

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. CRA-S-1338-SB-2004

- (i) DEEPAK KUMAR @ BOBBY (SINCE DECEASED)
- (ii) PARVINDER KUMAR @ PAMMI

...Appellants

VERSUS

U.T. CHANDIGARH

...Respondent

And

2. CRA-S-1304-SB-2004

AMARJEET SINGH @ HAPPY

...Appellant

VERSUS

U.T. CHANDIGARH

Reserved on : 30.10.2025

Pronounced on: 3.02.2026

Judgment uploaded on: 06.02.2026

*Whether only the operative part of the judgment is pronounced
or whether the full judgment is pronounced: Full Judgment*

CORAM: HON’BLE MS. JUSTICE AARADHNA SAWHNEY

Present: Mr. Vansh Chawla, Advocate for the appellant
(in CRA-S-1338-SB-2004).

Mr. Rohit Kumar, Legal Aid Counsel for the appellant
(in CRA-S-1304-SB-2004).

Mr. Rajiv Vij, Additional Public Prosecutor
for the respondent-UT, Chandigarh.

AARADHNA SAWHNEY, J.

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1. This common order shall dispose of aforesaid two appeal since common questions of facts and law are involved in the same. For the sake of convenience, facts are being extracted from CRA-S-1338-SB-2024.

Instant appeal is directed against impugned judgment and order of sentence dated 04.05.2004 passed by the then learned Addl. Sessions Judge, Chandigarh whereby all accused except co-accused Laxman (A.4), who had died during the pendency of trial were convicted under Sections 307,341,323,506,34 IPC and sentenced to the following effect:

Name of convict	U/s	Sentence	In default
Deepak Kumar	307 IPC	To undergo RI for seven years and to pay fine of Rs.1000/-	To undergo RI for one month
	341/34 IPC	To undergo RI for one month	
	323 IPC	To undergo RI for three months	
	506/34 IPC	To undergo RI for one year	
Amarjit Singh	307 read with Section 34 IPC	To undergo RI for seven years and to pay fine of Rs.1000/-	To undergo RI for one month
	323 IPC	To undergo RI for three month	
	341/34 IPC	To undergo RI for one month	
	506/34 IPC	To undergo RI for one year	
Parvinder Kumar	307 read with Section 34 IPC	To undergo RI for seven years and to pay fine of Rs.1000/-	To undergo RI for one month
	323/34 IPC	To undergo RI for	

		three months	
	341/34 IPC	To undergo RI for one month	
	506/34 IPC	To undergo RI for one year	

2. Relevant facts as emerging from documents on record be noticed herein below:-

At about 12.00 AM on 05.04.2000, a telephonic message was received from Police Post PGI, Chandigarh, with regard to admission of injured boy a resident of Sector 28-C, Chandigarh, on account of having suffered injuries in an assault. On the receipt of the information, SI Hazura Singh (PW-7) reached hospital and after taking permission from the doctor on duty vide Ex.PC/1, recorded statement (Ex.PA) of injured Sushil Kumar @ Shallu (PW-2), son of Bhim Sen, r/o House No.2361, Sector 28-C, Chandigarh, *who pointed therein that he and his father are scrap dealers by profession and operate from plot No.111, Industrial Area Phase-I, Chandigarh. At about 09.30 PM on 04.04.2000, he was going on foot, towards House No.2484, Sector 28, Chandigarh to meet one of his relatives. When he reached near the house, he saw 4 young boys, who were previously known to him standing at the edge of the park. He disclosed the identification details of the aforesaid four boys as follows:-*

- 1. Deepak Kumar @ Bobby (A-1), son of Piyare Lal, r/o House No.2490-A, Sector 28-C, Chandigarh*
- 2. Amarjit Singh @ Happy (A-2), son of Baldev Singh, r/o 3160, Sector 28-D, Chandigarh.*
- 3. Parvinder Kumar @ Pammi (A-3), son of Brij Lal, r/o DM Colony, Chandigarh.*

4. Lakshman @ Lucky (A-4), son of Puran Singh, r/o House no.1086, Sector 19, Chandigarh.

Complainant further pointed out that as soon as, they (accused party) saw him approaching near them, they gheroed him. Amarjit Singh @ Happy (A-2) caught hold of his arm and demanded money from him. When he (c) refused, A-2 and his other accomplice, who are habitual drug addicts, lost cool and started threatening him with dire consequences in case their demand is not met. Amarjit (A-2) tightened his grip on him(c). Deepak Kumar @ Bobby (A-1), who was armed with a sharp edged/pointed object, with an intention to kill him, suddenly stabbed him(c) with the same on his left arm. Lucky (A-4) and Pammi (A-3) threw him on the road, when Bobby (A-1) again stabbed him on his back. Complainant specifically pointed out that all the four assailants mentioned hereinabove, assaulted him in furtherance of their common object to kill him. He raised an alarm, on hearing which, Gopal Kumar (PW-1), son of Dil Bahadur, R/o House No. 2032, Sector 28 Chandigarh, rushed up to him and saved him. If Gopal (PW-1) had not come to his rescue, the assailants would have killed him. While leaving, all four of them threatened to kill him on a suitable opportunity. After the incident, the police team arrived at the site and rushed him to the PGI, Chandigarh. Towards the end, complaint-injured requested the police authorities to catch hold of the assailants, as also to initiate criminal proceedings against them.

