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

% ***Judgment Reserved on: 11.03.2026***
Judgment pronounced on: 17.03.2026

\+ **CRL.A. 399/2017**

SURAJ @ SATISH .....Appellant

Through: Mr. Dushyant Kishan Kaul, Advocate (*Amicus Curiae*).

Versus

THE STATE GNCT OF DELHI .....Respondent

Through: Mr. Utkarsh, APP for the State.

CORAM:
HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. This appeal under Section 374 of the Code of Criminal Procedure, 1973 (the Cr.P.C.) has been filed by accused number 1 (A1), in Sessions Case No. 1511/2016 on the file of Additional Sessions Judge, South East District, Saket Courts, Delhi, assailing the judgment dated 21.03.2017 and order on sentence dated

24.03.2017 as per which he has been convicted for the offence punishable under Section 324 read with Section 34 of the Indian Penal Code, 1860 (the IPC).

2. The prosecution case is that on 01.03.2013 at about 7:45 PM at Ali Fields Village, A1 and A2 voluntarily caused hurt to PW2, by stabbing him with a knife and giving fist blows. A1 and A2 also committed robbery of one mobile phone and ₹5,000/- from PW2.

3. On the basis of Ext. PW2/A FIS of PW2, given on 02.03.2013, Crime No. 79 of 2013, Sarita Vihar Police Station, that is, Ext. PW1/A FIR was registered by PW1, Constable. PW12 conducted investigation into the crime and on completion of the same, filed the charge-sheet/final report alleging commission of the offences punishable under Sections 394, 397 and 34 IPC.

4. When the accused persons were produced before the jurisdictional magistrate, all the copies of the prosecution records were furnished to them as contemplated under Section 207 Cr.P.C.

Thereafter, the case was committed to the Court of Session. After hearing both sides, the trial court, as per order dated 03.02.2014, framed a Charge under Sections 392, 397 read with 34 IPC against A1 and A2. Additionally, the trial court also framed a Charge under Section 174A IPC against A2. The charge was read over and explained to A1 and A2, to which they pleaded not guilty.

5. On behalf of the prosecution, PW1 to 15 were examined and Exts. PW1//A, PW2/A-C, PW3/A, PW4/A, PW5/A-H, PW6/A, PW7/A, PW9/A, PW10/A, PW11/A-C, PW12/A-E, PW13/A-D, and PW15/A-D were marked in support of the prosecution case.

6. On behalf of A2, DW1 was examined and Ext. DW1/A was marked in support of the defence case.

7. After the close of the prosecution evidence, A1 and A2 were questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against them in the evidence of the prosecution. They denied all those circumstances

and maintained their innocence, stating that they had been falsely implicated in the present case as PW2 was having illicit relations with A1's sister who is the wife of A2.

8. After questioning the accused persons 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. versus State of Kerala, 2009 (3) KHC 89; 2009 SCC OnLine Ker 2888**). Here, appellant/A1 has no case that non-compliance of Section 232 Cr.P.C. has caused any prejudice to him.

9. On consideration of the oral and documentary evidence and after hearing both sides, the trial court, *vide* the impugned judgment dated 21.03.2017 found A1 and A2 guilty of offence

punishable under Section 324 read with 34 IPC. A2 has also been found guilty of offence punishable under Section 174A IPC. Accordingly, *vide* order on sentence dated 24.03.2017, A1 and A2 have been sentenced to rigorous imprisonment for a period of 03 years each along with fine of ₹1,500/-, for the offence punishable under Section 324 read with 34 IPC, and in default of payment of fine, to simple imprisonment for 02 months. A2 has also been sentenced to rigorous imprisonment for a period of 03 years along with fine of ₹1,500/-, for the offence punishable under Section 174A IPC, and in default of payment of fine, to simple imprisonment for 02 months. Benefit under Section 428 Cr.P.C has also been granted. Aggrieved, A1 has come up in appeal. The registry reports that no appeal has been filed by A2 till date.

10. The only point that arises for consideration in this appeal is whether the conviction entered and sentence passed against the appellant/A1 by the trial court are sustainable or not.

