



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

Date of reserving order: 27th July, 2026

Date of decision: 31st July, 2026

IN THE MATTER OF:

CRL.A. 548/1999

ASGAR @ PAKORI

.....Appellant

Through: Mr. Ram Bhadauria, Advocate.

versus

STATE (GOVT.OF NCT DELHI)

.....Respondent

Through: Mr. Satinder Singh Bawa, APP for State.

CORAM:

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. A fraternal fracas amongst the cousin brothers on account of sharing of rent of a shared accommodation spilled over into a physical fight and resulted into the registration of FIR bearing number 491/1993, PS Ambedkar Nagar, under Section 307 of Indian Penal Code 1860 ('IPC').

2. It so happened that the Appellant herein, who was also sharing the rented accommodation with three-four more persons, belonging to the same clan, wanted to go back to his native in Mewat. The other co-occupants / co-tenants asked him to pay his share of rent before going, which enraged the Appellant to the extent that he, not only abused the co-tenant / co-occupant Shahid Ahmed, Mohd. Iqbal and Zuber Ahmed, but also picked up a knife lying in the room, lunged upon Shahid and gave a blow on the left side of



his chest accompanied by the utterance that he would kill him. Iqbal and Zuber Ahmed intervened to save victim Shahid and in the process, Iqbal also sustained injuries on his arm.

3. In the meantime, the Appellant Asgar @ Pakori fled away from the spot i.e. House No. E-II/236, Madangir, New Delhi. Pursuant to receipt of the information through DD No. 14 dated 30.11.1993 at Police Post Madangir. The vehicle from the police control room arrived at the scene and took the victim to the hospital.

4. The victim Shahid Ahmed was declared unfit for statement at the hospital by the doctor as per the endorsement on the application moved by the IO Ex. PW17/A. Thus, based upon the statement of PW-1 Mohd. Iqbal, who, albeit injured, but declared fit, the requisites of the investigations were carried out after registration of the First Information Report (FIR) and on conclusion of investigations; a charge-sheet was filed in the Court against Asgar @ Pakori, the Appellant herein, under Section 307 and Section 324 IPC.

5. To the charges framed under Section 307 IPC, the accused pleaded not guilty and claimed trial. Prosecution was thereafter, called upon to examine the witnesses, pursuant to which 17 witnesses were examined and thereafter, considering the contentions raised by the Appellant including his statement recorded under Section 313 of Code of Criminal Procedure (hereinafter referred to as 'Cr.P.C.'), learned trial court through the Impugned Judgment dated 07.10.1999, held the Appellant guilty under Section 307 IPC and sentenced him to undergo Rigorous Imprisonment ('RI') for a period of 5 years and a fine of Rs. 2000/-, in default of payment of fine, Simple Imprisonment ('SI') for a period of two months vide Order on Sentence dated 08.10.1999.



6. Assailing the impugned judgment the appeal bearing Crl. Appeal No. 548/1999 was filed which came to be dismissed on the ground that after the release of the Appellant, on grant of interim bail on 12.03.2001, failed to surrender and was declared as 'proclaimed offender' vide order dated 11.04.2005.

7. The Appellant surrendered before the prison authorities on 19.02.2025 and since then, he is in custody.

8. He thereafter preferred a Special Leave Petition before the Hon'ble Supreme Court vide SLP No. 3168/2026 and the Appeal i.e. Crl.A. No. 2510/2026. In the aforesaid SLP, leave was granted to the Appellant and the appeal, as aforesaid was disposed of, while making following observations:-

"3. Our order dated 16.02.2026 reads thus:-

"1. Delay condoned.

2. In the present matter, the High Court has dismissed the appeal on the ground that the appellant has remained absconding for over eight years. The appellant has now surrendered on 19.02.2025.

3. Our attention has been drawn to the judgment of this Court in the case of Dhananjay Ral @ Guddu Rai vs The State Of Bihar reported in 2022 (14) SCC 95 which holds that the appeal ought to be heard on merits.

4. Issue notice to consider whether the matter can be remanded to the High Court to hear the appeal on merits.

5. Dasti service, in addition, is permitted.

6. Liberty is granted to the petitioner to serve notice through the Standing Counsel for the f State/respondent.

7. List on 23.02.2026."

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7. We believe that the ends of justice would be met if we, remand the matter to the High Court for fresh consideration of the Criminal Appeal No.548/1999 on its own merits.

