

IN THE COURT OF SHRI SANJAY SHARMA-I:
PRINCIPAL DISTRICT & SESSIONS JUDGE
NORTH EAST DISTRICT
KARKARDOOMA COURTS: DELHI

SC No. 7/2026
State Vs. Brijesh Kumar & Anr.
FIR No. 60/2015
PS Khajuri Khas
Under Section 323/341/506/34 IPC
CNR No.: DLNE01-000107-2026

State

Versus

- (1) Brijesh Kumar
S/o Sh. Dhanpal
R/o House No. 11, Gali No. 1,
Sherpur Village, Delhi.
- (2) Geeta
W/o Brijesh Kumar
R/o House No. 11, Gali No. 1,
Sherpur Village, Delhi.

Date of institution : 05.02.2016
Date of reserving judgment : 11.02.2026
Date of judgment : 10.03.2026

JUDGMENT:

The present FIR was registered on the complaint of Devender S/o Sh. Dhan Pal, who stated that on 15.01.2015, at about 1.15 p.m., he returned to his home after attending hearing of his

case in Karkardooma Courts. He noticed that accused Brijesh was installing Almirah in the house, on which a Court case was pending between him and accused Brijesh. He objected to the said installation on which accused Brijesh told him that “*Tu Kon Hai, Kaam Rokne Wala*” (who are you to ask him to stop the work). In the meantime, younger brother of complainant namely Narender also came there and asked accused Brijesh to stop the work. Accused immediately restrained the way of complainant and his brother by saying that “*Main Dekhta Hun, Kon Mujhey Kaam Karne Se Rokta Hai*” (I will see, who would stop him to do the work). Thereafter, accused Brijesh abused and manhandled them. Wife of complainant namely Neema also came there for their rescue, but accused Geeta gave danda blow on her hand saying that she had performed love marriage with the complainant and she would drive her away from there. She also threatened complainant that if he would keep Neema with him, they would kill him. Thereafter, Neema called at 100 number. PCR came and shifted them to JPC Hospital from where they were referred to GTB Hospital.

2. On the complaint of the complainant Devender, present FIR was registered for the offences under Section 323/341/506/34 IPC. Both the accused were arrested in the present case and were released on police bail. Weapon of offence i.e. wooden stick (danda) could not be recovered in the present case. On completion of investigation, charge-sheet was filed against both the accused

persons for the offences punishable under Section 323/341/506/34 IPC.

2.1 Cognizance of the offences as per the charge sheet was taken by the Ld. ACMM, North East District. Copies were supplied to both the accused persons as required under Section 207 Cr.P.C. After hearing arguments, charge for the offences punishable under Section 323/341/506/34 IPC, was framed against both the accused persons namely Brijesh Kumar and Geeta vide order dated 10.10.2017.

3. At the trial, the prosecution examined seven witnesses in all.

(i) PW-1 Devender Kumar was the complainant and he deposed about the alleged incident. He proved his statement Ex.PW1/A, his MLC Ex.PW1/B and his complaint to Commissioner of Police Mark X. He correctly identified the accused persons before the Court.

(ii) PW-2 Neema was the wife of complainant Devender Kumar. She had also deposed about the incident alleged. She had deposed that accused Geeta gave beatings to her with danda due to which she sustained injury in her right hand. She also correctly identified the accused persons before the Court.

(iii) PW-3 Narender was the brother of complainant Devender Kumar. He had deposed regarding the present incident and correctly identified the accused before the Court. He had deposed that accused Geeta had electrocuted him and he became

unconscious for few minutes.

(iv) PW-4 ASI Yashbir Singh was the Duty Officer, who had deposed that on 16.01.2015, SI Sahab Singh had produced one rukka and on the basis of which, he lodged FIR Ex.PW4/A, made endorsement on the rukka Ex.PW4/B and handed over copy of FIR and original rukka to HC Sunil for further handing over the same to IO/SI Sahab Singh. On the same day, he had lodged DD no. 16A Ex.PW4/C.

