

**IN THE COURT OF MS. TWINKLE WADHWA
ADDL. SESSIONS JUDGE-02 (NORTH EAST)
KARKARDOOMA Courts : DELHI**

SESSIONS CASE No.	278/2022
FIR No.	593/2015
Police Station	Karawal Nagar
Under Section	308/323/34 IPC
Instituted on	14.09.2022
Argued on	23.01.2026
Decided on	25.02.2026
Final Order	Convicted for offence U/s 323 IPC & Acquitted for offence U/s 308 IPC

State Vs. 1. Satya (abated)

2. Raja @ Parikshit

S/o Malkhan Singh,
R/o A-50, Phase-10, Gali No.6,
Shiv Vihar, Delhi

For State : Sh. Abhishek Pandey, APP for the State.

For defence : Sh. Jagdeep Sharma, Advocate for the accused.

JUDGMENT

1. By way of this judgment, this Court shall decide the charges levelled against the accused under sections 308/323/34 IPC of IPC.

Brief facts of the case

2. In brief, the facts of the case are that on 15.09.2015 at around 09.00 pm, PW2 Vinod Kumar went to the office of one Vipin. In the meantime, accused Raja @ Parikshit came in the office of Vipin regarding some money dispute and both accused Raja @ Parikshit and Vipin started quarreling in the office. Accused Raja @ Parikshit called his brother Satya Kumar telephonically. Vinod Kumar tried to intervene and pacify the matter but accused Raja @ Parikshit started abusing PW2 Vinod Kumar. In the meantime, someone informed Mayank son of Vinod Kumar about the incident. Satya Kumar came with an iron rod. Accused Raja @ Parikshit caught hold of Vinod Kumar and started abusing him, he pushed him due to which he fell down on the ground. As his son Mayank tried to intervene, Satya Kumar hit on the head of Mayank with an iron rod and he received injuries. Vinod Kumar called at 100 number and Mayank was taken to hospital. After completion the investigation, the chargesheet was filed.

Charge

3. On 18.10.2022, charges for offences under sections 308/323/34 IPC were framed against accused Raja @ Parikshit. He pleaded not guilty to the said charges. Accused Satya Kumar had already expired by this date.

Prosecution Evidence:-

Prosecution has examined 08 witnesses in this case.

Witnesses Examined

<u>Prosecution witness No.</u>	<u>Name of witness</u>	<u>Description</u>
1	SI Mohan Singh	He received PCR call
2	Vinod Kumar	He is father of complainant Mayank
3	Mayank	Complainant
4	Vipin Kumar	Property dealer where the incident had occurred
5	Retired SI Shakti Raj	Investigating officer
6	Retired ASI Shiv Shankar	1 st Investigating officer
7	HC Pramod Kumar	He accompanied the IO
8	Retd. ASI Hari Om	Investigating officer.

Exhibited Documents

<u>Exhibit No.</u>	<u>Description of the Exhibit</u>	<u>Proved by/Attested by</u>
Ex. PW1/A	DD No.81B	SI Mohan Singh
Ex. PW3/A	Tehrir (statement of complainant Mayank)	Complainant Mayank
Ex. PW3/B	Site Plan	Complainant Mayank
Ex. PW6/A	Endorsement on tehrir	Retd. ASI Shiv Shankar
Ex. PW6/B	Arrest memo of accused Raja @ Parikshit	Retd. ASI Shiv Shankar
Ex. PW6/C	Arrest memo of accused Satya	Retd. ASI Shiv Shankar
Ex. PW6/D	MLC of injured	Dr. Naresh, Senior Resident
Ex. A1	Original FIR	DO/HC Jagbir Singh

Ex. A1	MLC No.889/15 of injured Mayank	Dr. Amitabh
Ex. A2	MLC No.889/15 of injured Mayank	Dr. Naresh

5. PW1 SI Mohan Singh deposed that on 15.09.2015, he received PR call at about 9.16 pm via inter call thorough wireless operator regarding quarrel. The information was reduced into writing vide DD No. 81B. The said information was passed to ASI Shiv Shankar through telephonically for necessary action. The copy of the same is placed on record and same is Ex.PW1/A.
6. In his cross-examination, PW1 deposed that he had not met ASI Shiv Shankar after giving the information.
7. PW2 Vinod Kumar deposed that on 15.09.2015, at about 8:30 PM, after taking dinner, he went for a walk on Main 25 Foota Road, Shiv Vihar, Karawal Nagar Road. Vipin, who is known to him, was having a shop and office there at 25 Foota Road. Vipin called him and asked him to sit in his office, and PW2 sat there. During his testimony, PW2 identified accused Parikshit @ Raja. There was a money dispute between Vipin and accused Parikshit. Both of them started quarreling in the office. Accused Parikshit was asking for money from Vipin, and Vipin was pacifying him and stating that he would return the money in 2–3 days. Accused Parikshit @ Raja started abusing Vipin. PW2 tried to pacify accused Parikshit @ Raja, but he started abusing PW2 and stated, “tu neta banta hai, tu hi de de paise.” PW2 again tried to convince him, but he continued abusing him in filthy language. He became furious, caught his collar, and continued abusing him. He threatened PW2 by

saying, “teri himmat kaise ho gayi hamare beech aane ki,” pushed him down, and PW2 fell on the floor. In the meantime, his son Mayank also reached the office.

