

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

446

2026.PHHC.066156



CRA-S-655-SB-2012 (O&M)
Decided on: April 29, 2026.

SURINDER KUMAR @ NINDI

...Appellant

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

PRESENT Ms. Kamaldeep Kaur, Advocate, (Legal-aid-counsel)
for the appellant.

Dr. (Ms.) Savi Nagpal, DAG, Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

The instant appeal has been preferred against the judgment of conviction and order of sentence dated 30.08.2011 passed by the Additional Sessions Judge, Jalandhar, in Sessions Case bearing No.20200028 dated 21.01.2011 arising out of FIR bearing No.150 dated 28.10.2010, under Sections 307, 394 and 323 of the Indian Penal Code, 1860, registered at Police Station Division No.5, Jalandhar, whereby the appellant had been convicted for commission of offence under Sections 307, 394 and 323 of the IPC and vide order of even date, sentenced to

undergo rigorous imprisonment for seven years and to pay a fine of Rs.2,000/- and in default of payment of fine to further undergo rigorous imprisonment for six months under Section 307 IPC; sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.1,000/- and in default of payment of fine to further undergo rigorous imprisonment for three months under Section 394 IPC; and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.500/- and in default of payment of fine to further undergo rigorous imprisonment for fifteen days under Section 323 IPC. All the sentences were ordered to be run concurrently.

2 Tersely stated, the FIR in the present case was registered on the basis of statement made on 28-10-2010 by Sham Saroop, aged about 71 years of age, who stated that his family members are permanently residing abroad and he had returned from America about ten days prior to occurrence. Appellant i.e. Surinder @ Nindi son of Ram Chand resident of Kot Sadiq, Jalandhar had been engaged by him for woodwork. He completed his work and took his fees and went away. On. 28-10-2010, the appellant came again to the house at about 9 am on the pretext of checking doors repaired by him the earlier day. On entering the house, he took out a knife of one foot length and told the complainant to hand him all the valuables. The complainant told him that he will give him cash and gold but he should not kill him. However, the appellant inflicted a knife blow on complainant with intention to kill him, but it was warded off by the complainant. A scuffle occurred between them and the knife fell down from his hand. The appellant then took flower pot made of brass in his hand and hit the complainant 5/7 times on his head with intention to kill.

The complainant fell down and handed him over his Gold Karha and ring. The appellant attempted to strangle the complainant by putting the telephone set wire around his neck. The complainant caught hold of the flower vase and hit the appellant with the same, which landed on his chin. In the meanwhile, the nephew of complainant namely Harpal Singh came at the spot. The appellant tried to run away by jumping from first floor but he was caught by the people. FIR was registered and appellant was arrested in this case. Upon completion of investigation, challan was filed in the court of Illaqa Magistrate.

3 Copies of final report along with all the documents were supplied to the appellant as per the provisions of Section 207 Cr. P.C. Since the case involved offence under Section 307 of IPC, the same was committed to the Court of Sessions for trial vide order dated 07.01.2011.

4 Finding a prima facie case punishable under Sections 307, 394 and 323 of the IPC, charges were framed against the appellant to which the appellant pleaded not guilty and claimed trial. Accordingly, the case was fixed for prosecution evidence.

5 In order to prove its case, the prosecution examined HC Bishan Lal as PW1, Complainant Sham Sarup Choudhary as PW2, Harpal Singh as PW3, Constable Paramjit Kumar as PW4, HC Hardev Singh as PW5, SI Kailash Kaur, as PW6 and Dr. Gurinder Kaur Chawal, SMO, Civil Hospital, Jalandhar as PW7. After tendering into evidence report of FSL as Ex.PX, the prosecution evidence was closed.

6 Statement of the appellant was recorded under Section 313 Cr.P.C. wherein he was apprised of all the incriminating circumstances against him in prosecution evidence to which he pleaded not guilty and stated that he is being falsely implicated.

7 In defence, the appellant examined Dr. Gurinder Kaur Chawla, Medical Officer, Civil Hospital, Jalandhar as DW1 and thereafter closed his evidence.

8 The counsel for the respective parties were heard by the trial Court and after considering the evidence adduced and the rival submissions advanced, the appellant was convicted for the commission of offence as above. Hence, the present appeal.

9 There is no representation on behalf of the appellant. On the last date of hearing also, there was no representation on behalf of the appellant. Mr. Arun K. Bakshi, Advocate, earlier representing the appellant is stated to have expired. The case pertains to the year 2012. A period of more than 14 years has elapsed since then. Hence, it was deemed appropriate to nominate a legal aid counsel to represent the appellant before this Court so that the case can be heard on merits.

