



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

% ***Judgment Reserved on: 04.02.2026***  
***Judgment pronounced on: 06.02.2026***

+ **CRL.A. 860/2017**

SH. AJAY SINGH NEGI

.....Appellant

Through: Mr. A.K. Choudhary, Ms. Nikita Paik  
and Ms. Deepika, Advocates.

versus

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

Through: Mr. Pradeep Gahlot, APP for the State

**CORAM:**

**HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA**

**JUDGMENT**

**CHANDRASEKHARAN SUDHA, J.**

1. In this appeal filed under Section 374 of the Code of Criminal Procedure, 1973, (the Cr.P.C.), the sole accused in SC No. 6646/2016 on the file of the Additional Sessions Judge-02, South District, Saket Courts, New Delhi, assails the judgment dated 26.07.2017 and the order on sentence dated 10.08.2017 as per which he has been convicted and sentenced for the offence punishable under Section 307 of the Indian Penal Code, 1860 (the IPC).



2. The prosecution case is that on 10.03.2015, at about 8:30 PM, in front of House No. 98, DDA Flats, South Enclave, Dakshinpuri, New Delhi, the accused fired at PW1 with a country-made pistol causing an injury. The accused did not have a license to own a fire arm. Hence, as per the charge-sheet/final report, the accused was alleged to have committed the offences punishable under Section 307 IPC and Sections 25, 27, 54, 59 of the Arms Act, 1959 (the Arms Act).

3. On the basis of Exhibit PW1/A FIS of PW1, given on 10.03.2015, crime no. 237/2015, Ambedkar Nagar Police Station, i.e., Exhibit PW5/B FIR was registered by PW5, Head Constable. PW11, Sub Inspector (SI) was entrusted with the investigation of the case. PW11 conducted investigation into the crime and on completion of the same, filed the charge-sheet/final report alleging commission of the offences punishable under the aforementioned sections.



4. When the accused was produced before the trial court, all the copies of the prosecution records were furnished to him, as contemplated under Section 207 Cr.P.C. After hearing both sides, the trial court, *vide* order dated 01.07.2015, framed a charge under Section 307 IPC and Section 25 of the Arms Act, which was read over and explained to the accused to which he pleaded not guilty.

5. On behalf of the prosecution, PWs. 1 to 14 were examined and Exhibits PW1/A-G, PW4/A, PW3/A-B, PW5/A-D, PW6/A, PW8/A-C, PW8/DA, PW11/A-D, PW12/A, PW13/A and PW14/A-D were marked in support of the case.

6. After the close of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those circumstances and maintained his innocence. He claimed that he had been falsely implicated due to a dispute with PW1 relating to a mobile phone.



7. After questioning the accused under Section. 313(1)(b) Cr.P.C., compliance of Section 232 Cr.P.C. was mandatory. In the case on hand, no hearing as contemplated under Section 232 Cr.P.C. is seen done by the trial court. However, non-compliance of the said provision does not, *ipso facto* vitiate the proceedings, unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused (See **Moidu K. vs. State of Kerala, 2009 (3) KHC 89 : 2009 SCC OnLine Ker 2888**). Here, the accused has no case that non-compliance of Section 232 Cr.P.C has caused any prejudice to him.

8. No oral or documentary evidence was adduced by the accused.

9. Upon consideration of the oral and documentary evidence on record, and after hearing both sides, the trial court, *vide* the impugned judgement dated 26.07.2017 held the accused guilty of the offences punishable under Section 307 IPC. *Vide* order on sentence dated 10.08.2017, sentenced him to undergo



rigorous imprisonment for a period of 2 years and to fine of ₹5,000/-, and in default of payment of fine, to simple imprisonment for a period of 15 days for the offence punishable under Section 307 IPC. Aggrieved, the accused has preferred this appeal.

10. It was submitted by the learned counsel for the appellant that the latter has been falsely implicated owing to a personal dispute arising out of a failed relationship, and the circumstances brought on record do not disclose any motive, intention or premeditation on the part of the appellant to commit an offence punishable under Section 307 IPC. It was further contented by the learned counsel for the appellant that the conviction is founded entirely on the sole testimony of PW1, which is not corroborated by any independent evidence, despite PW1's own admission that several public persons had gathered at the spot. It was urged that no independent eyewitness was



examined and the appellant was not apprehended at the spot, rendering the prosecution's version doubtful.