(v) PW-5 ASI Sunil Kumar had deposed that on 16.01.2015, Duty Officer had handed him over copy of FIR and original rukka and as per instructions of Duty Officer, he had handed over the same to IO/SI Sahab Singh. IO prepared the site plan at the instance of complainant and recorded statement of complainant, Neema and Narender in his presence.

(vi) PW-6 Retired IO/SI Sahab Singh was the IO of the present case. He had proved the statement of complainant as Ex.PW1/A, site plan as Ex.PW6/A, arrest memo of accused Brijesh and Geeta vide memo Ex.PW6/B and Ex.PW6/C. He had identified both the accused persons before the Court.

(vii) PW-7 W/HC Sunita had joined the investigation with IO/SI Sahab Singh on 27.02.2015 and proved arrest memo of accused Geeta Ex.PW6/C. She had deposed that accused Brijesh was also arrested in her presence. She had identified both the accused before the Court.

(viii) Accused persons had admitted the genuineness of documents

prepared by witnesses/doctors mentioned at serial no. 7 and 10 i.e. MLC of Neema bearing no. A-3320/15 and MLC of Narender bearing no. A-3322/15 and Result on MLC of complainant Devender bearing no. A-3318/15 in their joint statement dated 21.08.2024 recorded u/s 294 Cr.P.C.

4. Statements of both the accused persons were recorded u/s 313 Cr. PC and the entire incriminating evidence was put to them which they denied and pleaded innocence. They took the defense that they have been falsely implicated in the present case by the police. Accused persons opted not to lead Defence Evidence and accordingly DE was closed and matter was listed for final arguments.

5. Thereafter, a transfer application was moved by applicant Devender Kumar under Section 448 BNSS bearing T.P. Civil No. 21/2025 titled as Sh. Devender Kumar vs. The State, which was allowed vide order dated 09.01.2026, passed by the Ld. Predecessor of this Court and the present matter was withdrawn from the Court of Ms. Shruti Saraswat, Ld. JMFC, North East and made over to this Court, being cross-case of FIR No. 67/2015, PS Khajuri Khas, which was already pending in this Court.

6. I have heard Mr. Masood Ahmad - Ld. Chief PP for the State, Shri Adarsh Kumar- Ld. Counsel for both the accused persons and have carefully gone through the records of the case.

7. It was submitted by Ld. Chief PP for the State that the case against both the accused persons has been duly proved. The

complainant, his wife Neema and his younger brother Narender had identified both the accused persons in the Court as the persons, who had committed the alleged offence with them. It was further submitted that though the weapon of offence i.e. danda could not be recovered in the present case but the MLC of complainant, Neema and Narender corroborates with their version. Thus, it was argued that the charges have been duly proved against both the accused persons.

8. Countering the arguments of the State, Ld. Defence Counsel submitted that the prosecution has miserably failed to prove the charges against both the accused persons as there are major contradictions. It was submitted that in the MLCs of complainant, Neema and Narender name of assailants/accused was not mentioned and only 'physical assault by known person' was mentioned. It was submitted that no public person was examined though available. No weapon of offence was recovered in the present case. Hence, it was prayed that both the accused persons may be acquitted.

9. I have considered the rival submissions and I have perused the records of the case.

10. PW1 Devender was the complainant. He deposed that his elder brother accused Brijesh had filed a civil case against him and his father regarding a plot in front of his house. On 15.01.15 at about 01.15 pm, he had returned from Karkardooma Court after attending the date of the said case. On reaching home, he saw

accused Brijesh with 4-5 other persons doing construction/installation work in the disputed plot. He objected to the said work and asked those persons to leave his plot. In the meanwhile, his younger brother Narender reached the spot to pacify the matter, but Brijesh, his wife Geeta and said 4-5 persons started quarrelling with him and gave danda blows to him. His wife Geeta was also beaten with danda by accused Brijesh and one Pramod and Jitender. He alleged that the accused first gave fist blows to him and his wife and as a result of the assault, he and his wife sustained injuries. His wife called the PCR, police came and took them to JPC hospital. He further deposed that accused Brijesh and Geeta had given danda blow on his stomach while Pramod had caught him. He further deposed that he was operated upon for appendicitis and stitches were still there. He proved his complaint Ex.PW1/A. He also deposed about a previous incident of the year 2014 when he made a complaint against accused Brijesh to the PS but no case was registered. He further deposed that accused Geeta had bit his wife and they both were medically examined.

