

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

In the matter of:-

Sessions Case No. 973/2024

CNR No. DLNW01-012267-2024

FIR No. 405/2024

Police Station : Shalimar Bagh

Under Section : 109(1)/61.2 (A)/3(5) BNS

25/27 Arms Act.

State	V/s		
		1.	Dinesh @ Vikky S/o Gyan Prakash R/o H.No. 37 C, U & V Block Shalimar Bagh, Delhi.
		2.	Manpreet Kaur @ Harpreet W/o Barinder Singh R/o Village Ramgarh, PS Jammalpur, Distt. Ludhiana Punjab.
		3.	Barinder Singh @ Davil @ Hanny @ Garry S/o Gurdeep Singh R/o Village Ramgarh, PS Jammalpur, Distt. Ludhiana Punjab.
		4.	Ratan Kumar @ Sonu S/o Chhotan Parsad R/o Village Kuljender Ka Makan Ramgarh, PS Jammalpur Distt. Ludiana Punjab.
			Permanent Add. Village Bhith-Bherwa PS & Distt. Gopal Gunj Bihar-841428.

.... Accused

Date of committal to this court	17.12.2024
Date of final arguments	06.04.2026
Date of Judgment	15.04.2026

Appearance : Sh. P.K. Samadhiya, Ld. Addl. PP for the State.

Sh. Ghanshyam and Sh. Narender Sharma, Ld.
counsel for all four accused.

JUDGMENT

1. On 07.08.2024 at 20:08:08 hours, an information was received at Police Station Shalimar Bagh vide GD No. 0103 A, to the effect that the father of the caller has been stabbed multiple times with a knife, by unknown persons, which was assigned to IO SI Lovekesh, who along with HC Bajrang reached at the spot and came to know that the injured had already been shifted to BSA Hospital by his relative. IO SI Lovekesh along with HC Bajrang reached at BSA Hospital, collected the MLC of injured and other exhibits. However, since the injured was in pain, his statement could not be recorded.

2. Subsequently, statement of injured Manoj Rout was recorded wherein he deposed that he used to ply Tata Ace vehicle bearing registration no. DL-1LAH-6419, which is registered in the name of his son Karn, and he used to park the same, in night, at Sahipur village. His daughter Meena was in relationship with their neighbour / accused Dinesh Kumar @ Vikky. Since the accused Dinesh Kumar @ Vikky was already married, injured

and his family members were not happy with their relationship, but the accused Dinesh Kumar @ Vikky was compelling them to marry Meena with him. However, later on accused Dinesh Kumar @ Vikky sold his said house in their neighbourhood and shifted somewhere else. Injured Manoj Rout married his daughter Meena in January, 2024 to someone else, and she was leading a happy life. But after sometime accused Dinesh Kumar @ Vikky started to talk with Meena telephonically, which resulted in turbulence in her married life, due to which she came back to her parental home. Thereafter, the injured along with his son Karan and son in law visited the house of accused Dinesh Kumar @ Vikky to make him understand to forget Meena, but he did not agree and even threatened that if anyone dared to cross their way, he would kill him. Subsequently, the parties arrived at an amicable settlement vide MOU, as per which they agreed not to interfere in each other's life, and the accused Dinesh Kumar @ Vikky also gave Rs. 3,00,000/- to Meena. However, the accused Dinesh Kumar @ Vikky continued to threaten the injured with dire consequences.

3. He further complained that on 07.08.2024 at about 7.30 PM, as a routine, he parked his vehicle at Sahipur village and headed towards his house on foot, and when he reached at back side of DESU Colony, near Beri Wala Bagh, main road Sahipur towards Kela Godown, he saw the scooty belonging to accused Dinesh Kumar @ Vikky bearing registration no. DL-8SBC-0985 parked there, on which two boys were sitting and talking to each other, but he ignored them and continued towards his house. In the meantime, one of those two boys approached and attacked

upon him with a sharp edged object, causing injuries on his head, back side of right ear and waist and thereafter both the said boys fled away from there on the said scooty belonging to the accused Dinesh Kumar @ Vikky. He suspected that accused Dinesh Kumar @ Vikky had sent both the said boys to attack, with an intention to kill him. He stated that on being shown, he could identify both the said boys.

