



2026:DHC:3877



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

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Judgment Reserved on: 04.05.2026
Judgment pronounced on: 07.05.2026

+ **CRL.A. 76/2026 & CRL.M.(BAIL) 138/2026**

SONU@ PANCHU@ LANGDA

.....Appellant

Through: Mr. Shailesh Chandra Jha,
(DHCLSC), Advocate.

Versus

STATE

.....Respondent

Through: Mr. Utkarsh, APP for the State with
SI Brij Mohan, P.S. Subzi Mandi.

CORAM:
HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 415(2) and 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, accused no. 1 (A1) in SC No. 1093/2018 on the file of the Special Judge, NDPS-01 (Central), Tis Hazari Courts, Delhi, assails the judgment dated 05.06.2025 and order on sentence dated 09.09.2025 as per which



he has been convicted and sentenced for the offence punishable under Section 308 read with Section 34 of the Indian Penal Code, 1860 (the IPC).

2. The prosecution case is that on 16.07.2018 at about 11.30 pm at Gautam Gali near House No. 513, Kabir Basti, Malka Ganj, Delhi, the accused persons four in number (A1 to A4), in furtherance of their common intention, abused PW2 and attempted to murder him by stabbing him with a knife on his right thigh with the intention and knowledge and under such circumstances that if the act caused death would be guilty of murder. Hence, as per the charge-sheet/final report, the accused persons were alleged to have committed the offences punishable under Sections 307 and 506 read with 34 IPC.

3. On the basis of Ext.PW12/A FIS/FIR of CW1, given on 17.07.2018, Crime no. 208/2018, Subzi Mandi Police Station, that is, Ext.PW1/A FIR was registered by PW1, Assistant Sub Inspector. PW6, Sub Inspector (SI) was entrusted with the



investigation of the case. On completion of the investigation into the crime, the charge-sheet/final report was filed alleging the commission of the offences punishable under the aforementioned sections.

4. When the accused persons were produced before the trial court, all the copies of the prosecution records were furnished to them, as contemplated under Section 207 Cr.P.C. After hearing both sides, the trial court, vide order dated 17.01.2019, framed a Charge under Sections 307 and 506 read with Section 34 IPC, which was read over and explained to them to which they pleaded not guilty.

5. On behalf of the prosecution, PWs. 1 to 12 were examined, and Exts. PW1/A-D, PW3/A-B, PW5/A, PW6/A-P, PW7/A-D, PW8/A1-B, PW9/A, PW12/A-C, P1-P3, Mark PW3/1, Mark PW5/1, and Mark 11/1-24 were marked in support of the case.



6. After the close of the prosecution evidence, the accused persons were questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against them in the evidence of the prosecution. The accused persons denied all those circumstances and maintained their innocence. They claimed that they had been falsely implicated in the case. A1 submitted that he had no connection with the incident. One of the co-accused, namely, Kapil @ Tola (A3), had given money to PW2. When he, along with the other accused persons, went to the house of PW2 to demand repayment of the loan, a heated exchange of words took place. Upon PW2's refusal to return the loan amount, they left the place quietly. A1 submitted that he never caused any injury to PW2 and that he has been falsely implicated at the instance of PW2, who had refused to repay the loan to A3 and was attempting to extort money from them. According to A1, he is unaware as to how PW2 sustained injuries.



2026:DHC:3877



7. After questioning the accused persons under Section 313(1)(b) Cr.P.C., compliance of Section 232 Cr.P.C. was mandatory. In the case on hand, no hearing as contemplated under Section 232 Cr.P.C. is seen done by the trial court. However, non-compliance of the said provision does not, *ipso facto* vitiate the proceedings, unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused (See **Moidu K. vs. State of Kerala, 2009 (3) KHC 89 : 2009 SCC OnLine Ker 2888**). Here, A1 has no case that non-compliance of Section 232 Cr.P.C has caused any prejudice to him.

8. DW1 and DW2 were examined on behalf of the accused. No documentary evidence was adduced by the accused.

9. Upon consideration of the oral and documentary evidence on record, and after hearing both sides, the trial court, *vide* the impugned judgement dated 05.06.2025 found the accused persons guilty of the offence punishable under Section 308 read



with Section 34 IPC. *Vide* order on sentence dated 09.09.2025, the accused persons have been sentenced to rigorous imprisonment for a period of five years. Aggrieved, A1 has preferred this appeal.

