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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Judgment reserved on: 18.11.2025**Judgment pronounced on: 05.01.2026**Judgment uploaded on: 09.01.2026*+ **CRL.A. 1039/2025**

SAZID

.....Appellant

Through: Ms. Santosh and Mr. Noor-Ul-Islam, Advs.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Manoj Pant, APP for the State.

Mr. Madan Mohan Bora and Mr. Praveen Kumar, Advs. for the complainant.

+ **CRL.A. 1043/2025**

AKRAM

.....Appellant

Through: Ms. Santosh and Mr. Noor-Ul-Islam, Advs.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Manoj Pant, APP for the State.

Mr. Madan Mohan Bora and Mr. Praveen Kumar, Advs. for the complainant.

CORAM:**HON'BLE DR. JUSTICE SWARANA KANTA SHARMA**



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JUDGMENT

DR. SWARANA KANTA SHARMA, J

1. By way of this judgment, this Court shall be disposing of two connected criminal appeals preferred by the appellants, seek setting aside the impugned judgment dated 09.05.2025 and order on sentence dated 24.05.2025 passed by the learned Additional Sessions Judge-02, Special Judge (NDPS) East District, Karkardooma Court, Delhi [hereafter '*Trial Court*'] in Sessions Case No. 1038/2016, arising out of FIR bearing No. 423/2012, registered on 11.09.2012, at Police Station Mandawali, Delhi, for the commission of offence punishable under Sections 308/325/326/379/34 of the Indian Penal Code, 1860 [hereafter '*IPC*'].

FACTUAL BACKGROUND

2. Briefly stated, the facts of the present case are that on 10.09.2012, upon receipt of DD No. 53A, HC Arvind along with Ct. Arun Kumar had reached the spot at E-428, Gali No. 7, West Vinod Nagar, Delhi, where it was learnt that the injured persons had already been shifted to LBS Hospital, Khichdipur. At the hospital, MLCs bearing Nos. 9951/12, 9952/12 and 9953/12 of the injured namely Mohd. Shahid, Nabi Rasool and Mohd. Jabbar were collected, all reflecting injuries caused due to assault, some of which were subsequently opined as grievous, including fractures. The injured Nabi Rasool gave a statement alleging that on the same evening, after hearing noise outside his house, he saw his neighbours namely



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Akram, Rashid, Sazid, along with Akram's wife and daughter Heena, assaulting his son Jabbar. When he and his other son Shahid intervened, they were also beaten with iron rods, chilli powder was thrown into their eyes, and Rashid bit Nabi Rasool's lower lip, causing serious injuries. It was alleged that the assailants acted in furtherance of their common intention and inflicted grievous injuries on all three victims. On the basis of the said statement, medical records and circumstances, the present FIR No. 423/12 for commission of offence under Sections 308/323/325/341/34 of IPC was registered.

3. Thereafter, the accused Akram, Rashid and Sazid were arrested, while co-accused Heena and Sabnam were later granted anticipatory bail. During the course of investigation, statements of the injured and other witnesses were recorded, photographs of injuries were seized, and upon receipt of final medical opinions opining the injuries as *grievous*, Sections 324, 326 and 379 of IPC were added. After completion of investigation, a charge-sheet under Sections 308/325/326/341/379/34 of IPC was filed against the accused persons. The learned Trial Court, *vide* order dated 06.08.2014, framed charges for the offences punishable under Sections 308/326/34 of the IPC against the present appellants Akram and Sazid, as well as the other co-accused Rashid, Sabnam and Heena.

4. After conclusion of trial, the learned Trial Court convicted the appellants for the offence punishable under Section 326 read with Section 34 of the IPC and sentenced them to undergo rigorous



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imprisonment for a period of three years, along with payment of fine of ₹5,000/-. The concluding portion of the impugned judgment is set out below:

“...15. In view of the nature of punishment awarded to the convicts and the fact that they have been on bail during trial, the application are allowed. Convicts Akram, Sazid and Rashid are admitted to bail on furnishing PB & SB in the sum of Rs. 10,000/- each till the next date in order that they may present an appeal and obtain the orders from the Appellate Court under section 389(1) Cr.PC. Bail bonds not furnished. Convicts are accordingly sent to JC.

