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

***Reserved on: 02.11.2026***
***Date of Decision: 27.11.2026***
***Uploaded on: 27.11.2026***

\# **CNR No. DLHC011067942018**
\+ **CRL.A. 450/2018**

WASEEM AKHTAR .....Appellant
Through: Mr. Chand Qureshi, Md. Imran Siddiqui, Mr. Mohit Yadav, Mohd. Shahzad Ansari, Mohd. Naved, Advs.

versus

STATE OF DELHI .....Respondent
Through: Mr. Digam Singh Dagar, APP with Mr. Rohit, Adv.
SI Virender, PS Kamla Market

**CORAM:**
**HON'BLE MS. JUSTICE MADHU JAIN**

## JUDGMENT

**MADHU JAIN, J.**

1. The present criminal appeal has been filed under Section 374 (2) of the Code of Criminal Procedure, 1973 (hereinafter referred to as *'Cr.P.C.')* assailing the judgment dated 16.01.2018 and the order on sentence dated 29.01.2018 passed by the learned ASJ, (Central), Tis Hazari Courts, Delhi, in ***FIR No. 131/2014,*** registered at P.S. Kamla Market under Section 307 of the Indian Penal Code, 1860 (hereinafter referred to as *'IPC')* whereby the appellant was convicted and sentenced for the offences for which he was charged.

***THE BRIEF FACTS OF THE CASE, AS EMERGING FROM THE IMPUGNED ORDER, ARE AS FOLLOWS:***

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2. In brief, the case of the prosecution is that on 22.04.2014 , DD No. 35A was received regarding a stabbing incident, pursuant to which police officials reached the spot at Shahganj Chowk, where accused Waseem Akhtar was found apprehended by public persons for stabbing his brother, Mohd. Aslam. It is alleged that on the day of the incident, the accused, while consuming liquor at his house, started abusing his father. In the meantime, two neighbours, namely, Shahid Khan and Mohd. Mukhtar, were called to persuade the accused to mend his ways. However, the accused became more abusive, went downstairs and returned after 2–3 minutes with a knife in his hand. He thereafter threatened to finish his brother, Mohd. Aslam, and inflicted several knife blows upon him, causing injuries to his chest and abdomen. The injured was subsequently shifted to LNJP Hospital, where his MLC was prepared. During investigation, the weapon of offence, i.e. the knife, was recovered at the instance of the accused. As per the MLC of the injured, he had sustained a superficial incised wound over the left side of the lower chest, measuring 3 inches x 1 inch, and a deep incised wound over the left side of the abdomen, measuring 1.5 inches x 2 inches. Since the injured was not in a position to give his statement at that time, his statement could not be recorded. The crime team was also called to inspect the spot.

3. On the basis of the victim's complaint, ***FIR No. 131/2014*** was registered at P.S. Kamla Market. During the course of investigation, the weapon of offence, i.e. the knife, was recovered at the instance of the accused. The investigating agency also seized the relevant blood-stained articles from the spot and the clothes of the injured. Upon completion of the

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investigation, the chargesheet was filed against the accused.

4. On 16.09.2015, a formal charge for the commission of offence u/s 307 IPC, was framed against accused Wasim Akhtar s/o Sh. Samim Akhtar by learned trial court.

5. To prove its case against the accused and discharge its burden, the prosecution examined thirteen witnesses before the learned Trial Court, whose testimonies have been discussed in the impugned judgment as under:

> *"7. The entire evidence led by the prosecution is required to be analyzed in the light of the above mentioned ingredients of Section 307 IPC. My point-wise observation thus, is as under:*
>
> *"(a) That the accused did an act."*
>
> *In this regard the first and foremost relevant piece of evidence is the information so received with regard to the alleged incident. PW-1 HC Sher Pal Singh who was duty officer on 23.04.2014, received a rukka Ex.PW1/B at about 3:00 AM from Ct. Ram Niwas sent by SI Ramesh Chand and on the basis of which he recorded the FIR Ex.PW1/A under Section 307 IPC. The certificate under Section 65-B Indian Evidence Act is Ex.PW1/C.*
>
> *8. The next witness examined by the prosecution is PW-4 Ct. Ram Niwas who stated that in the night of 22/23 April 2014, IO SI Ramesh Chand received DD no.35A and PW-4 along with IO reached at the spot and came to know that accused Waseem Akhtar was apprehended by public persons and injured had been taken to the hospital before arrival of the police. PW-4 has further stated that when he along with IO reached LNJP hospital he recorded the*

