

COURT OF ADDITIONAL SESSIONS JUDGE KATHUA

Case No. : 632/2013
CNR No : JKKT01010000472009
Date of Institution : 06.02.2009
Date of Decision : 27.01.2026

State (now UT) of J&K through Police Station Rajbagh

Through:- Mr. Rajesh Sharma, APP

Versus

Harbhajan Singh S/O Sardari Lal

R/O Bakral Colony, Tehsil Hiranagar

District Kathua (J&K)

....(Accused)

Through:- M/S T.N.Gupta and Parveen Mrall, Advocates

FIR No.129/2008 of Police Station Rajbagh

Offence u/s 307 RPC

Coram:-

Pravin Pandoh

J.O.Code- JK00157

JUDGMENT

1. The instant charge sheet was transferred to this court by Worthy Principal Sessions Judge Kathua for disposal vide order dated 10.04.2009. Same was diarized.
2. Briefly stated the case of the prosecution is that on 16.09.2008, statement of injured was recorded at Hospital where she deposed that she has been married to accused Harbhajan Singh for the last

13-14 years. She has four children, her husband is a truck driver who used to beat her after consuming alcohol. He was advised many times but he does not care. She resides at her maternal home. Whenever accused comes home he beats her. On the previous evening at about 7-8:00 p.m, accused came home after consuming liquor and started abusing her and had beaten her. Her mother had gone to Jammu and her sister was present in another room. She went to prepare meals but her husband told that he will not eat food. In the morning at 9:30 A.M, accused was abusing her from the early morning. She was preparing meals and accused came from backside, caught hold of her hair and caused a blow with sharp edged weapon on her neck thereby injuring her. He was shouting that he will not spare her alive. She fell on ground. Her sister and neighbourer came who covered the injury with scarf (Chunni) and stopped the oozing blood. That her husband attacked her with intention to kill her.

3. Based on this statement, FIR was lodged. I.O visited the spot and prepared the site map. During investigation, I.O collected blood stained soil and ordinary soil from spot and seized them separately. Blood stained clothes were also seized. Separate packets were prepared of blood stained soil, ordinary soil and blood stained clothes and were marked as A, B and C. Statements of witnesses were recorded u/s 161 Cr.P.C. Packets A, B and C were got re-sealed and were sent to FSL Jammu for examination. FSL report was obtained. Statements of eye-witnesses were recorded u/s 164-A Cr.P.C. Accused was arrested. During investigation, weapon of

offence i.e. one knife was recovered on the basis of the disclosure statement of the accused. Disclosure memo, recovery memo and site map were prepared. Medical report of the injured was obtained. Examination of the weapon of offence was conducted by the medical officer and the report was obtained. During investigation, the allegations against the accused were found correct and the accused was found to have committed offence punishable u/s 307 RPC and instant charge sheet was filed against him.

4. Charges u/s 307 RPC were framed against the accused. Memo of charges was read over and explained to accused. Accused pleaded not guilty and claimed to be tried. Prosecution was then directed to lead evidence. Prosecution examined eleven witnesses in support of charge sheet.
5. Statement of accused u/s 342 Cr.P.C was recorded on 17.11.2025. All the incriminating circumstances were put to accused who denied all the allegations. Accused chose not to examine any witness in defence.
6. Resume of the evidence on record is discussed below:-

- (i) **PW Gurpreet Kour W/O Harbhajan Singh** deposed that she knows the accused present in the court. She was married to the accused in the year 1996. She has four children including three girls and one boy. Accused is truck driver and is a drunkard from the very beginning and beats the deponent. On 15.09.2008 at 7-8 p.m, accused came to home after

drinking alcohol and started abusing her. The shirt of the deponent was put on fire that her son extinguished. Accused kept fighting with her all night and came back in the next morning after drinking. She had prepared meals but accused told that he will not eat that food. She went to kitchen to prepare the meal and accused was abusing her. Accused came with a sharp edged weapon and hit her throat twice. Firstly he grabbed the hair of deponent on which deponent started screaming, her sister Sonia and neighbourer Surinder Kour came and wrapped her neck. Accused had attacked her with intention to kill her and was saying that he will kill the deponent. She was taken to Keedian Hospital and police came there on that day and recorded her statement and that of accused. She identifies her signatures on the statement recorded by ASI in the hospital and admits its contention as correct and the same is exhibited as EXT PW-GK. FIR was lodged on the basis of this statement. She admits the contents of the same as correct and the same is exhibited as EXTPW-GK-1. She had given the same statement as she gave before police.

On cross examination she deposed that accused is her husband. They were not having good terms from the very beginning and disputes kept taking place. She is living with her mother from the beginning because she was always having quarrels with accused because accused used to come along with his friends and play gamble. Accused was not

having suspicion on her but use to quarrel after consuming liquor. She never asked accused to leave her and live somewhere else. One day before occurrence accused came after consuming liquor and started abusing her. She does not know that whether her sister or anyone else had seen her beating, however, her sister had seen the accused holding deponent. A lot of blood was lying in kitchen and a lot of blood had been sprinkled outside. Her sister had also seen this blood. Her sister had given report of the occurrence; however, police had come to Hospital. When she was going to hospital, police was present at Rajbagh bus stand who had seen her in injured condition and had told to take the deponent to hospital immediately. She does not know the rank of the police officials and the police had come to hospital. She had deposed before police that accused had caught her hair and had attacked her with sharp edged weapon thereby injuring her; she had not disclosed the name of any sharp edged weapon. It is true that she had deposed before police that accused doubts her character so he beats her. Her clothes were blood stained because of the beating and she had shown the same to police. Police had seen the blood in the kitchen as well as outside. Police had seized her blood stained clothes, blood stained soil from the kitchen and blood stained soil from outside. Police had seized some weapon in her presence. She had not seen blood stained clothes, blood stained soil or any weapon by which accused had beaten her in the Court. She does not want

any punishment for accused; punishment suffered by accused is sufficient. Now she wants to reside with accused.

