



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

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Judgment Reserved on: 18.02.2026

Judgment pronounced on: 23.02.2026

+ **CRL.A. 583/2018**

NAZIM & ANR

.....Appellant

Through: Mr. Rakesh Kr. Dudeja, Advocate.

versus

THE STATE (GOVT NCT OF DELHI)

.....Respondent

Through: Mr. Utkarsh, APP for the State with
SI Mohd. Ayyoob, P.S. Jafrabad

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 374 of the Code of Criminal Procedure, 1973, (the Cr.P.C.), the 1st Accused (A1) and the 2nd Accused (A2) in SC No. 44828/2015 on the file of the District & Sessions Judge, North East District, Karkardooma Courts, Delhi, assail the judgment dated 09.04.2018 and the order on sentence dated 16.04.2018 as per which both A1 and A2 have



been convicted and sentenced for the offence punishable under Section 307 read with 34 of the Indian Penal Code, 1860 (the IPC).

2. The prosecution case is that on 30.05.2010 at about 9.00 PM, near Gali No. 3, Chauhan Bangar, A1 and A2, along with A3, assaulted PW1 and inflicted grievous injuries upon him with a knife and a razor. Accordingly, as per the charge sheet/final report, the accused persons are alleged to have committed the offence punishable under Section 307 IPC and Section 27 of the Arms Act, 1959.

3. On the basis of Ext. PW2/A PCR Call vide DD No 17A, received on 10.03.2015 at 09.11 PM, Crime No. 134/2010, Jafrabad Police Station, i.e., Exhibit PW2/B FIR was registered by PW3, Constable. PW10, Assistant Sub Inspector (ASI) was entrusted with the investigation of the case. PW10 conducted investigation into the crime and on completion of the same, filed the charge-sheet/final report alleging commission of the offences punishable under the aforementioned sections.



4. The copies of the prosecution records were furnished to him, as contemplated under Section 207 Cr.P.C. After hearing both sides, the trial court, vide order dated 12.07.2012, framed a charge under Section 307 read with 34 IPC and A1 was additionally charged with the offence punishable under Section 27 of the Arms Act, 1959, which was read over and explained to the accused persons to which they pleaded not guilty.

5. On behalf of the prosecution, PWs. 1 to 15 were examined and Exhibits PW2/A-B, PW4/A-K, PW6/A-D, PW7/A-F, PW9/A-B, PW10/C-E, PW8/DA, PW13/A, PW15/A-B, PW13/A and PW14/A-D 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 have been falsely implicated.



7. After questioning the accused 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, the accused has no case that non-compliance of Section 232 Cr.P.C has caused any prejudice to him.

8. DW1 was examined on behalf of the accused persons. No documentary evidence was adduced in support of the defence case.

9. Upon consideration of the oral and documentary evidence, and after hearing both sides, the trial court, *vide* the impugned judgment dated 09.04.2018, held A1 and A2 guilty of the offence punishable under Section 307 read with Section 34 IPC



and acquitted A3 of the charges. *Vide* order on sentence dated 16.04.2018, A1 and A2 have been sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of ₹ 10,000 each, and in default of payment of fine, to undergo simple imprisonment for a period of six months for the offence punishable under Section 307 IPC. Aggrieved, A1 and A2 have preferred the appeal.

10. It was submitted by the learned counsel for the appellants/A1 and A2 that PW1, the injured, in his testimony, deposed that only two persons, namely, A1 and A3, were armed with weapons, and that A2 merely caught hold of him from behind. It was further submitted that although PW1 was discharged from the hospital on 01.06.2010 and assisted PW10, the Investigating Officer, in preparing the site plan of the place of occurrence on 03.06.2010, he produced his blood stained pant and slippers only on 05.06.2010. This delay, according to the learned counsel, casts serious doubt on the prosecution case.



10.1. It was further submitted that no blood samples were collected from the place of occurrence, as admitted by PW10, the Investigating Officer, in his testimony. The learned counsel for the appellants also contended that the alleged recovery of the weapons is doubtful and unreliable, inasmuch as the same was effected from a public place. Reliance was further placed on the FSL report to contend that the bloodstains detected on the recovered razor (*ustara*) did not match the blood group of PW1 and, therefore, the said weapon cannot be said to have been used in causing the alleged injuries.

