



2026:DHC:5396



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

% *Judgment reserved on: 03.07.2026*
Judgment pronounced on: 07.07.2026

+ **CRL.A. 853/2016**
STATE

.....Appellant

Through: Mr. Utkarsh, APP for the State with
SI Vijay Kumar, P.S. Kalkaji.

versus

BANSILAL & ORS

.....Respondents

Through: Ms. Riddhima Aggarwal, Advocate
(Amicus Curaie).

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. This appeal filed under Section 378 of the Code of Criminal Procedure, 1973 (Cr.P.C.), by the State, the respondent in Sessions Case No. 237/2013, on the file of the Additional Sessions Judge-05, South East District, Saket, New Delhi, assails the judgment dated 11.11.2015 as per which the four accused persons (A1 to A4) have been acquitted of the offence punishable under Section 308 read with 34 of the Indian Penal Code, 1860 (IPC).

2. The prosecution case is that on 25.02.2007 at about 08:22



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p.m., near Nehru Place Bus terminal, New Delhi, the four accused persons, in furtherance of their common intention, attacked PW3 with such intention or knowledge and under such circumstances, that if by that act they would have caused his death, they would have been guilty of culpable homicide not amounting to murder. Hence, as per the final report, the accused are alleged to have committed the offence punishable under Sections 308, 506 read with Section 34 IPC.

3. On the basis of Ext. PW3/A FIS/FIR of PW3 given on 25.02.2007, Crime No. 163 of 2007, Kalkaji Police Station, that is, Ext. PW4/B FIR was registered by PW4, Head Constable. PW11, Assistant Sub Inspector, conducted investigation into the crime and on completion of the same, filed the charge-sheet/final report alleging commission of the offences punishable under the aforesaid Sections.

4. When all the four accused persons (A1 to A4) were



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produced before the trial court, the copies of the prosecution records were furnished to them as contemplated under Section 207 Cr.P.C. *Vide* order dated 09.05.2007, the matter was committed under Section 209 Cr.P.C. to the Sessions Court concerned for trial.

5. On appearance of A1 to A4 and after hearing both sides, the trial court, as per order dated 08.12.2007, framed a Charge under Section 308 read with Section 34 IPC, which was read over and explained to A1 to A4, to which they pleaded not guilty.

6. On behalf of the prosecution, PWs. 1 to 12 were examined and Exts. PW1/A-C, PW2/A-E, PW 3/A-D, PW4/A-B, PW5/A, PW 6/A-C, PW8/A, PW9/A-B, PW9/B1-B3, PW9/PX, PW10/A,PW10/X, PW11/B-C,PW11/X1, Mark A, Mark B, Mark X, Mark Y, Mark XX, Mark YY and Mark Z were marked.

7. After the close of the prosecution evidence, A1 to A4 were questioned under Section 313(1)(b) Cr.P.C. regarding the



incriminating circumstances appearing against them in the evidence led by the prosecution. They denied all those circumstances and maintained their innocence. They submitted that they have been falsely implicated in the present case. A4 also submitted that his bus was parked at the Nehru Place terminal alongside PW3's bus and that a quarrel had taken place there, in which none of the accused persons were involved. However, the people involved in the quarrel broke the windows of his bus.

8. After questioning A1 to A4 under Section 313(1)(b) Cr.P.C., compliance of Section 232 Cr.P.C. was mandatory. In the case on hand, no hearing as contemplated under Section 232 Cr.P.C. is seen to have been done by the trial court. However, non-compliance of the said provision does not *ipso facto* vitiate the proceedings, unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused. (See **Moidu K. vs. State of Kerala, 2009 (3) KHC 89 : 2009**)



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SCC OnLine Ker 2888). Here, A1 to A4 have no case that non-compliance of Section 232 Cr.P.C has caused any prejudice to them.