- (ii) **PW Sonia Devi W/O Nabjot Singh** deposed that she knows the accused present in the court who is husband of her real sister. About 7 years ago she had come to her house at Bakral colony Raj Bhag. A fight had taken place between accused and his wife in the previous night. In the morning when she came back after throwing cow dung, she saw her sister Gurpreet Kour lying on the ground. On inquiry her sister disclosed that accused had injured her. When she asked the accused, he replied that the injured has herself injured her. Then accused had brought the vehicle and the injured was taken to Kathua hospital. Thereafter police came to Kathua hospital and recorded the statement of injured. The statement of deponent was recorded at Hiranagar court. On the request of APP, permission to cross examine the witness was granted.

On cross examination by APP she deposed that accused used to consume liquor. She did not see the accused beating the injured. Her parents had given land to accused for construction of house. It is true that on 15.09.2008, accused had beaten his wife. It is true that on the next day also accused had consumed the liquor. There was sharaad of her grandfather on that day and accused had said that he had come after eating there. It is not true that when accused came back to the home he started sharpening the knife and she

asked him what he wants to do to which he replied that he wants to chop the onion. It is in correct that when she came back after throwing cow dung, accused attacked twice with knife in her presence but she had not seen him attacking. The averment made in her statement under Section 164-A Cr.P.C that accused attacked the throat of her sister twice with knife is wrong. She had not given such statement before court. She identifies her signatures on her statement u/s 164-A Cr.P.C and said that its contents are not correct. The signatures are marked as mark SD. It is incorrect that she is making a false statement to save the accused.

On cross examination by the counsel for accused, she deposed that her sister goes out of her home without informing her husband and remains absent for 10-15 days and the complainant and accused used to fight because of this. Gurpreet Kour has illness regarding brain and many times earlier also she had injured herself with knife and injured her with intention to commit suicide and she wanted freedom that no one shall ask her when she leaves home and when she comes back. She had left the home after one year of occurrence and her whereabouts are not known till day and report is lodged with police many times but she could not be found. As per her, the case is false and her sister Gurpreet Kour had lodged a false case for killing herself and implicating the accused. She wanted freedom after punishment to accused that no one stops her whenever she

goes. There are four children of her sister and accused and their son has been married. Two daughters and one son are studying and accused provides for them. Accused has never beaten her sister in her presence, however, the statement made before the Magistrate was given on the instruction of police. Police had threatened her that if she will not make statement as per the instructions of police, she along with others shall also be arrayed as accused.

- (iii) **PW Ramesh Lal S/O Partap Singh** deposed that he knows the accused who is his son in law. On 16.09.2008 he had gone to the house of his brother and fight had taken place at the house of Baj Singh. Fight took place in his absence between accused and his wife who are his relatives. When he reached on spot her injured daughter Gurpreet Kour was taken to hospital. Thereafter police had come at spot and seized blood stained clothes, soil etc. His signatures were obtained on the seizure memo on 22.09.2008 police had recovered one knife from a Nallah. There were two police officials; one was Havaladar and one constable. Accused at that time was at hospital. Police had prepared the documents at home. He has gone through the contents of seizure memo of clothes and same has already been marked as EXT-S-RR. He has gone through the contents of Supurdnama memo and he identifies his signatures on the same that is marked as EXT-P-3. He admits the contents of personal search memo as correct and identifies his signatures on the same and is marked as EXT-P-

3/1. He admits the content of arrest memo EXT-P-3/2 and identifies his signatures on the same. The contents of disclosure memo have been read over to him and the same are not correct; it bears his signatures and same is marked as -PR-1. The contents of recovery of weapon of offence are not correct and same is marked as PR-2. He is not making a false statement to save the accused if he makes a false statement, he is making statement based on truth but he is not making a false statement.

On cross examination he deposed that he has neither seen the seized knife nor the supurdnama seal in the court. He does not know that on whose supurdnama the seal ring was kept. Police had prepared all the documents containing his signatures at the house of accused. Accused was not present on spot nor was arrested by police in his presence. He does not know when police had arrested the accused and what was recovered from him. He does not know the length of knife nor had police noted his measurement.

(iv) **PW Baj Singh S/O Partap Singh** deposed that he is father-in-law (Taya Susar) of the accused. Nothing happened in his presence. He has no knowledge of the occurrence. He was declared hostile. Nothing material came in his cross examination.

(v) **PW Raj Rani W/O Romesh Lal** deposed that accused is her son-in-law and complainant Gurpreet Kour is her daughter.

The mother of deponent was ill and she had gone to Jammu hospital to meet her. Later on she came to know that complainant had run from her home after fighting with accused. Before occurrence also, complainant had left her home on her own 7-8 times. She was not mentally stable. Similarly she had gone many a times before occurrence. When she came back, she inquired from her daughter that what she had done to which her daughter replied that she had herself cut her neck with blade of her own will because accused used to stop her from going outside. Police had recorded her statement. Police did not show her any weapon of offence but had shown her blood stained clothes. Complainant has left her house for the last three years. Accused is providing for his children and does not make them suffer. She admits the contents of seizure memo EXT-5-RR as correct and identifies thumb impression on the same. She has seen the seized cloth in the Court. She is not making a statement to save the accused but is deposing what she knows. Accused has four children and accused is taking care of them and resides near her house.

On cross examination she deposed that she does not know that whether police had seized the clothes from hospital or somewhere else. The character of complainant was not good who used to leave her house on her own. Whenever complainant comes back and accused asks that why she goes out on her own, complainant leaves the house after fighting

and now has left her for the last three years. Complainant has also consumed poison many times but accused has nothing to do with it.

- (vi) **PW Surinder Kour W/O Bajan Singh** deposed that she knows the accused. Gulpreet Kour is daughter of her brother-in-law (Jeth). Accused present in the court is married to Gulpreet Kour. Their relation remained cordial after marriage. No quarrel took place between accused and his wife. The deponent had seen injury on the neck of Gulpreet Kour but she does not know that how she was injured. She had seen Gulpreet Kour in a pool of blood at her home and police had come to home in this connection that and obtained the signatures of deponent and went back. Accused took his wife to hospital for treatment but she does not know that to which hospital she was taken. It is true that she is deposing to save the accused.