10 Accordingly, Ms. Kamaldeep Kaur who is present in the Court is nominated as a legal-aid-counsel to assist this Court on behalf of the appellant. She has gone through the paper book as well as the record, which is available and has assisted this Court.

11 It has been argued by the learned legal aid counsel that the appellant has been falsely implicated in the aforesaid case and that the trial

Court has not appreciated the facts in its entirety, resulting in an erroneous finding of guilt. It is contended that the appellant is a Carpenter and there was a payment dispute between the complainant and appellant. She further contends that medical evidence doesn't support the case of the prosecution as no X-ray report or any opinion has been placed on record to suggest that the complainant suffered any grievous injury and in the absence of any such injury, offence under Section 307, IPC is not made out. It is also argued that there are material contradictions and inconsistencies in the statements of the complainant and the alleged eye-witnesses with regard to the manner of occurrence, which go to the root of the prosecution case and render the same unreliable. Counsel submits that such discrepancies have not been duly considered by the trial Court. She submits that blood stained clothes of the complainant were not taken into possession which is fatal to the case of the prosecution. She submits that no independent witness has been examined by the prosecution except PW.3 Harpal Singh who is nephew of the complainant. She submits that the trial Court has failed to appreciate the evidence, hence, the appeal be accepted and the appellant be acquitted. She, however, submits that in any case as per the custody certificate dated 28.04.2026, placed on record, the appellant has been set at large on 25.07.2015 after completion of his total sentence and fine stands paid.

12 State counsel, on the other hand, contends that the trial Court has taken into consideration the entire evidence. She contends that all the arguments advanced have already been considered and that no illegality or perversity has been pointed out. Further, there is nothing on record to suggest that the conclusions drawn by the trial Court in any

manner suffer from an incorrect appreciation of the evidence that has been adduced before the trial Court. Minor discrepancies having no bearing on the outcome deserve to be ignored.

13 I have heard the learned counsel appearing for the respective parties and have gone through the documents appended along with the present appeal, including the impugned judgment.

14 On consideration of the evidence and the arguments advanced on behalf of rival parties, the trial Court recorded as under: -

“22. I find that from the evidence on the file, prosecution has been able to prove and bring home the guilt of the accused. It is evidently clear from the statements of PW3, PW4 and PW6 that accused entered the house of the complainant in the garb of checking work done by him a day earlier and thereafter pulled out a 'churra' to cause injuries to him while attempting to commit robbery. It has further been proved on record by way of categorical statement of PW2 that accused gave as many as five blows in the head and face of the complainant with a brass flower pot.

23. Perusal of the statement of PW7 Dr. Gurinder Kaur Chawla, Medical Officer, Civil Hospital, Jalandhar, reveals that she has nowhere stated that injuries on the person of complainant were dangerous to life or were likely to cause death in the ordinary course of nature. This aspect has been vehemently argued by counsel for the accused. No doubt, none of the injuries have been stated to be dangerous to life or sufficient in the ordinary course of nature to cause death and the injuries would only come positively proved by way of evidence that accused tried to strangle the complainant with the help of telephone wire and thereafter also tried to press his face with the help of pillow.

24. *It is of importance to mention here that accused was apprehended at the spot while he was trying to flee from the spot by jumping from the roof and getting injured in the process. The injury on the person of the accused has also been duly explained by the prosecution as the same was inflicted by the complainant in self defence, while trying to save himself and this fact has categorically come in the statement of PW2 Sham Sarup Choudhary. The mere fact that injuries have not been declared dangerous to life cannot be made a basis to acquit the accused of the charge under section 307 IPC.*

25. *It is not essential that bodily injury capable of causing death should have been inflicted. An attempt in order to be criminal need not be the penultimate act foreboding death. It is sufficient in law if there is present an intent, coupled with some overt act in execution thereof, such act being proximate to the crime intended and of the attempt has gone so far that it would have been complete but for the extraneous intervention which frustrated its consummation. Offence under section 307 IPC is very well made out provided the act done was with such intention or knowledge and under circumstances that by that act death can be caused.*

26. *In the present case, the act of accused in hitting the complainant with brass pot repeatedly on his head/face and his acts of trying to strangle complainant with telephone wire and further his act of pressing his face with pillow clearly reveals his intent to cause death of the complainant and he definitely had knowledge that his said acts were such that death of complainant would have resulted due to the same, as is implicit from evidence as well as his acts. The injuries have been declared simple.*

27. *It is clear from the evidence that there was every intent to kill present in the mind and acts of the accused. Reliance*

is placed upon Hari Mohan Mandal Vs. State of Jharkhand 2004(2) RCR (Criminal)) 700 wherein it is held as under:-

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

This position was highlighted in State of Maharashtra Vs. Balram Bama Patil and others, 1983(2) SCC 28 and in R.Prakash Vs.State of Maharashtra, 2004(2) Supreme 78.