8. As almost 27 years have passed by and the convict is now in custody, we request the High Court to take up Criminal Appeal



No.548/1999 for hearing and decide the same on its own merits within a period of three months from today.”

9. With the above observations, the appeal was allowed and the matter was remitted to High Court. Against the backdrop of these facts and circumstances, learned counsel for the Appellant focussed primarily on one aspect that the requisite intention or knowledge, as contemplated under Section 307 IPC, is not manifest in the evidence and, therefore, holding the Appellant guilty under Section 307 IPC is not in consonance with either the facts or the law. In addition to that, it is submitted that the Appellant, at the most, can be held guilty for causing injury to the victim.

10. Learned counsel for the Appellant further challenged the Judgment by asserting that the testimony of the public witnesses examined, cannot be believed as all of them were the ‘interested witnesses’ being brothers of the victim. He questioned the investigation also terming it as defective on account of the fact that the Investigating Officer did not bother to join the neighbours in the investigations and therefore, there is, in-fact, no independent public witness to the incident. In addition to that, it is submitted that a very trivial issue of rent was blown out of proportion and in-fact the victim and his brothers were the aggressors and the Appellant was at the receiving end. During the ensuing scuffle, they fell down in a drain and that resulted into injuries to the victim, as explained / submitted in the statement under Section 313 Cr.P.C. In any case, there was only a single blow as can be seen from the MLC, and from the deposition of the witnesses examined, therefore, ‘*attempt to kill*’ is not attributable to the Appellant. In order to substantiate his contention and the proposition, learned counsel for the Appellant has placed reliance on the judgement titled ***Roshan Lal vs. State of Haryana***, 2026 SCC Online SC 921.



11. Learned APP for the State, while countering the contentions, submitted that the incident took place inside the confines of a rented room, therefore, there was no possibility of having any other witness, who can strictly be termed as independent witness. Nevertheless, the testimony of a witness cannot be thrown out of consideration, merely because he happens to be a near relative of the victim. Incidentally, the Appellant himself happens to be the cousin brother of the victim. Since it was the Appellant who got enraged, abused and thereafter, assaulted the victim, accompanied by a very clear and categorical assertion that he wanted to kill, therefore, he is liable for his acts. It is submitted that in the process of saving the victim, Mohd. Iqbal also sustained injuries as can be seen from the MLC Ex.PW16/A. Learned APP for the State further elaborated that the injury sustained by the victim Shahid Ahmed @ Kallu, is, apparently, dangerous and life threatening, inasmuch-as the size of wound / injury was 3x4 inches. It seems that the knife went inside the ribs and ruptured / punctured the left lung of the Appellant. The victim, when brought to the hospital, was profusely bleeding as reflected vide MLC Ex.PW14/A. The doctor has categorically opined the injury, as reflected 'grievous'.

12. PW-14 Dr. Rajnish Singh, Senior Research Associate, AIIMS, New Delhi who had examined the victim and opined about the injuries as reflected in the MLC Ex.PW14/A. Doctor had also examined another victim Mohd. Iqbal on that very day i.e. the date of incident 30.11.1993. He found that the injuries sustained by him on the right hand and the left arm and according to him, those injuries were simple in nature, caused by a sharp weapon. In view of these facts and circumstances, learned APP for the State asserted that the Impugned Judgment is perfectly in consonance with the facts and circumstances and the law applicable on the subject and, therefore,



does not require any interference.

13. Primarily, it is the intention and / or the knowledge that an act done in a peculiar set of facts and circumstances may have the potential to cause death, is what is of vital importance. Intention or knowledge is something which is abstract but then the same can be inferred with the help of the acts, actions, inactions, utterances, gesture and a combination of all or anything of the nature such as use of weapons, body part which was attacked, single or multiple blows, manner of assault, etc.

