



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

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Reserved on: 04.11.2025

Pronounced on: 07.11.2025

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CRL.A.188/2016

SHIV KUMAR @ BHAGGUAppellant

Through: Mr. Saurabh Kansal, Advocate

versus

STATERespondent

Through: Mr. Pradeep Gahalot, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT

1. Aggrieved by the judgment of conviction and order on sentence dated 02.04.2012 passed by the learned ASJ-Special Judge (NDPS), West Delhi in Sessions Case No.69/10, the appellant has challenged the same by filing the present appeal. The appellant was convicted and sentenced to undergo R.I. for 3 months under Section 186 IPC & a fine of Rs. 200/- and in default of payment of fine, further S.I. of 3 days; R.I. for 2 years under Section 353 IPC & a fine of Rs. 500/- and in default of payment of fine, further S.I. of 7 days; R.I. for 5 years under Section 326 IPC & a fine of Rs. 1,000/- and in default of payment of fine, further S.I. of 15 days; and R.I for 5 years under Section 333 IPC & a fine of Rs.1,000/- and in default of payment of fine, further S.I. of 15 days.
2. Notably, as per the nominal roll placed on record, the appellant, on completion of substantive and default sentence, was released on 19.11.2016.



3. Learned APP for the State has submitted that despite efforts made, the appellant has remained untraceable. In view thereof, the Court has proceeded to hear the submissions on merits.

4. The factual background, as borne out from the record, is that the present FIR i.e., FIR No.395/10 came to be registered on 05.10.2010 on the complaint of one Dr. *Ganesh Adhikari*, who stated that on the night of 04.10.2010, he was examining patients in the casualty room of the DDU Hospital. There was a heavy rush of patients and 3 DAP personnel had brought jail inmates under judicial custody for medical examination from Tihar Jail. Dr *Raghuraj Singh Yadav* was examining the appellant when the latter, all of sudden, took out a surgical blade from his pocket and attacked Dr Yadav on his neck, however, Dr Yadav somehow avoided the blow on neck, but the same landed on the right side of his cheek and a clean incise wound (CIW) 10 cm long and 2 cm wide muscle deep, just above mandible line was inflicted on his face. The blood stained weapon of offence was also seized vide seizure memo, which was exhibited as Ex.PW-17/A. Permission under section 195 Cr.P.C. was obtained from Medical Superintendent DDU Hospital and later, charge was framed under Sections 186/353/326/333 IPC.

5. In the instant case, there are four sets of witnesses, 23 in total. The first set of witnesses are material in nature. They are PW-1 Dr. *Raghu Raj Singh*, the injured, PW-2 Dr. *Sajid*, the eye witness, PW-10 Constable *Budh Ram*, PW-11 Head Constable *Ramesh Kumar*, PW-16 Sub Inspector *Mangej Singh* and PW-20 Dr. *Rajiv Tyagi*, who were all eyewitnesses, in addition to PW-13 Dr. *Ganesh Adhikari*, the complainant /eye witness.

6. The second set of witnesses are in respect of the medical evidence as well as duty roster etc. They are PW-4 Dr. *Dhananjay Kumar*, PW-5 Dr.



Anurag Jain, the Plastic Surgeon. PW-9 Dr. *Ram Rattan Rathi*, PW-12 Sh. *Deshraj*, PW-14 Constable *Ratipal*, PW-18 Dr. *Jilay Dar*, PW-19 Dr. *Y.R. Handoo*, PW-21 Head Constable *Giriraj*, PW-22 Constable *Gopal Singh* and PW-23 Dr. *J.P. Singh*. The third set of witnesses are formal in nature and to the record. They are PW-3 Head Constable *Balmiki Mishra*, PW-6 Head Constable *Mukesh Kumar*, PW-7 Head Constable *Krishan Pal*, PW-8 Woman/Constable *Ritu*, and PW-15 Constable *Narender Kumar*. The fourth set of witnesses are in respect of investigation. Assistant Sub Inspector *Prehlad Singh*, the Investigating Officer was examined as PW-17.

