

102

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2412-SB-2004

NARENDER AND ANOTHER Appellants

Versus

STATE OF HARYANA Respondent

1.	Judgment reserved on	11.11.2025
2.	Judgment pronounced on	10.02.2026
3.	Judgment uploaded on	12.02.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced.	FULL
5.	The delay, if any of the pronouncement is full judgment and reason thereof.	NA

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

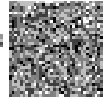
Argued by : Mr. K.S. Billing, Advocate for
Mr. Manjot Singh, Advocate
for the appellant(s).

Ms. Vasundhara Dalal Anand, Sr. DAG, Haryana.

Mr. Ketan Antil, Advocate
for the complainant(s).

YASHVIR SINGH RATHOR, J. (Oral)

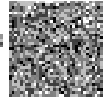
1. The appeal bearing Criminal Appeal No.2412-SB-2004 titled as *Narender Singh and another Vs. State of Haryana* is directed against the judgment dated 24.11.2004 vide which the appellants have been held guilty and convicted for the offences punishable under Sections 307, 324, 34 of IPC, 1860 and sentenced to undergo rigorous imprisonment for a



period of 5 years and a fine of Rs.5,000/- each for the offence under Section 307 of IPC. In default of payment of fine, they have been sentenced to undergo rigorous imprisonment for a period of 06 months. Besides this, they have also been sentenced to undergo rigorous imprisonment for a period of 01 year for the offence under Section 324 of IPC. Both the sentences have been ordered to run concurrently and the period of custody undergone during the trial has been ordered to be set off against the punishment awarded to them.

2. Brief facts of the prosecution case are that on 08.11.2001, ASI Rajiv Kumar, Police Station Sadar, Sonapat, received a telephonic message from General Hospital, Sonapat regarding the admission of Mukesh, Dariyo Singh, Anant Ram and Smt. Sunita in the hospital on account of injuries suffered by them in a quarrel. Thereafter, he alongwith UGC Sukhbir Singh reached General Hospital, Sonapat, where he came to know that the injured have been referred to Trauma Centre, New Delhi by the doctors of General Hospital, Sonapat. EHC Dharambir met him in the Civil Hospital and informed him that in the same occurrence, Smt. Savitri wife of Dhan Singh has also suffered injuries and she is lying admitted in the General Hospital, Sonapat. Thereafter, he moved an application before the doctors seeking opinion as to whether the said Smt. Savitri (injured in the cross-case) was fit to make a statement or not, on which the doctor declared her unfit to make statement.

3. Thereafter, on the same day, ASI Rajiv Kumar went to Trauma Centre, New Delhi and he obtained the opinion of the doctor regarding the fitness of injured Dariyo Singh to make statement and

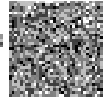


thereafter, he recorded his statement Ex.PA in which he alleged that he is posted as Peon in the office of District Education Officer, Sonapat. On 08.11.2001, at about 4.45 P.M., he alongwith his wife Smt. Kamla, daughter Sunita and Anant Ram, son of his sister, were sitting outside their house and having tea. At that time, his daughter-in-law Mukesh, wife of Surender was lying on a cot inside the house and her brother Randhir was sitting beside her as he had come to meet her for some customary ceremony after the birth of a child in the family. He further alleged that there is a vacant plot of Dhanna across the street in front of his house who had kept some Chhare (wood) in his plot. Savitri, wife of Dhanna and his daughter Kamlesh (accused) came there and started hurling filthy abuses to him and his family members and alleged that they have removed Chharas (wood) from their plot. He tried to pacify them by saying that they have not lifted the wood from their plot, but accused Savitri and Kamlesh started scuffling with them and there was exchange of heated words. In the meanwhile, accused Sanjay and Narender, sons of Dhanna, also came there armed with knives in their hands. Sanjay gave a knife blow on his left armpit when Anant Ram tried to intervene Sanjay gave one knife blow in the abdomen of Anant Ram. Smt. Savitri and Smt. Kamlesh, accused, caught hold of Sunita and Narender, accused, gave a knife blow in the abdomen of his daughter Sunita. Thereafter, accused Kamlesh and Savitri trespassed into his house and caught hold of his daughter-in-law Mukesh and Narender gave a knife blow in the abdomen of Mukesh. On hearing the noise, neighbours started gathering at the spot and thereafter, accused Narender and Sanjay fled away from the place of occurrence. He further alleged that all the accused had attacked them in



furtherance of their common intention to kill him and his family members and he sought action against them.

