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

Reserved on: ***03.11.2026***
Date of Decision: ***27.11.2026***
Uploaded on: ***27.11.2026***

\# **CNR No. DLHC010886662025**

\+ **CRL.A. 1565/2025**

MAAN SINGH @ CHHAURI ....Appellant

Through: Ms. Anushka Arora, (DHCLSC), Mr. Imran Khan, Adv.

versus

STATE OF NCT OF DELHI .....Respondent

Through: Ms. Meenakshi Dahiya, APP for the State.
SI, Ajay Kumar, PS. Ashok Vihar, Delhi.

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present appeal is directed against the judgment dated 27.08.2025 and the order on sentence dated 03.09.2025 passed by the learned Principal District and Sessions Judge, North-West District, Rohini Courts, Delhi, in ***Sessions Case No. 334/2024*** arising out of ***FIR No. 524/2021*** registered at Police Station Ashok Vihar, whereby the appellant was convicted for the offence punishable under Section 307 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and sentenced to rigorous imprisonment (RI) for a period of four (4) years with a fine of ₹5,000/-, and in default of payment of such fine, to simple imprisonment (SI) for a period of three (3) months.

FACTUAL BACKGROUND

2. Before adverting to the rival submissions, it would be apposite to mention the factual background of the case. The same, as noticed by the concerned learned Trial Court in the impugned judgment is as follows:

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"Adumbrated in brief, following is the case of prosecution:

W/Ct. Swati recorded DD No. 12PP at 12.45 PM on 31.10.2021 with mention of injured Tuntun Shah having come for complaint at police post having cut on neck and the said information was given to ASI Sanjeev Kumar and said injured was sent through PCR to BJRM Hospital. ASI Sanjeev Kumar reached BJRM Hospital but did not met injured Tuntun Shah there. ASI Sanjeev Kumar obtained MLC of injured Tuntun Shah on which the doctor mentioned alleged history of physical assault as told by patient and injury observed was incised wound on neck lateral side (right side) 7-8 cms x 1 cm. ASI Sanjeev Kumar searched for injured Tuntun Shah in Wazirpur Industrial Area and met injured Tuntun Shah in his hut there where injured told ASI Sanjeev Kumar that he was feeling pain at that time and will come in the Police Post after some time. Later in the course of day, injured Tuntun Shah reached police post and gave the following statement in Hindi:

In his statement, injured stated that he was residing at hut no. B-134, near Jagdamba Mandir, Wazirpur Industrial Area, Delhi, was of age 46 years and was engaged in the occupation of selling vegetables on cart. At about 12 Noon on 31.10.2021 when injured was sitting in Belt Wala Park, near Railway Line and was drinking alcohol then at some distance there Maan Singh was also drinking alcohol. Said Maan Singh came near injured Tuntun Shah and asked Tuntun Shah to give him liquor but Tuntun Shah refused to give him liquor, upon which altercation took place. Tuntun Shah went back to his place and sat there. From behind, accused Maan Singh came and hit sharp edged object on the neck of

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Tuntun Shah and ran away. Tuntun Shah felt enormous pain and saw much blood coming out of his wound. Tuntun Shah immediately went to Police Post, from where police van took him to hospital and from there he went back to his home and then later came to Police Post to give his statement. Initially, case FIR No. 524/2021 was registered by the investigating agency at PS Ashok Vihar for offence under section 324 IPC. On 31.10.2021 at 11 PM from his hut no. C-337, S.S. Nagar, near Jagdamba Nagar, Wazirpur Industrial Area, Delhi, accused was arrested by IO/ASI Sanjeev Kumar and his personal search was conducted and accused was enlarged on police bail that day when Sewak Singh stood surety for him. Matter was investigated. Notice under section 91A(41A) Cr.P.C. was given by ASI Rakesh Kumar on 09.05.2023 to accused to join investigation on 10.05.2023 at 4 PM at PS Ashok Vihar. When the injury was opined as dangerous by the doctor in the MLC of injured, the investigating agency added Section 307 IPC. Charge sheet was filed for offence under Section 307 IPC. Report was received by Magisterial Court on summons sent to accused that he was in Judicial Custody in case FIR No. 359/2023 PS Ashok Vihar and production warrants of accused were issued. On production of the accused in judicial custody, compliance of Section 207 Cr.P.C. was done by the Magisterial Court and case was committed to the Court of Sessions.