On the basis of said complaint and MLR (Ex.PB), which depicted that injured had suffered 03 injuries [02 stab wounds; one on left lateral chest and second on posterial abdominal wall) and abrasion on the right knee] , a formal case vide FIR No. 80 dated 05.04.2000(Ex.PA/2) was registered against all the

four assailants namely, Deepak Kumar @ Bobby, Laxman @ Lucky, Parminder Kumar @ Pammi & Amarjit Singh @ Happy for commission of offence punishable u/s 341, 323,307,506,34 IPC. During investigations, Investigating Officer SI Hazura Singh (PW-7) visited the site and prepared site plan Ex.PF. All the four accused were arrested, memo of articles recovered from their personal search was prepared. Vide Ex.PG, blood stained shirt and vest of injured was also taken into possession, converted into sealed parcel and sent to CFSL, Chandigarh for examination. The report of CFSL is appended as Ex.PE.

Admittedly, the weapon of offence could not be recovered from any of the accused. On 17.04.2000, vide application (Ex.DA), opinion with regard to the nature of injuries suffered by injured Sushil Kumar was sought from the treating doctor (Dr. Puneet Mittal (PW-4), SMO, PGI, Chandigarh), who vide Ex.DA/1 opined as follows:-

“Opinion regarding nature of injury No.1 is same as Grievous, as written in MLR.”

On 24.04.2000, scaled site plan Ex.PH was got prepared by IO from Constable Yashpal (PW-8).

On 08.06.2000, vide application Ex.DB, Investigating Officer again sought detailed opinion of the doctor with regard to nature of injury No.1. Dr. Puneet Mittal vide Ex.DB/1 opined as follows:

“The injury is Grievous as per definition of Grievous injury given in Parikh’s Text Book of Medical Jurisprudence 5th edition 1990, page 310, which says at point (4) Privation of any organ, (8) any hurt which endangers life”

On culmination of investigation, challan complete in all respect was filed in the Court. After complying with the mandatory provisions U/s 201 C.P.C, copies of challan were supplied to accused. The case was committed to the Court of Sessions. Accused were chargesheeted u/s 341, 323, 307, 506 read with 34 IPC, to which they did not plead guilty and claimed trial.

3. So as to prove the guilt of accused, prosecution examined as many as 08 witnesses. They are categorized as follows:-

Sr. No.	Witnesses	Name of Witnesses
1.	Complainant and related witnesses	Sushil Kumar (PW-2) Gopal Kumar (PW-1) eye witness to the incident.
2.	Medical witness	Dr. Puneet Mittal (PW-4)
3.	Witnesses related to Investigation	SI Hazura Singh (PW-7) Constable Dalip Singh (PW-5)
4.	Formal witnesses	SI Ved Parkash (PW-3) Constable Amrik Singh (PW-4) repeated twice HC Yashpal (PW-6) Constable Yashpal (PW-8)

PW Doctor Amit from PGI was given by learned PP before closing the prosecution evidence.

Complainant-injured Sushil Kumar, son of Bhim Singh, r/o House No. 2361, Sector 28, Chandigarh, at whose behest, criminal proceedings were initiated stepped in the witness box as PW-2. In his examination-in-chief, he reiterated the contents of complaint Ex.PA and narrated the manner in which the entire incident occurred, in which he suffered serious injuries. He also highlighted the role played by each of the four accused and identified the shirt (Ex.P-1) and the vest (Ex.P-2) worn by him at the time of occurrence. During cross-examination, he pointed out that he was given two knife blows. After the first stab, he tried to run away but the accused caught hold of him, when he was

stabbed for the second time. He was not able to point out with precision as to which of the four accused gave stab wounds to him. He clarified that he remained hospitalized for 6 days and that his statement was recorded by the police authorities on the next day of occurrence. Further, according to him Gopal (PW-1) had met him prior to the recording of the statement and after rescuing him had accompanied him to the hospital. He admitted that there was an electricity pole about 20-25 feet away from the spot of occurrence. Light emanating from the said pole was sufficient to see and identify the persons. He was not able to recollect as to whether the knife with which he was stabbed was taken by the accused or was left at the site. By the time Gopal (PW-1) arrived at the scene, he (PW-2) had already suffered serious injuries. He was not able to remember the names of the persons who had gathered at the site. It is further his stand that prior to the incident, accused used to demand money from him as they were from the same locality, but he never acceded to their demands, nor he is on friendly terms with them. He denied that at the given time and place, some unknown persons had inflicted stab wounds on him and that the present accused have been falsely implicated by him only at the instance of police.

