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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

*Date of Decision: 15<sup>th</sup> January, 2026*

*Uploaded on: 17<sup>th</sup> January, 2026*

+ CRL.A. 1599/2025 & CRL.M.(BAIL) 2317/2025

NARENDER SINGH & ANR.

.....Appellants

Through: Mr. Chatanya Siddharth, Mr.  
Kartikey Chaudhry and Mr. Kartik  
Devansh, Advs.  
(Mb. 9810661824)

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Ritesh Kumar Bahri, APP  
with Ms. Vibha & Mr. Lalit Luthra,  
Advs.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUSTICE MADHU JAIN**

### **JUDGMENT**

**Prathiba M. Singh, J.**

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed by the Appellants - Narender Singh *i.e.*, Appellant No.1 and Balender Singh *i.e.*, Appellant No.2 under Section 415 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter, 'BNSS') challenging final judgement and order of conviction dated 2<sup>nd</sup> September, 2025 (hereinafter, '*impugned judgment*') and order on sentence dated 16<sup>th</sup> September, 2025 passed by the Id. Additional Sessions Judge-04, North East District, Karkardooma Courts, Delhi in *Sessions Case No. 44867/2015*.



3. *Vide* the impugned judgment, the Appellants have been convicted for offences under Section 302/34 of the Indian Penal Code, 1860 (hereinafter, 'IPC')
4. The incident leading to the registration of **FIR No.236/2012** dated 10th September, 2012 registered at P.S. New Usmanpur is that on 10<sup>th</sup> September, 2012 at around 5:00 PM, the Appellant No.1 -Narender Singh, who was holding a meat cutting weapon *i.e., chhura* went to sharpen the same in front of the shop of deceased person namely, Mr. Harbans where there was a meat cutting knife sharpening stone.
5. The deceased had raised some objection to the use of the said stone by the Appellant No. 1-Narender Singh, which led to dispute between them and a scuffle. The allegation against the Appellant No.2- Mr. Balender Singh *i.e.*, the father of Narender Singh was that he exhorted Appellant No.1 to kill the deceased person. One stab wound was inflicted upon the deceased using the meat cutting weapon *i.e., chhura*, who passed away after five days due to septicemic shock in the GTB Hospital.
6. After registration of the FIR, charges were framed against the Appellants *vide* order on charge on 31st January, 2013 in the following terms:

*"1. J.R. Aryan, District Judge-cum-Sessions Judge, Incharge-NE District, Karkardooma Courts, Delhi, do hereby charge you 1) Narender Singh S/o Balender Singh & 2) Balender Singh S/o Mam Chand as follows:-*

*That on 10.09.2012 at around 5.00 pm in front of house no.87, gali no.2, first pusta, Usmanpur, Delhi, you both in prosecution of common intention committed murder by intentionally causing death*



*of Harbans wherein you accused Balender caught hold of Harbans and you accused Narender inflicted a churra (meat cutting knife weapon) stab injury in the abdomen of Harbans and you both thereby committed offences punishable under Sections 302/34 IPC, and within my cognizance.*

*And do hereby direct that you both accused be tried by me for the aforesaid charge”*

7. Both the Appellants had pleaded not guilty before the Id. District Judge. Thereafter, evidence was led by the prosecution of several witnesses including eye-witnesses being PW-2- Mr. Jitender, PW-3-Mr. Murari and PW-4- Mr. Sanjay. The concerned police constable and authorities were also summoned and their statements were also recorded as PW-1-HC Mukesh Kumar, PW-5-HC Shri Pal, PW-7-SI Mukesh Jain, PW9-SI Prem Singh, PW-10-ASI Balender Singh, PW-11-Ct. Mahesh Kumar, PW-12-HC Raj Kumar, PW-13-Ct. Azad Singh, PW-14-Ct. Mukesh, PW-15-Ct. Ram Naresh, PW-16-HC Satender, PW-17-Ct. Balbir Singh, PW-18-Ct. Devender, PW-19-Ct. Rinku, PW-20-Inspector Arjun& PW-21-SI Vishwender.

8. PW-8-Dr. Anil Singh, who was a Junior Resident at the GTB Hospital and who had conducted the medical examination of the deceased person, was also examined along with PW-22 and PW-23 namely Dr. Rahul Moreshwar Ambulkar and Dr. B. K. Jain respectively. PW-22 had conducted the postmortem of the deceased person and PW-23 was the Director Professor of Surgery and Head of Department at the GTB Hospital.

