



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

% Reserved on : 05.08.2025
Pronounced on : 11.08.2025

+ **CRL.A. 181/2024**

KUNAL @ AKHTAR ALIAppellant
Through: Ms. Jahanvi Worah, Advocate
versus

STATE (GNCT) OF DELHIRespondent
Through: Mr. Pradeep Gahalot, APP for State

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. The present appeal filed under Section 374(2) r/w Section 383 Cr.P.C., has been instituted seeking to assail judgment dated 09.10.2023 and order of sentence dated 05.12.2023 in Sessions Case No. 176/2022 arising out of FIR No. 862/2021 registered under Sections 394/411 IPC at P.S. Ranhola, Delhi.

The Trial Court convicted the appellant under Section 394 IPC r/w Section 397 IPC and 25 of the Arms Act and sentenced to undergo RI for 7 years with fine of Rs.15,000/-, which was directed to be paid as compensation as Rs. 5,000/- each to all the three victims and in default of payment of fine to further undergo SI for 2 months; for the conviction under Section 25 (1B)(b) of Arms Act, he was further sentenced to undergo RI for 2 years with fine of Rs.5,000/- and in default of payment of fine to further undergo SI for 2 months. All the sentences were directed to be run



concurrently. The benefit of Section 428 CrPC was also given to the appellant.

2. The brief facts of the case are that in the intervening night of 07-08.12.2021, DD No. 9A came to be recorded with the information that a thief has been apprehended and knife injuries have been inflicted. SI *Rahul*, the Investigation Officer (IO) along with HC *Manoj* visited the spot where they met *Mehboob Khan*, the complainant who handed over the appellant as well as the knife used in the commission of offence to the police who took them into custody. The complainant informed that he was robbed of Rs.200/- by the appellant at knife point. The money was also recovered from the right side pocket of the pant worn by the appellant. The complainant informed that his two sons namely *Irfan Khan* and *Adil Khan* were also injured and taken to DDU Hospital for medical examination. During the investigation, MLCs of the two injured persons were obtained and charge-sheet came to be filed under Sections 394/397/411 IPC Charges were framed under Sections 394/397/411 IPC and Sections 25/27 of the Arms Act.

3. During the trial, the prosecution examined total 7 witnesses including the complainant as PW1 and his two sons *Irfan Khan* and *Adil Khan* as PW2 and PW3 respectively. Further, the MLC of the injured were proved through Dr. *Himanshu Pandey* and Dr. *Manoj Bairwa*, who were examined as PW4 and PW5 respectively. As noted above, SI *Rahul*, the IO and HC *Manoj* were examined as PW7 and PW6 respectively.

4. Learned counsel for the appellant, while assailing the impugned judgment, contended that though the complainant asserted that at the time of the incident, his wife, daughter-in-law and grandson were also present however, neither their statements were recorded nor they were cited as



prosecution witnesses. It is next contended that though it has come in the statement of SI Rahul, the I.O. that the accused was also taken to the hospital for medical examination, however, his MLC was never collected and produced on record. Lastly, it is contended that it has not been established on record that the injuries suffered by the injured were caused by the knife.

5. The above contentions have been refuted by the Id. APP for the State who submits that the testimony of the complainant and the two injured are consistent, credible and reliable. He further submits that though appellant's sentence was suspended by this Court vide order dated 29.04.2024, however, he has remained incarcerated on account of him also being involved in another case being FIR No. 541/2018 registered under Section 302 IPC at P.S. Ranhola , Delhi and stated to be in judicial custody in the said case.

6. I have heard learned counsels for the parties and perused the Trial Court Record.

7. The complainant (PW1), during his testimony, deposed that on the intervening night of 07-08.12.2021, while he was sleeping outside his house, at about 2.30 am, one person came to him and after showing knife to him, asked the complainant to handover whatever he had. On this, the complainant handed over Rs.200/- which was with him. The appellant thereafter asked the complainant to open the gate of his house and when complainant's son *Adil*, on hearing the noise came out, the appellant tried to run away. In the meantime, complainant's other son *Irfan* also came out. When the complainant and his sons tried to take away the knife from the hands of the appellant, both *Adil* and *Irfan* sustained injuries on their hands.



Eventually, *Adil* managed to snatch the knife and the appellant was apprehended. The Police was called and both the appellant as well as the knife were handed over. The complainant identified the appellant as well as the knife (Ex.P1) and further identified his signatures on the seizure memo of knife (Ex. PW-1/B). The robbed articles i.e. 2 currency notes of denomination of Rs.100/- each were also identified and were exhibited as Ex.P2 (Colly).