11. The learned *Amicus Curiae* for the appellant submitted that the accused persons and PW2 were known to each other and there was a dispute *inter se* the parties. He submitted that the testimony of DW1, wife of the appellant/A1 corroborates the fact that there was an illicit relation between PW2 and the wife of A2 and that PW2 had threatened the accused persons. Therefore, A1 and A2 have instituted separate criminal proceedings against PW2. He further submitted that the weapon of offence and the stolen articles, i.e., PW2's mobile phone and cash of ₹5,000/-, was never recovered/seized by the police at the instance of the accused.

11.1. Further, PW2, never disclosed to doctor about the alleged incident or how the injuries were sustained or that his belongings had been stolen. PW2 did not even inform the police. It was the duty officer posted at the hospital, who reported the matter. There is also inordinate delay in lodging the complaint. The hospital where PW2 was treated was at least an hour away from the scene of occurrence. There were several other hospitals

nearby where PW2 could have availed treatment. No reason(s) are given as to why PW2 was taken for treatment to a far away hospital. It was also pointed that the auto driver who is alleged to have taken PW2 to the hospital was never examined. It was also submitted that there are contradictions and inconsistencies in the statements of PW5 and PW6. In support of the arguments, the learned *Amicus Curiae* referred to the dictums in **Wahid v. State Government of NCT of Delhi,** (2025) 3 SCC 341, **Ravi Kumar v. State [NCT of Delhi],** 2024 SCC OnLine Del 9628 and **State of Maharashtra v. Ashok Marotirao Tekale,** 2025 SCC OnLine Bom 528.

12. On the other hand, it was submitted by the learned Additional Public Prosecutor that there is no infirmity in the impugned judgment calling for an interference by this Court. The testimony of PW2 is corroborated by the medical evidence. The materials on record is sufficient to convict the accused persons, argued the prosecutor.

13. Heard both sides and perused the records.

14. I shall briefly refer to the evidence on record relied on by the prosecution in support of the case. In Ext. PW2/A FIS/FIR of PW2, recorded on 02.03.2013, it is stated thus: ".....On 01.03.2013 at 6:00 PM after finishing my office work I went to meet someone in Ali Village. After getting off at the Ali Village bus stand, I was walking towards the fields in Ali Village. As soon as I entered the field through a broken wall, three boys stopped me. One of them is named Prem Singh (A2), whom I have known for about two years; he and two other boys stopped me. Prem Singh took ₹5,000 which I had withdrawn from the ATM and my mobile phone from my pocket. When I resisted, the two boys with Prem Singh, one of whom was about 5'2" tall, of dusky complexion and medium built, grabbed my left hand. The second person, who was about 5'6" tall, dusky, and of thin build (whom Premsingh was addressing as 'Chhotu'), grabbed my right hand. Premsingh pulled out a knife from under his shirt and stabbed me 2-3 times in my

right thigh and also stabbed me in the back. The other two boys with Prem Singh punched me on the face. I was injured. Prem Singh and his two companions fled from the field towards the road. I somehow managed to pull myself together, took an auto-rickshaw to Mata Chanan Devi Hospital in Janakpuri, and with someone's help at the hospital, I contacted Dilip, an acquaintance. Dilip has admitted me to the hospital. Legal action should be taken against Prem Singh and his two other associates whom I can identify----."

15. PW2 when examined before the trial court on 07.03.2014 stands by his case in the FIS/FIR. He deposed that he was employed as a peon at Foundation Company, 6 Institutional Area, Katwariya Sarai. On March 1, 2013, after work at approximately 6:00 pm, he proceeded to Ali Village. Upon deboarding a bus and traveling on foot, he reached the vicinity of the village by about 7:45 pm. While he was in a nearby park, three persons apprehended him, one of whom was A2. One assailant

caught hold of him from behind while another gave him fist blows, during which time A2 demanded money. A2 forcibly robbed him of ₹5,000 and a Nokia mobile phone. A2 stabbed him thrice with a knife on his thigh and once on his back, in addition to striking him on the head with a belt. The other two persons gave him fist blows on the face. Thereafter, the assailants fled the scene. He managed to hail a three-seater auto rickshaw (TSR). He became unconscious. He regained his senses at Mata Chanan Devi Hospital. He informed the police of the incident the following morning, resulting in the recording of Ex. PW2/A FIS/FIR. PW2 identified A1 and A2 during the trial. PW2 deposed that the amount stolen from him had been withdrawn from his Axis Bank account. The relevant bank statement has been marked as Ex. PW2/C, which was seized vide memo Ex. PW2/B. His blood-stained clothing had been seized by the police.