9. The defence led the evidence of two witnesses *i.e.*, DW-1 Mr.Om Prakash and DW-2-Appellant No.1 *i.e.*, Narender Singh who examined



himself as a defence witness.

10. The Trial Court relied upon the testimony of the eye-witnesses and came to the conclusion that PW-2 had given a very consistent statement, which is also corroborated by the contemporary circumstances. The Trial Court also holds that the statement of PW-2 is fully supported by the statement of PW-10-ASI Balender Singh as also by the Medico-Legal Case (hereinafter, 'MLC') i.e., Ex PW 8/A. The Trial Court has also analysed the statements of the doctors, who had prepared the MLC and had conducted the postmortem of the deceased and came to the conclusion that there is no difference in the versions given by the doctors in respect of the stab, wound, etc.

11. In addition, the Trial Court also considered that all the three eye-witnesses namely PW-2, PW-3 and PW-4, did not have any history of enmity with the Appellants and they were living in the same locality in adjacent houses and, therefore, their testimony cannot be visited with any suspicion. All three witnesses are close relatives of the deceased person and therefore, their testimony, being eye witnesses, was fully reliable.

12. On the strength of the said depositions, the Trial Court convicted the Appellants under Sections 302/34 of the IPC and final sentence was awarded in the following terms *vide* order on sentence dated 16<sup>th</sup> September, 2025:

*“8. Vide judgment dated 02-09-2025, this court has convicted both the accused Narender and Balender for the offence punishable u/s 302/34 of IPC for having committed the murder of one Harbans. The convicts have family to look after. No adverse report has been received from the jail authorities regarding their conduct in the jail. No*



*previous conviction report about their involvement has been received. Therefore, in the opinion of this court, the present case does not fall in the category of rarest of rare case*

*9. Keeping in view the above-mentioned facts and circumstances, both the convicts namely Balender and Narender are hereby sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs. 40,000/- each for the offence punishable u/s 302134 of IPC. In default of payment of fine amount, the convicts shall undergo further simple imprisonment for a period of three months. Fine not deposited on behalf of convicts.*

*10. Out of the entire fine amount, Rs. 60,000/- shall be given to the LRs of the deceased as compensation and Rs. 20,000/- shall be given to the State, as and when same is deposited*

*11. In view of inadequate paying capacity of convicts, it is hereby recommended that LRs of deceased Harbans may receive further compensation from the office of DLSA, North-East, KKD under the Delhi Victim Compensation Scheme.”*

13. As can be seen from the above order, the Appellants have been sentenced to rigorous imprisonment for life along with fine. Some compensation has also been awarded to the legal heirs of the deceased person. Further compensation was to be determined by the Delhi State Legal Services Authority, North-East, Karkardooma.

14. Today Id. Counsel for the Appellants has taken the Court through the testimonies of the PW-2, PW-3 and PW-4 and has submitted that all three



eye-witnesses have confirmed the events which have taken place, however, it is the submission on behalf of the Appellants that the same would show that there was no pre-meditated intention of the Appellants to cause the death of the deceased person.

15. Ld. Counsel for the Appellants submits that it was due to the provocation caused by the deceased person that the scuffle appears to have taken place leading to his death. Further, ld. Counsel submits that there was only one stab wound, which also establishes that there was no intention to cause death of the deceased person.

16. On behalf of the prosecution, it is submitted by Mr. Bahri, ld. APP that the weapon used by the Appellant No. 1 was a dangerous weapon being a meat cutting knife and that the recovery of the same was made at the instance of the Appellant No. 2-Balender *i.e.*, father of the Appellant No. 1. Ld. APP further submits that even if it is one stab wound inflicted by the Appellant No.1 on the deceased person, the same was on a vital part of the body. Mr. Bahri submits that the knife was also recovered at the instance of the accused. According to ld. APP, all these facts prove the common intention between the Appellants to cause death of the deceased person. Ld. APP submits that in fact, Appellant No.2 exhorted the Appellant No.1 to commit the crime. Finally, ld. APP submits that the testimony of all three eye-witnesses is supporting each other and corroborating each other and there is no inconsistency whatsoever.

17. Mr. Bahri, ld. APP has placed reliance on the decision of the Supreme Court in *Virsa Singh v. The State of Punjab 1958 AIR 465* to argue that all the necessary ingredients under Section 300, IPC, *i.e.* the intention to inflict the injury that is found to be present and the injury being sufficient in the



ordinary course of nature to cause death, were fulfilled in facts of the present case.