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*statement of injured Mohd. Aslam, prepared rukka and sent it for registration of FIR.*

*9. PW-5 Khalid Siddiqui is the next witness examined by the prosecution who is the brother of accused Waseem Akhtar. It is stated by him that on 22.04.2014 at about 10:00 pm his brother was consuming liquor at his house i.e. first floor, 3756, Gali Masjid wali, Shahganj, Ajmeri Gate, Delhi. At that time his father called two persons Shahid and Muqtar Ahmed, who were the residents of same locality, to make accused understand. Accused started abusing his father and those residents who had come. All the persons tried to persuade accused, however, accused Waseem Akhtar started beating PW-5 and his brother Mohd. Aslam with fist and kick blows. Then accused went down in the street and after two minutes, he came back with a knife and attacked on his brother Mohd. Aslam twice by stabbing on the left side of his stomach. Mohd. Aslam was taken to LNJP hospital and he remained there for three days.*

*10. During his cross-examination, PW-5 corroborated that accused slapped Mohd. Aslam. PW-5 further stated that he along with Sahid Khan and Mohd. Aslam gave beatings to accused Waseem Akhtar and accused started bleeding from his mouth. This fact reflected from the cross-examination of PW5 establishes that some altercation took place on 22.04.2014. It is further signifies that accused was very much present there at the scene of crime.*

*11. Another witness examined by the prosecution is PW-8 Mohd. Shahid who has stated that on 22.04.2014 at about 9:45 / 10:00 pm, he was called*

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*by his neighbour Shameem Siddiqui, father of accused, at his house no.3756 and he along with Mukhtar Ahmad reached at the first floor of the house and saw that accused Waseem Akhtar was abusing his father Mohd. Shameem. When PW-8 and Mukhtar Ahmad tried to pacify him, accused did not mend his way and ran outside the room and came back with a knife like object and stabbed his brother Mohd. Aslam in his stomach. PW-8 along with Mukhtar apprehended the accused along with knife. Police reached after 10-15 minutes at the spot. Accused was handed over to the police. Mohd. Aslam was taken to the hospital by a Constable. Khalid, brother of Mohd. Aslam had accompanied injured Mohd. Aslam. After some time, Crime Team reached at the spot who inspected the site in the presence of PW-8. Site plan prepared by the IO is Ex.PW8/A. Arrest memo of accused is Ex.PW4/B bears the signature of PW-8 at point "A". PW-8 further stated that knife was recovered from the house of the accused in his presence. The sketch of the knife is Ex.PW4/E and its seizure memo is Ex.PW4/F. Blood stained piece of sheet and towel having blood of Mohd. Aslam seized from the spot by the IO is Ex.PW4/A. IO seized blood stained vest (baniyaan) of injured Alsam vide seizure memo Ex.PW4/G. PW-8 identified the knife, blood stained towel and piece of sheet which was shown to him in the court.*

*12. During his cross-examination, PW-8 has corroborated that he along with Mukhtar had gone to the house of accused Waseem Akhtar and made him understood and tried to pacify. It is further alleged that PW-8 along with Mukhtar apprehended the accused at the spot after the alleged incident. It is, however, stated by PW-8 that the knife was not*

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*recovered in his presence. It is further reflected that counsel for accused has given a suggestion to PW-8 vide which it appears that it is admitted that accused was apprehended on the spot by PW-8 Shahid, Mukhtar and Khalid. The suggestion and answer given by PW-8 is mentioned as under:*

*"It is correct that I, Mukhtar and Khalid apprehended the accused person in the room after the alleged incident."*

*From the testimony of this witness, it is reflected that PW-8 has corroborated the fact that accused had quarreled with his brother, father and neighbours, and after the incident, he was apprehended at the spot itself.*

*13. The next witness examined by the prosecution is PW-10 Mukhtar Jawahar who, however, turned hostile and did not support the story of prosecution at all. PW-11 Mohd. Aslam has stated that accused Waseem Akhtar is his real brother and they have been residing along with their father together. In his examination-in-chief, PW-11 has also not supported the story of prosecution and stated that on 22.04.2014 some altercation took place with accused Waseem Akhtar. PW-11 further stated that he went outside thereafter, and in the meantime, he slipped and collided with door and received injuries on his left side stomach from the nails of the door. PW-11 was taken to LNJP hospital by his elder brother Khalid Akhtar. PW-11 further stated that he had not lodged any complaint in this case. This witness was cross-examined by the prosecution, however, he again did not support the story of prosecution. This witness, however, did not dispute that his blood stained clothes were seized by the IO*

