



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

% ***Pronounced on: 28th June, 2025***

+ **CRL.A.535 /2025**

STATE (NCT OF DELHI)

Through Deputy Commissioner of Police,
District South East, Delhi

.....Appellant

Through: Mr. Utkarsh, Ld. APP for the State
with SI Sonu Kumar, P.S. Okhla
Industrial Area

versus

1. **GIRISH KUMAR**
S/o Sh. Prabha Kumar
R/o Jhuggi No. C-111,
Indra Kalyan Vihar, New Delhi.

2. **RAM KRIPAL SINGH**
S/o Sh. Jagnarayan Singh,
R/o Jhuggi No. B-193,
Indra Kalyan Vihar, New Delhi

.....Respondents

Through: Mr. Harshit Vashisht Amicus Curiae
with Mr. Avinash Kapoor, Advocate

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Criminal Appeal under Section 378(1) of the Code of Criminal Procedure, 1973 (*hereinafter referred to as the "Cr.P.C."*) has been filed against the judgment dated 03.10.2016 *vide* which the learned M.M. has acquitted the Respondents for offences under Sections 325/34 of the India



Penal Code, 1860 (hereinafter referred to as the “IPC”) in a case arising out of FIR No. 75/2001 at P.S. Okhla Industrial Area.

2. **Briefly stated**, as per the Complaint dated 03.02.2001 at P.S. Okhla Industrial Area, the Complainant/Sh. Shankar Bharti, on 02.02.2001 at about 4:30 PM, was going for some important work and when he reached near the clinic of Dr. Rai at Indira Kalyan Vihar Camp near DSIIDC, Respondents Girish Kumar and Ram Kripal Singh, caught him and started beating him. They broke his right knee and took away his HMT wrist watch, golden ring, golden chain and an amount of Rs.618/- from his pocket and also threatened before leaving.

3. On his Complaint, **FIR No. 075/2001** was registered at P.S. Okhla Industrial Area. Due investigations were conducted and the statements of the Complainant as well as the eye-witnesses were recorded. On completion of investigation, Chargesheet under Sections 325/34 IPC was filed against both the Respondents.

4. The learned MM framed the **Charges under Section 325/34 IPC**, on 27.08.2002.

5. The Prosecution examined 11 witnesses in support of its case. PW-1 is the Complainant while PW-2/Bhola, PW-3/Nagender Prasad Dubey, PW-4/ Dr. Purshotam and 7 other witnesses who were also examined. The other material witness was PW11/Dr. Karan Midha, who proved the MLC of the injured, which is Ex.PW10/A.

6. The statements of the two accused persons were recorded **under S. 313 Cr.P.C.** wherein they submitted that they have been falsely implicated in this case.



7. Respondent No. 1/Girish Kumar submitted that Complainant/Shankar Bharti had come to the spot and had accosted him and caught hold of his collar. In the scuffle, the Complainant fell on his knees and sustained the injuries. He denied that he has voluntarily caused the injuries.

8. The **Respondent No. 2/Ram Kripal Singh** deposed that he had gone for delivery of Pepsi bottles to the shop and as he was passing, he found the Complainant and Girish engaged in an altercation. He denied having knowledge of what happened in the scuffle.

9. The Respondents examined the **DW-1/Bal Krishan Singh** who deposed that on the day of incident, which took place between 2.00 PM to 4.00 PM, he was present at his shop. The Respondent No. 2/Ram Kripal Singh, who was the partner at the shop, had come to the shop after delivering the goods. In the meanwhile, they heard shouting of Complainant and Girish and thereafter, they both left and he was not aware of anything that happened between the two.

10. **DW-2/Lal Singh** also deposed that he along with some persons including Respondent No. 1/Girish, was standing when the Complainant came and commented that “*sab neta log khade hai*” to which the accused Respondent No. 1/Girish replied that he (the Complainant) was also a leader on which the Complainant got offended and they started fighting. Thereafter, he left. Subsequently, he came to know that the present FIR was registered.

11. The **learned M.M. in the impugned judgment dated 03.10.2016**, considered the testimony of the two Doctors i.e. PW-4/Dr. Purshotam Rai and PW-11/Dr. Karan Midha to conclude that the medical record proved that



the Complainant had suffered a fracture of patella on the date of incident. However, on consideration of the testimony of the Complainant and the other witnesses, it was concluded that the possibility that the Complainant had suffered fracture of the knee after a fall on his own, could not be denied. **Consequently, benefit was given to the Respondents, who were acquitted.** Aggrieved by the acquittal of the Respondents, *the present Appeal is preferred on behalf of the State.*

12. The impugned judgment is challenged on the *Grounds* that the testimony of PW-4/Dr. Purshottam Rai has been erroneously rejected merely because he was deposed to be related to the Complainant. This was not a ground to brush aside the testimony of PW-4/Dr. Purshoam Rai, which was otherwise consistent and trustworthy.

13. Likewise, testimony of PW1, PW3 and PW4 - Complainant and the two eye-witnesses - was consistent that the Complainant had suffered fracture on account of the beatings given by the Respondents. There was no reason to disbelieve their testimony about injuries being caused by the Respondents. There was no evidence to conclude that the injury was caused on account of accidental slip.

14. Moreover, *DW-1* had deposed that the relationship between the Complainant and the Respondents was sour and they had altercations on earlier occasions as well. The motive was, therefore, clearly evident for commission of the present offence, which was duly supported by the Complainant. Furthermore, the investigation conducted by PW-9/ASI Ashok Kumar, who was accompanied with Ct. Dharmender, also corroborates not



only the happening of the incident but also its authenticity. Therefore, the impugned judgment is liable to be set aside.