2. Accused was enlarged on bail when he was admitted to bail in the aforesaid other case.

3. **My Ld. Predecessor framed charge for offence under Section 307 IPC against the accused to which he pleaded not guilty and claimed trial after understanding the charge**. [Framing of charges]

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4. **In order to connect the accused with the crime in question, the prosecution examined in all seven witnesses namely last investigating officer PW1 SI Rakesh Kumar; injured PW2 Tuntun Shah; duty officer PW3 ASI Jayarama P.; PW4 Dr. Ksh Shanta Singh; PW5 HC Karan Pal; DD Writer PW6 W/Ct. Swati and first investigating officer PW7 ASI Sanjeev Balyan**. [Prosecution Evidence (PE)]

5. On 03.06.2025 Sh. G.S. Guraya, Ld. Chief Public Prosecutor for State gave statement to close the prosecution evidence.

6. **All incriminating evidence was put to the accused in separate statement recorded u/s.313 Cr.P.C./351 BNSS wherein he pleaded innocence and false implications**. [Defence Evidence (DE)] [Statement under 313 of the Code of Criminal Procedure (hereinafter referred to as 'CrPC')]" (Emphasis supplied)

Impugned Judgment dated 27.08.2025

3. Upon appreciation of the evidence, the concerned learned Trial Court held the testimony of PW-2 to be reliable and found it corroborated by the medical evidence. The delay of a few hours in recording his detailed statement was held to have been satisfactorily explained by the treatment received by him and the pain caused by the injury. The discrepancies concerning the presence of PW-2 at the time of the appellant's arrest, the absence of his signature on the site plan and his inability to provide a complete description of the weapon were treated as being minor and insufficient in nature to discredit the core of the prosecution's case.

4. The concerned learned Trial Court further held that the incised wound established the use of a sharp-edged object and that the act of striking PW-2 on a vital part of the body, namely, the neck, disclosed the requisite intention

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for the offence of attempt to murder. Accordingly, *vide* judgment dated 27.08.2025, the appellant was convicted for the offence punishable under Section 307 IPC.

Impugned Order on Sentence dated 03.09.2025

5. At the stage of sentencing, the prosecution sought the maximum permissible sentence, whereas the appellant sought his release on the basis of the period already undergone. It was submitted on his behalf that he was 29 years of age, illiterate, unmarried, employed as a daily-wage labourer and the sole breadwinner for his mother. It was also stated that he had not previously been convicted, though another criminal case arising from an incident of June 2023 was pending against him. The concerned learned Trial Court also noticed his non-appearance during the trial and his failure to furnish his changed address and declined to extend the benefit of probation.

6. *Vide* order dated 03.09.2025, the appellant was sentenced to rigorous imprisonment (RI) for a period of four (4) years with a fine of ₹5,000/- and, in default of payment of such fine, to simple imprisonment (SI) for a period of three (3) months. The fine, upon realisation, was directed to be paid to PW-2 after the expiry of the period of appeal or subject to the order of the Appellate Court. The appellant was also extended the benefit of set-off under Section 428 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'CrPC').

Present Proceedings

7. Aggrieved by the aforesaid judgment of conviction and the order on sentence, the appellant preferred the present appeal. *Vide* order dated 13.11.2025, a Coordinate Bench of this Court admitted the appeal, whereafter, *vide* order dated 07.08.2026, the sentence awarded to the appellant was suspended during the pendency of the appeal, upon his executing a personal

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bond to the sum of ₹15,000/- with two (2) solvent sureties of the like amount each to the satisfaction of the learned Trial Court, subject to the conditions stipulated in the said order.

SUBMISSIONS ADVANCED

On behalf of the appellant

8. Learned counsel appearing on behalf of the appellant submitted, that the impugned judgment proceeds upon an erroneous appreciation of the evidence and that the prosecution has failed to prove, beyond reasonable doubt, either the alleged assault by the appellant or the intention or knowledge necessary to constitute an offence punishable under Section 307 of IPC.

9. It was submitted that the alleged occurrence took place at about 12:00 noon in Green Belt Park, near the railway line, which was a public place. That despite the occurrence having allegedly taken place in broad daylight, no independent witness from the park or the surrounding locality was examined, and that no CCTV footage or other electronic evidence was collected to corroborate the prosecution's version.

10. Learned counsel further submitted that, the alleged weapon of offence was never recovered. That the prosecution witnesses referred only to a *"sharp object"* or a *"nokili cheez"*, without disclosing its nature, description or dimensions. That in the absence of recovery of the alleged object, no fingerprints, DNA profile or other forensic evidence could be obtained to connect the appellant with the alleged assault.

11. It was contended that PW-2, Tuntun Shah (Injured), was the sole material witness and that his versions, under Section 161 CrPC, in his examination-in-chief and during his cross-examination, were materially inconsistent with each other. That in his statement under Section 161 CrPC, PW-2 stated that, after an altercation over liquor, he returned to the place

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where he had been sitting and the appellant thereafter came from behind and struck him on the neck, and that in his examination-in-chief, PW-2 merely stated that, while he was sitting, the appellant came to him and struck him with a sharp object, without stating that the assault was made from behind.