14. The Supreme Court in *Hari Singh v. Sukhbir Singh and Others*, (1988) 4 SCC 551, has discussed as what the court has to see in order to bring home a case under Section 307 IPC. The relevant portion of the judgment is as under:-

“7. Under Section 307 IPC what the court has to see is, whether the act irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in that section. The intention or knowledge of the accused must be such as is necessary to constitute murder. Without this ingredient being established, there can be no offence of “attempt to murder”. Under Section 307 the intention precedes the act attributed to accused. Therefore, the intention is to be gathered from all circumstances, and not merely from the consequences that ensue. The nature of the weapon used, manner in which it is used, motive for the crime, severity of the blow, the part of the body where the injury is inflicted are some of the factors that may be taken into consideration to determine the intention.”

15. It can be seen that it is the intention and the requisite knowledge, which is of utmost importance irrespective of the injury. Bare reading of Section 307 IPC clearly indicates that injury is not necessary. For ready reference, Section 307 IPC is reproduced as under:-

307. Attempt to murder.—

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be



guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

Attempts by life convicts.— When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.

16. It can be seen that there would be enhanced punishment where there was injury also, which, by implication, means that the offence under Section 307 IPC can be there without even there being any injury.

17. As such, it is to be ascertained that the act was accompanied by the requisite intention or knowledge. Intention or knowledge is something which is intangible and abstract confined within the realms of human mind and therefore, it is nearly impossible to ascertain, that too, what exactly was playing in the mind of a person. Nevertheless, the same can be inferred with the existence of the available indicators before, at and after the act in question together with other surrounding and attending circumstances.

18. Learned counsel for the Appellant has placed reliance on **Roshan Lal's** case (supra) and submitted that in the absence of requisite intention or knowledge, the Appellant cannot be held responsible for the offence under Section 307 IPC for which he has been charged and convicted by the learned Trial Court. While drawing attention towards the aforesaid judgment, it is submitted that the Appellant, at the most, can be convicted for causing hurt.

19. Incidentally, in the aforesaid judgment, the aspect of injury has been dealt with by the Hon'ble Supreme Court by referring and relying upon the judgments in **State of Madhya Pradesh vs. Saleem @ Chamaru**, (2005) 5 SCC 554 and **Prakash Chandra Yadav vs. State of Bihar & Ors.**, 2007 (4) RCR (Crl.) 860 : 2007 (13) SCC 134, to emphasize that injury is neither



essential, nor determinative, rather it is the intention, which holds the centre stage, in order to determine as to whether the acts of the accused fall into the scope and ambit of Section 307 IPC. As has been noted earlier, the bare reading of Section 307 IPC itself indicates that injury is not *sine-qua-non* as in the event of causing injury, the accused runs the risk of enhanced punishment. In this context, the observations made in ***State of Madhya Pradesh vs. Saleem @ Chamaru*** are worth noting, which is reproduced herein under:

" 12. To justify a conviction under this Section, it is not essential that bodily injury capable of causing death should have been inflicted. Although the nature of injury actually caused may often give considerable assistance in coming to a finding as to the intention of the accused, such intention may also be deduced from other circumstances, and may even, in some cases, be ascertained without any reference at all to actual wounds. The Section makes a distinction between an act of the accused and its result, if any. Such an act may not be attended by any result so far as the person assaulted is concerned, but still there may be cases in which the culprit would be liable under this Section. It is not necessary that the injury actually caused to the victim of the assault should be sufficient under ordinary circumstances to cause the death of the person assaulted. What the Court has to see is whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the Section. An attempt in order to be criminal need not be the penultimate act. It is sufficient in law, if there is present an intent coupled with some overt act in execution thereof."

20. Ultimately, the issue boils down to the aspect of the intention with which a particular act has been done by the offender/assailant or the requisite knowledge that the act is going to result in the death of a human being, which may amount to murder. In the event of such knowledge or intention, being found on record then it would be enough to hold the assailant guilty of an offence under Section 307 IPC, injury or no injury. As such, the entire episode, narrated by the witnesses has to be appreciated,



evaluated and determined on the aforesaid parameters. As noted earlier also, intention or knowledge is something abstract, but intelligible provided the overall act, the circumstances surrounding and attending it or having some connection, which may help ascertain and decipher the intention or the knowledge. It is this fact which holds the key to open the clock of Section 307 IPC. How else otherwise something so abstract as intention, thought or knowledge, can be inferred or translated, so as to place that in a definition, how it is Section 307 IPC.

