



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

Reserved on: 10th March, 2026
Pronounced on: 24th April, 2026
Uploaded on: 24th April, 2026

+ **CRL.A. 316/2015**

ASAD ARIF

.....Appellant

Through: Mr. Ravi Nayak, Mohd. Faisal and
Mr. Abhishek K. Tanwar, Advs. with
Appellant-in-person.

versus

STATE (GOVT. OF NCT OF DELHI)

...Respondent

Through: Mr. Ritesh Kumar Bahri, APP with
Ms. Divya Yadav & Mr. Lalit Luthra,
Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present criminal appeal under Section 374 of the Code of Criminal Procedure, 1973 (hereinafter ‘CrPC’)) has been preferred by the Appellant/Accused assailing the Impugned Order of conviction and order on sentence dated 31st January, 2015 and 24th February, 2015 respectively, passed by the Id. Additional Sessions Judge, Saket Court, New Delhi, whereby the Appellant/Accused has been convicted in Sessions Case No. 94/14, arising out of FIR No. 490/2011, registered at P.S. Jamia Nagar under Section 307 of the Indian Penal Code, 1860 (hereinafter ‘IPC’), holding as under:

“59. Thus I am of the opinion that the prosecution has successfully brought home the guilt of the



accused and I accordingly convict him u/s 307 IPC. He be heard on the point of sentence. Put up for same on 10.02.2015 at 12.30 PM.”

2. By the Impugned Judgement of conviction and order on sentence, the Appellant/Accused has been sentenced to undergo Simple Imprisonment for three years along with a fine of Rs. 1,05,000/- for the offence punishable under Section 307 of the IPC. In default of payment of fine, he has been sentenced to undergo Simple Imprisonment for a period of six months. The Id. Trial Court further ordered that out of the fine proceeds, an amount of Rs. 1 Lakh shall be released to complainant/injured. The Id. Trial Court in the order on sentence held as under:

“Furthermore, in regard to the compensation, capacity of the convict to pay would certainly involve a certain inquiry, however, time and adjournments being given, no material in this regard has been placed on record.

After considering the aggravating and mitigating circumstances, convict Asad Arif is sentenced to simple imprisonment for 3 years and fine of Rs. 1,05,000/- for offence U/s 307 IPC. in default of payment of fine, convict shall undergo simple imprisonment for a period of six months.

Out of the fine proceeds, if deposited by the convict, an amount of Rs. 1 Lakh shall be released to complainant/injured Ms. Muskan. Benefit of Section 428 Cr. PC is extended to the convict Asad Arif.

Part fine of Rs. 5,000/- stands deposited in the Court.”

FACTUAL MATRIX:

3. The case of the prosecution, in brief, is that in the intervening night of



19th September 2011, at about 12:02 a.m., information was received at Police Station Jamia Nagar regarding admission of one Ms. Muskan in Holy Family Hospital in an injured condition. The said information was recorded *vide* DD No. 3A and entrusted to the Investigating Officer for necessary action. The Investigating Officer, along with accompanying police officials, proceeded to the hospital and collected the Medico-Legal Certificate of the injured.

4. As per the statement of the injured PW- 4 Ms. Muskan, the incident is stated to have occurred on the night of 18th September 2011 at about 10:45 p.m., when she had gone to the back room of her residence to take water from the refrigerator. At that time, the Appellant/Accused, who was known to her as a neighbor, was allegedly standing outside the window opening. It is alleged that upon seeing her, the Appellant/Accused threatened her, stating that since she had refused his proposal of marriage, he would not spare her, and immediately thereafter fired a shot at her through the window. The bullet struck the upper portion of her thigh, resulting in profuse bleeding. Thereafter, the Appellant/Accused is stated to have fled from the spot. The relevant portion of the complaint dated 19th September, 2011 is reproduced hereinbelow:

"बयान किया कि मैं यहाँ उपरोक्त पते पर अपने परिवार के साथ रहती हूँ और पढ़ाई कर रही हूँ जो कल 18, 19/9/2011 की रात वक्त करीब 10.45 बजे मैं अपने घर में पीछे वाले कमरे में फ्रिज से पानी लेने गई थी तो मैंने देखा कि खिड़की के बाहर असद आरिफ नाम का लड़का खड़ा था जो मोहल्ले का ही रहने वाला है जिसको मैं पहले से जानती हूँ उसने मुझे देखते ही कहा कि तूने मुझसे शादी करने से मना करके अच्छा नहीं किया अब मैं तुझे जिन्दा नहीं छोड़ूँगा जब तक मैं कुछ समझ पाती असद आरिफ ने मेरे ऊपर गोली चला दी और वह भाग गया गोली मेरी दाहिनी जांघ के ऊपरी हिस्से में लगी और जोर से



खून बहने की वजह से मेरी सलवार खून से लथपथ हो गई।”

5. It is the prosecution’s case that upon sustaining the injury, the complainant/injured raised an alarm and was immediately attended to by her family members, including her sister Safiara, who, along with others, shifted her to Holy Family Hospital for treatment.