Shri Gopal Kumar, son of Dil Bahadur, r/o House No.2032, Sector 28, Chandigarh, stepped in the witness box as PW-1. In his examination-in-chief, this witness deposed at about 09.30 PM on 05.04.2000, he was having a stroll in Sector 28, Chandigarh, when he heard noise of “*Bachao Bachao*”. On hearing which, he reached near House No.2383, Sector 28 Chandigarh and saw Sushil Kumar being beaten up by four persons, all of whom are present in the Court. Bobby (A-1) gave a ‘*churi*’ blow in the left abdomen of Sushil, whereas the others continued giving fist and slap blows to him (Sushil Kumar). He (PW-1)

raised an alarm. The accused though ran away but threatened Sushil with dire consequences. After some time, police arrived at the site and rushed injured Sushil to PGI, Chandigarh. His statement was also recorded by the police authorities. During cross-examination, this witness pointed out that on hearing cries of pain, he and several other persons of the same locality had rushed to the site. By the time he arrived, the others who had gathered, had separated the assailants from the injured. He admitted that he came to know about the identification details of the assailants later, which were disclosed to him by his friends. He did not notice any blood stains. The police authorities arrived and rushed injured to the hospital. At the time of occurrence, only Bobby (A-1) was arrested. The other accused were apprehended on the following day. Further according to him accused were successful in running away from the site. He denied deposing falsely.

Medical evidence - Dr. Puneet Mittal, then posted as SMO, PGI, Chandigarh, appeared in the witness box as PW-4 and deposed that on 04.04.2000, after examining injured - Sushil Kumar @ Shallu, son of Bhim Singh, following three injuries were noticed on his person.

- i) Stab wound 1 X 3 cm in size on left lateral chest wall 6/7 intercostal space. At the time of examination this injury was dressed with intercostal tube drainage.
- ii) Stab wound on posterial abdominal wall lower aspect left side 2 – 3 cm wide superficial stitched with three sutures.
- iii) Abrasion 1 cm X 1 cm front of the right knee joint.

Dr. Mittal opined that injuries No.1 & 2 were caused from sharp edged/pointed weapon whereas injury No.3 was from a blunt weapon. He also identified his signatures on Medico Legal Report (Ex.PB) prepared by him. He

further deposed that after the injured was admitted in PGI, information was given to the police officials, vide Ex.PB/1. IO had also sought his opinion before recording the statement of injured. Vide Ex.PC/1, injured was declared fit. During cross-examination, he expressed his inability to remember whether the opinion with regard to fitness of the injured was given first or MLR was recorded first. He admitted that the patient was conscious and that he did not notice any blood stained clothes on the person of the injured. IO did not show him any weapon of offence while taking his opinion with regard to nature of injuries.

Witnesses related to investigation -

SI Hazura Singh, Investigating Officer of the case appeared as PW-7 and elaborated upon the steps taken by him after receiving an information from PGI Chandigarh with regard to admission of an injured in the hospital, as in reaching the hospital, seeking permission from the doctor on duty to record the statement of injured, after receiving a nod from the concerned doctor, collecting Medico Legal Report of the injured, recording statement (Ex.PA) of injured and making his endorsement (Ex.PA/1) thereupon, sending ruka Ex.PA/2 to the police station for registration of the case, visiting the site, preparing rough site plan Ex.PF, arresting the accused, recording their respective disclosure statements, including not being able to recover the weapon of offence, collecting blood stained clothes of the injured, converting them into separate sealed parcels, sending them to CFSL for examination, again seeking the opinion of the doctor with regard to nature of injuries, getting prepared scaled site plan (Ex.PH). This witness also identified the signature of Inspector PS Malik, who had prepared the challan.

Constable Dalip Singh, Belt No.2341, then posted in Police Station

Section 26, Chandigarh was examined as PW-5, who deposed that on 05.04.2000,

he was posted in Police Station Sector 26, Chandigarh and was on patrolling duty with SI Hazura Singh. He also elaborated upon the steps taken by I.O during investigation of the case. During cross-examination, he clarified that when the police team reached at the spot, 04 accused persons along with some residents of the locality were present. Injured had already been taken to PGI. On the following day, he had again visited the spot with the IO. He denied having deposed falsely.

Formal witnesses:

SI Ved Parkash, then posted in Police Station, Sector 26, Chandigarh appeared as PW3 and deposed that on 05.04.2000, he was posted as such in the Police Station, when he received complaint (Ex.PA) along with endorsement (Ex.PA/1) from SI Hazura Singh, for registration of the case, through Constable Sharat Ram. FIR (Ex.P/2) was recorded on the basis of the said complaint. During cross examination, this witness admitted not having sent special report in respect of the FIR recorded by him. He also pointed out that he had recorded DDR before recording the FIR wherein he had mentioned that ruqa had been brought by Constable. He denied that FIR was not recorded at the time so mentioned.