16. At this stage, fine of Rs. 5000/- each has been deposited by the convicts Akram, Sazid and Rashid. Fine of Rs. 5000/- has also deposited by convict Rashid. The fines imposed upon the convicts shall be applied for defraying the expenses incurred by the prosecution.

17. Copy of this order provided free of cost to the convicts. Copy of this order be sent to Ld. Secretary, DLSA/East/KKD Courts. A copy of this order be attached with the Jail warrant of convicts...”

5. Aggrieved by the aforesaid, the appellants Sazid and Akram have preferred the present appeals.

SUBMISSIONS BEFORE THE COURT

6. The learned counsel appearing for the appellant contends that the impugned judgment of conviction and order on sentence suffer from grave legal and factual infirmities and both are liable to be set aside. It is argued that the learned Trial Court has misappreciated both the law and the evidence on record, resulting in a miscarriage of justice. According to the appellant, the prosecution has failed to establish its case beyond reasonable doubt, as the testimonies of the prosecution witnesses are riddled with material contradictions,



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inconsistencies, embellishments, and improvements from their earlier statements, rendering them unreliable and unworthy of credence. It is further submitted that no independent public witness was examined by the prosecution, despite the incident having allegedly taken place in a residential locality, and the prosecution case rests solely on interested witnesses. The learned counsel further submits that the medical evidence does not corroborate the ocular version, particularly with respect to the alleged use of red chilli powder, knife, or iron rod, and the treating doctors who conducted the MLCs were not examined, with proxy medical witnesses being produced instead. It is also contended that the photographs relied upon by the prosecution were not proved in accordance with law and were inadmissible in the absence of a certificate under Section 65B of the Indian Evidence Act. The learned counsel emphasizes that there was prior enmity between the parties, evidenced by earlier complaints and an FIR registered against the complainant and his sons arising out of the same incident, which clearly raises the possibility of false implication, which aspect has been ignored by the Trial Court. It is further argued that no recovery of any weapon of offence was effected from the appellant, and the prosecution failed to establish the charge of theft under Section 379 of IPC against one of the co-accused, leading to acquittal on that count, which, according to the appellant, undermines the credibility of the entire prosecution case. The learned counsel for the appellants also points out that their antecedents are clean and that they have no prior or subsequent



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criminal involvement. On these grounds, it is prayed that the impugned judgment and order on sentence be set aside and the appellants herein be acquitted.

7. The learned APP for the State, while opposing the appeal, argues that the impugned judgment of conviction and order on sentence are well-reasoned, based on a proper appreciation of the evidence on record, and do not suffer from any illegality, perversity, or material irregularity warranting interference by this Court. It is argued that the prosecution has successfully proved its case beyond reasonable doubt through the consistent and cogent testimonies of the injured witnesses, whose presence at the spot is undisputed and whose evidence carries a high probative value in law. The learned APP submits that the injured witnesses have given a clear and coherent account of the incident, including the role attributed to each of the accused persons, and their testimonies have withstood cross-examination. It is further contended that minor discrepancies or variations in the statements of witnesses are natural and do not affect the core of the prosecution case, particularly in an incident involving multiple assailants and serious injuries. The learned APP submits that medical evidence on record fully corroborates the prosecution version, in as much as the injuries suffered by the victims have been opined to be grievous, and the nature and severity of injuries are consistent with the use of sharp and blunt weapons as alleged. The non-examination of the treating doctors, it is argued, does not vitiate the prosecution case, since the MLCs were duly proved by competent