18. The Court has considered the matter. The deposition of all three eye-witnesses *i.e.*, PW-2, PW-3 and PW-4 is crucial. Accordingly the relevant portions of the said statements are extracted below:

**PW-2 -Jitender**

*"I reside on the above stated address and I work as a private employee with MCD. Incident is of 10.09.2012. It was around 5pm that I was present in the gali of my house. Accused Narender present in court in this case (correctly identified) resides in our gali and he runs a meat shop in the same gali. I saw accused Narender holding a meat cutting weapon chura and proceeded towards the meat shop of my relative Harbans and there is a meat shop in the house of Harbans. Narender started sharpening the chura on the stone which was there in the meat shop in the house of Harbans and that stone was just outside that shop. On that issue of weapon sharpening on that stone earlier also there had been exchange of words between Narender and Harbans. On the date of incident Harbans was present in his shop. Harbans objected to Narender sharpening his chura on the stone, Narender started calling abuses to Harbans. Meanwhile Balender, accused today present in court who is the father of accused Narender also arrived on the spot and Balender caught hold of Harbans from his back side and gave an exhortation "aaj iska kaam tamam karke roj roj ka jhanjath khamtam karde". I tried to intervene and then Narender gave me a push and I fell on the ground. Narende with an intention to kill Harbans caused Injury by chura as a stab in the abdomen of Harbans. On hearing the noise persons from neighbourhood collected. Both*



*accused tried to run away. Narender was caught by the public persons but Balender succeeded to run away. I alongwith Murari and Sanjay lifted Harbans and took him to GTB hospital.”*

**PW-3 -Murari**

*“I am employed with MCD. Deceased Harbans was my brother and he was residing in my adjoining house 487. Incident is of 10.09.2012 and it was around 5pm. I am employed with MOD. Deceased Harbans was my brother and he was residing in my adjoining house A87. Incident is of 10.09.2012 and it was around 5pm. I was sitting under a tree which was around 5 to 10 paces from my house and there was no electricity in the area at that point of time. I saw an exchange of words between Narender and Harbans over the issue of sharpening of knife on the stone which was there just outside the shop of Harbans and I identify accused Narender today in court ( correctly identified ). Meanwhile Balender accused today present in court ( correctly identified ) arrived and caught hold of Harbans from his back side. Accused Narender then with an intention to kill Harbans gave a stab blow by that weapon chura which he was holding in the abdomen of Harbans. Narender and Balender then tried to run away but Narender was caught hold by public persons and Balender succeeded in running away from the spot. Myself, Sanjay and Jitender then took Harbans to GTB hospital and he was got admitted there. Police arrived there and inquired facts from us and statement of Jitender was recorded. Police then brought me and Sanjay to the spot and there also police inquired facts on the spot and our statement was recorded.”*

**PW-4- Sanjay**





*“I am safai karamchari employed with MCD and deceased Harbans was my cousin. Incident is of 10.09.2012 and it was around 5pm. There was no electricity in the area at that point of time and accordingly I was present in gali and I was sitting under a tree. I saw accused Narender today present in court ( correctly identified ) resident of my locality was indulging in exchange of abuses with my cousin Harbans. There used to be earlier such kind of exchanges on the issue of sharpening of weapon chura on the stone which was there outside the shop of Harbans. Meanwhile Balender accused today present in court (correctly identified) also arrived there and Balender caught hold of Harbans from back side. Narender then with an intention to kill Harbans inflicted stab injury by meat cutting weapon chura in the abdomen of Harbans. Myself and other persons ran towards the scene of the crime. Narender was caught by the public and Balender succeeded to run away. Myself, Murari and Jitender took Harbans to GTB hospital and Harbans was got admitted. After sometime police arrived and police inquired facts from Jitender and recorded his statement. Police then took me and Murari and we reached the place of incident and police inquired facts from us and our statement was recorded by the police. I may not identify weapon chura as in fact I had not seen it from close.”*

19. A perusal of the above extracted testimonies would show that when the Appellant No.1 was sharpening his meat cutting knife using the stone in front of the shop of the deceased person, the deceased picked up a quarrel by using some abusive language which then appears to have led the Appellant No. 2 i.e., the father of the Appellant No. 1 to exhort Appellant No. 1 to stab the deceased person.