9. No oral or documentary evidence was adduced by A1 to A4 in support of their case.

10. Upon consideration of the oral and documentary evidence and after hearing both sides, the trial court, *vide* the impugned judgment dated 11.11.2014, acquitted A1 to A4 under Section 235(1) Cr.P.C. of the offence punishable under Section 308 IPC read with 34 IPC. Aggrieved, the State has preferred this appeal.

11. During the pendency of this appeal, on 19.12.2025, it was submitted by respondent nos. 2 to 4/ A2 to 4, that respondent no. 1/A1 was no more, which fact was verified by the SHO concerned. Hence, the appeal against respondent no.1/A1 stands abated.

12. It was submitted by the learned Additional Public Prosecutor that the impugned judgment is contrary to the facts and



circumstances of the case, is bad in law as the trial court has failed to appreciate the materials on record and, therefore, liable to be set aside.

13. It was submitted by the learned counsel for respondents/A2 to A4 that there is no infirmity in the judgment calling for an interference by this Court.

14. Heard both sides and perused the materials on record.

15. The only point that arises for consideration in this appeal is whether there is any infirmity in the impugned judgment calling for an interference by this Court.

16. I will first briefly refer to the oral and documentary evidence relied on by the prosecution in support of the case. Ext. PW3/A, the FIS/FIR of PW3, the informant/injured, recorded on the date of the incident, i.e., 13.11.2012, reads thus: *“I own an R.T.V. bus, which operates on the route between Malviya Mandir to Nehru Place. On this same route, bus no. DL-1PB-4527 and*



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DL-1PB-4575 operate in Route No. 764. The driver of the first bus is Banshi Lal (A1) S/o Ram Singh, whom I know from before, and I can also very well recognize the driver and conductor of the second bus. Today, a driver named Bunty (PW1) was driving my R.T.V. from Malviya Mandir to Nehru Place. On the way, the driver and conductor of Bus No. DL-1PB-4527 stopped my R.T.V. and made it move behind their bus. My driver informed me about this over the phone. I was waiting for my R.T.V. at the Nehru Place Bus Terminal. When Bus No. DL-1PB-4527 came and stopped at the terminal, the driver and conductor of that bus, upon seeing me, came with an iron rod and a cricket bat, and Banshi Lal (A1), who was already standing there with his bus, also came holding an iron rod. Banshi armed with the iron rod and his conductor armed with a cricket bat approached me. Banshi Lal (A1) hit me on my head with the iron rod. Consequently, I felt dizzy and fell to the ground, after which all of them beat me with the bat and the iron rod. The



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crowd caught Banshi Lal (A1) at the spot, while the others managed to flee. Legal action should be taken against them.”

17. PW3 when examined deposed that he is a transporter, who owns 2 RTVs bearing registration no. DL-1VA-3512 and DL-IV-8595. Bunty (PW1) was the driver, and Upender, the conductor of his vehicle bearing registration no. DL-1VA-3512. The bus bearing registration no. DL-1PB-4527 and No. DL-1PB-4575 were driven by Anand (A2) and Bansi Lal (A1) respectively. On 25.02.2007, at about 07:45 p.m. driver Bunty (PW1) informed him over the phone that Anand (A2) and the conductor of the latter's bus, namely, Sandeep (A3), had beaten him. He advised PW1 not to quarrel and asked the latter to come to Nehru Place Bus Terminal. He reached Nehru Place Bus Terminal and was waiting for his RTV bearing registration no. DL-1VA-3512. In the meantime, bus bearing registration No. DL-1PB-4527 also reached there. Anand (A2) and Sandeep (A3) approached him armed with



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a baseball bat and a rod. When he arrived, bus bearing registration no. DL-1PB-4575 was already stationed there. Bansi Lal (A1), the driver of bus bearing registration no. DL-1PB-4575 was armed with a rod, and Gurmail (A4), the conductor of bus bearing registration no. DL-1PB-4527, was having a baseball bat in his hand. Another person, a relative of the owner of bus bearing registration no. DL-1PB-4527, was also with them at that time. Gurmail (A4), Bansi Lal (A1), Sandeep (A3), and Anand (A2), started beating him with the rod and baseball bat. They also fisted and kicked him. Anand (A2) beat him on his right hand with a baseball bat, and Bansi Lal (A1) hit him on his head with the rod . On sustaining injuries, he became unconscious. His wife (PW7) and his driver Bunty (PW1) arrived at the spot. He regained consciousness in the hospital. Bansi Lal (A1) was apprehended at the spot itself, while the remaining accused fled. The police recorded his Ext. PW3/A statement while he was in the hospital.