6. The MLC bearing No. 24438 of the injured recorded a gunshot injury on the right thigh, described as a lacerated wound measuring approximately 4.5X2X1 cm, and the injury was subsequently opined to be grievous in nature. The said MLC bearing No. 24438 is reproduced here under:

Phone : 2845800-909
28332800-809

HOLY FAMILY HOSPITAL, NEW DELHI-110025
MEDICO-LEGAL REPORT

O.P.D. No. SC11-024438 Name Muskan
 L.P.D. No. 24438 Father/Husband's Name MO. MUSTAKEEN AHMED
 Date & Time of Arrival 27/11/23 01 Address R-274-7a1/Ne(3) Shaheed
 Name of Police Station I.D.O Police Report No. 186 Cont. Vind Religion Islam Age 21 Sex F
 Date Police Informed 27/11/23 Occupation Student
 Time Police Informed 11:40 P.M. Mark of Identification old linear scar @ eye brow, multiple mole @ cheek
 Name and address of Accompanying Person Sister Samee'a Same address

Place of Accident at home R-274-7a1/Ne(3) Shaheed Road Jafar Khan Jafar Khan
 History She stated she sustained injury on white dress loose held work at around 10:30 PM. She was attacked from behind by some unknown person with unknown object while she was on ground floor and window of room was open at that time. She sustained old / head injury
 On Examination W/L @ Thigh post lat elliptical ~ 4.5 x 2 x 1 cm laceration
 Investigations X-Ray @ Thigh - AP & Lat Ex. In 3/11/23

Condition at discharge Stable/ok
 Final diagnosis GUN SHOT INJURY @ Thigh
 Nature of injuries: Simple (Grievous) Dangerous
 Kind of Weapon used or poison suspected in case of poisoning _____ Date of Discharge _____
 If admitted: Date of admission _____ Date of Discharge _____
 Remarks: She attacked her with unknown object. After admitted Foreign body (ONE BULLET) removed from @ Thigh area. Red marked @
 R11 OF MUSKAN
 MLC hit for statement @ 10 AM
 27/11/23
 Examining Medical Officer
 Holy Family Hospital, New Delhi

“On Examination: Stable, conscious & oriented. Vitals stable. L/E (Local Examination) (R) Thigh post lat: elliptical ~ 4.5 x 2 x 1 cm (R) Thigh. Laceration. Investigations: X-Ray (R) Thigh - AP & Lat. Diagnosis and Conclusion



- *Condition at discharge: Stable*
- *Final diagnosis: GUN SHOT INJURY (R) Thigh*
- *Nature of Injuries: Grievous (Circled)*
- *Remarks: H/o attacked on her with unknown object. Pt (Patient) was admitted foreign Body (ONE BULLET) removed from (R) thigh and discharged.”*

7. The injured was initially not in a condition to give a statement due to the influence of heavy dosage of drugs as the doctor had suggested surgery. Subsequently her statement was recorded upon being declared fit. Based on the said statement, a *rukka* was prepared and the FIR No. 490/2011 under Section 307 IPC came to be registered at Police Station Jamia Nagar.

8. Upon completion of investigation, the charge-sheet under Section 307 IPC was filed before the Id. jurisdictional Magistrate and the matter, being triable exclusively by the Court of Sessions, was committed to the Sessions Court. Thereafter, charge under Section 307 IPC was framed against the Appellant/Accused on 18th January 2012, to which he pleaded not guilty and claimed trial.

9. In order to establish its case, the prosecution's examined thirteen witnesses, including the injured witness (PW-4), medical experts, police officials, and other formal witnesses.

10. The central pillar of the prosecution's case was the testimony of PW-4 Ms. Muskan, who, in her examination-in-chief, reiterated the allegation that the Appellant/Accused fired a gunshot at her from outside the window after threatening her. She also identified the Appellant/Accused and attributed a clear motive arising out of refusal of marriage. The relevant portion of her statement and of the other relevant witnesses of the of the prosecution witness are reproduced hereinbelow:



<i>Witnesses</i>	<i>Statement In Chief Examination</i>	<i>Statement In Cross Examination</i>
PW- 4 Muskan (Injured)	<p>...I knew Asad Arif prior to the incident as he is resident of our area (Mohalla). Asad Arif ne mujhe dekhte hi kaha ki tune mujhse shaadi se mana karke acha nahi kiya, ab main tujhe zinda nahi chodunga, itni dair mein main kuch samajh pati, usne mujh par goli chala di, jo meri dahini jaang ke uppar lagi, usne goli banduk se chalai thi, jo banduk ko phechan sakti hu. (Accused Asad Arif after seeing me said that you had not do better for you by refusing marry with me and then he fired a shot from his gun, which hit on the upper portion of my right thigh). The accused Asad Arif after sustaining gun shot injury run away from there.</p> <p>...After registration of the FIR the family member of the accused</p>	<p>...The reason of animosity between accused and me is that I had refused to marry him. Safiara, my sister is elder to me and I am younger to Safiara.</p> <p>...On the date of incident, there was no marriage proposal of Safiara. Accused persons had brought the proposal for my marriage. It is wrong to suggest that there was ever any proposal by the accused person for the marriage of my elder sister Safiara. I was present at my house when the marriage proposal was brought by the accused persons. The marriage proposal by the accused persons was given in the month of 21st October 2009. I rejected the proposal through my mother. I also personally told this fact to the accused.</p> <p>XXX</p> <p>...I had disclosed the</p>