10. This appeal was admitted on 21.01.2026. The sentence was not suspended as the appellant/A1 has criminal antecedents. It was submitted that out of the period of five years, the appellant/A1 has served more than four years. Hence, the appeal was taken up for final hearing and the matter was heard.

11. The learned counsel for the appellant/A1 submitted that the impugned judgment is vitiated by a complete misappreciation of evidence. It was submitted that no recovery was effected from A1. A1 had no role in the incident in which PW2 sustained injuries. PW2 has been falsely implicated A1 due to the financial dispute between the former and the co-accused. PW3, the brother of PW2, has turned hostile. PW4 and PW5 have not witnessed the incident. Apart from PW2, no other witness has supported the



prosecution case. Hence, and the appellant/A1 is entitled to the benefit of doubt.

12. *Per contra*, the learned Additional Public Prosecutor supported the impugned judgment and submitted that the consistent testimony of PW2, read in conjunction with the medical evidence on record, clearly establishes that the injury was caused by A1 along with A2 to A4 in furtherance of their common intention. There is no infirmity in the impugned judgment calling for an interference by this Court.

13. Heard both sides and perused the records.

14. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgment calling for an interference by this court.

15. I make a brief reference to the oral and documentary evidence relied on by the prosecution in support of the case. Ext. PW12/A FIS/FIR of Jaspal, brother of PW2, cited as the first charge witness (CW1) reads thus:- On the night of 16.07.2018, at



approximately 11:00 p.m., while he was sitting in the street outside his house talking to his aunt, four boys, whom he is acquainted with, namely, (1) Kapil (A3), also known as Bhola, son of Laxman, residing at House No. 749, Nehru Kutia, Kabir Basti; (2) Pawan (A2), son of Naval, residing at Nehru Kutia, Kabir Basti; (3) Sonu (A1), also known as Langda, son of Vijay, residing at Hotel Wali Gali, Kabir Basti; and (4) Suraj (A4), son of Sunil, residing at Hotel Wali Gali, Kabir Basti, passed through the street using abusive language. When he confronted them and questioned them, all four of them began threatening him and continued with their verbal abuse. Hearing the commotion, his younger brother, Ghanshyam (PW2), came out of the house and asked the boys to move on. In response, the four boys threatened to kill Ghanshyam (PW2) and began beating the latter. Sonu (A1) and Pawan (A2) grabbed his brother from both sides, while Suraj (A4) held him from behind. Kapil (A3) then with a knife stabbed his brother, Ghanshyam (PW2), on the right thigh. His brother began to bleed



profusely. After the incident, the four boys fled the scene. With the help of neighbours, he took his brother to the Hindu Rao Hospital for treatment, where the doctor referred him to the Safdarjung Hospital.

16. CW1 is not seen examined. PW2, the injured, deposed that on 16.07.2018 at about 11:00 p.m., while he was inside his house, he heard screams. When he went outside, he saw that the accused persons, namely, Pawan (A2), Tola (A3), Suraj (A4) and Langra (A1), were abusing his brother Jaspal (CW1). He intervened and asked Jaspal (CW1) to go inside, while requesting the accused persons to leave. Although the accused persons initially went towards the main roadside, they soon returned, started abusing and engaged in a scuffle with him. Tola (A3) threatened to kill him. Thereafter, Langra (A1) caught hold of his left hand, Suraj (A4) held him by the neck from behind, and Pawan (A2) caught his right hand. Meanwhile, Tola (A3) took out a knife and tried to stab him on his abdomen region and when he tried to



save himself, he sustained an injury on the upper portion of his right thigh. On hearing the commotion, Chander Prakash (PW3), his elder brother, arrived at the scene. The accused persons after injuring him fled from the scene of occurrence. His brother took him to the Hindu Rao Hospital, after which he lost consciousness. He regained consciousness in the Safdarjung Hospital. PW3 told him that he had initially been taken to the Hindu Rao Hospital from where he was referred to the Safdarjung Hospital. PW2 identified the pant and underwear he was wearing at the relevant time, and the same have been marked as Ext. P1(colly) and his slipper as Ext. P2.