20. Moreover, there was only one stab wound in the abdomen of the deceased person and the MLC also proves this fact. The MLC records that there was one wound which is described as under:

*“Incised wound over centre abdomen measuring 3x1 cm, epigastrium region.”*

21. A perusal of the post mortem report also shows that while the alleged history of physical assault is mentioned in the postmortem report, the wound was in fact stitched and the cause of death is mentioned as:

*“Cause of Death: septicemic shock due to intra abdominal infection consequent upon stab injury. Injury no. 1 is sufficient to cause death in ordinary cause of nature”*

22. The MLC and the postmortem report read together would show that the stab wound was in fact surgically dealt with at the hospital, however, the wound had developed infection which then eventually led to the death of the deceased person five days after the incident.

23. In the opinion of the Court, there was no pre-meditated plan of the Appellants to kill the deceased person. The provocation appears to have happened due to some abusive language used by the deceased person against the Appellant No. 1.

24. The present case would, therefore, be one where the evidence would show that it was due to the altercation which took place between the Appellant No.1 and the deceased person that the stabbing occurred. In the opinion of the Court, the same was due to a grave and sudden provocation.

25. The settled position of law, as is clear from the principles highlighted in the judgment of ***PulicherlaNagaraju v. State of A.P. (2006) 11 SCC 444***,



is that the intention of the accused is a pivotal question in deciding whether the case falls under Sections 302, 304 Part I or 304 Part II of IPC. Further, to gather the accused's intention to cause death, a perusal of the following circumstances are essential:

*“29. Therefore, the court should proceed to decide the pivotal question of intention, with care and caution, as that will decide whether the case falls under Section 302 or 304 Part I or 304 Part II. Many petty or insignificant matters — plucking of a fruit, straying of cattle, quarrel of children, utterance of a rude word or even an objectionable glance, may lead to altercations and group clashes culminating in deaths. Usual motives like revenge, greed, jealousy or suspicion may be totally absent in such cases. There may be no intention. There may be no premeditation. In fact, there may not even be criminality. At the other end of the spectrum, there may be cases of murder where the accused attempts to avoid the penalty for murder by attempting to put forth a case that there was no intention to cause death. It is for the courts to ensure that the cases of murder punishable under Section 302, are not converted into offences punishable under Section 304 Part I/II, or cases of culpable homicide not amounting to murder, are treated as murder punishable under Section 302. The intention to cause death can be gathered generally from a combination of a few or several of the following, among other, circumstances: (i) nature of the weapon used; (ii) whether the weapon was carried by the accused or was picked up from the spot; (iii) whether the blow is aimed at a vital part of the body; (iv) the amount of force employed in causing injury; (v) whether the act was in the course of sudden quarrel or sudden fight or free for all fight; (vi) whether the incident*



occurs by chance or whether there was any premeditation; (vii) whether there was any prior enmity or whether the deceased was a stranger; (viii) whether there was any grave and sudden provocation, and if so, the cause for such provocation; (ix) whether it was in the heat of passion; (x) whether the person inflicting the injury has taken undue advantage or has acted in a cruel and unusual manner; (xi) whether the accused dealt a single blow or several blows. The above list of circumstances is, of course, not exhaustive and there may be several other special circumstances with reference to individual cases which may throw light on the question of intention. Be that as it may.”

26. As per the judgment discussed above if there is no premeditation, the case would get covered under Exception 4 of Section 300 IPC. This position of law is further reiterated in a judgment of the Supreme Court in ***Ankush Shivaji Gaikwad v. State of Maharashtra, (2013) 6 SCC 770***, wherein the death was caused by an iron pipe due to exchange of hot words in a heated situation. The Supreme Court in the said judgment held that whenever there is a sudden fight without premeditation, it cannot be held to be an offence under Section 302. The relevant portion of the judgment has been extracted below:

*“3. The prosecution story is that the appellant, Ankush Shivaji Gaikwad accompanied by Madhav Shivaji Gaikwad (Accused 2) and Shivaji Bhivaji Gaikwad (Accused 3) were walking past the field of the deceased when a dog owned by the deceased started barking at them. Angered by the barking of the animal, the appellant is alleged to have hit the dog with the iron pipe that he was carrying in his*



hand. The deceased objected to the appellant beating the dog, whereupon the appellant started abusing the former and told him to keep quiet or else he too would be beaten like a dog. The exchange of hot words, it appears, led to a scuffle between the deceased and the accused persons in the course whereof, while Accused 2 and 3 beat the deceased with fist and kicks, the appellant hit the deceased with the iron pipe on the head.