11. *Per contra*, the learned Additional Public Prosecution submitted that PW1 sustained five incised wounds measuring between 3 cm to 10 cm and three incised wounds measuring between 6 cm to 12 cm, all inflicted on vital parts of the body by a sharp-edged weapon. PW 11, doctor has categorically opined that any one of the injuries was sufficient in the ordinary course of nature to cause death. Due to the grievous injuries sustained, PW1



was referred to Neuro Surgery and General Surgery for further management, which substantiates the life-threatening nature of the assault.

11.1. As far the delay in recording the statement of PW1 is concerned, it was submitted that as per PW15/A MLC, the doctor declared the injured unfit for statement, and therefore, the FIR was registered on the basis of the DD entry and MLC when PW1 became fit for giving the statement, the same was recorded. The delay thus stands satisfactorily explained. It was further contended that the testimony of PW1, an injured witness carries greater evidentiary value and conviction can be sustained on such sole testimony if found reliable and trustworthy.

12. Heard both sides and perused the records.

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



14. I make a brief reference to the oral and documentary evidence relied on by the prosecution in support of the case. PW1, when examined before the trial court on 20.03.2013, deposed that he was engaged in masonry work along with his father and that though he does not recollect the exact month or year of the incident, it was about three years before his examination on the 30th day of a month. A1, A2, A3 are residents of a nearby lane adjoining his house. On the date of the incident at about 8:30 P.M., while passing through Gali No. 3, he saw all three accused persons present there. The accused persons who appeared to be under the influence of liquor, called him and abused him. A2 caught him from behind by his neck, while the other two attacked him with a knife and a razor which they were holding. Due to the assault, he fell on the ground, at which time the accused persons fled from the spot. Someone informed the police from his mobile phone. The police arrived and took him to the Guru Teg Bahadur Hospital. PW1 further deposed that he became unconscious due to the



severity of the injuries sustained and his statement was recorded by the police in the hospital. He was an inpatient for about 8 to 10 days. After discharge, he continued to experience pain and thereafter obtained further treatment from another hospital, i.e., Prima Super Speciality Hospital, where he was admitted for about 3 to 4 days. PW1 identified Ex. P1 knife and Ex. P2 green-handle razor used by A1 and A2 respectively for the assault. PW1 was unable to identify the third weapon, namely, a black-handle razor. At this juncture, the prosecutor is seen to have requested the permission of the Court to “cross examine” the witness on the ground that the latter had deviated from his previous statement with regard to the role of the accused persons and the weapons involved. The request was allowed.

14.1. On further examination by the prosecutor, PW1 deposed that when the accused persons abused him he had objected to the said conduct. He had seen weapons in the possession of only two of the accused persons. However, all the



three accused had assaulted him together by using the weapons. He further deposed that A3 had been holding Ex. P2 razor at the time of the assault. He denied that A2 was also carrying a razor. According to him, A2 had only caught hold of him while the other accused caused injuries. According to PW1, even after the incident in question, the accused persons assaulted him again after about four months, and thereafter once more about six months after the second assault. On both the subsequent occasions, he was taken by his father in an auto rickshaw to Guru Teg Bahadur Hospital for treatment.

14.2. PW1 admitted that he is an accused in about 05 or 06 criminal cases, one of the cases alleging commission of offence punishable under Section 302 IPC.

15. PW4, Head Constable, PS Nand Nagri, deposed that on 01.06.2010, he joined the investigation of the case along with PW10 and they reached the area of Brahmpuri Puliya where, they received secret information that A1, was present near Gali No. 3,



Chauhan Bangar. They apprehended A1 at about 6:15 p.m. PW4 correctly identified A1 present in Court. PW4 further deposed that the accused made Ext. PW4/C disclosure statement and as led by A1 and pointed out by A1, Ext. P1 knife was seized as per Ext. PW4/E seizure memo. Ext. PW4/D is the sketch of the knife. On 03.06.2010 he again joined the investigation with PW10. On receiving secret information, they apprehended A2 from Gali No. 3, Chauhan Bangar. PW4 correctly identified A2 in Court. Based on Ext. PW4/H disclosure statement of A2 and as led by A2, Ext. P2 razor was seized from near Sulabh Sauchalaya as per Ext. PW/K seizure memo from near DDA Park, close to Jag Parvesh Hospital. He prepared Ext. PW4/I sketch of the razor. PW4 identified Ext. P1 knife and Ext. P2 razor, as the weapons recovered at the instance of A1 and A2, respectively.