12. Learned counsel further referred to the testimony of PW-2 that he had reached the police post at about 12:00 noon, whereas the alleged occurrence itself was stated to have taken place at about the same time. PW-2 also stated during his cross-examination that a person known to him had made a call at the emergency number, though he was unable to disclose the name of that person. These circumstances, according to the learned counsel, created uncertainty regarding the manner of the assault, the direction from which it was allegedly made, the person who informed the police and the sequence in which PW-2 reached the police post and the hospital.

13. It was submitted that the MLC merely records a history of physical assault and an incised wound measuring approximately 7–8 cm × 1 cm on the right lateral side of the neck. That the description of the injury as *"dangerous"* could not, by itself, establish that the appellant had acted with the intention or knowledge required under Section 307 of IPC. It was also submitted that the medical evidence did not identify the assailant or the object with which the injury was allegedly inflicted.

14. Learned counsel further submitted that the incident, even according to the prosecution, arose out of a sudden quarrel between two persons who had been consuming liquor. That there was no prior enmity or motive for the appellant to cause the death of PW-2 and that only a solitary injury was alleged and there was no allegation of repeated assault. The prosecution had, therefore, failed to establish the requisite *mens rea* for the offence of attempt to murder.

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15. Reliance was further placed upon ***Hari Singh v. Sukhbir Singh, (1988) 4 SCC 551*** to contend, that the intention or knowledge contemplated under Section 307 of IPC must be such as would be necessary to constitute murder and that, where an occurrence is the result of a sudden flare-up or an accidental fight arising out of a sudden quarrel, a conviction under Section 307 of IPC would ordinarily not be warranted.

16. It was further submitted that the FIR was initially registered under Section 324 of IPC and Section 307 of IPC was added subsequently only upon the injury being described as *"dangerous"* in the MLC. That even if the prosecution's version were accepted in its entirety, the offence made out against the appellant would, at the highest, fall under Section 324 of IPC and not under Section 307 of IPC.

17. Learned counsel also referred to the delay between the incident dated 31.10.2021 and the filing of the charge-sheet on 21.03.2024. It was submitted that the prolonged delay in completing the investigation remained unexplained and that it assumed significance, when the alleged weapon had not been recovered and no independent or forensic evidence had been collected.

18. Learned counsel lastly submitted that the appellant had no previous convictions and had already undergone more than two (2) years of incarceration out of the sentence of four (4) years awarded to him. He was stated to be the sole earning member of his family, comprising his mother and a married sister, and was stated to have worked as a *langar sevadar* during his incarceration.

19. It was accordingly prayed that the impugned judgment of conviction dated 27.08.2025 and the impugned order on sentence dated 03.09.2025 be set aside and the appellant be acquitted. In the alternative, it was prayed that

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the conviction be altered to one under Section 324 of IPC and the sentence be suitably modified.

On behalf of the State

20. *Per contra*, the learned Additional Public Prosecutor (APP) appearing on behalf of the State opposed the appeal and submitted that the concerned learned Trial Court had correctly appreciated the oral and medical evidence and that the prosecution had proved the charge against the appellant beyond reasonable doubt.

21. The learned APP submitted that PW-2 was an injured witness who had furnished a clear and consistent account of the material features of the occurrence. It was submitted that PW-2 stated that he and the appellant were consuming liquor in the same park seperately, that the appellant asked him for liquor, that an altercation followed upon his refusal and that after PW-2 moved away and sat at another place, the appellant came and struck him on the neck with a sharp object. That blood started oozing from the injury and PW-2 immediately proceeded to the police post, from where he was taken to BJRM Hospital.

22. It was submitted that the testimony of PW-2 received assurance from the contemporaneous medical evidence. That the MLC records that PW-2 was brought to the hospital by a PCR official at about 12:51 p.m. on 31.10.2021 with an alleged history of physical assault. That he was found conscious and oriented and had sustained an incised wound measuring approximately 7–8 cm × 1 cm on the right lateral side of his neck. That the injury involved a small vascular injury and was opined to be dangerous. It was also submitted that PW-4 proved the MLC and identified the signatures of the doctors concerned.

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23. Learned APP further submitted that the inability of PW-2 to provide a complete description of the weapon was natural, since the assault was sudden, was completed within a few seconds and had been made from behind. That the nature of the incised wound itself corroborated PW-2's testimony that a sharp-edged object had been used. The non-recovery of the precise object used in the assault did not detract from the direct testimony of the injured witness, which stood corroborated by the medical evidence.