8. PW2 further deposed that he intervened in the matter and rescued his father from accused Raja @ Parikshit. His son asked PW2 to leave. In the meantime, accused Parikshit @ Raja telephonically called his brother saying, “laathi lekar aa, aaj in behanchodon ko dekhna hai.” After some time, Satya Kumar (since deceased), brother of accused Raja @ Parikshit, came there along with an iron rod. Accused Raja @ Parikshit took the iron rod from his brother Satya Kumar and directed him, saying, “pakad saale ko.” Satya Kumar caught the hands of PW2’s son, and accused Raja @ Parikshit hit his son on his hand with the iron rod. His son fell on the floor and became unconscious. Blood started oozing from his head. Both accused persons fled from the spot. PW2 made a call to 100 number. The police came and took PW2 and his son to Jag Parvesh Chandra Hospital, where they received treatment. Thereafter, PW2 and his son went to the police station.

9. In cross-examination by the State, the following question was put to the witness:

Question: I put it to you that in your statement it is stated that accused Satya Kumar had hit your son Mayank on his head with an iron rod and accused Raja @ Parikshit had beaten you with legs and fists. What do you have to say?

Answer: The witness stated that this is not his statement recorded by the police, as no statement was ever recorded by the police.

10. In cross-examination by counsel for the accused, PW2 affirmed that Mayank is his son. PW2 has two sons, and the name of the other son is Mukul. PW2 further deposed that he knew Vipin as he is his social acquaintance. His house is situated at a distance of about 500 meters from the place of incident, i.e., Sharma Properties of Vipin Kumar. Vipin Kumar was running his office, Sharma Properties, on rent. (Vol. PW2 does not know the address of the said shop.) The shop is situated at a height of about 2 to 2½ feet above the level of the road. Raj Kumar Pandit is the owner of the premises where Sharma Properties is situated. PW2 reached the shop at about 08:00 PM. As he was standing outside the shop, Vipin, who was present there, asked him to sit outside on the chairs lying there. Two to three chairs were lying outside the shop. After some time, accused Raja came there. For 15 minutes, no other person came there. Raja came at about 08:15 PM. PW2 knows accused Raja and Satya Kumar (deceased) for the last 22 years. Accused Raja resides near his house. Vipin was to take money of approximately Rs. 65,000–70,000 from accused Raja on account of Committee, and PW2 came to know about these facts two days prior to the incident. Public persons assembled there. PW2 is not aware whether Rajiv Sharma, Deepak Yadav, Navneet Sharma, Dinesh Sharma, Yad Ram Sharma, Sonu, Chaudhary Vinod, Bhudev Sharma, Neeraj Sharma, and Bhangel were present at that time or not. He denied that accused Raja was to take money of approximately Rs. 1,50,000 from Vipin on account of Committee. The iron rod was brought by accused Satya Kumar (deceased) from his house to the place of incident. Mayank came to the shop at about 09:00 PM. Mayank later told PW2

that Kuldeep informed him about the incident. PW2 does not know whether Kuldeep came there or not. Mayank was near him. (Vol.) When PW2 was lying on the floor, his son Mayank saved him from accused Raja.

11. PW3 Mayank deposed that he does not remember the exact date; however, the incident had occurred in the month of September 2015. Again said, it had happened on the 15th day of the month. He was present at his house when his friend Kuldeep came there at about 9:00 PM and stated, “*tu yahan baitha hai, tere pitaji ke saath jhagda ho raha hai, turant Vipin ke office pahunch.*” PW3 immediately rushed to the office of Vipin situated at 25 Foota Road, Shiv Vihar, where he saw that accused Raja had pulled down his father, Vinod Kaushik, on the ground and was holding his father by the neck. PW3 immediately tried to save his father.
12. PW3 further deposed that in the meantime, accused Satya Kumar (since deceased) came there with a saria in his hand. Accused Raja stated, “*jaldi aa, aaj inhe batate hain.*” Accused Raja snatched the saria from the hands of accused Satya Kumar. Accused Satya Kumar caught PW3, and accused Raja hit PW3 on his head with the saria, due to which he sustained head injuries. Thereafter, he became unconscious. He regained consciousness at Jag Parvesh Chandra Hospital. The police came to the hospital and recorded his statement. During testimony, PW3 identified his signatures on his statement under Section 161 Cr.P.C., Ex. PW3/A. He also showed the place of incident to the police officials on the next day, and the site plan Ex. PW3/B was prepared at

his instance. PW3 identified accused Raja in the Court. Accused Satya Kumar has since died.

