



CGHC010216262026 2026:CGHC:46967

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

The date when the case is reserved	The date when the judgment is pronounced	The date when the judgment is uploaded on the website	
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26.10.2026	05.11.2026	***	05.11.2026

CRA No. 1410 of 2026

1 - Moksh Verma @ Sahil Verma S/o Shashikant Verma Aged About 19 Years R/o Village- Of Victim, (Not Mention In The Cause Titel- Village- Gatura), Police Station- City Kotwali- Baloda- Bazar, District- Baloda-Bazar- Bhatapara, C.G.

... Appellant

versus

1 - State Of Chhattisgarh Through- City Kotwali- Baloda- Bazar, District- Baloda-Bazar- Bhatapara, C.G.

... Respondent

(*Cause title, as taken from CIS*)

For Appellant	**:**	Mr. Hemant Gupta, Advocate
For State/Respondent	**:**	Mr. Anish Tiwari, Dy. Govt. Advocate.

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)

CAV Judgment

1. This criminal appeal has been preferred by the appellant under Section 14-A(1) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the "SC/ST Act"),

challenging the judgment of conviction and order of sentence dated 22.05.2026 passed by the learned Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, Balodabazar, District Balodabazar-Bhatapara, Chhattisgarh (henceforth referred to as, “Special Court”), in Special Sessions Case No.16/2025, whereby the appellant has been convicted and sentenced as under :-

Sl. No.	**Conviction u/S**	**Jail Sentence**	**Fine Sentence**	**Default Stipulation**
01.	109 (1), BNS	R.I. for 5 years	Rs.1000/-	RI for 01 month
02.	25(1-B)(b), Arms Act	R.I. for 1 year	Rs.500/-	RI for 15 days
03.	3(1)(घ), SC/ST Act	R.I. for 6 months	Rs.500/-	RI for 15 days
All the sentences run concurrently.				

2. Case of the prosecution, in brief, is that on 14.07.2025, at about 1:30 p.m., the complainant Sukhram Yadav (Upsarpanch) was informed that the appellant, Moksh Verma @ Sahil Verma, had kept liquor at his house. Upon receiving the said information, the complainant, along with Sarpanch Bhagirathi Kurre, went to the house of the appellant to inquire into the matter. It is alleged that, during the course of the discussion, an altercation took place between the appellant and the persons present there regarding the sale of liquor in the village. The complainant and Bhagirathi Kurre intervened and attempted to resolve the dispute. However, the appellant allegedly abused Bhagirathi Kurre and made caste-related remarks against him. It is further alleged that, thereafter, when Bhagirathi Kurre was proceeding towards Balodabazar and reached near the motorcycle repair shop of Shilendra Rajak, the appellant arrived there on his scooter. The appellant

abused, threatened to kill and allegedly took out a knife and attacked Bhagirathi Kurre inflicted injuries on his abdomen. The injured was thereafter taken to the hospital for treatment. On the basis of the report lodged by the complainant, an FIR (Ex.P-4) bearing Crime No.679/2025 was registered at Police Station City Kotwali, Balodabazar, District Balodabazar-Bhatapara (C.G.), for the offences punishable under Sections 296, 351(2) & 109 of the Bharariya Nyaya Sanhita, 2023 (for short “BNS”) and Sections 25 & 27 of the Arms Act, 1959, and the investigation was taken up.

2.1 During the course of the investigation, the Investigating Officer prepared the spot map (Ex.P-5), recorded the statements of the witnesses, and collected the relevant medical documents. He also recorded the memorandum statement of the appellant (Ex.P-9), pursuant to which, a knife was recovered at the instance of the appellant and seized vide Ex.P-10. The blood-stained white-coloured shirt and jeans worn by the injured were seized vide Exs.P-6 and P-7, respectively. Other articles connected with the incident were also seized. The appellant was arrested vide Ex.P-19. The seized articles were sent to FSL for chemical examination, and the FSL report was obtained vide Ex.P-39. Upon completion of the investigation, the police filed the charge-sheet against the appellant for the offences punishable under Sections 296, 351 (2) & 109 of the BNS, Section 25 & 27 of the Arms Act and Sections 3(1)(ध) & 3(2)(v-क) of the SC/ST Act.