4. From the allegations levelled in the said complaint Ex.PA, offences punishable under Sections 307, 324, 452 and 34 of IPC were found to have been committed and ASI Rajiv Kumar made his endorsement on the said statement and sent ruqa to the Police Station for registration of FIR, on the basis of which formal FIR Ex.PA/2 was registered. One constable handed over four parcels to ASI Rajiv Kumar at the hospital, which were taken into possession vide recovery memo Ex.PV. Thereafter, ASI Rajiv reached General Hospital, Sonapat, where EHC Dharambir handed over one parcel to him, which was taken into possession vide recovery memo Ex.PW. On 09.11.2001, the place of occurrence was inspected and the rough site plan Ex.PR was prepared. On 10.11.2001, accused Sanjay and Narender were arrested and on interrogation, they suffered disclosure statements Ex.PE and Ex.PF, respectively. Accused Narender disclosed that the knife used by him in causing injuries to Savitri has been kept concealed by him in the fodder room in his house. Likewise, accused Sanjay disclosed that he has kept concealed the knife in the fodder room of his house. Thereafter, accused Narender got recovered knife Ex.P1 from the disclosed place. Its rough sketch Ex.PE/1 was prepared and it was converted into a parcel and sealed with seal RK and was taken into possession vide memo Ex.PE/2. Accused Sanjay also got recovered knife Ex.P2, whose sketch Ex.PF/1 was prepared and the knife was also put into a parcel and sealed with seal RK and taken into possession vide memo Ex.PF/2. Rough site plan of the place of recovery of knives Ex.PY was prepared. The recovered knives



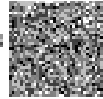
were deposited in the Malkhana on 10.11.2001. The opinion of the doctor was obtained regarding the nature of injuries suffered by the victims. Accused Kamlesh and Savitri were also arrested and after completion of investigation, final report under Section 173 Cr.P.C. was prepared and presented in the Court for trial.

5. Copies of challan were supplied to the accused as envisaged under Section 207 Cr.P.C. and thereafter, the case was committed to the Court of Sessions for trial vide order dated 02.02.2002.

6. After hearing the Public Prosecutor and the accused, the accused were charged for the offences under Sections 452, 324, 307 and 34 of IPC vide order dated 08.04.2002 to which the accused pleaded not guilty and claimed trial.

7. In order to prove its case, the prosecution has examined PW-1 Satpal Singh, PW-2 Dariyo Singh, PW-3 Smt. Sunita (injured), PW-4 Anant Ram (injured), PW-5 Dr. Ramesh Yadav, Senior Resident, Lok Nayak Hospital, Delhi, PW-6 Mahabir, PW-7 Dr. Varsha, PW-8 Constable Inder Pal, PW-9 Bellu Singh, PW-10 Dr. G.D. Sharma, Sharma Hospital, Sonapat and PW-11 Rajiv Kumar, ASI. Learned Public Prosecutor also gave up PWs namely Mukesh, Randhir and Kamla as unnecessary. The affidavit of formal witness HC Satvir was tendered and the prosecution evidence was closed by the Public Prosecutor.

8. Thereafter, statements of the accused under Section 313 Cr.P.C. were recorded in which the entire incriminating material was put to the accused, which was denied by them to be wrong and they pleaded false implication. Accused Sanjay and Narender took a plea that they were not present at the place of occurrence and infact, their mother and



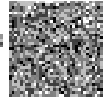
sister had gone to lift wood where Dariyo Singh etc. caused injuries to them. Accused Savitri and Kamlesh took a plea that injuries had been caused to Savitri by the complainant party.

9. In defence, the accused examined Dr. J.S. Punia as DW-1, who had radiologically examined accused Savitri on 09.11.2001 and proved his report as Ex.DB. As per his report, she had suffered fracture of left clavicle. Accused also tendered in evidence the report under Section 173 Cr.P.C. of the cross-case Ex.DC, certified copy of the statement of Dr. J.S. Punia as Ex.DD and the original birth certificate of Chirag as Ex.DE and two photographs Ex.DF and Ex.DG and the accused closed the evidence.

10. After hearing learned Public Prosecutor and learned defence counsel, the Trial Court held accused Sanjay and Narender guilty for the offences punishable under Sections 307, 324 and 34 of IPC, while accused Savitri and Kamlesh were acquitted of the charges. Accused Sanjay and Narender were sentenced to undergo imprisonment as mentioned in the opening paragraph of the judgment.

