



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

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Judgment reserved on: 18.05.2026

Judgment pronounced on:20.05.2026

+ **CRL.A. 260/2018**

STATE

.....Appellant

Through: Mr. Utkarsh, APP for State with SI
Jasbir Malik

versus

PRADEEP @ SONU & ORS

.....Respondents

Through: Mr. Harsh Prabhakar, Advocate
(DHCLSC) with Mr. Shubham
Sourav and Mr. Vijit Singh,
Advocates for Respondent Nos. 1 and
2

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. This appeal under Section 378 of the Code of Criminal Procedure, 1973 (the Cr.P.C.) has been filed by the respondent/State in Sessions Case No. 127/2015 on the file of Additional Sessions Judge-04, Dwarka Courts, New Delhi, assailing the judgment dated 27.03.2015 as per which all the three



accused persons have been acquitted of the offence punishable under Section 397 read with Section 34 of the Indian Penal Code, 1860 (the IPC). A2 has also been acquitted of the offence punishable under Section 411 IPC.

2. The prosecution case is that on 13.01.2012 at about 09:45 p.m., between Dhaula Kuan petrol pump and Mazar of Pir Baba, National Highway No. 08, Delhi Cantonment (Cantt.), Delhi, the three accused persons in furtherance of their common intention, robbed PW2 of a Sony Ericson mobile phone and ₹1700/-, and while committing robbery caused grievous hurt to him using a deadly weapon, thereby committing an offence punishable under Section 397 read with Section 34 IPC. It is further alleged that the second accused (A2) dishonestly retained in possession the stolen Sony Ericson mobile phone, INE no. 352068012340726, knowing it to be stolen property and thereby, committed an offence punishable under Section 411 IPC.



3. On the basis of Ext. PW2/A FIS/FIR of PW2, given on 13.11.2012, Crime No. 18 of 2012, Delhi Cantt. Police Station, that is, Ext. PW8/A FIR was registered by PW1, Constable. PW16, Assistant Sub Inspector, conducted investigation into the crime and on completion of the same, filed the charge-sheet/final report alleging commission of the offence punishable under the aforesaid Sections.

4. When all the three accused persons (A1 to A3) were produced before the trial court, the copies of the prosecution records were furnished to them as contemplated under Section 207 Cr.P.C. *Vide* order dated 10.05.2012, the matter was committed under Section 209 Cr.PC to the Sessions Court concerned for trial.

5. On appearance of A1 to A3 and after hearing both sides, the trial court as per order dated 12.09.2012, framed a Charge under Section 397 IPC read with 34 IPC, which was read over and explained to A1 to A3, to which they pleaded not guilty. A



separate Charge under Section 411 IPC was also framed against A2, to which he pleaded not guilty.

6. On behalf of the prosecution, PWs. 1 to 16 were examined and Ext. PW 2/A-B, Ext. PW 3/A-F, Ext. PW 4/A, Ext. PW 6/A-C, Ext. PW 7/A-B, Ext. PW8/A, Ext. PW9/A-H, PW 10/A-D, PW 12/A, PW 13/A-C, PW 15/A, PW 16/A-B and Mark A were marked.

7. After the close of the prosecution evidence, A1 to A3 were questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against them in the evidence led by the prosecution. They denied all those circumstances and maintained their innocence. They submitted that they have been falsely implicated in the present case.

8. After questioning A1 to A3 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, A1 to A3 have no case that non-compliance of Section 232 Cr.P.C has caused any prejudice to them.

9. No oral or documentary evidence was adduced by the accused persons in support of their case.

10. Upon consideration of the oral and documentary evidence and after hearing both sides, the trial court, *vide* the impugned judgment dated 27.03.2015, acquitted A1, A2 and A3 under Section 235(1) Cr.P.C. of the offence punishable under Section 397 IPC read with 34 IPC. A2 has also been acquitted of the offence punishable under Section 411 IPC. Aggrieved, the respondent/State has preferred this appeal.



11. It was submitted by the learned Additional Public Prosecutor that the impugned judgment is contrary to the facts and circumstances of the case, is bad in law as the trial court has failed to appreciate the materials on record and, therefore, liable to be set aside.

12. It was submitted by the learned counsel for the appellants/A1 to A3 that there is no infirmity in the judgment calling for an interference by this Court.

13. Heard both sides and perused the materials on record.

14. The only point that arises for consideration in this appeal is whether there is any infirmity in the impugned judgment calling for an interference by this Court.