16. PW5, Police Constable, Sarita Vihar, Police Station when examined before the trial court deposed that on 25.03.2013,

he had joined the investigation led by PW12, Sub Inspector Yogendra Singh. On receiving secret information regarding the whereabouts of A1 the police team proceeded to Meethapur, Jaitpur, Tanki Road. At approximately 4:00 pm, acting on the instance of a secret informer, they apprehended A1. PW5 correctly identified A1 during the trial. Steps for conducting Test Identification Parade (TIP) was initiated. But A1 refused to participate in the same. PW5 further deposed that on 07.09.2013 he rejoined the investigation team which was led by PW6, Sub Inspector Brahm Prakash. A2 was produced before the Saket District Court, in connection with another case. According to PW5, PW6 interrogated A2 after obtaining the necessary permission from the court. Thereafter, A2 was formally arrested vide arrest memo Ex. PW-5/E.

17. PW6, Sub Inspector, Sarita Vihar Police Station deposed that on 25.03.2013 he joined the investigation team of

PW12. PW6 also deposed regarding the arrest of A1. PW6 also identified A1 during the trial.

18. PW10, doctor, AIIMS, Mata Chanan Devi Hospital, Delhi when examined deposed that she had seen Ex. PW10/A MLC of PW2. She identified the signatures of Dr. Lalit Kumar, who had prepared the MLC. According to PW10, Dr. Lalit Kumar had left the service of the hospital. PW10 in her cross examination deposed that she has no personal knowledge regarding the specific facts of the case. She stated that since the injuries sustained by the victim were recorded as "stab injuries," the weapon used by the offender would have been a sharp object.

19. PW12, Sub Inspector, Sarita Vihar, Police Station when examined before the trial court deposed that on the intervening night of 01.03.2313-02.03.2013, he was on emergency duty. At about 01:00 am, a call was received from the hospital regarding the admission of PW2 at Mata Chanan Devi Hospital, Janakpuri. Accompanied by PW3, Constable Bhajan Lal, he reached the

hospital, when he found PW2 under treatment. He collected the MLC. The next day at about 08.00 AM, he recorded Ex. PW2/A FIS/FIR. PW12 further spoke regarding the various steps taken during investigation including the arresting of A1 and A2.

20. Now, coming to the defence evidence. DW1, the sister of A2 and the wife of A1 deposed that when they were residing in Uttam Nagar, PW2, the neighbour, used to come and meet Kavita, wife of A2. PW2 and Kavita developed intimate relations. The family members objected to the relationship, but Kavita did not mend her ways and continued to meet PW2. Due to this illicit relationship, the family shifted from Uttam Nagar to Badarpur, Delhi. But the situation remained unchanged. A1 and A2 objected to the relationship, due to which PW2 became angry and threatened them. According to DW1, PW2 has falsely implicated A1 and A2 in the present case. DW1 also deposed that Kavita now lives with PW2.

21. Though the charge against A1 and A2 framed by the

trial court was for the offences punishable under Sections 392 and 397 read with Section 34, IPC, the trial court disbelieved the case of robbery of the mobile phone and the amount of ₹5000/- from PW2. After referring to the testimony of PW2 as well as the testimony of DW1, the trial court in paragraph Nos. 20, 21 and 22 concluded thus:-