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medical witnesses and no prejudice has been shown to have been caused to the accused. The learned APP further submits that non-recovery of the weapon of offence is not fatal where there is reliable ocular evidence, especially from injured witnesses, and the learned Trial Court has rightly relied upon settled principles of law in this regard. It is also argued that the alleged previous enmity between the parties does not weaken the prosecution case; rather, it provides a motive for the commission of the offence. The learned APP emphasizes that the Trial Court has carefully considered all defence pleas, including the alleged contradictions, prior complaints, and acquittal of one co-accused for a separate offence, and has rightly rejected them with cogent reasons. It is also contended that the sentence awarded to the appellants is proportionate to the gravity of the offence and the nature of injuries caused to the victims. Accordingly, the learned APP prays that the present appeal be dismissed and the judgment of conviction and order on sentence be upheld.

8. This Court has **heard** arguments addressed by the learned counsel for the appellant and the learned APP for the State, and has perused the material available on record.

ANALYSIS & FINDINGS

9. This Court notes that eighteen prosecution witnesses were examined during the course of trial before the learned Trial Court. The defence, in turn, examined six witnesses before the learned Trial



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Court, of whom DW-1, DW-2 and DW-3 were material; they were examined on behalf of the accused, duly cross-examined, and discharged, whereafter the matter proceeded to final arguments, after which, the appellants herein were convicted by the learned Trial Court.

Testimonies of Material Prosecution Witnesses

10. At the outset, it would be apposite to take note of the testimonies of the material prosecution witnesses examined before the learned Trial Court.

11. This Court notes that the injured-complainant, Nabi Rasool Mohd., was examined as PW-1 before the learned Trial Court. He has deposed that he had been residing at the address in question for about fifteen years and had been employed with Mother Dairy since 1975. He has stated that on 10.09.2012, at about 9:00 p.m., while he was present in his house, he heard commotion from outside. Upon looking from the balcony, he had noticed the accused persons, i.e. Rashid, Akram, Sazid, Sabnam, and Heena, quarrelling with and assaulting his son Jabbar. PW-1 identified accused Rashid, Akram, Sazid, and Sabnam before the learned Trial Court and stated that he was also able to identify accused Heena, who was not present in Court at that time; but her identity was not disputed by the learned defence counsel. PW-1 has further deposed that he had immediately come down to the lane outside his house to intervene, but the accused persons had paid no heed and instead caught hold of him and



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assaulted him as well. He has deposed that accused Sabnam and Heena had thrown red chilli powder into his eyes and into the eyes of his son Jabbar. He has further deposed that his other son, Shahid, had also reached the spot in an attempt to intervene, but he too was assaulted by the accused persons. According to PW-1, accused Sazid and Rashid were armed with iron rods and they had inflicted blows on his head, on Jabbar, and on the legs of Shahid. He has further stated that despite their cries, the assault continued and that accused Rashid also bit his lower lip with his teeth.

12. Mohd. Shahid, who is the son of the complainant Nabi Rasool Mohd., was examined as PW-2 before the learned Trial Court. He has deposed that he had been residing at the address for about 7–8 years and was working as a driver in the year 2012. He has stated that on 10.09.2012, at about 9:30 p.m., upon hearing noise from outside his house, he had come out and seen the accused persons Rashid, Akram, Sazid, Sabnam, and Heena assaulting his brother Jabbar and his father with iron rods and knives. PW-2 identified accused Rashid, Akram, Sazid, and Sabnam before the learned Trial Court and stated that he could also identify accused Heena, whose identity was not disputed by the defence counsel. PW-2 has further deposed that when he had intervened, chilli powder was thrown into his eyes and accused Akram had struck him on his right leg with an iron rod, causing him to fall. He stated that accused Akram had instigated the others to kill them, while accused Rashid and Sazid had assaulted his father on the head and chest, and accused Rashid had bit his father on



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the lip. He has further deposed that a PCR van had arrived at the spot and the injured persons were taken to LBS Hospital for medical examination, after which he and Jabbar were treated at Metro Hospital, Preet Vihar, and his father was admitted to Max Hospital for plastic surgery. He has stated that he had also suffered multiple fractures in his leg due to the assault.