13. During testimony, statement Ex. PW3/A was read over to the witness, and a specific question was put to him that in his statement Ex. PW3/A it is recorded that accused Raja had caught him and accused Satya Kumar had given a saria blow on his head, whereas in his examination-in-chief he had deposed otherwise. In response, PW3 stated that the statement recorded by the IO at the hospital was not read over to him and he was only asked to sign it. He further stated that he had not gone through the statement before signing, and that the facts written therein, that accused Satya Kumar had given a saria blow on his head and accused Raja had caught him, were wrongly recorded by the IO.
14. In his cross-examination, PW3 deposed that he knew accused Raja @ Parikshit for several years. Vipin is not his relative. He does not remember the exact time when he reached Vipin's office, though it was dark. He is a graduate and has been doing a private job since 2018. The distance between Sharma property and his house is approximately 300 meters. He stated that Raja had borrowed money from Vipin, though he does not know the terms, and this fact was told to him by his father. He stated that a quarrel was taking place outside the shop and that he had seen only Raja, Vipin, Vinod, and Satya Kumar there. A crowd had gathered, but he does not remember the exact number. He does not remember whether Kuldeep accompanied him to the spot. He also does not remember the presence of several other persons suggested to him and denied deposing falsely.

15. PW3 further stated that upon reaching Sharma property, he saw his father lying on the floor and Raja holding his father by the neck. He does not know who made the call at 100 number. He became unconscious after being hit and does not know who took him to the hospital. He regained consciousness at the hospital, where police were present. He does not remember how many documents were prepared, statements recorded, or documents signed. PW3 denied the suggestion that he did not sustain injuries or that he fell down on his own. He admitted that FIR No. 626/15 under Section 334 IPC was registered at PS Karawal Nagar and that he is an accused in that case. He does not remember whether his statement was recorded later or the house number near Sharma property. He stated that Sharma property is on rent and that he does not know the landlord. PW3 further deposed that when his earlier statement Ex. PW3/A was read over to him, he stated that it was not read over to him by the police and that it was incorrectly recorded that Satya Kumar hit him with a rod. He clarified that Raja had hit him on the head. He denied all suggestions of false implication, improvement, being a planted witness, or deposing falsely in collusion with his father and Vipin.
16. PW-4 Vipin Kumar deposed that the incident occurred on 15.09.2015 in front of Gali No. 5, Karawal Nagar, where he was running his property dealer office. Vinod Kumar, his friend, came there around 8:30 p.m. Accused Raja @ Parikshit came to the spot and started abusing him regarding committee money. Vinod tried to pacify the accused, but Raja continued abusing and called his brother, accused Satya Kumar, to the spot. In the meantime, Mayank, son of Vinod, arrived and intervened.

Accused Satya Kumar came carrying a saria (iron rod). Accused Raja took the saria from Satya Kumar and hit Mayank on the head while Satya Kumar caught hold of him. Mayank sustained head injuries and started bleeding. Thereafter, both accused fled from the spot. A call was made at 100 number and Mayank was taken to JPC Hospital. The witness stated that in his earlier statement marked 'X', it was wrongly recorded that Satya Kumar hit Mayank with the rod and Raja caught hold of him. He clarified that Raja had hit Mayank with the rod. He stated that his statement was not read over to him by the police. He further stated that police arrived between 9:30 p.m. and 10:00 p.m. He does not remember whether public persons were present. He was not called later by the police and his statement was not recorded thereafter. He denied that several named persons were present at the spot and denied deposing falsely.

17. PW4 further deposed that he went to the hospital with Mayank and remained there till about 2:00 a.m., after which they went to the police station. No document was prepared by the police at the hospital in his presence. He stated that he intervened in the matter but did not sustain any injury. He denied the suggestions that he was not present at the spot, that he is a planted witness, that Mayank fell down on his own, or that he has falsely implicated the accused. He further denied deposing falsely before the Court.
18. PW-5 Retired SI Shakti Raj deposed that on 03.03.2021, on the direction of the SHO, he received the case file for further investigation. He went through the case file and the documents annexed thereto and

recorded the statement of one public witness, namely Vipin. After completion of the investigation, he filed the chargesheet. He denied the suggestion that he had not conducted the investigation of the present case or that he had not recorded the statement of witness Vipin. He further denied that he was deposing falsely on oath.

19. PW-6 Retd. ASI Shiv Shankar deposed that in the year 2015 he was posted as ASI at PS Karawal Nagar. On 15.09.2015, while on emergency duty from 8:00 p.m. to 8:00 a.m., he received DD No. 81B at about 9:16 p.m. and reached the spot along with Constable Pramod. He did not find the injured at the spot and came to know that the injured had been shifted to JPC Hospital by PCR. He thereafter reached JPC Hospital, where injured Mayank was present. He obtained the MLC of the injured and recorded his statement Ex. PW3/A, attested by him. On the basis of the said statement, he prepared rukka Ex. PW6/A and sent it through Constable Pramod for registration of FIR. After registration of FIR, he returned to the spot along with the complainant and prepared the site plan Ex. PW3/B. He stated that efforts were made to trace the accused but they could not be found. Both accused obtained anticipatory bail. Accused Raja joined the investigation on 17.10.2015 and was formally arrested vide arrest memo Ex. PW6/B and released on bail. Accused Satya Kumar joined the investigation on 11.11.2015 and was formally arrested vide arrest memo Ex. PW6/C and released on bail. The witness correctly identified accused Raja in Court. PW6 further deposed that he deposited the MLC of the injured for opinion on nature of injury through request letter Ex. PW6/D. As per the medical opinion given by Dr. Naresh, the injury sustained by the injured was

simple in nature. He also recorded the statement of Vinod Singh Ex.PW6/E.