16.1. PW2 in his cross-examination deposed that at the time of the incident, he was working in a thread factory. However, after the incident he is unable to work now due to the disability sustained. On the said day, he had infact gone to sleep after dinner when he heard the commotion. When he intervened, Jaspal, his brother was sitting in the *gali* outside his house, and all four



accused persons were standing near his brother. PW2 admitted that he had no prior enmity with the accused persons. His *bhabhi* and PW3 were inside the house and they came out on seeing him being stabbed. Chander Prakash, his brother (PW3) had come to the scene on seeing him injured and the latter had taken him to the hospital. According to PW2, the cause of the incident was because he intervened on hearing the accused persons abusing his brother. His brother did not sustain any injury in the incident. He denied the suggestion that no such incident had taken place, or that the accused persons had not caused any injuries to him or that the accused persons had been falsely implicated or that he was deposing falsely.

17. PW3, the brother of PW2, deposed that at the time of the incident, he was residing with his brothers Jaspal (CW1), Ghanshyam (PW2), Kapil, his sister and mother. On the said date, he was sleeping inside his house. On hearing noises, he went outside and saw PW2 lying on the ground with blood oozing out of



his thigh. With the help of Jitender Bhardwaj (PW4), his neighbour, he took PW2 to the Hindu Rao Hospital on a motorcycle. From Hindu Rao Hospital, Ghanshyam (PW2) was referred to Safdarjung Hospital. PW3 deposed that he does not know who had caused injuries to his brother, Ghanshyam (PW2). The prosecutor then is seen to have sought permission of the trial court to “cross-examine” PW3 on the ground that the latter was resiling from his previous statement. The request was allowed. On further examination by the prosecutor, PW3 deposed that he had not stated to the police that his brother, Jaspal (CW1), who was present with Ghanshyam (PW2) at the spot, had informed him that Kapil @ Tola (A4), Pawan (A2), Sonu @ Langda (A1), residents of Nehru Kutia, had assaulted PW2 with a knife and had fled the scene.

18. PW4, the neighbour of PW2, was unable to recall the exact date of the incident. According to him, the incident occurred in July 2018. On the said day, at about 11:00 p.m., he heard a



quarrel outside his house. When he went outside his house, he saw that Jaspal (CW1) and Chander Prakash (PW3), who were his neighbours, were trying to lift their brother Ghanshyam (PW2), who was injured. He, along with PW3, took PW2 to the Hindu Rao Hospital. PW4 was never cross-examined by any of the accused persons

19. PW6, Sub-Inspector, Subzi Mandi police station, deposed regarding the various steps taken by him during the course of the investigation. He had arrested Sonu @ Pancha @ Langda (A1), Pawan @ Saurabh @ Totla (A2), Kapil @ Siddhu @ Tola (A3) and Suraj (A4) vide Exts. PW6/B, PW6/C, PW6/D and PW6/E arrest memos, respectively. According to PW6, the disclosure statements of the accused persons are Exts. PW6/J, PW6/K, PW6/L and PW6/M, respectively. During the course of the investigation, at the instance of Pawan (A2), the knife used for the crime was recovered as per Ext. PW6/P seizure memo. The sketch of the knife is Ext. PW6/O.



2026:DHC:3877



20. PW9, Professor and Head of the Department, CTVS, Vardhmana Mahavir Medical College and Safdarjang Hospital, New Delhi, deposed that the investigating officer requested his opinion on the nature of injuries recorded in the MLC. *Vide* Ext PW9/A letter, he opined that the injuries suffered by PW2 were grievous in nature. In his cross-examination, PW9 admitted that he had not examined the patient, and his opinion as to the injury was based on the MLC and the documents attached to the MLC.

21. I also make a brief reference to the testimony of defence witnesses. DW1, a neighbour of PW2 as well as A1, deposed that there was a financial dispute between PW2 and A3. On the date of the incident, A3 went to the house of PW2 to get back his money. PW2 refused to return the money and said that he would never return the money and that A3 could do whatever he wanted. Thereafter, the accused persons quietly left the spot. In his presence, only a heated exchange of words had taken place, and there was no quarrel. The next day, he came to know that PW2 had



sustained injuries and that he was in the hospital. He is unaware as to how PW2 sustained the injuries.