13. This Court further notes that Mohd. Zabbar, who is the second son of Nabi Rasool, was examined as PW-3 before the learned Trial Court. He has also deposed that on 10.09.2012, between 9:00 and 10:00 p.m., while returning from his office and parking his car outside his house, accused Rashid had dragged him out of the vehicle and assaulted him with a knife, causing injury to his right thigh. He has stated that accused Akram, his wife Sabnam, and daughter Heena had then arrived and had thrown red chilli powder into his eyes and on his body, after which accused Akram had struck his left leg with an iron rod, causing him to fall. PW-3 has further deposed that accused Rashid had stolen ₹80,000/- cash from his car, and when his father and brother Shahid had intervened, they were also assaulted, chilli powder was thrown in their eyes, and accused Akram, Rashid, and Sazid had jointly attacked his father, with accused Rashid biting his father's lower lip. He had stated that the PCR had arrived and taken them to LBS Hospital for medical examination, following which he and Shahid were treated at Metro Hospital and his father was admitted to Max Hospital for surgery.

14. Mohd. Dilshad, third son of the complainant Nabi Rasool, was



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examined as PW-4 before the learned Trial Court. He has deposed that on 10.09.2012, while working as a Restaurant General Manager at a KFC outlet in Sector 18, Noida, he had received a call from his elder brother Mohd. Shahid around 9:30 p.m., informing him of a quarrel with neighbours and requesting him to come home immediately. PW-4 has stated that he thereafter had reached LBS Hospital, where he had found his father Nabi Rasool and brothers Mohd. Zabbar and Mohd. Shahid admitted with serious injuries, and bleeding profusely. He has deposed that he had also taken photographs of the injured family members using his mobile phone.

15. PW-5 examined before the learned Trial Court was Sh. Prakash Dubey, neighbor of the complainant, who has deposed that on 10.09.2012, at about 9:30 p.m., while returning to his residence after parking his car, he had reached near his house, where he had seen accused Rashid, Akram and Sazid assaulting Nabi Rasool and Shahid. He has stated that he did not initially notice any other persons participating in the assault and that shortly thereafter a PCR van had arrived at the spot, following which he had left the spot. PW-5 has identified accused Akram and Rashid in Court and stated that he could also identify the remaining accused persons, whose identity was not disputed by the defence counsel. Since PW-5 resiled from certain portions of his earlier statement recorded under Section 161 of Cr.P.C., he was permitted to be cross-examined by the learned APP of the State. During such cross-examination, PW-5 admitted that when he had reached the spot near the said house at around 9:00 p.m.,



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he had seen Akram, Sazid and Rashid along with their women family members assaulting Nabi Rasool and his family members. He specifically admitted that he had seen accused Akram beating Shahid with an iron rod and further acknowledged that Nabi Rasool and his family members had sustained injuries in the incident. PW-5 also admitted that his statement was recorded by the police on the following day.

16. Another material witness, Smt. Shadab Heena was examined as PW-7 before the learned Trial Court. She has deposed that on 10.09.2012, at about 9:15–9:30 p.m., upon hearing commotion from outside, she had come to the balcony of her house and noticed that their neighbours Rashid, Sazid and Akram (brothers), along with Sabnam (wife of Akram) and Heena (daughter of Akram), were assaulting her husband, Mohd. Zabbar. She has further stated that upon her raising an alarm, her father-in-law Nabi Rasool and brother-in-law Mohd. Shahid had come downstairs to intervene, whereupon the accused persons had also caught hold of them and assaulted them. PW-7 has deposed that when she had attempted to intervene, Sabnam had pushed her, though she did not sustain any visible injury. She has stated that Rashid was armed with a knife, while Sazid and Akram were carrying iron rods. She has further deposed that Rashid bit her father-in-law on the lip with his teeth and also struck him with a knife, while Sazid and Akram assaulted her husband and brother-in-law with iron rods. She has further stated that Sabnam and Heena threw chilli powder into the eyes of her father-in-law and brother-in-