15. I will first refer to the oral and documentary evidence relied on by the prosecution in support of the case. Ext. PW2/A, the FIS/FIR of PW2 recorded on the date of the incident, i.e., 13.11.2012, reads thus: "*I have been working as a driver of Accent*



car bearing registration no. DL-1RX-6805 with Easy Cab. Today, through Easy Cab, I picked up passengers from Rani Bagh to Dhaula Kuan. I dropped the passengers at the Dhaula Kuan petrol pump. At around 09:30 p.m., three boys standing at the same petrol pump requested me to take them to the airport, stating that they would otherwise miss their flight. I let them board the vehicle. Before ascending the flyover, near Peer Baba, the boy sitting next to me said he needed to attend the call of nature, so I stopped the vehicle. The boy sitting next to me got down, came towards my door, and opened it. The two boys sitting in the back pulled me into the rear seat, and the boy standing outside sat on the driving seat and started driving the car himself. One of the two boys sitting in the back pressed a knife-like object against the right side of my stomach and directed me to hand over whatever I had. I took out my Sony Ericsson mobile phone bearing no. 9871324828 and ₹1700/- in cash from my pocket to give to them. While doing so, he



moved the knife-like object away from my stomach, struck it against my right thigh, and told me to hurry up. I handed over my phone and money to them. They also took my driver's license, which was kept on the dashboard. I was asked to get down approximately 100 meters before the Mohan Nagar Red Light. They fled from the spot, leaving my car bearing registration no. DL-1RX-6805, a little further ahead, just before the red light. The person who was driving the car had a round face, wheatish complexion, a strongly built body, height approximately 5 feet 6 inches, and age 26 to 27 years. The age of those sitting in the back was approximately 20 to 22 years. The person who stabbed me with a knife had a long face, wheatish complexion, thin build, was wearing a shirt-pant, and a jacket over it. I can identify them if brought before me. These boys, while threatening me with a knife placed on the right side of my stomach and right thigh, have



robbed me of my mobile phone and money. Legal action should be taken against them.”

16. PW2, the injured, when examined before the trial, deposed that on 13.01.2012, he was working as a taxi driver of taxi no. DL-1RX-6805. He had picked up a passenger from Pitampura, Rani Bagh and dropped him at Dhaula Kuan. At Dhaula Kuan, three persons approached him and asked whether he could take them to the Airport. He informed them that the fare would be ₹20/- per kilometre. They agreed and boarded his taxi. Two of them occupied the rear seat while one sat beside him in the front seat. While passing the flyover near Subroto Park, one of the accused persons requested him to stop the vehicle, stating that he had to answer the call of nature. When he stopped the vehicle, the person seated in front got down, approached him near the driver's seat and asked him to sit in the rear seat, where the other two persons were already seated. He was pulled into the rear seat by the two persons



sitting behind. The person, who had been seated in front, took control of the vehicle and began driving. The two persons, seated beside him, demanded all valuables in his possession. He pleaded with them to take whatever he had and requested them not to injure him. One of the persons stabbed him on his stomach when he resisted the attempt to pull him out of the driver's seat, and he was stabbed in his thigh while he was sitting on the rear seat. His purse, Sony Ericsson mobile phone model J-230i, silver ring, cash amounting to ₹1700/-, and driving licence were snatched by them. After taking the cash and the licence from the purse, they threw the empty purse back into the vehicle. They also removed the SIM from his mobile phone and took it with them. They dropped him near the flyover at the airport and thereafter abandoned his taxi approximately 200 meters away near a red light. He went to the taxi stand at the airport and informed the police. He was taken to the Safdarjung Hospital, where his Ext. PW2/A statement was



recorded by the Investigating Officer (PW16). PW2 identified Pradeep @ Sonu (A1) as the person who had driven the taxi and Raju Thappa (A2) as the person who had held him on the rear seat and stabbed him in the stomach and thigh. PW2 was unable to identify A3 as the latter was sitting behind him. PW2 also identified the recovered case property, namely, the Sony Ericsson mobile phone model J-230i.

16.1. PW2, in his cross-examination, initially deposed that he had never seen the accused persons in the police station and that he had seen them for the first time when they appeared before the Court. However, he admitted that when his mobile phone had been recovered, he was called by the police to the police station and in the presence of police officials, he identified his mobile phone as well as two of the accused persons. PW2 also admitted that he was called to the office of the Special Staff, Sector-16B, Dwarka, where he had identified the accused persons.



17. PW4, Sub Inspector, Delhi Cantonment police station, deposed that on 13.01.2012, when he was on emergency duty, he received DD No. 39A, pursuant to which he along with PW1 went to the parking of Easy Cab Domestic Airport. He found the Hyundai Accent car of Easy Cab bearing registration no. DL-1RX-6805 parked there. He saw that there were blood stains on the rear seat of the car. He came to know from the fellow taxi drivers that the injured had already been taken to Safdarjung hospital by the police. He, alongwith PW1, went to Safdarjung hospital, where PW2 the injured was admitted *vide* MLC no. 6463/12. He recorded Ext. PW2/A the statement of PW2. He returned to the spot, that is, the parking area of Easy Cab at the Domestic Airport. At about 12.30 a.m., Sub Inspector Satish (PW12) and PW1 also reached the spot. As directed by the Station House Officer, the investigation of the case was entrusted to PW12, who prepared the site plan of the place of occurrence.