On cross-examination she deposed that the wife of accused had inflicted injuries on herself to frame the accused. Despite that accused took Gurpreet Kour to hospital himself. Earlier also Gurpreet used to run away from home and has not returned back till date. The deponent has given a statement based on truth that accused be saved from a false case.

- (vii) **PW Sat Paul S/O Galodu Ram** deposed that in the year 2008, he was posted as Naib Tehsildar Hiranagar. On 25.09.2008, ASI Dayanand of P/S Raj Bhag produced three

packets bearing marks A,B and C containing blood stained soil, ordinary soil and blood stained clothes for re-sealing. He resealed the same and issued a certificate to that effect. The certificate on file bears his seal and signature that he identifies. He has attested the marks on certificate. Same is exhibited as EXTP7.

On cross-examination he deposed that ASI Dayanand had come for re-sealing. ASI had filed an application for resealing that is not on file nor has he seen it. There is no mention of this application in the certificate. It is also not mentioned in the certificate that on whose behalf the application was moved, however, he remembers the filing of application. Police had already sealed the exhibits and not in his presence. He had only resealed them. As per ASI the packets contained ordinary soil, blood stained soil and blood stained clothes. He remembers the number of seals put on each packet nor it is contained in authority letter. He cannot depose about the seal imprint or the mark. Seal imprint is not legible. Sample of seal was not sent for FSL. One copy of certificate was sent to FSL. Original certificate was not sent to FSL and the copy of the same is on file.

(viii) **PW Dr. Vasna Medical Officer, District Hospital Udhampur** deposed that on 16.09.2008, at 8:00 AM she examined Gurpreet Kour wife of Harbhajan Singh R/O Bakral Colony Tehsil Hiranagar, aged about 27 years with alleged

history of assault, mark of identification a black mole on chest and under MLC No. 5034 and found the following injuries on the person of the injured which are as under:-

1. There is incised wound over the neck interior aspect at the level thyrohyoid region transversally placed approximately 5x1x1 Cms bleeding plus. Patient was admitted in District Hospital Kathua w.e.f 16.09 to 25.09.2008.

Opinion

In her opinion the above said injury is simple in nature and could be caused by sharp edge weapon with duration 6 hours. She has issued the certificate which is part of this file, it was prepared by her and bears her signature, the contents thereof are correct and same is exhibited as EXT-VS.

On 21.10.2008 police showed her weapon of offence i.e., knives one end is made of wood and other end is iron. One end is sharp and other end is blunt. Injury mentioned in the MLC No. 5034 could be caused by this type of weapon. The certificate to that extent has been issued by her and bears her signature, which is exhibited as EXT-VS-1.

On cross-examination the witness stated that she has neither seen patient today nor she knew her personally. In the certificate she has not mentioned that by whom the injured was brought before her. The patient can die if the injury is

not properly managed. Such type of injury could be self inflicted injury. The injury found on the person of injured can be inflicted by such type of any other weapon also. Injury was fresh and it was caused within 6 hours. The injured was at the time of examination was bleeding.

- (ix) **PW Dr. Shahul Ahmed Kanth, retired Deputy Director Biology/Serology, FSL Srinagar** deposed that on 06.01.2009, he was posted as Assistant Scientific Officer, at FSL Srinagar. On that day, he received three sealed packets enclosed within Khadder cloth marked A, B and C bearing 6,5 and 13 intact seals respectively from Director J&K FSL Jammu forwarded for examination by SDPO (Sub-Divisional Police Officer) Border Division Chadwal (Kathua) vide his letter No. 3051-53/SDPO Bdr, Dated 27.09.2008 sent through Gh. Nabi Khan Lab Attendant FSL Srinagar.

On opening packet marked A, it was found containing sample of clay allegedly stained with blood which was marked as the exhibit No. K-19/09 by him.

On opening packet marked B, same was found containing simple clay which was marked as the exhibit no. K-20/09 by him.

Similarly, on opening packet marked C, same was found containing one Trouser with cord one half Sleeves Frock,

one Dupatta and one Bra, allegedly stained with blood which were marked as exhibit nos. K-21/09, K-22/09, K-23/09 and K-24/089 respectively him.

The above seals were opened in his presence and the contents of the exhibit were duly examined by him remaining under his immediate custody until the examination was completed.

Result:-

- I. Human blood stains were detected on the exhibit nos- K-19/09, K-21/09, K- 22/09, K-23/09 and K-24/09.
- II. Group of the blood stains on the exhibit Nos. K-19/09, K-21/09, K-22/09, K-23/09 and K-24/09 were of "B" Blood group.
- III. Physical Microscopical and Density Gradient Analysis revealed that the clay samples marked as Exhibit Nos K-19/09 and K-20/09 were similar.

The report bears his signature and its contents are correct. It is exhibited as Ext.PW-10.

On cross-examination he deposed that he received the above sealed packet marked as A, B and C, after about three and half months and he does not know in whose custody same remained during this period. These were sealed by Executive Magistrate 1st Class, Chadwal and same were bearing 6,5 and 13 seals of

the Executive Magistrate. He does not know about the cause of delay at Jammu. After examination, he sent back the remnants to Jammu, but he does not know to whom these remnants were sent to Jammu and this can be known from the record lying in the office at FSL Srinagar. He has not examined the record today in the office at Srinagar as he is a retired person at this time.