On 02.06.2007, he also lodged a complaint against Rajvir @ Sonu, a relative of the owner of bus no. DL-1PB-4527, who had fled after assaulting him. The photocopies of the complaints given by PW3 have been marked as Exts. PW3/B and PW3/C. PW3 also deposed that the parents of A1 to A4 came to his residence and requested him to withdraw the case. Though they pressurised him to compromise the matter, he refused.

17.1. PW3, in his cross-examination admitted that his wife (PW7), a Head Constable, in the Delhi Police, at the time of the incident was posted at the Defence Colony police station. PW3 was unable to say which of the accused persons had first hit him. According to him, all the accused persons had attacked him together. PW3, also deposed that among the assailants, one Sonu and a helper of a bus were also there. Sonu and the said helper had hit him all over his body. He suffered a fracture on his right arm and an injury on his head, for which he received 13 stitches.



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Besides that, he suffered internal injuries all over his body. Except for the fracture of his right arm, he did not sustain any other fracture in the incident. In an earlier incident he had sustained a fracture on his elbow, whereas in the present incident, the fracture was of his right arm. PW3 admitted that prior to the present incident, on his complaint, Crime No. 1000/2004, Kalkaji police station, had been registered. He denied the suggestion that in the said complaint dated 05.11.2004, his case was that he suffered a fracture of his right forearm. He admitted that in the said complaint he had stated that he suffered a fracture of his right elbow. He denied the suggestion that pursuant to the incident in the year 2004, a plate along with screws had been implanted in his right elbow. He never had an occasion to tell the doctor who examined him pursuant to the incident in this case that he had suffered a fracture of his elbow on an earlier occasion since the doctor never asked him. According to PW3, his previous injury to the elbow has



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no connection to the injury caused by the accused persons to his forearm in this case.

18. PW1, Bunty, the driver of PW3, deposed that RTV minibus bearing registration no. DL-1VA-3512 owned by the latter, plies between Nehru Place and Malai Mandir. PW1 initially deposed that there was no conductor deployed on his bus. He thereafter corrected himself and stated that there was a conductor, but he cannot recall his name. On 25.02.2007 while he was on the way from Malai Mandir, he was stopped by the staff of bus bearing registration no. 4527, the other particulars of which he does not know. The said bus also plies in the same route. On that day, Anand (A1), along with four to five other persons, stopped him near Panchsheel and slapped him twice. He informed the matter to Sanjeev Kumar (PW3), the owner of the bus, over telephone, who asked him to reach Nehru Place. When he reached Nehru Place, he found bus no. 4575 already parked there. He was



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following bus no. 4527. At Nehru Place, both buses reached together. Murli Dhar beat Sanjeev Kumar (PW3) on his head with a rod causing injuries. Murli Dhar and the driver continued beating Sanjeev Kumar (PW3) with a rod and a balla (baseball bat). According to PW1, Bansi Lal (A1) had attacked Sanjeev Kumar (PW3) with a rod. PW1 further identified Sandeep (A3), Anand (A2) and Gurmail Singh (A4) and deposed that the latter had attacked Sanjeev Kumar (PW3) with *ballas*. On being asked as to why he had been beaten, PW1 answered that he was coming in the same route and so his assaulters thought that he was taking passengers in the route. On Sanjeev Kumar (PW3) sustaining injuries, someone informed his wife (PW7) over the telephone, who shortly arrived at the spot and took the former to the hospital. The public who had gathered at the scene apprehended Bansi Lal (A1) along with the rod. The remaining three accused persons fled the spot. The incident had taken place on 25.02.2007 at about



08:00 p.m. or 08:30 p.m. PW1 also deposed that the police reached the scene and seized the rod and bat used for the assault and took them to the police station. PW1 identified the rod used for the assault, which, according to him was seized by the police *vide* Ext. PW-1/A seizure memo. Bansi Lal (A1) was arrested in his presence *vide* arrest memo Ext. PW-1/B.