Constable Amrik Singh, Belt No.2497 Police Station East, Chandigarh was examined as PW4 (repeated twice), who deposed that on 24.04.2000, he was on duty at the abovesaid Police Station, when he was handed over two sealed parcels by MHC, to be delivered to CFSL, Sector 36, Chandigarh. On the first occasion, the parcels were returned with some objection. He deposited them with the Malkhana, MHC, who again handed over the parcels on 11.07.2000 for depositing them with CFSL, Chandigarh. After doing the needful, he handed over the road Certificate to MHC. Till the time the case property remained in his possession, he

did not tamper with the same nor allowed anybody else to do so. During cross examination, he maintained that oral objections were raised by CFSL, who did not give anything in writing. The detail of the objections as disclosed to him were narrated to MHC. He denied that no objections were raised by CFSL and that only with a view to cover the delay, the story of objection has been concocted.

HC Yashpal, Belt No.699, stepped in the witness box as PW6 and tendered affidavit Ex.PD deposing therein that at the relevant time, he was posted as MHC Police Statiuon, Sector 26, Chandigarh. On 05.04.2000, I.O SI Hazura Singh had deposited sealed parcel bearing seal HS and sample seal. On 11.07.2000, through Constable Amrik Singh, the case property was got deposited in CFSL, Sector 36, Chandigarh. After doing the needful, Constable Amrik Singh handed over the receipt to him. This witness further deposed that till the time the case property remained in his possession, he did not tamper with the same.

Constable Yashpal, Belt No.3104 was examined as PW8, who deposed that on 24.04.2000, he was called by I.O, SI Hazura Singh. Both of them visited the site (House No.2484, Sector 28-C, Chandigarh). He prepared scale site plan (Ex.PH) and handed over the same to I.O, who recorded his statement.

Report (Ex.PE) of FSL was tendered on 23.10.2001.

PW-Dr. Amit was given up by learned P.P on 31.05.2002, when he also closed the prosecution evidence.

Entire incriminating evidence was put to all the accused, in question-answer form, who in their statements under Section 313 Cr.P.C denied the allegations levelled against them and pleaded their false implication. They expressed their desire to lead evidence but eventually did not do so and finally on 03.05.2004, they closed their evidence.

4. In terms of impugned judgment dated 04.05.2004, all accused except co-accused Laxman (A.4), who had died during the pendency of trial, were convicted vide judgment and order of sentence dated 04.05.2004, by the then learned Addl. Sessions Judge, Chandigarh, in following terms:

Name of accused	Offence	Sentence awarded	Fine	RI/SI in default of payment of fine
Deepak Kumar	307 IPC	RI for 07 years	Rs.1000/-	RI for one month
	341/323 read with 34 IPC	RI for one month and RI for three months respectively		
	506/34 IPC	RI for one year		
Amarjit Singh				
	307 read with Section 34 IPC	RI for 07 years	Rs.1000/-	RI for one month
	323 IPC	RI for 03 months		
	341/34 IPC	RI for 01 month		
	506/34 IPC	RI for 01 year		
Parvinder Kumar				
	307 read with Section 34 IPC	RI for 07 years	Rs.1000/-	RI for one month
	323/34 IPC	RI for 03 months		
	341/34 IPC	RI for 01 month		
	506/34 IPC	RI for 01 year		

All the aforesaid sentences were ordered to run concurrently.

5. Aggrieved of the aforesaid judgment of conviction and order of sentence, convict Deepak Kumar @ Bobby (A.1) and Parvinder @ Pammi (A.3)

filed appeal bearing CRA-S-1338-SB-2004 whereas convict Amarjit @ Happy (A.2) filed appeal bearing CRA-S-1304-SB-2004.

During the pendency of the appeal, sentence of convict-appellant No.1-namely, Deepak Kumar @ Bobby and convict-appellant No.2 Parvinder Kumar @ Pammi and convict-appellant Amarjit Singh (CRA-S-1304-SB-2004) was suspended by this Court vide orders dated 14.03.2005, 08.11.2005 and 06.09.2005 respectively.

It emerges from the documents on record that accused-convict Deepak Kumar @ Bobby son of Pyare Lal died on 09.05.2018 vide Death Certificate dated 02.09.2021. Therefore, the appeal qua him stands abated.

6. Questions, which need adjudication are as follows:

- i) *Whether the incident as portrayed by the prosecution occurred at the relevant time, evening & place ?*
- ii) *If answer to the first question is in the affirmative, then it needs to be answered as to whether injuries suffered by complainant-injured, fall within the scope and ambit of Section 307 IPC?*