- (x) **PW Dayanand** deposed that in the year 2009, he was posted at P/S Raj Bagh. On 16.09.2008, statement of complainant was recorded at hospital in presence of MO and was filed before P/S Raj Bagh and FIR No. 129/2008 u/s 307 RPC was registered. Investigation was entrusted to him. During investigation he visited the spot and prepared site map, collected blood stained soil and ordinary soil weighing 30/30 gms that was packed separately and sealed. Blood stained clothes of complainant were sealed. Packets were marked A,B and C. Statements of witnesses were recorded u/s 161 Cr.P.C. Offence punishable u/s 307 RPC was found proved against accused who was arrested. One knife, weapon of offence was recovered on the disclosure of accused. Disclosure memo and recovery memo were prepared separately. Packets were got resealed from EMIC and were sent to FSL Jammu for examination. Medical report was obtained. Description of Weapon of offence was obtained from MO. FSL report was also obtained. He handed over the file to SHO after completion of investigation. Site map and seizure memo of blood stained soil are in his hand writing and bear his

signature. Same are marked as EXT-P-11 and EXT-P-11/1. Seizure memo of clothes is in his hand writing and bear his signatures. Same is already marked as EXTP-RR. Supurdnama memo, personal search memo, arrest memo, disclosure memo, recovery memo of weapon of offence and seizure are in his hand writing and bear his signatures. Same are already marked as EXT-P-3, EXT-P-3/1, EXT-P-3/2, marked PR1, PR-2. Site map of recovery of weapon of offence is in his hand writing and bears his signatures. Same is exhibited as EXTP-11/2. APP Submits that seized material has not been deposited in Malkhana.

On cross-examination he deposed that FIR is not in his hand writing nor it contained his signatures. He had seen the complainant during investigation, however, he had not seen her prior to or after investigation. He recorded the statement of complainant at hospital and has not seen complainant thereafter. He prepared site map on the instructions of eye witnesses. The names of those persons are not mentioned on the site map. He has not mentioned in the site map that which witness was standing there and at how much distance. Blood was lying on spot. It is not mentioned in the site map that where the blood was lying in the room, however, blood was lying in the room and it has not been mentioned that at how many places the blood was lying. The floor was not cemented. Blood stained soil was seized and sealed on spot and the seal ring was kept on the supurdnama of PW Baj Singh. If Baj Singh has deposed that

blood stained soil was neither seized nor sealed in his presence then he is lying. He has not seen the seal ring in the court. The length of the weapon of offence is shown as 8 inches along with handle, however, the breadth and length of knife has not been written. He has not written the dimensions of injury on the injury form. According to him there was only one injury mark on the neck of injured. It is not written in the form that where was the injury mark. As per his investigation accused had inflicted this injury mark. As per him injured could also inflict this mark. The place of recovery of weapon of offence is a common road. He does not know that to whom that land belongs. This is an open land and anyone can go there. He has neither seen the knife nor the cloth in the court.

(xi) **PW Narinder Singh Jamwal** deposed that in the year 2008, he was posted at SHO P/S Raj Bagh. ASI Dayanand had investigated FIR No. 129/2008 and after completion of investigation IO presented the charge sheet before the court after the satisfaction of the deponent.

On cross-examination he deposed that he passed the order and cleared the charge sheet to be filed in the court after going through the medical opinion and the statement of complainant Gurpreet.

7. This is the entire evidence on record.

8. APP submits that the evidence on record is sufficient to hold accused guilty of offence. Accused has inflicted injury on the vital

part of the injured that would have resulted in the death of the injured if timely treatment was not provided to her. The facts and circumstances of the case when considered together would show the intention of the accused to cause death of the injured. That prosecution has proved the guilt of the accused beyond reasonable doubt. He finally prays that the accused be convicted and sentenced with maximum punishment.

9. Ld. Counsel for the accused on the other hand argues that the prosecution has miserably failed to prove its case beyond reasonable doubt. That all the witnesses examined by prosecution except injured have deposed against prosecution story. Even the statement of injured is covered in the clouds of doubt. He further argues that the injured has inflicted injuries on herself with the sole motive and intention of framing accused in this false and frivolous case as is deposed by all the material witnesses examined by prosecution other than the injured and that the accused is entitled to benefit of doubt. He finally prays for the acquittal of the accused.
10. Heard APP, ld. Counsel for the accused and perused the material available on record.
11. The point for determination in the case is that whether accused is guilty of committing attempt to murder the injured or not?
12. The case of the prosecution is that on 16.09.2008, statement of injured was recorded at Hospital where she deposed that she has been married to accused for the last 13-14 years. She has four

children, her husband is a truck driver who used to beat her after consuming alcohol. She resides at her maternal home. Whenever accused comes home he beats her. On the previous evening between 7-8:00 p.m, accused came home after consuming liquor and started abusing her and had beaten her. Her mother had gone to Jammu and her sister was present in another room. She went to prepare meal but her husband told that he will not eat food. In the morning of 16.09.2008 at 9:30 A.M, accused was abusing her from the early morning. She was preparing meal and accused came from backside, caught hold of her hair and caused a blow with sharp edged weapon on her neck thereby injuring her. Accused was shouting that he will not spare her alive. She fell on ground. Her sister and neighbourer came who covered the injury with scarf (Chunni) and stopped the oozing blood. That her husband attacked her with intention to kill her.

13. To prove its case, prosecution has examined eleven witnesses. PW Gurpreet Kour is the injured wife of accused; PW Sonia Devi is the sister of the injured and is cited as eye-witness. PWs Ramesh Lal, Baj Singh and Raj Rani are witnesses to seizure memos and supurdnama. PW Surinder Kour is a witness to circumstances. PW Sat Pal is witness to re-sealing of the packets. PW Dr. Vasna is medical officer, who examined the injured medically. PW Dr. Shahul Ahmed Kant is an expert witness to the FSL report. PW Dayanand is the I.O of the case.
14. PW Sonia Devi, sister of injured, deposed that when she came back after throwing the cow dung she saw injured Gurpreet Kour

lying on the ground, who on enquiry, disclosed that accused had injured her. She further deposed that she then asked the accused about the injury to which, accused replied that the injured has herself inflicted injury on her. She was permitted to be cross-examined by the prosecution where she deposed that it is true that on 15.09.2008, accused had quarrelled with the injured and had consumed liquor next day also. On cross-examination by the counsel for the accused she deposed that accused and injured used to fight because of the fact that her sister goes out of her home without informing the accused and remains absent for about 10 to 15 days. That the injured was not mentally stable and had injured her with knife on previous occasions also. That the injured left her home one year after the occurrence and her whereabouts are not known till date. That her sister has lodged this false and frivolous case just to implicate the accused.