	<p><i>and their relatives used to pressurize me and my family to arrive at compromise with the accused. In this regard, a specific complaint was also lodged by my sister Safiara in the PS Jamia Nagar where a DD No. 38-B was recorded.</i></p>	<p><i>address and parentage of accused Asad Arif in my statement Ex. PW4/A to the police. I have knowledge as to when the accused was arrested by the police.</i></p> <p style="text-align: center;"><i>XXX</i></p> <p><i>...I cannot tell how much is the height of the window of my room. Sometime, I had stood along side the window in order to see outside. The height of lower side starting point of the window from the floor inside the room is equivalent to the height of my waist. There is a chhajja above the vertical end point of window. I am 5'3".</i></p> <p style="text-align: center;"><i>XXX</i></p> <p><i>...There was friendship between me and accused. I started my friendly relationship with accused in the year 2009. Our acquaintance initiated through social networking sites.</i></p> <p><i>...The accused had never come to my house to meet me on an earlier occasion prior to the incident, in my</i></p>
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		<p><i>presence. My parents had also not told me about the visit of the accused at our residence, in my absence, prior to the incident. Accused had not visited me at my residence, or in the hospital, even after the incident. Neither me nor my family member had ever visited the house of the accused after the incident. Before the incident, neither me nor my family member visited the house of accused. We met each other five or six times in the absence of our known. Voln. The said meetings were at a public place. I never met accused on a specific place or occasion. I am aware that accused also have some friends.</i></p> <p><i>...I had gone on an outing with the accused but in a group in which other friends of accused were also present. None of my friend (male or female) had accompanied with me in the said outing.</i></p>
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		<p style="text-align: center;">XXX</p> <p><i>...I had participated in the group photo shoot at Agra. I do not recollect whether I participated in the photo shoot uniquely with the accused only.</i></p>
<p>PW- 6 Sh. Mustakeer Ahmed</p>	<p><i>On 18.09.2011, at about 10:45pm, I was present at my house in the drawing room. All of a sudden, I heard firing of shot (goli chalne ki awaz aai) from just behind my house in the service lane. I went backside towards room situated on the back side of the drawing room. In the room adjoining the service lane, I saw that my daughter namely Muskaan was crying and weeping. She was nervous. I saw that her salwar was soaked with blood. On asking, how it happened. Muskaan told me that a boy named Asad Arif had fired a shot from the backside window. He caused injuries with the bullet to her and thereafter, had ran away.</i></p>	<p><i>... I have not told the incident of 17.09.2011 to the police while recording statement u/s 161 Cr.P.C. I have not told the event to the police about 17.09.2011 because the second day, the incident has taken place due to which, I was mentally disturbed and I could not tell the police. I am being treated for mental tension till date. After the incident. I became mentally disturbed.</i></p>



	<p style="text-align: center;"><i>XXX</i></p> <p><i>On 17.09.2011 at about 07:30pm, when I was returning back from the Mosque after offering the Namaaz, on the way, Asad Arif restrained my way (raaste main gher liya) and told me that Muskaan had refused to marry him and therefore, he would enter her house and fire a shot on her. (Muskaan ne mujhse shaadi karne se mana kiya, woh ab ghar main ghus ke goli maarega).</i></p>	
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11. The medical evidence, as led through PW-3 and PW-11, established that the injury sustained by the complainant/injured was a gunshot injury and that a bullet was recovered during medical treatment. The nature of the injury was opined to be grievous. The relevant medical opinion made by PW- 3 Dr. Tirupati Ranjan Shukla and PW- 11 Dr. Vipul Sood are reproduced hereinbelow:

<i>Witnesses</i>	<i>Statement In Chief Examination</i>	<i>Statement In Cross Examination</i>
<i>PW- 3 Dr. Tirupati Ranjan</i>	<i>... I medically examined Muskan d/o Mohd. Mustaqeem Ahmed vide MLC No. C11024438,</i>	<i>The salwar worn by the patient was handed over to the Police by me, however; it was put</i>



