

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL REVISIONAL JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.R. 1992 of 2003

Jalal Ansari & Anr.

-Vs-

The State

For the Petitioner : Mr. Soumik Ganguly

For the State : Mr. Avishek Sinha

Judgment on : 24.02.2026

Ananya Bandyopadhyay, J.:-

1. The instant revisional application has been filed by the petitioner being aggrieved against the judgment and order dated 28.07.2003 passed by the Learned Additional Sessions Judge, 1st Court, Purulia in Criminal Appeal No. 2 of 2000 arising out of Purulia (M) P.S. Case No. 123 of 1994 dated 07.11.1994 in connection with Sessions Trial No. 14 of 1998.
2. The prosecution case precisely stated the *de facto* complainant and the accused persons to be co-villagers. On 07.11.94 while Madan Rajwar was returning home by trekker No. W.B. 55/0849, the accused persons in front of the house of Lafar Mahato at Chayanpur village forcibly prevented the vehicle to proceed and assaulted said Madan Rajwar with deadly weapons. The local people were attracted to the spot by the clamour and found Madan

Rajwar lying injured and were informed of the brutal assault upon him by the accused persons. Madan Rajwar was removed to the police station followed by a complaint by Taj Uddin Ansari.

3. Purulia (M) P.S. on the basis of the complaint registered a case being Purulia MPS Case No.123 of 1994 dated 07.11.94 under Sections 147/307/149 of the Indian Penal Code.
4. On the basis of such complaint, investigation was initiated and on completion of investigation; charge-sheet was submitted against the accused persons along with accused persons under Sections 147/149/307 of the Indian Penal Code.
5. The petitioners stated the charges were framed under Sections 147/149/307 of the Indian Penal Code against all the accused namely, Bidyadhar Rajwar, Lafar Mahato, Khodabox Ansari, Jalal Ansari, Kurban Ansari, Rajabali Ansari alias Chakran and Ashoke Gorain. After adducing evidence, all the accuseds were convicted by the Learned Assistant Sessions Judge under Sections 307/149 of the Indian Penal Code on 21.01.2000. Jalan Ansari and Rajabali Ansari sentenced under Section 235(2) of the Cr.P.C. to suffer rigorous imprisonment for five years and to pay a fine of Rs.3,000/- in default, to suffer a simple imprisonment for six months, subject to set off under Section 428 of the Cr.P.C. for the offence punishable under Sections 307/149 of the Indian Penal Code. Accused Rojabali Mahato was sentenced under Section 235(2) of the Cr.P.C. to suffer rigorous imprisonment for three years and to pay a fine of Rs. 2,000/- in default to suffer simple

imprisonment for four months subject to set off under Section 428 Cr.P.C. for the offence punishable under Sections 307/149 of the Indian Penal Code. Each of the accused Bidyadhar Rajwar, Khodabox Ansari, Kurban Ansari and Ashoke Gorain sentenced under section 235(2) of the Cr.P.C. to suffer rigorous imprisonment for 2 years and to pay fine of Rs. 1,000/- in default, to suffer simple imprisonment for three months subject to set off under Section 428 Cr.P.C. for the offence punishable under Section 307/149 of the Indian Penal Code.

6. The petitioners stated challenging the said order of conviction dated 21.01.2000, all the accused persons and/or convicted persons preferred a criminal appeal before the Sessions Judge, Purulia, being Criminal Appeal No.2 of 2000.
7. Ultimately the said Appeal was heard by the Additional Sessions Judge, First Court, Purulia, and through a judgment on 28.07.2003, the present petitioners were found guilty of the offence punishable under Section 307 of the Indian Penal Code, and they had been convicted thereunder, but they were found not guilty of the charge punishable under Section 147 of the Indian Penal Code. Thus the accused petitioners were sentenced to suffer rigorous imprisonment for five years and to pay a fine of Rs.2,000/- each, in default to undergo rigorous imprisonment for 3 months each, and thus the order passed by the Trial Court as against the petitioners were modified by the Appellate Court and rest of the accused were found not guilty and acquitted.