11. Feeling aggrieved, the appeal in hand has been preferred. Learned counsel for the appellants and learned State counsel have been heard and the material on file has been perused.

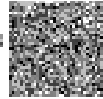
12. Learned counsel for the appellants argued that the impugned judgment is based on conjectures and surmises. The facts of the case and the evidence on file have not been appreciated in the correct perspective. Learned counsel further contended that the Trial Court has come to the conclusion that there was no prior meeting of minds and the occurrence took place suddenly, in which both the parties had suffered injuries and



the occurrence had taken place in the street, which was a free fight after a heated exchange of words. Learned counsel contended that the opposite party has also been held guilty and convicted for the offences under Sections 323/324 IPC for causing injuries to the appellants' family members in the same incident, but no finding has been given as to who was the aggressor. Learned counsel contended that the appellants were entitled to the benefit of the right of private defence and they could not have been convicted for the offences, much less under Section 307 IPC. Learned counsel next contended that no conviction under Section 307 IPC could have been recorded merely on the ground that the injuries were dangerous to life as the fight was accidental and arising out of a sudden quarrel particularly in the absence of intention or knowledge of an act which would have amounted to murder but for some intervening effect. Learned counsel next contended that the findings arrived at by the Trial Court are wholly unsustainable and the impugned judgment is liable to be set aside and learned counsel prayed that the appeal in hand be accepted and both the accused be acquitted of the charges. In support of his contention, learned counsel has relied upon judgment dated 25.02.2004 passed by this Court in 2006 (4) RCR (Criminal) 906 titled ***Sharda Nand Vs. State of Punjab***, judgment dated 02.04.2008 in 2009 (4) RCR (Criminal) 673 titled ***Som Dutt Vs. State of Haryana***, judgment dated 27.08.2010 in 2011 (3) RCR (Criminal) 410 titled ***Satpal Singh Vs. State of Punjab***, judgment dated 21.01.2008 in 2008 (15) RCR (Criminal) 288 titled ***Bhupinder Singh Vs. State of Punjab*** and Judgment of Hon'ble Supreme Court dated 29.11.1991 in 1992 AIR Supreme Court 664 titled ***Ramesh Vs. State of U.P.***



13. On the other hand, learned State counsel argued that the impugned judgment is well-reasoned and justified and does not call for any interference. From the evidence on file, it is established that the accused had assaulted the victims in a pre-planned manner and came to the spot armed with knives and inflicted injuries to four persons, namely Dariyo Singh, Anant Ram, Sunita and Mukesh, on vital parts of their bodies, out of which injuries on the persons of Dariyo Singh, Anant Ram and Sunita have been declared dangerous to life. Learned counsel next contended that accused Savitri and Kamlesh had come to the spot to collect wood from the plot situated opposite the house of the complainant Dariyo Singh, where they levelled false allegations that the complainant party had committed theft of the wood lying in their plot, as a result of which there was exchange of hot words and on hearing the noise, accused Narender and Sanjay, who are sons of said Savitri, came there armed with knives in a pre-planned manner and assaulted them on vital parts of their bodies, while Savitri and Kamlesh had caught hold of Sunita when Narender inflicted a knife blow in her abdomen and thereafter, they caught hold of his daughter-in-law Mukesh and Narender caused a knife blow in her abdomen. However, the learned Trial Court has acquitted both the accused, namely Savitri and Kamlesh, merely on conjectures and surmises, despite the fact that their presence at the scene of crime is proved from the evidence on file. Learned State counsel as well as learned counsel for the complainant have prayed that the impugned judgment, vide which the accused Savitri and Kamlesh have been acquitted, be set aside and they be also held guilty and convicted for the offences under Sections 307, 324, 452 and 34 of IPC and conviction of



Narender and Sanjay be also modified for the aforesaid offences.

Medical Evidence

14. Before proceeding further, medical evidence shall be discussed first of all to find out the nature of injuries suffered by the victims. To prove injuries suffered by the victims, the prosecution has examined PW-7 Dr. Varsha, Medical Officer, Civil Hospital, Sonapat, PW-5 Dr. Ramesh Yadav, Senior Resident, Lok Nayak Hospital, Delhi and PW-9 Bellu Singh, Record Keeper, Trauma Centre, Lok Nayak Hospital, New Delhi who produced the record of patient Anant Ram and placed on file the discharge card and PW-11 Dr. G.D. Sharma, who had treated injured Anant Ram and perform surgeries on his person.