24. It was further submitted that the discrepancies relied upon by the appellant were minor in nature and did not affect the substratum of the prosecution's case. That the deposition of PW-2 was recorded approximately three (3) years after the occurrence and he could not reasonably be expected to recollect every minute detail with exactitude. It was submitted that his testimony remained consistent on the identity of the appellant, the altercation preceding the assault, the part of the body targeted and the injury caused.

25. Learned APP submitted that the interval in recording the detailed statement of PW-2 was satisfactorily explained and that PW-2 had first gone to the police post, from where he was taken to the hospital. It was submitted that after receiving treatment and sutures, he returned home as he was in considerable pain and subsequently went to the police post in the evening to record his detailed statement. It was contended that the afore-stated sequence was also supported by the DD entry and the evidence of the police officials.

26. On the question of intention, the learned APP submitted that the appellant had used a sharp-edged object to inflict a forceful blow on the neck of PW-2, which is a vital part of the body. That tshe injury was of substantial dimensions, involved a vascular injury and was medically opined to be dangerous. That the intention or knowledge contemplated under Section 307

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of IPC could, therefore, be inferred from the nature of the object used, the part of the body chosen and the severity of the injury caused.

27. Learned APP accordingly submitted that the case could not be reduced to one under Section 324 of IPC merely because only one injury was inflicted or because the weapon was not recovered. It was submitted that the proved circumstances established 'an act done with the intention or knowledge' contemplated under Section 307 of IPC.

28. It was therefore prayed, that the conviction of the appellant under Section 307 of IPC and the sentence imposed upon him be affirmed and that the present appeal be dismissed.

ANALYSIS AND FINDINGS

29. This Court has heard the contentions advanced by both the learned counsel appearing on behalf of the appellant as well as the learned APP appearing on behalf of the State and has also perused and appreciated the evidence and other material placed on record.

30. The principal question that arises for consideration in the present criminal appeal is whether the act attributed to the appellant, viewed in the light of the circumstances in which the occurrence took place, satisfies the ingredients of the offence punishable under Section 307 IPC or not.

Did the attack happen and was appellant the one who carried it out ?

31. Since the prosecution case rests substantially upon the testimony of PW-2 and both sides have relied upon different portions of his deposition in support of their respective submissions, this Court considers it apposite to reproduce the material portions of his examination-in-chief and cross-examination. The same is as under:

Examination-in-chief of PW-2

"19.10.2024

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PW:2 Sh. Tuntun Shah S/o Sh. Shankar Shah, R/o Jhuggi No. B-134, Near Jagdamba Mandir, Wazirpur Industrial Area, Delhi.
On SA
I used to install vegetable rehri. **On 31.10.2021 at about 12 noon, I was consuming liquor while sitting in the green belt park, near the railway line. Accused Maan Singh present in the court today (correctly identified) was sitting in the same park a little away from me, he was also drinking. He came near me and asked me for the liquor. I refused. He started quarreling with me and I made a little distance from him. While I was sitting there, accused Maan Singh came to me and hit me with a sharp object on my neck. Blood started oozing out from my neck. I rushed to the police post. Police van shifted me to hospital. I was treated there. Thereafter, I went to my house and then visited the police post. My statement was recorded by the police, which is Ex.PW1/A bearing my signature at point A.**
I had also shown the place of occurrence to the police. The accused caused injury to kill me.
XXXXXX by accused.
Deferred on request of accused as his counsel is not available."

Cross Examination of PW-2

"03.12.2024
PW:2 Sh. Tuntun Shah (recalled for cross examination deferred on 19.10.2024)
On SA
XXXXXX by Sh. S. P. Pandey, Advocate for accused.
I have two sons namely Monu Kumar and Sonu Kumar. They sell vegetables on rehri with me. My daily earning is about Rs. 500/- per day. The date of incident is 31.10.2021. **I went to the**