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law when they attempted to rescue her husband. PW-7 has also deposed that she had dialled 100 number, pursuant to which a PCR van had arrived at the spot, and upon noticing the gathering of public and the PCR, the accused persons had fled. She has further stated that the PCR officials had taken her husband, father-in-law and brother-in-law to LBS Hospital, and later, when she reached the hospital, her husband informed her that ₹80,000/- kept in his car had been taken away by accused Rashid. She had correctly identified Rashid and Akram in Court and stated that she could also identify Sazid, Sabnam and Heena.

17. Dr. M. K. Saxena, Director, Apex Citi Hospital, West Vinod Nagar, Delhi, was examined as PW-6 before the learned Trial Court. He has deposed that on 13.09.2012, one patient, Nabi Rasool Mohd. son of Musafir Ali, was admitted to Apex Citi Hospital. He has further stated that prior thereto, the said patient had been taken to LBS Hospital with an alleged history of assault, where MLC No. 9952/12 was prepared, and that the patient had subsequently received treatment at Max Hospital, I.P. Extension, from where he was discharged. PW-6 has deposed that upon admission to Apex Citi Hospital on 13.09.2012, the patient had complained of giddiness and nausea and remained admitted for a period of about 20 days. On clinical examination, the patient was found to have multiple abrasions on the face, both upper limbs, and lower limbs, and had also suffered facial disfigurement. PW-6 had opined that the nature of the injuries sustained by the patient was *grievous*. He has proved his medical



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opinion dated 26.11.2012, which was furnished at the request of the Investigating Officer. He also identified a hospital bill bearing No. 1064 dated 04.10.2012, and stated that the same was attested by the hospital accountant, Sh. Vinod Mehta, whose signatures he identified on the document.

18. PW-16 Dr. Vikram Agrawal, Senior Resident (Orthopaedics), LBS Hospital, Delhi, has deposed that he had been deputed to testify on behalf of Dr. Arvind, who had left the hospital about 4–5 years earlier. He has stated that he had worked with Dr. Arvind at LBS Hospital and was familiar with his handwriting and signatures. He has proved the medical opinion given by Dr. Arvind on the MLC of injured Mohd. Shahid, son of Nabi Rasool dated 19.10.2012, exhibited as Ex. PW16/A. As per the said opinion, a fracture of the shaft of the tibia (proximal one-third of the leg bone) was observed. The opinion was based on the X-ray report of the injured, exhibited as Ex. PW16/B.

19. PW-17 Dr. Shashwat Dayal, Assistant Medical Superintendent, Max Hospital, Patparganj, Delhi, has produced the medical record of patient Nabi Rasool Mohd., who was admitted on 11.09.2012 with an alleged history of a human bite injury to the lower lip. He has deposed that the patient was admitted for reconstruction of the lip and was examined by Dr. Biraj N. Panchaal. He has further stated that on 12.09.2012, the injured underwent reconstruction of the lip with flaps and was discharged on 13.09.2012. The discharge summary has been proved as Ex. PW17/A, along with IPD and OPD bills, exhibited as



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Ex. PW17/B (colly). He has stated that Dr. Biraj N. Panchaal had left the services of the hospital and that no official presently working at the hospital could identify her handwriting or signatures. He has clarified that his deposition was based solely on the hospital records.