PW-7 Dr. Varsha, Medical Officer, Civil Hospital, Sonapat deposed that on 08.11.2001, she had examined patient namely Sunita wife of Nikku aged 19 years R/o Lehrara and observed the following injury:-

1. *A stab wound of size 3 cm x 1 cm on lower abdomen in the centre part below the umbilicus. The gut was coming out. Ultra-sound and surgeon opinion were advised.*

The type of weapon used was sharp and duration of injury was within 6 hours. Ex.PG is the correct carbon copy of the original MLR which bears her signatures.

On the same day, she had examined Anant Ram son of Sudhe Ram 35 years male resident of village Lehrara and found the following injury:-

1. *A stab wound on the left illiac region of abdomen. The loops of gut were coming out and the exact size of the wound was not visible. Ultra sound abdomen and surgeon's*



opinions were advised.

The type of weapon used was sharp in nature and duration of injury was within 6 hours. Ex.PH is the correct carbon copy of the MLR and it bears her signatures.

She further deposed that on the same day she had examined Dariyo Singh son of Rattan Singh 48 years male R/o Lehrara and found the following injury:-

1. An incised would of the size 2 cm x 1 cm present on the left side of axillary region of the chest. X-ray and surgeon opinions were advised.

The type of weapon used was sharp and duration of injury was within 6 hours. Ex.PJ is the correct carbon copy of the original MLR and it bears her signatures.

On the same day, she had medico-legally examined Mukesh wife of Surinder 20 years female and observed the following injury:-

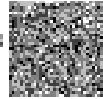
1. An incised wound of the size 2 ½ cm x 1 cm was present on the right side of hypo-condrim near the chest. Ultra-sound abdomen, X-ray chest and surgeon opinion were advised.

Type of weapon used was sharp in nature and duration of injury was six hours. Ex.PK is the correct carbon copy of the MLR which bears her signatures.

She deposed that injuries on the persons of Sunita, Anant Ram, Dariyo Singh and Mukesh were caused by knives shown to her today in the Court.

She stated that Ex.PL is the ruqa sent by her to the incharge police post G.H. Sonipat which bears her signatures.

She further deposed that on 15.01.2002, police moved

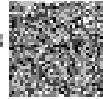


application Ex.PM before her for taking opinion regarding nature of the injuries on the person of Mukesh and she gave the opinion Ex.PM/1 to the effect that injury was simple. On the same day, police moved another application Ex.PN for taking opinion regarding nature of injuries on the person of Sunita on which she gave her opinion Ex.PN/1 to the effect that injury was dangerous to life. She further deposed that on the same day, police moved another application Ex.PO for taking opinion regarding nature of injury on the person of Dariyo Singh on which she gave her opinion Ex.PG/1 to the effect that injury was dangerous to life.

She further deposed that on 15.01.2002 police moved application Ex.PP for taking opinion about the nature of injury on the person of Anant Ram. On which she made her endorsement Ex.PO/1 to the effect that opinion can be given after the perusal of the record.

During cross-examination, she stated that she cannot say without going through the relevant record whether she had received any report of ultra-sound pertaining to any of the patients or not. She admitted that on same day, she had examined patient namely Savitri (accused) and observed as under:-

1. *A lacerated wound of the size 3 ½ cm x 1 cm was present on the left side of the parietal region of the scalp. She advised X-ray opinion and surgeon opinion.*
2. *A diffused swelling was present on the left arm and shoulder region. X-ray was advised.*
3. *An incised wound of size 1 x ½ cm present on the left leg on the anterior surface.*
4. *An incised wound of the size ½ x ½ was present 4 cms below injury No.3.*
5. *A reddish contusion of the size 8 x 3 cms present on*



the right side of the back in the middle region.

6. *A reddish contusion of size 4 x 1 ½ cms was present on the right lumbo sacral region.*

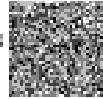
7. *A reddish contusion of size 5 cms x 2 cms present on the left knee.*

The type of weapon used was sharp in nature for injuries No.3 and 4 and caused within the duration of six hours. Ex.DB is the correct photo copy of the MLR which is correct as per the original. She does not remember whether the patient was recommended for admission or not.