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11. It was argued that the incident in question took place on a sudden fight without any premeditation and the act of the appellant hitting the deceased was committed in the heat of passion upon a sudden quarrel without the appellant having taken undue advantage or acting in a cruel or unusual manner. There is, in our opinion, considerable merit in that contention. We say so for three distinct reasons:

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27. Coming back to the case at hand, we are of the opinion that the nature of the simple injury inflicted by the accused, the part of the body on which it was inflicted, the weapon used to inflict the same and the circumstances in which the injury was inflicted do not suggest that the appellant had the intention to kill the deceased. All that can be said is that the appellant had the knowledge that the injury inflicted by him was likely to cause the death of the deceased. The case would, therefore, more appropriately fall under Section 304 Part II IPC.

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68. In the result, we allow this appeal but only to the extent that instead of Section 302 IPC the appellant shall stand convicted for the offence of culpable homicide not amounting to murder punishable under Section 304 Part II IPC and



*sentenced to undergo rigorous imprisonment for a period of five years. The fine imposed upon the appellant and the default sentence awarded to him shall remain unaltered. The appeal is disposed of in the above terms in modification of the order passed by the courts below. A copy of this order be forwarded to the Registrars General of the High Courts in the country for circulation among the Judges handling criminal trials and hearing appeals.*

27. A similar situation was examined by the Supreme Court in ***Khuman Singh v. State of M.P., (2020) 18 SCC 763***, where a sudden quarrel over a trivial issue led to a fatal injury. In that context, the Supreme Court observed:

*8. The question falling for consideration is whether the appellant-accused intentionally caused the death of deceased Veer Singh? The entire incident occurred when the appellant had taken his buffaloes for grazing in the field of the deceased for which the deceased objected and drove all the buffaloes out of his field. It is in these circumstances, the appellant became furious and abused the deceased and caused injuries on his head in a sudden fight with axe. There was no premeditation for the occurrence and because of the grazing of the cattle, in a sudden fight, the occurrence had taken place.*

*9. The question to be considered is whether the act of the appellant-accused would fall under Exception 4 to Section 300 IPC? Exception 4 to Section 300 IPC can be invoked if death is caused : (a) without premeditation; (b) in a sudden fight; (c) without the offender having taken undue advantage or acted in a cruel or unusual manner; and (d) the fight must have been with the person*



**killed. In the present case, the appellant-accused and the deceased exchanged wordy abuses on which, the appellant gave the deceased blows on his head causing six head injuries. Where the occurrence took place suddenly and there was no premeditation on the part of the accused, it falls under Exception 4 to Section 300 IPC.**

**10. As discussed earlier, the entire incident was in a sudden fight in which the appellant-accused caused head injuries on the deceased with an axe. There was no prior deliberation or determination to fight. The sudden quarrel arose between the parties due to trivial issue of grazing the buffaloes of the appellant for which, the deceased raised objection. In a sudden fight, the appellant had inflicted blows on the head of the deceased with an axe which caused six head injuries. Though the weapon used by the appellant was axe and the injuries were inflicted on the vital part of the body viz. head, knowledge is attributable to the appellant-accused that the injuries are likely to cause death. Considering the fact that the occurrence was in a sudden fight, in our view, the occurrence would fall under Exception 4 to Section 300 IPC. The conviction of the appellant-accused under Section 302 IPC is therefore to be modified as conviction under Section 304 Part II IPC.**

28. In view of the above discussion, since there was no pre-meditation to cause death of the deceased person and considering the evidence in this matter as also the cause of death in the postmortem report and there being only one stab wound, this Court is of the opinion that in the facts of the present case, while the Appellants are guilty of causing death of the



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deceased person, the same would constitute culpable homicide not amounting to murder.

29. Accordingly, the conviction of the Appellants is converted to Section 304 Part II of the IPC and the sentence of the Appellant No. 1 is reduced to 7 (seven) years and the sentence of the Appellant No. 2 is reduced to 5 (five) years.

30. The Appellants shall serve the remainder of the sentences awarded today as per law.

31. The Appeals are disposed of in the above terms. Pending applications, if any, are also disposed of.

32. A copy of this order be sent to the concerned Jail Superintendent by the Registry.

**PRATHIBA M. SINGH**  
**JUDGE**

**MADHU JAIN**  
**JUDGE**

**JANUARY 15, 2026**  
*dk/b/ck*