21. Since the culmination of an act, could have resulted into the offence of murder, which essentially indicates some overt and some violent act has to be there. Thus, the act or *actus reus* becomes important as that would lead to a backward reading of *mens rea* which otherwise, is the first and foremost thing to be seen and ascertained.

22. Certain aspects, which may throw light on this *mens rea* or intention could be, though not exhaustive, the utterances accompanied by an act, the act itself, the weapon, if any, used in that act, the body part targeted, number of blows given, the circumstances and the conduct of assailant in those peculiar circumstances, for instance, how the assailant behaved when the victim became helpless and was not able to defend, protect or protests etc., the conduct of the assailant when the victim was retreating or withdrawing or running away from the scene, so on and so forth. These are some of the tangible, visible and physical acts, which emerge out of the intention and not otherwise. These sort of acts, individually or collectively, would be the major and most likely the only source for anybody to get down to the intention of the assailant.

23. In case titled as ***Parvinder @ Moti v. State***, 2015 SCC OnLine Del 8849, Hon'ble Supreme Court has observed that:



“33. “Intention”, as per Cross and Jones in *Introduction to Criminal Law* (11th Ed.), is not defined in any statute and its meaning must therefore be derived from judicial decisions. They observe, “It is now clear from the House of Lords decisions in **Moloney** ([1985] 1 All ER 1025 HL) and **Hancock and Shankland** ([1986] 1 All ER 641 HL) that foresight of probability, or even of certainty, is not intention in a legal sense nor the equivalent of it.”

*They then refer to Court of Appeals decision in **Nedrick** ([1986] 3 All ER 1, CA), where it was stated that “foresight of a consequence as “for all practical purposes inevitable” could give rise to an irresistible inference of intention (as opposed, in other words, to being intention itself).” They conclude that “the irresistible inference mentioned in Nedrick (supra) is likely to mean in practice that foresight of inevitability, at least, will be equated with intention in the minds of a jury”. They however, cautioned “In some offences, the inference of intention may not be drawn where the jury [or the Court] are not satisfied that the prohibited consequence was the accused’s aim or purpose.”*

34. *Decisions of the Indian Courts are more illustrative and delineate the distinction between “intention” and “knowledge” in significantly finite and articulate manner. The Supreme Court in **Kesar Singh versus State of Haryana**, (2008) 15 SCC 753, concluded to draw the distinction as, “30. It can thus be seen that the “knowledge” as contrasted with “intention” signifies a state of mental realisation with the bare state of conscious awareness of certain facts in which human mind remains supine or inactive. On the other hand, “intention” is a conscious state in which mental faculties are aroused into activity and summoned into action for the purpose of achieving a conceived end. It means shaping of one's conduct so as to bring about a certain event. Therefore in the case of “intention” mental faculties are projected in a set direction. Intention need not necessarily involve premeditation. Whether there is such an intention or not is a question of fact.”*

*The said judgment quotes the following portion from Kenny in *Outlines of Criminal Law* (17th Edn. at P.31) as:-*



“Intention: To intend is to have in mind a fixed purpose to reach a desired objective; the noun 'intention' in the present connection is used to denote the state of mind of a man who not only foresees but also desires the possible consequences of his conduct. Thus if one man throws another from a high tower or cuts off his head it would seem plain that he both foresees the victim's death and also desires it: the desire and the foresight will also be the same if a person knowingly leaves a helpless invalid or infant without nourishment or other necessary support until death supervenes. It will be noted that there cannot be intention unless there is also foresight, since a man must decide to his own satisfaction, and accordingly must foresee, that to which his express purpose is directed. Again, a man cannot intend to do a thing unless he desires to do it. It may well be a thing that he dislikes doing, but he dislikes still more the consequences of his not doing it. That is to say he desires the lesser of two evils, and therefore has made up his mind to bring about that one.”

