



\$~20

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of decision: 30<sup>th</sup> October, 2025*

+ **CRL.L.P. 592/2017**

**STATE**

Govt. of NCT Delhi.

.....Petitioner

Through: Mr. Ajay Vikram Singh, APP for State.

versus

**1. JAI PRAKASH**

S/o Asha Ram  
R/o H.No.374,  
Village Bajitpur, Delhi.

**2. KRISHNA**

W/o Sh. Jai Prakash  
R/o H.No.374,  
Village Bajitpur, Delhi.

.....Respondents

Through: Mr. Sanjay Kumar, Mr. Shiv Kumar.  
Ms Reema, and Mr Adarsh Pratap Gautam, Advocates for R-1 and R-2.

**CORAM:**

**HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA**

**JUDGMENT (oral)**

**CRL.L.P. 592/2017**

1. An Application under Section 378(3) of the Code of Criminal Procedure (Cr.P.C.) was filed on behalf of the Petitioner, challenging the impugned Judgment dated January 21, 2017, of the learned Metropolitan Magistrate, Delhi, acquittal of the Respondents herein, for the offences



under Sections 323, 325, 341, and 506 Indian Penal Code (IPC) in FIR No. 104/2009, registered at Police Station Bawana.

2. It is submitted in the Petition that the learned Trial Court's impugned judgment is based on presumption, conjectures, and surmises, and as such, cannot withstand legal scrutiny and is therefore liable to be set aside. The learned Trial Court has allegedly erred in appreciating the evidence presented by the Prosecution in the right perspective, despite all Prosecution witnesses having fully supported the Prosecution's case. Furthermore, the Trial Court is claimed to have erred in granting the benefit of doubt to the Respondents, thereby acquitting them. It is, therefore, prayed that the Leave Petition be allowed.

**Submissions were heard.**

3. In view of the submissions made and the reasons given in the Leave Petition, the same is allowed.

4. The Leave Petition is disposed of, accordingly.

**CRL.A. /2025 (To be numbered by the Registry)**

5. A Criminal Appeal under Section 378(1) of Cr.P.C. has been filed on behalf of the Petitioner/State challenging the Judgment dated 21.01.2017, whereby the learned MM, Delhi, has acquitted the respondents under Sections 323, 325, 341, and 506 IPC in FIR No. 104/2009, registered at Police Station Bawana, Delhi.

6. The Prosecution's case is that on 09.05.2009, the Complainant, Pradeep Kumar, along with his mother, Santosh Devi, and sister Reena, went to his plot of land, admeasuring 200 sq. yards, in Village Bajit Pur, to place timber there. One portion of the plot was already in the possession of his uncle (Foofa), Jai Prakash @ Pappu, who resided in it, while the remaining portion



was in the Complainant's possession. The Complainant had also installed a gate on the plot. When the Complainant, his mother, and sister arrived, the accused/Respondents, *Jai Prakash and his wife Krishna*, restrained them and assaulted them with wooden sticks. In the ensuing scuffle, *Krishna sustained minor injuries on her head* as she hit it against a wall. The accused persons allegedly extended death threats to the Complainant, his mother, and his sister. Based on the Complaint by Pradeep Kumar, FIR No. 104/2009 under Sections 323/341/506 IPC, was registered.

**7. The Charges under Sections 323/341/325/506/34 IPC were framed on 25.02.2010, against both the Accused/Respondents, to which they pleaded not guilty.**

**8. The Prosecution, in support of its case, examined eight witnesses in total. The most material witnesses were PW2/Pradeep Kumar, the Complainant, PW3/Smt. Reena, and PW4/Smt. Santosh, who were the eye-witnesses/victims. They deposed about the incident and testified that they had suffered injuries in the scuffle.**

**9. PW1/SI Prem Singh registered the FIR Ex.PW1/A after making an endorsement on the rukka, Ex.PW1/B.**

**10. PW5/ASI Bala Rani arrested the Respondents and their Arrest and Personal Memos are Ex.PW1/B and 1/C.**

**11. PW7/ASI Ram Niwas, the Investigating Officer (I.O.) along with PW6/Const. Mukesh, visited Village Bajitpur on 09.05.2009, upon receiving DD No. 26A. They then went to NV Hospital, where the injured had been taken. The I.O. collected the MLCs (Medically Legal Certificates) of the injured, recorded the Complainant's statement, and got the FIR registered.**

**12. PW8/Dr. Yudhvir Singh proved the MLCs of Pradeep, Reena, and**



Santosh as Ex.PW8/A, 8/B, and 8/C, respectively.