4. On the basis of statement of complainant / injured, further investigation was carried out, during the course of which accused Dinesh Kumar @ Vikky was arrested, his scooty bearing registration no. DL-8SBC-0985 was seized and his Disclosure Statement was recorded, wherein he named his co-accused Manpreet Kaur @ Harpreet, Barinder Singh @ Davil and Ratan Kumar @ Sonu, who were subsequently arrested from District Ludhiana, Punjab.

5. After completion of investigation, the charge-sheet was filed against the accused persons in the court of Ld. Magistrate for offence punishable u/s 109(1)/61(2)(a)/3(5) BNS. After compliance of provisions of Section 207 Cr.P.C., Ld. Magistrate committed the case to the court of Sessions u/s. 209 Cr.P.C. for trial. As prima facie case for the offence u/s 109(1)/61(2)(a)/3(5) BNS was made out against the accused persons, charge was framed against them to which they pleaded not guilty and claimed trial. Apart from that accused Barinder Singh was also charged for the offence punishable under Section 27/25 Arms Act, to which he pleaded not guilty and claimed trial.

Prosecution Evidence

6. During trial, prosecution examined nine witnesses in all.

S.No	Witness	Description of testimony
1.	PW 1 Manoj Kumar	Complainant / injured.
2.	PW 2 Meena	Daughter of injured.
3.	PW 3 Akhil Jain	Husband of Meena and son in law of injured.
4.	PW 4 Raju	MCD Parking Attendant.
5.	PW 5 Vinod	Painter at the house of accused Dinesh.
6.	PW 6 Jayant Kumar Singh	First owner of scooty bearing registration no. DL-8SBC-0985.
7.	PW 7 Rajat Mishra	Owner of Hotel Shipraj Inn, where accused Barinder Singh and Ratan Kumar stayed.
8.	PW 8 SI Lovekesh	Investigating Officer.
9.	PW 9 HC Lila Ram	Joined Investigation with IO.

Documents relied upon by the prosecution :

S.No.	Nature of document	Exhibit
1.	Site Plan.	Ex. PW1/A.
2.	MOU	Ex. PW2/A.
3.	Seizure Memo of scooty.	Ex. PW4/A.
4.	Scooty in question.	Ex. PW5/MO1.
5.	MLC of injured.	Ex. PW4/A
6.	Seizure Memo of pendrive and certificate u/s 63 BSA.	Ex. PW 7/A.
7.	Certificate u/s 63 BSA	Ex. PW 7/B.
8.	Photocopy of hotel guest register.	Ex. PW 7/C.
9.	Seizure Memo of clothes of injured.	Ex. PW 8/A.
10.	Seizure Memo of blood lifted from spot on a guaze cloth piece.	Ex. PW 8/B.

11.	Tehrir.	Ex. PW 8/C.
12.	GD No. 103A.	Ex. PW 8/D.
13.	FIR.	Ex. PW 8/E
14.	Certificate u/s 63 (4) (c) BSA.	Ex. PW 8/F
15.	Disclosure Statement of accused Dinesh Kumar @ Vikky	Ex. PW 8/G
16.	Arrest Memo of accused Dinesh Kumar @ Vikky.	Ex. PW 8/H.
17.	Personal Search Memo of accused Dinesh Kumar @ Vikky.	Ex. PW 8/J.
18.	Printout of parking slip.	Ex. PW 8/K.
19.	Arrest Memo of accused Barinder Singh and Manpreet Kaur.	Ex. PW 8/L & PW8/L1.
20.	Personal Search Memo of accused Barinder Singh and Manpreet Kaur.	Ex. PW 8/M & PW8/M1.
21.	Disclosure Statement of accused Barinder Singh.	Ex. PW 8/N.
22.	Sketch of weapon of offence i.e. <i>Khanda</i>	Ex. PW 8/P.
23.	Seizure Memo of weapon of offence.	Ex. PW 8/Q.
24.	Seizure Memo of bag from which weapon of offence was recovered.	Ex. PW8/Q1.
25.	Seizure Memos of mobile phones of accused Barinder Singh and Manpreet Kaur.	Ex. PW 8/R and PW 8/R1.
26.	Arrest Memo of accused Ratan Kumar.	Ex. PW 8/S.
27.	Personal Search Memo of accused Ratan Kumar.	Ex. PW 8/S1.
28.	FSL Result.	Ex. PW 8/T.
29.	Seizure Memo of mobile phone of accused Dinesh Kumar @ Vikky.	Ex. PW 8/U.
30.	Knife (<i>Khanda</i>).	Ex. PW 8/MO1.
31.	Mobile phones of accused Dinesh, Barinder Singh and Manpreet.	Ex. PW8/MO2, PW 8/MO3 and PW 8/MO4.