In cross-examination, the complainant stated that he used spectacles since last 2-3 years for long as well as short distance. He further stated that there was an electric pole right outside his house. He stated that his wife, daughter-in-law and his grandson were also present in the house at the time of incident. He denied the suggestion that nothing was recovered from the possession of the appellant or that the alleged recovery was planted.

8. Complainant's son *Irfan Khan* was examined as PW2. He deposed that his father used to ply battery *Rickshaw* which he used to park outside the house and also used to sleep there. On the night of the incident at about 3.30 am, he heard the alarm raised by his father and as the door of the house was opened, he saw that his brother *Adil* had apprehended the appellant. The appellant had inflicted injuries on the hand of his brother and when he tried to apprehend the appellant, he also sustained injuries on his right hand ring finger. His brother had sustained injuries on 3 fingers of one hand and one finger on the another. The knife was snatched from the appellant and police call was made. He identified the appellant as well as the knife.

In cross-examination, he admitted that when he came out, his brother had already apprehended the appellant. He denied the suggestion that no such incident had taken place or that no recovery was affected from the



appellant.

9. To the similar extent is the testimony of complainant's other son i.e. *Adil Khan*, examined as PW3. The witness deposed that he was sleeping inside the house and on hearing the noise of his parents, he went downstairs near the door which was locked. His father opened the door and he saw the appellant standing besides his father, holding a knife. Upon seeing him, the appellant tried to escape. While they were trying to apprehend him, the appellant inflicted injuries on fingers of both his hands with the knife. In the meantime, his brother *Irfan* came and also suffered knife injuries when he tried to intervene. The witness categorically stated that injuries were suffered in the middle finger on the right hand and three fingers on the left hand. He identified the appellant as well as the knife. Though suggestion of false implication was given, however, the same was denied.

10. Dr. Himanshu Pandey, Sr. Resident, Ortho Department, DDU, Hospital appeared as PW4. He proved the MLC of *Adil Khan* and stated that the MLC was prepared by Dr. *Akshay Bhardwaj* whose signature he could identify, having worked with him and seeing him signing and writing in the course of his duty. In the MLC, it was recorded that patient had suffered CLW over left distal phalanx of left hand (middle ring and little finger). Tenderness was also noted on the left hand and the wrist. The injuries were opined to be simple. A perusal of the MLC Ex.PW4/A would show that weapon used was opined to be sharp. Dr. Manoj Bairwa, CMO, DDU, Hospital proved the MLC of *Irfan Khan*. He identified the signatures of Dr. Sangeeta, who had prepared the MLC. He stated that *Irfan Khan* was examined under his supervision and the MLC noted superficial abrasion on the right hand ring finger.



11. SI *Rahul*, (PW7) IO of the case stated that he alongwith HC *Manoj*, being entrusted with DD No. 9A, reached the spot i.e. the house of the complainant where the complainant had handed over the appellant, knife as well as robbed sum of Rs.200 which were recovered from the appellant. During his cross-examination, the witness stated that though 4-5 locality persons were present, however, none of them agreed to join the investigation. He denied the suggestion that appellant was falsely implicated and the recoveries were planted upon the appellant.

12. Considering the contentions raised in light of the afore-noted evidence that has come on record, the contention that other house members were not examined is meritless. The testimony of the complainant as well as his two sons is not only consistent as to the role of the appellant but also find corroboration from the MLCs of *Adil* and *Irfan*. The two injured have clearly stated that the injuries were inflicted by the appellant with the knife. The MLC of *Adil Khan* in fact mentions the weapon used to be sharp. As for the other contention that though it has come in the testimony of the I.O. that accused was taken to medical examination, however, no medical record was proved, it is sufficient to note that the same would not further the case of the appellant as the first information about the incident is about the apprehension of appellant and him using the knife for inflicting the injuries. Further, the contention that the medical opinion is silent that the injuries were inflicted with same knife, also pale into insignificance for the consistent and reliable testimonies of the complainant as well as the two injured. The appellant was caught at the spot and further failed to establish or lead any defence as to why he would falsely implicated.

13. In view of the afore-noted reasons, the appeal is dismissed and



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impugned judgment as well as conviction of the appellant are upheld. The appellant's bail bonds are cancelled and he is directed to surrender immediately before the concerned Jail Superintendent.

14. Copy of the judgment be communicated to the Trial Court, as well as concerned Jail Superintendent for information and necessary compliance.

MANOJ KUMAR OHRI
(JUDGE)

AUGUST 11, 2025
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