



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

Date of reserving order: 28th July, 2026

Date of decision: 7th August, 2026

IN THE MATTER OF:

+ CRL.A. 148/2004

AJAY @ HANUMAN

.....Appellant

Through: Mr. R.S. Kundu & Mr. Izhar Ahmad
Adv. along with Appellant-in-
person.

versus

STATE

.....Respondent

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

CORAM:

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. On 20.03.1998, Ram Lal, who was returning to home at around 10:00 PM in the night after visiting his friend Soni and after offering prayers to Mata Rani in the Jagran, which was going on near the Chowk, was accosted by the Appellant herein near the Toilet Chowk of Block-17 and J-Block in the area of Dakshinpuri, New Delhi. The Appellant demanded money to buy liquor, on which Ram Lal gave him Rs. 20/- as that was only money left in his purse, but the Appellant was not satisfied and demanded more money. Ram Lal expressed his inability in this context, but in the meantime, an associate of the Appellant, namely, Mithun (absconding) joined the Appellant and started talking rough. Ram Lal did not take this treatment



kindly and caught hold of the said associate of the Appellant and retorted that the rest of the money would be given in the Police Station. This seemingly enraged the Appellant and his associate to such an extent that Ram Lal was repeatedly slashed and injured with a sharp object i.e. ustra/knife. Ram Lal was slashed for 11-12 times on his cheek, neck, hand, etc. Thereafter, the Appellant and his associate made their escape good from the spot.

2. The victim Ram Lal went to the Police Station and from there, he was taken to All India Institute of Medical Sciences ('AIIMS'). A shopkeeper from the vicinity, namely, Varmanand (PW-1) noticed the victim in the injured condition and he decided to take the victim to the Police Station. However, on the way police met them and took victim to the Police Station and thereafter to AIIMS, while on the way victim disclosed the name of Hanuman as assailant. Victim Ram Lal was declared unfit for statement by the doctors there and since Varmanand was aware of the incident, therefore, on his statement (Ex. PW-1/A), an FIR Ex. PW-2/B was registered by the police under Section 307/34 of Indian Penal Code, 1860 ('IPC').

3. Investigating Officer SI Jalis Ahmad (PW-6), thereafter carried out the investigation, which included the preparation of site plan Ex. PW-6/B, which was prepared at the instance of Varmanand, recorded the statement of the victim on 21.03.1998. The Appellant was arrested and the formalities with regard to the arrest were completed by SI Jalis Ahmad. After recording the statement of other witnesses and collecting requisite documents i.e. MLC, etc., the chargesheet was filed by the Investigating Agency.

4. To the charge framed under Section 307/34 IPC, the Appellant pleaded not guilty. The associate of the Appellant, namely, Mithun could not be arrested.



5. On the strength of six witnesses examined by the prosecution and after taking into consideration the contentions raised on his behalf and the explanation submitted by him under Section 313 of Code of Criminal Procedure (hereinafter referred to as 'Cr.P.C.') in his statement, the Appellant was held guilty and convicted thereon under Section 307 IPC through the judgment dated 16.01.2004 and sentenced to suffer Rigorous Imprisonment ('RI') for 04 years with a fine of Rs. 3000/-, in default of payment of fine, he was to undergo RI for a further period of 01 month in terms of Order dated 17.01.2004.

6. Aggrieved by the judgment of conviction and the sentence awarded, the instant appeal has been preferred on behalf of Ajay @ Hanuman, wherein it is asserted that the case of the prosecution is not trustworthy, as afflicted by major contradictions rendering it unbelievable. It is pointed out that the testimony of the injured is not clear as to who, out of two assailants, actually had caused the injuries as according to learned counsel for the Appellant, it was certainly not the Appellant as no such evidence has been brought by the prosecution. The weapon of offence has not been recovered and that there are discrepancies vis-a-vis the time of incident, etc. The victim says that the incident took place at around 10:00 PM, but the so called eye witness Varmanand (PW-1) has noted the incident taking place at 11:00/11.30 PM. Similar other contradictions are there according to the learned counsel for the Appellant which renders the case highly unbelievable.