7. Learned counsel for the appellant(s) submit that the then learned Addl. Sessions Judge, Chandigarh erred in convicting the appellants under Sections 307,341,323,506 read with Section 34 IPC. The evidence adduced on the case file was not appreciated by the learned trial Judge in correct perspective. Impugned judgment being based on surmises and conjectures deserves to be set aside. Continuing further, learned counsel contended that no such incident as alleged by prosecution ever occurred. Appellants were falsely implicated in the present case. Learned counsel drew the attention of the Court to complaint (Ex.PA), wherein complainant Sushil Kumar (PW2) alleged that appellants, persons of questionable character and antecedents are drug addicts, as also that in

the past, all of them by exerting undue pressure had compelled him (c) to part with his hard earned money. However, for reasons best known, no evidence to this effect was led nor there is anything on record to suggest that on any previous occasion, complainant had lodged any complaint with the police Authorities pointing therein the wrong acts/deeds of the accused-appellants. The present complaint was lodged only with a view to harass the appellants as also to extract illegal monetary benefit from them. Thus, as per both the learned counsel for the appellant(s), prosecution miserably failed to prove that appellants had any “Motive” to commit the offence. In the absence of any plausible explanation forthcoming in this context, a serious doubt has arisen on the genuineness of the story putforth by prosecution.

Secondly, while drawing attention of the Court to the statement of complainant-injured (Sushil Kumar-PW2) recorded on oath in the Court, learned counsel contended that the contradictions therein, since remain unexplained, the same is not worth relying upon, for though in his examination-in-chief, he (complainant) deposed that at about 09.00/09.30 PM on 04.04.2000, while going to meet a friend in Sector 28-C, Chandigarh, he saw Deepak, Amarjit, Parvinder Kumar and Laxman standing near the park, who on seeing him, suddenly *gheraoed* him and threatened to hand them over the money, as also when he refused, they unleashed an attack in which, A1-Deepak Kumar @ Bobby (since deceased) armed with “Chhuri”/knife stabbed him twice; once on his chest and then on the left side of his stomach whereas others including the present appellants, namely, Parvinder Kumar and Amarjit threw him down on the road and gave him slap/fist blows. However, during cross examination, he changed his stance and admitted not being able to recollect as to which one of the assailants

had given him knife blows. Further, according to complainant, his friend Gopal (PW1) had rushed up to him, and had rescued him from the clutches of the accused. However, aforesaid Gopal (PW1), during the course of cross examination deposed that on hearing screams and cries, he rushed to the site but by then, many persons had gathered near the injured and had already separated him from the accused. This witness further added that his friends had disclosed him the names and identification details of assailants. It was further his stand that only A.1-Deepak Kumar @ Bobby (since deceased) was apprehended at the site whereas the other three were successful in running away as a consequence of which he could not identify them. When read in entirety, the inference that can be drawn is that in fact Gopal Kumar-PW1 had not witnessed the incident and was introduced later only with a view to strengthen the case of Prosecution, more so, when as noticed above, even Sushil Kumar-PW2, during the course of cross examination admitted not being able to point out with certainty as to which of the accused had stabbed him. Learned counsel next contended that PW1 also admitted that the names and identification details of the assailants were disclosed to him by some persons, who were already present at site, when he had arrived. However, for reasons best known, the I.O did not implead those so called “other persons” as “witness” to the case proceedings which itself speaks volume about the false implication of the appellants. Thus, except for the sole testimony of complainant-injured, which also as per learned counsel for appellants, in view of the reasons pointed hereinabove does not inspire confidence in the light of various contradictions noticed therein, there is no cogent evidence to prove involvement of appellants in the incident.

It is further the submission of learned counsel that during the course of investigation, twice the Investigating Officer took opinion from the concerned treating Doctor at PGI (Dr. Puneet Mittal) with regard to the nature of injuries suffered by the injured. On both the occasions, the injuries were opined as “Grievous” in nature, never ever they were declared as “Dangerous to life”. That apart, there being no evidence on the case file from where an inference can be drawn that all the accused in furtherance of their common intention to kill Sushil Kumar (PW2) had unleashed an attack on him, at the relevant time, evening and place. Conviction of the appellants U/s 307 IPC read with Section 34 IPC, as per learned counsel, is totally unsustainable, moreso when the treating doctor admitted that the weapon of offence was never shown to him. Worst still, no recovery of alleged weapon of offence was effected at the instance of A1, namely, Deepak Kumar @ Bobby (since deceased), thus raising serious question mark on the genuineness of the story put-forth by prosecution, the benefit of which deserves to be extended to the appellants. The impugned judgment is liable to be set aside and accused-appellants be acquitted of the charges levelled against them. In support of his submission, learned counsel placed reliance upon following judgment of Hon’ble Supreme Court :

“Neelam Bahal & Anr vs. State of Uttarakhand, 2010 AIR (SC) 428”;