Shukla	<i>which is Ex.PW3/A, bears my signature at point-A. She was brought to the hospital by her sister Samiara. On examination, injuries over right posterior lateral thigh (elliptical shaped) wound nearly 4.5 x 2 x 1 cm in size lacerated type of wound. Some ooze was there. X-ray of relevant area was done at causality. Some radio opaque shadow was found and therefore, patient was admitted to the hospital for further exploration on 00:24 hours on 19.09.2011. One bullet was found which was removed by the plastic surgeon Doctor Vipul Sud. She was discharged on 21.09.2011.</i>	<i>off by the attending staff nurse. I had seen some torn area in the salwar. I cannot say whether torn area in the salwar was burnt or not because it was soaked with blood.</i>
PW- 11 Dr. Vipul Sud	<i>...I opined that injury caused by Ms. Muskan was not sufficient to cause death in ordinary course of nature.</i>	

12. The prosecution also relied upon the recovery of the blood-stained clothes and the bullet, along with the forensic examination reports, to corroborate the ocular version.

13. After completion of the prosecution evidence, the statement of the



Appellant/Accused under Section 313 CrPC was recorded, wherein he denied the allegations and claimed false implication. The defence set up by the Appellant/Accused was that there was no such incident of firing and that he had been falsely implicated due to personal disputes arising out of matrimonial proposals involving the complainant/injured and her family.

14. In defence, the Appellant/Accused examined four witnesses, including himself, to support the plea that the relations between the parties were cordial and that the alleged incident was fabricated. The defence also sought to suggest that the marriage proposal was for the complainant's sister and not the complainant/injured, and that the present case was a result of personal animosity. The relevant portion of the statements of the defence witnesses are reproduced hereinbelow:

DW-1 Ms. Khansa Sadiya (Cousin sister of the accused)	<i>The family of Asad Arif and my family are living in the same building. We are residing at the first floor and family of Asad Arif is residing at ground floor. I was married 06.02.201.</i>	.
DW- 3 Asad Arif (Accused)	<i>...On 15.09.2011, Muskaan had visited my sister Sadiaya Arif's house on the occasion of birthday of her daughter, where we had met each other after conclusion of function. She took me</i>	



aside and expressed her desire to go out of Delhi with her but I refused to accompany her. When she insisted and forced then I asked her to ask her brother or cousin to accompany, then I would accompany her. She was not ready and asked me to take any of my friend, who could accompany us. She agreed to that

XXX

...On the way from Agra to Delhi, Muskaan inquired from me, as to why I was marrying with her sister Safiara and asked me to marry with her. She told me that she would convince and make her family members understand.

FINDINGS OF THE LEARNED TRIAL COURT:

15. Upon appreciation of the oral and documentary evidence on record, the Id. Trial Court came to the conclusion that the prosecution had successfully proved its case beyond reasonable doubt. The testimony of the injured witness was found to be credible and corroborated by medical evidence.



16. The Id. Trial Court held that the testimony of PW-4 stood corroborated by the medical evidence and by the testimony of PW-6. The presence of the Appellant/Accused at the spot and his identity were held to be duly established.

17. The defence taken by the Appellant/Accused was rejected by the Id. Trial Court as improbable. The Id. Trial Court also held that the absence of recovery of weapon of offence was not fatal to the prosecution case in view of the consistent ocular and medical evidence.

18. On the aspect of intention, the Id. Trial Court held that the act of firing a gunshot at the complainant/injured from close range clearly demonstrated the intention to cause death, thereby attracting the offence under Section 307 IPC.

19. Accordingly, the Id. Trial Court concluded that the prosecution had proved its case beyond reasonable doubt and convicted the Appellant/Accused under Section 307 IPC. The Appellant/Accused was thereafter sentenced to simple imprisonment for three years along with fine.

SUBMISSIONS ON BEHALF OF THE APPELLANT:

20. The Id. counsel for the Appellant/Accused submits at the outset that the present case arises out of what was essentially a personal dispute between two young individuals, and the same has been given a criminal colour far beyond its actual contours. It is submitted that at the time of the incident, the Appellant/Accused was about 23 years of age and the complainant/injured was about 21 years old, and the parties were known to each other. Reference is made to the defence evidence, including photographs placed on record, to submit that the parties shared a prior



relationship and had even travelled together, which, according to Id. counsel, indicates that the incident cannot be viewed in isolation as a grievous act of violence.

21. The Id. counsel draws the attention of this Court to the defence evidence, particularly Exhibit DW-4/12, to submit that the complainant/injured herself is reflected therein, and the material on record would show that the relationship between the parties had soured over time. It is contended that once such relationships deteriorate, allegations tend to be exaggerated, and therefore, the prosecution version ought to be viewed with caution in that background.

22. Without pressing the appeal on conviction, the Id. counsel submits that the sentence imposed by the Id. Trial Court deserves reconsideration. It is urged that the Appellant/Accused has been sentenced to undergo simple imprisonment for a period of three years and has already undergone a substantial part of the said sentence, approximately half. It is further submitted that the Appellant/Accused is now married, has family responsibilities, and has moved on in life, and these factors deserve to be taken into account while considering the question of sentence.