3. Learned Special Judge framed charges against the appellant for the offence under Sections 296, 351 (3) & 109 (1) of the BNS, Section 25

(1-B)(b) of the Arms Act and Sections 3(1)(घ) & 3(2)(v) of the SC/ST Act, who abjured his guilt and entered into trial.

4. In order to prove the charges, prosecution examined 18 witnesses and exhibited 39 documents. Statement of the appellant was recorded, in which he denied all the incriminating circumstances appearing against him and pleaded innocence. The appellant has not examined any witness in his defence but exhibited 10 documents.

5. After appreciating the oral and documentary evidence adduced by the prosecution, the learned Special Court, vide the impugned judgment dated 22.05.2026, convicted and sentenced the appellant as mentioned in paragraph 1 of this judgment. Hence, this appeal.

6. Learned counsel for the appellant submits that the dispute arose when the victim alleged that the appellant used to sell illicit liquor from his house. The victim also searched the appellant's house, but nothing was found. He further submits that, on account of the said issue, the appellant assaulted the victim only once. It is further submitted that, although the victim sustained an injury on his abdomen, no vital internal organ was affected. Learned counsel further submits that even if the appellant is held guilty of the said assault, the offence would, at the most, fall under Section 115(2) of the BNS. So far as the conviction of the appellant under Section 109(1) of the BNS is concerned, learned counsel submits that the incident involved only a single blow/injury. Though the injury sustained by the victim was on the abdomen, but it was not grievous in nature. Hence, learned counsel prays that the conviction of the appellant be modified. He further submits that the appellant has remained in jail for more than 15 months; therefore, his

sentence be reduced to the period already undergone. In support of his submissions, learned counsel has placed reliance upon the decisions of the Hon'ble Supreme Court in ***Jage Ram v. State of Haryana***, reported in (2015) 11 SCC 366, and ***Roshan Lal v. State of Haryana and Another***, reported in 2026 INSC 524.

7. *Per contra*, learned State counsel submits that the victim sustained an injury on a vital part of his body, i.e., the abdomen, due to which his intestine was also injured. He further submits that PW-18, Dr. Nitin Tiwari, has opined that if timely medical treatment had not been provided to the victim, the injury sustained by him would have been sufficient to cause his death. He further submits that the impugned judgment does not suffer from any perversity or illegality. Hence, he prays that the appeal be dismissed.

8. Heard learned counsel for the parties and perused the material available on record along with record of the Special Court.

9. PW-1 is victim. He has stated in his deposition that he belongs to Scheduled Castes community and the appellant belongs to the Kurmi OBC category. He has further stated that, on the date of the incident, at about 1:30 pm, upon receiving information that the appellant had kept liquor in his house, he, along with Sukhram Yadav (PW-2), went to the house of the appellant, where Doojram Dhruw (PW-3), Sukhnandan Sahu (PW-7), Bhushan Verma and Sevak Ram Verma also arrived. They asked the appellant to bring liquor kept in his room, whereupon the appellant abused them. When the victim stated that he would call the police, the appellant brought the liquor from the room and threw it in the courtyard (आँगन). He has further stated that the appellant also

abused him by referring to his caste and threatened to kill him. He has further stated that, after some time, when he was present near the motorcycle shop of Shilendra Rajak (PW-4), along with Sukhram Yadav (PW-2), for filling air in his motorcycle, the appellant rushed towards him, abused him by referring to his caste and stabbed him thrice in his stomach, due to which blood was oozing from injuries. Thereafter, Akash Burman and PW-2 took him on a motorcycle to Chanda Devi Hospital, Balodabazar, where he was admitted for treatment.