> *"20. Thus from the testimony of DW-l Smt. Mira, it is clear that the complainant was having illicit relationship with the wife of accused Prem Singh. Admittedly, the complainant is resident of Balmiki Camp, Begumpur, Malviya Nagar, New Delhi. He was working in Katwaria Sarai. He has not given any reason as to for what reason, he was coming to the area of Aali Village.*
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> *21. In the given facts and circumstances of the case, the motive for giving beatings to complainant/injured does not appear to be robbery. The motive may be to teach a lesson to complainant so that he should not meet the wife of Prem Singh. The possibility of committing robbery with complainant by accused is not probable in the given factual matrix of the case. The probability for false implication of accused persons for the offences under section 394/397/34 IPC cannot be ruled out.*
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> *22. Admittedly, the complainant suffered grievous injuries in the case. He has duly identified both the accused as the persons, who are involved in the commission of offence in the case. He identified accused Prem Singh as the person, who assaulted him with knife and also gave fist blows and belt blows to him. He also identified accused @ Satish as the*

person, who caught hold of him from behind and also given beatings to him. Therefore, in my view, prosecution has succeeded to prove the offence punishable under section 324/34 IPC against both the accused; Accordingly, accused Prem Singh and Satish @ Suraj are hereby held guilty and convicted for committing the offence punishable under section 324/34 IPC".

22. It is true that no charge under Section 324 IPC had been framed by the trial court. However, Section 222(2) Cr.P.C. says that when a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it. There is no reference to Section 222(2) Cr.PC in the impugned judgement. But, apparently, it is on the strength of the same, the trial court, convicted the accused persons for the offence under Section 324 IPC.

23. As noticed earlier the accused has been charged for the offences punishable under Sections 394 and 397. Section 394 IPC deals with voluntarily causing hurt in committing robbery. It says that if any person, in committing or an attempting to commit

robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with imprisonment for life or with rigorous imprisonment for a term which may extend to 10 years, and shall also be liable to fine. Section 397 IPC deals with robbery, or dacoity, with attempt to cause death or grievous hurt. As per the Section, if, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished, shall not be less than 7 years.

24. Voluntarily causing hurt or grievous hurt is one of the ingredient of the aforesaid offences, which is a minor offence when compared to the offences under Sections 394 and 397 IPC. The trial court has disbelieved the case of robbery. On the other hand held that the appellant/A1 is guilty of the offence punishable under Section 324 read with Section 34 IPC. No appeal has been

preferred by the State against the acquittal of the accused for the offences punishable under Sections 394 and 397 IPC. Section 324 IPC deals with voluntarily causing hurt by dangerous weapons or means. It says that whoever except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which used as a weapon of offence, is likely to cause death, or by means of fire, or any heated substance, or by means of any poison, or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with the imprisonment of either description for a term which may extend to 3 years, or with fine, or with both. Therefore, the ingredients to be proved under Section 324 are that the prosecution must prove that the accused voluntarily caused hurt to a person with a weapon as described in the Section, which if used as a weapon of offence, is likely to

cause death. In **Mathai v. State of Kerala** (2005)3 SCC 260 it has been held that the expression "*any instrument which, used as a weapon of offence, is likely to cause death*" has to be gauged, taking note of the heading of the section. What would constitute a "dangerous weapon" would depend upon the facts of each case and no generalization can be made. In **Nanda Gopalan v. State of Kerala**, (2015) 11 SCC 137, after referring to **Mathai** (*Supra*) as well as the dictum in **Dasan v. State of Kerala**, **(2014) 12 SCC** 66, it has been held that, the expression "any instrument, which used as a weapon of offence, is likely to cause death" should be construed with reference to the nature of the instrument and not the manner of its use. What has to be established by the prosecution is that the accused voluntarily caused hurt and that such hurt was caused by means of an instrument referred to in this section. Various factors like size, sharpness etc would throw light on the question whether the weapon was a dangerous or deadly weapon or not. That would determine whether in a case, offences under

Sections 323, 324, 325 or 326 would apply.

25. Now the question is, whether the ingredients of the offence punishable under Section 324 IPC stands established in this case. Admittedly, the weapon that was used for assaulting PW2 has not been seized or recovered. However, it is well settled that recovery of the weapon used in the commission of the offence is not *sine qua non* for concluding regarding the guilt of the accused. If there is direct evidence, which is credible and trustworthy, even in the absence of recovery of the weapon of offence, the accused can be convicted **[**See **Rakesh vs. State of U.P.,** 2021 KHC 6299: (2021) 7 SCC 188 and **State vs. Laly @ Manikandan 2022 LiveLaw (SC) 851].** Therefore, I will examine whether the remaining evidence on record is sufficient to attract the ingredients of the offence under Section 324 IPC.