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*or he was taken to the LNJP hospital or examined by the doctor there.*

*14. PW-13 SI Ramesh Chand is the IO in the present case and he has stated that on 22.04.2014, he received DD no.35A Ex.PW13/A and he along with Ct. Ram Niwas reached at the spot where accused Waseem Akhtar was found apprehended by public persons who further informed that accused had stabbed his brother and injured has been shifted to hospital. PW-13 recorded the statement of complainant Ex.PW11/A and statement of Mohd. Sahid who was alleged as an eyewitness. It is further stated that accused Waseem Akhtar got recovered the weapon of offence i.e. knife from his house whose sketch is Ex.PW4/E and seizure memo Ex.PW4/F.*

*15. During the cross-examination of PW-13, no suggestion has been given by the accused that he was not apprehended from the spot or when IO i.e. PW-13 reached at the spot, he was neither apprehended on the spot by the public person nor was handed over to the IO on the spot itself nor IO / PW-13 was informed by the public persons that accused Waseem Akhtar had stabbed his brother.*

*16. From the testimonies of above mentioned witnesses, it is reflected that PW-8 and PW-5 have supported the story of prosecution and have stated categorically that injured Mohd. Aslam who is the brother of accused Waseem Akhtar along with other family members were present at the spot on 22.04.2014 and as accused was consuming liquor, a dispute arose with accused and after that, father of accused called some neighbours to persuade accused for which PW-8 along with Mukhtar*

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> *reached at the spot and due to that accused Waseem Akhtar got infuriated, and after abusing his father and brother Mohd. Aslam, went outside and brought a knife and attacked Mohd. Aslam and injured him. It is a matter of record that injured PW-11 Mohd. Aslam though, has not supported the story of prosecution at all, however, this fact that PW-11 turned hostile cannot said to controvert the story of prosecution at all."*

6. On the completion of prosecution evidence, examination of accused U/s 313 Cr.P.C. was conducted on 27.05.2017, during his examination, he denied all the allegations levelled against them and claimed his innocence. The accused did not opt to lead Defence Evidence and the matter for fixed for final arguments.

7. The learned Trial Court, vide the impugned judgment dated 16th January 2018, convicted the appellant and held as under:

> *"31. Thus, from the above said discussion following are the facts which remain uncontroverted;*
> *(i) Accused Waseem Akhtar is the brother of complainant Mohd. Aslam.*
> *(ii) Accused Waseem Akhtar, on the day of incident got very abusive with his father and at that time complainant was present there.*
> *(iii) Two neighbours were called in the meantime and upon seeing them, accused Waseem Akhtar got infuriated and went outside and came back with a knife in his hand.*
> *(iv) Accused Waseem Akhtar stabbed complainant in his stomach and in the meantime he was apprehended by other public persons present at the spot.*

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*(v) Complainant was take to the LNJP hospital and his MLC which remained undisputed is available on record.*

*(vi) Possibilities of causing of injury by falling upon the nails of the door have been ruled out by PW-7.*

*(vii) "Stomach" falls under the definition of vital part of the body.*

*32. All these established facts therefore, are reflecting that accused Waseem Akhtar had formed an intention and in that process he stabbed complainant in his stomach and if not prevented by other public persons, he would have caused more injuries upon the complainant. Thus, the act of accused Waseem Akhtar is dangerous in nature that it was likely to cause death, if he would have been successful in his intention.*

*(c) That the accused had not excuse for incurring the risk of causing such death or injury.*

*33. In this regard, the conduct of the accused before and after commission of offence, is relevant which is reflected from the record itself. PW-5 and PW-8 have narrated the entire story of prosecution that accused was having a motive against the complainant. None of the prosecution witnesses has controverted this fact that no dispute arose in between the accused and the complainant. At the time of recording of the statement of accused under Section 313 Cr.PC when all the incriminating evidence was put to him, he was having an occasion to narrate the correct fact or to say differently, however, he has stated that he has been falsely implicated and no such incident as alleged in the charge-sheet has ever taken place. Thus, the accused does not seem to have any remorse against the act committed by him for which not only the prosecution witnesses but the circumstantial evidences are also indicating that an altercation*