11. He was declared hostile by the prosecution and in the cross examination conducted by the Ld. APP, he admitted that in his complaint Ex.PW1/A, he has stated that when his brother Narender objected to the acts of construction by the accused, he restrained his way, threatening as to who would stop him. He also admitted that when his wife reached the spot to save him, accused Geeta gave a danda blow upon her saying that she had entered into love marriage

and she would make her go away from there. He also admitted that the accused threatened to kill him and his wife, if he kept his wife with him.

12. PW2 Smt. Neema was the wife of PW1 and she also deposed almost similar facts stating that when she objected to the accused doing wooden work in the disputed house, accused Geeta started abusing her. In the meantime, her husband returned home and the accused started abusing him. When her husband objected to the acts of the accused, her uncle Pramod and his sons Bhupender and Jitender, joined the accused and abused them and started quarrelling with her and her husband. She alleged that accused Geeta was carrying a danda with which she gave beatings to her and she sustained injuries on her right hand. She also threatened that she would not allow her to live there as she belongs to a different caste. The witness further alleged that the accused extended threats to kill them if they fail to vacate the house. She then called the PCR, police arrived and took them to the hospital.

13. PW3 Narender was the younger brother of PW1 who was an eye witness to the incident and deposed about the incident in his examination in chief. However, his deposition was deferred since Ld. APP wanted to cross-examine him but before he could be cross-examined by the Ld. APP or the Ld. Defence Counsel, he expired and therefore, his testimony cannot be read in evidence.

14. PW4 was the Duty Officer and PW5 and PW7 were formal police witnesses who remained associated with the

investigation while PW6 was the IO who deposed about the investigation conducted by him. Thus, it is seen that the entire case of the prosecution is based on the testimony of PW1 & 2.

15. In the cross examination, PW1 admitted that his house number and that of accused Brijesh is the same. He feigned ignorance if his house had been sealed by the MCD and about other facts related to the dispute over property.

16. As regard the incident, he deposed that it took place inside his house. He admitted that he was apprehended by police in the cross case bearing FIR No. 67/15 under Section 308/452/506/34 IPC along with his brother Narender (since deceased) and his wife. He could not remember the duration for which he remained in the hospital but deposed that after being discharged, he returned home. He further denied all the suggestions contrary to the prosecution case or the suggestions in line with the cross case.

17. Similarly, PW2 in the cross examination, admitted about the pendency of a civil suit over the property where she is residing with her husband and other facts related to the said dispute. She also denied that the incident took place in the house of the accused as also the presence of carpenter Manoj in the house of the accused at the relevant time. She further denied the registration of the cross case bearing FIR No. 67/15 or that her husband and others were arrested in the said case. She further denied the other suggestions contrary to the present case.

18. It is an admitted fact that a cross case relating to the

same incident was also registered against the complainant, his wife and his younger brother bearing FIR No. 67/15 under Section 308/452/506/34 IPC which is also pending trial before this court. Thus, the factum of incident cannot be denied. Both PW1 & 2 have categorically deposed that the incident took place when PW1 objected accused Brijesh from undertaking construction/installation work in the disputed plot. Both the accused and the complainant are claiming the disputed plot to be theirs, but it appears from the testimony of PW1 that the said plot was in occupation of the accused at that time. They have also unequivocally deposed that both the accused had firstly given fist blows to them and then Geeta gave danda blow upon PW2 as a result of which she sustained injury on her right hand. The said deposition is corroborated by the MLC of PW2 Neema which mentions superficial laceration of 0.5 x 0.2 cm, though on the left middle finger. No injury was found on the person of PW1 and deceased Narender as per their MLCs. It substantiates that the incident did took place wherein PW1 & PW2 were beaten by the accused. It is a settled law that mere allegation if duly corroborated and proved, without any proof of injury, are sufficient to bring home the charge of simple hurt, as in the present case. Thus, it is proved that both the accused caused simple hurt to PW1 & PW2.