**13.** *The statements of the Accused were recorded under Section 313 Cr.P.C. where they denied all the incriminating evidence presented against them. They claimed that the Complainant and his family wanted to grab the plot belonging to the accused Krishna, which was given to her by her father.*

**14.** *The Respondents, in their defense, examined DW1/Smt. Sudesh, the wife of PW2/Complainant Pradeep Kumar. She deposed that on 09.05.2009, the date of the incident, she and Pradeep were residing in the house in Village Bajitpur that fell into her husband's share of the ancestral property. She stated that she was pregnant and when her mother-in-law (Santosh Devi), sister-in-law (Reena), and husband (Pradeep) left the house, she was told to remain inside and was given no definite answer as to their destination. After some time, she went outside upon hearing noises and was told by someone that a quarrel was taking place. She went to the spot and found Pradeep, Santosh Devi, and Reena using abusive language against the accused Krishna and banging on the door of the accused persons, demanding that they open it. The door was not opened, upon which Pradeep went inside the accused's house and opened the main door to allow Santosh Devi and Reena to enter. Thereafter, Reena pushed accused Krishna, causing her head to hit against the wall. No male member of the accused Krishna's family was present in her house. Pradeep, Santosh, and Reena were subsequently beaten up by some neighbors, and one of the neighbors called the PCR (Police Control Room), which arrived at the spot. Pradeep, Santosh, and Reena were then taken to the Hospital.*

**15.** *The learned Metropolitan Magistrate (M.M.) considered the evidence led by the Prosecution and found material contradictions in the statements of*



the witnesses. *Consequently, the benefit of doubt was given to the Respondents, who were acquitted of the offences punishable under Sections 323/325/341/506/34 IPC.*

**16.** The impugned Judgment has been *challenged by the State on the grounds* that the Prosecution's evidence was not appreciated in the right perspective by the learned M.M. All the Prosecution witnesses fully supported the Prosecution case, which proved the offences beyond reasonable doubt. There were no material contradictions in their testimony that went to the root of the case. While not admitted, even assuming there were some contradictions, it is stated they were only minor improvements, discrepancies, or variations which should not have been a ground to grant the benefit of doubt to the accused.

**17.** **Reliance is placed on** *Jagdish vs. State of M.P.* 1981 (Suppl) SCC 40 and *State of Rajasthan vs. Kalki* (1981) 2 SCC 752, where the Apex Court observed that some discrepancies are due to normal errors of observation, memory lapse due to time, and mental disposition such as the shock and horror at the time of occurrence. *Material discrepancies are those that are abnormal and unexpected of a normal person.*

**18.** *In the case of Sheo Shankar Singh vs. State of Jharkhand* (2011) 3 SCC 654 and *C. Muniappan vs. State of Tamil Nadu* (2010) 9 SCC, it was held that if primacy is given to negligent investigations or to omissions/lapses committed by perfunctory investigations, the faith and confidence of the people in the criminal justice administration would be eroded. The legal obligation exists on the Court to examine the Prosecution evidence apart from such lapses carefully, to determine reliability. Fault on the part of the Investigating Agency, should not be a factor to make the victim suffer.



**19.** The State asserts that the Respondents should be punished for the offences with which they were charged. It is emphasized that the three public witnesses namely, PW2, PW3, and PW4 corroborated each other's testimony, which was further corroborated by the MLCs (Ex.PW8/A to 8/C) of the three injured persons. Injured PW3 Reena suffered grievous injuries as per her MLC Ex.PW8/B, while the other two victims suffered simple injuries. The testimony of PW8 Dr. Yudhvir Singh, who proved the three MLCs, was unchallenged. Reliance is also placed on *Yogesh Singh vs. Mahabeer Singh & Ors.* 2017 (1) JCC 63 (SC).

**20.** Regarding the absence of public witnesses, the Ld. Add. PP argued that the learned Trial Court failed to appreciate that people in the vicinity were reluctant to join the investigation as they belonged to the same village. The mere fact that the three injured persons were closely related cannot be a ground to disbelieve their testimony.

**21.** Finally, it is submitted that in fact, there were no material contradictions in the Prosecution evidence, and the benefit of doubt was wrongly given to the Respondents. Therefore, the judgment of acquittal is liable to be set aside, and the Respondents should be punished for the offence with which they were charged.

**22.** *Respondent No. 1/Jai Prakash, and Respondent No. 2/Krishna*, filed their Affidavits, denying all the grounds stated in the Appeal. They assert that there were material contradictions which were rightly appreciated by the Trial Court and cannot be termed as minor. They claim the Prosecution witnesses narrated a false story, which was duly considered at length by the Trial Court.

**23.** They denied all the grounds taken by the State on merits, submitting that they were rightly acquitted and the Appeal is liable to be set aside.



### **Submissions heard and record perused.**

**24.** This is a case where, according to the Prosecution, a fight took place between the three victims and the two Respondents on 09.05.2009, resulting in injuries to the three victims. PW2/Pradeep, the Complainant, deposed that he, along with his mother and sister, had gone to their village Bajitpur to keep wood on his plot. Upon reaching there, they found that half of the plot had been grabbed by the paternal aunt, Krishna. He claimed the plot was in the share of his uncle Ajit, who had renounced the world and given his share to PW2/Pradeep Kumar. As he tried to put the wood on the plot, he was attacked by both Respondents, who were allegedly armed with an iron rod, *lathi*, and wooden *farsa*, and beat him, his mother, and his sister with these weapons. They suffered injuries, with his sister Reena allegedly becoming permanently disabled and his mother receiving stitches on her head. He also deposed that the accused had been pressuring them to settle the matter, threatening to kill them otherwise. The Complaint made to the Police is Ex.PW1/A.