10. Sukhram Yadav (PW-2), Shilendra Rajak (PW-4), Jeevan Lal Rajak (PW-6) and Numesh Kumar (PW-8), who were also present at the place of occurrence when the appellant stabbed the victim, have supported aforesaid facts in their respective depositions. PW-2, Doojram Dhruw (PW-3) and Sukhnandan Sahu (PW-7), who had also gone to the house of appellant when victim went there to make him understand, have also supported the statement of victim (PW-1) that, when victim went to the house of the appellant, the appellant abused and threatened him.

11. During their cross-examination, the victim and the aforesaid witnesses have categorically denied the suggestion put forth by learned defence counsel that, since the appellant belonged to the rival party of the victim in the Panchayat election, he has been falsely implicated in the present case. They have also categorically denied the suggestion that the victim had apprehended some other persons who were selling liquor near the pond and that those persons had inflicted the injuries upon him. They have further denied the suggestion put forth in their cross-examination that, since there was a property dispute between

Sanat Verma (father of the appellant) and Bhushan Verma (uncle of the appellant), and the witnesses were on the side of Bhushan Verma, they had deposed against the appellant. Nothing has been elicited in the cross-examination of the aforesaid witnesses which would warrant discarding their statements supporting the deposition of the victim.

12. Dr. Nitin Tiwari (PW-18), who was a doctor at Chanda Devi Hospital, Balodabazar, and had examined and treated the victim on the same day, i.e., 14.07.2025, also found one stab injury on the abdomen, measuring 1.5 cm x 1 cm x 3 cm, on the lower part of the navel, from which blood was oozing. He has further stated that, on account of the said stab injury, the intestine of the victim was also damaged. Therefore, an operation was performed on the same day. His statement also finds support from the MLC report (Ex.P-33) prepared by him. Though he has admitted the suggestion of learned defence counsel that, if a person falls from a motorcycle and some object enters his stomach, he may sustain an injury similar to the one sustained by the victim, he has also admitted that such an injury may be self-inflicted. However, nothing has been brought on record during the cross-examination of the prosecution witnesses to show that the appellant had fallen from a motorcycle on the date of the incident or on any date around that time. Therefore, the aforesaid admissions made by the doctor are of no assistance to the appellant. The blood-stained clothes of the victim were also seized. Further, a sharp-edged iron knife measuring 13.5 inches in length and having a width of 1 inch at the middle of its blade was also recovered at the instance of the appellant pursuant to his memorandum statement (Ex.P-9) and seized vide seizure memo (Ex.P-10). Seizure of the aforesaid articles has also

been proved by the Investigating Officer, Malik Ram Bhardwaj (PW-15).

13. Though the victim (PW-1), Sukhram Yadav (PW-2), Shilendra Rajak (PW-4) and Jeevan Lal Rajak (PW-6) have stated in their depositions that the appellant abused the victim by referring to his caste, as the victim belongs to the Scheduled Castes category whereas the appellant belongs to the OBC category, however, in the FIR (Ex.P-4) lodged by PW-2 and his first police statement (Ex.D-3), he had not stated that the appellant had abused the victim by referring to his caste. Rather, in his subsequent statement (Ex.D-4), recorded after about 2½ months, he stated that the appellant had abused the victim by referring to his caste. The police statement (Ex.D-2) of the victim was also recorded subsequent to the date of the incident. Sukhram Yadav (PW-2) had accompanied the victim both to the house of the appellant and to the motorcycle repair shop, where the appellant assaulted the victim with a knife. Had the appellant abused the victim by referring to his caste, the said fact would not only have found mention in the FIR but also in the first police statement (Ex.D-3) of PW-2. Therefore, it is found that the allegation against the appellant regarding abuse of the victim by referring to his caste is an exaggeration and an afterthought. Hence, the said allegation cannot be held to have been proved beyond reasonable doubt. Consequently, the conviction of the appellant recorded by the learned Special Court for the offence under Section 3(1)(ध) of the SC/ST Act is not sustainable and is, accordingly, set aside.