7. In his deposition, the injured, Dr *Raghuraj Singh Yadav* (PW-1) testified that on 04.10.2010, he was on duty in Casualty and his working hours were 9.00 PM to 9.00 AM on that date. On that night, at about 12.25 AM, the appellant was brought for his medical check up from the Central Jail as he was injured. The witness further deposed that he was occupied in examining the other patients. He was asked to take the blood pressure of the appellant. When he went there, all of sudden, the appellant had suddenly taken out a surgical blade from his pocket and gave a blow with the same on his right side of cheek. He became drowsy due to blood oozing from the wound. He informed PW2, who was the senior doctor. Police officials reached there on raising alarm and the blade was snatched from hands of the appellant.

In his cross-examination, he denied the suggestion that the accused had not assaulted him. He also denied the suggestion that the accused was not carrying any surgical blade. He did not remember who snatched the weapon from the appellant. The suggestion was given that the appellant was of unsound mind, which also came to be denied.



8. Dr Sajid (PW-2) in his testimony stated that at the time of incident, he was examining the patients when PW-1/Dr Yadav informed that he was attacked on his face with surgical blade by the appellant.

In cross-examination, a suggestion was given to the effect that the appellant was not carrying any blade, which was denied. Further suggestion that the appellant was medically treated because of his unsound mind was also denied for want of knowledge.

9. Dr Anurag Jain (PW-5) in his testimony stated that after examining the application moved by the IO, he opined the nature of injury on the face of PW1 as grievous. His opinion was exhibited as Ex. PW3/A.

10. Constable *Budh Ram* (PW-10) deposed that on 04.10.2010, he was posted as constable in Central Jail, Hari Nagar, III Battalion from 8.00 PM to 8.00 AM and that he received information at 12.05 am that a quarrel was going on between Jail inmates in Jail No.8 and he along with HC *Ramesh*, SI *Mangesh* reached in Jail No.8 where he found that the appellant was injured in a quarrel and he was taken to DDU Hospital for treatment. While identifying the appellant, he stated that while Dr Yadav was busy attending other patients, the appellant, all of sudden, gave a blow on Dr Yadav's face by surgical blade by saying that the doctor was not doing the proper treatment of poor persons. In cross-examination, he denied the suggestion that no surgical blow was used or snatched from the hands of the accused nor he had attacked on any doctor.

To the similar effect is the testimony of other doctors.

11. Dr *Ram Rattan Rathi* (PW-9) proved the referral slip of the appellant for his treatment at DDU Hospital as Ex. PW9/A.



12. Mr. Saurabh Kansal, learned counsel for the appellant, contended that the case of the prosecution is doubtful as it has not come on record as to who has seized the surgical blade from the appellant's hand. It was next contended, while referring to the testimony of PW-9, that the Trial Court failed to appreciate that the appellant was of unsound mind and had undergone treatment for the same.

13. Learned APP has disputed the contentions of Mr Kansal. It was contended that the blood stained surgical blade was seized and the same was shown to PW20 Dr. *Rajiv Tyagi* who was an eyewitness and he identified the blade to be the same one with which injury was caused to PW1. The appellant was correctly identified by the injured. He further submitted that though the appellant has taken the ground of being of unsound mind, however, even a perusal of the testimony of PW-9 shows that it was only later that the appellant was referred to IHBAS Hospital. In this regard, learned APP invited the attention of the court to the medical status report dated 12.01.2011 available on the trial court record.

14. The prosecution has cited four sets of witnesses to prove its case. The injury on Dr Yadav (PW-1) was proved through the testimony of the injured, who while identifying the appellant, categorically ascribed him with the role of hitting him with a surgical blade on the right side of his face. The injury has been opined to be grievous. The appellants' presence at the spot was proved through testimony of constable *Budh Ram* (PW-10), Head Constable *Ramesh Kumar* (PW-11) and Sub Inspector *Mangej Singh* (PW-16). Nothing has been brought to the attention of this court as to if the appellant was undergoing any treatment for his unsound mind at any mental hospital



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at the time of the incident. Even subsequent documents would only show that he has been treated only for a brief period.

15. On an overall view of the facts and circumstances, no ground is made out to interfere with the impugned judgement. Consequently, the appeal is dismissed.

16. A copy of this judgment be sent to the Trial Court.

MANOJ KUMAR OHRI
(JUDGE)

NOVEMBER 07, 2025/pmc