26. Now coming to the medical evidence.The trial court held that the prosecution failed to prove Ext. PW10/A MLC of PW2. Paragraph 17 of the impugned judgement which gives the

reasons as to why the trial court declined to rely on the MLC, reads thus:-

> *"17. The MLC of injured Satish Kumar has not been proved in accordance with law. The doctor, who prepared the MLC, did not appear in the court to prove the MLC. The contents of MLC of injured Ex. PW-10/A shows that he got admitted in the hospital with alleged history of assault at Sarita Vihar. He did not tell the doctor that he sustained injuries in the incident of robbery. The opinion on the MLC was given by some other doctor, whose name is not mentioned in the MLC. The doctor, who prepared the MLC has not given the measurement of the injury suffered by injured. Thus, the contents of MLC Ex. PW-10/A pertaining to injured is highly; doubtful".*

27. The learned prosecutor submitted that though the doctor who examined PW2 was not examined, the prosecution by resort to Section 32(2) of the Evidence Act has succeeded in proving Ext. PW10/A MLC by examining PW10 and, therefore, the trial court was wrong in discarding the MLC.

28. Section 32(2) of the Evidence Act reads thus:-

> *"32. Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant. — Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the Court*

unreasonable, are themselves relevant facts in the following cases:-

(1) xxxxxxxxxxxxxxxxxxx

(2) or is made in course of business.—When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty; or of an acknowledgement written or signed by him of the receipt of money, goods, securities or property of any kind; or of a document used in commerce written or signed by him; or of the date of a letter or other document usually dated, written or signed by him.

(3) to (8) not relevant, therefore, not referred to".

28.1. In **Prithi Chand v. State of Himachal Pradesh, AIR 1989 SC 702**, it has been held that Section 32 of the Evidence Act, 1872 (the Evidence Act) provides that when a statement written or verbal, is made by a person in the discharge of professional duty whose attendance cannot be procured without an amount of delay, the same is relevant and admissible in evidence.

28.2. In **Rambalak Singh v. State of Bihar AIR 1964 Patna 62,** it has been held that if the doctor who had performed the autopsy was not available at the time of trial or he is abroad, the

post-mortem certificate prepared by him would be admissible in evidence if the handwriting and signature of the autopsy surgeon on the post-mortem certificate are proved.

28.3. I also refer to the dictum in **Kochu and Ors. v. State of Kerala, 1978 KHC 321 : 1978 SCC OnLine Ker 79**. In the said case, an argument was advanced on behalf of the accused that the burden cast on the prosecution cannot be said to have been discharged by the mere examination of the medical officer who is familiar with the handwriting and signature of the doctor who issued the post mortem certificate; but the prosecution must prove the contents of the document and also elicit from the witness examined, his independent opinion as an expert on the conclusions reached by the doctor who held the autopsy. It was held that it was not always necessary and the law also does not insist that in all such cases the witness should give his independent opinion on the findings in the post mortem certificate or speak to each and every statement made therein. Of course, if an expert witness, who has

been examined to prove the post mortem certificate issued by a doctor who was dead or was not available for examination in court under the circumstances stated in S.32 (1) of the Evidence Act, also gives independent evidence as an expert on the conclusions arrived at in the post mortem certificate, it would constitute an additional piece of evidence of an expert. Under S.32, statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which, under the circumstances of the case, appears to the court unreasonable, are themselves relevant facts in cases falling under sub-s.1 to 8. A post mortem certificate is not substantive evidence. It is only the evidence given in court by the doctor who held the autopsy that constitutes substantive evidence. A post mortem certificate, being a document containing the previous statement of a doctor who examined the dead body, can be used only to corroborate his statement under S.157 or to