15. PW Raj Rani, the mother of the injured has also deposed that she came to know that her daughter had run away after fighting with the accused. That her daughter was not mentally stable and had left home on her own 7 to 8 times. That her daughter told her that she had herself cut her neck because accused used to stop her from going outside. That her daughter was not having a good character.
16. PW Surinder Kour had also deposed that the wife of the accused had inflicted injuries on herself to frame the accused. However, she has deposed that she is making deposition to save the accused.

17. The conjoint reading of statements of all the said witnesses would suggest that they have deposed that the injured had inflicted injuries on herself with intention to frame the accused because the injured was of bad character and would go outside without the consent of the accused and would remain absent for a number of days. That the injured was not mentally stable and had injured herself on earlier occasions also. It has further come in their statements that the accused is having four children and is taking care of them since the injured has left her home and her whereabouts are not known to anybody.
18. The only statement against the accused on record is that of injured namely Gurpreet Kour, the wife of the accused. Injured in her statement has deposed that she was married to accused in the year 1996; the accused is a drunkard and used to beat her. On 15.09.2008 at 7-8:00 p.m, accused came home after consuming alcohol and started abusing her. The shirt of the injured was put on fire by accused and the same was extinguished by her son. Accused kept fighting with her all the night and came back the next morning after drinking. She had prepared meals but accused told that he will not eat that food. She went to kitchen to prepare the meals and accused was abusing her. Accused came with a sharp edged weapon and hit her throat twice. Firstly he grabbed the hair of deponent on which deponent started screaming and her sister Sonia and neighbourer Surinder Kour came and wrapped her neck with a cloth. Accused had attacked her with intention to kill her and was declaring that he will kill the injured. She was

taken to Keedian Hospital and police came there on that day and recorded her statement.

19. The injured has deposed almost same facts before this court as narrated by her to police at hospital. She was thoroughly cross-examined but no contradictions could be extracted by the defence. She was even asked a specific question that whether she wants accused to be punished to which she replied that she does not want any punishment for accused and the punishment already suffered by the accused is sufficient but still she stood firm to her statement. Defence could not create a doubt in cross-examination that her statement is not trustworthy.
20. There is no other eye-witness to the occurrence and the eye-witness cited by the prosecution i.e. the sister of the injured namely PW has deposed that when she came back after throwing the cow dung, she saw her sister injured. PW Gurpreet Kour has also deposed that her sister was in another room and came on spot after she had been attacked by the accused.
21. The injured has stood firm to her statement and her veracity could not be shaken by the defence in her cross-examination. The statement of the injured reposes confidence and is free from any contradictions and is fully reliable. The injured Gurpreet Kour is the only witness that has deposed against the accused.
22. The moot point that arises here for consideration is that whether the accused can be convicted on the basis of the solitary statement of the injured when all other witnesses have deposed against the

prosecution and especially against the character and antecedents of the injured.

23. In the case of ***Amar Singh Vs The State (NCT of Delhi)*** AIR 2020 ***Supreme Court 4894*** Hon'ble Surpeme Court has held that the courts can and may act on the testimony of a single eye witness provided he is wholly reliable. It is the quality and not quantity of evidence that matters. Relevant portion of the judgment is reproduced below:-

16. Thus the finding of guilt of the two accused appellants recorded by the two Courts below is based on sole testimony of eye witness PW-1. As a general rule the Court can and may act on the testimony of single eye witness provided he is wholly reliable. There is no legal impediment in convicting a person on the sole testimony of a single witness. That is the logic of [Section 134](#) of the Evidence Act, 1872. But if there are doubts about the testimony Courts will insist on corroboration. It is not the number, the quantity but quality that is material. The time honoured principle is that evidence has to be weighed and not counted. On this principle stands the edifice of [Section 134](#) of the Evidence Act. The test is whether the evidence has a ring of truth, is cogent, credible and trustworthy or otherwise (see *Sunil Kumar V/s State Government of NCT of Delhi*).

24. Further in the case of ***Ravasaheb @ Ravasahebgouda etc. vs State of Karnataka, 2023 LiveLaw (SC) 225*** Hon'ble Supreme Court after considering the various authorities on the subject has laid down the principles for such cases as under :-

17. This Court has on numerous occasions considered cases similar in nature, and, from such consideration emanated various principles in deciding the cases. Some of the principles essential for the instant lis to be decided are –

17.1 Evidence of hostile witness:

- a) Corroborated part of the evidence of a hostile witness regarding the commission of offence is admissible. Merely because there is deviation from the statement in the FIR, the witness's statements cannot be termed totally unreliable;
- b) The evidence of a hostile witness can form the basis of conviction.
- c) The general principle of appreciating the evidence of eye-witnesses is that when a case involves a large number of offenders, prudently, it is necessary, but not always, for the Court to seek corroboration from at least two more witnesses as a measure of caution. Be that as it may, the principle is quality over quantity of witnesses. [*Mrinal Das Vs. State of Tripura* (2011) 9 SCC 479]

17.2 Effect of omissions, deficiencies:

Evidence examined as a whole, must reflect/ring of truth. The court must not give undue importance to omissions and discrepancies which do not shake the foundations of the prosecution's case. [*Rohtash Kumar Vs. State of Haryana* (2013) 14 SCC 434; *Bhagwan Jagannath Markad Vs. State of Maharashtra* (2016) 10 SCC 537; and *Karan Singh Vs. State of Uttar Pradesh* (2022) 6 SCC 52]

17.3 Reliance on single witness:

If a witness is absolutely reliable then conviction based thereupon cannot be said to be infirm in any manner. [*Karunakaran Vs. State of Tamil Nadu* (1976) 1 SCC 434; and *Sadhuram Vs. State of Rajasthan* (2003) 11 SCC 231]

17.4 Testimony of a close relative:

A witness being a close relative is not a ground enough to reject his testimony. Mechanical rejection of an even "partisan" or "interested" witness may lead to failure of justice. The principle of "falsus in uno, falsus in omnibus" is

not one of general application. [Bhagwan Jagannath Markad Vs. State of Maharashtra (2016) 10 SCC 537]