18.1. PW1 in his cross-examination denied the suggestion that the accused persons had been falsely implicated in the present case. According to PW1, the police reached the spot about 30 minutes after the incident. After the incident and before the arrival of the police, Ext. P-1 iron rod remained with Bansi Lal (A1). There was blood on the iron rod when it was seized by the police. PW1 denied the suggestion that Sanjeev Kumar (PW3) was plying RTVs and buses without permit by misusing PW7's influence in Delhi Police. According to PW1, PW7 came to the police post at around 08:00 - 08:30 p.m and at that time all four accused persons



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were present.

19. PW7, wife of PW3, deposed that on 25.02.2007 while she was at her residence, by about 07:45 p.m. to 08:00 p.m., she received a call from her husband, Sanjiv Kumar (PW3), on her mobile phone informing her about a quarrel and asking her to reach the spot immediately. She immediately informed the police and proceeded to the in-gate of Nehru Place Terminal where one blue line bus bearing registration no. DL-1P-4575 was parked. Her husband was also present there. After about 15–20 minutes, another bus bearing registration No. DL-1P-4527 arrived and immediately behind that bus, their RTV minibus bearing No. DL-1VA-3512 also reached. Immediately after bus bearing registration No. DL-1P-4527 was stopped, the driver of the said bus, Anand (A2), came out carrying a baseball bat and the Conductor Sandeep (A3) came out carrying an iron rod. The driver of the bus bearing registration no. DL-1P-4575, namely, Bansi Lal



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(A1) was armed with a thick and long iron rod. Gurmel (A4), the conductor, in the bus of Bansi Lal (A1) was carrying a baseball bat. Another boy, namely, Sonu @ Rajbir, resident of Neelwal Village, Nangloi/Najafgarh, was also present and on his instigation, Bansi Lal (A1) first beat her husband Sanjiv Kumar (PW3) on the head with the iron rod. Sandeep (A2) started beating her husband with a baseball bat, causing injuries on his right arm. When she tried to intervene, she was pushed back by the assaulters of her husband. PW7 thereafter corrected herself and deposed that it was Anand (A2) who was armed with a baseball bat and Sandeep (A3) was armed with an iron rod. Besides the aforesaid drivers and conductors, there were two others, that is, the helpers of the aforesaid two buses, who fisted, kicked and beat her husband. PW7 further deposed that as there was no balance in her mobile phone, she left the scene in search of an STD booth to inform the police. However, when she returned about 05–10 minutes later



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after informing the police, her husband was no longer seen at the spot. Thereafter, when she reached Nehru Place police post, she found her husband lying in a pool of blood at the gate of the police post. He was bleeding profusely and was in a semi-conscious state. By this time their driver Bunty (PW1), along with members of the public, had apprehended Bansi Lal (A1) along with the iron rod. Sub-Inspector Manish, chowki in-charge, present at the police post, despite her request took no action and did not make any arrangements to shift her husband to the hospital. Therefore, she took him to Holy Family Hospital in an auto-rickshaw for treatment. Thereafter, Head Constable Subhash (PW4), came to the hospital and recorded the statement of her husband. However, PW4 did not correctly record the details of the persons whom her husband had named as assailants. About two hours later, on her way home she again went to the Nehru Place police post to ascertain the status of the case. She found all four accused persons,



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along with three other persons whose names had not been recorded by PW4 in the FIR, despite her husband naming them in his statement. Sub-Inspector Manish and Head Constable Subhash were also present. She got annoyed and hence beat Anand (A2) with her chappal. The chowki-in-charge assured her that action would be taken; however, no action was taken. None of the accused persons, except Bansi Lal (A1), who had been apprehended by Bunty (PW1) and the public, were arrested on that day. She had narrated everything to the police, but her complete statement was never recorded.