*Earlier in **Jai Prakash vs. State (Delhi Admn.)** (1991) 2 SCC 32, it was elucidated that knowledge is bare awareness and not something as intention, for the latter requires something more than a mere foresight of the consequences namely, the purposeful doing of a thing to achieve a particular end.”*

24. Learned counsel for the Appellant has asserted that there is no independent public witness to the incident and as the witnesses other than the official witnesses are all real brothers including the complainant/victim, therefore, they become interested witnesses as well. Merely on the testimony of such witnesses, no inference against the Appellant should be drawn inasmuch as all three brothers had ganged up against the Appellant and got him entangled in this criminal case. Unless there is an independent corroboration, the testimony of the brothers of the victim cannot and should not be used against the Appellant. So far as the independent public witness is concerned, there was practically no possibility of having any such witness, for the simple reason that the incident took place within the confines of four walls of the rented accommodation. The injured Mohd. Iqbal came out



chasing the Appellant and that explains the presence of blood in the passage upto the road apart from the room where the incident took place. In such circumstances, there cannot be any other witness except those, who were present inside the room and in the event somebody had seen the Appellant being chased, could have at the most stated about the post incident developments and not about the incident itself. As such, the contention with regard to the non-joining or absence of independent public witness is exercised, having no substance in it.

25. As regards, the plea raised by learned counsel for the Appellant about the interested witnesses, it can be easily visualised that a person is surrounded with family and relatives or in some cases the friends. In such circumstances, if something takes place in the residential portion, then in that case, the presence of only those persons could be there, who may, according to the plea raised by learned counsel for the Appellant, as interested witnesses. The circumstances reflect that there cannot be anybody else and those who were there, were related to each other, but that does not mean the genesis of the testimony, provided it is found above board beyond any embellishment or false narrative. The sum and substance of the judgment on this topic is about the trustworthiness, credibility and truthful narrative of the witness irrespective of the relationship between the witness and the victim. Thus, a witness is to be appreciated as any witness in order to ascertain the substance of the deposition and the same being reliable and acceptable.

26. In this context, the observations made in case titled as ***Sarwan Singh & Anr. vs. State of Punjab***, (1976) 4 SCC 369, as reproduced herein below, are worth noting:

"10.. it is not the law that the evidence of an interested witness



should be equated with that of a tainted [witness] or that of an approver so as to require corroboration as a matter of necessity. The evidence of an interested witness does not suffer from any infirmity as such, but the courts require as a rule of prudence, not as a rule of law, that the evidence of such witnesses should be scrutinised with a little care. Once that approach is made and the court is satisfied that the evidence of the interested [witness has] a ring of truth such evidence could be relied upon even without corroboration."

As such, this contention of learned counsel for the Appellant also fails to cut the ice.

27. Hon'ble Supreme Court in **Balraje vs. State of Maharashtra**, (2010) 6 SCC 673, observed that the mere fact of witnesses being relative to the victim, cannot in itself be a ground to discard his evidence and further observed that when the eye witnesses are stated to be interested and inimically disposed towards the accused, it has to be noted that it would not be proper to conclude that they would shield the real culprit and rope in some innocent person. It is the truth or otherwise of the deposition has to be weighed pragmatically and the court would be required to analyse the evidence of related witnesses and those witnesses are not inimically disposed towards the accused. Finally, it was held that after the careful analysis and scrutiny of the evidence of such witnesses, the version given by them appears to be clear, cogent and credible, then there is no reason to discard such evidence.

Reference can also be made to the judgment in **Prahalad Patel vs. State of M.P.**, {(2011) 4 SCC 262}, **State of U.P. vs. Naresh & Ors.**, {(2011) 4 SCC 324}, **Jarnail Singh & Ors. vs. State of Punjab**, {(2009) 9 SCC 719} and **Vishnu & Ors. vs. State of Rajasthan**, {(2009) 10 SCC 477}.

28. Hon'ble Supreme Court in the judgment titled as **Mohd. Rojali Ali**



and Ors. Vs. State of Assam, Ministry of Home Affairs Through Secretary,
{(2019) 19 SCC 567, held as under:

“13. As regards the contention that all the eyewitnesses are close relatives of the deceased, it is by now well-settled that a related witness cannot be said to be an “interested” witness merely by virtue of being a relative of the victim. This Court has elucidated the difference between “interested” and “related” witnesses in a plethora of cases, stating that a witness may be called interested only when he or she derives some benefit from the result of a litigation, which in the context of a criminal case would mean that the witness has a direct or indirect interest in seeing the accused punished due to prior enmity or other reasons, and thus has a motive to falsely implicate the accused (for instance, see State of Rajasthan v. Kalki [State of Rajasthan v. Kalki, (1981) 2 SCC 752 : 1981 SCC (Cri) 593] ; Amit v. State of U.P. [Amit v. State of U.P., (2012) 4 SCC 107 : (2012) 2 SCC (Cri) 590] ; and Gangabhavani v. Rayapati Venkat Reddy [Gangabhavani v. Rayapati Venkat Reddy, (2013) 15 SCC 298 : (2014) 6 SCC (Cri) 182]). Recently, this difference was reiterated in Ganapathiv. State of T.N. [Ganapathi v. State of T.N., (2018) 5 SCC 549 : (2018) 2 SCC (Cri) 793] , in the following terms, by referring to the three-Judge Bench decision in State of Rajasthan v. Kalki [State of Rajasthan v. Kalki, (1981) 2 SCC 752 : 1981 SCC (Cri) 593] : (Ganapathi case [Ganapathi v. State of T.N., (2018) 5 SCC 549 : (2018) 2 SCC (Cri) 793] , SCC p. 555, para 14).

“14. “Related” is not equivalent to “interested”. A witness may be called “interested” only when he or she derives some benefit from the result of a litigation; in the decree in a civil case, or in seeing an accused person punished. A witness who is a natural one and is the only possible eyewitness in the circumstances of a case cannot be said to be “interested”.”

15. In case of a related witness, the Court may not treat his or her testimony as inherently tainted, and needs to ensure only that the evidence is inherently reliable, probable, cogent and consistent. We may refer to the observations of this Court in Jayabalan v. State (UT of Pondicherry) [Jayabalan v. State (UT of Pondicherry), (2010) 1 SCC 199 : (2010) 2 SCC (Cri) 966] : (SCC p. 213, para 23)

“23. We are of the considered view that in cases where the court is called upon to deal with the evidence of the interested



witnesses, the approach of the court, while appreciating the evidence of such witnesses must not be pedantic. The court must be cautious in appreciating and accepting the evidence given by the interested witnesses but the court must not be suspicious of such evidence. The primary endeavour of the court must be to look for consistency. The evidence of a witness cannot be ignored or thrown out solely because it comes from the mouth of a person who is closely related to the victim.”

29. As an overt act accompanied by the requisite intention or knowledge is decisive in order to arrive at any conclusion about the commission of the offence or otherwise, therefore, the most vital aspect of a matter like this, or any other, can be ascertained by tone and tenor of the deposition made by the witness.

30. The plea of defective investigation has also been put-forth on behalf of the Appellant, primarily, on two counts. Firstly, that the Investigating Officer did not join any independent public witness to corroborate the version given by the victim. Secondly, blood stains were found in the passage outside the room and beyond, whereas, according to the case of the prosecution, the incident took place within the four corners of the tenanted room, therefore, the presence of blood stains on the passage creates suspicion in the prosecution case.

31. The evidence on record and the circumstances are self-explanatory in this context. It has come in evidence that the PCR Officials took the victim to the hospital and to take him to the vehicle from the room, the passage was used and that explains the presence of blood stains as reflected in site plan Ex.PW17/D. Similarly, the circumstances in-itself explain why there is no so-called independent public witness. The incident was confined to the room itself and that being a private room, was not, thus, accessible to the public at large. Therefore, finding any independent witness was nearly impossible. In



view of these facts and circumstances, there is, apparently, no flaw in the investigation and in any case, the defective investigation cannot lead to inference in favor of the accused.

32. While considering the aspect of defective investigation, it has been observed in various pronouncements that cause of justice cannot be made to suffer on account of the defects in the investigation, and the Investigating Officer should not be given such liberty to dictate the outcome of the legal proceedings. In this context, reference can be made to certain important judgments on the subject:

In C. Muniappan Vs. State of T.N. (2010) 9 SCC 567, the Supreme Court held that it was a case of highly defective investigation but this was not the end of the matter, for if primacy was given to omissions and lapses by perfunctory investigation, faith and confidence of the people in criminal justice administration would erode. In such case, there is a legal obligation on the part of the Courts to examine prosecution evidence de hors such lapses, to find out whether evidence is reliable or not, and to what extent it is reliable and whether the lapses had affected the object of finding the truth. Reference was made to several decisions in support of said ratio.