7. During the course of trial, Ld. counsel for accused persons admitted the following documents.

(a) MLC bearing no. 09784 pertaining to complainant Manoj Rout as **Ex. A1**.

(b) present FIR bearing no. 405/24 already **Ex. PW 8/E**.

(c) DD No. 103 A as **Ex. A2**.

(d) CDR pertaining to mobile no. xxxxxx1699 (Jio Company) of Dinesh Kumar as **Ex. A3**.

(e) CDR pertaining to mobile no. xxxxxx1396 (Vodafone Company) of Dinesh Kumar as **Ex. A4**.

(f) CDR pertaining to mobile nos. xxxxxx6177, xxxxxx4749 & 8146267984 (Airtel Company) as **Ex. A5**.

(g) Seizure Memo of Pendrive along with certificate u/s 63 BSA as **Ex. A6**.

Accordingly, the witnesses cited by the prosecution to prove the said documents were dropped from the list of witnesses and PE was closed.

8. In their respective statements under Section 313 CrPC, the accused persons denied all the allegations and claimed their false implication by the police. They chose not to lead any defence evidence.

9. I have heard arguments advanced by Sh. P.K. Samadhiya, Ld. Addl. Public Prosecutor for the State, and Sh. Ghanshyam, Ld. counsel for accused persons and also gone through the relevant case law and have scrutinized the evidence adduced by the prosecution.

ANALYSIS & REASONING

10. The case of the prosecution is to the effect that the accused Dinesh @ Vikky was in relationship with daughter of injured, but he was against their relationship as accused Dinesh @ Vikky was already married, and as such they both were not having cordial relations despite being neighbours. As per prosecution, such sourness in their relationship, led the accused Dinesh @ Vikky to hire accused Barinder Singh and Ratan Kumar through accused Manpreet Kaur to cause injuries to Manoj Rout. Ultimately, the accused persons Barinder Singh and Ratan Kumar approached the injured Manoj Rout on the scooty belonging to accused Dinesh @ Vikky and gave him stab injuries.

11. The case of the prosecution was primarily hinging on the testimony of injured himself, who, as per the prosecution case, had seen two boys sitting on / near the scooty of accused Dinesh @ Vikky. The said two boys inflicted injuries upon the injured and ran away from the spot on the scooty belonging to the accused Dinesh @ Vikky.

12. Injured Manoj Kumar Rout S/o Sh. Jogender Prasad entered the witness box as PW 1 and deposed he runs his own TATA ACE commercial vehicle bearing registration No. DL1LAH 6419 and used to park the same in the parking of Sahipur Village in night hours. He further deposed that in the year 2017, his daughter Meena was having friendship with accused Dinesh Kumar @ Vicky (correctly identified). When he came to know about it, he felt offended as accused Dinesh Kumar

@ Vicky was already married. Accused Dinesh was also pressurizing him for marrying his daughter Meena with him. Later on, accused Dinesh sold his said house and went to an unknown place, and the witness married his daughter Meena in the month of January 2024 with Akhil Jain. He further deposed that accused Dinesh used to telephonically contact his daughter Meena and due to this reason, disputes arose in her matrimonial life. He alongwith his son Karn and son in law (damad) Dev Kumar approached accused Dinesh at his residence of Bhalaswa Dairy and requested him to forget Meena and not disturb her matrimonial life. Thereafter, a settlement / MOU was executed with the free will of accused Dinesh Kumar and Meena, to the effect that they both will not interfere in each other's life and accused Dinesh Kumar would pay Rs. 3 lacs to Meena as they both were having live-in relation for a long time.

13. As regards the incident in question, PW 1 deposed that on 07.08.2024, as usual, he had parked his said TATA ACE vehicle in the parking of Sahipur Village at about 7:30 PM and was going towards his residence on foot while talking on phone. When he reached on the backside of DESU Colony, Near Beriwalla Bagh, main road, Sahipur Gaon, towards kela godam road, he saw that two boys, who were sitting on a scooty, were talking with each other. He ignored them and moved ahead, meanwhile, one out of said two boys followed him and hit him, with some sharp edged weapon from his backside with intent to kill him, due to which he had sustained injury on his head, behind the right ear lobe and waist and thereafter, both the said boys fled from there on the said scooty. He further deposed that he was

having all the suspicion that accused Dinesh Kumar @ Vicky was behind this incident. He volunteered that later he came to know that he (accused Dinesh) had no role to play in this incident. He could not identify said boys, who were involved in the present incident and the weapon of offence as he was hit from his back side.

