

**IN THE COURT OF MS. NISHA SAHAY SAXENA
PRINCIPAL DISTRICT & SESSIONS JUDGE :
NORTH-WEST : ROHINI COURTS : DELHI.**

In the matter of:-

Sessions Case No. 709/2024
CNR No. DLNW01-008431-2024
FIR No. 806/2022
Police Station : Sultanpuri
Under Section : 308 IPC

State	V/s	Arvind S/o Shri Ram R/o P-2/250, Sultan Puri, Outer District, Delhi. ...Accused.
--------------	------------	---

Date of committal to this court	05.09.2024
Date of final arguments	29.05.2026
Date of Judgment	03.06.2026

Appearance : Sh. P.K. Samadhiya, Ld. Addl. PP for the State.
Sh. Ashish Dahiya, Ld. CLDAC for accused.

JUDGMENT

GENESIS OF THE PROSECUTION CASE

1. The genesis of the present case lies in an incident of assault that allegedly occurred late on the night of 22nd September 2022 in the Chhat Pooja Park, Sultan Puri, Delhi. At approximately 22:58 hours,

Police Station Sultan Puri received a telephonic call which was registered as General Diary Entry No. 0138A. The caller reported that his brother had been beaten by two or three youths and had sustained serious injuries, and that he was being taken to Sanjay Gandhi Memorial Hospital (hereinafter 'SGM Hospital'), where the attending doctor was initially reluctant to provide medical assistance. The call was assigned by the Duty Officer, HC Manoo, to SI Sonu Kumar, who, accompanied by Ct. Ram Chander, proceeded forthwith to SGM Hospital.

2. On arrival at SGM Hospital, the Investigating Officer found the injured, one Ankit, admitted therein. As the injured was not in a fit physical or medical condition to have his statement recorded, the Investigating Officer collected the Medico-Legal Certificate (MLC) and thereafter had the injured referred to Ram Manohar Lohia Hospital (hereinafter 'RML Hospital') for specialised treatment. On the following day, i.e., 23rd September 2022, the Investigating Officer visited the injured at RML Hospital and recorded his statement, which formed the basis for registration of the First Information Report.

3. In his statement recorded by the Investigating Officer at RML Hospital, the complainant-cum-injured, Ankit, narrated the following account. He stated that he operates a shop for the repair of electric rickshaws and that on 22nd September 2022 at approximately 10:30

PM, he had set out from his residence to visit the house of his sister, Smt. Pooja, at Sultan Puri, Delhi, taking his usual route through the Chhat Pooja Park. Upon entering the park, he encountered the accused, Arvind, who resides in the same residential block as the complainant, along with two or three other young men. The accused appeared to be in a state of intoxication. He stopped and obstructed the complainant's passage, abused him, and directed him to leave the park. When the complainant refused to comply, a verbal altercation ensued between the two.

4. The complainant further stated that when he attempted to disengage from the altercation and walk away, the accused picked up a piece of stone from the ground within the park and struck it with force against the back of the complainant's head. The blow resulted in profuse bleeding from the wound. The accused thereupon fled from the scene. Despite his injured condition, the complainant managed to make his way with great difficulty to his sister's house, where Smt. Pooja, alarmed by his condition, summoned their brother Pawan, and together they transported the complainant to SGM Hospital in an electric rickshaw. From SGM Hospital, the complainant was referred for further treatment to RML Hospital.

5. On the basis of the statement so recorded, the Investigating Officer prepared the rukka and had the First Information Report

registered under Section 308 of the Indian Penal Code, 1860 (hereinafter 'IPC'). Later on 23rd September 2022, the accused Arvind was arrested from his house; a personal search was conducted; and his disclosure statement was recorded. Pursuant to the disclosure, the accused led the police to the spot and pointed out the weapon of offence, namely, a piece of stone, which was seized, sealed and subsequently forwarded to the Forensic Science Laboratory (hereinafter 'FSL') along with other relevant exhibits for expert examination. On completion of investigation, a charge-sheet was filed before the learned Metropolitan Magistrate.