19.1. PW7 in her cross-examination admitted that her husband (PW3) had suffered a fracture of his right elbow, for which he had been operated upon by Dr S. P. Gill of Orthonova Hospital. Dr. Gill had also shown her the fractured radial head of her husband's right elbow. She was unable to recall if her husband had received compensation from the MACT in that accident case.



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Initially, PW7 deposed that no plate had been inserted in the elbow of her husband. She thereafter corrected herself by stating that she does not remember whether any plate had been inserted, though the doctor had informed them that surgery had been performed. PW7 deposed that the injuries sustained by her husband in the incident dated 25.02.2007 were also on his right forearm. He had also sustained head injuries and injuries all over his body. Her husband was operated on for the injuries suffered in 2007. According to PW7, the doctors told her that the injury suffered in 2004 was of the right ulna, whereas the injury in 2007 was of the forearm. She again corrected herself and stated that the injury suffered in 2004 was of the right radial bone. In both the cases, the same doctor, namely, Dr. S. P. Gill, had treated her husband. PW7 also deposed that the head injury suffered by her husband was sutured at Holy Family Hospital, which took about four to five hours. Besides A1 to A4, there were three other persons who had



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assaulted her husband. Her statement was never recorded by the Investigating Officer (IO). She had lodged complaints against the IO, but is unaware whether any action had been taken against him. She does not know whether her statement under Section 161 Cr.P.C. had been recorded on 24.04.2007. She further deposed that she could produce copies of the complaints lodged by her against the IO and the accused persons. PW7 admitted that Ext. PW3/B complaint is in her handwriting. According to PW7, as her husband was not in a position to write, she had drafted the complaint, got it signed by her husband and submitted it to the police. The complaint was prepared jointly by her and her husband (PW3), after which her husband read and signed it. She further deposed that by the time she reached Nehru Place Terminal, the quarrel had not yet started. The quarrel commenced about 05–10 minutes after her arrival. Nehru Place police post is hardly a five-minute walk from the scene of occurrence. Her husband (PW3) fell



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down only after Bansi Lal (A1) struck him on the head with the rod. Before that the accused persons had repeatedly beaten him. She did try to intervene, but never sustained any injury. PW7 further deposed that she did not notice whether blood had fallen at the spot. However, her husband's clothes were completely soaked in blood. She is she is unaware as to who had shifted her husband from the scene of occurrence to the gate of Nehru Place police post. According to PW7, her husband had informed the police that there were six or seven assailants, but the IO did not record that fact. When the statement was given to the police, they did not know the names of the assailants. It was only after registration of the FIR, she realised that all the assailants had not been named by the IO. PW7 also deposed that she had lodged a complaint dated 27.02.2007 regarding the assailants other than A1 to A4.

20. The evidence on record was found to be unsatisfactory by the trial court to convict the accused persons for the offence



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punishable under Section 308 read with Section 34 IPC and hence by the impugned judgement they were acquitted. Section 386(1) Cr.P.C which deals with the power of the Appellate Court says that the Court may in an appeal from an order of acquittal, reverse such order and direct that further inquiry be made, or that the accused may be re-tried or committed for trial, as the case may be, or find the accused guilty and pass sentence on him according to law. The general principles regarding the powers of the appellate court while dealing with an appeal against acquittal are:- firstly, the appellate court has the power to review, reappraise and reconsider the evidence upon which the order of acquittal is founded. Secondly, the Code puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it, may reach its own conclusion, both on questions of fact and of law. Thirdly, various expressions, such as, “substantial and compelling reasons”, “good and sufficient



grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail the extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with an acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion. Fourthly, an appellate court, however, must bear in mind that in the case of acquittal, there is a double presumption in favour of the accused, that is, (i) the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law, (ii) the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court. Lastly, if two reasonable conclusions are possible on the basis of the evidence on



record, the appellate court should not disturb the finding of acquittal recorded by the trial court (See **Babu Sahebogouda Rudragoudar and others v. State of Karnataka (2024) 8 SCC 149, Rajesh Prasad v. State of Bihar (2022) 3 SCC 471, Chandrappa vs. State of Karnataka, (2007) 4 SCC 415**).

