspects of the investigation.

In their statements under Section 313 Cr.P.C., the respondents denied all incriminating circumstances and claimed false implication.

4. Learned APP for the State contends that the learned Trial Court erred in not convicting the respondents under Section 308 IPC. It is submitted that the nature of injuries, including fracture of the temporal bone and extra-dural haematoma, establishes knowledge that the act was likely to cause death, and the Trial Court erred in giving undue importance to the non-examination of the doctor who prepared the MLC.

5. *Per contra*, learned counsel for the respondents supports the impugned judgment and submits that the Trial Court has correctly appreciated the evidence. It is contended that the prosecution has failed to establish the requisite intention or knowledge under Section 308 IPC as there were doubts as to the nature of injury.



6. I have considered the submissions of the learned APP for the State as well as the learned counsel for the respondents and examined the evidence on record.

7. The Trial Court had held that it was established by the prosecution that the accused respondents had committed house trespass and caused injuries to *Rajender*. However, in so far as the offence under Section 308 IPC is concerned, a doubt was raised as to the nature of the injuries caused. The doctor who had prepared the MLC and given his opinion about the injuries was not examined in Court. The MLC was proved through PW5. In his deposition as well, nothing came out as to basis of the examining doctor's opinion of the injuries as recorded in the MLC. In such a scenario, the nature of injuries was not sufficiently proved and hence, benefit of doubt was extended to the respondents and they were convicted under Section 324/34 IPC instead of Section 308/34 IPC.

8. 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.””*

9. 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.'*

10. In these circumstances, the view taken by the Trial Court that the prosecution has failed to prove beyond reasonable doubt the charges against the respondents under Section 308/34 IPC merits no interference.

11. It is worth mentioning that the present FIR pertains to the year 2009, and respondents have faced trial over the last 16 years, during which they were on probation for a period of 2 years, in context of which a detailed report from the Probation Officer has been received. The report records that both respondents complied with all conditions of probation, maintained good conduct, and have not been involved in any other case.

12. Learned APP for State, on instructions from the I.O., affirms the aforesaid.

13. In view of the factual scenario of this case, this Court finds no merit in the State's challenge to the impugned judgement. Accordingly, the appeal stands dismissed.

14. A copy of this judgment be communicated to the Trial Court.

**MANOJ KUMAR OHRI**  
**(JUDGE)**

**DECEMBER 05, 2025/ry**