23. In this context, reliance is placed upon the order of Supreme Court in *Sona Dhar v. State of Chhattisgarh, 2021 SCC OnLine SC 3683*, to submit that in cases involving fixed-term sentences, where the accused is willing to accept the infraction and does not seek to challenge the conviction, the appellate court may, in appropriate cases, dispose of the appeal on the basis of the sentence already undergone.

24. The Id. counsel further seeks to highlight certain material inconsistencies in the prosecution case. It is submitted that the MLC, which



is the earliest document, records that the injury was caused by an unknown person with an unknown object while the complainant/injured was engaged in household work. This, according to Id. counsel, is a significant circumstance, as the name of the Appellant/Accused does not figure in the first version.

25. It is further submitted that the complainant/injured was brought to the hospital at about 11:01 p.m., and though she was declared fit for statement at around 1:10 a.m., her statement was not recorded immediately. The statement implicating the Appellant/Accused was recorded only subsequently, after a delay of approximately 22 hours. The Id. counsel submits that such delay in naming the Appellant/Accused casts a serious doubt on the prosecution case.

26. The Id. counsel also refers to the DD-3 entry recorded upon information from the hospital, which describes the incident as a “*jhagda*” or scuffle. It is submitted that even at that stage, no specific allegation was made against the Appellant/Accused, and the complainant’s companion, who was present at the hospital, also did not disclose the identity of the assailant.

27. It is further urged that the nature and placement of the injury are also relevant. The injury was sustained on the thigh and not on any vital part of the body. The Id. counsel has drawn attention to the cross-examination of the complainant/injured, wherein it has come on record that the window through which the alleged shot was fired was at a height corresponding to the waist level. It is submitted that even as per the complainant’s own testimony, the alleged shot was directed at the thigh, which does not reflect an intention to cause death.



28. It is contended that the medical evidence also does not suggest any life-threatening injury, and the condition of the complainant/injured at discharge was satisfactory. It is thus argued that the essential ingredients of intention or knowledge required under Section 307 IPC are not clearly made out in the facts of the present case.

29. The Id. counsel submits that even if the prosecution version is accepted in its entirety, the incident involved a single act and not a repeated or brutal assault. The weapon was not used in a manner that would ordinarily result in death, and the injury inflicted was limited in nature.

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

30. *Per contra*, the Id. APP for the State, along with Id. counsel appearing for the complainant/injured, submits that the present case is not one warranting any reduction of sentence. On the contrary, it is urged that the facts and circumstances disclose aggravating features which justify enhancement of sentence.

31. It is submitted at the outset that the act of the Appellant/Accused was not a spontaneous or isolated act, but a premeditated and deliberate assault. In this regard, reliance is placed upon prior complaints made by the complainant/injured, particularly Exhibits PW-4/C and PW-4/D, to demonstrate that the Appellant/Accused had, even prior to the incident, threatened the Survivor and attempted to harm her.

32. The Id. APP draws attention to Exhibit PW-4/C, being DD No. 37-B dated 14th May 2011, wherein the complainant/injured had specifically complained that the Appellant/Accused had come to her residence armed with a knife, attempted to harm her, and issued threats to kill her. It is



submitted that the contents of the said complaint clearly establish a pattern of conduct and prior animosity on the part of the Appellant/Accused.

33. The Id. APP further places reliance upon Exhibit PW-4/D, being an earlier complaint dated 31 March 2011, wherein the Appellant/Accused is alleged to have repeatedly threatened the complainant/injured, including physical harm. It is submitted that these complaints demonstrate that the Appellant/Accused was persistently stalking and intimidating the Survivor, and that the present incident was a culmination of such conduct.

34. It is thus contended that the prior complaints assume considerable significance, as they show that the Appellant/Accused was not acting in the heat of the moment but had a continuing intention to harm the complainant/injured. The incident in question, therefore, cannot be viewed in isolation but must be assessed in light of this background.

35. The Id. APP further submits that the defence sought to be projected by the Appellant/Accused during trial is false and contradictory. It is pointed out that in his statement under Section 313 CrPC, on being questioned whether he wants to state something else, the Appellant/Accused in his answer denied any relationship with the complainant's sister. However, in the course of arguments, reliance has been placed on photographs and alleged prior association, which is inconsistent with the stand taken by the Appellant/Accused during trial.

36. It is submitted that such contradictory stands adopted by the Appellant/Accused undermine his credibility and reflect an attempt to mislead the Court. The reliance on photographs, it is urged, is an afterthought and cannot dilute the gravity of the offence.

37. On the aspect of delay in recording the statement of the



complainant/injured, the Id. APP submits that no adverse inference can be drawn. It is pointed out that the Survivor was brought to the hospital at about 11:40 p.m. and though she was declared fit for statement at around 1:10 a.m., the record clearly indicates that she was under the influence of medication and was taken for surgery.