8. The Learned Advocate representing the petitioners submitted as follows:-

i. PW-1/Tajuddin Ansari, lodged the complaint on behalf of the injured.

He reached the kuli at about 7.30 P.M. after hearing a clamour. He met the khalasi (cleaner) of the trekker, who told him about the assault. He went to the spot and found Madan to be injured at a place about less than half kilometer from his house. The members of the family of Madan reached the spot prior to him. Madan Rajwar supplied the trekker no. WB 55/0849. Madan Rajwar narrated the accused persons, armed with tangi, table, chora, and lathi, detained the trekker and assaulted him. Madan did not state how the assault took place. The accused persons were followers of a political party. Madan was a member of another political party. He took the injured Madan to the P.S/, where he drafted and submitted the complaint at about 9.30 p.m.

ii. PW-2/Madan Rajwar, the injured victim recounted the incident of assault. On 07.11.1994 at about 7.30 p.m., he was returning home to Chayanpur village by a trekker. (No WB55/0849). In front of the house of Lafar Mahato, a group of accused persons, including the petitioners Jalal Ansary, and Rajabali alias Charkan Anasary, intercepted the vehicle and forced him to get down. PW-2 deposed the owner of the trekker was Krishnapada Singh of village Mohata. Asish Banerjee was the driver of the vehicle at the relevant time. Phani Raja K Mohata was the khalasi of the vehicle at the relevant time. Only two passengers

boarded on that trip. (Bholo Shaw and another not known). Jalal Ansary inflicted a blow with a gupti (a narrow dagger) on the left side of his belly. Rajabali alias Charkan inflicted two blows with a gupti on his right side near the belly and chest. Lafar Mahato threatened the driver of the trekker with a tangi. He sustained three wounds. Upon his cries for help, his family members (daughter, aunt / Kakima, and brother Mohar Rajwar) arrived, and the assailants fled. He was first taken to the P.S., referred to Purulia Hospital, and then to Bankura Hospital for an operation. He was discharged on 19.11.94, but had to be re-admitted on 02.12.94 due to sepsis of the wound.

- iii. PW-3/Trekker Driver could not identify the accused. Driver said the trekker was full of passengers on the relevant trip but injured said there were only two passengers.
- iv. PW-4/Villager led by commotion reached the place in front of the house of Mahato, where Madan was bleeding and narrated the incident of being assaulted by ballam, chaku, table, tangi.
- v. PW-5/Khalasi was unable to identify any of the assailants.
- vi. PW-6/Medical Officer on 2.12.94 examined Madan, found mark of operation on left side of abdomen, also stated he was treated by Dr. Ashish Ghosh on 7.11.94 with history of stabbing.
- vii. PW-7/Treating Doctor (Surgeon) found stab wound $\frac{1}{2}$ c. m at left flank skin deep. A stab wound $\frac{1}{2}$ c.m. at right hypochondrium that means just below the right chest cage. Suspected penetrating injury of the

liver. Blood was found coming out from the penetrating wound. Referred the patient to Bankura Medical College and Hospital on 7.11.94 at about 9.35 p.m. He suspected the wounds to be grievous and such injuries can cause death. According to him such injuries might be caused by gupti, churi and the point of the sword. The bed head ticket did not mention the names of the assailants. The injury found also possible as a result of fall on sharp pointed object including the broken glass.

- viii. PW-8/Sub-Inspector on that day at 21.10 hrs. received a written complaint against the F.I.R. He reached Purulia hospital and found the condition of the injured to be serious. Vehicle was not seized.
- ix. PW-9/Susanta Kr. Bhattacharya, stated Madan was admitted with several injuries, further stated that Dr. A. Biswas operated an operation Splenectomy, repaired of gastric wound and lavage and lastly after treatment, on 20.11.94, Madan was discharged.
- x. The injured victim (PW-2) stated he was stabbed with a "gupti" by the two petitioners. However, the medical evidence was contradictory. PW-7 (Doctor) stated the injury was caused by a sword. The initial complaint lodged by PW-1 mentioned weapons like a knife and a sword, which the defence argued was "totally contrary" to the victim's later specific statement. PW-9 (Doctor) stated that the victim's history sheet recorded a stab injury by three persons, but "no names [were] mentioned," which the defence argued "falsifies the case of the

prosecution" against the named petitioners. The defence argued there was "no iota of evidence" on how the miscreants were identified by PW-2 at night (7:30 P.M.), particularly being "after 2/3 days of Kalipuja," suggesting poor visibility.