15. Submissions heard and record perused.

16. Before delving into the particulars of the offence, reference must be made to provision with which the Accused persons have been charged.

Thus, Section 325 is reproduced as under:

S.325 - Punishment for voluntarily causing grievous hurt

Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

17. From bare reading of the above provision, it is clear that in order to prove an offence under Sections 325/34 IPC, the Prosecution was required to prove:

- (i) that the Respondents had voluntarily caused injury;*
- (ii) that the injury was grievous in nature; and*
- (ii) that it had been caused voluntarily by the accused person.*

18. The Prosecution in order to establish the factum of hurt, had examined PW-10/Rajbir Singh, Medical Record Technician, AIIMS Hospital, who proved the MLC Ex. PW10/A as having been prepared on 02.02.2001 02 at about 6.11 AM, by Dr. Desai Ravi wherein the injuries were opined to be grievous in nature.

19. PW-11/Dr. Karan Midha further deposed that the injuries sustained were fracture in the right knee, which is categorized as grievous injury. ***The MLC, therefore, fully proved the factum of the Complainant having suffered fracture, as was also deposed by PW-1/Complainant.***



20. The testimony of PW-10/Rajbir Singh and PW-11/Dr. Karan Midha has not been subject to any cross-examination by the Respondents. It is, therefore, established that the Complainant had suffered a fracture of patella of his right knee on 02.02.2001 at about 4.30 PM.

21. The *second and the most crucial fact, which was required to be proved was that the injury had been caused voluntarily in furtherance of common intention.*

22. The term ‘voluntarily’ has been defined under Section 39 IPC, as under:-

“39. Voluntarily: A person is said to cause an effect “voluntarily” when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.”

23. The first material witness was PW-1/Shankar Bharti, Complainant who deposed that he was beaten by the accused persons, who also snatched his chain, wrist watch and wallet. He further deposed that *“I fell down and received injuries”*.

24. The Complainant himself had deposed that the injury was suffered on account of falling down. Pertinently, he also admitted in his cross-examination that the Respondents had caught his collar and chain and not done anything else. He, himself, contradicted his own testimony that they had snatched his money, wrist watch and gold chain.

25. The second material witness was *PW-2/Bhola*, the eye-witness who deposed that he saw the altercation between the Complainant and the Respondents, but he stated that he immediately went to the house of the



Complainant to inform his family members and when he returned, he found that the Complainant had suffered a fracture in his leg. He, as per his testimony, see the entire incident and fails to prove any act of Respondents being the cause of the fracture of the Complainant's knee.

26. The *third material witness* was *PW-4/Dr. Purshotam Rai*, near whose Clinic, the incident had happened. He deposed that the Respondents had a scuffle with the Complainant and they gave him beatings due to which the Complainant sustained injuries in his leg. He gave him a painkiller and thereafter, he was shifted to the hospital in PCR, which had arrived in the meanwhile. He while asserting that the injuries caused due to altercation, also fails to give details of the actions of the Respondents, which resulted in the injuries to the Complainant.

27. The next material witness was *PW-3/Nagender Prasad Dubey*, who deposed that on 02.02.2001 at about 4.30 PM, he saw the Respondents holding the collar of the Complainant and beating him. They also looked at him and shouted at him and Girish tried to hit him, but he ran to the Clinic to save himself. This witness also fails to depose about the manner in which the injuries were sustained by the Complainant.

28. The other material witness *PW-7/Mahender Nisar* deposed that Girish pushed the Complainant, who consequently fell, though; he did not see the injuries suffered by the Complainant. He in his *cross-examination by the learned APP*, clarified that he had seen both the Respondents slapping the Complainant. He denied in his cross-examination that the Respondents snatched or robbed any chain, money, gold ring, etc., from the Complainant.



29. The last eye-witness examined by the Prosecution was ***PW-8/Shesh Nag***, who while deposing about the altercation and manhandling of the Complainant by the Respondents, deposed that the road was slippery due to spill of water. Because of the manhandling by the Respondents, Complainant fell and suffered minor injuries.

30. In the light of the aforesaid testimonies of the Complainant and the eye-witnesses, what has emerged is that the Complainant and the Respondents had an altercation in which beatings were given to the Complainant by the Respondents. However, the Complainant as PW-1 had deposed that during the altercation, he fell and suffered the fracture of patella. Further, PW-8/Shesh Nag, also deposed that Complainant slipped as the road was slippery and suffered the injury. The testimony of *PW-3/Nagender Prasad Dubey* also was that as the altercation ensued between the complainant and the respondents, complainant ran towards the Clinic. His testimony also corroborates that the Complainant while running, may have had an accidental slip.

31. **It is thus, established that the injuries suffered on the knee by the Complainant, may have been was on account of accidental fall while there was an altercation happening between the Complainant and the Respondents.**

32. It has been rightly concluded by the learned M.M. that the Prosecution has not been able to prove that the injury suffered by the Complainant, was caused voluntarily by the Respondents.

33. The learned ASJ has rightly given benefit of doubt to the Respondents in acquitting them for the offences punishable under Sections 325/34 IPC.



34. There is no merit in the present Appeal, which is accordingly dismissed. Pending Applications are disposed of accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

JUNE 28, 2025

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