15.1. PW4 in his cross examination deposed that the place of recovery of the razor was a deserted place and that there was a park nearby. Public used to visit the park for walking and the



Sulabh Sauchalaya was also being used by the public. At the time of recovery, only one or two persons were present in the park near the place of recovery, but none agreed to join the investigation.

16. PW5, Sub-Inspector deposed that on 30.05.2010 he was posted in PCR, North East Zone and was on duty in Baker 51 stationed at Ghonda Chowk. At about 9.10 pm, information was received regarding a fight at Gali No. 3, Chauhan Bangar Pulia. He immediately reached the spot in the PCR vehicle and found PW1 with bleeding injuries. PW1 was taken to GTB Hospital and admitted.

17. PW10, the Investigating Officer deposed that that on 30.05.2010 he was posted as ASI at Jafrabad Police Station. When DD No. 17A regarding a quarrel was received, he along with PW3 reached Gali No. 3, Chauhan Bangar and learnt that the injured had already been removed to GTB Hospital by PCR. Finding no eyewitness at the spot, he went to the hospital, collected the MLC of the injured, who was then unfit for giving a statement. On the



basis of the MLC disclosing serious injuries on vital parts, he registered the crime, that is, Ext. 2/B FIR under Section 307 IPC. On 01.06.2010, after PW1 was declared fit for statement, he recorded the former's statement. Later that day, while he along with PW4 was on patrol duty, he received secret information about the presence of A1 near Gali No.3, Chauhan Bangar. He proceeded to the said place and arrested A1. PW10 identified A1 before the court. A1, on being interrogated, disclosed the involvement of the co-accused. On the basis Ext.PW4/C disclosure statement of A1 and as led by A1 and pointed by A1, a knife (*churi*) was recovered from a nala.

17.1 PW10 further deposed that, on 03.06.2010, acting on secret information, A2 was apprehended who was also identified in Court. A2 made Ext. PW10/C disclosure which led to the recovery of a blood stained razor without blade from near Sulabh Sauchalaya near Jag Pravesh hospital. He prepared Ext. PW4/J sketch of the razor, seized and sealed it. During further



investigation, PW1 handed over his blood stained jeans and slippers, which were sealed and seized.

17.2 In the cross examination, PW10 admitted that the recovery of the knife was effected from a residential area. According to PW10, A1 himself had removed/ dug out the earth and took the knife out, which was not wrapped in any material paper or cloth. PW10 further deposed that the razor was recovered from a place adjacent to which residential houses were situated. The razor was found concealed under a brick and in open condition. During the recovery proceedings, no one else except the police officials and the accused were present.

18. PW11, CMO GTB Hospital, deposed that on 30.05.2010 at about 10.00 pm, PW1 was brought to the emergency of GTB Hospital by PW5 with alleged history of assault. PW1 was medically examined by Dr. Sonal Arora, SR, Department of Casualty. PW1 was conscious but disoriented. Multiple incised wounds were noted on the scalp, chest, abdomen and back,



including three superficial incised wounds on the back measuring between 6 cm and 12 cm. After initial treatment, the patient was referred to Surgery and Neuro Surgery. The injuries were caused by a sharp weapon. According to PW11, the injuries inflicted could have caused death. PW11 in his cross examination deposed that although he was present at the time of examination of PW1, he had not personally examined PW1 but could identify the handwriting of Dr. Arora.

19. PW13, Director and Head, Department of Surgery, Fortis Hospital, Shalimar Bagh, Delhi, produced the original treatment papers of PW1. PW13 deposed that the patient had been admitted in the hospital on 11.06.2010 with history of assault on 30.05.2010. Primary treatment was given at GTB Hospital and he was discharged from the said hospital on 01.06.2010. The patient came to Primus hospital on 11.06.2010 with complaints of pain in chest and difficulty in breathing. On examination, he was found conscious, oriented and the vitals were stable. He had healed stitch



lines on the chest and scalp region, which did not require any surgical intervention. He was given conservative management and discharged from the hospital on 14.06.2010. The treatment papers, discharge summary, etc. of PW1 has been marked as PW13/A. PW13 also deposed that the treatment papers are in the handwriting of Dr. Arun, Dr. Mrunal and Dr. Yogesh Gautam, whose handwriting and signatures, he is acquainted with.