- xi. The Investigating Officer failed to seize the blood-stained wearing apparel (Punjabi/Genji) of the victim, which PW-2 testified was pierced by the gupti blows. The defence argued this "seriously prejudiced" the accused.
- xii. The Courts failed to consider that "no independent witness" was examined by the prosecution to support the charge.
- xiii. The defence pointed out the Driver and Cleaner of the trekker and the other passengers "failed to identify the miscreants" at the place of occurrence, even though the vehicle was full of people.
- xiv. The evidence of PW-3 and PW-5 was noted as being "quite different from PW1 and PW2 regarding the weapons used."
- xv. The Appellate Court acquitted the petitioners of the charge under Section 147 IPC (Rioting), yet simultaneously observed that the accused "unlawfully assembled with common object". The defence contended this was a "self-contradictory" findings, as the common object was an essential element of the charge under which the petitioners were ultimately convicted under Sections 307/149 of the Indian Penal Code.

- xvi. The Appellate Court failed to appreciate the willful failure of the prosecution to seize the wearing apparels of the victim to unearth the truth, which seriously prejudiced the accused/petitioner.
 - xvii. The prosecution did not examine crucial material witnesses, including Dr. S. Roy, other passengers and neighbours, and the Court ought to have presumed adversely due to the withheld of important witnesses.
 - xviii. Medical expert's evidence had been contrary.
 - xix. PW-6/Dr. stated the history sheet did not include the name of any of the appellants and the cut-marked wearing apparel was not produced
 - xx. PW-7, Dr. A. Ghosh stated the injury was caused by a sword.
 - xxi. PW-9 stated it was a case of stab injury by three persons and no names were mentioned, which falsified the prosecution's case.
 - xxii. Report collected by Investigating Officer revealed history of being stabbed of Jalal and Khodabox. Stab injury done by three persons.
9. The Learned Advocate representing the State submitted as follows:-
- i. The injuries sustained by the injured witness must be evaluated for the foundation of the conviction given under Section 307 of the Indian Penal Code. The essentials replicated as follows:-
 - a) Intent or Knowledge to Cause Death: The core element was the mental state of the accused. They must have had the specific intention to kill, or the knowledge that their act was so dangerous that it was likely to cause death.

- b) Circumstances Making the Act a Murder Attempt: The act must be such that, had it resulted in death, it would have amounted to murder under Section 300 of the Indian Penal Code. The circumstances of the act are critical in determining the presence of the required intent.
 - c) An Overt Act: There must be an actual act performed by the accused with the intent to kill. The act must be a step towards the commission of murder.
- ii. Place of Occurrence: The injured witness was discovered lying in front of the house of one Lafar Mahato who was named in the FIR as one of the assailants and was convicted in the Trial Court. He was later on acquitted by the Appellate Court, which proved the victim was allegedly assaulted in front of one of the co accused's house wherein all of them gathered with a mala fide intention and finally was left in a moribund condition.
- iii. Previous Enmity: PW-2, the injured victim clearly deposed in his examination- in-chief that the present petitioners dragged him behind trekker saying that he should be punished for the case instituted by him which clarified the point that the witness instituted a case against the present petitioners which motivated them to organize themselves in an unlawful manner to assault the witness culminating in death.
- iv. Overt Acts attributed on the part of the Petitioners: PW-2, the injured witness of the present case mentioned that when he tried to escape

from the trekker he was dragged out and petitioner no. 1, Jalal Ansari inflicted a blow with gupti on the left side of his belly and petitioner no.2, Rajabali Ansari inflicted two blows on the right side near his belly and chest.