During cross-examination by learned State counsel, she stated that possibility injuries Nos.3 and 4 on the person of Savitri being self suffered cannot be ruled out and remaining injuries could be caused due to fall on hard surface.

15. PW-5 Dr. Ramesh Yadav deposed that on 08.11.2001, Dariyo Singh injured was admitted in Lok Nayak Hospital, Delhi with stab injury in left side of his chest with haemo pneumothorax. His test tube insertion was done. Patient was discharged on 14.11.2001. He further deposed that injury was dangerous to life because of breach in the thorax with blood in the thorax and the injury was caused with a sharp edged weapon. He tendered the discharge card Ex.PB and stated that the same bears his signatures.

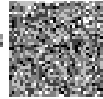
He further deposed that on the same day, he had also treated patient namely Mukesh aged 20 years who had suffered stab injury on the right side of the chest which was simple in nature and caused by sharp edged weapon. He tendered the discharge card Ex.PC and stated that patient was discharged from the hospital on 09.11.2001.



On the same day, he had also treated patient, namely Sunita, 20 years female having stab injury in her abdomen. Patient was operated upon. There was perforation in her stomach and transverse colon and the injury was dangerous to life which had been caused with a sharp edged weapon. Patient was discharged on 21.11.2001 and he tendered her discharge card Ex.PD and deposed that it bears his signatures. Thereafter, sealed parcels from FSL were opened and produced before him and knives were shown to him. He stated that injuries on the person of Dariyo Singh, Mukesh and Sunita could be caused with the knives Ex.P1 and Ex.P2 shown to him in the Court.

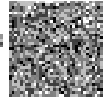
During cross-examination, he had stated that knives Ex.P1 and P2 have been shown to him for the first time in the Court today. He stated that he had not prepared the MLRs of the aforesaid patients but he had operated upon two patients namely Dariyo Singh and Mukesh.

16. PW-11 Dr. G.D. Sharma deposed that on 27.11.2001, he had examined patient namely Anant Ram who had suffered injury by a sharp edged weapon in his left lower abdomen. The patient was medically examined at Civil Hospital, Sonipat and he was subsequently operated on twice in Trauma Centre, Delhi. On examination, his pulse was 136 p.m. BP 90/62 mmhg. Respiratory rate was 54 p.m. Temperature 106. **Local Examination:** Mid Line abdominal incision had gaped open and the small intestine was coming out of the wound. In the left lower abdomen, the clostomy had retracted into the abdomen and was leaking faeces into the abdomen. He was operated upon after initial recessitation and was discharged on 20.12.2001 and deposed that the patient subsequently underwent four operations and is still getting treatment as



outdoor patient. He tendered the original treatment record Ex.PU. He deposed that the condition of the patient was dangerous to life under ordinary circumstances because of the injuries as on 27.11.2001. During cross-examination, he pleaded ignorance as to whether injury was dangerous to life on the day when he was initially treated and admitted in the hospital on 08.11.2001. He stated that patient came to him for the first time on 27.11.2001.

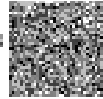
17. Nothing favorable could be extracted during the cross-examination of the aforesaid medical officers so as to prove to the contrary and from their testimony, it is established that in the case of victim Dariyo Singh, he had suffered a stab injury on the left side of his chest with hemo pneumothorax and chest tube insertion was done. There was a breach in the thorax with blood in the thorax and, as such, it was declared to be dangerous to life. Likewise, injured Sunita suffered a stab injury in her abdomen. She was operated upon twice. There was perforation in her stomach and transverse colon and the injury was thus dangerous to life. In the case of injured namely Anant Ram also, as per his MLR Ex. PH, he had suffered a stab wound on the left iliac region of the abdomen. The loops of gut were coming out and the exact size of the wound was not visible. As per the treating doctor namely PW11, he was operated upon twice in Trauma Centre, Delhi and thereafter in his hospital. The midline abdominal incision had gaped open and the small intestine was coming out of the wound. In the left lower abdomen, the colostomy had retracted into the abdomen and leaking feces into the abdomen. He was operated upon after initial resuscitation and thereafter, also he underwent four operations. As such, from the nature of the



injuries suffered by the victims, it can be inferred that the same were dangerous to life as stab blows were caused on the vital parts of the body and in the case of Sunita and Anant Ram, the gut had come out. Accordingly, it is established that injured namely Sunita, Anant Ram and Dariyo Singh had suffered injuries which were dangerous to life while injury on the person of Mukesh was simple in nature. From the testimony of PW-7, it is further established that one of the accused namely Savitri, who has since been acquitted had also suffered injuries which as per testimony of DW-1 Dr. J.S. Punia was greivous in nature as she had suffered fracture left clavical as per report Ex.DB which has been proved by him.