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> *had taken place in between the complainant and the accused.*
> *34. In the light of above discussion it is, therefore, reflected that prosecution has been successful in establishing the liability of the accused beyond reasonable doubt. All the essential ingredients of Section 307 IPC have been fully established by the prosecution. Therefore, accused Waseem Akhtar is convicted under Section 307 IPC.*
> *Arguments on the point of sentence shall be heard separately..”*

8. Consequent upon the judgment of conviction, the learned Trial Court, vide Order on Sentence dated 29th January 2018, imposed the following sentence upon the appellant:

> *“Keeping in view the totality of circumstances as well as above said mitigating factors, the convict is sentenced as under:*
> ***(i) Convict to undergo rigorous imprisonment for a period of 06 years along with fine of Rs.10,000/- for offence U/s 307 IPC; in default of fine, to undergo SI for 01 month.***
> *Benefits of section 428 Cr.PC be given to the convict Waseem Akhtar.*
> *Copy of this order and judgment be given to the convict free of cost. File be consigned to Record Room.”*

9. Aggrieved by the aforesaid impugned judgment and order on sentence, the appellant has challenged both before this Court.

***SUBMISSIONS ON BEHALF OF THE APPELLANT***

10. Learned counsel for the appellant submitted that the impugned judgment of conviction is unsustainable in law as the learned Trial Court has failed to appreciate the material contradictions, inconsistencies and

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infirmities appearing in the prosecution evidence. It was submitted that the prosecution has failed to establish beyond reasonable doubt that the injury sustained by the complainant was caused by the appellant and with the intention or knowledge as contemplated under Section 307 of the IPC.

11. Learned counsel further submitted that the most material witness in the present case is the complainant himself, namely, Mohd. Aslam (PW-11), who is also the injured witness has not supported the prosecution version regarding the appellant having inflicted the alleged injury upon him. It was submitted that his testimony indicates that he sustained the injury upon falling down the stairs and coming into contact with the side of the door. It was submitted that the testimony of the injured complainant, who would ordinarily be the most natural witness to the occurrence, does not attribute the alleged act of causing injury to the appellant.

12. Learned counsel further submitted that the prosecution has heavily relied upon the testimony of PW-8, Mohd. Shahid, to establish the alleged recovery of the knife and the circumstances surrounding the incident. However, the testimony of PW-8 suffers from material contradictions. In his cross-examination, PW-8 has admitted that the disclosure statement of the appellant and the sketch of the knife were prepared by the Investigating Officer at the Police Station. It was further submitted that PW-8, despite being cited as a witness to the sketch of the knife (Ex. PW-4/E) and the site plan (Ex. PW-8/A), has categorically stated that the knife was not recovered in his presence. Thus, it was submitted that the very witness upon whom the prosecution has placed reliance does not support the alleged recovery of the weapon.

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13. Learned counsel for the appellant further submitted that PW-8 has admitted that he, along with Mukhtar and Khalid, apprehended the appellant immediately after the incident. The alleged place of recovery of the knife, i.e. the Machhan (Tand), is situated outside the house where the incident allegedly took place. It was submitted that these circumstances cast serious doubt upon the genuineness of the alleged recovery.

14. Learned counsel further submitted that the medical evidence does not lend the necessary assurance to the prosecution's allegation of an assault with a knife. PW-7, Dr. Sushant Verma, has described the injury sustained by Mohd. Aslam as 'simple sharp'.

15. It was submitted by the learned counsel for the appellant that the aforesaid medical evidence assumes significance when considered alongside the testimony of PW-11. It was submitted that PW-7 has admitted that such an injury could be caused by a protruding nail on a door or chair.

16. Learned counsel further submitted that the forensic evidence also raises serious doubts regarding the prosecution's case. As per the forensic report (Ex. PW-13/C), no blood was detected on the alleged knife (Ex. PW-4/E). It was further submitted by the learned counsel for the appellant that where the prosecution alleges that the said knife was used to inflict an injury upon the complainant, the absence of blood on the alleged weapon is a relevant circumstance which ought to have been considered by the learned Trial Court.

17. Learned counsel for the appellant further submitted that the prosecution has also failed to establish the essential ingredients of the offence under Section 307 IPC. It was also submitted by the learned counsel

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that the investigation itself suffers from serious infirmities. It was submitted that the failure to medically examine the appellant, particularly when the prosecution itself alleges that he was under the influence of liquor and that a scuffle had taken place, has resulted in the withholding of potentially material evidence.