- v. PW's 1 and 4 were the first persons to reach PW-2, the injured witness on hearing the latter's hue and cry. They clearly mentioned in their evidence that PW-2 stated to them that the petitioners armed with deadly weapons detained the trekker, pushed him down and assaulted him deliberately with the intention to kill him.
- vi. PW-3, the driver of the vehicle and eyewitness to the incident corroborated the incident and stated that the present petitioners threatened him to be quiet and dragged PW-2 behind the trekker and assaulted him with a blow of gupti.
- vii. PW-5, the cleaner of the vehicle corroborated the incident and stated that the present petitioners threatened PW-3 to be quiet and dragged PW-2 behind the trekker and assaulted him. He informed the same to some of the villagers who were the relatives of PW-2.
- viii. The injured witness categorically segregated overt acts on the part of the present petitioners. The driver who sat in front of the vehicle failed to witness the separate overt acts though he saw the deadly weapons carried by the petitioners. The above mentioned depositions clearly attributed specific overt acts committed by the petitioners in course of attempting to kill the victim. The circumstances inevitably lead to the

obvious fact wherein the victim was assaulted by the petitioners with a mala fide motive.

- ix. Injuries suffered by the Victim: The victim suffered multiple injuries owing to petitioners' assault by the deadly weapons.
- x. PW-2, the injured victim claimed that petitioner no. 1, Jalal Ansari inflicted a blow with gupti on the left side of his belly and petitioner no.2, Rajabali Ansari inflicted two blows on the right side near his belly and chest.
- xi. PW-7, the doctor who treated PW-2 on 7.11.1994 found a stab wound on left flank, another below the right chest cage with suspected penetrating injuries of liver. He referred him to Bankura Medical College and stated the injuries could cause death and might have resulted from deadly weapon namely gupti. The injuries mentioned herein evidently supports the victim's account and his adduced version of the incident.
- xii. On referring PW 2 to Bankura Medical College he was examined by PW-9 on 8.11.1994. He too found incised wounds over PW-2's right arm, abdomen and right side of lower chest. PW-2 was discharged on 20.11.1994. He was admitted in the hospital for about 12 days as there was accumulation of blood in the abdomen and chest along with splenic tear perforation, intestinal wounds. The wounds inherently supported the prosecution story as adduced by the victim PW-2. The

victim was severely injured which would have culminated in death if proper treatment was not rendered on time.

- xiii. Thereafter, victim was again admitted under PW-6 on 2.12.1994 wherein acute lung abscess was detected with the infected operated wound on the left side of the abdomen. The history of the previous stab injury was mentioned by him. Again the victim was discharged after 18 days on 20.12.1994.
- xiv. The Injury Report collected by PW-8 (Investigating Officer revealed a history of stabbing on the victim by Petitioner Jalal Ansari.
- xv. The above noted injuries, injury report and the treatment extended to the victim clarifies the very foundation of the conviction so given to the petitioners.
- xvi. The victim suffered repeatedly due to multiple stab injuries causing grave danger to his life and limb.
- xvii. Presence of Independent Witnesses: The present case had been clearly supported by the independent witnesses namely PW-3, driver and PW-5, cleaner of the vehicle who were present there. They were not personal relatives who adduced falsely motivated by a personal grudge.
- xviii. The defence contended non seizure of wearing apparel of the victim constituted a lacunae in the investigation. The tear perforation of spleen, stomach and near D.J. as adduced by the relevant attending doctors clarify examination of the perforation of the wearing apparel

was not obligatory as the medical evidence was enough to prove the extent of injuries caused.

- xix. Intent or Knowledge of the Petitioners to Cause Death: The chain of circumstances leading to the incident satisfies the essentials for the conviction. The guilty mind of the petitioners can simply be established by the mere presence of the extended crowd armed with violent weapons at the PO.
- xx. The petitioners were well acquainted with the fact that stabbing with the pointed deadly weapons would eventually result in the death of the victim.
- xxi. Factors that weighed before the Appellate Court to acquit other 5 co-accused convicted alongside the petitioners: The co-accuseds were convicted under Sections 307/149 of the Indian Penal Code by the Trial Court. The injured victim did not apprise any specific overt on the part of the co-accuseds as the deadly blows were inflicted by the two present petitioners. The eye-witness' account and the victim's reliable evidence segregated the petitioners and co-accused on separate footing and their respective involvements in the said incident. The common object of the co-accused's in the attempt to kill the victim was not proved beyond reasonable doubt, following which they were acquitted and the present petitioners were convicted.
- xxii. The present case remained a premeditated plan of the petitioners to kill the victim owing to a personal grudge regarding a prior case filed