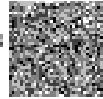
Ocular Version

18. In order to prove its case, the prosecution has examined PW-2 Dariyo Singh, PW-3 Sunita, PW-4 Anant Ram. PW-2 deposed that on 08.11.2001 at about 4.45 P.M., he alongwith his wife Kamla, daughter Sunita and his nephew Anant Ram was sitting outside the house in the street and they were taking tea. His daughter-in-law Mukesh and her brother Randhir were sitting inside the house. In the meanwhile, accused Kamlesh and her mother Savitri came there and started abusing them in filthy language alleging that he (Dariyo Singh) and others have removed their wood from their plot. He deposed that they denied having stolen their wood from the said plot and there was a heated exchange of words between them. In the meanwhile, accused Narender and Sanjay also came there armed with knives. Accused Sanjay gave a knife blow on his armpit and when Anant Ram tried to intervene, accused Sanjay gave a knife blow in his abdomen, who fell down. Thereafter, accused Savitri and



Kamlesh caught hold of his daughter Sunita and accused Narender gave a knife blow in her abdomen. Thereafter, Savitri and Kamlesh entered his house where his daughter-in-law Mukesh was present. Savitri and Kamlesh caught hold of Mukesh and Narender gave knife injuries in her abdomen. He deposed that the brother of Mukesh, namely Randhir, had come to their house in connection with the 'Pilla' ceremony and he came outside the house and raised an alarm, on which many villagers were attracted to the spot including Mahabir. Said Mahabir and Randhir took them to the hospital at Sonapat where they were medically examined, but since their condition was serious, they were referred to Trauma Centre, New Delhi, where the police recorded his statement as Ex.PA, which bears his signatures. The version of PW-2 Dariyo Singh has been corroborated by PW-3 Sunita, who is an injured witness. She deposed that accused Sanjay gave a knife blow in the abdomen of her father. When Anant Ram tried to intervene, accused Sanjay gave a knife blow on the person of Anant Ram. She further deposed that accused Narender gave a knife blow in her abdomen and she fell on the ground. Thereafter, the accused went inside the house.

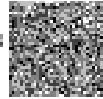
19. PW-4 Anant Ram is another injured witness who deposed that accused Sanjay caused injuries to Dariyo Singh and when he tried to intervene, accused Sanjay gave knife injuries in his abdomen. He deposed that accused Savitri and Kamlesh caught hold of Sunita and accused Narender gave injuries in her abdomen with the knives. On an alarm being raised, Randhir, brother of Mukesh, came out of the house and he also raised an alarm and many persons were attracted to the spot. In the meantime, Savitri and Kamlesh, accompanied by accused Narender, went



inside the house and caused injuries to Mukesh as well.

20. The testimony of the aforesaid three witnesses is consistent throughout and they have deposed in chorus about the manner of assault and the injuries caused by the accused to them. They have been cross-examined at length, but the defence has failed to impeach their testimony except for some minor contradictions and nothing material could be extracted.

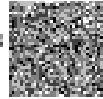
21. The point to be determined is as to which of the parties was the aggressor, as both the parties have suffered injuries. It is not in dispute that both the parties have suffered injuries and they were present at the spot of crime and a cross-case has been presented against Dariyo Singh etc. as well, which has been led in evidence as Ex.DC. From the final report Ex.DC, it is established that the occurrence had taken place on 08.11.2001 at 4.30 P.M. and all the persons involved in the present case as well as in the cross-case were present at the scene of crime. At the time of the incident, Dariyo Singh, Anant Ram, Kamla and Sunita were sitting in front of their house in the street and the plot of the accused party is situated opposite the house of Dariyo Singh. Accused Savitri and Kamlesh came there and they alleged that the victim party has stolen their wood and there was exchange of hot words and in the meanwhile, accused Sanjay and Narender who are sons of Savitri reached there armed with knives and they caused injuries to Dariyo Singh, Anant Ram and Sunita. The incident took place in the street and both the parties caused injuries to each other after a scuffle and exchange of hot words. It was, thus, a sudden fight and, therefore, it cannot be inferred that the accused shared a common intention as there was no prior meeting of



minds amongst the accused party and the ingredients of Section 34 of IPC are, thus, not attracted and each of the accused, thus, will have to be held liable for the individual act committed by him.

