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

Date of reserving: 05th February, 2026

Date of Decision: 16th March, 2026

IN THE MATTER OF:

\+ CRL.A. 811/2003

AJAY @ SHANTU .....Appellant

Through: Mr. Vineet Jain & Ms. Richa Babbar, Advs. with Appellant-in-person.

versus

STATE (NCT OF DELHI) .....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for State with SI Ajay Kumar, PS Ashok Vihar.

CORAM:
HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. A daredevil attack was carried out by the Appellant and his associates on a law enforcer, primarily enraged by the acts during one law enforcement exercise by the victim HC Suresh Kumar and other policemen. It so happened that on 06.04.2002, while on duty HC Suresh Kumar and police team spotted a car bearing registration no. DL-2CL-6509 and intercepted it for checking. In this process, the tyres of the car were to be deflated. It was HC Suresh Kumar who had fired a gun shot to deflate the tyres. In that exercise one of the persons namely Rakesh @ Rahul was overpowered by the police team, whereas Appellant i.e. Ajay @ Shantu allegedly managed to escape from the scene.

2. The incident, which is the subject matter of the present appeal, took place on 08.04.2002 while HC Suresh Kumar was returning home after finishing his duty and the Appellant along with his unknown associates, travelling in RTV Bus accosted the victim HC Suresh Kumar, who was travelling on two wheeler scooter near Culvert J.J. Colony, Wazirpur, Delhi at about 12:30 AM.

3. The Appellant and two of his associates, who could not be arrested, attacked HC Suresh Kumar with fists and kicks, whereas Appellant herein took out a knife and stabbed HC Suresh Kumar in his abdomen and left thigh while uttering as to how he had mustered the courage to fire a gun shot on car no. DL-2CL-6509, and in this process, he gave his name Shantu too.

4. The Appellant and his associates also robbed the purse, driving license, cell phone etc from the victim and thereafter, ran away from the spot. Victim somehow landed at the Wazirpur Police Post which was nearby and based upon his statement an FIR was registered under Section 307/394/397/34 of Indian Penal Code, 1860 ('IPC').

5. The investigations led to be apprehension of the Appellant herein although the recovery of the robbed items could not be affected. However, the Appellant was identified by the victim during Test Identification Parade (TIP) conducted, the Appellant was identified by the victim. Chargesheet was filed against the Appellant/accused under Section 307/392/394/397/34 IPC.

6. Against the backdrop of these facts and circumstances, the Appellant pleaded not guilty to the charge framed under Section 307/392/394 & 397 IPC, post committal by the Magistrate.

7. The case of the prosecution ultimately culminated into the impugned judgment after the trial in which 12 witnesses were examined. His statement

under Section 313 Cr.P.C. was recorded, wherein he was given an opportunity to explain the evidence/circumstances. He claimed therein that he has been falsely implicated in order solve the unsolved cases by the victim / HC Suresh Kumar. The Appellant was sentenced to undergo Rigorous Imprisonment (RI) for a period of 07 years and to pay a fine of Rs. 2,000/- for the offence under Section 307 IPC and was to further undergo RI of 09 months in default payment of fine. He was to further sentenced to undergo RI for 03 years and to pay a sum of Rs. 2,000/- as fine for the offence under Section 392 IPC, in default of payment of fine, he had to suffer RI for a period of 09 months. Under Section 394 IPC the Appellant was sentenced to undergo RI for 04 years and to pay a fine of Rs. 2,000/- as fine in default of which he was to undergo RI for 09 months and finally to under Section 397 IPC he was sentenced to undergo RI for a period of 07 years.

8. While assailing the impugned judgment it is submitted that the Appellant has been falsely implicated by the police for the reasons best known to them. It is submitted that certain aspects of the case have been ignored by the learned Trial Court, for instance that the victim chose to go to the police post instead of going to the hospital, whereas he was severely injured having stab injuries in his abdomen and thigh. He being a policeman, was fully aware of the system and was expected to, but did not call on 100 number to the Police Control Room ('PCR') nor did he think it fit to inform his family, residing not far from the place of the incident. It is asserted on behalf of the Appellant that how the Appellant can be named in the *rukka* when he was not arrested from the spot and when the victim was not aware of his name. All these go on to show that it is a false and fabricated case which the Appellant has orchestrated out of vengeance as the Appellant was

discharged in a case a day prior to 6th April which did not go down well with the police department and that is how he has been framed in this false case.

9. It is also submitted that the victim has not given any description about the assailants like height, facial description, physique, colour, age etc. and the victim has clearly admitted this fact in the cross-examination together with the fact that the Appellant was not known to him prior to the date of incident. In such circumstances it is submitted that the TIP in which the Appellant was identified was improper.

10. The learned APP, on the other hand, stood by the impugned judgment and submitted that there is a clear cut involvement of the Appellant, which can be inferred from the fact that he has been identified in the TIP and that there is no reason with the victim to falsely implicate him inasmuch as the reason put forth is vague and without reasons, having no legs to stand upon.