20. During cross-examination, PW6 deposed that DD No. 81B did not mention the name of the assailant. He admitted that he did not collect ownership documents of the office/property, did not mention its full address in the site plan, and could not associate public witnesses despite making efforts. He stated that no documents regarding money transaction were collected. PW6 denied the suggestion of unfair investigation or false implication of the accused under the influence of the complainant.
21. PW-7 HC Pramod Kumar deposed that on the intervening night of 15/16.09.2015, while on emergency duty with ASI Shiv Shankar, he received DD No. 81B and reached the spot at 25 Foota Road, Gali No.5, Shiv Vihar, Karawal Nagar. He came to know that the injured had already been shifted to JPC Hospital by PCR. He accompanied the IO to JPC Hospital, where injured Mayank was present. The IO obtained the MLC and recorded the statement of the injured. The IO prepared the tehrir and handed it over to him, pursuant to which he went to the police station and got the FIR registered. After registration of the FIR, he returned to the spot and handed over the copy of FIR and tehrir to the IO.
22. During cross-examination, PW7 deposed that they left the police station around 9:15 p.m. and reached the spot at about 9:30 p.m. He stated that 10–15 public persons were present but their names were not known. He stated that he remained present during investigation and

denied the suggestion that he did not accompany the IO or that he was deposing falsely at the instance of the IO.

23. PW-8 Retd. ASI Hari Om deposed that on 09.11.2020, he received the case file from MHC(R) for further investigation on the directions of the SHO. After perusing the file, he found that the investigation in the present case had already been completed. He further deposed that he retired from service on 31.01.2021 and thereafter deposited the case file back with MHC(R).
24. Statement of accused was recorded under Section 294 of Cr.P.C. wherein he admitted (i) original FIR No.593/2015 (Ex. A1), (ii) MLC of injured Mayank (Ex. A1) and (iii) Opinion on MLC by Dr. Naresh (Ex. A2).
25. On 08.10.2025, statement of accused Raja @ Parikshit was recorded under Section 313 of Cr.P.C. wherein he had denied his involvement and opted to lead defence evidence.

Defence Evidence

26. In defence, four witnesses were examined.
27. DW1, accused Raja @ Parikshit, deposed that on 15.09.2015 at about 8:00 pm, Vipin owed him Rs. 1.5 lakhs. Vipin called him to his office between 8:00–8:30 pm at Sharma Properties, situated on 25 Foota Road near his house. They discussed the money, and Vipin stated that he would return it in 2–4–10 days. Vinod Kumar was also present. Thereafter, DW1 left and went to his house. After some time, his

brother Satya Kumar informed him that Vipin was following him and that there might be a quarrel regarding the money. DW1 told him that Vipin had been given 2–4–10 days' time. DW1 stated that he was at home at about 11:30 pm. Mayank received injuries after falling from Vipin's office, which was at a height. At around 11:30 pm, someone rang the doorbell, and his wife Nirmal Devi opened the door. Vipin, Vinod, Mayank, and Mukul entered his house and misbehaved with his wife, abused her, and threatened to kill her and their children if money was demanded. A call was made to number 100, after which they fled. He stated that a false case was filed against them, and FIR No. 626/2015 PS Karawal Nagar under Sections 323/506/354/451/34 IPC was registered. *Isi chakkar me hume jhootha fasa diya aur hamare khilaf mukadma likhwa diya.*

28. In cross-examination by the State, DW1 deposed that he works as a transporter and has buses, and has been in the business for 3–4 years, earning Rs. 30,000–40,000 per month and Rs. 3–4 lakhs annually. He does not file ITRs and sometimes borrows money when required. He affirmed that he went to Vipin's office at around 8:30 pm and stayed there for about five minutes to discuss money. He had no written agreement showing that Vipin borrowed money (Vol.: *Yaari dosti me le rakhe the*). Vipin had taken money in 2013 at Sharma Properties. DW1 denied that Vipin did not owe him money or that he himself took money from Vipin. He stated that he left Sharma Properties at about 8:40 pm and that his house is about 25 meters away. He denied returning to Vipin's office or attacking Mayank and Vinod, and denied that Satya Kumar was present (Vol.: *Wo wahi se nikal rahe the*). He

stated that Vipin's office was about 2–2.5 feet above ground and that Mayank fell while running behind Satya Kumar. DW1 denied causing any injuries with an iron rod or hiding any weapon, and denied remaining at the office after 9:00 pm.