20. PW-18 Dr. S. B. Jangpangi, CMO, LBS Hospital, Khichripur, Delhi, has deposed that he had been working as a Medical Officer at LBS Hospital since the year 2000 and had appeared before the Court on the directions of the Medical Superintendent. He has stated that he was testifying on behalf of Dr. Ranjeetesh, who had left the hospital and whose present whereabouts were not known. He has further stated that he was acquainted with the handwriting and signatures of Dr. Ranjeetesh, having seen him write and sign during the course of official duties. He has identified the signatures of Dr. Ranjeetesh on the MLC of Mohd. Shahid bearing No. 9951/12 (Ex. PW16/A), on the MLC of Nabi Rasool bearing No. 9952/12 (Ex. PW8/B), and on the MLC of Mohd. Zabbar bearing No. 9953/12 (Ex. PW8/A).

21. Therefore, the broad facts and allegations, as emerging from the prosecution evidence, can be summarised as under:

- On the night of 10.09.2012, at about 9:00–9:30 PM, a violent altercation took place outside House No. E-428, Gali No. 7, West Vinod Nagar, Delhi, involving the accused persons and the victims' family.
- The accused persons, i.e. Akram, Rashid, Sazid, Sabnam and Heena, jointly assaulted Mohd. Zabbar, Mohd. Shahid and



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Nabi Rasool, using iron rods and a sharp-edged weapon, acting in furtherance of their common intention.

- Red chilli powder was allegedly thrown into the eyes of the injured victims to immobilise them.
- The victim Nabi Rasool sustained grievous injuries, including severe injury to his lower lip, which later required plastic surgery, as corroborated by medical records.
- Mohd. Zabbar and Mohd. Shahid also suffered fractures and other grievous injuries, necessitating treatment at LBS Hospital and subsequently at Metro Hospital, Preet Vihar.
- The assault was witnessed by family members present at the spot, including the wife of Mohd. Zabbar, who raised an alarm and informed the police.
- An independent witness (PW-5) reached the spot during the incident and saw the accused persons assaulting the victims.
- Following receipt of information, the PCR van arrived at the spot, and the injured persons were taken to the hospital for medical examination and treatment.

22. Accordingly, this Court is of the view that the prosecution has *prima facie* placed on record a clear and consistent chain of events through the testimonies of the injured victims and the other witnesses, which stands corroborated by the medical records and surrounding circumstances.

Statement of Accused Persons



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23. Statements under Section 313 of the Cr.P.C. of the appellants Akram and Sazid were recorded on 13.09.2023 and 16.09.2023 respectively. They stated that they were innocent and had not committed any offence. No quarrel had taken place between them and injured persons and they had been falsely implicated in this case. Accused persons did not prefer to lead defence evidence.

24. However, later, an application under Section 315 of Cr.P.C. was moved by the appellant Sazid for leading defence evidence, which was allowed.

Defence Evidence

25. This Court notes that Sh. Neeraj Kumar Jain was examined as DW-1 before the learned Trial Court. He has deposed that he was running a ready-made garments shop at Vinod Nagar, Mandawali, and that accused Sazid had been supplying trousers to his shop for the last about 15 years and used to visit his shop every Monday. He stated that 10.09.2012 was also a Monday and on that day accused Sazid had come to his shop to collect payment. He further deposed that both of them had gone together in the evening between 8:00–9:00 PM to Dhan Sanchay Society to enquire about opening an account or availing loan facilities. He stated that accused Sazid did not come to his shop on the next Monday and he later learnt that accused Sazid was in custody in connection with the present case. According to him, accused Sazid subsequently informed him that he had been falsely implicated in an incident alleged to have occurred



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during the same time when he was with DW-1.

26. This Court further notes that the accused/appellant Sazid examined himself as DW-2 before the learned Trial Court. He has deposed that he had been engaged in the business of selling ready-made trousers and had been supplying garments to the shop of DW-1 for several years, visiting the shop every Monday. He produced a diary maintained by him reflecting payments received from DW-1, which was exhibited during trial. He also placed on record documents relating to his CBSE Open School examination. DW-2 stated that on 10.09.2012, he had gone to the shop of DW-1 to receive payment and thereafter accompanied him to Dhan Sanchay Society between 8:00–9:00 PM, and thus was not present at the spot of the alleged incident. He has further asserted that he had been falsely implicated due to previous disputes between the complainant side and his brother.