18. Learned counsel for the appellant further submitted that the aforesaid circumstances cannot be examined in isolation. It was submitted that the complainant does not support the allegation of assault by the appellant; the alleged recovery of the knife is doubtful; the principal recovery witness does not support the recovery proceedings; the medical evidence provides an alternative explanation for the injury; and the forensic report does not detect blood on the alleged weapon.

19. In view of the foregoing submissions, learned counsel for the appellant prayed that the present appeal be allowed, the impugned judgment of conviction and order on sentence be set aside, and the appellant be acquitted of the charges levelled against him by extending to him the benefit of doubt.

***SUBMISSIONS ON BEHALF OF THE RESPONDENT-STATE***

20. Learned APP for the State, opposing the appeal, submitted that the impugned judgment of conviction does not suffer from any illegality or infirmity and that the learned Trial Court has rightly appreciated the evidence on record while convicting the appellant for the offence punishable under Section 307 of the Indian Penal Code. It was submitted that the prosecution has successfully established the involvement of the appellant through the testimonies of the eyewitnesses, duly corroborated by

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the medical evidence.

21. Learned APP submitted that the incident in question occurred on 22.04.2014 at approximately 10:00 p.m., when the appellant stabbed his elder brother, namely, Mohd. Aslam, in the abdomen. The injured was immediately taken to LNJP Hospital, where he was medically examined. On the basis of his statement, the present FIR was registered. The appellant was apprehended at the spot and the weapon of offence was recovered during the course of investigation.

22. Learned APP further submitted that although the injured complainant, Mohd. Aslam (PW-11), did not fully support the prosecution case during trial, the same does not render the entire prosecution case doubtful. It is submitted that PW-11 admitted the presence of the appellant at the place of occurrence and also acknowledged that an altercation had taken place between them.

23. Learned APP further submitted that the prosecution case is independently corroborated by PW-5, Khalid Siddique, who is the brother of both the appellant and the injured, as well as PW-8, Mohd. Shahid, a neighbour. It was submitted that both these witnesses have supported the prosecution version regarding the appellant having stabbed the injured and the circumstances in which the incident took place.

24. Learned APP further submits that the defence sought to attribute the injuries sustained by the complainant to a fall against the door and its protruding nails. However, it was submitted, the said explanation is contradicted by the medical evidence. Learned APP placed reliance upon the MLC, where it was stated that the injured had sustained the following

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injuries:

(i) Superficial incised wound over the left side of the lower chest, measuring 3 x 1 inches, situated 10 cm below the left nipple.

(ii) Deep incised wound over the left side of the abdomen, measuring 1.5 x 2 inches and extending up to the muscle depth.

25. It was submitted by the Learned APP that the nature and dimensions of the injuries, particularly the deep incised wound on the abdomen, are inconsistent with the explanation sought to be furnished by the injured during his testimony.

26. Learned APP further submitted that the contention of the appellant that no individual act causing injury has been attributed to him is contrary to the evidence of PW-5 and PW-8, who have supported the prosecution case regarding the appellant having inflicted the injuries upon the complainant. Learned APP also submitted that the absence of blood on the alleged weapon, as reflected in the forensic report, cannot be considered in isolation or treated as conclusive proof that the weapon was planted upon the appellant.

27. Learned APP submitted that the learned Trial Court has duly considered the ocular as well as medical evidence and has rightly concluded that the appellant had inflicted the injuries upon the complainant. It was contended that the findings recorded by the learned Trial Court are based on the evidence available on record and do not warrant interference by this Court in the exercise of its appellate jurisdiction.

28. In view of the foregoing submissions, learned APP for the State prayed that the present appeal, being devoid of merit, be dismissed and the

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impugned judgment of conviction and order on sentence passed by the learned Trial Court be upheld.