29. DW1 further deposed that he reached home at about 8:35 pm and that FIR No. 626/2015 mentioned the time of incident as 11:30 pm. He denied that FIR No. 626/2015 was a counterblast to FIR No. 593/2015 or that it was falsely lodged after delay. He stated that proceedings in FIR No. 626/2015 are pending in Court No. 67, Karkardooma Courts. He denied having any CCTV camera at his house or deleting footage. He affirmed that the incident of FIR No. 626/2015 occurred after FIR No. 593/2015. DW1 denied that Satya Kumar accompanied him to Vipin's office or that Mayank was present during his visit. He further denied that he and Satya Kumar assaulted Mayank with an iron rod or that FIR No. 626/2015 was falsely filed to save himself from legal punishment.
30. DW2 Nirmal Devi deposed that Vinod and Vipin were residing near her house. Mayank had borrowed the money from her husband in regards of committee. On 15.09.2015, at 8:30 pm, Vipin called her husband namely Parikshit at his office of property dealing. Her husband went to the office of Vipin at 8:30 pm and came back within 5 minutes. Her husband told her that Vipin had sought more time 10-15 days to give back the money. After some time her jeth Satya Kumar (since deceased) came to her house and he told them that he asked the money. Mayank, Vinod, Mukut and Vipin had quarreled with her jeth Satya

Kumar. Yaadram and Rajiv were sitting there. Both the persons Rajiv and Yaadram saved her jeth. Meanwhile, Mayank had fell down himself on the road and sustained injuries. After some time her jeth went back to her house and they locked their house from inside.

31. DW2 further deposed that at around 11:30 pm, some one knocked the door of her house and when she opened the door, she saw that Mayank, Vinod, Mukut and Vipin were standing there and they all after seeing her started abusing and misbehaving with her. All Mayank, Vinod, Mukut and Vipin threatened to her that if she would told the police or whisper regarding the alleged money then they would kill her. Vipin caught hold her hand and Vinod slapped over her breast and they again abused her and thereafter they flee away from the spot after threatening her. Thereafter, DW2 called at 100 number and reported the matter to the police. Police reached at the spot. She told regarding the incident to the police and FIR bearing No.626/2015 in that case was registered in PS Karawal Nagar. Mayank, Vinod, Mukut and Vipin had lodged an FIR against them firstly thereafter, she had lodged an FIR against them.
32. In his cross-examination, DW2 deposed that Mayank had not borrowed any money from her husband in regard to committee. Again said, "*1.5 lakh diye the*". Vipin had called her husband through his own. She does not know the make of mobile company of her husband namely Parikshit. Her husband went to the office of Vipin pedestrian which is situated around 20 to 25 meters away from her house. It takes around 1 or 2 minutes. She does not know where he had gone. When he came to house then he told that he had gone to house of Vipin. He came within

five minutes. DW2 denied that her husband did not told her where he was going as he had went to house of Vipin where he committed crime and manhandled Mayank in the present case and that is why when he came to house then only he told to you where he had gone. Her jeth had also come to her house but she does not know the exact time. Again said, he came after some time. Again said, he came after five minutes. She further denied that both Satya Kumar and Parikshit had gone to the office of Vipin. She denied that as she was in her house and therefore, she cannot say with certainty that both Parishit and Satya Kumar were present in the office of Vipin at the time of incident. DW2 affirmed that her knowledge that Satya Kumar was not at the office of the Vipin is only on the basis what Satya Kumar told to her. At the time of the incident, there were 1 and a ½ floor in her house.

33. DW2 further stated that she, along with her husband, used to live on the first floor. On the ground floor, they used to park their bike and there was also one room. DW2 affirmed that when anyone knocked at the door, they could hear it even while being present on the first floor. She further affirmed that at that time, there was no doorbell in their house. She stated that she was the first to come when Mayank, Vinod, Mukut, and Vipin came to her house. Her husband was then lying on the bed with their children. She had two children present in the house, and at that time, there was no CCTV camera installed. DW2 stated that when they entered, they started abusing her and also assaulted her on her chest. They were inside her house, and no public persons gathered. She denied the suggestion that no public persons gathered because no such incident had occurred. She stated that the incident lasted only about

five minutes. DW2 denied that at the time of the incident, her husband was present in the room on the first floor.

34. DW2 denied that no one assaulted or misbehaved with her and denied the suggestion that Mayank, Mukut, Vinod, and Vipin never came to her house on the ground that Mayank had already been manhandled by Satya Kumar and Parikshit and was taking medical treatment at that time, making his presence at her house impossible. She stated that the call at number 100 was made by her. She did not know the SIM number of the mobile phone used, and stated that the mobile was stolen. She did not remember whether she had lodged any FIR. She stated that she made the call at around 11:35 pm and did not remember the time when the police came to her house. Only one police personnel came to her house.
35. DW2 stated that the FIR was registered after 20–22 days, though she did not remember the exact date. She denied that she did not remember the date of FIR No. 626/2015 because it was lodged on a false and fabricated story. She denied that the FIR was not lodged promptly as it was based on a false story or that she lacked convincing facts. She stated that she did not know which higher authorities were approached against the police for not lodging FIR No. 626/2015 immediately (Vol.: this was done by her husband). DW2 denied that she deposed falsely to save her husband from legal punishment in FIR No. 593/2015 by concocting a false story of misbehaviour. She denied that FIR No. 626/2015 was a counterblast or that it was inferred as such because it was lodged after the present FIR and because the time of the incident

mentioned therein was later. She denied that her husband Parikshit Kumar and her jeth Satya Kumar went to Vipin's office and assaulted Mayank and Vinod Kumar. She further denied that Satya Kumar and Parikshit Kumar conspired at her house before going to Vipin's office. She also denied the suggestion regarding her husband's income and the allegation that money was taken from Vipin, leading to the alleged manhandling of Mayank and Vinod.