38. Attention is drawn to the endorsement in the *rukka*, which records that although the complainant/injured was declared fit, she was not in a condition to give a statement due to the effect of medicines and was immediately taken for operation. It is submitted that under such circumstances, the delay in recording the statement is fully explained and cannot be used to cast doubt on the prosecution case.

39. It is further contended that the initial absence of the Appellant/Accused's name in the MLC is also not fatal. The Id. APP submits that the MLC is not expected to contain a detailed narration of the incident or the identity of the assailant, particularly when the injured is in pain and under medical treatment. The naming of the Appellant/Accused in the subsequent statement is consistent and has been duly proved.

40. The Id. APP also disputes the submission that the injury being on the thigh reduces the gravity of the offence. It is submitted that the intention of the accused is not to be determined solely on the basis of the situs of injury, but on the overall circumstances. Firing a gunshot at a person, irrespective of the exact point of impact, is an act inherently capable of causing death.

41. In this context, reliance is placed on the judgment in *Ratan Singh v. State of M.P. And Anr., 2009 (12) SCC 585*, to submit that intention and knowledge are to be gathered from the totality of circumstances, including prior conduct, the nature of the weapon used, and the manner of assault. It is



submitted that the use of a firearm, coupled with prior threats, clearly establishes the requisite intention.

42. The Id. APP further submits that the Appellant/Accused has caused lasting harm to the complainant/injured, who continues to suffer the consequences of the incident even today. It is urged that the trauma caused to the complainant/injured cannot be overlooked while determining the appropriate sentence.

ANALYSIS AND FINDINGS:

43. The Court has considered the matter.

44. The central issue which arises for consideration is whether the prosecution has been able to establish, beyond reasonable doubt, that the Appellant/Accused had fired a gunshot at the complainant/injured Ms. Muskan with the intention or knowledge so as to be sentenced under Section 307 IPC

45. The prosecution case rests fundamentally upon the testimony of PW-4 Ms. Muskan, who is not merely an eyewitness but the injured victim herself. Her testimony, therefore, occupies a position of primacy in the evidentiary framework of the case.

46. PW-4 has, in her examination-in-chief, given a clear and vivid account of the incident. She has deposed that on the night of 18th September 2011, at about 10:45 p.m., when she went to the rear room of her house to take water from the refrigerator, she noticed the Appellant/Accused standing outside the window. She has further deposed that the Appellant/Accused, upon seeing her, threatened her by stating that since she had refused to marry him, he would not spare her, and before she could react, he fired a shot from a firearm which struck the upper portion of her right thigh.



47. What is significant is that this version is not a mere bald allegation but contains specific details including the location, the manner of assault, the words of threat, and the immediate consequence. Her testimony remains consistent on these material particulars even during cross-examination.

48. The defence has attempted to suggest that there were prior interactions between the parties, including outings and photographs, to argue that the incident arises out of a personal dispute. However, such prior acquaintance, if anything, strengthens the identification of the Appellant/Accused and does not dilute the prosecution case.

49. This Court finds no reason to disbelieve the testimony of PW-4. There is no material contradiction affecting the foundation of her version, nor is there any indication of false implication motivated by any compelling reason.

50. The testimony of PW-4 stands fully corroborated by the medical evidence on record. The MLC clearly records a gunshot injury on the right thigh, described as a lacerated wound measuring approximately 4.5 x 2 x 1 cm. The medical evidence further establishes that a bullet was recovered from the body of the injured during surgical intervention and that the injury was grievous in nature.

51. PW-3 Dr. Tirupati Ranjan Shukla has categorically deposed regarding the nature of the injury and the recovery of the bullet. PW-11 Dr. Vipul Sud has further corroborated that the injury involved the presence of a bullet in the thigh, which was surgically removed.

52. The ocular and medical evidence are thus in complete consonance. There is no inconsistency between the two. The nature of injury, the situs, and the presence of a bullet all support the prosecution version that a firearm



was used.

53. The testimony of PW-6, the father of the injured, assumes importance in corroborating the prosecution case. He has deposed that upon hearing the sound of a gunshot, he rushed to the rear room and found his daughter in an injured condition, bleeding profusely. Upon inquiry, she immediately informed him that the Appellant/Accused had fired upon her.

54. This immediate disclosure is significant as it rules out the possibility of concoction or false implication. The statement was made at the earliest point of time, when the injured was in a distressed condition, and therefore carries a high degree of credibility.

55. One of the principal submissions advanced on behalf of the Appellant/Accused is that the name of the Appellant/Accused does not find mention in the MLC or in the initial DD entry, and that there was a delay in recording the statement of the injured.

56. This Court is unable to accept the said contention. The record clearly reflects that though the injured was declared fit for statement, she was under the influence of medication and required immediate surgical intervention. The Investigating Officer has also deposed that the statement could not be recorded at the initial stage for this reason. In such circumstances, the delay in recording the statement stands sufficiently explained. The priority, quite naturally, was to ensure medical treatment and save the life of the injured.