8. Per contra, while opposing the submissions advanced by learned counsel for the appellants, Mr. Rajiv Vij, learned counsel appearing for respondent-UT contended that the testimony of complainant-Sushil Kumar (PW2) being that of an ‘injured witness’, deserves to be placed on higher pedestal. His presence at the site cannot be doubted. Minor contradictions in his testimony do not go to the root of the matter and therefore deserve to be ignored. Further, as

per learned counsel, the medical evidence is totally in consonance with the ocular version. Non-recovery of weapon at the instance of A.1, namely, Deepak Kumar @ Bobby (since deceased) does not *ipso facto* lead to an inference that no such incident as alleged by the prosecution ever occurred and that accused were falsely implicated. It is further the submission of learned counsel that the complainant in his first version given to the police Authorities specifically elaborated upon the reason prompting the accused to assault him, who according to him (complainant-PW2) had been forcibly taking money from him and on the relevant time, evening and place (as highlighted in complaint), again threatened him and demanded money. When he refused, they unleashed an attack. There is no reason forthcoming as to why complainant would falsely implicate the accused. Furthermore, his statement recorded on oath in Court corroborates not only with his first version given to the police Authorities immediately after the incident but is also supported by the medical evidence. Learned counsel further contended that the said statement has to be appreciated as a whole and not in bits and pieces. Simply because, during his cross examination, he was unable to remember as to which of the accused had given knife/chhuri blows to him, would not be a ground in itself to doubt his testimony and to view it with suspicion, for human memories are frail and expected to fade with time. Learned counsel next contended that giving regard to the fact that all the accused were present together at the site, who on seeing complainant, walked up to him, 'gheraoed' him, demanded money and on his refusal unleashed an attack all lead to an inference that the accused in furtherance of their common intention committed the offence. Learned trial Court taking note of all the attending facts and circumstances brought on record, the weapon of offence, seat of injury and manner in which offence was committed did

not err in concluding that the accused persons can be attributed with the requisite intention/knowledge that the act committed by them was sufficient to cause death of complainant-injured. The impugned judgment 04.05.2004 being based on proper appreciation of evidence on record does not call for any interference.

9. Criminal proceedings in the present case were initiated on the statement/complaint (Ex.PA) of complainant-injured Sushil Kumar (PW2), who in his first version given to the police Authorities highlighted the sequence of events leading to the incident, in which he was assaulted by the four accused, who were specifically named by him in the said complaint. Roles played by each one of them were also elaborated upon by him (complainant). According to complainant, at about 9.30 PM on 04.04.2000, when he was going on foot towards House No.2484, Sector 28, Chandigarh to meet a family friend/relative, he saw all the accused standing near a park, who intercepted him and demanded money. Complainant also pointed out that in the past as well, accused, who are drug addicts and persons of questionable antecedents and character had taken money from him. At the relevant time and evening also, they threatened him and asked for money. When he refused, A.1-Deepak Kumar @ Bobby who was armed with sharp edged/pointed object/chhuri (knife) suddenly stabbed him. Amarjit Singh @ Happy (A.2) caught hold of his arm and tightened his grip, when A.1 again stabbed him. Even when he fell down, the others namely Parvinder Kumar @ Pammi (A.3), Laxman @ Lucky (A.4) and Amrjit Singh @ Happy (A.2) continued giving him fist/stab blows. According to complainant (A.1) stabbed him twice, initially on his left arm followed by stab blow little below his left chest. He raised alarm. People started gathering near the site. Gopal Kumar (PW1) son of Dilbahadur resident of H.No.2032, Sector 28,

Chandigarh rushed upto him and saved him. While leaving all the four assailants threatened to kill him on a suitable opportunity. Police team arrived at the site and rushed him to PGI, Chandigarh.

It has already been noticed that immediately after the injured-complainant was admitted in the hospital at about 10.40 PM. Vide ruqa (Ex.PB/1), intimation was given to the Police Authorities about his admission. Police Team headed by SI Hazur Singh (PW7) reached the hospital and after taking permission vide Ex.PC/1, at about 11.15 pm, from the treating Doctor, recorded statement (Ex.PA) of the injured-complainant at 12.00 am. SI Hazura Singh thereafter made an endorsement vide Ex.PA/1 on the said statement and sent Constable Sarat Ram to Police Station. FIR (Ex.PA/2) came to be registered at about 12.35 AM by SI Ved Parkash (PW3). It is, thus, clear that there has been no delay in lodging the FIR, thus ruling out fabrication/twisting of facts.

It further emerges that during the course of investigation, all the four accused, who were specifically named in the FIR, were arrested. Though, admittedly the weapon of the offence i.e chhuri/knife could not be recovered. Twice the opinion of the Treating Doctor, namely, Dr. Puneet Mittal (PW4), vide Ex.DA/1 and Ex.DB/1 dated 17.04.2000 and 08.06.2000 respectively was sought with regard to the nature of injuries suffered by injured, who on both the occasions opined injury No.1 (stab wound on the chest) as “Grievous”, statement of solitary eye witness Gopal (PW1), who had accompanied the injured to the hospital was also recorded besides the statements of other relevant witnesses including the police officials, rough site plan (Ex.PF) of the place of occurrence was prepared by the I.O, who also got prepared scale site plan (Ex.PH). Bloodstained shirt and vest of the injured were taken in possession, deposited

with the MHC and later sent to CFSL, Sector 36, Chandigarh. Report (Ex.PE) of FSL is also on record.