by the victim. Political differences between them also became an incidental factor which motivated the same. Subsequently the petitioners gathered at the place of occurrence armed with deadly weapons and a mala fide intention to cause serious bodily injury to the victim inevitably culminating in death. The same was witnessed by the driver and the cleaner of the vehicle being independent witnesses. Herein the injuries and the doctors' evidences backed the prosecution story. The victim himself attributed specific overt acts on the part of the Petitioners giving a vivid description of the incident. The Trial Court and the Appellate Court has respectively relied on the said facts as no legal deformities had cropped up. Thus, the conviction should be inherently upheld to meet the ends of justice.

10. The Hon'ble Supreme Court in ***State of Himachal Pradesh vs. Shamsher Singh¹***, held as following:-

“12. It may be emphasized that to attract Section 307 IPC, it is not necessary that the hurt should be grievous or of any particular degree. If hurt of any nature is caused and it is proved that there was intention or knowledge to cause death, Section 307 IPC would stand attracted.

13. In the case at hand, the accused-respondent fired from his service weapon AK-47 and since he was a constable in the army, he was well aware that gunshot from such a weapon, if hits anyone will certainly result in causing death. There is no denial of the fact that the injured had sustained four injuries, two each on both the upper thighs and they were of grievous nature. The injuries may not

¹ 2025 INSC 503

be life threatening, but it leaves no doubt that there was intention to cause death.

.....”

11. The Hon’ble Supreme Court in the case of **STATE OF MADHYA PRADESH**

vs. KANHA² held the following: -

“13. *The above judgments of this Court lead us to the conclusion that proof of grievous or life-threatening hurt is not a sine qua non for the offence under Section 307 of the Penal Code. 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.*

14. *The trial court based its conviction on the evidence adduced at the trial. PW 1 Dr P.K. Mishra had examined the injured on 8-10-2003 and found 11 punctured wounds of sizes varying from 0.4 × 0.5 cm to 0.4 × 0.6 cm. The injuries were bleeding, but no blackness was present. He noted that the wounds were caused by a firearm and were inflicted in six hours before the examination. The witness stated that the confirmation of the injuries depended on the x-ray report and expert opinion of the ward doctor. The report of the Radiologist (PW 2) stated that he had observed multiple small rounded radiopaque shadows of metallic density. This is indicative of the presence of firearm injuries.*

15. *Based on the evidence of the witnesses, the trial court came to the conclusion that the injuries were caused by the respondent. Dashrath Singh (PW 11) deposed that the respondent shot at him in the right thigh with a countrymade rifle. The complainant (PW 12)*

² (2019)3 SCC 605

stated that the respondent fired at PW 11 with a deliberate intention to kill him. The ocular evidence is cogent and corroborated by the medical evidence.”

.....

“18. The evidence establishes that the injuries were caused by a firearm. The multiplicity of wounds indicates that the respondent fired at the injured more than once. The fact that hurt has been caused by the respondent is sufficiently proven. The lack of forensic evidence to prove grievous or a life-threatening injury cannot be a basis to hold that Section 307 is inapplicable. This proposition of law has been elucidated by a two-Judge Bench of this Court in Pasupuleti Siva Ramakrishna Rao v. State of A.P. [Pasupuleti Siva Ramakrishna Rao v. State of A.P., (2014) 5 SCC 369 : (2014) 2 SCC (Cri) 584] : (SCC p. 376, para 18)