17.5 Preponderance of probabilities:

To entitle a person to the benefit of a doubt arising from a duality of views, the possible view in favour of the accused must be as nearly reasonably probable as that against him. [Gopal Reddy Vs. State of Andhra Pradesh (1979) 1 SCC 355]

25. Further in the case of *Karan Singh Vs The State of Uttar Pradesh* 2022 *LiveLaw* (SC) 234 Hon'ble Supreme Court of India has held as under :-

41. From the evidence of Mahender Singh, PW-4, it appears that no specific question was put to him as to whether the Appellant was present at the place of occurrence or not. This Court, in Rohtash Kumar v. State of Haryana⁵ held:-

“24. ... The court has to examine whether evidence read as a whole appears to have a ring of truth. Once that impression is formed, it is undoubtedly necessary for the court to scrutinize the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the evidence given by the witnesses and whether the earlier evaluation of the evidence is shaken, as to render it unworthy of belief. Thus, the court is not supposed to give undue importance to omissions, contradictions and discrepancies which do not go to the heart of the matter, and shake the basic version of the prosecution witness...”

46. As argued by Mr. Tyagi, appearing for the State both PW2 and PW3 had clearly mentioned that the Appellant and PW4 13 (2010) 12 SCC 350 14 (2011) 9 SCC 561 15 (2012) 7 SCC

646 16 (2013) 14 SCC 434 Mahender Singh were both present at the place of occurrence. The Appellant's presence has been proved by two eye witnesses. It has been proved by the eye witnesses, that the Appellant carried a rifle. But PW2 and PW3 deposed that all the accused had opened fire. The prosecution was required to prove its case beyond reasonable doubt, which it has done, and not beyond all iota of doubt. The fact that one of the injured witnesses may not have mentioned the name of Appellant Karan Singh does not demolish the evidence of the other witnesses.

26. The legal position that enumerates from the law discussed above is that a conviction can be based on the solitary statement of the witness if the statement reposes confidence, is cogent, credible and trustworthy and the minor contradictions, omissions and discrepancies must be ignored unless such discrepancies goes to the root of the case. Prosecution is required to prove its case beyond reasonable doubt and not beyond all iota of doubt. Moreover the statement of injured eye witnesses has a greater evidentiary value and cannot be discarded lightly.
27. In the case of ***Balu Sundam Khalde Vs The State of Maharashtra, 2023 SCC Online SC 355*** Hon'ble Supreme Court of India has summed up the principles to be kept in mind when appreciating the evidence of an injured witness as follows:-

26. When the evidence of an injured eye-witness is to be appreciated, the under- noted legal principles enunciated by the Courts are required to be kept in mind:

(a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

(b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

(d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

(e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or embellishment should be discarded from the evidence of injured, but not the whole evidence.

(f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.

28. Same principles have been reiterated in the case of ***Neeraj Sharma Vs State of Chhattisgarh***, 03.01.2024, 2024, INSC 6, wherein it has been held by Honble Supreme Court of India as under :-

11. ***The importance of injured witness in a criminal trial cannot be over stated. Unless there are compelling circumstances or evidence placed by the defence to doubt such a witness, this has to be accepted as an extremely valuable evidence in a criminal trial.***

29. The law is thus clear that the statement of a sole witness can be relied upon if the same is wholly reliable, unblemished and free from doubt especially the statement of an injured eye-witness has to be given due value and weightage unless there are compelling circumstances or evidence on record to doubt the statement of such a witness.

30. In the instant case the injured has specifically deposed that the accused attacked her with a sharp edged weapon with intention to kill her. The injuries have been proved by PW Dr. Vasna who deposed about the injuries on the person of injured and that the patient was admitted in Hospital w.e.f 16.09.2008 to 25.09.2008. Doctor has given the opinion that the injuries were simple in nature and could be caused by a sharp edged weapon and could be caused by the knife shown to her by police on 21.10.2008. She has further deposed that patient could have died if the injury was not properly managed. During cross-examination she has deposed that such type of injury could be a self inflicted injury possible by any other similar weapon. Presence of accused on spot is proved by injured as well as her sister PW Sonia. PW Sonia has also deposed that accused had quarreled with the injured Gurpreet Kour on previous day also and accused had consumed liquor on the day of occurrence. PW Surinder Kour also saw injured in the pool of blood immediately after occurrence. The evidence of injured Gurpreet Kour when compared with circumstances of the case appears to be of sterling quality, wholly reliable and trustworthy.

31. Accused is charged with commission of offence punishable under section 307 RPC. It would be in place to go through the same and is reproduced below :-

307. Attempt to murder.—

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years,

and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

Attempts by life convicts — When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.

32. In order to prove the charge under said section, two ingredients must be established by prosecution i.e.

- (i) intention or knowledge to cause death and ;
- (ii) an overt act in execution of that intent.

33. The intention or the knowledge has to be gathered from the entire circumstances of the case such as nature of the weapon used, the manner in which it was used, severity of the blow or hurt, the part of the body where the injury was inflicted and so on and not merely from the end result.

34. In the instant case, the accused has inflicted the blow on the vital part i.e. neck of the injured. Injured has deposed that accused used to fight with him from the very beginning. Interestingly, the prosecution witnesses supporting the accused have also deposed that the injured was not having a good character and would leave her house without informing the accused and would remain absent for a few days. This very fact gives motive to the accused to commit the offence. Moreover the accused has inflicted blows on the neck of the injured with a sharp edged weapon and the doctor has deposed that the injured would have died if the treatment was

not provided to her. The circumstances of the case when considered in its entirety would show that the accused was having the knowledge that the injured might die of the injuries inflicted upon her. Further accused has committed the overt act by inflicting blow on the vital part of the body of the injured. Prosecution has been able to prove both the ingredients.

35. Ld. Counsel for the accused has vehemently argued that there are various discrepancies and contradictions in the evidence brought on record by the prosecution like all the eye-witnesses as well as the family members of the injured have deposed in favour of the accused. The main thrust of the Ld. Counsel for the accused is on two points :-

- (i) That the weapon of offence has not been proved by prosecution ;
- (ii) That the injuries suffered by the injured are simple in nature so Section 307 RPC does not attract in the case.