57. The submission of the Appellant/Accused is that since the injury was on a non-vital part of the body, namely the thigh, the offence under Section 307 IPC is not made out.

58. This submission overlooks the principle that intention is not to be determined solely on the basis of the part of the body where the injury is



inflicted. The nature of the weapon, the manner of its use, and the surrounding circumstances are equally, relevant. In the present case, the Appellant/Accused used a firearm and fired at the complainant/injured after issuing a clear threat to kill her. The act of firing a gunshot at close range is inherently dangerous and is capable of causing death.

59. The fact that the bullet struck the thigh instead of a vital organ appears to be fortuitous rather than indicative of lack of intention. The act itself unmistakably reflects the intention contemplated under Section 307 IPC.

60. The Supreme Court in *Jage Ram v. State of Haryana*, (2015) 11 SCC 366, held that the nature of injury is not the only factor in determining intention, and the surrounding circumstances, word used by the accused, nature of weapon used and overall conduct of the accused must also be considered. The relevant paragraph from the said case is reproduced hereinbelow:

“12. For the purpose of conviction under Section 307 IPC, the prosecution has to establish (i) the intention to commit murder; and (ii) the act done by the accused. The burden is on the prosecution that the accused had attempted to commit the murder of the prosecution witness. Whether the accused person intended to commit murder of another person would depend upon the facts and circumstances of each case. To justify a conviction under Section 307 IPC, it is not essential that fatal injury capable of causing death should have been caused. Although the nature of injury actually caused may be of assistance in coming to a finding as to the intention of the accused, such intention may also be adduced from other circumstances. The



intention of the accused is to be gathered from the circumstances like the nature of the weapon used, words used by the accused at the time of the incident, motive of the accused, parts of the body where the injury was caused and the nature of injury and severity of the blows given, etc.”

61. The prosecution has also brought on record prior complaints, namely Exhibits PW-4/C being complaint letter dated 14th May, 2011 and PW-4/D being complaint dated 31st March, 2011, which indicate that the Appellant/Accused had been harassing and threatening the complainant/injured prior to the incident. The relevant portion of PW-4/C and PW-4/D are reproduced hereinbelow:

PW-4/C

- “विषय - जान से मारने की कोशिश एवं धमकी देने के हेतु कम्प्लेन
1. असद आरिफ नाम के लड़के ने मुझे कमरे में अकेला पा कर 13.5.2011 की रात 9:15 pm के आस-पास मेरे कमरे के पीछे वाले दरवाजे पर दो बार पत्थर फेंका व खिंचकर दरवाजा खोला फिर मुझे जान से मारने की कोशिश व धमकी दी। उसने अपने हाथ में चाकू ले रखा था मेरे चिल्लाने पर वह जान से मारने की धमकी दे कर भाग गया।
 2. असद आरिफ रोज़ मेरे घर के आस-पास ही घूमता रहता है। मुझे डर है कि वह मुझे व मेरे परिवार वालों को नुकसान पहुँचा सकता है।
 3. मैंने पहले भी असद आरिफ के खिलाफ 31 मार्च 2011 को एक लिखित कम्प्लेन (कम्प्लेन नं. 56B) भी की थी। इसके बावजूद भी असद आरिफ ने मुझे जान से मारने की कोशिश एवं धमकी दी।
 4. मेरे घर के फोन पर फोन करके परेशान व धमकियाँ दे रहा है।
 5. इस लड़के ने हमें डराने के लिए मेरे, मेरी बहन सीमा व मेरे सीनियर सर आलोक कुमार पर झूठा F.I.R. भी दर्ज किया है। असद आरिफ ऐसे दोबारा झूठे आरोप में हमें फँसा के झूठा F.I.R. करा सकता है।”

PW-4/D

“दिनांक - 31 मार्च 2011
एस.एच.ओ. ओखला



जामिया नगर, नई दिल्ली

विषय - कायदे कानून पर कार्रवाई की मांग

निवेदन है कि असद आरिफ (पता - 640/9 ए जाकिर नगर, फोन नंबर 0958994285) का रहने वाला है। ये लड़का रोजाना मुझे और मेरे परिवार को जान से मारने की धमकी देता है। इसके अलावा चेहरे पर तेजाब फेंकने की धमकी भी देता है। कृपया इस मनचले युवक के खिलाफ नीचे लिखे मामलों में रिपोर्ट दर्ज कर कार्रवाई की जाए। भविष्य में मेरे और मेरे परिवार के किसी भी सदस्य के साथ किसी तरह की घटना घटती है तो इसके लिए जिम्मेदारी इसी लड़के की माना जाए..