6. Upon the accused's appearance before the learned Metropolitan Magistrate, copies of the charge-sheet and all associated documents were duly supplied to him. Since the accused stood charge-sheeted for an offence punishable under Section 308 IPC, the matter was committed to the Court of Sessions in accordance with law. This Court, upon finding a prima facie case disclosed against the accused under Section 308 IPC, framed charge accordingly. The accused pleaded not guilty to the charge and claimed trial.

Prosecution Evidence

7. During trial, prosecution examined twelve witnesses in all.

S.No	Witness	Description of testimony
1.	PW 1 Dr. Kaushal Kumar	CMO - Sanjay Gandhi Memorial Hospital – proved the MLC of injured.

2.	PW 2 Ankit	Complainant cum injured.
3.	PW 3 Dr. Bina	Opined the nature of injury as grievous and proved second MLC of injured, vide which his samples were collected.
4.	PW 4 HC Manish Maan	Duty Officer.
5.	PW 5 ASI Birbal	MHC(M).
6.	PW 6 Pooja	Sister of injured.
7.	PW 7 Ct. Ram Chander	Joined investigation with IO.
8.	PW 8 HC Manno Kumar	DD Writer
9.	PW 9 HC Sandeep Kumar.	Joined investigation with IO.
10.	PW 10 SI Sonu Kumar	Investigating Officer.
11.	PW 11 Dr. Munish Wadhawan	HOD & Specialist, Forensic Medicine, who opined that injury sustained by injured is possible with seized stone.
12.	PW 12 Ms. Shashi Bala Pahuja	Sr. Scientific Officer – proved FSL Report.

Documents relied upon by the prosecution :

S.No.	Nature of document	Exhibit
1.	MLC of injured.	Ex. PW1/A.
2.	Statement of injured.	Ex. PW2/A.
3.	Seizure Memo of T-shirt of injured.	Ex. PW2/B.
4.	MLC of injured qua collection of samples.	Ex. PW3/A.

5.	FIR.	Ex. PW4/A.
6.	Endorsement on rukka.	Ex. PW 4/B.
7.	Certificate u/s 65 B Evidence Act.	Ex. PW 4/C.
8.	DD No. 0138 A.	Ex. PW 4/D.
9.	Certificate u/s 65 B Evidence Act.	Ex. PW 4/E.
10.	Copies of relevant entries No. 4457, 4461 & 4597 in register no. 19.	Ex. PW 5/A to PW 5/C.
11.	Copy of RC.	Ex. PW 5/D.
12.	Copy of acknowledgment.	Ex. PW 5/D.
13.	Arrest Memo of accused	Ex. PW 7/A.
14.	Personal Search Memo of accused.	Ex. PW 7/B.
15.	Disclosure Statement of accused.	Ex. PW 7/C.
16.	Site Plan of place of recovery of stone.	Ex. PW 7/D.
17.	Pointing Out Memo.	Ex. PW 7/E.
18.	Seizure Memo of weapon of offence i.e. stone.	Ex. PW 7/F.
19.	Rukka.	Ex. PW 10/A.
20.	Site Plan.	Ex. PW 10/B.
21.	Seizure Memo of blood sample of victim.	Ex. PW 10/C.
22.	Opinion qua possibility of injury caused by weapon of offence i.e. stone.	Ex. PW 11/A.
23.	FSL Report.	Ex. PW 12/A.
24.	Forwarding Letter sent by FSL.	Ex. PW 12/B
25.	Blood stained t-shirt of injured.	Ex. P1.

26.	Weapon of offence i.e. stone.	Ex. P2.
-----	-------------------------------	---------

8. Upon closure of the prosecution evidence, the statement of the accused, Arvind, was recorded under Section 313 of the Code of Criminal Procedure, 1973. The accused pleaded innocence in respect of all incriminating circumstances put to him, and claimed that he had been falsely implicated in the present case. The accused chose not to lead any evidence in his defence.