18. PW5, Dr. Shobhna Gupta, Senior Medical Officer, Safdarjung Hospital, New Delhi, deposed that Dr. Aijaz Iqbal, who had prepared the MLC, had left the hospital and his present whereabouts were not known. PW5 identified the handwriting and signature of Dr. Aijaz Iqbal on Ext. PW2/B MLC of PW2. PW5 deposed that Dr. Aijaz Iqbal had opined the nature of injuries as “simple and sharp.”

19. PW9 and PW10, the Metropolitan Magistrates (MM), Dwarka Courts, New Delhi, were examined to prove the Test Identification Parade (TIP) proceedings. PW9 deposed that on 24.02.2012, Ext. PW9/A, application had been moved by PW16, ASI, Vijay Vihar police station for conducting the TIP of Vicky K.C (A3). A3 declined to participate in the TIP proceedings. On 01.03.2012, Ext. PW9/E application was moved by PW16 for conducting TIP of A2. A2 also declined to participate in the TIP proceedings. PW10 deposed that on 25.02.2012, Ext. PW10/A



application was moved by PW16 for conducting TIP proceedings of A1. However, A1 refused to participate in the TIP proceedings.

20. PW16, the Investigating Officer, deposed regarding the various steps taken by him during the course of the investigation. PW16 in his cross-examination admitted that no recovery had been effected by him or in his presence.

21. When an acquittal has been recorded by the trial court, the appellate court ought not to interfere unless the findings are perverse, manifestly erroneous, or based on a misappreciation of material evidence. If the view taken by the trial court is a plausible and reasonable view on the evidence, the same does not warrant interference merely because another view is possible. (See **Chandrappa & Ors vs. State of Karnataka, 2007 (4) SCC 415**).

22. The prosecution has sought to establish the involvement of A1 to A3 primarily through the testimony of PW2. It is settled law that the testimony of an injured witness carries



great evidentiary value. However, such testimony must still inspire confidence and must be corroborated by surrounding circumstances when material inconsistencies or deficiencies appear in the prosecution case. In the case on hand, PW2 was unable to identify A3 as there were no materials on record against him and therefore, the trial court rightly acquitted him.

23. Now coming to A1 and A2. According to PW2, two of the accused persons who had robbed and caused injuries to him were A1 and A2. PW2 admittedly had no prior acquaintance with A1 and A2. PW2 in his cross-examination categorically admitted that he had seen A1 and A2 twice in the police station and had identified them. It was in such circumstances that A1 and A2 declined to take part in the TIP. Therefore, identification of A1 and A2 by PW2 in the box is quite doubtful.

24. Now, coming to the recovery of the phone of PW2 from A2. The prosecution relies on the testimony of PW13 and



PW14. PW13, Sub-Inspector, Delhi Cantonment police station, deposed that on 20.02.2012 - 21.02.2012, he along with his team had arrested A1 and A2 along with two other persons in crime no. 42/2012 registered at Delhi Cantonment police station under Sections 399, 402 IPC and Sections 25, 27 of the Arms Act. He had recorded the disclosure statements of A1 and A2 *vide* Ext. PW13/A and Ext. PW13/B. He also deposed that from the possession of A2, a mobile phone of the make Sony Ericson had been recovered as per Ext. PW13/C the seizure memo. PW14, Head Constable, Delhi Cantonment police station, deposed that he was in the team along with PW13 when A1 and A2 were arrested. PW13 recorded Ext. PW13/A, PW13/B disclosure statements of A1 and A2. However, in the cross-examination, PW14 deposed that nothing had been recovered from A1 and A2 in his presence. Therefore, the testimony of PW13 and PW14 are inconsistent and



contradictory regarding the alleged recovery of the stolen phone from the possession of A2.

25. Moreover, the disclosure statements seen marked as Ext. PW13/A and Ext. PW13/B are totally inadmissible statements due to the bar contained under Section 25 of the Indian Evidence Act, 1872. In these circumstances, the trial court was right in finding that there is no satisfactory evidence to find A1 to A3 guilty of the offences charged against them.

26. No ground for interference into the impugned judgment has been made out.

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

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

**CHANDRASEKHARAN SUDHA
(JUDGE)**

MAY 20, 2026/rs/mj