14. As discussed above, the prosecution has proved the fact that the appellant assaulted the victim by means of a knife on his abdomen. Though the victim and PW-2 have stated that the appellant assaulted the victim thrice, but as per the medical evidence of Dr. Nitin Tiwari (PW-18), only a single stab wound measuring 1.5 cm x 1 cm x 3 cm was found on the left side of the abdomen, below the navel. Thus, though there is some exaggeration with regard to the number of blows, but the medical evidence also establishes that the victim sustained a single stab wound on his abdomen, as stated by him and the other eye-witnesses. Therefore, this Court finds that the learned Special Court has not committed any illegality in convicting the appellant for the offence under Section 25(1-B)(b) of the Arms Act. Accordingly, the conviction of the appellant for the said offence is upheld.

15. The principal question which arises for consideration before this Court is whether the conviction of the appellant for the offence under Section 109(1) of the BNS is sustainable or not.

16. Section 109 of the BNS reads as under:

> "109. **Attempt to murder.-** (1) 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.
>
> (2) When any person offending under sub-

> section (1) is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death or with imprisonment for life, which shall mean the remainder of that person's natural life."

17. Thus, from a bare perusal of the aforesaid provisions, it appears that, in order to constitute an offence under Section 109 of BNS**,** two elements are essential to be established. Firstly, the intention or knowledge to commit murder. Secondly, the actual act of trying to commit the murder. And, it must have both the necessary *mens rea* and *actus reus*. Hence, to sustain a conviction under this section, it is necessary to establish that, had the accused succeeded in his attempt and had the victim met his death because of such act, the offence of murder punishable u/s 103(1) of BNS would be established.

18. It is settled law that, an accused charged u/s 109 of BNS cannot be acquitted merely because the injuries inflicted on the victim were in the nature of simple hurt, as the determinative factor is intention or knowledge and not the nature of the injury. This principle was discussed by the Hon'ble Supreme Court in the case of ***State of Madhya Pradesh v. Saleem @ Chamaru,*** (2005) 5 SCC 554, the relevant paragraph of which reads hereunder:

> "**12.** 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. The section makes a distinction between an act of the accused and its result, if any. Such an act may not be attended by any result so far as the person assaulted is concerned, but still there may be cases in which the culprit would be liable under this section. It is not necessary that the injury actually caused to the victim of the assault should be sufficient under ordinary circumstances to cause the death of the person assaulted. 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." Nevertheless, the nature of injury actually caused does render considerable assistance to the court in ascertaining the intention of the accused. However, courts may also ascertain the intention from other circumstances, even without reference to actual wounds. The aforesaid principle stands reiterated in the case of **Bipin Bihari v. State of M.P.** (2006) 8 SCC 799, as follows:

> "9. 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. 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. 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. 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."

19. Keeping in mind the aforesaid principles, the issue which now requires consideration is whether the injuries in question were inflicted to the victim with the requisite intention or knowledge and under such circumstances that, had death ensued, the act would have amounted to murder.

20. The words 'such intention' found in Section 109 of BNS, refer to the intention referred to in Section 101 of BNS. It means: (i) intention to cause death; (ii) intention to cause such bodily injury, which the offender knows is likely to cause death; (iii) intention to cause such bodily injury, which is sufficient in the ordinary course of nature to cause death. Thus, the essential ingredient of the offence of attempt to murder is the intention to cause death. Such intention exists prior to the actual attempt and must be established independently of the act itself

or the *actus reus*. Once the requisite intention to commit murder is proved, the eventual outcome of the attempt becomes irrelevant, unless the attempt culminates in death, in which case the offence would fall within Section 101 of BNS. In the absence of proof of intention, a conviction under this provision cannot be sustained.

21. It is well-settled that the intention of an accused cannot be ascertained by directly examining his state of mind; rather, it has to be inferred from the surrounding circumstances, such as the type of weapon employed, the words spoken by the accused at the time of the incident, the motive behind the act, the parts of the body targeted, the nature and extent of the injuries inflicted, as well as the force and manner in which the blows were delivered.