**25.** At the instance of PW-2, the two Respondents, the paternal aunt and her husband, were arrested *vide* Memo Ex.PW1/C. During cross-examination, a suggestion was given to the witness that the Complainant had gone to the plot to commit theft, which he denied, stating he had only gone to keep wood. He further denied picking a quarrel with the accused Krishna when she did not permit them to put the wood on the plot. He also denied that neighbors gave them beatings and also caused injuries to the two Respondents, though it was suggested that Respondent No. 2/Krishna also received injuries.

**26.** PW3/Reena and PW4/Smt. Santosh narrated the incident, similar to PW2. They all deposed that they were beaten by Krishna with a rod, and Jai



Prakash had hit Santosh on her head and leg.

**27.** The appreciation of the testimony of the three victims/eye-witnesses i.e. PW2, 3, and 4 shows that they have been consistent about the incident which happened on 09.05.2009. In fact, the Respondents, in their cross-examination, also suggested that the three witnesses had come to the plot, though they claimed it was with intent to commit theft. A suggestion was also put forward by the Respondents that a fight took place and that neighbors intervened, who not only beat the three victims but also Respondent Krishna, who suffered an injury on her head.

**28.** During the arguments, the Respondents' counsel asserted that the fight was not disputed, but claimed that the three victims had gone to the Respondent's house, banged on the door, and that subsequently neighbors intervened and gave beatings to both the three victims and Respondent Krishna.

**29.** Significantly, the Respondents examined DW1/Smt. Sudesh, who is the wife of PW2/Complainant Pradeep Kumar. She merely deposed that when her husband, mother-in-law, and sister-in-law were leaving, they told her they were going to the plot and that she should remain in the house. On hearing the noise of quarrel, she went to the plot and saw PW-2, 3 &4 giving beatings to the respondents.

**30.** From the appreciation of entire evidence, it emerges that indisputably, a fight took place between PW-2, 3 &4 and the respondents, in which the three Prosecution witnesses suffered injuries. The only defense of the respondents was that the beatings were given by some neighbors, but no neighbor was named or produced as a witness.

**31.** The consistent testimony of all three Prosecution witnesses proves the



incident's occurrence on 09.05.2009, beyond reasonable doubt.

**32.** All three victims deposed that they had suffered injuries, which is corroborated by their respective MLCs, proved by PW8 Dr. Yudhvir Singh who identified the handwriting of Dr. Jay Kumar, who had prepared the MLCs.

**33.** The MLC of Complainant Pradeep, Ex.PW8/A, shows he suffered a Contused Lacerated Wound (CLW) over his bipolar of the size 5 cm x 0.5 cm. *It stated there was no fracture, and the nature of the injury was certified as 'Simple'.*

**34.** The MLC of victim Reena, Ex.PW8/B, shows two CLWs over the occipital region. An endorsement was made that, as per Radiology, *she had suffered a fracture of the upper shaft and Tibia, and the injury was certified as 'Grievous'.*

**35.** However, PW8 has not deposed or proved the Radiology Report on the basis of which it was asserted that she had suffered a fracture of the arm. Furthermore, PW3, in her testimony, stated she was hit with a rod and a *danda*. There is neither the Radiology Report nor any other independent cogent evidence, from which it can be concluded that she suffered a grievous injury. *Therefore, it cannot be necessarily held that because an MLC was prepared, it is indicative of simple injury suffered by her.*

**36.** The *MLC of Smt. Santosh*, Ex.PW8/C, also indicated two cuts on her body. There was an endorsement that, as per the Radiology X-ray Report, no fracture was noticed, *and the injury was certified as 'Simple'.*

**37.** The testimony of the Prosecution witnesses, when read with the MLCs, proves that simple injuries were caused to the three victims. No other allegation of a threat to kill or of wrongful restraint has been proved. The



Prosecution has been able to successfully prove the offence under Section 323 IPC.

**38.** The learned MM has incorrectly appreciated the evidence and disbelieved the fighting incident which was admitted even by the respondents.

**39.** Accordingly, the aforesaid judgment of acquittal dated 21.01.2017, is hereby set aside, and the ***Respondents are convicted under Section 323/34 IPC for voluntarily causing hurt to the three prosecution witnesses in furtherance of common intention.***

**40.** Both Respondents were present in the Court, and their learned Counsel submitted that this was a fight over property between family members. They pleaded for a lenient view, stating the Respondents have already suffered enough since 2009.

**41.** Considering the totality of circumstances, both the Respondents are hereby awarded the sentence of a fine of Rs. 1,000/- each, in default of payment of the fine, they are directed to undergo Simple Imprisonment for fifteen days. **The fine must be deposited within fifteen days.**

**42.** The Appeal is accordingly, allowed and the respondents are convicted under **S. 323/34 IPC and sentenced accordingly.** The Applications, if pending, are accordingly disposed of.

**(NEENA BANSAL KRISHNA)**  
**JUDGE**

**OCTOBER 30, 2025**

*va*