contradict his statement under S.145 or to refresh his memory under S.159 of the Evidence Act. But, S.32 (2) is an exception to this. If the doctor who held the autopsy is dead or is not available for examination under the circumstances mentioned in S.32 of the Evidence Act, the certificate issued by him is relevant and admissible under S.32(2) of the Evidence Act. The weight to be attached to such a report or its probative value depends upon the facts and circumstances of each case. The court can come to its independent conclusion on the cause of death, if there is independent evidence on record in support of it. Then the question is whether the statements made in the post mortem certificate, containing what was observed by the doctor during autopsy and the conclusion arrived at by him therein have been properly proved in accordance with law. S.67 of the Evidence Act speaks of the mode of proof of a document. Under S.67 if a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting of so much of the

document as is alleged to be in that person's handwriting must be proved to be in his handwriting. When in cases the prosecution is not able to procure the attendance of the doctor who held autopsy without unreasonable delay or expense, the statement coming under S.32(2) of the Evidence Act has to be proved by one of the various modes prescribed in S.47 of the same Act.

29. Coming to the case on hand, as noticed earlier, the prosecution in order to prove the MLC, has examined PW10, who only deposed that she is familiar with the handwriting of the doctor who had examined PW2 and issued the MLC. PW10 does not say that the doctor was not available due to any of the circumstances mentioned in Section 32 of Indian Evidence Act. It is only when it is shown that the witness is not available due to any of the reasons stated in Section 32, Sub-section (2) of Section 32 comes into play. Had any of the grounds as contemplated under Section 32 for non-examination of the doctor who examined PW2 had been brought on record, the prosecution could have resorted to Section 32 (2)

read with Sections 47 and 67 of the Evidence Act to prove the MLC. That has not been done. Hence, I agree with the conclusion of the trial court that Ext. PW10/MLC has not been proved by the prosecution, though for different reasons.

30. Now, what remains is the testimony of PW2, which shows that A1 and A2 had voluntarily caused injury/hurt to him. Hurt, defined under Section 319 IPC says, whoever causes bodily pain, disease, or infirmity to any person is said to cause hurt. In the absence of medical evidence showing the nature of injury caused coupled with the absence of the recovery of the weapon, it is not possible to conclude whether the weapon was a dangerous one as contemplated under Section 324 IPC.

31. It was pointed out by the learned defence counsel that the trial court in the impugned judgment refers to the conduct of PW2 in going to a hospital which is far away from the scene of occurrence. The trial court noticed that there were several hospitals on the way but instead of going to any of the said hospitals, he

went to a hospital quite far away from the scene of occurrence for which no explanation has been given. Likewise, the trial court has also pointed out the defect of non-examination of the auto driver who is alleged to have taken PW2 to the hospital for treatment. The trial court disbelieved the motive or the case of robbery by concluding that the possibility of false implication could not be ruled out. Despite such finding, the trial court went on to convict the accused, which according to learned counsel is an apparent error/infirmity, that needs to be interfered with by this Court.

32. Despite the aforesaid aspects, the testimony of PW2 does show that A1 and A2 had voluntarily caused hurt to him. The said aspect has not been discredited in any way. Whatever be the motive/reason for the assault, the testimony of PW2 does show that A1 and A2 voluntarily caused hurt to him. The said testimony also satisfies the ingredients of 323 IPC and not Section 324 IPC.

33. Now coming to the sentence that needs to be imposed on the appellant/A1. The nominal roll on record shows that the

appellant/A1 has criminal antecedents. That being the position, the question of invoking the provisions of the Probation of Offenders Act, 1958 or avoiding substantive sentence of imprisonment does not arise. Hence, the appellant/A1 is sentenced to rigorous imprisonment for a period of two months with fine of ₹1,000/- and in default of payment of fine to simple imprisonment for 15 days.

34. In the result, the appeal is partly allowed, the impugned judgement is modified to the following extent the appellant/A1 is found guilty of the offence punishable under Section 323 IPC. Hence, the appellant/A1 is convicted to rigorous imprisonment for a period of two months with fine of ₹1,000/- and in default of payment of fine to simple imprisonment for 15 days.

CHANDRASEKHARAN SUDHA
(JUDGE)

MARCH 17, 2026
mj/p'ma/rs