14. On being cross examined by Ld. Prosecutor, PW 1 denied the suggestion that accused Dinesh had again started telephonically contacting Meena at her matrimonial home and had also started threatening him. He denied the suggestion that the said scooty on which said two assailants were sitting and had fled away after the incident on 07.08.2024 was bearing registration No. DL8SBC 0985 and the said scooty belonged/was being used by accused Dinesh Kumar @ Vicky. On being pointed out towards accused Ratan Kumar and Barinder Singh by Ld. Prosecutor, PW 1 deposed that they were not the same boys and stated '*ye nahi the*'. He further deposed that he could not identify these two persons as the assailants.

15. Though he admitted it to be correct that he had identified accused Barinder Singh in the jail during TIP but volunteered that prior to the said TIP, he was shown the photograph of accused Barinder Singh by the police and as such he had identified him in the TIP. He denied the suggestion that he has deliberately not identified accused Barinder Singh and Ratan Kumar as he had compromised the present matter with the accused Dinesh Kumar @ Vicky and his other associates, with the intervention of their family members and other respectable

persons of the society.

16. On being cross examined by Ld. counsel for accused persons, PW 1 admitted it to be correct that he was having suspicion on accused Dinesh Kumar @ Vicky due to his relationship with his daughter Meena but later he had come to know and realized that accused Dinesh Kumar @ Vicky was not having any role in the present incident. He admitted it to be correct that the persons who had inflicted injury on his person were having intention to rob him. He further deposed that a police official had obtained his signatures on some blank papers.

17. PW 2 Meena also narrated the same fact about her relationship with accused Dinesh @ Vikky before her marriage with Akhil Jain and the fact that when her family members came to know about this, they felt offended. She further deposed that she was leading a peaceful and comfortable life at her matrimonial home, but due to the phone calls being made by accused Dinesh Kumar @ Vicky, disputes arose in her matrimonial home. Thereafter, with the intervention of the family members of hers and accused Dinesh Kumar @ Vicky, a MOU was executed regarding their separation and that the accused Dinesh Kumar @ Vicky had paid Rs. 3,00,000/- to them. After sometime, accused Dinesh @ Vicky again started calling her on her new number.

18. As regards the incident in question, PW 2 Meena deposed that on 07.08.2024, she came to know that someone had inflicted stab injury on her father Manoj Rout, and she reached at

BSA Hospital to meet her father.

19. On being cross examined by Ld. counsel for accused persons, PW 2 admitted it to be correct that her father was having suspicion on accused Dinesh Kumar @ Vicky due to her relationship with him. She further admitted it to be correct that later she came to know and realized that accused Dinesh Kumar @ Vicky was not having any role in the present incident.

20. Sh. Akhil Jain husband of Meena entered the witness box as PW 3 and deposed that he was married with Meena daughter of Manoj Rout in the month of January, 2024 and after some days of their marriage, he had observed that his wife Meena used to receive phone calls of one boy and on being asked, his wife told him that she was having friendship with one Dinesh Kumar @ Vicky, prior to her marriage and the said phone calls were being made to her by Dinesh Kumar @ Vicky. This resulted in differences between them and his wife Meena left the matrimonial home and went to her parental home. Later on, the matter between him and his wife was compromised and his wife Meena came back to the matrimonial home. He further deposed that after some days, he started receiving phone calls of one unknown girl and he had developed friendship with her on phone. The said girl used to ask him to leave his wife Meena. Thereafter, he changed his mobile phone number. He volunteered that he had never met with said unknown girl and even his phone calls with her were also limited.

21. As regards the incident in question, PW 3 deposed that

on 07.08.2024, he came to know that his father in law Mr. Manoj Rout had been stabbed by someone, where-after he along with his wife Meena visited his father in law at BSA Hospital.

22. On being cross examined by Ld. counsel for accused persons, PW 3 deposed that he did not know who had stabbed his father in law or about the motive behind the stabbing of his father in law. He did not know any of the accused persons facing trial in the present case.