1. 24 मार्च को असद आरिफ ने मुझे मेरे घर पर आकर धमकाया और मेरे साथ सरेआम हाथापाई की, मेरे घरवालों के सामने जान से मारने की धमकी भी दी।
2. 25 मार्च को मेरे इंस्टिट्यूट में जाकर मेरे साथ दुर्व्यवहार किया और रास्ते में मुझे मारने की धमकी दी, तब सुरक्षा कारणों के चलते मेरे सीनियर साथी मुझे घर छोड़कर गए।
3. ये युवक मुझे मारने के लिए हथियार लेकर मेरे घर के आसपास घूमता रहता है। जिसके चलते मेरे घर वालों को बाहर निकलने में परेशानी होती है और हम लोग भय के साये में जी रहे हैं।
4. असद आरिफ नाम का ये लड़का खुदकुशी कर मुझे और मेरे परिवार को फंसाने की धमकी भी देता है।
5. ये लड़का मुझे बदनाम करने और घर वालों को मारने की धमकी देता है।

अतः आपसे अनुरोध है कि इस युवक के खिलाफ सख्त से सख्त कार्रवाई की जाए, आपका सदा आभारी रहूंगी।”

62. These complaints reveal a pattern of conduct including stalking, intimidation, and threats which lends credence to the prosecution case that the incident was not sudden but was preceded by sustained hostility. The testimony of PW-6 also corroborates this aspect, wherein he has stated that the Appellant/Accused had, on the previous day, threatened that he would enter the house and shoot the complainant/injured.

63. As regard to the submission of non-recovery of the weapon of offence made by the Appellant/Accused, this Court is of the view that in the facts of the present case, the same is not fatal. The direct testimony of the injured



witness, corroborated by medical evidence establishing a gunshot injury and recovery of a bullet, is sufficient to sustain the conviction.

64. Upon a holistic evaluation of the evidence on record, this Court is satisfied that, the presence and identity of the Appellant/Accused stand firmly established. The act of firing a gunshot at the complainant/injured stands proved and the injury sustained by the complainant/injured is directly attributable to the said act, also the intention of the Appellant/Accused, as reflected from prior threats and use of a firearm, squarely attracts Section 307 IPC.

65. The findings returned by the Id. Trial Court are based on a proper and reasoned appreciation of evidence and do not suffer from any infirmity warranting interference.

66. Insofar as the sentence is concerned, the Id. Trial Court has imposed a sentence of simple imprisonment for three years along with a fine of Rs. 1,05,000/-, out of which Rs. 1,00,000/- was directed to be paid to the complainant/injured.

67. This Court finds the said sentence to be proper, keeping in view the nature of the offence, the manner in which it was committed, and the surrounding circumstances. No ground is made out for interference.

68. It is further noted that pursuant to directions issued during the pendency of the present appeal, the Id. Additional Sessions Court and the State Bank of India, Zakir Nagar, New Delhi were directed to furnish the status of the Fixed Deposit Receipt created out of the compensation amount.

69. A report has been received from the Id. Additional Sessions Court indicating that the FDR No. 34929864410, remains operative and the accumulated amount presently stands at Rs. 1,93,746/- according to the



report dated 2nd February, 2026.

70. This Court further notes that the injury suffered by the complainant/injured is of a serious nature involving a firearm, and the trauma endured by her cannot be adequately compensated merely by the amount awarded by the Id. Trial Court.

71. Considering, the nature of the offence under Section 307 IPC, the use of a firearm, the grievous injury suffered by the victim and the long-term impact on her life, this Court is of the view that additional compensation deserves to be awarded.

72. Accordingly, it is directed that the Appellant/Accused shall pay an additional sum of Rs. 2,00,000/- to the complainant/injured Ms. Muskan. The said amount shall be deposited within a period of eight weeks from today before the Id. Trial Court.

73. Upon deposit, the same shall be released to the complainant/injured without any condition.

74. In case of failure to deposit the said amount within the stipulated period, the Id. Trial Court shall take appropriate steps in accordance with law.

75. Further, it is directed that the FDR referred to above, along with accrued interest and the enhanced compensation, shall be released in favour of the complainant/injured Ms. Muskan, in accordance with law.

76. In view of the foregoing discussion, this Court finds no merit in the present appeal.

77. Sentence of the Appellant/Accused was suspended *vide* order dated 6th May, 2015. *Vide* the present Judgment, the Impugned Judgment dated 31st January, 2015 and order on sentence dated 24th February, 2015 has been



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confirmed.

78. As per the Nominal Roll dated 24th February, 2015, the Appellant/Accused had already served one year, three months, seven days. Accordingly, the Accused shall surrender before the Id. Trial Court on or before 6th May, 2026, to serve the remaining period of his sentence.

79. The appeal is, accordingly, dismissed. Pending applications, if any, stand disposed of. The conviction and sentence of the Appellant/Accused under Section 307 IPC, as recorded by the Id. Trial Court are upheld except the fine amount, which is modified as directed above.

80. A copy of this order be communicated to concerned Jail Superintendent for necessary compliance and information.

**MADHU JAIN
JUDGE**

**PRATHIBA M. SINGH
JUDGE**

APRIL 24, 2026/P