To prove the guilt of the accused, prosecution examined as many as 09 witnesses. Star witness of the prosecution story i.e complainant-injured stepped into witness box as PW2. Before analysing his statement recorded on oath in the court, let us carefully go through the settled law to be kept in mind while appreciating the said statement

In **Abdul Sayeed vs. State of M.P (2010), 10 SCC, 259**, Hon'ble Supreme Court held as under:

“The question of the weight to be attached to the evidence of a witness that was himself injured in the course of the occurrence has been extensively discussed by this Court. Where a witness to the occurrence has himself been injured in the incident, the testimony of such a witness is generally considered to be very reliable, as he is a witness that comes with a complete in guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone. Convincing evidence is required to discredit an injured witness.

It would also be apt to refer to another judgment of Hon'ble Supreme Court, wherein **State of U.P. Vs. Naresh, (2011), 4 SCC, 324**, it was held as under:

“The evidence of an injured witness must be given due weightage being a stamped witness, thus, his presence cannot be doubted. His statement is generally considered to be very reliable and it is unlikely that he has spared the actual assailant in order to falsely implicate someone else. The testimony of an injured witness has its own relevancy and efficacy as he has sustained injuries at the time and place of occurrence and this lends support to his testimony that he was present during the

occurrence. Thus, the testimony of an injured witness is accorded a special status in law. The witness would not like or want to let his actual assailant go unpunished merely to implicate a third person falsely for the commission of the offence.”

It is thus clear that the evidence of “Injured Witness” should be relied upon unless there are strong grounds for rejection of the same, in view of major contradictions and discrepancies therein. Contradictions on trivial issues, which do not go to the root of the matter, do not render the testimony of injured eye-witness untrustworthy.

10. Keeping the settled position of law in mind, let us revert back to the statement made on oath by the complainant/injured Sushil Kumar, who while appearing as PW2, in his examination-in-chief reiterated the contents of complaint (Ex.PA) and gave a graphic description of the manner in which the sequence of events had unfolded at the relevant time, evening and place when the incident occurred. He elaborated upon the names of the assailants and highlighted the role played by them. During his cross examination, though, he expressed his inability to point out with certainty as to which of the accused had given knife blows to him, but that by itself cannot be a ground to view his entire testimony with suspicion and to arrive at a conclusion that the accused have been falsely implicated in the present case. It has already been noted above that the incident occurred on 04.04.2000. Examination in chief of complainant-injured PW2 was recorded on 23.10.2000 and his cross examination on 30.07.2001. Human memory being frail, it was not expected of PW2, to remember each and every minute detail of incident and to depose in a parrot like manner. Further, the statement of complainant when appreciated as a whole inspires confidence and stands corroborated with the medical evidence adduced on the case file (which

would be discussed later). Moreover, both, in his first version vide Ex.PA given to the police Authorities as also in his statement recorded on oath in the Court, complainant specifically pointed out that accused persons are anti-social elements, with questionable past antecedents, they had been taking money from him in the past by threatening him and that on the relevant time and evening as well, when they saw him alone, they 'gheraoed' him and demanded money. His refusal was not taken kindly when all of them in furtherance of their common intention to kill him unleashed an attack. This testimony, when appreciated as a whole brings to light the manner in which offence was committed by four accused, who were named in the FIR as also the roles played by them. Though an argument had been put-forth by counsel for the appellants that accused had no reason to attack complainant but a careful perusal of her statement made on oath reveals that 'motive' on the part of the accused to attack her (complainant) has been very clearly elaborated upon. On the contrary, accused could not point out any reason as to why complainant falsely implicated them.

11. As noted earlier, learned counsel for the appellants also came up with the plea that PW1 namely Gopal had not witnessed the incident and was introduced later only with a view to strengthen the case of the prosecution. Admittedly, during the course of cross examination, afore mentioned Gopal deposed that when he rushed to the rescue of injured, many persons had already separated injured and accused, as also that their names and identification details were disclosed to him (PW1) later by those who had gathered at the site. It, however, needs to be reiterated that in his examination in chief, Gopal Kumar (PW1) very lucidly narrated the sequence of events that had unfolded at the site, which had been witnessed by him. His testimony corroborates in material aspects

with the statement made on oath by complainant-injured. Minor differences, therein since do not go to the root of the matter, do not create a doubt on the credibility of either complainant-injured (PW2) or eye-witness (PW1). It must be borne in mind that parrot like deposition after a long time smacks of tutoring and same difference in fact advance the credibility of the witnesses.

In view of the discussion made hereinabove, the only logical inference that can be drawn is that the incident occurred in the manner as portrayed by the prosecution, thus the answer to the first question is in the affirmative.

