



2025:DHC:11311



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

% Reserved on : 10.12.2025
Pronounced on : 11.12.2025
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+ **CRL.A. 450/2016**

KRISHNA MOHAN

.....Appellant

Through: Mr. Yogesh Swaroop, Mr. Vikas Vats, Ms. Shivani Singh, and Mr. Alok Kumar Pallai, Advocates.

versus

THE STATE

.....Respondent

Through: Ms. Shubhi Gupta, APP for State with SI Rocky, P.S. Swaroop Nagar.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The appellant was held guilty and convicted under Sections 324/34 IPC vide the impugned judgment dated 29.01.2016 and sentenced by way of the order on sentence dated 30.01.2016. However, considering the mitigating factors, he was directed to be released on probation upon his furnishing a personal bond in the sum of Rs.10,000/- and one surety in the like amount.

2. The conviction was rendered in the context of FIR No. 147/2009 registered under Sections 324/34 IPC at P.S. Swaroop Nagar. Though one *Deepak* and one *Prakash Priyadarshi* also faced trial as co-accused, they



were acquitted vide the impugned judgment.

3. As per the case of the prosecution, the investigation commenced in the context of an incident that took place on 20.10.2008 at about 10:25 PM. The I.O., *Sukhpal Singh*, recorded the statement of the injured, *Savitri Devi*, on 30.06.2009 (Ex. PW-4/A), wherein she alleged that on account of a property dispute, a knife injury was inflicted upon her by the appellant, who was present at the spot along with others.

4. The MLC of the injured/*Savitri Devi* was collected. On completion of investigation, the chargesheet came to be filed; and on charges being framed under Sections 324/34 IPC, the accused pleaded not guilty and claimed trial.

5. The prosecution has examined 7 witnesses in all, with the primary witness being the injured, *Savitri Devi* herself, who was examined as PW-4. The injuries suffered by *Savitri Devi* were proved through Dr. *R. S. Mishra* (PW-7), who proved the MLC, which was exhibited as Ex. PW-6/A. The I.O. *Sukhpal Singh* was examined as PW-6.

6. Learned counsel for the appellant, while assailing the impugned judgment, contended that the Trial Court failed to appreciate the plea of *alibi* and stated that the appellant was not present at the spot when the incident took place. He further contended that there is a delay of 9 months in registration of the FIR, and that the knife allegedly used by the appellant was not recovered. It was next contended that finding the testimony of the injured to be unreliable *qua* the co-accused persons, they were acquitted. Lastly, it was contended that there was a cross-FIR in which the complainant party stands convicted; in the present case, the prosecution has failed to



explain the injury suffered by the accused.

7. *Per contra*, learned APP for the State, while opposing the contentions of the learned counsel for the appellant, has submitted that the testimony of the injured is clear and cogent and further stands corroborated by her MLC. She submits that the co-accused, *Deepak* and *Prakash Priyadarshi*, were acquitted by the Trial Court, noting their miniscule role; however, the Trial Court found the testimony of the victim *qua* the present appellant to be cogent and credible.

8. The injured/*Savitri*, who was examined as PW-4, stated in her deposition that at the time of the incident on 20.10.2008, she was residing at Plot Khasra No. 370, Kadipur Village, Kushak No. 1, Delhi along with her family, comprising of her two sons and their respective families. She stated that on that day at about 10.00 PM, she was present at the given address along with her daughter-in-law, when the appellant along with his nephews, *Prakash* and *Roshan*, accompanied by many other persons, came to the said plot and started abusing and beating them. The appellant had a knife in his hand with which he assaulted her, and she received a stab injury on her neck. When somebody inflicted a *lathi* blow on her back, *Prakash* exhorted the assailants. Upon hearing the commotion, public persons gathered at the spot, and the appellant and other assailants subsequently fled. She was taken to BJRM Hospital. She identified the appellant in Court. On a leading question being put to her by the learned APP, she admitted it to be correct that on 30.06.2009, HC *Sukhpal* had prepared a site plan at her instance and she had shown him the spot of the incident.