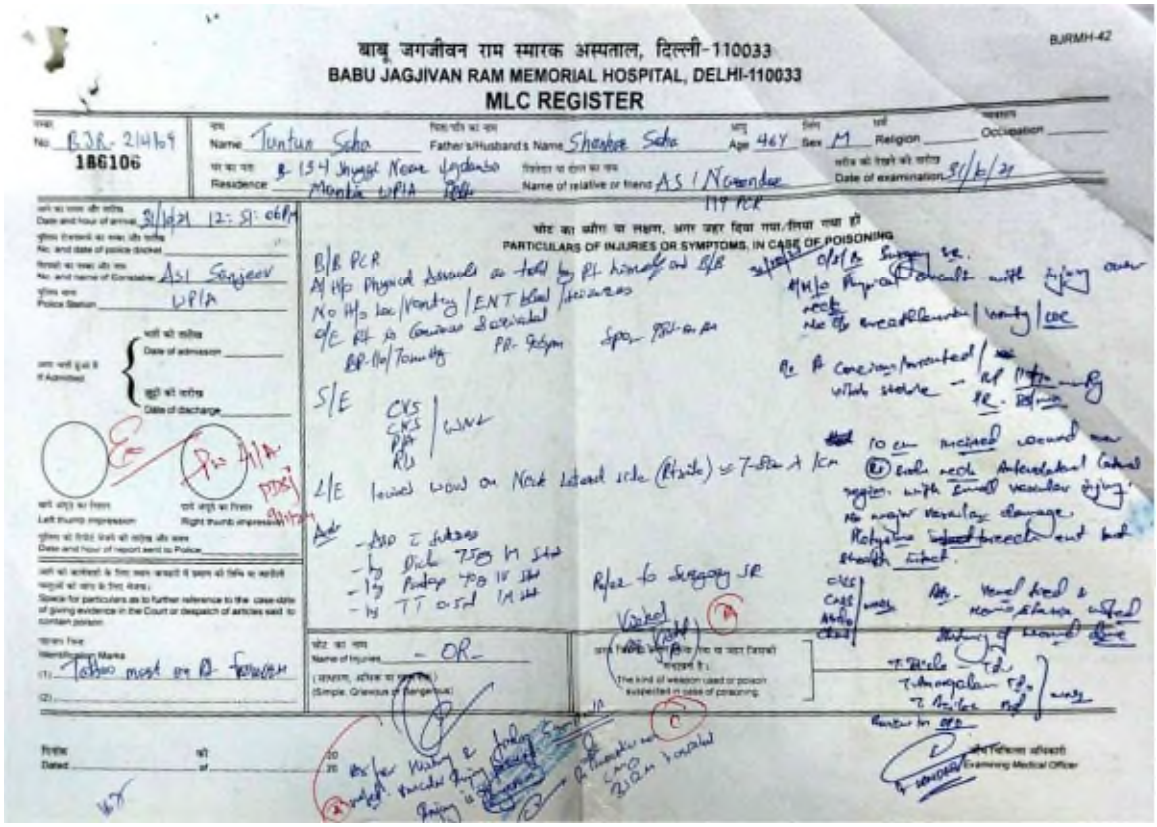
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police post at about 12 noon. When I reached to the police post, the police officials of PCR van took me to the hospital. One my known made a call at 100 number, but I do not know his name. He resides in my neighbourhood, but I do not know his jhuggi number.
I reached the hospital at about 12:30 PM. I reached home at about 3/3:30 PM after discharge from the hospital. My statement was recorded by the police in the police post after about one or one and half hour of my reaching home (Vol. I was feeling pain as my wound on the neck was stitched). I do not know the name of the police official who recorded my statement. Police never called me to the PS or visited my house after recording of my statement. Police prepared the site plan of the place of occurrence. I wrote my name of the site plan prepared by the police. (Court observation: the site plan does not bear the signature of witness).
Accused was not arrested in my presence (Vol. I was in the hospital at that time for treatment).
It is wrong to suggest that I did not tell the police that the offence was committed by Maan Singh. It is wrong to suggest that I am deposing falsely." (Emphasis supplied)

32. At the outset, this Court finds no ground to discard the occurrence itself or the involvement of the appellant therein. PW-2, being the injured witness, furnished a clear account of the altercation preceding the assault and identified the appellant as the person who struck him on the neck. His presence at the place of occurrence is natural and stands established from the injury sustained by him. The DD entry recorded at 12:45 p.m. and the MLC prepared shortly

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thereafter at BJRM Hospital also provide a contemporaneous assurance to his testimony. The same shall further be clear from the MLC reproduced under:



बाबू जगजीवन राम स्मारक अस्पताल, दिल्ली-110033
BABU JAGJIVAN RAM MEMORIAL HOSPITAL, DELHI-110033
MLC REGISTER

BJRMH-42

No. BJR-21469
186106

Name: Juntus Saha
Father's/Husband's Name: Shankar Saha
Age: 46Y
Sex: M
Residence: B-154 Jhuggi Near Yadanbo Mandir UPIA Delhi
Name of relative or friend: ASI Narender 119 PCR
Date of examination: 31/10/21
Date and hour of arrival: 31/10/21 12:51 pm
Police Station: UPIA
Name of Constable: ASI Sanjeev
Date of admission:
Date of discharge:

PARTICULARS OF INJURIES OR SYMPTOMS IN CASE OF POISONING

B/B PCR
A/H/o Physical assault as told by PC himself and B/B
No H/o loc/Vomiting/ENT bleed/seizures
O/E Pt is Conscious & oriented
BP-110/70 mmHg
S/E CNS CVS RS P/A
L/E Incised wound on Neck Lateral side (Right) c 7-8cm x 1cm
-Inj Diclo 75mg IM Stat
-Inj Pantop 40mg IV Stat
-Inj TT 0.5ml IM Stat
Refer to Surgery JR
Vascular
- OR -
Name of Injuries
Simple, Grievous or Dangerous
The kind of weapon used or poison suspected in case of poisoning
Identification Marks
(1) Tattoo mark on R forearm
(2)
Dated
Examining Medical Officer

33. As can be seen above, the MLC records that PW-2 was brought to the BJRM Hospital by a PCR official at about 12:51 p.m. on 31.10.2021 with an alleged history of physical assault. An incised wound measuring approximately 7–8 cm × 1 cm was found on the right lateral side of his neck, involving a small vascular injury. Now the nature and location of the injury correspond with the material particulars of the assault deposed to by PW-2. The short interval between the reporting of the occurrence and the medical examination further excludes any reasonable possibility of deliberation or fabrication. The MLC thus lends a contemporaneous assurance to the *factum* of assault and the nature and *situs* of the injury. It is at the same time, the

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testimony of PW-2, and not the MLC, which establishes the identity of the appellant as the assailant.

34. Now the discrepancies sought to be highlighted on behalf of the appellant pertain to peripheral matters and do not affect the core of the prosecution's case. The omission of the expression *"from behind"* in the examination-in-chief cannot be treated as a proved contradiction, particularly when PW-2 was not confronted with the said omission in the manner prescribed by law. Similarly, the approximate time stated by PW-2, his inability to identify the person who made the call to the emergency number, the absence of his signature on the site plan and the discrepancy concerning his presence at the time of the appellant's arrest do not dislodge his consistent account regarding the identity of the appellant and the assault committed upon him. The non-recovery of the weapon as well as the absence of an independent public witness, is also not fatal where the testimony of the injured witness is otherwise trustworthy and stands corroborated by contemporaneous medical evidence.

35. This Court is in agreement with the observations made by the concerned learned Trial Court in its impugned judgment that the maxim *'falsus in uno, falsus in omnibus'* has not acquired the status of a rule of law in India and is merely a rule of caution. That the testimony of a witness cannot be discarded in its entirety merely because a part thereof is found to be inaccurate or embellished, and that the Court must assess the extent to which such testimony remains worthy of acceptance. The said observations made in the impugned judgment are reproduced hereinbelow:

> "**The maxim "*falsus in uno, falsus in omnibus*" (false in one thing, false in everything) has not received general acceptance in different jurisdiction in India, nor has this maxim come**

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> **to occupy the status of rule of law. It is merely a rule of caution. The doctrine is a dangerous one, especially in India, for if a whole body of the testimony were to be rejected because witness was evidently speaking an untruth in some aspect, it is to be feared that administration of criminal justice would come to a dead-stop. The witnesses just cannot help in giving embroidery to a story, however, true in the main. Therefore, it has to be appraised in each case as to what extent the evidence is worthy of acceptance, and merely because in some respects the Court considers the same to be insufficient for placing reliance on the testimony of a witness, it does not necessarily follow as a matter of law that it must be disregarded in all respects as well. One hardly comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishment** (See ***Sohrab s/o Belli Nayata and Another v. The State of Madhya Pradesh, (1972) 3 SCC 751; Ugar Ahir and Others v. The State of Bihar, AIR 1965 SC 277 and Dalbir Singh v. State of Haryana, 2008 Crl.L.J 3061***)." (Emphasis supplied)

36. Now PW-2 may not have been exact about every detail, but he did not waver on the essential part of his account, which is, that an altercation arose over liquor and that the appellant thereafter struck him on the neck with a sharp-edged object. The DD entry and the MLC also support his account regarding the prompt reporting of the occurrence and the injury sustained by him. The aforesaid observations have therefore been reproduced to explain, as to why lapses concerning these surrounding details do not require the Court to discard the otherwise reliable part of PW-2's testimony.

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37. So upon a cumulative consideration of the testimony of PW-2, the DD entry and the medical evidence, this Court finds that the prosecution has proved beyond reasonable doubt that the appellant assaulted PW-2 with a sharp-edged object and caused the injury found on his neck. The plea seeking a complete acquittal of the appellant therefore, does not merit acceptance. But this Court keeping in mind the nature and circumstances of the present case deems it apposite to examine the legal character of the proved act, namely, whether the circumstances establish the intention or knowledge requisite for an offence under Section 307 IPC or bring the case within the ambit of a lesser offence.