23. PW 4 Raju deposed that in the year 2024, he was working in MCD Parking under Flyover Jamuna Bazar, Near Hanuman Mandir, as Attendant. On 07.08.2024 at about 8.35 PM, two boys arrived in the said parking on a scooty bearing registration no. DL-8SBC-0895 and had parked the said scooty in the said parking, where-after he had issued a parking slip for the parking of the said scooty. He further deposed that on 12.08.2024, IO of the present case along with one boy accused Dinesh Kumar @ Vicky arrived at the parking and he told the IO that said boy i.e. Dinesh Kumar @ Vicky was not the person, who had parked the said scooty in my parking. The said scooty was seized by the IO. He specifically deposed that he could not identify those two boys who had parked the said scooty in the parking as more than 1 ½ year has elapsed and number of persons used to visit on a particular day in his parking and it was not humanly possible to identify all the persons visiting the parking.

24. In his cross examination by Ld. counsel for accused persons, PW 4 denied the suggestion that the said scooty was not

parked by anyone in his said parking or that no parking slip was issued by him.

25. PW 5 Vinod deposed that he did not know anything about the present case. But accused Dinesh Kumar @ Vicky was known to him, as he (PW 5 being a painter by profession) had done the painting job at the house of accused Dinesh Kumar @ Vicky, and due to this reasons, they were having each other's phone numbers in their mobile phones.

26. On being cross examined by Ld. Prosecutor, PW 5 admitted it to be correct that as he was facing problem of conveyance, hence accused Dinesh Kumar @ Vicky had given him one scooty and the registration number of said scooty may be was DL-8SBC-0985. (Vol. Shayad Yahi Hoga). He did not remember now as such he could neither admit nor deny, whether the said scooty was given to him by accused Dinesh Kumar @ Vicky about 3 – 3 1/2 years ago from the date of recording of his testimony in the court. He further deposed that though he had returned the said scooty to accused Dinesh Kumar @ Vicky, but he did not remember the date, month and year, when the same was returned by him to accused Dinesh Kumar @ Vicky.

27. On being shown the scooty, he deposed that it was the same scooty, which he had taken from accused Vicky and later on had returned the same to him. He volunteered that he had returned the said scooty to him after 2-3 months of getting the same from him. He denied the suggestion that on 06.08.2024, accused Dinesh Kumar @ Vicky telephonically asked him to

hand over the said scooty to him near Hanuman Mandir, BB Block, Shalimar Bagh or that he had handed over the said scooty to him at about 7:30 PM near Hanuman Mandir, BB Block, Shalimar Bagh. He volunteered that there was no occasion for him to return the scooty to accused Dinesh Kumar @ Vicky on 06.08.2024 as much prior to the said date, the said scooty was not with him. He denied the suggestion that he has been won over by the accused.

28. PW 6 Sh. Jayant Kumar Singh deposed that he had purchased one scooty make TVS Wego bearing registration No. DL8S BC 0985 and he is the registered owner of said scooty. About three years prior to the present incident, he had sold the same to accused Dinesh Kumar @ Vicky, who was known to him for about 10-12 years at that time. Accused Dinesh Kumar @ Vicky had not got the said scooty transferred in his name from him.

29. PW 7 Rajat Mishra deposed that he has been running OYO Hotel in the name of Shipraj Inn at Shalimar Village in a tenanted premises and on 28.08.2024, on being asked by the IO SI Lovekesh Kumar, he had provided the CCTV footage of the camera installed in the said hotel pertaining to date 06-07.08.2024 in a pendrive. He further deposed that on 06.08.2024, two boys had arrived at his said hotel, and stayed there disclosing their names as Pradeep Singh and Ajay Singh. He also handed over the photocopy of the guest register of his said hotel pertaining to date 06/07.08.2024, alongwith photocopies of their IDs proof to SI Lovekesh Kumar and same were seized by him. On being

pointed out towards accused Barinder Singh and Ratan Kumar, he identified them being the persons, who had stayed in his said hotel on the above mentioned dates. He also identified them in the video footage in the pendrive Ex. PW 7/MO1.

30. As per the testimony of the material witnesses of the prosecution i.e. the injured and her daughter, they had a suspicion that it was the accused Dinesh @ Vikky, who hired accused Barinder Singh and Ratan Kumar to give beatings to injured, as injured was offended after having come to know about the relationship of his daughter with accused Dinesh @ Vikky. Due to the suspicion, the injured stated to the police that the persons, who had beaten him were carrying the scooty belonging to the accused Dinesh @ Vikky.