In cross-examination by learned counsel for the appellant, she stated that the disputed property in question was not in her name. She maintained that the knife injury inflicted on her neck was inflicted by the present appellant.

9. It has been contended that the Trial Court failed to appreciate the appellant's plea of *alibi*; however, in this regard, the Trial Court considered that no such suggestion was given to the injured *Savitri Devi* or to the I.O. The appellant also examined himself under Section 315 Cr.P.C. as DW-1, where he did not state that he was not present at the spot at the relevant time but elsewhere. No defence in this regard was led.

10. Insofar as the acquittal of the co-accused, *Deepak* and *Prakash Priyadarshi*, is concerned, it is apposite to note that the Trial Court observed that the victim had not clearly stated about their presence and role. Granting the benefit of doubt, the two co-accused were acquitted. At no point in time, the Trial Court rendered a finding that the testimony of the victim was not inspiring confidence. A perusal of the victim's testimony shows that the role of the appellant, him being already known to her, has been stated clearly and categorically.

11. Though the appellant has claimed that there is a delay in lodging the FIR, however, it is noted that the medical examination of the victim was carried out on the day of the incident itself i.e. 06.11.2008, and injuries were noted. The MLC stands duly proved by the testimony of the treating doctor, Dr. *R S Mishra* (PW-7). The delay in registration of FIR was not attributable to the complainant. The laxity on the part of the I.O. was not fatal to the



prosecution case. The contents of the FIR were duly corroborated by the deposition of the complainant. She has categorically attributed to the appellant the role of stabbing her. Her injuries stand corroborated by the medical evidence.

12. The appellant has also raised a plea that since the injuries suffered by the co-accused were not explained by the prosecution, the benefit of the doubt ought to be extended to him. It cannot be held that invariably, whenever an accused sustained an injury in the same occurrence, the prosecution is obliged to explain the injury and on the failure of the prosecution to do so the prosecution case should be disbelieved. The same depends on the severity of injury and whether it occurred in the same occurrence and the witnesses. Prosecution witnesses being interested or the defence putting forth a probable version also affects the consequence of such non- explanation. (Ref: Takhaji Hiraji Vs. Thakore Kubersing Chamansing & Ors.¹) The effect of non-explanation of injuries by the prosecution has been extensively discussed by the Supreme Court in the case of State of Gujarat Vs. Bai Fatima & Anr.², wherein it was held as under:-

“17. In a situation like this when the prosecution fails to explain the injuries on the person of an accused, depending on the facts of each case, any of the three results may follow:

- (1) That the accused had inflicted the injuries on the members of the prosecution party in exercise of the right of self defence.*
- (2) It makes the prosecution version of the occurrence doubtful and the charge against the accused cannot be held to have been proved beyond reasonable doubt.*

¹ (2001) 6 SCC 145

² (1975) 2 SCC 7



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(3) *It does not affect the prosecution case at all.*”

13. In the present case, HC *Sukhpal Singh* (PW-6) deposed that he had collected 3 medical records from BJRM hospital, that of the complainant and the two co-accused *Deepak* and *Rakesh*. As mentioned earlier, they already stand acquitted. In so far as the appellant is concerned, it is not his case that he sustained any injuries which could not be explained. There is no plea of private defense. In fact, he has taken a plea of *alibi*, contending that he was not present at the spot, which also remained unsubstantiated. In such a scenario, it is clear that the third result as contemplated in *Bai Fatima* (supra) follows in the facts of the present case. The non-explanation of the injuries of co-accused had no impact on the prosecution case against the appellant.

14. Considering the entire facts and circumstances and evidence placed on record, this Court finds no ground to interfere with the impugned judgment of conviction and the subsequent release on probation. The present appeal is accordingly dismissed.

15. A copy of this judgment be communicated to the Trial Court.

MANOJ KUMAR OHRI
(JUDGE)

DECEMBER 11, 2025

pmc