Determination of the right offence

38. Section 307 IPC is attracted when the act is done with such intention or knowledge and under such circumstances that, if death had been caused, the act would have amounted to murder. The nature of the injury is a relevant circumstance, though it is not by itself conclusive in nature. The intention or knowledge of the accused must be gathered from the totality of the circumstances, including the genesis of the occurrence, the nature of the weapon, the part of the body targeted, the force employed, the number of injuries and the conduct of the accused before and after the occurrence.

39. In ***State of Maharashtra v. Balram Bama Patil, (1983) 2 SCC 28***, the Supreme Court held that the actual result of the act is not determinative and that the Court must ascertain, that whether the act was accompanied by the intention or knowledge contemplated under Section 307 of IPC or not. Similarly, in ***Hari Singh v. Sukhbir Singh, (1988) 4 SCC 551***, the Supreme Court observed that the intention or knowledge must be such as is necessary to constitute murder and that a sudden flare-up or an accidental fight arising out of a sudden quarrel may not attract the provision of Section 307 IPC.

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40. In ***Tukaram Gundu Naik v. State of Maharashtra, (1994) 1 SCC 465***, the Supreme Court was dealing with a case in which incised injuries had been inflicted with a knife during a sudden scuffle. Having regard to the suddenness of the occurrence and the surrounding circumstances, the Supreme Court found it doubtful as to whether the accused possessed the intention to commit murder in the aforesaid case. It was nonetheless held, that he could be attributed with the knowledge that the act was likely to cause death. The conviction under Section 307 IPC in this case was accordingly altered to one under Section 308 IPC.

41. In ***Bhagwan Singh v. State of Uttarakhand, (2020) 14 SCC 184***, the Supreme Court explained, that the absence of an intention to cause death or such bodily injury as is ordinarily sufficient to cause death is not by itself, conclusive in nature. That the Court is further required to determine whether the act was of such a nature that the accused must be deemed to have possessed the knowledge that it was likely to cause death. Applying this distinction between intention and knowledge, the Supreme Court again altered the conviction in this case from under Section 307 IPC to one under Section 308 IPC.

42. More recently, in ***Birbal Nath v. State of Rajasthan, (2024) 15 SCC 190***, the Supreme Court considered the absence of premeditation and the circumstance that the occurrence had arisen from a sudden fight in the heat of passion upon a sudden quarrel. Upon granting the accused a limited benefit regarding the genesis and premeditated nature of the assault, the Supreme Court altered the conviction from one under Section 307 IPC to one under Section 308 IPC. The decision is relevant here to the present case to the extent, that it recognises, that the sudden genesis of the occurrence and the absence of premeditation bear directly upon the question that, whether the requisite

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intention or knowledge necessary to constitute murder has been established by the prosecution or not.

43. When applying the aforesaid principles to the present case, the occurrence was not preceded by any enmity or pre-existing dispute between the parties. PW-2 and the appellant were consuming liquor separately in the same park, and the altercation began when PW-2 declined to share liquor with the appellant. There is no evidence of any prior design or preparation, nor is there any material to suggest, that the appellant had come to the spot armed with a weapon intending to cause the death of PW-2. These circumstances bring the present case within the principle recognised in ***Hari Singh v. Sukhbir Singh (supra)*** and ***Birbal Nath v. State of Rajasthan (supra)***, that the sudden genesis of an occurrence and the absence of premeditation bear directly upon the question, that whether the intention or knowledge necessary to constitute murder can be attributed to the accused or not.

44. The manner in which the assault was carried out must also be examined in light of the decision in ***Tukaram Gundu Naik v. State of Maharashtra (supra)*** which requires this Court to distinguish between an intention to commit murder and the knowledge that the act was likely to cause death, having regard to the suddenness of the occurrence and the surrounding circumstances. In the present case, only a solitary blow is attributed to the appellant. There is no allegation that he repeated the assault or continued to attack PW-2 after causing the injury. The object allegedly used was never recovered, its precise nature and dimensions could not be established, and there is no evidence that the appellant had brought it to the spot after any prior preparation.

45. Section 307 IPC is attracted only if the act was committed with such intention or knowledge and under such circumstances that, had death resulted,

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the act would have amounted to murder. In the present case, the occurrence arose suddenly from an altercation over liquor. Only one blow was inflicted, the assault was not repeated, and the object used in the assault was neither recovered nor shown to have been procured or carried by the appellant pursuant to any prior design. When these circumstances are considered together, the prosecution cannot be said to have established beyond reasonable doubt the degree of intention or knowledge required to attract Section 307 IPC. The location and nature of the injury, including the medical opinion describing it as being "*dangerous*" are undoubtedly relevant circumstances, but they cannot by themselves, supply the mental element required as per Section 307 IPC.