20.1. In **H.D. Sundara v. State of Karnataka (2023) 9 SCC 581**, it has been held that the appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved



beyond a reasonable doubt and no other conclusion was possible. Thus, it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles: (i) the judgment of acquittal suffers from patent perversity; (ii) the same is based on a misreading/omission to consider material evidence on record; and (iii) no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

21. Having thus reminded myself of the law on the point, I will now consider whether the only view consistent with the materials on record is the guilt of the accused. The prosecution case principally rests upon the testimony of PW3, the injured, which is stated to be corroborated by the testimony of PW1 and PW7. It is settled that the evidence of an injured witness carries



great weight. Such testimony is not immune from judicial scrutiny and must inspire confidence when tested on the touchstone of consistency, probability and corroboration. An examination of the testimony of PW3 shows material inconsistencies regarding the role attributed to the accused persons and the manner of assault. The testimony introduces the presence and participation of additional accused persons whose role was neither consistently disclosed nor satisfactorily explained during the investigation. Similar inconsistencies emerge from the evidence of PW1 and PW7.

22. Admittedly PW7 is the wife of PW3, the informant/injured. PW1, the driver of PW3, an eyewitness and PW3 have no case that PW7 was present at the scene of occurrence during the course of the incident. However PW7 claims so, which can be seen to be false from the testimony of the aforesaid witnesses. According to PW3 at 07:45 p.m., PW1 informed him



that the latter had been assaulted by A2 and A3. Therefore, he directed PW1 to proceed to Nehru Place. According to PW3, he also proceeded to the said place pursuant to which the incident took place. According to PW1, the incident took place between 08:00 p.m. and 08:30 p.m. PW1 also deposed that when PW3 was assaulted and injured in the incident, somebody informed PW7 his wife who arrived at the scene of occurrence and took PW3 to the hospital. Therefore, going by the version of PW1 and PW3, PW7 was never present at the scene of occurrence during the course of the incident. PW7, on the other hand, has an entirely different case. According to PW7, she received a call from PW3, her husband, at about 07:45 - 08:00 p.m. informing her that a quarrel had taken place and asking her to reach the scene immediately. She then informed the police and proceeded to the place of occurrence, where her husband was present. PW7 further deposed that it was about 15 to 20 minutes thereafter that the incident had taken place.



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According to her, in addition A1 to A4 another person, namely, Sonu was also involved in the incident and had assaulted her husband. The version of PW7 does not tally with the version of PW1 and PW3, whose testimony also I have referred to in detail. This is one aspect which raises doubts regarding the prosecution case.

23. Further, PW3 and PW7 also have a case that apart from A1 to A4, there are other persons involved in the incident. If PW1 is to be believed one Murlidhar had also assaulted PW3. There is nobody by the said name either in the FIR or in the chargesheet. According to PW3, in addition to A1 to A4, one Sonu and a helper of a bus were also involved. PW7 has yet another case. She deposed that one Sonu and two others are also involved. However, the final report/chargesheet does not refer to the details of the said persons. PW7 has a case that she realized that all the assaulters of her husband had not been included in the FIR and therefore, she



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had complained to the investigating officer (IO) as well as to the higher officials. However, no action was taken. PW7 is not a layman. She is admittedly a Head Constable in the Delhi Police during the incident. Therefore, despite her complaints to the IO and the senior police officials, if her grievance(s) was not addressed, nothing prevented her from moving the appropriate Court. No explanation has been given as to why PW3 and PW7 did not approach the Court. On going through the testimony of PW7, it is seen that her examination was adjourned mid-way at the request of the prosecutor to enable PW7 to produce copies of the complaints she is alleged to have given to the police authorities. However, when she was summoned for further examination, no such documents were produced.