27. One Sh. Abhishek Pandey, Manager, Dhan Sanchay Cooperative Bank, was also examined by the defence as DW-3 before the learned Trial Court. He has deposed that he was summoned as defence witness to produce video footage relating to the inauguration of the bank and other routine activities. He has stated that upon verification of the bank records, no video footage of the inauguration dated 28.07.2012, or of routine activities such as distribution programmes, was available.

Appreciation of Evidence and the Rival Contentions

28. While appreciating the oral as well as documentary evidence



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on record, this Court notes that the prosecution case primarily rests on the testimonies of PW-1 (Nabi Rasool), PW-2 (Mohd. Shahid) and PW-3 (Mohd. Zabbar), all of whom are injured witnesses. The law is well settled that the testimony of an injured witness carries greater evidentiary value, since such a witness has himself witnessed the incident/offence in question. This becomes more crucial when the presence of such witness is proved beyond doubt. The Hon'ble Supreme Court in this regard has, in case of ***Balu Sudam Khalde v. State of Maharashtra***: (2023) 13 SCC 365, held as under:

“26. When the evidence of an injured eye-witness is to be appreciated, the under-noted legal principles enunciated by the Courts are required to be kept in mind:

- (a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.
- (b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.
- (c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.
- (d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.
- (e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.
- (f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.”



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29. PW-1, 2 and 3 have given a clear, cogent and consistent account of the incident, describing the manner in which accused Akram, Sazid and Rashid had assaulted them with iron rods, and further detailing the role of accused Rashid in biting and avulsing the lower lip of PW-1. Despite detailed cross-examination, their testimonies have remained unshaken on all material particulars.

30. The version of the injured witnesses also finds strong corroboration from the medical evidence on record. The MLC of PW-2 Mohd. Shahid (Ex. PW16/A), duly proved through PW-16 and PW-18, establishes that he suffered a *fracture* of the proximal shaft of the tibia, which has been opined to be *grievous* in nature. The MLC of PW-1 Nabi Rasool (Mark PW8/B), read with the discharge summary from Max Hospital (Ex. PW17/A), medical bills (Ex. PW17/B) and the testimony of PW-6, conclusively proves that PW-1 suffered avulsion of the lower lip and underwent reconstructive surgery, resulting in facial disfigurement. PW-6 has specifically opined that the injury suffered by PW-1 was grievous. The learned Trial Court has rightly held that these documents, when read together, conclusively establish the nature and seriousness of the injuries.

31. As regards PW-3 Mohd. Zabbar, his MLC (Mark PW8/A) records traumatic swelling over the tendon measuring about 2×2 cm, tenderness of the thigh, abrasions over the knee, and injury to the upper lip. Though the prosecution has not led evidence to identify the handwriting of the doctor who gave the orthopaedic opinion on the said MLC, the fact remains that PW-18 has duly identified the



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signatures of the examining doctor on the MLC. More importantly, the testimony of PW-3 regarding assault by iron *rods* stands corroborated by the medical record showing injuries on the person of PW-3.

32. The contention raised on behalf of the appellants that PW-16, PW-17 and PW-18 were not competent witnesses to prove the medical documents has been rightly rejected by the learned Trial Court. These witnesses have identified the handwriting and signatures of the doctors who examined the injured persons and prepared the MLCs, and have explained that the concerned doctors had left the hospital and their whereabouts were not available. It is a settled principle that medical documents can be proved through such witnesses who are familiar with the handwriting and signatures of the concerned doctors. The defence also chose not to cross-examine PW-18 on this aspect, which further strengthens the prosecution case.