28. In Sarju Prasad Vs. State of Bihar, AIR 1965 SC 843, it was observed in para 6 that mere fact that the injury actually inflicted by the accused did not cut any vital organ of the victim, is not by itself sufficient to take the act out of the purview of Section 307.

29. To attract the provisions of section 307 IPC, it is the intention or knowledge which is to be seen. From the entire facts and circumstances, as well as the acts of the accused, a clear picture emerges that he gave blows on the head of the complainant with brass flower pot and tried to strangulate

him with the help of telephone wire and further tried to press his face with a pillow with the intention and knowledge that by said act in case death was caused, he would be guilty of committing murder. It is proved on record that complainant is an NRI, aged about 71 years and that accused had been working as a carpenter in his house on the previous two days. The accused while taking advantage of the old age of complainant and fact that he was residing alone and helpless, tried to commit robbery as well as attempt to murder the complainant.

30. The contention of the Ld. Counsel for defence that no other witness of the locality has been examined is also devoid of merits as it is not the quantity but the quality of the witness which matters. Principle was reiterated in Ramratan Vs. State of Rajasthan AIR 1962 SC 424 wherein it was held that "The prosecution having examined three eyewitnesses, in our opinion, there was no necessity of multiplying the number of witnesses and no adverse inference could be drawn against the prosecution merely on the ground that Kashmira Singh or Pritam Singh were not examined. If the incident had not taken place as suggested by the prosecution but had happened in a different manner, there was no impediment in the way of the accused-respondents to examine the aforesaid persons as defence witnesses, but they did not choose to do so.

31. In view of the evidence and circumstances the intention of the accused to commit robbery and attempt to murder the complainant is clearly proved. There is nothing on record to doubt veracity of the statements of the PW's and their statements have been consistent throughout. Minor discrepancies in the statements of the witnesses cannot be said to be fatal to the case of the prosecution.

32. Keeping in view the entire evidence, I am of the considered opinion that prosecution has been able to prove the guilt of the accused beyond doubt and the accused is found guilty of causing hurt to complainant while committing robbery and of attempting to murder the complainant. All the points for determination are answered accordingly. I therefore hold him guilty and convict him under sections 307/394/323 IPC. Let he be heard on the quantum of sentence.”

15 Having considered the impugned judgment and the evidence on record, this Court finds that the findings recorded by the learned trial Court are based on proper appreciation of evidence and do not suffer from any perversity. The prosecution case rests on the cogent and consistent testimony of the complainant, which stands duly corroborated by the testimony of PW-3 Harpal Singh, who reached the spot during the occurrence. Merely because PW-3 is related to the complainant would not render his testimony unreliable, particularly when nothing material has come in his cross-examination to discredit his version. Further, the presence of the appellant at the spot stands established, as he was apprehended while attempting to flee. The existence of the earlier dispute only provides the motive as well.

16 The contention regarding absence of medical evidence to prove that the injuries sustained were grievous in nature is also devoid of substance. The intention is to be gathered not merely from the extent of injuries but from the manner of committing the act. The record reveals that the appellant entered the house of an elderly man with a knife, and thereafter inflicted repeated blows with a brass flower pot on a vital part

of the body, besides attempting to strangle the complainant. These circumstances clearly establish the requisite intent. The injuries on the appellant have also been satisfactorily explained by the prosecution as having been caused in self defence by the complainant.

17 The alleged discrepancies in the statements of the prosecution witnesses, as pointed out by Legal Aid Counsel are minor in nature and do not go to the root of the case. It is well settled that conviction can be based on the testimony of related witnesses if found credible, and minor discrepancies are liable to be ignored.

18 Therefore, finding no illegality, impropriety, perversity or failure to appreciate the evidence in its true perspective, or any reference to the material that the conclusions drawn by the trial Court are not borne out of the evidence adduced, the judgment of conviction as well as order of sentence dated 30.08.2011 passed by the trial Court is affirmed. The appeal accordingly stands dismissed.

19 The fee of the legal aid counsel is assessed at Rs.11,000/-.

20 A copy of this order be sent to the High Court Legal Services Committee for information and necessary action.

April 29, 2026.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No