11. As regards the name of the Appellant therein the *rukka*, it is submitted that while assaulting the victim Appellant himself threw up rather boasted that his name as Shantu. The explanation with regard to the name Ajay @ Shantu in the *rukka* has come in the cross-examination of PW-1 HC Suresh Kumar:-

> *"Accused Ajay was not known to me prior to the date of incident. While stabbing me he had told his name also saying that he was known as Shantu. He had not given his name as Ajay to me. On the previous day accused Rahul had given the name of this accused as Ajay @ Shantu in his disclosure statement".*

12. Two factors are heavily loaded against the Appellant, the first that he was identified in the Test Identification Parade as also in the Court. There is no proper answer with the Appellant on this aspect. The TIP was conducted by a judicial officer and there is no cross-examination to point

out any impropriety in the TIP proceedings. Thus there appears no reason to disbelieve the TIP proceedings and identification of the Appellant.

13. The victim happens to be injured also and the injuries were serious inasmuch as one stab in was in abdominal region and the other was on the left thigh apart from the fact that the victim was assaulted with the fist and kick blows too. Notwithstanding the assertion on behalf of the Appellant that he has been falsely implicated in this case, no reason or motive has been put forth for such false implication except a feeble argument that the Appellant was discharged a day prior to 06.04.2002 and in order to frame him, he has been implicated in this case. However, no details given, no evidence has been brought either. The false implication could have been in any other manner, if at all it was to be there why the victim would inflict injuries of his person that too of such a nature, if the contention of the Appellant is believed to be true.

14. The doctor has opined about injuries as simple, but then the description of the injuries reveal and go hand in hand with the kind of assault described by the victim. The doctor has described the injuries as follows:

i. *2 cm long incised wound which was 10 cm from midline in left hypogastrium with sharp margins, slightly everted edges and spindle in shape. On probing, I noted that it reached 1 cm deep and on finger exploration it revealed intact muscle layer.*

ii. *Lower incisors were found to be mobile.*

iii. *There was an abrasion on right cheek with dimension of 4 cm x 2 cm.*

iv. *There was contusion on the inner side of lower lip with dimension of 1 cm x 1 cm.*

v. There was a clean lacerated wound on left side with the dimension of 1 cm.

This indicates the use of sharp edged weapon, most likely which also goes along with the details of the assault.

15. The testimony of the injured witness is to be given additional weightage. A reference can be made to the judgments in ***State of U.P. vs Naresh & Ors.***, (2011) 4 SCC 324, where the Supreme Court observed that the testimony of an injured witness has to be accorded a special status in law and should be relied on unless there are strong grounds for its rejection.

16. In ***Abdul Sayeed vs. State of Madhya Pradesh,*** (2010) 10 SCC 259 echoing similar sentiments, the Supreme Court observed that an injured witness is unlikely to spare his actual assailant(s) and to falsely implicate someone else. Para 28 of the judgment reads thus:-

> *"28. The question of the weight to be attached to the evidence of a witness that was himself injured in the course of the occurrence has been extensively discussed by this Court. Where a witness to the occurrence has himself been injured in the incident, the testimony of such a witness is generally considered to be very reliable, as he is a witness that comes with a built-in guarantee of his presence at the scene of the crime and is unlikely to spare his actual assailant(s) in order to falsely implicate someone. "Convicting evidence is required to discredit an injured witness."*

17. The injuries, that too of this nature completely rules out any sort of false implication. There may be a case where the injuries were caused by somebody else and someone else has been named but then it could not be pointed out that the Appellant was not involved in the offence. There was no reason with the victim to falsely implicate the Appellant. This gives

credence to the prosecution's case and in the process weakens the case of the Appellant.

18. A contention has been raised that there was a motive to implicate the Appellant inasmuch as the Appellant had allegedly slipped away from the hands of the police on 06.04.2002 when the tyres of vehicle No. DL-2CL-6509 were deflated by firing a gunshot and one Rakesh @ Rahul was overpowered by the police from the said car. It is, thus, submitted that police had a motive to falsely implicate the Appellant. Even if it is presumed to be correct, the police could have otherwise arrested the Appellant as he had run away from the spot on 06.04.2002, where was the occasion with the victim to suffer the kind of injuries he had suffered. The utterances of the Appellant, while assaulting the victim are indicative of the fact that he was very enraged by the act of the police in way-laying him and his associate by deflating tyre of the vehicle by a gun shot. *Albeit* he had managed to make his escape good. But he nursed this injury to his ego, which led to this assault on the victim on 08.04.2002.

19. In his testimony the victim has categorically stated that while assaulting him, certain utterances were made which indicated that the Appellant was very angry and took it as personal affront to the firing carried out by HC Suresh Kumar, the victim herein:-

> *"Those boys uttered that I was firing shots on vagabond and they started belabouring me with fist and kick blows. Accused present before the Court was one of those boys. Accused Ajay @ Shantu uttered that I had fired too many shots on vagabonds and one of his associate has been arrested by me."*

20. So there was a reason with the Appellant to assault the victim HC Suresh Kumar. The testimony of the victim has gained strength and sheen from his injuries which are in tandem with the description of the assault on

the victim. Learned Trial Court has noted about the credentials of the PW-1 HC Suresh Kumar and his demeanour too and found it aboveboard.