“18. There is no merit in the contention that the statement of medical officer that there is no danger to life unless there is dislocation or rupture of the thyroid bone due to strangulation means that the accused did not intend, or have the knowledge, that their act would cause death. The circumstances of this case clearly attract the second part of this section since the act resulted in Injury 5 which is a ligature mark of 34 cm × 0.5 cm It must be noted that Section 307 IPC provides for imprisonment for life if the act causes “hurt”. It does not require that the hurt should be grievous or of any particular degree. The intention to cause death is clearly attributable to the accused since the victim was strangled after throwing a telephone wire around his neck and telling him that he should die. We also do not find any merit in the contention on behalf of the accused that there was no intention to cause death because the victim admitted that the accused were not armed with weapons. Very few persons would normally describe the Thumbs up bottle and

a telephone wire used, as weapons. That the victim honestly admitted that the accused did not have any weapons cannot be held against him and in favour of the accused.”

(emphasis supplied)

19. *In the present case, the nature of the injuries shows that there were eleven punctured wounds. The weapon of offence was a firearm. The circumstances of the case clearly indicate that there was an intention to murder. The presence of 11 punctured and bleeding wounds as well as the use of a firearm leave no doubt that there was an intention to murder. Thus, the second part of Section 307 of the Penal Code is attracted in the present case.”*

12. The Hon’ble Supreme Court in the case of **Shoyeb Raja vs. State of Madhya Pradesh & Ors**³. observed as follows:-

“10. *Section 307 IPC is the charge that the Courts below have concurrently, refused to frame. It reads as under:—*

“307. Attempt to murder.—Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned. Attempts by life convicts.— When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.”

³ 2024 INSC 731

11. *Let us at this stage, consider the law as laid down by this Court in respect of this section, as also that of Section 34 IPC, given that there are a total of eight respondents (accused) before the court.*

*In **State of Maharashtra v. Kashirao**³, the Court identified the essential ingredients for the applicability of the section. The relevant extract is as below:*

“The essential ingredients required to be proved in the case of an offence under Section 307 are:

(i) that the death of a human being was attempted;

(ii) that such death was attempted to be caused by, or in consequence of the act of the accused; and

(iii) that such act was done with the intention of causing death; or that it was done with the intention of causing such bodily injury as : (a) the accused knew to be likely to cause death; or (b) was sufficient in the ordinary course of nature to cause death, or that the accused attempted to cause death by doing an act known to him to be so imminently dangerous that it must in all probability cause (a) death, or (b) such bodily injury as is likely to cause death, the accused having no excuse for incurring the risk of causing such death or injury.”

11.2 *This Court in **Om Prakash v. State of Punjab**⁴, as far back as 1961, observed the constituents of the Section, having referred to various judgments of the Privy Council, as under:*

“a person commits an offence under Section 307 when he has an intention to commit murder and, in pursuance of that intention, does an act towards its commission irrespective of the fact whether that act is the penultimate act or not. It is to be clearly understood, however, that the intention to commit

the offence of murder means that the person concerned has the intention to do certain act with the necessary intention or knowledge mentioned in Section 300. The intention to commit an offence is different from the intention or knowledge requisite for constituting the act as that offence. The expression “whoever attempts to commit an offence” in Section 511, can only mean “whoever : intends to do a certain act with the intent or knowledge necessary for the commission of that offence”. The same is meant by the expression “whoever does an act with such intention or knowledge and under such circumstances that if he, by that act, caused death, he would be guilty of murder” in Section 307. This simply means that the act must be done with the intent or knowledge requisite for the commission of the offence of murder. The expression “by that act” does not mean that the immediate effect of the act committed must be death. Such a result must be the result of that act whether immediately or after a lapse of time.”

(Emphasis supplied)

11.3 **Hari Mohan Mandal v. State of Jharkhand**⁵ holds that the nature or extent of injury suffered, are irrelevant factors for the conviction under this section, so long as the injury is inflicted with animus. It has been held:

“10. ...To justify a conviction under this section, it is not essential that bodily injury capable of causing death should have been inflicted. Although the nature of injury actually caused may often give considerable assistance in coming to a finding as to the intention of the accused, such intention may also be deduced from other circumstances, and may even, in some cases, be ascertained without any reference at all to actual wounds. ...What the court has to see is whether the

act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section. An attempt in order to be criminal need not be the penultimate act. It is sufficient in law, if there is present an intent coupled with some overt act in execution thereof.