22. From the ocular version of the prosecution witnesses, it is also established that accused Sanjay had caused injuries to Dariyo Singh and Anant Ram with the knife in his possession and accused Narender had caused injuries to Sunita with the knife in his possession. The version of the prosecution witnesses that accused Savitri and Kamlesh had caught hold of them does not inspire confidence. Though PW-2 Dariyo Singh and PW-4 Anant Ram stated that Savitri and Kamlesh had caught hold of Sunita and thereafter accused Narender gave a knife blow in her abdomen, but this part of their testimony is not reliable, as injured Sunita who was examined as PW-3, has nowhere stated that she was caught hold of by Savitri and Kamlesh and in these circumstances, the testimony of Dariyo Singh and Anant Ram cannot be believed when they alleged that accused Savitri and Kamlesh had caught hold of Sunita.

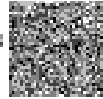
23. It has also been alleged that thereafter, Savitri and Kamlesh entered the house and caught hold of Smt. Mukesh and accused Narender caused injuries to her with a knife. However, what happened inside the house was not witnessed or seen by Dariyo Singh, Sunita and Anant Ram, as they were outside the house in the street. The prosecution has not examined said Mukesh, to whom an injuries was allegedly caused inside the house. It is only she who could have deposed and explained as to whether she was caught hold of by accused Savitri and Kamlesh or not and whether injury was inflicted by accused Narender. As such, non-examination of PW Mukesh by the prosecution belies the involvement of



accused Savitri and Kamlesh in the incident regarding the causing of injuries on the person of Mukesh inside the house. The brother of said Mukesh, namely Randhir, was also allegedly present inside the house when said Mukesh was allegedly assaulted, but he too has not been examined to prove this fact. As such, it is not established that any of the accused had caught hold of Mukesh or that accused Narender caused injury to her. Both accused Savitri and Kamlesh, thus, have been rightly acquitted by the Trial Court, as the evidence against them was not convincing and reliable.

24. One of the accused namely Savitri who has since been acquitted,, had also suffered a fracture in the left clavicle and it is the own case of the prosecution that when Savitri and her daughter Kamlesh reached the spot, there was an exchange of words between them and the victim party and at that time, accused Narender and Sanjay were not present at the spot. The victim party has denied having caused any injuries on the person of Savitri, but as per the medical evidence led on file, she had suffered a fracture in left clavicle. No explanation has been given by the complainant party as to how accused Savitri suffered injury. It is not in dispute that a heated exchange had taken place between the victim party on the one side and accused Savitri and Kamlesh on the other side and Savitri has suffered a number of injuries, including a fracture in the left clavicle. A cross-case has also been registered and the victim party headed by Dariyo Singh, etc., have also been challaned for the offences under Sections 323, 324 and 325 of IPC and the version of the accused that the victim party had assaulted Savitri is thus believable.

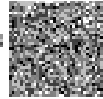
After the quarrel started, the other two accused namely Narender and



Sanjay reached the spot armed with knives and caused injuries on the person of Dariyo Singh, Anant Ram and Sunita on vital parts of their bodies. However, they have thus certainly exceeded the right of their private defence. As such, from the ocular version, it is established that accused Sanjay had caused injuries on the person of Dariyo Singh and Anant Ram with a knife, while accused Narender caused injuries on the person of Sunita with a knife in her abdomen. However, it is not established that accused Narender had caused injuries to Mukesh after entering the house. There is, thus, no reason to discard the ocular version of PW-2 Dariyo Singh (injured), PW-3 Smt. Sunita (injured) and PW-4 Anant Ram (injured). It is well settled that the testimony of injured witnesses is of wider connotation and conviction can be based on the sole testimony of injured witnesses, if the same inspires confidence.

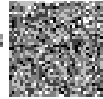
25. Even the Investigation Officer, namely PW-12, has conducted the investigation in the right direction. He had got the cross-case registered on the statement of Savitri on 09.11.2001 and accused Dariyo Singh, Anant Ram, Mukesh and Sunita were arrested and a cross-case was also filed against them. He also stated that both the accused had got the knives recovered after they were arrested in pursuance of their disclosure statements, which were taken into possession, sealed and deposited in the Malkhana. The doctor has also given the opinion that the possibility of the injuries on the person of the victims having been caused with these knives cannot be ruled out.