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

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

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

Reference in this context can be made to the judgment in ***Vasant Virthu Jadhav Vs. State of Maharashtra (1997) 2 Crimes 539 (Bom)***.

In case ***Parvinder @ Moti v. State,*** *2015 VII AD (DELHI) 169*, Hon'ble Supreme Court has observed that:

> *"33. "Intention", as per Cross and Jones in Introduction to Criminal Law (11th Ed.), is not defined in any statute and its meaning must therefore be derived from judicial decisions. They*

*observe, "It is now clear from the House of Lords decisions in **Moloney** ([1985] 1 All ER 1025 HL) and Hancock and Shankland ([1986] 1 All ER 641 HL) that foresight of probability, or even of certainty, is not intention in a legal sense nor the equivalent of it."*

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

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

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

> *"Intention: To intend is to have in mind a fixed purpose to reach a desired objective; the noun 'intention' in the present connection is used to denote the state of mind of a man who not only foresees but also desires the possible consequences of his conduct. Thus if one man throws another from a high tower orcuts off his head it would seem plain that he both foresees the victim's death and also desires it: the desire and the foresight will also be the same if a person knowingly leaves a helpless invalid or infant without nourishment or other necessary support until death supervenes. It*

> *will be noted that there cannot be intention unless there is also foresight, since a man must decide to his own satisfaction, and accordingly must foresee, that to which his express purpose is directed. Again, a man cannot intend to do a thing unless he desires to do it. It may well be a thing that he dislikes doing, but he dislikes still more the consequences of his not doing it. That is to say he desires the lesser of two evils, and therefore has made up his mind to bring about that one."*

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

22. Intention, which the most important aspect of a case under Section 307 IPC, has been inferred from the acts, utterances and attending circumstances by the learned Trial Court and conclusion drawn is obvious. Weapon of offence, though not recovered, and body part aimed reveal the intention clearly. Knife is a deadly weapon as was observed in ***State of Maharasthra vs Vinayak Tukaram Utekar*** (1997) 2 Crimes 615 (Bom). The use of knife has been stated by victim and stands substantiated and corroborated by the medical evidence. As such, there is no reason to not act upon or disbelieve the testimony of PW-1 HC Suresh Kumar, which has brought the requisite evidence to establish the case of the prosecution.

23. In these circumstances, there appears no reason to interfere with the impugned judgment, as such, the judgment of conviction is upheld.

24. While touching the aspect of the sentence, it is pointed out by learned counsel for the Appellant that Appellant has otherwise clean antecedents except this case and possibly one more case, which were there about 23 years ago. During these 23 years lot of water has flown and the Appellant is now married and have kids apart from the responsibility of parents. Additionally, he has completed nearly 05 years in custody during

the period of trial and post-conviction. It is, thus, submitted that the Appellant can be considered for lighter sentence especially when there is no minimum sentence prescribed qua any of the offences for which he has been convicted and sentenced.

25. Learned Prosecutor, on the other hand, stated that the Appellant was involved in a case prior to the instant case although no further involvement is there on record but his behavior was not found satisfactory during his jail term. He had misbehaved with the jail staff due to which his *mulakat* was stopped for two weeks. This indicates that the Appellant is a hot headed person and does not refrain from assaulting even the police man, who was doing his duty. Such a person does not deserve any leniency.

26. Family responsibilities, grown up children, time lapse, ordeal of facing a criminal trial, suffering conviction, spending substantial time in custody and thus, completing the substantial sentence, weigh on one hand in favour of the Appellant as mitigating circumstances. However, on the other hand, the nature of offence, the victim involved, the genesis of the offence, all of which reflect about the personality of the Appellant being very aggressive and desperate and that in turn weighs down the element of sympathy. His post conviction conduct in prison too was not satisfactory as reported by the Prison Authority in the Nominal Roll. This takes away the element of compassionate consideration totally. Apart from that the Appellant had atleast one more case, which too is a reflection of his desperation and sort of non-conformist attitude. The present case was not an exception or an aberration. Had it been so that the present case was an isolated incident in which the Appellant got embroiled due to unusual circumstances, then, there could have been a reason and possibility to give indulgence to the Appellant qua the aspect of sentence. But that being not

so, therefore, the scale of consideration is against the Appellant qua sentence too. As such, there is no reason to interfere in respect of the sentence awarded to the Appellant.

27. Resultantly, both conviction and sentence are maintained. Appeal is accordingly dismissed. Appellant to surrender forthwith.

28. Copy of the judgment be transmitted to the learned Trial Court and the concerned Jail Superintendent for information and necessary compliance.

VIMAL KUMAR YADAV, J

MARCH 16, 2026/*hk/akc/tng*