31. Perusal of the charge-sheet shows that the entire investigation carried out by the police was based upon the Disclosure Statement allegedly given by the accused Dinesh @ Vikky, who deposed that since he wanted to marry Meena daughter of injured Manoj Rout, who had already been married to Akhil Jain, firstly he came in contact with one Suman in a Spa, who gave her mobile phone number of accused Manpreet Kaur. Thereafter, he contacted accused Manpreet Kaur and asked her to trap the husband of Meena and convince him to leave Meena. Thereafter, the accused Dinesh @ Vikky asked her to arrange boys to give beatings to father of Meena. The accused Manpreet Kaur introduced accused Dinesh @ Vikky with her husband / accused Barinder Singh and his associate Ratan Kumar, who

were then hired by accused Dinesh @ Vikky to give beatings to the injured.

32. The injured though during TIP proceedings identified the accused Barinder Singh being the assailants, but failed to identify the accused Ratan Singh during TIP proceedings. Further, during his testimony before the court, he failed to identify the accused Barinder Singh and Ratan Kumar as the assailants submitting that since he was hit from behind, he was unable to identify the assailants. He further deposed that even before conducting the TIP proceedings qua accused Barinder Singh, he was shown his photograph by the police officials.

33. Ld. Prosecutor has contended that during investigation of the case, the mobile location of accused Dinesh @ Vikky, Barinder Singh and Ratan Kumar was found around the spot and that accused Barinder Singh and Ratan Kumar were visible in a CCTV footage captured by the CCTV camera installed at a distance of about 1 – 1½ KM away from the spot. It is further contended that the statements of bank accounts of accused persons show that money was being transferred by accused Dinesh @ Vikky in the bank account of accused Barinder Singh and Manpreet Kaur. Further more, it is come on record that one day prior to the incident in question, accused Barinder Singh and Ratan Kumar had stayed in an inn at Shalimar Bagh.

34. As such, the entire case of the prosecution was hinging on the suspicion laid by the injured and his daughter, and the said suspicion was later cleared and both the said witnesses deposed

that later on they realized that accused Dinesh @ Vikky had no role to play in the incident in question. The other circumstantial evidence to the effect that the assailants used the scooty of the accused Dinesh @ Vikky at the time of incident, also could not be proved as per the standard of proof required, as the parking attendant, in whose parking the scooty was allegedly parked by accused Barinder Singh and Ratan Kumar after the incident, could not identify them. Further more, no documentary proof was brought on record by the prosecution to prove that the said scooty bearing registration no. DL-8SBC-0985 was actually owned by accused Dinesh @ Vikky.

35. As per PW 6 Jayant, he had purchased the said scooty and even on the date of his deposition before the court, he was the registered owner of the same. However, he sold the said scooter to accused Dinesh @ Vikky, but the same was never got transferred in his name. As per PW 5 Vinod, he was given the said scooty by accused Dinesh @ Vikky for some time, but he did not remember the date, month and year on which the said scooty was given to him. He further deposed that he returned the said scooty to accused Dinesh @ Vikky. after 2-3 months of getting the same from him. He categorically denied the suggestion that on 06.08.2024, accused Dinesh Kumar @ Vicky telephonically asked him to hand over the said scooty to him near Hanuman Mandir, BB Block, Shalimar Bagh or that on his asking, he had handed over the said scooty to him on 06.08.2024 at about 7:30 PM near Hanuman Mandir, BB Block, Shalimar Bagh. He volunteered that there was no occasion for him to return the scooty to accused Dinesh Kumar @ Vicky on 06.08.2024 as

much prior to the said date, the said scooty was not with him.

36. As such, it could not be established on record by the prosecution as to who was in actual possession of the said scooty on the date of incident or to connect the accused Dinesh @ Vikky with the incident in question. As regards the other circumstantial evidence be it in the form of CCTV footage or money transfer or location of accused person around the spot of occurrence loses its value, when there is no direct evidence to connect the accused persons with the incident in question.

37. Injured as well as his daughter have specifically deposed that later they realized that accused Dinesh @ Vikky had no role to play in the incident in question. Further they failed to identify the accused Barinder Singh and Ratan Kumar as the assailants.

38. Criminal conspiracy is defined under Section 61 of the Bharatiya Nyaya Sanhita (BNS), 2023 (replacing Section 120A of the IPC), as an agreement between two or more persons to commit an illegal act or to achieve a lawful act through illegal means. The agreement itself is the core offence, requiring no overt act if it involves planning a serious crime.