7. In addition to the aforesaid contentions, it has also been put forth on behalf of the Appellant that the author of the FIR i.e. Varmanand (PW-1) has turned hostile and that there is no corroborating evidence on record making the case of the prosecution highly susceptible to doubt and



suspicion. No Test Identification Parade ('TIP') has been held, therefore, identification of the Appellant for the first time in the Court, is not acceptable to fasten the responsibility on him, especially when the incident had taken place at the night, as has come in the testimony of the victim himself that there was darkness, where the incident took place.

8. Finally, it is submitted that the Appellant cannot be held responsible in view of what has been submitted above, but in any case, even if it is presumed that this complicity was there, he still cannot be held responsible in view of the fact that the incident took in a spur of moment without any premeditation, preparation etc., therefore, the requisite intention or knowledge, as contemplated by Section 307 IPC, is not there, as such cannot be attributed to the Appellant. At the most, it is submitted that the Appellant can be held responsible for causing hurt. It is further submitted that he has already spent a considerable time in custody out of the punishment of four years awarded to him.

9. Learned Additional Public Prosecutor, on the other hand, while defending the judgment of conviction, asserts that there is clear, categorical and clinching evidence against the Appellant, pointing out to his complicity inasmuch as he has been specifically named by the victim, which fact was shared by the victim Ram Lal with PW-1 Varmanand too. The kind of injuries reflect that the Appellant can be attributed with the knowledge that these injuries, focused on the vital parts of the body especially in the neck area, can cause death in all probability. There is, otherwise no reason to disbelieve an injured witness, especially when it is not the case of the Appellant that there was some sort of enmity due to which he has been falsely implicated by the victim. It is asserted on behalf of the learned APP that the judgment impugned is in consonance with the facts and the relevant



law on the subject, therefore, should not be interfered with.

10. Learned counsel for the Appellant, has, in order to strengthen his arguments placed reliance on two judgments i.e. ***Ramveer vs. State, 2019 SCC OnLine Del 9129*** and ***Pawan Soni vs. State (Govt. of NCT of Delhi), 2025 SCC Online Del 8708***.

11. In ***Pawan Soni's*** case (supra), the Appellant was given benefit of doubt inasmuch as the Appellant therein was not previously known to the victim/witness and that he was shown to the complainant in the Police Station, therefore, his dock identification in the Court was found meaningless especially when no TIP was conducted. As such, the Court found out that there is no proper identification to fasten the liability on the Appellant/accused Pawan Soni therein.

12. In ***Ramveer's*** case (supra), the conviction under Section 307 IPC was modified to Section 324 IPC, inasmuch as the prosecution could not examine the doctor concerned who had prepared the MLC and, therefore, in the absence of proper opinion with regard to the nature of injuries, the Court refused to accept that the injury was dangerous or grievous and furthermore, the requisite intention or knowledge as contemplated under Section 307 IPC, was found amiss, taking the Appellant out of the scope and the ambit of Section 307 IPC.

13. Having taken into consideration the contentions raised by the rival sides and the material placed on record for consideration, what is of utmost importance is to ascertain as to whether the Appellant had intention to commit murder or not or that he had the knowledge that his act is going to result into murder. This makes it imperative to ascertain the intention or knowledge. These two things i.e. intention and knowledge are abstract, intangible and invisible, therefore, how to ascertain it, is the question.



14. In ***Hari Singh v. Sukhbir Singh and Others***, (1988) 4 SCC 551, the Hon'ble Supreme Court has laid down as to what all is required to be established in order bring home a case under Section 307 IPC, which is as below:-

“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. 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 for 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, are scrutinised meticulously then it may help ascertain and decipher the intention or the knowledge. It is this fact which holds the key to open the lock of Section 307 IPC. How else otherwise, something so abstract as intention, thought or knowledge, can be so inferred or translated,



so as to place it in the definition or realm of Section 307 IPC.