10.1. The learned counsel contended that the essential ingredients of the offence punishable under Section 307 IPC are not made out, inasmuch as even as per Exhibit PW1/A FIS of PW1, the bullet merely grazed through the sleeves of the sweater ("sweater ke baaju mein chedh banaate hue nikal gaii") and did not hit her body. It was submitted that no injury was caused to any vital part of the body, and the nature of the incident, as narrated in the Exhibit PW1/A FIS, does not disclose the requisite intention or knowledge on the part of the appellant to cause death.

11. The learned Additional Public Prosecutor, relying on the testimony of PW13, Assistant Director (Ballistics), FSL Rohini, submitted that the country-made pistol recovered in the present case was found to be in working condition and that test firing through the said weapon was successfully conducted. It was submitted that gunshot residue particles had been scientifically



detected on the hole mark present on the left sleeve of PW1's sweater, which corroborates the prosecution version regarding firing by the appellant. The learned prosecutor contended that merely because no conclusive opinion could be given as to whether the recovered cartridge had been fired from the said pistol, the prosecution case does not fail, as the presence of gunshot residue on the sweater and the proof of discharge of a firearm sufficiently establish the occurrence of the firing incident.

12. Heard both sides and perused the records.

13. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgement calling for an interference by this court.

14. I make a brief reference to the oral and documentary evidence relied on by the prosecution in support of the case. Exhibit PW1/A, the FIS of PW1 reads thus:- She stated that she was employed at an ICICI Call Centre at Saket, New Delhi, and that she had been in a friendship for about six years with the



accused, who was earlier residing in Dakshinpuri and was, at the relevant time, residing in a rented accommodation at Katwaria Sarai, New Delhi. She stated that there was an intention to marry the accused. But she later refused to marry the accused after observing his behavior, due to which the accused had been annoyed with her. On 10.03.2015, the accused telephoned her and informed her that he was coming to the street outside her house to return her mobile SIM card and to meet her. At about 8:30 PM, after receiving a call from the accused, which he made from her SIM card, she went outside her house and found the accused standing in the street carrying a bag and upon asking for the SIM card, the accused returned the same to her and told her that she had not done the right thing by refusing to marry him and by discontinuing communication with him. She further stated that while talking to her, the accused repeatedly put his hand inside the bag, which made her suspicious, and she therefore started walking away. At that moment, the accused took out a pistol from the bag,



uttered words to the effect that if she could not be his, she would not be anyone else's, ("agar main uski nahi ho saki, toh kisi ki nahi ho paongi") and fired at her. She attempted to catch hold of the accused's hand, but he jerked her hand away and fired a shot, as a result of which the bullet passed through the sleeve of the sweater she was wearing, creating a hole therein, and did not strike her body. She further stated that on hearing the sound of the gunshot, neighbors gathered at the spot, whereupon the accused dropped the pistol and the bag at the spot and fled from there. PW1 stated further that legal action should be taken against the accused for attempting to kill her by firing at her.

14.1. PW1, when examined before the trial court, while broadly supporting the version given by her in Exhibit PW1/A FIS, made certain additional statements. She deposed that the accused fired with the intention to kill her. She further stated that after the firing, she immediately returned to her house, informed her parents, and called the police, pursuant to which the police reached



the spot. She also stated that she was taken to the hospital for medical examination and that the accused could not be apprehended on the same day and was arrested on the following day.

14.2. PW1, in her cross-examination, stated that the incident had taken place at a distance of about 8 to 10 paces from her house and that after the firing she returned home and informed her parents. She stated that after hearing the gunshot, PW2, a pandit from a nearby temple, and about 10 to 15 members of the public reached the spot, but the accused had already fled by then. She stated that police reached her house thereafter. PW1 further deposed that about 8 to 10 police officials reached her house and thereafter she produced her sweater. PW1 further deposed that a day prior to the incident, the accused had met her at Lajpat Nagar and had run away after taking her mobile phone following a quarrel.



14.3. PW1, in her re-examination identified her Samsung mobile phone produced before the court as Exhibit P4 and stated that it was the same phone taken away by the accused, the day prior to the incident. She deposed that when the accused came on the date of the incident, she had removed her SIM card from the said phone and that she herself had paid for the mobile phone at the time of its purchase. She categorically denied that she had falsely implicated the accused, denied that any quarrel had taken place on the issue of marriage and denied that she had lodged the complaint to take revenge.