36. DW3 Yaadram Sharma deposed that on 15.09.2015, after taking dinner, at about 8:00 pm, he went to the office of property dealer Vipin regarding a plot. He reached there at around 8:15 pm and saw Vipin and Vinod talking. After about 15 minutes, Vipin came to him. DW3 was inside the office and was talking about the purchase of a plot; Vinod was also standing there. They informed him about one or two plots. Meanwhile, Raja Parikshit came there at around 8:30 pm, due to which DW3's discussion stopped. Raja Parikshit demanded money from Vipin, and Vipin told him that the person from whom he had asked money had sought relief of 10–15 days. Raja Parikshit insisted that Vipin should return his money as sufficient time had already been taken. DW3 further deposed that after about 8:35 pm, he left the spot.
37. DW3 further deposed that thereafter he again tried to talk to Vipin, but Vipin said he would talk the next day. DW3 remained downstairs below the office, where his friends were also standing and talking. After 10–12 minutes, two persons, later identified as Mayank and Mukul, came there. DW3 did not know them and did not know what they were talking about. At around 9:00 pm, Satya Kumar came from the side of

Raja's house, which is opposite Vipin's office. Satya Kumar asked Vipin, Vinod, Mukul, and Mayank to return Raja Parikshit's money, stating that Raja was very tense. These four persons abused Satya Kumar, saying that Vipin had already taken time for repayment. When Satya Kumar objected to the abusive language, they dragged him. DW3 stated that 4–5 persons were present, including one Rajiv Kumar. The quarrel was pacified, and Satya Kumar went towards his house. However, Vipin and the others continued abusing him from behind, and Satya Kumar replied. These four persons again ran behind Satya Kumar, during which Mayank slipped from the slab beside the office and received injuries. Satya Kumar had already gone to his house. DW3 stated that he was then asked to leave and does not know what happened thereafter. He further stated that Raja Parikshit was not present at that time and that he came to know Raja only from the date of the incident.

38. DW3 further deposed that he had gone to Vipin's office to inquire about a plot and that Raja @ Parikshit had come only to take back his money and stayed there for about 4–5 minutes. DW3 denied that Raja stayed longer or till 9:00 pm. He denied that Vipin had not borrowed money from Raja and stated that Vipin owed approximately Rs. 1.5–2 lakhs to Raja. DW3 denied that Raja manhandled Vipin or Vinod, stating that Raja left immediately after 4–5 minutes. He denied that Raja and Satya assaulted Vinod or Mayank or that Raja used an iron rod. He also denied that Mayank's injuries were caused by any assault and denied that there was no slab outside Vipin's office. DW3 further denied that Satya and Raja assaulted Vipin, Vinod, or Mayank or caused injuries in

furtherance of any common intention.

39. DW4 Rajiv Sharma deposed that on 15.09.2015, at around 8:30 pm, Vipin and Raja were conversing with each other regarding the money which Vipin owed to Raja, when Vinod came there. DW4 was also present at the office of Vipin. Vinod also remained there in the office. At that time, Raja left. DW4 also left as he had to see a doctor in the vicinity. He soon returned at about 9:00 pm and, upon reaching near the office of Vinod and Vipin, saw that Vinod and Vipin, along with Mukul and Mayank, were running behind Satya Kumar and saying, “aaj tujhe paise dete hai.” Mayank was standing on the slab, slipped, and received injuries on his head. Satya Kumar fled to save himself. Mayank was later taken to the hospital.
40. In cross-examination by the State, DW4 deposed that he had gone to see a doctor for fever and that when he reached the office of Vinod and Vipin at 8:30 pm, he saw Vinod and Vipin conversing. The doctor was an MBBS doctor who gave him some minor medicine written on a small slip. DW4 does not remember the name of the doctor as a long time has elapsed, nor does he have the prescription slip. He denied the suggestion that he had not gone to any doctor or that he was falsely deposing to save his friend Raja @ Parikshit. He stated that he was hardly five meters away when he saw Vinod, Vipin, Mayank, and Mukul running behind Satya Kumar. He did not know whether Raja @ Parikshit returned to the spot between 8:30 pm and 9:00 pm (Vol.: He left the spot at 8:35 pm after Raja had already left). He denied that Raja was present or that Raja and Satya Kumar attacked Mayank and his

father Vinod Kumar with an iron rod. He stated that the slab was about 3½ feet high and 2½ feet wide and denied that there was no slab outside Vipin's office. He denied that Mayank sustained injuries due to any iron rod attack and stated that he did not intervene as Mayank was taken to the hospital on his own. He denied that Mayank was taken by PCR van or that he was falsely deposing to save Raja, and further denied that Raja had gratified him to depose falsely.