36. Admittedly the injury suffered by the victim is simple in nature but that does not affect the case of the prosecution considering the facts of the case especially when the blow has been on the vital part of the body.

37. Hon'ble Supreme Court of India in the case of ***The State Of Himachal Pradesh vs Shamsher Singh 2025 INSC 503*** has held that mere fact that the injuries were simple in nature does not make

section 307 IPC inapplicable. Relevant portion of the judgment is reproduced below:-

The court relying upon the observation 3 (2019) 3 SCC 605 made in [State of M.P. vs. Saleem](#)⁴, that the court in such cases has to see whether the act, irrespective of the result, was done with the intention or knowledge to cause death, held that the accused charged under [Section 307](#) IPC cannot be acquitted merely because the injuries inflicted on the victim were in the nature of a simple hurt. Section 307 uses the word 'hurt' and not grievous hurt or hurt of the nature which is dangerous or life threatening. Since the evidence establishes that the injuries were caused by firearm and the multiplicity of the wounds indicate that the accused fired more than once coupled with the fact that the hurt has been caused by the accused stands proved, the mere fact that the hurt, though, grievous but not dangerous to life, cannot be the basis to hold that [Section 307](#) IPC is inapplicable.

38. The other argument of the Id. Counsel for accused is that prosecution has miserably failed to prove the recovery of weapon of offence. The witness to the disclosure memo has categorically denied the contents of disclosure memo. It is further the argument that at the time of recovery of the weapon of offence, the accused was not present, so his disclosure statement cannot be looked into and the failure to prove the weapon of offence goes to the root of the case.

39. However in the case of ***State of Rajasthan Vs Arjun Singh (2011) 9 SCC 115***, Hon'ble Apex court of the country has held that non recovery of the weapon of offence does not affect the case of the prosecution where direct evidence is acceptable. Relevant extract of the judgment is re-produced below :-

10.....As rightly pointed out by the learned Additional Advocate General appearing for the State that mere non-recovery of pistol or cartridge does not detract the case of the prosecution where clinching and direct evidence is acceptable.

Likewise, absence of evidence regarding recovery of used pellets, blood stained clothes etc. cannot be taken or construed as no such occurrence had taken place. As a matter of fact, we have already pointed out that the gun shot injuries tallied with medical evidence.

40. Further in the case of *State Vs Laly @ Manikandan*, Hon'ble Supreme Court has reiterated that non-recovery of weapon cannot be a ground to acquit the accused when there is direct evidence of eye-witness. Relevant extract of the judgment is re-produced below :-

.....Similarly, assuming that the recovery of the weapon used is not established or proved also cannot be a ground to acquit the accused when there is a direct evidence of the eye witness. Recovery of the weapon used in the commission of the offence is not a sine qua non to convict the accused. If there is a direct evidence in the form of eye witness, even in the absence of recovery of weapon, the accused can be convicted. Similarly, even in the case of some contradictions with respect to timing of lodging the FIR/complaint cannot be a ground to acquit the accused when the prosecution case is based upon the deposition of eye witness.

41. Recently in the case of *Goverdhan & Anr Vs State of Chhattisgarh*, 2025 INSC 47, Hon'ble Supreme Court of India has held that it is a settled law that non-recovery of weapon of crime is not fatal to the prosecution case and is not sine qua non for conviction if direct reliable witness is available. Relevant extract of the judgment is re-produced below :-

69. Even assuming that the seizure of the weapons was effected without meticulously following the procedures and thus doubtful, in the view of the medical evidence which clearly showed that the deceased died because of the injuries caused by sharp weapon which was seen by a direct eye witness, namely, Lata Bai (PW-10), in our opinion, it would not prejudice the prosecution case. The doctor (PW-

1) who examined the victim testified that he examined the weapons of crime on 29.9.2001 which were brought to him by the police in a sealed packet and he opined that the injuries no. (ii), (iii), (iv), (vi) and

(vii) may be caused by the sharp edge of an axe and injuries no. (i),

(vi), (viii) and (ix) may be caused by the iron pipe. There was no cross examination of this witness PW-1 by the defence on this crucial medical evidence. Thus, this medical opinion remained unshaken, which supports the prosecution case and evidence of Lata Bai, PW-10.

70. It is now well settled that non recovery of the weapon of crime is not fatal to the prosecution case and is not sine qua non for conviction, if there are direct reliable witnesses.....

42. In the instant case, the statement of the injured is held to be trustworthy and reliable so the non-proving of the weapon of offence is not fatal to the prosecution case.

43. The prosecution has proved intention /knowledge and the injury caused to victim by the accused beyond reasonable doubt. Law is trite that prosecution is supposed to prove case beyond reasonable doubt and not beyond all iota of doubt as held in the case of **Karan Singh Vs The**

State of Uttar Pradesh and others, 2022 LiveLaw (SC) 234. The relevant extract of the judgment is re-produced below:-

46. As argued by Mr. Tyagi, appearing for the State both PW2 and PW3 had clearly mentioned that the Appellant and PW4 13 (2010) 12 SCC 350 14 (2011) 9 SCC 561 15 (2012) 7 SCC 646 16 (2013) 14 SCC 434 Mahender Singh were both present at the place of occurrence. The Appellant's presence has been proved by two eye witnesses. It has been proved by the eye witnesses, that the Appellant carried a rifle. But PW2 and PW3 deposed that all the accused had opened fire. The prosecution was required to prove its case beyond reasonable doubt, which it has done, and not beyond all iota of doubt. The fact that one of the injured witnesses may not have mentioned the name of Appellant Karan Singh does not demolish the evidence of the other witnesses.

44. Accordingly keeping in view the facts of the case and law discussed above, the prosecution has proved beyond reasonable doubt that accused had inflicted blow on the neck of his wife with intention/knowledge to kill her. Accused is hereby convicted for the commission of offence punishable u/s 307 RPC. Accused is taken into custody and is sent to District Jail Kathua. File to come up for arguments on quantum of sentence today at 02:00 p.m.