15. PW2 deposed that he is a priest (*pujari*) at Har Har Mahadev Mandir (temple), South Enclave, DDA Flats, and resides in the temple premises. He deposed that on 10.03.2015, at about 8:30 PM, while he was present in the temple, he heard the sound of firing. He immediately came out of the temple and saw PW1, who resides in the same vicinity, standing there frightened. He saw a country-made pistol and one bag lying near her and that several



persons had also gathered at the spot. He further deposed that one Rinku also reached there and took PW1 to her house. He deposed that the police were informed and several police officials reached the spot. During enquiry, he came to know that some boy had fired a shot at PW1 and had fled from the spot. He stated that PW1 had sustained a gunshot injury on her left arm and that the police had recorded his statement.

15.1. PW2, in his cross-examination, deposed that when he came out of the temple, PW1 was present along with another woman stated to be the wife of Rinku. The police reached the spot after about 15–20 minutes and that by the time police arrived, PW1 had already gone to her house. He further deposed that he had seen the pistol lying on the floor and that it had wooden strips and that the incident had taken place at the corner of the *mandir*.

16. PW3, deposed that on 10.03.2015, she was posted as Junior Resident at JPN Apex Trauma Centre, AIIMS, New Delhi. PW1 was brought with a history of assault. She examined PW1



and noticed multiple abrasions on the left forearm. She deposed that she had prepared Exhibit PW3/A MLC and stated that after treatment, the patient was discharged and the discharge summary is Exhibit PW3/B. She opined that the nature of injuries was simple.

16.1. PW3, in her cross-examination, deposed that the injuries on the forearm were fresh and that injuries are considered fresh if they are within 5 to 6 hours of examination and that there was no fresh bleeding. But blood clot marks were present.

17. PW4 deposed that on 10.03.2015, on receiving information of the incident, he along with the fingerprint expert and PW6, the photographer reached the spot i.e. *gali* (street) in front of House No. 104, DDA Flats, South Enclave, Dakshinpuri. He deposed that he inspected the crime scene, where a country-made pistol and a bag were lying in the street and that PW6 took photographs and SI Chetram checked for chance prints. He



deposed that he had prepared Exhibit PW4/A report and handed it over to PW11.

18. PW5, Duty Officer, Ambedkar Nagar, Police Station deposed that at about 9:15 PM on the date of incident, he received information from the control room regarding firing on a girl, which he recorded *vide* DD No. 54A and entrusted to PW11, the Sub-Inspector. At about 10:40 PM, PW9 (PW14) handed over Exhibit PW1/A FIS sent by PW11 for registration of the FIR, on the basis of which, he registered the crime.

19. PW6, photographer and member, Mobile Crime Team, South East District deposed that on receipt of information, he along with the Crime Team reached the spot, where a country-made pistol and a bag were lying. He stated that he took photographs of the scene of crime from different angles on the directions of the In-charge Crime Team marked as Exhibits PW6/A (colly) along with the corresponding negatives. PW6 in his cross-examination, deposed that when he reached the spot, the



injured person was not present there. But the public were present in the street.

20. PW7, Woman Constable, Ambedkar Nagar Police Station, deposed that on receiving instructions, she accompanied PW11 to the house of PW1. PW1 handed over the sweater she had been wearing at the time of the incident, which was having a hole on the sleeve. PW7 further deposed that the sweater was seized by PW11 *vide* Exhibit PW1/E seizure memo. PW7 in her cross-examination, stated that she does not remember the exact time when the sweater was seized. However, the same was seized from the house of PW1.

21. PW8, Head Constable, Ambedkar Nagar Police Station, deposed that he was also in the investigation team. At the spot a country-made pistol and a bag were found lying. He deposed that PW11 prepared the sketch of the pistol (Exhibit PW1/C) and seized the pistol *vide* Exhibit PW1/D seizure memo and bag *vide* Exhibit PW9/A seizure memo. He further stated that he accompanied



PW11 during further investigation and that the case property was deposited in the *malkhana*. In the cross-examination, PW8 deposed the pistol was lying in the street. He denied the suggestion that no recovery had been effected from the spot or that the seizure memos were prepared later in the police station.

22. PW9, Head Constable, deposed that on receipt of DD No. 54A, he along with PW11 went to the spot. He also stated that they found a country-made pistol and a bag lying in the street and that PW1 had already gone to her house. He stated that thereafter he went to the house of PW1, where her statement was recorded.

23. PW10, Constable, deposed that on the relevant date he was posted as MHC(M) at PS Ambedkar Nagar. The case property, including the country-made pistol, cartridge, sweater and bag, were deposited in the *malkhana* by PW11. In his cross-examination, PW10 stated that the case property remained intact while in his custody. He denied the suggestion of tampering with the case property.