22. DW2 has supported the version of DW1.

23. The appellant/A1 stands convicted of the offence punishable under Section 308 read with Section 34 IPC. Section 308 deals with the offence of 'attempt to commit culpable homicide'. For invoking Section 308 IPC, it is not essential that the injury actually caused should be sufficient in the ordinary course of nature to cause death; what is required to be seen is whether the act, irrespective of its result, was committed with such intention or knowledge and under such circumstances that, if death had ensued, the accused would have been guilty of culpable homicide not amounting to murder. Further, factors such as the nature of weapon used, the part of the body targeted, the severity of the blow, the nature and size of the injury, the motive and the conduct of the accused are relevant in determining the existence of such intention or knowledge.



24. The version of PW2 that he sustained injuries is supported by PW3 his brother and PW4, his neighbour. Though PW3 and PW4 do not speak of how or who caused the injury, they admit that PW2 did sustain injuries. The appellant/A1 does not have a case that PW2 did not sustain injuries. On the other hand, his defence is that he is unaware as to how PW2 sustained the injury. It is true that the MLC is not seen marked. But the testimony of PW9, the doctor, that he had gone through the MLC and the connected documents and that the injury caused to PW2 was a grievous one has not been discredited in any way as he was never cross-examined. PW2 when examined stood by his case and in the cross-examination nothing was brought out to discredit his testimony. It was brought out in the cross-examination of PW2 that there exists no enmity between PW2 and A1. Therefore, there is no reason to disbelieve or discard his testimony. It is true that apart from the testimony of PW2, there is no other witness who is supporting his case. Even PW3, his brother does not support PW2,



though the former does admit that the latter did sustain injuries. The presence of PW2 at the scene of occurrence is not disputed and hence, cannot be doubted. When once his presence at the scene is not doubted, then his testimony assumes great importance unless there are strong grounds, the same cannot be rejected on the basis of some minor discrepancies. (See **Shivalingappa Kallayanappa v. State of Karnataka 1994 Supp (3) SCC 235**).

25. The law on the point can be summarised to the effect that the testimony of an injured witness is accorded a special status in law. This is as a consequence of the fact that the injury to the witness is an in-built guarantee of his presence at the scene of the crime and because the witness will not want to let his actual assailant go unpunished merely to falsely implicate a third party for the commission of the offence. Thus, the deposition of the injured witness should be relied upon unless there are strong grounds for rejection of his evidence on the basis of major contradictions and discrepancies therein. (See **Abdul Sayeed v.**



State of M.P., (2010) 10 SCC 259 and Jarnail Singh v. State of Punjab, (2009) 9 SCC 719). In the case on hand, no material contradiction(s) or inconsistencies have been brought out in the testimony of PW2 to disbelieve him.

26. The appellant/A1 has not denied his presence at the scene of the occurrence on 16.07.2018. His only case is that he had not caused the injuries. While questioned under Section 313(1)(b) Cr.P.C., A1 has developed a new case of some financial dispute between PW2 and A3. To establish the same, he examined DW1 and DW2. However, the appellant/A1 never had such a case when PW2 was in the box. It was in the cross-examination of PW2, it was brought out that no prior enmity existed between him and A1. Despite that not even a suggestion is seen put to PW2 regarding any financial dispute between him and A3. The defence version appears to be an afterthought.

27. It was further submitted by the learned counsel for the appellant/A1 that no recovery has been effected from A1. It is true



that no recovery was effected from A1. According to the prosecution case, the knife used for the crime was recovered at the instance of A2. I am not going to the said aspect in this appeal filed by A1 alone. Be that as it may, it is well settled that recovery of the weapon used in the commission of the offence is not a *sine qua non* for conviction, if the prosecution case is otherwise proved beyond reasonable doubt (see **Rakesh v. State of U.P., (2021) 7 SCC 188**). In the case on hand, I find no reason(s) to disbelieve PW2 whose testimony has in no way been discredited. Though the appellant/A1 has been charged for the offence punishable under Section 307 read with Section 34 IPC, the trial court found him guilty for the offence punishable under Section 308 read with Section 34 IPC. No arguments were advanced on the said point.

28. In the light of the aforesaid discussion, I find no infirmity in the impugned judgment calling for an interference by this Court.

29. The appeal *sans* merit is dismissed.



30. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

MAY 7, 2026
Rs/mj