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

17. 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 have its genesis and 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 identify the intention of an assailant.

18. 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."*

19. The facts of the instant case are, as such required to be juxtaposed analysed and appreciated in view of the aforesaid parameters and guidelines emerging out of the judgments, referred above.

20. In order to infer, assess and appreciate the aspect of requisite intention or knowledge as contemplated in Section 307 IPC, the nature and the number of injuries are also required to be looked into. In the MLC Ex. PW-5/A, the details of the injuries are given, which can be looked into.

21. It can be seen that there were 11 injuries, all were caused by sharp object. The victim is not sure as to what kind of sharp object/weapon was used, as there is no recovery of weapon of offence. However, it has been deposed that it was either an ustra or a knife. Given the nature of injuries being sharp, the version of the victim goes hand in hand with the case of the prosecution. The details of the injuries further reveal that the Appellant had not targeted a particular part of the body, rather, the weapon of offence, a knife or an ustra, was indiscriminately used targeting various parts of body of the victim. In the absence of a focused and sustained attack, it cannot be inferred that there was an intention to kill. Had it been there, then a more focused and targeted attack would have been there on the vital parts of the body. In the instant case, the injuries are spread out practically all over the upper body i.e. on face, neck, thumb, finger, elbow, wrist, upper arm, above



nipple, lower back, etc., which are indicative of the only fact that the assailant had used the weapon in a highly unprofessional manner, but in a dangerous manner by indiscriminately slashing at the various parts of the body of the victim. The nature and extent of injuries further reveal that not only the absence of intention to kill was there, but knowledge cannot be attributed either on the Appellant on account of the fact that the injuries sustained by the victim do not reflect that the same could be fatal, as most of them are superficial incisions.

The doctor has opined about the nature of injuries as grievous, as can be seen from the MLC Ex. PW-5/A, but then the medical definition of the injury varies from the legal definition of the injury.

Section 320 IPC define grievous injuries and the injuries sustained by the victim in the instant case, do not fall in any of the eight categories of injuries, which have been treated as grievous injury. Thus, on the strength of injuries, it cannot be inferred that the Appellant had intentions to kill and pursuant to that intention, the Appellant had attacked. Had there been an intention to kill, then blows would have been aimed at the vital parts. And in case, if it was a knife, then the stabbing would have been there, instead of slashing. This takes out the Appellant from the rigors of Section 307 IPC. It can thus, be stated that there was neither any intention nor any knowledge with the Appellant that his assault would lead to culpable homicide amounting to murder.

22. The contention on behalf of the Appellant that PW-1/complainant on whose statement the FIR was registered has turned hostile, and that there is no corroboration to the testimony of victim which damages the case of the prosecution. However, it is settled law that testimony of the hostile witness cannot be thrown out completely. It can be looked into wherever it is found



appropriate. PW-1 Varmanand owns the report Ex. PW-1/A, albeit does not stand by it fully. Hon'ble Supreme Court in ***K.P. Tamilmaran v. State by Deputy Superintendent of Police***, 2025 SCC OnLine SC 958, held as under:

“36. It is though trite and much overstated but the maxim “falsus in uno, falsus in omnibus”³, is not applicable to our criminal justice system. It is for the Court to distinguish the wheat from the chaff while dealing with the depositions of a hostile witness. Courts can rely upon that part of the deposition of a hostile witness which is corroborated by other evidence on record. This Court in Bhajju v. State of Madhya Pradesh, (2012) 4 SCC 327 discussed the worth of the evidence of a hostile witness in the following words:

“36. It is settled law that the evidence of hostile witnesses can also be relied upon by the prosecution to the extent to which it supports the prosecution version of the incident. The evidence of such witnesses cannot be treated as washed off the records, it remains admissible in trial and there is no legal bar to base the conviction of the accused upon such testimony, if corroborated by other reliable evidence...”