24. PW11, Sub-Inspector, deposed that on 10.03.2015 she was entrusted with the investigation of the present case. On receipt of DD No. 54A, she reached the spot and thereafter went to the house of PW1, where she recorded the statement. PW11 stated that the site plan was prepared at her instance.

25. PW12, the Additional DCP, deposed that the case file which included the FSL report relating to the arm and ammunition recovered from the accused along with statements of witnesses, sketch and seizure memos of arms and ammunition, copy of FIR and other relevant documents were perused. He further deposed that as per the FSL report, the recovered pistol was a firearm within the meaning of the Arms Act. Upon being satisfied that the firearm had been recovered from the accused without any valid licence, he accorded Exhibit PW12/A Sanction under Section 39 of the Arms Act.

26. PW13, Assistant Director (Ballistics), FSL, Rohini, New Delhi, deposed that on 22.05.2015, three sealed parcels



received in the FSL were assigned to him for examination. The sealed parcels were found to contain one country-made pistol of .315 bore marked as F1, one cartridge of .315 marked as EC1, which was found stuck inside the pistol, one full-sleeve sweater marked as C1 having a hole on the lower portion of the left sleeve, marked as H1, and three 8 mm/.315 cartridges for test firing. On examination, the country-made pistol as well as the stuck cartridge were found to be firearm and ammunition within the meaning of the Arms Act. The pistol was in working order. Test firing was conducted successfully and the two test-fired cartridges were marked as TC1 and TC2. He further deposed that the individual characteristics of the marks present on the evidence cartridge EC1 and on TC1 and TC2 were examined under a comparison microscope, but were found insufficient. Hence, no opinion could be given whether the cartridge EC1 had been fired through the country-made pistol or not. He further deposed that the swab taken from around the hole marked H1 on the left sleeve of the sweater



along with control was examined in an atomic absorption spectrophotometer, and gunshot residue particles were detected on the hole mark H1 on the sweater marked Exhibit C1. He deposed that he prepared Exhibit PW13/A report after examining all the parcels in detail.

26.1. PW13, in his cross-examination, stated that he did not take residue from the barrel of Exhibit-F1 country-made pistol as no such request had been made by PW11. So, a comparison of residue from the pistol barrel with residue taken from the sweater was therefore not possible. He denied the suggestion that cartridge EC1 was not fired from Exhibit-F1 country-made pistol and denied that he was deposing falsely.

27. PW14, Head Constable, Ambedkar Nagar Police Station brought the *malkhana* register No. 19 containing the record of deposit of case property in Crime No. 237/2015. PW14 deposed that as per the record, on 10.03.2015, PW11 deposited three sealed parcels stated to be containing a country-made pistol, a bag and a



black-coloured sweater bearing particulars of the present case, for which entry was made at Serial No. 2451. The *pulanda* of the pistol and sweater were in a sealed condition, whereas the bag was unsealed and contained some clothes. He further stated that on 13.03.2015, PW11 deposited one sealed *pulanda* containing a Samsung mobile phone, for which entry was made at Serial No. 2461. He further stated that on 21.05.2015, PW11 deposited three live cartridges in sealed condition with the seal of PS, for which entry was made at Serial No. 2639. He further deposed that on 22.05.2015, all the sealed parcels, including the sealed parcel of the sweater and cartridges, were sent to FSL through PW10 vide Road Certificate No. 109/21, and the same were deposited there against acknowledgment. He further stated that on 25.10.2016, three sealed parcels along with the FSL report were received back and the FSL report was handed over to the Investigating Officer. The photocopies of the relevant *malkhana* register entries were marked as Exhibits PW14/A, PW14/B and PW14/C, and the



photocopy of the road certificate as Exhibit PW14/D. In his cross-examination, PW14 admitted that he was not posted at the Ambedkar Nagar Police Station, when the time, case property was deposited and sent to the FSL.

28. The appellant has been convicted for the offence punishable under Section 307 IPC, that is, attempt to commit murder. To prove an offence under Section 307 IPC, the prosecution must establish that the act was done with such intention or knowledge and under such circumstances that, if death had been caused, the act would amount to murder. The intention or knowledge of the accused has to be gathered from the nature of the weapon used, the manner of its use, the part of the body aimed at and the surrounding circumstances, including the conduct and words spoken by the accused at the time of the occurrence. In the present case, the prosecution rests primarily on the testimony of PW1, who is the injured witness. It is well settled that the testimony of an injured witness carries great evidentiary value. A



conviction can be solely based on the testimony of an injured witness, provided the same inspires confidence and is found to be trustworthy. PW1's testimony, when read as a whole, does not suffer from any inherent improbability or material inconsistency.