In Ganga Singh Vs. State of M.P., (2013) 7 SCC 278, it was held that Courts cannot acquit an accused on the ground that there were some defects in the investigation, unless such defects cast reasonable doubt on the prosecution case.

Similar findings were recorded in Sunil Kundu & Anr. Vs. State of Jharkhand, (2013) 4 SCC, 422, holding that lapses or irregularities in investigation would not be material if the evidence produced on record, despite the said lapses or irregularities, does not go to the root of the matter and dislodges the substratum of the prosecution case.

In Surajit Sarkar Vs. State of West Bengal, (2013) 2 SCC 146, after referring to several earlier decisions, it has been held that deficiencies in investigation by way of omission and lapses by the investigating agency cannot themselves justify total rejection of the prosecution case and where prosecution evidence de hors such lapses, when carefully scrutinised and evaluated, does not



affect the object of finding of truth.”

In view of the above-stated facts, which points out that there was no defect in the investigation and if at all, something was there, then the same is inconsequential and should not be given any undue emphasis or attention. The aforesaid judgments are very clear on this aspect.

33. Another contention put-forth on behalf of the Appellant is that the incident took place in the heat of moment, without any planning or pre-meditation, which takes away the aspect of ‘intention’ from the zone of consideration. In the absence of any intention or knowledge, as contemplated by Section 307 IPC, the Appellant cannot be held responsible for the said offence. The knives and scissors were freely available in the room, inasmuch-as, one of the occupants of the room, was in the trade of sharpening the knives and scissors etc. Thus, the instant availability of the knife and its use takes away the scope for any pre-meditation, planning or thinking. There was no motive, nor can be inferred that the Appellant had caused such injury, or wanted to do something untoward like what has been alleged. However, the contention is self-contradictory, inasmuch-as in the statement under Section 313 Cr.P.C., it has been stated that the Mohd. Iqbal came alongwith the knife to assault the Appellant and a scuffle ensued in which both Mohd. Iqbal and Appellant fell in a drain and victim sustained injuries. Neither any evidence to that effect has been adduced on record by the Appellant, nor any suggestion has been given to Mohd. Iqbal or to any other witness on these lines, which takes away the substance out of this contention. Additionally, there is no explanation as to how such an injury is possible by falling in a drain (nala). Again some explanation should be there



as to the injuries sustained by Mohd.Iqbal on his arms. Evidently, there is nothing to explain. This further fortifies the case of the prosecution.

34. If there was a scuffle and both Mohd. Iqbal and Asgar @ Pakori, the Appellant herein, fell in the drain, then in that eventuality, there must be some injury to the Appellant as well, which is not there. It further falsifies the claim of the Appellant. On the contrary, injuries were sustained not only by Mohd. Iqbal but by Shahid Ahmed also, and the injuries sustained by latter, was life threatening and dangerous, as opined by the Doctor and reflected in MLC Ex.PW.14/A. In order to appreciate the nature of injuries, the relevant part of the MLC is extracted as under:-

Decrease air entry in the left side of the chest and there was increase resonance on percussion. There was sharp cut wound just above and below left clavicle about 3 X 4 inches, which was bleeding profusously.

35. A sharp cut just above and below the left clavicle measuring about 3x4 inches was there and that seems to have pierced into the skin and had punctured the left lung. There is evidence of “pneumothorax” on the left side of the chest and presence of trapped air, indicative of the puncture of left lung, which was found collapsing towards the centre, as per the X-Ray Report Ex.PW 15/A. Such an injury cannot be self-inflicted.

36. As compared to Shahid Ahmed, the injuries sustained by Mohd. Iqbal were simple in nature. In these circumstances, why an injured witness should not be believed. There are judgments to the effect that testimony of the injured witness has been given primacy and treated to be trustworthy, for the simple reason of presence is not only indicative of injury rather substantiating the evidence / case also.