22. In the light of the aforesaid settled law, if the facts and circumstances of the present case are examined, it is evident that no prior enmity between the appellant and the victim has been established. However, the victim (PW-1) and the eyewitness Sukhram Yadav (PW-2) have categorically stated that, when they were present at the appellant's house to make him understand, the appellant not only abused the victim but also threatened him by saying that whoever called the police would be beaten up one by one. It has further been established from their depositions that, after some time, when the victim and PW-2 were present near the motorcycle repair shop of Shilendra Rajak (PW-4), and Jeevan Lal Rajak (PW-6), the appellant arrived there on his scooter and assaulted the victim with a knife on his abdomen, which is a vital part of the human body. As per the bed-head ticket (Ex.P-29), the victim had sustained *a single penetrating clear lacerated wound*

just below left to umbilicus of abdomen 1.5 cm x1 cmx3 cm with active bleed penetrating due to peritoneum. The treating doctor, Dr. Nitin Tiwari (PW-18), has opined that, if timely treatment would not have been provided, the said injury was sufficient to cause the death of the victim. Thus, the evidence establishes that the appellant had initially threatened the victim with dire consequences and, after some time, left his house, reached the place where the victim was present and inflicted a knife injury on his abdomen, which is a vital part of the body. The sequence of events, particularly the intervening interval between the initial altercation and the subsequent assault, assumes significance. The assault was not inflicted during the course of the initial quarrel; rather, the appellant went to the place where the victim was present and attacked him with a knife. In these circumstances, the act of the appellant cannot be treated as a mere assault committed in the heat of the moment. The nature of the weapon used, the part of the body targeted, the medical evidence regarding the depth and nature of the injury, the opinion of the treating doctor and the conduct of the appellant preceding the assault, when considered cumulatively, clearly establish the requisite intention and knowledge contemplated under Section 109(1) of the BNS. Accordingly, this Court is of the considered opinion that the learned Special Court has not committed any illegality in holding the appellant guilty of the offence punishable under Section 109(1) of the BNS. The conviction of the appellant for the said offence, therefore, deserves to be affirmed.

23. The judgments relied upon by learned counsel for the appellant are distinguishable on facts, as the injuries sustained by the victims in those cases were inflicted on different parts of the body and the factual

circumstances were also different. In the present case, the appellant inflicted a knife injury on the abdomen of the victim, which is a vital part of the body, resulting in damage to the intestine and requiring immediate surgical intervention. Therefore, the aforesaid judgments are of no assistance to the appellant.

24. In view of the foregoing discussion and the findings recorded hereinabove, this Court holds that the prosecution has successfully established the guilt of the appellant for the offences punishable under Section 109(1) of the BNS and Section 25(1-B)(b) of the Arms Act. However, the prosecution has failed to establish the charge under Section 3(1)(ध) of the SC/ST Act beyond reasonable doubt. Consequently, the appeal deserves to be partly allowed to the aforesaid extent.

25. Accordingly, the present criminal appeal is **partly allowed**. The conviction of the appellant for the offence punishable under Section 3(1)(ध) of the SC/ST Act is hereby set aside, and he is acquitted of the said charge by extending him the benefit of doubt. The conviction of the appellant for the offences punishable under Section 109(1) of the BNS and Section 25(1-B)(b) of the Arms Act is hereby affirmed. However, having regard to the fact that the appellant inflicted only a single blow and the prosecution has failed to establish that he made any further attempt to inflict another blow, as well as the overall circumstances in which the incident occurred, the sentence of rigorous imprisonment imposed upon the appellant for the offence under Section 109(1) of the BNS is reduced from five years to three years. The fine amount and the default sentence imposed by the learned

Special Court shall remain intact. The sentence imposed for the offence under Section 25(1-B)(b) of the Arms Act shall also remain intact. Both the sentences shall run concurrently. The impugned judgment of conviction and order of sentence shall stand modified to the extent indicated hereinabove.

26. The appellant is reported to be in jail therefore there is no need to pass any order regarding his arrest, surrender etc.

27. Record of the Special Court along with copy of this judgment be sent back immediately to the Special Court concerned for compliance and needful, if any.

28. Pending interlocutory application(s), if any, stands disposed of.

Sd/-

(Naresh Kumar Chandravanshi)
Judge

Rukhsar