9. This Court has carefully considered the rival contentions advanced by the learned Additional Public Prosecutor for the State and the learned Counsel for the accused, and has undertaken a thorough scrutiny of the entire body of oral, documentary, material and expert evidence adduced by the prosecution.

Analysis and Reasoning.

10. The sum and substance of the prosecution case is that on 22nd September 2022 at approximately 10:30 PM, the accused, after obstructing and quarrelling with the complainant in Chhat Pooja Park, Sultan Puri, struck the complainant on the back of his head with a piece of stone.

11. The case of the prosecution rests primarily upon the testimony of the complainant-cum-injured, Ankit, corroborated by the

testimony of his sister Smt. Pooja (PW 6), the medical evidence, and the expert and forensic evidence. As the injured himself, PW 2 Ankit occupies the status of the star and most critical witness for the prosecution. The standard to be applied in evaluating the testimony of such a witness has been authoritatively stated by the Hon'ble Supreme Court in ***Rai Sandeep v. State (NCT of Delhi), (2012) 8 SCC 21***, as follows:

“In our considered opinion, the ‘sterling witness’ should be of a very high quality and caliber whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the Court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as, the sequence of it. Such a version should have co-relation with each and everyone of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the

chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as a 'sterling witness' whose version can be accepted by the Court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged.

12. In his examination-in-chief, PW 2 Ankit deposed that on 22nd September 2022 at about 10:00 PM, he left his residence to visit the house of his sister Pooja. While passing through Chhat Pooja Park, he encountered the accused Arvind, whom he correctly identified in Court, along with two or three other young men. The accused, who appeared to be intoxicated, stopped and restrained the complainant, subjected him to abuses, and directed him to vacate the park. When the complainant declined to comply, the accused grappled and quarrelled with him. As the complainant attempted to disengage and leave, the accused picked up a stone from within the park and struck it against the back of the complainant's head, causing profuse bleeding. The accused thereupon fled the scene. The complainant, with great difficulty, managed to reach his sister's house, from where he was taken to SGM Hospital and subsequently referred to RML Hospital.

The complainant correctly identified his blood-stained T-shirt, which he had been wearing at the time of the incident.

13. During cross-examination by the learned defence counsel, PW 2 stated that on the day of the occurrence he had been at his shop with his brother, and that he regularly visited his sister's house for dinner after the death of their mother, sometimes arriving at 8:00 or 9:00 PM and sometimes as late as 11:00 PM, depending upon the work at his shop. He confirmed that at the time of the occurrence there was no crowd in the park as it had rained shortly before the incident, though there was electric light in the park. He denied that the place of occurrence was a main road, volunteering that it was a normal colony road in a residential area, with three or four shops nearby, all of which were closed at the material time. He admitted that two or three boys were accompanying the accused at the time of the occurrence but stated he did not know whether they were Balu and Manish, the names suggested by the defence. He admitted that when the accused grappled with him, he also slapped the accused. He denied making a call to the police helpline after the occurrence, volunteering that he had sustained injuries and had with great difficulty managed to reach his sister's house. He categorically denied the suggestion that the accused had not caused any injury to him or that he had falsely implicated the accused on account of prior enmity arising from their residence in the same locality.

14. The cross-examination of PW 2, rather than undermining the prosecution case, has in fact furnished positive corroboration of its core elements. First, the defence itself, by way of suggestion, confirmed the presence of the accused at the spot at the material time. The suggestion put to PW 2 that two or three boys were accompanying the accused, and the attempt to name those boys as Balu and Manish, necessarily presupposes that the accused was present at the locus. Secondly, the further suggestion that the complainant also slapped the accused during the altercation was admitted by PW 2, thereby corroborating that a physical altercation occurred at the spot between the complainant and the accused. These admissions, proceeding as they do from the side of the accused, are materially significant and cannot be brushed aside.