39. In the present case, to prove a connection between the accused persons and a criminal conspiracy having been arrived at among the accused persons, the prosecution has relied upon the CDRs of accused persons and their bank transactions, which as per the prosecution, shows that certain amounts on different

dates, were transferred by accused Dinesh @ Vikky in the name of other accused persons. However, the prosecution has failed to establish on record that the amount, if any transferred by accused Dinesh @ Vikky was so transferred by him in the account of other accused, for doing of any illegal act or any criminal conspiracy arrived at between them.

40. In view of the same, the court is of the opinion that prosecution has failed to establish on record that the accused persons entered into a criminal conspiracy as defined under Section 61 BNS, to do an illegal act or an act which is not illegal by illegal means.

41. Accused Barinder Singh has also been charged for the offence punishable under Section 27/25 Arms, for having used and being found in possession of alleged weapon of offence *Khanda*. As regards the use of weapon of offence i.e. *Khanda*, the prime witness of the prosecution i.e. injured has given a clean chit to accused Barinder Singh deposing that he could neither identify the assailant nor the weapon of offence, as he was hit from back.

42. As regards the recovery of the said weapon of offence i.e. *Khanda* from the possession of accused Barinder Singh, as per the prosecution case, the same was found from his house in District Ludhiana, Punjab. Ld. counsel for accused has argued that the recovery of weapon of offence has not been proved as per the standard of proof required, in as much as no independent public witnesses including the witnesses from the local police, who as per PW 8 IO SI Lovekesh had accompanied him, was

joined in the investigation at the time of alleged recovery of khanda.

43. It is further contended that there are contradiction in the version of two recovery witnesses i.e. PW 8 SI Lovekesh and PW 9 HC Lila Ram, in as much as PW 8 SI Lovekesh in his cross examination deposed that they left the PS to go to Ludhiana in the night of 17/18/08.2024 and reached at Ludhiana at about 6.00 AM, and firstly they reached the local police station of Ludhiana where arrival entry was recorded. He did not remember the name of the police station. Thereafter, two police officials from the said PS accompanied him, but he did not remember their names and he had not recorded their statements. He denied the suggestion that he had not joined any local police officials of Ludhiana. He further deposed that the house of accused Barinder and Manpreet was single storey and perhaps there were two rooms in the said house. No neighbour of accused Barinder and Manpreet arrived there, during the period, they remained there. He further deposed that the house of accused Barinder was not in a thickly populated area and there were some houses at a distance. He further deposed that he had not called any neighbour of accused Barinder and Manpreet to join the investigation prior to recovery of the knife. They were all 8 members, who came back to Delhi in the said Ertiga car. He admitted it to be correct that the incident was not covered in any CCTV footage.

44. On the other hand, PW 9 HC Lila Ram in his cross examination deposed that they had reached Ludhiana at about 10-11 AM on 18.08.2024 and they had first reached at the house of

accused Barinder and Manpreet and after their arrest, they had reached the local police station. He further deposed that the residents of the locality did not gather outside the house of accused Barinder after they reached there and no public witness was joined at the time of arrest of accused and recovery of Khanda. He further deposed that the house of accused Barinder and Manpreet was single storey and perhaps there were two or three rooms in the said house. No neighbour of accused Barinder and Manpreet came there, during the time they remained there. The house of accused Barinder was not in a thickly populated area and there were some houses at a distance. He further deposed that the IO had not called any neighbour of accused Barinder and Manpreet to join the investigation prior to recovery of the knife (khanda). They all 8 members left Ludhiana at about 5-6 PM on 18.08.2024 and came back to Delhi in the same Ertiga car.

45. Ld. defence counsel has further contended that no blood was found on the alleged weapon of offence, a fact which has been corroborated by FSL result Ex. PW 8/T. It is further submitted that the weapon of offence i.e. Khanda has been planted upon the accused Barinder Singh just to implicate him in the present case. It is further contended that since the material witnesses of prosecution have turned hostile and have categorically deposed that accused Barinder Singh and Ratan Kumar have not caused any stab injury to the victim, the alleged recovery of knife at the instance of the accused becomes doubtful and as such prosecution fails to bring home the guilt of the accused for the offence punishable u/s 25 Arms Act as well.

46. On the other hand, Ld. Prosecutor has argued that though the material witnesses have turned hostile, but the testimony of the police witnesses, cannot be ignored and the same is sufficient to conclude that the Khanda Ex. PW8/MO1 was recovered at the instance / possession of the accused Barinder Singh.