20. PW15, Professor, Department of Surgery, UCMS, GTB Hospital, Delhi, produced MLC dated 30.05.2010 of PW1, which has been marked as PW15/A. PW15 deposed that Dr. Manish Srivastava, who prepared exhibit PW15/A, had left the services of the hospital and that his whereabouts are presently not known. He is acquainted the handwriting and signature of Dr. Manish Srivastava. PW15 further deposed that the nature of injury has been recorded as simple in exhibit PW15/B MLC by Dr. Manish Srivastava on 08.06.2010.

21. The appellants/A1 and A2 have been convicted for the



offence punishable under Section 307 and read with Section 34 IPC. To prove an offence under Section 307 IPC, the prosecution must establish that the act was done with such intention or knowledge and under such circumstances that, if death has been caused, the act would amount to murder. The intention or the knowledge of the accused has to be gathered from the nature of the weapon used, the manner of its use, the part of the body aimed at and the surrounding circumstances.

22. In the case on hand, the prosecution case rests primarily on the testimony of PW1, the injured witness. It is well settled that the testimony of an injured witness carries great evidentiary value and a conviction can be based solely on the testimony of an injured witness, provided the same inspires confidence and is found to be trustworthy. Now the question is whether the testimony of PW1 coupled with the medical evidence is sufficient to prove the offence of attempt to commit murder by A1 and A2.

23. It is true that evidence regarding recovery of the knife



and the razor at the instance of A1 and A2 is not quite satisfactory. The case of recovery of weapon is spoken to by the police officials only. No reasons have been given as to why independent witnesses were not included in the exercise. It is true that merely because there are no independent witnesses to support the case of recovery, the same is no ground to reject the prosecution case. But here there is no case for the Investigating Officer that witnesses were not present or available. Therefore, in such circumstances the said independent witnesses could have also been included while the recovery is alleged to have been effected.

24. Be that as it may, even if evidence regarding the recovery of weapons is ignored, that would also not be a ground to reject the prosecution case because recovery of weapon used in the commission of the offence is not *sine qua non* for convicting the accused. (See **Rakesh v. State of U.P., 2021 KHC 6299 : (2021) 7 SCC 188**). In the case on hand, this is especially so, because A1 and A2 admit that PW1 did in fact sustain injuries. This aspect is



clear from the suggestions put to PW1 while he was cross-examined, the relevant portion of which reads thus:- “.....*It is wrong that accused had not caused any assault or injury upon me. It is wrong that in order to implicate them falsely, I myself caused me injuries with the help of some of my friend.....*”

25. Therefore the fact that injuries had been caused to PW1 is more or less admitted by A1 and A2. The testimony of PW1 proves that it was A1 and A2 who had caused those injuries. No contradictions have been proved as per the procedure contemplated under Section 145 of the Evidence Act. The details of the injuries are seen recorded Ext. PW15/A MLC dated 30.05.2010 at 10:00 PM. The injuries are:-

- (i) About 10 cm long incised wound present on the left side of scalp.
- (ii) About 5.6 cm long incised wound present on the left side of scalp.
- (iii) About 3 to 3.5 cm long incised wound present on the



right side of scalp.

(iv) About 3 cm long incised wound present on the left side of chest.

(v) About 3 to 3.5 cm long incised wound present on the left side of abdomen.

(vi) 3 superficial incised wounds present on back ranging in size from 6 cm to 12 cm in length.

26. PW11, who was present when PW1 was examined by Dr. Sonal Arora deposed in his chief-examination that any of the aforesaid injuries inflicted could have caused death. This aspect is not seen cross examined on behalf of A1 and A2. It is true that PW15 deposed that in Ext. PW15/A MLC Dr. Manish Srivastava on 08.06.2010 has recorded that “as per surgical records the nature of the injury is simple”. But the injuries seen recorded in Ext. PW15/A do not appear simple which is spoken to by PW11 who was present when PW1 was examined. The testimony PW11 has neither been challenged nor discredited. Looking at the dimensions



of the injury as well as the part of the body where it was inflicted, reveals the intention of the accused persons. Further, the nature of injury is not determinative of the offence under Section 307 IPC when the act is accompanied by a clear intention or knowledge to cause death. More than 5 incised injuries are seen to have been caused on the scalp, chest and abdomen. This coupled with the testimony of PW11, establishes the ingredients of the offence under section 307 IPC. Hence, I find no infirmity in the impugned judgment calling for an interference by this court.

27. In the result, the appeal *sans* merit is dismissed.

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

**CHANDRASEKHARAN SUDHA
(JUDGE)**

FEBRUARY 23, 2026/ABP