Now, let us focus our attention to the medical evidence. Dr. Puneet Mittal, who at the relevant time was posted as SMO, PGIMS, Chandigarh was examined as PW4. From his deposition, it emerges that on 04.04.2000, while on duty, he had examined Sushil Kumar, son of Bhim Sain and had prepared MLR (Ex.PB) mentioning therein the number and the nature of the injuries. Dr. Puneet Mittal noticed three injuries on the person of injured and had mentioned as such in MLR. The relevant extract of the same is reproduced hereinbelow:

- “1. Stab wound 1 x 3 cm in size on left lateral chest wall 6/7 intercostal space. At the time of examination this injury was dressed with intercostal tube drainage.*
- 2. Stab wound on posterial abominal wall lower aspect left side 2-3 cm wide superficial stitched with three sutures.*
- 3. Abrasion 1 cm x 1 cm front of the right knee joint.”*

Injury No.1 was opined as “Grievous” whereas injuries Nos.2 & 3 were declared to be “Simple. Dr. Mittal also opined that injuries No.1 & 2 were the result of sharp pointed weapon, whereas injury No.3 was on account of blunt trauma. It further emerges from documents on record that twice the opinion of

Doctor Mittal was sought by the I.O with regard to nature of injuries; firstly on 17.04.2000 vide Ex.DA/1, when Dr. Puneet Mittal opined as follows:

“Opinion regarding nature of injury 1 is same as grievous as written in MLR issued by me on 4.4.2000. Sd/- Puneet, SMO (Casualty) 17.4.2000, 4.45 PM (Ex.DA/1)”

Further, on 0806.2000 vide Ex.DB/1, Dr. Mittal reiterated his opinion in the following terms:

“The injury is grievous as per definition of grievous injury given in Parikhs Test Book of Medical jurisprudence 5th Edition 1990 page 310, which says point 4 Privation of any organ 8) any hurt which endangers life.”

Contention raised by learned counsel for the accused that in the light of aforesaid opinion given by the treating doctor, learned trial Court erred in convicting the accused under Section 307 IPC, has been noticed only to be rejected, for the reason that as per settled law to constitute an offence under Section 307 IPC, courts are required to consider two ingredients; firstly whether there was any intention or knowledge on the part of the accused to cause death of the victim and secondly such intention or knowledge was followed by some ‘overt act’ in execution thereof irrespective of the result. To infer intention/knowledge on the part of the accused, the Court has to take cue from the conduct of the accused, the surrounding circumstances, nature and seat of injuries and the kind of weapon. It is, thus not necessary that to attract Section 307 IPC, the victim should have suffered an injury opined to be “dangerous to life” by the Treating Doctor. At this stage, it would be also appropriate to refer to judgment of Hon’ble Supreme Court titled as **State of Madhya Pradesh vs. Saleem @**

Chamaru & Anr, wherein while re-appreciating the true import of Section 307 IPC it was held as follows:

“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.

13. 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. 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, an accused charged under Section 307 IPC cannot be acquitted merely because the injuries inflicted on the victim were in the nature of a simple hurt.”

(Emphasis Applied.)

In **State of M.P. vs. Kashiram & Ors**, the scope of ‘intention’ for attracting conviction under Section 307 IPC was elaborated upon by Hon’ble Supreme Court holding as follows:

“12.....13. 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. 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, an accused charged under Section 307 IPC cannot be acquitted merely because the injuries inflicted on the victim were in the nature of a simple hurt.

12. In the case in hand, the fact that the complainant-injured suffered two stab injuries (one on the left side of his chest and the other one on the left side of abdomen), apart from other abrasions all over his body, remained hospitalized for six days is indicative of the intention on the part of the accused to kill him. They could not succeed as people started gathering near the site of the incident. As regards injury No.1 suffered on the left side of the chest, Dr. Puneet specifically pointed that the injury was dressed with intercostal tube drainage whereas second injury on the abdomen had to be stitched with three stitches. As has been rightly observed by the learned trial Court that the complainant-injured Sushil Kumar was lucky to have saved his life as the knife did not penetrate his heart.

It needs to be further pointed out that the recovery of weapon at the instance of the accused is merely a corroborative piece of evidence. Non-recovery of the weapon insofar as the present case is concerned is not of much consequence, for, the statement of complainant (PW2) is trustworthy, inspires the confidence of the court and corroborates in material aspects with his first version given to the police Authorities as also with the medical evidence. The fact that the complainant saw all the four accused standing near the park, who on seeing

him gheraoed him, demanded money and on his refusal, unleashed an attack on him is indicative of their 'common intention' to cause his death. It being not the case of the appellants that at the relevant time, they were not aware that A.1-Deepak Kumar @ Bobby was armed with Chhuri/knife. Even in their statements recorded under Section 313 Cr.P.C, they did not take any such plea and simply pleaded false implication.

13. As a sequel to discussion made hereinabove, this Court does not find any infirmity in the findings of guilt as recorded in impugned judgment, thus the same are hereby affirmed.

14. Appeal stands dismissed. Bail bonds of the appellants are cancelled. They shall be taken into custody forthwith to serve out the remaining portion of their sentence.

A copy of this judgment be sent to the trial court concerned for compliance.

03 .02.2026

(AARADHNA SAWHNEY)
JUDGE

manoj

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No