15. PW 6 Smt. Pooja, sister of the injured, deposed that on 22nd September 2022 at about 10:30 PM, her brother Ankit arrived at her house in a bleeding and badly injured condition. She immediately called their brother Pawan, and together they took the injured to SGM Hospital in an electric rickshaw, from where he was referred to RML Hospital. In her cross-examination, she admitted that she had not filed any separate complaint with the authorities, and denied the suggestion that the injured had not come to her house. Her testimony is consistent with, and materially corroborates, the account of the injured.

16. The evidentiary value of the testimony of an injured witness has been consistently recognised and affirmed by the Hon'ble Supreme Court. In *Jarnail Singh v. State of Punjab, (2009) 9 SCC 719*, the Court held that the deposition of an injured witness is entitled to a high degree of credence, as his presence at the locus is established by the very fact of the injury itself. The Court further observed, following *Shivalingappa Kallayanappa v. State of Karnataka, 1994 Supp (3) SCC 235*, that the deposition of an injured witness should ordinarily be relied upon unless there are strong grounds for rejection based on major contradictions and discrepancies.

17. In case *Abdul Sayed V. State of MP, (2010) 10 SCC 259*, to explain the reliability of injured witnesses, it was held that :

“Where a witness to occurrence was himself injured in the incident, testimony of such witness is generally considered to be very reliable, as he is a witness that comes with an inbuilt guarantee of his presence at the scene of crime and is unlikely to spare his actual assailant (s) in order to falsely implicate someone”.

18. Keeping these well-established legal propositions in view and applying them to the facts of the present case, this Court finds that PW 2 Ankit stood on very firm and unshaken ground. He deposed clearly, consistently and without any prevarication about the incident as it actually transpired. His version of events remained materially

consistent from the initial statement recorded at the hospital to his deposition before this Court. No major contradictions or discrepancies have been brought to light in cross-examination that could dislodge the core of his testimony. The assertion of prior enmity as a ground for false implication is a bare suggestion without any particulars; neither in the statement of the accused under Section 313 CrPC nor in the cross-examination of the complainant has any specific prior dispute or bone of contention been identified or explained by the defence. The complainant, accordingly, had no motive to falsely implicate the accused.

MEDICAL AND FORENSIC EVIDENCE

19. The oral testimony of PW 2 is powerfully corroborated by the medical and forensic evidence placed on record. PW 1, Dr. Kaushal Kumar, CMO of SGM Hospital, proved that the injured Ankit was medically examined on 22nd September 2022 at approximately 11:20 PM, that is, almost immediately after the incident, by Dr. Prakriti under his supervision. The MLC so prepared (Ex. PW1/A) records one laceration of a Y-shaped configuration, measuring 4 cm x 1 cm x 1 cm, situated on the skull bone deep in the right Parieto-Occipital Region of the injured's head.

20. PW 3 Dr. Bina, on a review of the said MLC, opined that the nature of the injury sustained by the injured was grievous. It is to be noted that PW 1 Dr. Kaushal Kumar and PW 3 Dr. Bina were not

cross-examined at all by the learned defence counsel despite opportunity having been accorded to do so. Their testimony and the medical opinions therein, therefore, stand wholly un rebutted and unchallenged and must be accepted as conclusive.

21. PW 11 Dr. Munish Wadhawan, Head of Department and Specialist in Forensic Medicine at SGM Hospital, after a detailed examination of the injury described in the MLC and a physical examination of the seized stone (Material Exhibit P2), rendered his expert opinion, dated 6th December 2022, (Ex. PW11/A) that the injury recorded in the MLC is consistent with and possible from the weapon, namely, the piece of stone or a similar object. The only challenge mounted by the defence to this witness was the bare suggestion that he had prepared the report as per the convenience of, or at the instance of, the Investigating Officer, which suggestion was specifically and categorically denied by the witness.