***FINDINGS AND ANALYSIS***

29. This Court has heard learned counsel for both the parties and perused the material on record.

30. At the outset, it would be appropriate to advert to the essential ingredients of the offence punishable under Section 307 of the IPC which reads as thus:

> ***"307. Attempt to murder.*** *—Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned."*

31. In order to bring home a charge under the said provision, the prosecution is required to establish that the accused committed an act with such intention or knowledge, and under such circumstances, that if by that act death had been caused, the accused would have been guilty of murder. The intention or knowledge contemplated under the provision is the determining factor, and the nature of the injury sustained by the victim, by itself, is not conclusive of the applicability of the provision. It would be further pertinent to refer to the law established by the Hon'ble Supreme court with regard to the essential ingredients of Section 307, IPC in ***Surinder Singh v. State (UT of Chandigarh), (2021) 20 SCC 24*** :

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*"19. Before we advert to the factual matrix or gauge the trustworthiness of the witnesses, it will be beneficial to brace ourselves of the case law qua the essential conditions, requisite for bringing home a conviction under Section 307 IPC. In State of M.P. v. Saleem [State of M.P. v. Saleem, (2005) 5 SCC 554 : 2005 SCC (Cri) 1329] , this Court, while re-appreciating the true import of Section 307IPC held as follows : (SCC pp. 559-60, paras 12-13)*

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

*13. It is sufficient to justify a conviction under Section 307 if there is present an intent coupled*

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*with some overt act in execution thereof. It is not essential that bodily injury capable of causing death should have been inflicted. The section makes a distinction between the act of the accused and its result, if any. The court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section. Therefore, an accused charged under Section 307IPC cannot be acquitted merely because the injuries inflicted on the victim were in the nature of a simple hurt."*

*(emphasis supplied in original)*

*20. These very ingredients have been accentuated in some of the later decisions, including in State of M.P. v. Kashiram [State of M.P. v. Kashiram, (2009) 4 SCC 26 : (2009) 2 SCC (Cri) 40] , Jage Ram v. State of Haryana [Jage Ram v. State of Haryana, (2015) 11 SCC 366 : (2015) 4 SCC (Cri) 425] and State of M.P. v. Kanha [State of M.P. v. Kanha, (2019) 3 SCC 605 : (2019) 2 SCC (Cri) 247].*

*21.* ***It is by now a lucid dictum that for the purpose of constituting an offence under Section 307IPC, there are two ingredients that a court must consider, first, whether there was any intention or knowledge on the part of the accused to cause death of the victim, and, second, such intent or knowledge was followed by some overt actus rea in execution thereof, irrespective of the consequential result as to whether or not any injury is inflicted upon the victim.*** *The courts may deduce such intent from the conduct of the accused and surrounding circumstances of the offence, including the nature of weapon used or the nature of injury, if any. The manner in which occurrence took place may enlighten more than the prudential*

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> *escape of a victim. It is thus not necessary that a victim shall have to suffer an injury dangerous to his life, for attracting Section 307IPC."*

32. Therefore, It is well settled that an injury capable of causing death is not a sine qua non for attracting Section 307 IPC. Even where the injury sustained is simple in nature, the offence may be attracted if the requisite intention or knowledge is established from the circumstances of the case.

33. Further it must also be noted, that while the nature of the injury cannot be considered in isolation, the prosecution must nevertheless establish, through cogent and reliable evidence, the act attributable to the accused as contemplated under Section 307 IPC. It is in the light of these principles that the evidence available on record is required to be examined.

***Discussion on Medical and Forensic Evidence***

34. The prosecution has examined PW-7, Dr. Sushant Verma, who had examined the injured Mohd. Aslam. As per the MLC, PW-7/C, the injured had sustained a superficial incised wound over the left side of the lower chest, measuring 3 x 1 inches, and another incised wound over the left side of the abdomen, measuring 1.5 x 2 inches and extending up to the muscle depth. The relevant portion of the testimony of PW-7, particularly his deposition regarding the nature of injuries and the possible manner in which the same could have been caused, is reproduced hereinbelow:

> *"On 30.05.2014, the MLC as well as the relevant medical treatment documents of injured Mohd. Aslam were put up before me. I had examined all the above said documents as well as MLC of injured and opined the nature of injury suffered by injured Mohd. Aslam as "simple sharp" vide my opinion Ex. PW7/C at point point A, bearing my signature at*

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*point B.*

***XXXX by Sh. Shivendra Vishwas, Ld. counsel for accused.***

*It is correct that the such type of injuries may be suffered due to fall on the sharp object i.e. nail (keel). Again said, such type of injuries may be suffered by edge of the sharp object. Vol. such type of injury cannot be caused by fall on the sharp object as in that case, the injury would be penetrating injury but in the present case the injury is superficial sharp injury. The injury in question was not deep and can be caused by sliding (Ragarne Se) alone a sharp object. It is correct that such injury can be caused by any protruding nail from door or chair etc."*

35. A perusal of the testimony of PW-7 reveals that the doctor described the injury as simple and sharp in nature. Further, during his cross-examination, he admitted that the injury in question was not deep and could be caused by sliding or rubbing against a sharp object. He also admitted the possibility of such an injury being sustained upon falling against a sharp object, including a protruding nail. The doctor further acknowledged that such injuries could be caused by a protruding nail on a door or a chair.