19. The accused have also been charged for the offence under Section 341 IPC. PW1 in his examination in chief never deposed that he was at any point of time, wrongfully restrained by

the accused. It was only in the cross examination by the Ld. APP that he admitted the said fact and as stated in his complaint Ex.PW1/A. PW2 never deposed that she or her husband PW1 were ever restrained in any manner by the accused. Thus, this allegation is neither corroborated by the two witnesses nor much sanctity can be attached to the admission about the said allegation in the cross examination of PW1, conducted by the prosecution. Hence, the charge under Section 341 IPC could not be proved beyond reasonable doubt.

20. The accused have also been charged for the offence punishable under Section 506 IPC. Again, PW1 never deposed in his examination in chief that the accused extended any threat to him, but admitted that the accused threatened to kill him and his wife if he kept her, during cross examination by the Ld. APP who cross examined him after declaring him hostile. PW2 deposed that the accused threatened to kill her and her husband if they do not vacate the house. Nothing has come in the testimony of the two witnesses that the said alleged threat caused any alarm in their mind or they acted in a particular manner, being alarmed with the said threat. It is a vital ingredient of Section 506 IPC that the threat should cause an alarm to the victim and in the absence of any such alarm, the offence cannot be said to have been proved.

21. In *Amulya Kumar Behera v. Nabaghana Behera Alias Nabina (High Court of Orissa-Criminal Miscellaneous Case No. 2073 Of 1995) dated 02-05-1995* it was held as under:

“Intention is a mental condition which has to be gathered from the circumstances of the case. The threat must be intended to cause alarm from which it follows that, ordinarily, it would be sufficient for that purpose. The degree of such alarm may vary in different cases, but the essential matter is that it is of a nature and extent to unsettle the mind of the person on whom it operates and take away from his acts that element of free voluntary action which alone constitutes consent. The case where the threat produces an alarm is comparatively a simple one, for all that has then to be proved is that threat was given and that the alarm was due to the threat; but where the threat has not that effect, it involves a question whether it was sufficient to overcome a man of ordinary nerves. The Court may hold it to be an empty boast, too insignificant to call for penal visitation of Section 506. "Intimidate" according to Webster's Dictionary mean" (1) to make timid, make afraid, overawe; (2) force or deter with threats or violence, cow". Threat referred to in the Section must be a threat communicated or uttered with intention of its being communicated to the person threatened for the purpose of influencing his mind. Question whether threat amounts to a criminal intimidation or not does not depend on norms of individual threatened if it is such a threat as may overcome ordinary free will of a man of common firmness. "Threat" is derived from Anglo-saxam word "threotou to life", (harass). It is the declaration of an intention to inflict punishment, loss or pain on another. "Injury" is defined in Section 44. It involves doing of an illegal act. If it is made with intention mentioned in the Section, it is an offence. Whether threat was given with intention to cause alarm to the person threatened has to be established by evidence to be brought on record. Material in that regard is totally lacking in the case at hand. Though learned JMFC has erroneously held that the complainant having not got terrified the Section has no application, yet he is right in his conclusion that no evidence was there to show that the accused persons intended to cause alarm to the complainant.”

22. Hence, the charge for the offence under Section 506 IPC could also not be proved.

23. In light of the above discussion, it is held that the prosecution has been able to prove its case against both the accused only for the offence punishable under Section 323/34 IPC beyond reasonable doubt. Accordingly, both accused Brijesh and Geeta are hereby held guilty and convicted for the offence punishable under Section 323/34 IPC. However, they are acquitted for the offences punishable under Section 341/506/34 IPC.

*ANNOUNCED IN OPEN COURT
ON 10th day of March, 2026*

**(SANJAY SHARMA-I)
PRINCIPAL DISTRICT & SESSIONS JUDGE
NORTH EAST DISTRICT
KARKARDOOMA COURTS, DELHI**