11. It is sufficient to justify a conviction under Section 307 if there is present an intent coupled with some overt act in execution thereof. It is not essential that bodily injury capable of causing death should have been inflicted. If the injury inflicted has been with the avowed object or intention to cause death, the ritual nature, extent or character of the injury or whether such injury is sufficient to actually causing death are really factors which are wholly irrelevant for adjudging the culpability under Section 307 IPC. The section makes a distinction between the act of the accused and its result, if any. 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. Therefore, it is not correct to acquit an accused of the charge under Section 307 IPC merely because the injuries inflicted on the victim were in the nature of a simple hurt.”

(Emphasis supplied)

13. The present revisional application is directed against the judgment of conviction and order of sentence passed by the Learned Sessions Judge as stated above. The prosecution case precisely stated on 07.11.1994 at approximately 07:30 p.m., the victim (PW-2) was intercepted while travelling in a trekker and was allegedly assaulted with sharp-edged weapon (*Gupti*) by the petitioner resulting in grievous injury.

14. At the outset, the substratum of the prosecution case rests upon the testimony of P-W2, Madan Rajwar, the injured victim himself. The evidentiary value of the testimony of an injured witness has long been recognised in criminal jurisprudence as a replica of guaranteed truth. A person who has suffered injuries in the course of the same occurrence stands on a higher pedestal of credibility since his presence at the place of occurrence cannot be doubted and the injuries sustained lend intrinsic assurance to the veracity of his narration. In the present case, PW-2 categorically deposed that while returning home by a trekker on the evening of 7th November, 1994 the vehicle was intercepted by the accused persons including the present petitioners. He was forcibly dragged down and assaulted by sharp edged weapon namely a “gupti”. The injured witness specifically attributed overt acts to petitioner No. 1/Jalal Ansari and petitioner No. 2/Rajabali Ansari stating that Jalal Ansari inflicted a blow with a “gupti” on the left side of his abdomen while Rajabali Ansari delivered two blows on the right side near the abdomen and chest.

15. This Court finds that the testimony of PW-2 remained consistent and cogent on the core, aspect of the incident, namely the interception of the vehicle, the dragging down of the victim, and the infliction of stab injuries by the petitioners. The witness had no conceivable reason to falsely implicate the petitioners while sparing the real culprit, particularly when the assault left him grievously injured and fighting for survival.

16. The medical evidence on record furnished substantial corroboration to the ocular version of PW-2. PW-7 the treating Surgeon, found penetrating stab injuries on the left flank and below the right chest cage with suspected injury to internal organs including the liver. The injuries were of such gravity that the victim had to be immediately referred to Bankura Medical College and Hospital. The subsequent treatment records revealed the victim underwent surgical intervention, including Splenectomy and repair of gastric injuries and remained hospitalised for a considerable period. The medical testimony further established the injuries were capable of causing death in the ordinary course if timely medical intervention had not been provided.
17. Thus, the nature situs and severity of the injuries unmistakably demonstrate that the assault was not a casual or trivial attack but a brutal and potentially fatal act carried out with sharp penetrating weapons. Such injuries squarely fall within the ambit of Section 307 of The Indian Penal Code as they clearly disclose the intention or knowledge requisite for the commission of the offence as aforesaid.
18. The defence has attempted to assail the prosecution case by highlighting certain discrepancies between the medical evidence and the ocular testimony regarding the precise weapon used as well as the omission of the names of the assailants in the initial medical history. However, these submissions do not persuade this Court. It is well settled that minor inconsistencies between medical evidence and ocular testimony do not

necessarily demolish the prosecution case when the core narrative of the occurrence remains intact. The medical witnesses in the present case merely opined the injuries could have been caused by sharp penetrating weapons such as “gupti”, “churi” or similar instruments. Such an opinion does not negate the specific assertion of the injured witness regarding the use of a “gupti”.