If part of the evidence of a hostile witness corroborates with other reliable evidence, then that part of the evidence is admissible. Once a prosecution witness has been declared hostile and then cross-examined by the prosecution, then it is for the Court to evaluate the veracity of the testimony. There can be several reasons for a witness to turn hostile and the court must also look into these factors while evaluating the evidence given by a hostile witness. It is an uncomfortable reality in our criminal Courts for a prosecution witness to turn hostile. But then the purpose of a Trial Court is to go to the truth of the matter. Whatever evidence is there before the Court must be examined, tested, corroborated (whenever necessary), before a verdict can be finally given.”

23. The testimony of PW-1 Varmanand is atleast indicative of one fact that victim Ram Lal had sustained injuries, he was bleeding. It has also been deposed by Varmanand that the injured told him that the injuries were caused by Hanuman, who ran away after causing the injuries.

Hanuman, who has been identified in the Court, was known to Varmanand, as has been admitted by him since he too, was residing in



Dakshinpuri. This aspect can certainly be taken into consideration, in conjunction with the other evidence on record.

24. Victim/PW-3 Ram Lal, whereas, has not only deposed about the incident, but has identified the Appellant as the person, who had caused injuries to him with a sharp edged weapon i.e. ustra or a knife. He has also referred about some shopkeepers, who had witnessed this incident and incidentally, Varmanand happens to be a shopkeeper/fish seller from the vicinity. Learned counsel for the Appellant has tried to take advantage of the so called mix up in the testimony of the victim about not telling the name/identifying the assailant, who actually caused the injuries. However, it is the Appellant Hanuman who have been named from the very inception as the person who actually caused the injuries, therefore, usage of word alleged in the testimony of PW-3 Ram Lal, is not for anyone else except the Appellant herein.

25. The victim Ram Lal was taken to the hospital on 20.03.1998 itself and was treated there. The MLC in this context is Ex. PW-5/A detailing the injuries including their measurements. The opinion in the MLC is clear about the nature of injuries, which were found to be grievous caused by sharp weapon. The victim was declared unfit for statement on the day when he was admitted there, as can be seen from the endorsement on the document Ex. PW-6/A. He was found fit to make statement on the next day i.e. 21.03.1998 as is evident from Ex. PW-6/C. This explains as to how the FIR was registered on the statement of PW-1 Varmanand.

26. Learned counsel for the Appellant apart from non-recovery of weapon of offence has pointed out the discrepancy about the time of incident reflected in the testimony of PW-1, who deposed that it was about 11:00 or 11:30 PM, whereas the injured Ram Lal (PW-3) deposed that the incident



took place at 10:00 PM. However, this is not a serious discrepancy in the first place in the totality of the circumstances. And in any case, the witness examined by the Appellant i.e. DW-1 Manoj Kumar too says that he noted the incident at around 10:00 PM, so the time of incident is not to be blown out of proportion. In any case, the presence of DW-1 at the spot seems doubtful as on one hand he says that the accused (Appellant) had not sustained any injuries, but the accused (Appellant) has stated, in response to Question no. 8 in statement under Section 313 Cr.P.C. that he too sustained injuries as he too was pushed by the assailants. He tried to shift the blame to some other/unknown person.

27. Another limb of the argument advanced by the learned counsel for the Appellant that the weapon of offence has not been recovered which puts a question mark on the case of the prosecution.

28. In a recent judgment titled as ***State through the Inspector of Police vs. Laly alias Manikandan and Another***, 2022 SCC OnLine SC 1424, it has been observed:

“20. ...Recovery of the weapon used in the commission of the offence is not a sine qua non to convict the accused. If there is a direct evidence in the form of eye witness, even in the absence of recovery of weapon, the accused can be convicted. Similarly, even in the case of some contradictions with respect to timing of lodging the FIR/complaint cannot be a ground to acquit the accused when the prosecution case is based upon the deposition of eye witness.”