24. Further, doubts arise in the mind of the Court relating to the injuries caused also. The medical evidence includes Ext. PW10/A the MLC report of PW3, Mark A and Mark B copies of



the X-ray reports as well as Ext. PW11/X1 copy of medical report.

Ext. PW10/A reads thus:

“On Examination At the time of incident, pt was standing opposite CNG pump. Pt is having its own private bus service.

Pt is conscious well oriented. No-H/o-LOC, ENT bleed

Investigations Vomiting, lacerated wound (7.5 cm) has seen on scalp. Pain and edema @ (Rt) forearm and (Lt) thigh. No sign of abdominal injury is seen.

CCT (Head), X-ray (Rt) forearm + elbow and (Lt) thigh [AP/LAT].

Final Diagnosis: # (Rt) ulna distal 1/3 and # (Rt) lateral radial

Nature of Injuries: Simple/(Grievous)/Dangerous”

(Emphasis supplied)

Mark A the X-Ray report right forearm of PW3 dated 28.02.2007 says that *there is evidence of comminuted fracture shaft of ulna.* Mark B the X-Ray report right forearm of PW3 dated 28.02.2007 says that *there is evidence of fracture shaft of ulna with plate, screws and surgical staples in situ.* In Ext. PX11/X1 the discharge summary of PW3 it is noted:



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“Presenting Symptoms & Physical Findings: c/o injury to □ forearm and head a/f/o alleged assault c̄ rods on 25/2/7.

O/E Pt. Conscious & Oriented.

8 cm linear wound over scalp.

Tenderness + Gap at mid & lower 3rd jct of □ Ulna.

Distal n/v — OK.

B/L Pupil — □ (Normal)

Systemic & vitals — □ (Normal)

Diagnosis:

□ Ulna Distal 1/3 at 2/3 & 1/3 jct.

Radial head □ c̄ excision many yrs back.

Condition at Discharge:

No sign of Compartment syndrome or any other complication.

Treatment Advised:

ORIF Advised but Refused.”

(Emphasis supplied)

25. According to PW3, apart from A1 to A4, who had assaulted him with baseball bats and iron rod, one Sonu and a helper of a bus had hit him all over his body. He suffered a fracture on his right arm and an injury on his head, which required 13



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stitches. Besides that, he suffered internal injuries all over his body. However, the medical reports do not support this version of PW3. There is no record that PW3 suffered any internal injury. In addition, one of the injuries noted in Ext. PW11/X1 is reported to be an old injury.

26. The prosecution has also not examined any independent witness, despite the occurrence having allegedly taken place at a busy bus terminal where, according to the prosecution witnesses themselves, several members of the public had gathered. Though non-examination of independent witnesses is not fatal, the omission assumes relevance where the prosecution case otherwise suffers from material inconsistencies. The trial court has examined these inconsistencies and has assigned cogent reasons for extending the benefit of doubt to the accused. The appreciation of evidence by the trial court cannot be stated to be as either perverse or unreasonable. On the contrary, the conclusions drawn are based



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upon a plausible assessment of the evidence available on record. Even assuming that another view of the evidence is possible, it is now well settled that where two reasonable views can be formed on the basis of the evidence, the view favourable to the accused must prevail. The appellate Court cannot reverse an acquittal merely because it may have arrived at a different conclusion upon reappraisal of the evidence. In the case on hand, the prosecution has not succeeded in demonstrating that the findings recorded by the trial court are manifestly illegal, contrary to the evidence on record, or such as no reasonable judicial mind could have arrived at. Therefore I find no scope for interference.

27. Hence, the appeal *sans* merit, is dismissed.

28. Application(s), if any, pending shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

JULY 07, 2026/mj