Findings:-

41. To support its case, the prosecution has made Vinod Kumar, his son Mayank and owner of the shop Vipin, witnesses in this case. Besides this, police officials have also been examined.
42. PW 2 Vinod Kumar deposed before the Court that on 15.09.2015 at around 8.30 pm, he went to the shop of Vipin. Accused Raja @ Parikshit came there and both started quarreling due to some money dispute. Accused Raja @ Parikshit was asking money from Vipin and Vipin was trying to pacify him stating that he would return the money in 2-3 days but accused Raja @ Parikshit started abusing Vipin. Then PW2 Vinod Kumar tried to pacify accused Raja @ Parikshit but he started abusing PW2 Vinod Kumar also. Accused Raja @ Parikshit pushed him and he fell down on the floor. In the meantime, his son Mayank also reached at the spot. Then accused Raja @ Parikshit telephonically called his brother Satya Kumar. Then Satya Kumar came there alongwith an iron rod. Accused Raja @ Parikshit took the iron rod from Satya Kumar and asked Satya Kumar to catch hold of Mayank. While Satya Kumar caught the hands of Mayank, accused Raja @

Parikshit hit his son on his head with iron rod, his son fell down on the floor, became unconscious and blood started oozing out from his head. Both the accused had fled away from the spot.

43. This witness has supported the case of prosecution but with only one material contradiction i.e. he deposed that Mayank was hit on his head by accused Raja @ Parikshit and not by Satya Kumar, while the case of prosecution is that Satya Kumar had hit the head of Mayank and not accused Raja @ Parikshit.
44. PW 2 Vinod Kumar stood the test of cross examination on this aspect and deposed that he never stated to the police that Satya Kumar had hit Mayank.
45. PW 3 Mayank also deposed on the same lines as PW2. He also stated that Satya Kumar came there alongwith a *saria* in his hand. Accused Raja @ Parikshit took the iron rod from the hands of Satya Kumar while Satya Kumar caught Mayank, accused Raja @ Parikshit hit him on his head with *saria*, he became unconscious and regained consciousness at hospital. In his cross examination, he stated that IO did not read over his statement to him while in the hospital and he had only signed the statement given by IO. He deposed that the statement given in the Court is correct.
46. Further, PW4 Vipin had money dispute with accused Raja @ Parikshit but PW2 Vinod Kumar and PW3 Mayank had no motive to depose falsely or to falsely implicate the real culprit.
47. PW4 Vipin also deposed on the same lines that he had to collect money from accused Raja @ Parikshit while other witnesses stated otherwise.

He further deposed that accused Raja @ Parikshit started abusing Vinod Kumar when Vinod Kumar tried to specify the matter, accused Raja @ Parikshit telephonically called his brother Satya Kumar there and Mayank also came there. Accused Raja @ Parikshit took *saria* from the hands of Satya Kumar and hit on the head of Mayank while Satya Kumar was holding Mayank. He further clarified that IO had not read over his statement to him and it was wrongly written by IO. All the three witnesses who were present at the spot including the injured Mayank have consistently deposed that accused Raja @ Parikshit took *saria* from the hands of Satya Kumar (since deceased), while Satya Kumar caught Mayank and accused Raja @ Parikshit hit him.

48. It is submitted by counsel for the accused that all the three witnesses are hostile to the version of prosecution and have not supported the case of prosecution. It is specific case of prosecution that Satya Kumar had hit on the head of Mayank with an iron rod while it is the deposition of these three witnesses that accused Raja @ Parikshit has hit on the head of Mayank, hence, it is submitted that it is the material contradiction. However, this Court does not argue with the submission made. Only because witnesses have not deposed on the lines of facts of prosecution, they cannot be called hostile. A witness may be speaking the truth but the truth may not be consistent with the case of prosecution but that itself does not mean that the witnesses are hostile, they are rather speaking the truth.
49. Charge sheet is not a substantive piece of evidence, it is not evidence at all. The Court decides a case only on the basis of evidence given in

court. If a witness does not exactly repeat version written in the charge sheet, it does not automatically mean that witness is lying. The statements recorded under section 161 CrPC are not substantive piece of evidence. They can only be used to contradict or corroborate a witness. If the contradiction is put to the witness and the witness is able to explain it away with a valid reason, there is no reason to presume that he is not speaking the truth.

50. Further, both Raja @ Parikshit and Satya Kumar were present at the spot. The difference only relates to the fact that who was the one who hit the man with the iron rod. This is not a case of introducing a completely new accused. It is a case of assigning overt act to one amongst those already present. In such circumstances, the court needs to examine whether the witnesses are consistent on material aspects, whether cross-examination has shaken their credibility. If testimony of a witness is otherwise reliable, merely because he attributed hitting with an iron rod to Raja @ Parikshit instead of Satya Kumar, does not render their testimony false.
51. Hence, the consistent version of all the three witnesses namely Vinod, Mayank and Vipin is completely reliable.
52. The consistent cogent and trustworthy ocular testimony of three public witnesses which narrates the occurrence of offence in a particular manner lends credence to the prosecution case. Also two of witnesses had no monetary dispute with accused and there is no motive for them to depose falsely against accused. Further, one of public witnesses is injured witness and there is no reason why he will try to shield the real

culprit. Injured is not going to be benefited by implicating the accused falsely.

53. Conviction can be based on the oral testimony of such public witnesses if their testimony inspire complete confidence. All these three witnesses have consistently described the scene of crime thereby leading to the offence, they are consistent on material aspects and in cross examination their testimony as remained unshaken.