36. The aforesaid medical testimony assumes significance when considered alongside the testimony of PW-11, Mohd. Aslam, who has sought to explain the injuries by stating that he slipped and collided with the door and sustained injuries from the nails protruding therefrom:

*"…Accused Waseem Akhtra present today in the court (correctly identified) is my real brother. I alongwith accused and our father are residing in the above said premises together. On 22.04.2014, at about 9/9:30 p.m. I was present at my above said*

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*house and was talking with accused Waseem Akhtar and during the above said talk, some altercation (kaha suni) were exchanged between me and the accused. During the said altercation I stood and started moving to outside the house. In the meantime, my foot slipped and collided with the door and received injuries on my left side stomach from the nails (keels) present on the above said door. Blood started oozing from my stomach. My elder brother Khalid Akhtar took me to LNJP Hospital where I got my treatment. Stitches were given on my stomach injuries by the concerned doctor. I remained admitted in the above said hospital for about 1 or 1 ½ hours. Thereafter, I was discharged from the hospital. I came back to home from the hospital…"*

37. Thus, the possibility of the injuries having been sustained in the manner explained by PW-11 cannot be altogether ruled out, particularly when the medical evidence itself provides support for such a possibility. Consequently, the medical evidence, instead of conclusively establishing the prosecution's allegation of a knife assault, leaves room for the alternative explanation furnished by the injured.

38. Further, the prosecution has also placed on record the forensic report (Ex. PW-13/C) with respect of the alleged knife (Ex. PW-4/E). A perusal of the said report reveals that no blood was detected on the alleged weapon. Although the absence of blood on the weapon, by itself, may not be sufficient to discard the prosecution case, the said circumstance assumes relevance when considered alongside the doubtful circumstances surrounding the recovery to the weapon and the medical evidence discussed hereinabove.

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39. Therefore, the medical and forensic evidence, when considered cumulatively, does not provide the degree of assurance necessary to conclusively establish that the injuries sustained by the complainant were inflicted by the appellant with the alleged knife.

***Discussion on the recovery of the Weapon***

40. The prosecution has also placed reliance upon the alleged recovery of the knife at the instance of the appellant. However, the circumstances surrounding the said recovery raise serious doubts regarding its genuineness. As per the testimony of PW-8, Mohd. Shahid, he, along with Mukhtar Ahmed, had apprehended the appellant immediately after the incident and handed him over to the police. The relevant part of testimony of PW-8 is reproduced below:

> *"I and Sh. Mukhtar Ahmed made efforts to make the accused understood but accused did not care and ran towards outside the room of the house and after some moment, he came back inside the abovesaid room and he stabbed the object like Churri, again said, Churri to his brother Mohd. Aslam on his stomach and caused stab injury in his stomach. Blood started oozing from the stomach injury of Mohd. Aslam, brother of accused Mohd. Shamim. I along with Mukhtar immediately apprehended the accused along with knife/churri.*
>
> …
>
> *After sometime crime team reached at the spot. Police of PS Kamla Market again reached at the spot along with crime team and they inspected the spot in my presence. IO prepared site plan Ex. PW8/A at my instance, bearing my signature at point A. IO arrested the accused vide his arrest memo already Ex. PW4/B, bearing my signature at*

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*point B. The disclosure statement of accused already Ex. PW4/D was not recorded in my presence, however, the same bears my signature at point B. Accused got recovered the above said Churri (knife) from the slab (Tand) of his house, in my presence. IO prepared the sketch of the knife already Ex. PW4/E, bearing my signature at point B. Thereafter, the knife was seized after preparing pullanda of the same and sealing the same with his seal by the IO vide seizure memo already Ex. PW4/F, bearing my signature at point B."*

41. Thus, a material discrepancy emerges regarding the circumstances in which the alleged weapon was recovered. Once the appellant had already been apprehended at the spot and handed over to the police, the prosecution was required to explain the circumstances in which the alleged knife was subsequently recovered from the *Machhan* at his house. The testimony of PW-8, who was allegedly associated with the recovery proceedings, does not inspire confidence in this regard. His categorical admission that the knife was not recovered in his presence materially contradicts the prosecution's assertion regarding the recovery.