45. **APPENDIX**

The charts depicting the witnesses examined and documents proved are given hereunder:-

45.1. Chart for witnesses examined:

Prosecution Witness No.	Name of Witness	Description
1.	Gurpreet Kour	Injured
2.	Sonia Devi	Eye –witness
3.	Ramesh Lal	Witness to seizure memo
5.	Raj Rani	Witness to seizure memo of clothes
6.	Surinder Kour	Witness to circumstances
7.	Sat Pal	Witness to re-sealing of packets
8.	Dr. Vasna	Medical Expert
9.	Dr. Shahul Ahmed Kanth	FSL Expert
10.	Daya Nand	I.O
11.	Narinder Singh	SHO

45.2 Chart for Exhibited Documents:

Exhibit No.	Description of the Exhibit	Proved by/Attested by
1.	Statement of injured	PW Gurpreet Kour
2.	Site map	PW Daya Nand
3.	Seizure memo of blood stained soil and ordinary soil	PW Daya Nand
4.	Seizure memo of blood stained clothes	PW Raj Rani

5.	Supurdnama memo of seal ring	PW Ramesh Lal
6.	Personal search memo of accused	PW Ramesh Lal
7.	Arrest memo	PW Ramesh Lal
8.	Medical Certificate	PW Dr. Vasna
9.	Signatures admitted on disclosure memo but contents denied.	PW Ramesh Lal
10.	Signatures admitted on recovery of weapon of offence memo but contents denied.	PW Ramesh Lal
11.	Site map of place of recovery of weapon of offence	PW Daya Nand

Announced

27.01.2026

(Pravin Pandoh)
Additional Sessions Judge
Kathua

*Shashi *P.A*

COURT OF ADDITIONAL SESSIONS JUDGE KATHUA

Case No. : 632/2013
CNR No : JKKT01010000472009
Date of Institution : 06.02.2009
Date of Order : 27.01.2026

State (now UT) of J&K through Police Station Rajbagh

Through:- Mr. Rajesh Sharma, APP

Versus

Harbhajan Singh S/O Sardari Lal
R/O Bakral Colony, Tehsil Hiranagar
District Kathua (J&K).

....(Convict)

Through:- M/S T.N.Gupta and Parveen Mrall, Advocates

FIR No.129/2008 of Police Station Rajbagh
Offence u/s 307 RPC

Coram:-

Pravin Pandoh
J.O.Code- JK00157

ORDER

1. Accused Harbhajan Singh has been convicted for commission of offence punishable under section 307 RPC vide Judgment Dated 27.01.2026. The file was fixed for arguments on quantum of sentence today at 02:00 p.m.
2. APP submits that the convict had intentionally slit the throat of his wife to kill her. The convict had done this act with full knowledge

and knowing the consequences that his overt act could take away the life of his wife. He further submits that convict showing scant respect to the law of the land attempted to kill his wife. That the act of the convict is very atrocious in nature and he deserves no leniency from this court. That a strong message must go to the society that anyone who takes law in his own hand shall be dealt with iron hands of the law. APP prays that maximum punishment be awarded to convict that shall serve as deterrence to the other persons of the society with such vicious mind.

3. Ld. defence counsel on the other hand submits that convict is an old person who is facing trial of the case since 2009. That convict was in his prime youth at the time of occurrence and has become old during trial. He further submits that the convict has no previous criminal record. That convict has four children and he is looking after all of them and the wife of the convict has left his family and has gone to some unknown place and her whereabouts are not known to anybody. That the convict deserves leniency considering the various mitigating circumstances in his favour.
4. Heard APP, ld. Counsel for convict and considered the rival submissions.
5. In brief the case of the prosecution is that on 16.09.2008, convict had slit the throat of his wife with a sharp edged weapon and blood oozed out. Sister and one neighbour of the injured covered the injury and stopped the flow of blood. Injured was taken to hospital

where her statement was recorded by police and based on her statement, FIR No. 129/2008 u/s 307 RPC was lodged.

6. Offence u/s 307 RPC carries imprisonment of either description for a term upto to 10 years and fine. If, however, hurt is caused by accused, he may be awarded imprisonment for life.
7. Before passing a sentence against convict, various aggravating and mitigating circumstances have to be kept in mind. Aggravating circumstances includes the gravity of crime, manner of commission and sufferance of the victim, however, the factors such as age of the offender, his character, antecedents, previous record, socio economic background etc are the mitigating circumstances while deciding the quantum of sentence. The courts have to keep in mind that the sentence awarded to an accused is not excessively harsh or lenient. The court, as such, has to keep in mind the various factors affecting the quantum of sentence.
8. In the present case, the aggravating circumstance against the convict is that he under the influence of liquor, attempted to commit the murder of his wife. However, the mitigating circumstances are that the convict is facing trial since the year 2009, he comes from a poor socio economic background being a driver who has to take care of his children, especially when the mother of the children has left them as has come on record. Convict faced trial for more than sixteen years. Further age of convict and age of the case are also mitigating factors. All these mitigating circumstances favour the convict.

9. Considering the various aggravating and mitigating circumstances, convict Harbhajan Singh S/O Sardari Lal R/O Bakral Colony, Tehsil Hiranagar, District Kathua is sentenced to rigorous imprisonment of 05 years (Five years) and a fine of Rs.5000/- (Rupees Five Thousand only) for commission of offence punishable u/s 307 RPC. The convict shall undergo further imprisonment of 02 months in default of payment of fine. The period already undergone by the convict shall be set off from the sentence awarded.
10. Copy of the judgment and this order be provided to the convict free of cost forthwith. Convict is informed of his right to file appeal against the judgment and sentence within limitation period.
11. Office to issue warrant of imprisonment in the name of Superintendent District Jail Kathua who shall execute the sentence and return the warrant alongwith the report as to the manner in which the sentence has been executed.
12. File is accordingly disposed off. Be consigned to records after due compilation.

Announced
27.01.2026

(Pravin Pandoh)
Addl. Sessions Judge
Kathua

*Shashi * P.H*