26. Learned counsel for the appellants contended that the blood had fallen at the spot, as admitted by the prosecution witnesses, but the same has not been lifted either from the street or from inside the house



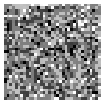
where injuries were also caused to one of the victims, namely Mukesh and the place of occurrence is, thus, not proved. However, in my considered opinion, mere non-lifting of blood-stained earth is not fatal to the prosecution case. The incident had taken place at about 4.30 p.m. and thereafter, both the parties were shifted to General Hospital, Sonapat, where they were medically examined and thereafter, the victim family was shifted to Trauma Centre, Delhi, where the statement of complainant Dariyo Singh Ex.PA was recorded by PW-12 ASI Rajiv Kumar on the same day at 10.35 p.m. He reached the place of occurrence on the next day, i.e., on 09.11.2001. Since the incident had taken place in the street, which is a thoroughfare, therefore, it is highly probable that blood-stained earth may not have been found at the spot due to the passing of the public and vehicles. Besides this, injuries on the person of Mukesh were simple in nature and there may not have been any bleeding from the wound and blood may not have fallen on the earth and in these circumstances, mere non-lifting of blood from the street and floor of the house is not fatal and the accused cannot derive any benefit from the same.

27. Learned counsel for the appellants further contended that blood-stained clothes have also not been taken into possession and the same have not been produced in the Court during the trial to prove the injuries. However, this contention also does not carry any force and this circumstance alone is not sufficient to brush aside the testimony of the injured witnesses. At the most, it is a mere irregularity on the part of the Investigating Officer. Moreover, the report of FSL has been led in evidence as Ex.PT, according to which blood has been detected on the clothes of the injured, which is of human origin. This circumstance shows



that the clothes were taken into possession by the police and sent to FSL Madhuban and were examined at the laboratory and mere non-production of the clothes in the Court is not of much consequence. Learned counsel for the appellants contended that the victim party had caused injuries on the person of Savitri and they have also been challaned for the offences under Sections 323, 324 and 325 IPC, as apparent from the final report Ex.DC. Infact, Savitri was initially attacked by Dariyo Singh, Sunita, Mukesh and Anant Ram with the help of an axe and jelly, etc. and in order to save their mother, accused Narender and Sanjay attacked the complainant party and thus the plea of private defence was available to them, and they should be acquitted of the charge.

28. However, I do not find any force in the contentions raised by learned counsel for the appellants. When the victims namely Dariyo Singh and Sunita, were cross-examined, suggestions were given to them that they, along with Anant Ram and Mukesh, were stealing wood from the plot of Dhan Singh @ Dhanna, husband of Savitri and when Savitri intervened, they all assaulted her with jelly, axe, lathi, etc. and in due course, Dhan Singh also reached the spot, and Savitri picked up some wooden stick from the plot and both of them caused injuries to them in order to save their property and the life of Savitri. However, no suggestion has been given that accused Narender and Sanjay had reached the spot armed with knives. No explanation has been given by them as to how the victims suffered stab injuries with the knives and as per their suggestions, they had caused injuries to the victim's family only with a stick/lathi, which is otherwise not proved from the ocular and medical evidence. Even if, it is assumed that the victim party had caused injuries



to Savitri, accused Narender and Sanjay certainly have exceeded their right of private defence, as they caused injuries on the vital parts of the body of the victims with knives brought by them. As such, the case law relied upon by learned counsel for the appellants is not applicable to the facts of the case.

29. Learned Trial Court has also appreciated the facts of the case and the evidence on file in the correct perspective while convicting accused Narender and Sanjay under Section 307, 324 and 34 of IPC for having caused injuries to Dariyo Singh, Sunita and Anant Ram, which have been declared dangerous to life, as the same had been caused on vital organs and there is, thus, no reason to take a contrary view. The appellants, thus, have rightly been held guilty and convicted for the offences under Sections 307, 324 and 34 of the IPC, 1860. The sentence imposed upon the appellants is also commensurate with the offences committed by them and is not on the higher side and there is no ground to interfere even on the question of sentence.

30. As a result of the aforesaid discussion, there is no merit in the appeal and the appeal preferred by accused Narender, etc., is ordered to be dismissed.

(YASHVIR SINGH RATHOR)
JUDGE

10.02.2026
Ali

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No