37. In this context, reference can be made to the observations in the case



titled as ***Pritam Chauhan Vs. State (Govt. of NCT of Delhi) 2014 (9) SCC 637***, wherein while relying upon various judgments on the subject, reaffirmed that the testimony of an injured witness should be accorded special status in law unless no good grounds exist to disbelieve the injured. Para 5 of the judgment goes as under:

“5. In the case of ‘Abdul Sayed vs. State of Madhya Pradesh’, (2010) 10 SCC 259, the Supreme Court held:

“The question of the weight to be attached to the evidence of a witness that was himself injured in the course of the occurrence has been extensively discussed by this Court. Where a witness to the occurrence has himself been injured in the incident, the testimony of such a witness is generally considered to be very reliable, as he is a witness that comes with a built-in guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone. “Convincing evidence is required to discredit an injured witness.” [Vide Ramlagan Singh v. State of Bihar, Malkhan Singh v. State of U.P., Machhi Singh v. State of Punjab, Appabhai v. State of Gujarat, Bonkya v. State of Maharashtra, Bhag Singh, Mohar v. State of U.P. (SCC p. 606b-c), Dinesh Kumar v. State of Rajasthan, Vishnu v. State of Rajasthan, Annareddy Sambasiva Reddy v. State of A.P. and Balraje v. State of Maharashtra.]”

Reference in this context can also be made to another judgment in ***State of U.P. V. Naresh and Ors., (2011) 4 SCC 324***, wherein it was observed in the following words:

“The evidence of an injured witness must be given due weightage being a stamped witness, thus, his presence cannot be doubted. His statement is generally considered to be very reliable and it is unlikely that he has spared the actual assailant in order to falsely implicate someone else. The testimony of an injured witness has its own relevancy and efficacy as he has sustained injuries at the time and place of occurrence and this lends support to his testimony that he was present during the occurrence. Thus, the testimony of an injured witness is accorded a special status in law. The witness would not like or want to let his actual assailant go unpunished merely to implicate a third person falsely for the



commission of the offence. Thus, the evidence of the injured witness should be relied upon unless there were grounds for the rejection of his evidence on the basis of major contradictions and discrepancies therein.”

38. The most vital and important part is to ascertain as to whether the assault was with the requisite intent and knowledge as contemplated under Section 307 IPC or not, in the given circumstances. As noted earlier, the nature and extent of injuries, is reflective of the same being life threatening and dangerous. The testimony on record is further indicative, as can be seen from the statement of PW-1 that the efforts were made to pacify the Appellant, but he could not be calmed and took up the knife and stabbed the victim. The time spent, however little it was, to pacify the Appellant gives a window to him, to think about the consequences of his act and in turn, if he went ahead with the assault, then intention can be attributed to him, when taken into consideration that he used a dangerous weapon to assault the victim accompanied by the utterances that the Appellant would kill the victim.

39. The kind of injury sustained by the victim, is further indicative of the fact that the Appellant intended to translate his words, into reality. The other co-occupants of the rented room tried to save the situation and pacify him, as can be further inferred from the fact that Mohd. Iqbal sustained two injuries on his hands, seemingly in the process of pacifying and saving the victim. The kind of injuries sustained by the victim where his left lung had collapsed was also profusely bleeding, had all the potential to cause his death, which would have amounted to murder, but for the fact that timely medical aid could save him. Therefore, in such circumstances, the irresistible inference, which can be drawn, is that Appellant had attempted to



kill the victim Shahid Ahmed and is, therefore, responsible and accountable for his acts, which fall under the scope and ambit of Section 307 IPC.

40. This, in the process, takes away the strength of the arguments raised by learned counsel for the Appellant that the Appellant at best, can be held guilty for causing hurt. Thus, what emerges on record is that Appellant was rightly convicted by learned Trial Court under Section 307 IPC, as a result of which the appeal fails and is dismissed accordingly.

41. On the aspect of sentence, nothing has been put forth and there appears no reason to dilute the sentence, notwithstanding the fact that Appellant has spent some period in custody, for which he shall be entitled to the benefit of Section 428 Cr.P.C.

42. As a result, the appeal together with application(s), if any, stands disposed-of. Appellant to surrender forthwith to undergo the remaining sentence.

43. Copy of the judgment be transmitted to the learned Trial Court and Prison Authorities for information and necessary compliance.

VIMAL KUMAR YADAV, J.

JULY 31, 2026/bj/akc/NY