22. Most significantly, the blood-stained T-shirt of the injured (Material Exhibit P1) and the recovered piece of stone (Material Exhibit P2) were sent to the FSL for DNA profiling. PW 12, Ms. Shashi Bala Pahuja, Sr. Scientific Officer, proved the FSL Report (Ex. PW12/A), the relevant conclusion whereof reads as under:

"The DNA fingerprinting (STR analysis) performed on the source of exhibit '1' (T-shirt of victim) & '2' (Stone piece) provided is sufficient to conclude that the biological stains i.e. blood stains on the source exhibit '1' (T-shirt of victim) &

'2' (Stone piece) are from the same source."

23. This DNA evidence is of profound significance. It conclusively establishes, as a matter of scientific certainty, that the blood found on the piece of stone is the same as the blood on the injured's T-shirt, thereby positively linking the weapon to the injured. The suggestion put to PW 12 that she had prepared her report at the instance of the Investigating Officer was denied categorically by her. As with PW 11, no substantive challenge was raised to the methodology or conclusions of the FSL Report.

24. The arrest of the accused, the recovery of the weapon of offence at the instance and on the pointing-out of the accused, and the entire chain of custody of the exhibits have been duly proved by the police witnesses, namely, PW 7 Ct. Ram Chander, PW 9 HC Sandeep Kumar and PW 10 SI Sonu Kumar, Investigating Officer. Their testimony remained unrebutted in material particulars and could not be shaken in cross-examination. There is nothing on the record to warrant disbelieving the deposition of the police witnesses.

Question of Culpability under Section 308 IPC

25. Having established on record, beyond any reasonable doubt, that it was the accused Arvind who caused the injury upon the head of the injured Ankit with a piece of stone on 22nd September 2022, this Court now turns to the critical and determinative question:

whether, upon the evidence adduced, the offence under Section 308 IPC has been made out against the accused. For ready reference, Section 308 IPC is reproduced hereunder:

“308. Attempt to commit culpable homicide.—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 culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.”

26. It is well-established that for the constitution of the offence under Section 308 IPC, the prosecution must prove: (i) that the accused performed the act in question; (ii) that he did so with the intention or knowledge to commit culpable homicide not amounting to murder; and (iii) that the act was performed in circumstances such that, had death resulted, the accused would have been guilty of such culpable homicide. Critically, the intention or knowledge required for the offence is not to be determined solely by the result of the act; rather, it must be deduced from the totality of the circumstances, including the nature of the weapon used, the nature and location of the injuries inflicted, and the conduct of the accused before, during and after the assault.

27. Intention, knowledge and motive are the foundational

conceptual pillars in the determination of criminal culpability under the IPC, and a precise understanding of each is essential to the present adjudication. Criminal intention denotes the purpose or design of doing an act forbidden by the criminal law without just cause or excuse. It is an act of the mind that precedes and accompanies the physical act. As a general principle, every sane person is presumed to intend the natural and probable consequences of his acts, and this presumption will prevail unless a reasonable doubt as to the existence of such intention arises from a consideration of all the evidence. However, this presumption is not conclusive and must be supplemented by other circumstances.

28. Knowledge, where made an essential ingredient of an offence by the statute, must be distinctly proved. A pure or commendable motive does not purge an act of its criminal character, nor does an absence of ascertainable motive necessarily exonerate the accused where the act itself and the surrounding circumstances demonstrate the requisite culpability. It is well-settled that the prosecution is not bound to prove motive where there is direct and reliable evidence of the commission of the act. The absence of motive is, however, a circumstance which the Court may take into consideration, particularly in cases resting entirely upon circumstantial evidence. Where, as here, there is direct evidence of the act of the accused and his conduct, the question of motive recedes in significance, though it does not disappear entirely from the frame of analysis.

29. Applying this legal framework to the established facts of the present case, the nature and location of the injury inflicted by the accused assume the most critical significance. As recorded in the MLC (Ex. PW1/A), the injured sustained a Y-shaped laceration measuring 4 cm x 1 cm x 1 cm, situated in the right Parieto-Occipital Region, deep to the skull bone. This is the posterior region of the skull, at the junction of the parietal and occipital bones. The injury was opined to be grievous in nature. The head, and particularly the parieto-occipital region, is a vital and vulnerable part of the human body; a forceful blow inflicted upon this region with a hard object is entirely capable of causing death. This is a matter of common knowledge possessed by every person of ordinary intelligence and prudence.