47. An accused can be acquitted under Section 25 of the Arms Act, 1959 when the prosecution fails to establish, with the degree of certainty required in criminal law, that the weapon allegedly recovered was in the conscious and exclusive possession of the accused and that the same was properly preserved, examined, and linked to the offence. In the present factual matrix, the first and foremost infirmity arises when the same could not be linked with the present case, as PW 1 Manoj specifically deposed that he could not identify the weapon of offence as he was attacked from behind, and further no blood was found on the weapon of offence.

48. The evidentiary value of any recovered weapon depends upon the prosecution's ability to demonstrate that the article remained untampered from the time of seizure until its production in court or examination in the forensic laboratory. It is the failure of the prosecution to present reliable oral evidence linking the accused Barinder Singh to the weapon. In cases involving violent offences, the testimony of injured witnesses ordinarily carries great weight because their presence at the scene is established and their account is presumed to be trustworthy.

However, when such witnesses turn hostile and do not support the prosecution's version, the entire narrative of the prosecution is significantly undermined. In the absence of their support, the recovery of the weapon becomes doubtful, particularly if there are no independent witnesses to corroborate the seizure. The prosecution is then left without any direct evidence connecting the accused to the alleged possession or use of the weapon. While it is true that a hostile witness does not automatically render the prosecution case false, the court must exercise caution and seek corroboration from other reliable evidence. In the present scenario, such corroboration is either absent or itself tainted by procedural irregularities.

49. Furthermore, the essential ingredient of "conscious possession" is not established in such a case. Possession under Section 25 of the Arms Act, 1959 is not merely physical custody but involves knowledge and control over the weapon. The prosecution must demonstrate that the accused was aware of the presence of the weapon and had dominion over it. Where the recovery itself is doubtful, it becomes impossible to attribute conscious possession to the accused. The absence of clear and reliable evidence on this aspect strikes at the very foundation of the charge under Section 25.

50. When these factors are considered cumulatively, they create a situation where the prosecution's case is riddled with uncertainties. The law is well settled that suspicion, however strong, cannot take the place of proof. The standard of proof in criminal cases is deliberately set high to prevent the miscarriage

of justice. Where the evidence leaves room for reasonable doubt regarding the guilt of the accused, the court must lean in favour of acquittal. In the present case, the doubts are not peripheral or speculative; they arise from concrete deficiencies in the prosecution's evidence and procedure.

51. Therefore, in such circumstances, an acquittal is not merely a possible outcome but a legally justified one. The prosecution has failed to discharge its burden of proving the essential ingredients of the offence beyond reasonable doubt. In keeping with the fundamental principles of criminal jurisprudence, the accused is entitled to the benefit of doubt, and the court would be justified in acquitting him of the charge under Section 25 of the Arms Act, 1959.

52. It is the settled proposition of law that the testimony of official police witnesses is just a corroboratory piece of evidence, and the same, in the absence of the testimony of material witnesses, has no credibility and loses its value.

53. It is established law that it is the testimony of the injured / eye witness, which is most vital, to arrive at a logical conclusion qua the accused persons in respect of the offences, they have been charged with. Since the star witnesses of the prosecution i.e. the injured and his daughter on whose testimony the case of the prosecution was based, absolved the accused persons, there is nothing that survives in the prosecution case, which falls flat on its face, failing to bring home the guilt of the accused persons.

54. Accordingly, I am of the opinion that the prosecution has failed to establish the guilt of the accused persons. Accordingly, all the accused persons Dinesh @ Vikky, Manpreet Kaur @ Harpreet, Barinder Singh @ Davil @ Hanny @ Garry and Ratan Kumar @ Sonu are acquitted of the offence u/s u/s 109(1)/61(2)(a)/3(5) BNS. Accused Barinder Singh @ Davil @ Hanny @ Garry is acquitted of offence punishable under Section 25/27 Arms Act as well.

55. Bail bonds of all the accused persons stand cancelled and their sureties stand discharged. Original documents, if any, be released to the rightful owner after cancellation of the endorsement.

56. Accused persons are directed to furnish bail bonds u/s 485 BNSS in the sum of Rs. 10,000/- each with one surety in the like amount each for a period of six months.

57. File be consigned to Record Room after compliance.

Announced in the open Court
today i.e. 15th April, 2026

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