46. This conclusion however, does not reduce the proved act to an offence under Section 324 IPC under which the concerned FIR was initially registered. The appellant struck PW-2 with a sharp-edged object on the neck, which is a vital part of the body, and caused an incised wound measuring approximately 7–8 cm × 1 cm, involving a vascular injury. Now even though the occurrence arose suddenly and only one blow was inflicted, the appellant must, in the considered opinion of this Court, be attributed the knowledge that an act committed in this manner was likely to cause death. The appellant must be held to have acted with such knowledge and under such circumstances that, had death ensued, he would have been guilty of culpable homicide not amounting to murder. Such is the opinion of this Court because the appellant in the present case cannot be attributed with the degree of intention or knowledge required for murder which has been proved above, but he can be attributed with the degree of knowledge requisite for a conviction under Section 308 IPC as even though the occurrence arose suddenly and only one

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blow was inflicted, a person who uses a sharp-edged object in this manner must be attributed with the knowledge that death is likely to be caused.

47. So applying the distinctions as provided by the Apex Court in ***Tukaram Gundu Naik v. State of Maharashtra (supra)*** and ***Bhagwan Singh v. State of Uttarakhand (supra)***, this Court is of the opinion that, had death resulted from the act committed by the appellant, the offence would have amounted to culpable homicide not amounting to murder. The proved act, therefore, falls within the ambit of Section 308 IPC and cannot be reduced to an offence under Section 324 IPC.

48. The same approach was adopted by a Coordinate Bench of this Court in ***Shyam Sunder v. State NCT of Delhi***, ***2024:DHC:10023***, wherein the conviction under Section 307 of IPC was altered to one under Section 308 of IPC upon finding that the occurrence was sudden and that the absence of prior design or preparation did not permit an inference of the intention or knowledge necessary to constitute murder.

49. In view of the principles laid down in the decisions discussed hereinabove, and their application to the proved circumstances of the present case, the conviction of the appellant under Section 307 of IPC cannot be sustained. But at the same time, it cannot be reduced to one under Section 324 IPC either as it would be mean causing injustice both to the victim and the society altogether. Therefore, the impugned judgment dated 27.08.2025 is accordingly liable to be modified by altering the conviction of the appellant from Section 307 IPC to Section 308 of IPC.

<u>Quantum of Sentence</u>

50. On the question of sentence, this Court takes note of the fact that the appellant was approximately 29 years of age at the time of sentencing and was stated to be an illiterate daily-wage labourer and the sole earning member of

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his family. No previous conviction has been brought to the notice of this Court. The nominal roll further records his jail conduct as being satisfactory in nature and shows that he was assigned work as a *langar sahayak*. The appellant has already undergone a substantial period of incarceration, which was noticed to be nearly two (2) years when his sentence was suspended by this Court on 07.08.2026.

51. Having regard to the sudden genesis of the occurrence, the absence of premeditation, the solitary injury attributed to the appellant, his age and socioeconomic circumstances, his satisfactory jail conduct and the period of incarceration already undergone by him, this Court considers it appropriate to reduce the substantive sentence imposed upon the appellant to the period already undergone by him.

CONCLUSION

52. Accordingly, the conviction of the appellant under Section 307 IPC stands altered to a conviction under Section 308 IPC.

53. The substantive sentence of imprisonment imposed upon the appellant is as a result, reduced to the period already undergone by him.

54. The fine of ₹5,000/- imposed by the concerned learned Trial Court upon the appellant, shall remain undisturbed. If the fine has not already been deposited, the appellant shall deposit the same before the concerned learned Trial Court within a period of four (4) weeks from the date of this judgment, failing to do which, the default sentence as directed by the concerned learned Trial Court shall follow which is that he shall undergo a simple imprisonment (SI) for a period of one (1) month.

55. The direction concerning the payment of the aforesaid fine amount to PW-2 upon its realisation, shall also remain undisturbed.

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56. The appellant shall be released *forthwith* if he is in custody, provided he is not required to be detained in any other case. In case the appellant is on bail pursuant to the order dated 07.08.2026, his bail bonds and surety bonds shall stand discharged, subject to his compliance with Section 437A CrPC.

57. Therefore, the present appeal is partly allowed in the aforesaid terms and conditions and thereby, disposed of.

58. Pending application(s), if any, also stand(s) disposed of.

59. Interim order(s), if any, also stand(s) vacated.

60. A copy of this judgment be sent to the concerned Jail Superintendent as well as the concerned learned Trial Court for information and necessary compliance.

61. The judgment be uploaded on the website *forthwith*.

MADHU JAIN
(JUDGE)

NOVEMBER 27, 2026/PG

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