19. Equally unconvincing is the argument founded upon the omission of the names of the assailants in the bed head ticket or medical history. The primary duty of the attending medical practitioner is to ensure prompt treatment of the injured patient and not to record a detailed criminal narrative of the incident. The absence of the names of the accused persons in the hospital records, therefore cannot by itself be treated as a circumstance discrediting the prosecution case. The defence has also emphasized certain alleged lapses in the investigation particularly the non seizure of blood stained wearing apparel of the victim and the failure to examine certain independent witnesses. While such omissions may reflect imperfections in the investigation, it is trite law that deficiencies on the part of the investigating agency do not necessarily vitiate the prosecution case when the substantive evidence on record inspires confidence. The Court must examine whether the evidence adduced by the prosecution is intrinsically reliable and incapable of sustaining the conviction notwithstanding such investigating lapses. In the present case the direct testimony of the injured witness, corroborated by medical evidence and

supported by surrounding circumstances sufficiently established the guilt of the petitioners beyond reasonable doubt.

20. The defence further sought to rely upon the inability of PW- 3 the driver of the trekker and PW-5 the cleaner to identify the assailants. However the evidentiary value of such testimony must be appreciated in the context of the circumstances prevailing at the time of the occurrence. The assault took place in a sudden and violent manner and the driver and cleaner were primarily concerned with their own safety. Their inability to identify the miscreants does not render the testimony of the injured witness unreliable, particularly when the latter had a clear opportunity to observe his attackers and unequivocally named them.

21. It was also contended that the Appellate Court adopted a self contradictory approach by acquitting certain co-accused while sustaining the conviction of the present petitioners under Section 307/ 149 of the Indian Penal Code. This submission too does not withstand scrutiny. The Appellate Court upon a careful evaluation of the evidence found that the overt acts causing the grievous injuries were specifically attributed to the present petitioners. The role of the other co-accused persons was not established with the same degree of certainty and consequently they were given the benefit of doubt. Such differentiation between accused persons based on the quality of evidence is neither impermissible nor unusual in criminal adjudication.

22. Furthermore the evidence on record unmistakably revealed the existence of prior enmity between the victim and the petitioners arising out of an earlier

case instituted by the victim. The assault therefore cannot be viewed as a spontaneous or accidental attack, but bears the imprint of a premeditated attack motivated by personal animosity. The petitioners intercepted the vehicle,, dragged the victim behind it, and inflicted multiple stab injuries with deadly weapons. These circumstances clearly established the intention and knowledge necessary to attract the offence under Section 307 of the Indian Penal Code.

23. In revisional jurisdiction, the Court does not sit as a Court of Appeal to reassess the entire evidence unless there is a glaring miscarriage of justice or manifest illegality in the findings of the Trial Courts. The concurrent conclusions reached by the trial court and affirmed by the Appellate Court are based upon a proper appreciation of the evidence and do not suffer from any perversity or legal infirmity warranting interference.

24. Having regard to the consistent testimony of the injured witness, the compelling corroboration furnished by the medical evidence, the gravity of the injuries sustained by the victim and the surrounding circumstances demonstrating motive and intent, this Court is satisfied that the prosecution has successfully established the guilt of the petitioners for the offense punishable under Section 307 of the Indian Penal Code.

25. It is a legal paradox to maintain a conviction under Section 307/149 of the Indian Penal Code while simultaneously negating the existence of an unlawful assembly comprising of five or more persons. Without the foundational common object of an unlawful assembly, the vicarious liability

under Section 149 of the Indian Penal Code cannot be sustained. The conviction under Section 307 of the Indian Penal Code is upheld. The petitioners are acquitted of the charges under Section 149 of the Indian Penal Code.

26. Under such facts and circumstances, considerable time of thirty two (32) years has lapsed from the date of commission of the offence; the sentence is reduced to two (2) years along with payment of fine of Rs.3,000/-.

27. Accordingly, the instant revisional application being CRR 1992 of 2003 is dismissed.

28. Let the copy of this judgment be sent to the Learned Trial Court as well as the police station concerned for necessary information and compliance.

29. All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

(Ananya Bandyopadhyay, J.)