42. The witness has further stated that the appellant was taken to the Police Station at about 10:30–10:40 p.m. However, the prosecution alleges that the knife was subsequently recovered from the *Machhan (Tand)* at the appellant's house.

43. In this regard, it is pertinent to note that PW-8, during his cross-examination, categorically admitted that the knife was not recovered by the police in his presence. He further admitted that the sketch of the knife was prepared by the Investigating Officer while sitting at the Police Station and

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that the disclosure statement was also prepared at the Police Station, without the appellant having made any disclosure in his presence.

44. Further, the alleged place of recovery has not been depicted in the site plan. The aforesaid circumstances, when considered cumulatively, render the alleged recovery doubtful.

***Discussion on the deposition of the Complainant/Injured/PW-11***

45. Coming to the ocular evidence, the most material witness in the present case is PW-11, Mohd. Aslam, who is not only the complainant but also the injured in the alleged occurrence. During his testimony before the learned Trial Court, PW-11 did not support the prosecution version regarding the appellant having stabbed him. Rather, he sought to explain the injuries by stating that he had slipped, collided with the door and sustained injuries from the nails protruding therefrom; it will be apposite to briefly reflect on his statements again in this context:

> *"…During the said altercation I stood and started moving to outside the house.* ***In the meantime, my foot slipped and collided with the door and received injuries on my left side stomach from the nails (keels) present on the above said door. Blood started oozing from my stomach.*** *My elder brother Khalid Akhtar took me to LNJP Hospital where I got my treatment….*

46. It is true that the testimony of a hostile witness is not required to be discarded in its entirety and the portions thereof which are found to be reliable and consistent with the other evidence on record may be relied upon. However, in the present case, the testimony of PW-11 does not attribute the infliction of the alleged injuries to the appellant.

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47. Further, the explanation furnished by PW-11 regarding the manner in which he sustained the injuries cannot be brushed aside merely on the ground that he did not support the prosecution case. As discussed in the preceding paragraphs, the medical evidence does not completely rule out the possibility of the injuries having been sustained in the manner explained by him. The absence of blood on the alleged weapon, coupled with the doubtful circumstances surrounding its recovery, further assumes significance in this regard.

48. It is a settled principle of criminal jurisprudence that the prosecution is required to establish its case beyond reasonable doubt and that the accused is entitled to the benefit of every reasonable doubt arising from the evidence on record. The benefit of doubt, however, must arise from a reasonable assessment of the evidence and not from mere conjectures or fanciful possibilities. In the present case, the doubts arising from the prosecution evidence are neither speculative nor imaginary but stem from material aspects of the evidence itself.

49. Consequently, this Court is of the considered view that the prosecution has failed to establish beyond reasonable doubt that the appellant had inflicted the injuries upon the complainant in the manner alleged, much less that the act was accompanied by the intention or knowledge contemplated under Section 307 IPC. The impugned judgment of conviction, therefore, cannot be sustained.

***CONCLUSION***

50. Keeping in view the aforesaid principles, the case set up by the accused has created a reasonable doubt in the mind of this Court. The

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prosecution has failed to attribute the overt act as required by Section 307 IPC to the accused. The testimony of the injured complainant (PW-11) does not support the prosecution's allegation regarding the appellant having inflicted the injuries upon him. Further, the medical evidence does not conclusively rule out the alternative explanation furnished by the injured, while the absence of blood on the alleged weapon and the material infirmities surrounding its recovery create further doubt regarding the prosecution's version. The aforesaid circumstances, when considered cumulatively, render it unsafe to sustain the conviction of the appellant. The appellant is, therefore, entitled to the benefit of doubt.

51. Accordingly, the appeal is allowed. The impugned judgment of conviction dated 16.01.2018 and the order on sentence dated 29.01.2018 passed by the learned Trial Court are hereby set aside. The appellant is acquitted of the charge under Section 307 IPC. The pending application(s), if any, stand disposed of in the above terms.

52. Perusal of the record shows that the sentence of the appellant stands already suspended vide order dated 28.05.2019. Therefore, his bails bonds and surety shall stand discharged.

53. A copy of this Judgment be sent to the learned Trial Court and the concerned Jail Superintendent for information and necessary compliance.

54. The judgment be uploaded on the website forthwith.

**MADHU JAIN**
**(JUDGE)**

**NOVEMBER 27, 2026/rm**

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