MLC

54. The version of public witnesses is corroborated by the MLC of injured Mayank on record. As per MLC, he received injuries over head and knees and nature of injury is simple.
55. Accused Satya Kumar has already expired during the proceedings. Accused Raja @ Parikshit has set up a defence that on the same day at around 11.30 pm, Vipin, Vinod, Mayank and one Mukul entered his house and misbehaved with his wife due to which FIR No. 626/2015, PS Karawal Nagar u/s 354/323/506/451/34 IPC is registered against them. In order to come out of the rigour of the said case, the present false FIR is registered against him. He had further stated that Mayank received injuries as he fell down in the office which is at some height. Accused Raja @ Parikshit examined himself as DW1, he deposed that on the same day at around 11.30 pm, these four persons namely Vipin, Vinod Kumar, Mayank and Mukul entered his house and misbehaved with his wife. They also threatened to kill his wife and children, hence, he called at 100 number. However DW1 has been cross examined in

detail by Ld. Addl. PP, he admitted in his cross examination that on the date of incident, he had gone to the office of Vipin regarding the money of committee at 08.30 pm.

56. He denied the suggestion that he had taken money from Vipin. Further, it was specifically put to him in his cross examination that as per FIR on record, the time of incident is 11.30 pm in FIR No. 626/2015 which he admitted, while in the present case, the time of incident is 08.30 pm, hence the FIR by DW-1 was filed later on.
57. DW-2 Nirmal Devi, wife of accused Raja @ Parikshit, deposed that her husband had gone to the office of Vipin at 08.30 pm, and came back within 30 minutes and nothing of this sort has happened. Whatever she has deposed had not happened in front of her and her statement is hearsay statement.
58. She has further deposed that around 11.30 pm, Mayank, Vinod, Vipin and Mukul came to her house and sexually abused her for which a separate FIR has already been registered. However, if the subsequent event at 11.30 pm had happened in the house of accused Raja @ Parikshit or not, is outside the purview of the present case. Needless to say, a separate FIR is already registered regarding the same and the matter is already seized by a competent Court.
59. It is admitted by DW1 and DW2 in their cross examination that this incident happened in their house at 11.30 pm while in the present case, time of incident is mentioned at 08.30 pm. Further, to support the case of prosecution, there is a 100 number call at 09.16 pm to show that this is prior to the incident of 11.30 pm.

60. Further, MLC of Mayank is at 10.16 pm on 15.09.2015, hence this incident had happened prior to the alleged incident at 11.30 pm.
61. DW3 Yadram Sharma and DW4 Rajiv Sharma claimed themselves to be the public witnesses to the incident and have deposed that nothing of this sort had happened in the office of Vipin. They both deposed that accused Raja @ Parikshit had to take money from Vipin due to which this false FIR is registered.
62. However, the money dispute was between accused Raja @ Parikshit and Vipin only, admittedly there was no money dispute between PW2 Vinod Kumar and his son Mayank with accused Raja @ Parikshit or Satya Kumar. None of the defence witnesses have explained what could be the motive behind implicating the accused persons falsely. No one has tried to give explanation for falsely implicating him. There is no reason why an injured person would depose falsely. Further, to support the injury of Mayank, MLC is on record. Further, as per opinion, the nature of injury is simple.

Section 308 IPC

63. Now coming to the question if offence u/s 308 IPC is made out. Section 308 IPC deals with attempt to commit culpable homicide. For an offence to come under this section, the act must have been caused with intention to cause death or with knowledge that such act is likely to cause death and he would have been guilty of culpable homicide if death had occurred. For an offence to fall under this section, this Court examines nature of weapon used, part of body targeted to the severity of blow, number of attacks, manner of attack and conduct of accused.

Further, the kind of hurt i.e. caused also becomes relevant though not sole criteria to decide.

64. Coming to the facts of the present case, it is consistently deposed by all the three public witnesses that accused Raja @ Parikshit had hit on the head of Mayank with iron rod. Further, none of the witnesses stated that more than one blow was given with iron rod. Further as per MLC, there is simple injury on the head. Considering the fact that a single blow was given on head and it has resulted only in simple injury, hence, it could be inferred that the blow was not with much force as it has caused only simple injury. Further, if his intention would have been to cause his death, there might have been given multiple blows. Further, the incident happened at the spur of the moment and no prior enmity is attributed to accused Raja @ Parikshit for hitting Mayank nor the circumstances warrant imputing any such knowledge to accused that this act might have caused death. The incident happened at the spur of the moment, there was not prior enmity, a single blow was given with iron rod but not with that force and it resulted in causing simple injuries only. Circumstances do not indicate towards any such conclusion that intention was to cause death. Hence, the circumstances of the case do not point towards commission of the offence u/s 308 IPC.
65. Considering facts of the case, where incident happened suddenly, a single blow was given which resulted in simple injury, the offence under Section 323 IPC is made against the accused.

Conclusion

66. In the overall circumstances of the case, accused Raja @ Parikshit is

hereby convicted for the charged offence u/s 323 IPC. Further, he is acquitted for the charged offence u/s 308 IPC.

Announced in Open Court
as on 25.02.2026

(Twinkle Wadhwa)
Additional Sessions Judge-02
North East, Karkardooma Courts, Delhi