29. On perusal of Exhibit PW1/A FIS, as well as the testimony of PW1 before the trial court, it is apparent that her version regarding the occurrence has remained substantially consistent. PW1 has consistently stated that the appellant called her to the street near her house, took out a country-made pistol and fired at her. PW1 deposed that immediately prior to firing, the appellant said "*agar main uski nahi ho saki, toh kisi ki nahi ho paongi*". The said utterance, made contemporaneously with the act of firing, clearly reflects the state of mind of the appellant and assumes significance in determining the requisite intention under Section 307 IPC. The defence has not been able to elicit any material contradiction or inconsistency in her testimony so as to render it unreliable.



30. Turning to the submission of the learned counsel for the appellant that the bullet did not strike the body of PW1 and merely passed through the sleeve of her sweater does not, in the facts of the present case, take the act outside the ambit of Section 307 IPC. The intention of the accused is not to be inferred solely from the extent or gravity of the injury caused. PW1 has categorically stated that the appellant aimed the pistol at her and fired. The fact that the bullet did not hit a vital part of the body appears to be a matter of chance rather than an indication of absence of *mens rea*. Exhibit PW3/A MLC, clearly shows that PW1 sustained injuries on her left forearm. However, the nature of injury is not determinative of the offence under Section 307 IPC when the act is accompanied by a clear intention or knowledge to cause death. Firing a country-made pistol at a person at close range, after issuing a threat of the nature noticed above, is an act which, if it had resulted in death, would have amounted to murder. Therefore, the absence of grievous or fatal injury does not dilute the culpability of the



appellant. It is thus not necessary that a victim shall have to suffer an injury dangerous to his life, for attracting Section 307 IPC. [See **Surinder Singh vs. State (Union Territory of Chandigarh), 2021 SCC OnlineSC 1135**]

31. The learned counsel for the appellant laid considerable emphasis on Exhibit PW13/A FSL report, contending that PW13 was unable to give a conclusive opinion as to whether the recovered cartridge had been fired from the recovered country-made pistol. However, the evidence of PW13 cannot be read in isolation. PW13 has categorically deposed that the country-made pistol recovered from the spot was in working condition and that test firing through the said weapon was successfully conducted. PW13 has further stated that gunshot residue particles were detected on the hole mark present on the left sleeve of the sweater worn by PW1 at the time of the incident. The presence of gunshot residue on the clothing of PW1 lends scientific corroboration to her ocular testimony that a firearm was discharged during the



incident. The inability to conclusively match the evidence cartridge with the recovered pistol does not negate the factum of firing, particularly when the weapon was recovered from the spot immediately after the occurrence. Therefore, Exhibit PW13/A FSL report, when read along with the testimony of PW1, supports the prosecution version. The inconclusive nature of the cartridge comparison does not create a dent in the prosecution case so as to discredit the consistent and cogent testimony of the injured witness, PW1.

32. The learned counsel for the appellant also contended that the prosecution case is rendered doubtful due to the absence of independent eye-witnesses. PW1 deposed that several persons gathered at the spot after hearing the sound of firing. The materials on record show that the incident occurred suddenly and that people arrived only after the firing had already taken place. PW2, who reached the spot on hearing the gunshot, is not an eye-witness to the act of firing itself. Therefore, there seems to be no person who



had actually witnessed the firing incident. Moreover, it is well settled that non-examination of independent witnesses is not fatal to the prosecution case when the testimony of the injured witness is found to be reliable and trustworthy (see **Guru Dutt Pathak vs. State of Uttar Pradesh, 2021 SCC OnlineSC 363**). In the present case, the presence of PW1 at the place of occurrence is unquestionable, and her testimony inspires confidence. The absence of an independent eye-witness to the actual firing does not, therefore, weaken the prosecution case. The evidence of PW2 to PW11 establishes the sequence of events immediately after the incident, the recovery of the weapon from the spot, seizure of the sweater worn by PW1, her medical examination and the investigation carried out thereafter. No material contradiction or infirmity has been brought on record which would discredit the prosecution version or render the investigation doubtful.

33. On a cumulative appreciation of the oral and documentary evidence, this Court finds no reason to disbelieve the



testimony of PW1. The act of the appellant in taking out a firearm, issuing a threat indicative of his intention and firing at PW1 is clearly established. The findings recorded by the trial court are based on proper appreciation of evidence and do not suffer from any perversity or illegality warranting interference by this Court.

34. In the result, the appeal *sans* merit, is dismissed.

35. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA**

**(Judge)**

**FEBRUARY 06, 2026/RN**