30. The defence has submitted, in the course of final arguments, that the attack was not pre-meditated and occurred in the heat of the moment during a sudden altercation, and that the single blow inflicted by the accused, coupled with the admitted fact that the complainant had also slapped the accused during the exchange, indicates an absence of the requisite intention or knowledge to commit culpable homicide. This Court has given serious and anxious consideration to this submission.

31. The submission, however, cannot be accepted. The distinction between pre-meditation and the requisite mens rea under Section 308

IPC must be carefully borne in mind. The provision does not require that the attack be pre-planned or premeditated; it requires only that it be performed with such intention or knowledge that had death resulted, the accused would have been guilty of culpable homicide. The spontaneous nature of an assault does not, in and of itself, eliminate the knowledge required under Section 308 IPC, particularly where the accused deliberately picks up a hard instrument and strikes a vital part of the human body with it.

32. The accused is not a person bereft of prudence or ordinary human understanding. He is an adult male, and must be presumed to possess the knowledge that every person of his age and understanding is expected to have, namely, that a forceful blow delivered with a hard and heavy piece of stone upon the posterior region of the human skull can result in death. The head is universally recognised as the most vital part of the human body. A stone is not a trifling or insignificant object; it is a hard, heavy and potentially lethal instrument. The accused, after the altercation, did not simply push or strike the complainant with his hand; he deliberately bent down, picked up a piece of stone, and then struck it against the back of the complainant's head, that is, the parieto-occipital region. The deliberateness and specificity of this act are inconsistent with an absence of the knowledge contemplated under Section 308 IPC.

33. The fact that only one blow was administered and that the

attack was not pre-planned are factors which this Court has taken into account. These circumstances are indeed relevant to the question of whether the accused possessed an intention to cause death, and may reasonably militate against a finding that the accused harboured an intention to kill. However, Section 308 IPC does not require an intention to kill; it requires only an intention or knowledge that the act performed could, if it caused death, attract culpability for culpable homicide not amounting to murder. Knowledge is distinct from intention. The accused, in wielding the stone against the complainant's skull, acted with precisely that quality of knowledge which Section 308 IPC fastens upon.

CONCLUSION

34. In the light of the entirety of the foregoing discussion, and upon a thorough evaluation of all the oral, documentary, material and expert evidence adduced by the prosecution, this Court is of the firm and considered opinion that the prosecution has successfully and conclusively established its case against the accused Arvind. The evidence of PW 2 Ankit, the injured and principal prosecution witness, is consistent, credible and reliable; it withstood rigorous cross-examination without material dent; and it is fully corroborated by the testimony of PW 6 Smt. Pooja (sister of injured), by the medical evidence of PW 1, PW 3 and PW 11, and most decisively by the DNA evidence proved through PW 12, which conclusively links the recovered stone to the injured's blood.

35. The prosecution has proved beyond all reasonable doubt that: (i) the accused on 22nd September 2022 at about 10:30 PM in Chhat Pooja Park, Sultan Puri, Delhi, after a verbal and physical altercation with the complainant, deliberately picked up a piece of stone; (ii) he struck the said stone against the posterior of the complainant's head, specifically the right Parieto-Occipital Region, causing a deep, grievous, Y-shaped laceration; (iii) he did so with the knowledge that such an act, if it caused death, would render him guilty of culpable homicide not amounting to murder; and (iv) hurt was in fact caused to the complainant by the said act. All the ingredients of the offence punishable under Section 308 IPC are accordingly established against the accused.

36. Accordingly, the accused Arvind stands convicted for the offence punishable under Section 308 of the Indian Penal Code, 1860.

**Announced in the open court
today i.e. 03rd June, 2026.**

**(Nisha Sahay Saxena)
Principal District & Sessions Judge (NW)
Rohini Courts, Delhi (k)**