Similarly, the contention of the learned counsel for the Appellant that no TIP was conducted is inconsequential as the Appellant, being a resident of the same locality was known to both victim and PW-1 Varmanand. As such, there was no need to conduct the TIP in view of the fact that the statement made to the police by PW-1/Varmanand names the Appellant and



so is the position with regard to the victim, who too, as reflected from his testimony, was known to the Appellant. In these circumstances, when FIR is by name, the Appellant, victim and the other public witness, all are residing in the same vicinity, therefore, there is no reason to disbelieve either PW-1/ Varmanand or PW-3/Ram Lal, the victim vis-à-vis the identity of the Appellant. As such, the argument raised vis-à-vis the TIP and the identity, is brushed aside, having no substance in it.

29. As discussed hereinbefore, the requisite intention or knowledge as contemplated by Section 307 IPC, is not there, but then it has come in evidence that the victim has sustained multiple injuries by some sharp object. There is no enmity between the complainant and the Appellant. There is no other motive attributed to anyone especially the complainant to falsely implicate the Appellant. As such, the testimony of PW-3 Ram Lal, is required to be believed and acted upon for the additional reason that testimony of an injured witness is to be believed unless it is shown that there are serious ambiguities rendering the testimony totally unbelievable, as has been held in various judgments. Reference can be made in this context to the judgments titled as *Abdul Sayeed vs. State M.P.*, (2010) 10 SCC 259, *State of U.P. vs. Naresh*, (2011) 4 SCC 324, *Lakshman Singh vs. State of Bihar*, (2021) 9 SCC 191 and *Birbal Nath vs. State of Rajasthan*, (2024) 15 SCC 190.

30. This brings a situation where the ingredients of Section 307 IPC have not been satisfied, which takes the Appellant off the hook, so far as Section 307 IPC is concerned, but then his complicity in the attack has been established, therefore, is required to be held responsible for the offence of causing hurt to the victim.



31. In the entirety of the facts and circumstances, especially the evidence brought on record and the contentions raised by rival sides, there appears no reason to give clean chit to the Appellant, rather, his acts are required to be appreciated as to whether the same constitute any offence or not. The answer to this question is in positive. The acts of the Appellant fall into the scope and ambit of the offence of hurt or its various species. When the facts of the instant case are tested on the parameters required for the criminal cases, then the act of the Appellant reflects that the offence of causing hurt by a sharp object was done by the Appellant, which brings him into the realm of Section 324 IPC, which is reproduced herein-below for the ready reference:

“324. Voluntarily causing hurt by dangerous weapons or means.—Whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.”

32. In view of the foregoing discussion, it is evident that the Appellant should be held responsible for the offence of causing hurt by a sharp object punishable under Section 324 IPC. As such, the impugned judgment is modified to the extent that conviction under Section 307 IPC is set aside.

33. Learned counsel for the Appellant has though tried to wriggle out of the situation, but then the non-availability of any way out, leaves no option or any escape route. As a result, the Appellant is held guilty under Section 324 IPC and convicted thereof.



34. Although, nothing substantial has been put forth on the aspect of sentence except that the Appellant was young and immature, decades have gone in the legal proceedings and that the offence of Section 324 IPC is, at the most, was made out which should reduce the punishment considerably for the Appellant.

35. The maximum sentence provided for the offence punishable under Section 324 IPC is 03 years with fine or both. In the fitness of the circumstances, the Appellant is sentenced to undergo Rigorous Imprisonment ('RI') for a period of 02 years and to pay a fine of Rs. 35,000/-, in default of which he shall undergo RI for a period of three months. In case the fine is realized, then the same shall go to the victim as compensation. He shall be entitled to the benefit of set off under Section 428 Cr.P.C., if any.

36. Appeal stands disposed of accordingly. Appellant to surrender forthwith before the learned Trial Court in order to serve the remaining sentence and deposit the fine. Fine, if any, paid already, shall be adjusted.

37. A copy of the judgment be transmitted to learned Trial Court and the Prison Authorities for information and compliance.

VIMAL KUMAR YADAV, J.

AUGUST 07, 2026/akc/NY