33. This Court also finds no merit in the argument of the defence regarding non-recovery of iron rods. It is well settled that non-recovery of the weapon of offence is not fatal when the prosecution has led reliable ocular evidence duly corroborated by medical material. In the present case, the consistent testimonies of the injured witnesses, supported by the nature, location and extent of injuries, clearly establish that hard blunt objects were used in the assault. The learned Trial Court has rightly relied upon this settled position of law, and also referred to the decision of Hon'ble Supreme Court in case of *Mekala Sivaiah v. State of A.P.*: (2022) 8 SCC 253 wherein



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it has been held as under:

“26.2. When there is ample ocular evidence corroborated by medical evidence, mere non-recovery of weapon from the appellant would not materially affect the case of the prosecution.”

34. As regards the plea of *alibi* raised by appellant-accused Sazid, the same has also been rightly rejected by the learned Trial Court. The defence witnesses DW-1 and DW-2 (appellant himself) have merely made oral assertions regarding the presence of Sazid elsewhere, without producing any documentary evidence or examining any independent witness from the alleged place. Even DW-3 has stated that no video footage of the relevant date was available. On the contrary, PW-3 has specifically stated that accused Sazid joined the assault later, and PW-5, an independent public witness, has also seen accused Sazid participating in the assault. In these circumstances, the plea of alibi remains unsubstantiated and unreliable.

35. Moreover, although some witnesses have made reference to the use of a knife, the medical evidence does not show any stab injury. However, this discrepancy does not affect the core of the prosecution case. The consistent and reliable version of the injured witnesses regarding assault with iron rods and the grievous injuries caused thereby is fully supported by the medical evidence. The learned Trial Court has thus rightly held, *inter alia*, that the prosecution has proved beyond reasonable doubt that appellants Akram and Sazid, alongwith



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co-accused Rashid, acting in furtherance of their common intention, caused grievous injuries to the injured persons. This Court finds no reason to take a different view on the appreciation of evidence.

36. Having observed so, this Court also concurs with the view taken by the learned Trial Court that the evidence on record, when read as a whole, does not disclose the requisite intention or knowledge necessary to sustain a conviction under Section 308 of the IPC.

37. However, the prosecution has proved beyond reasonable doubt that the accused persons/appellants, acting in furtherance of their common intention, caused grievous injuries to the victims, thereby attracting the offence punishable under Section 326 of the IPC. The nature of the injuries suffered, including the fracture of the right leg of PW-2 Mohd. Shahid as established by MLC No. 9951/12 (Ex. PW16/A) read with the X-ray report (Ex. PW16/B), and the serious traumatic injuries sustained by PW-3 Mohd. Zabbar as recorded in his MLC (Mark PW8/A) – all caused by use of iron rods – squarely bring the case against the appellants Sazid and Akram within the ambit of Section 326/34 of the IPC. The conviction of the appellants Akram and Sazid for the offence under Section 326 of IPC is, therefore, fully justified.

38. Upon a comprehensive consideration of the entire evidence available on record, this Court is of the considered view that the findings recorded by the learned Trial Court are well-reasoned and



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based on a correct appreciation of both facts and law. The impugned judgment does not suffer from any perversity, illegality or material infirmity. The prosecution has successfully established the guilt of the appellants beyond reasonable doubt.

39. Accordingly, this Court finds no ground to interfere with either the judgment of conviction or the order on sentence passed by the learned Trial Court. The conviction and sentence of the appellants under Section 326 read with Section 34 of the IPC are hereby upheld.

40. As regards the order on sentence, this Court notes that the offence under Section 326 of the IPC is punishable with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, along with fine. In the present case, the learned Trial Court has awarded a sentence of three years' rigorous imprisonment, which is well within the statutory limits and cannot be said to be excessive or disproportionate, having regard to the nature of the injuries caused and the role attributed to the appellants. The sentence awarded is thus reasonable and calls for no interference by this Court.

41. The present appeals *sans* any merit are accordingly dismissed.

42. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JANUARY 05, 2026/zp

T.S./T.D.