

IN THE COURT OF SH. SANJEEV KUMAR AGGARWAL
PRINCIPAL DISTRICT & SESSIONS JUDGE
SOUTH-EAST , SAKET COURTS, NEW DELHI

PRESENTLY POSTED AS :
PRINCIPAL DISTRICT & SESSIONS JUDGE
SOUTH, SAKET COURTS, NEW DELHI

SC No. 5178/2024
CNR No. DLSE01-010782-2024

STATE

Versus

1. Virender

S/o Sh. Babu Lal
R/o Jhuggi No. 36, Priya Camp
near Sukhdev Vihar, Mathura Road, New Delhi

2. Dablu Shah @ Bablu

S/o Sh Ram Jivan
R/o Jhuggi No. 36, Priya Camp
near Sukhdev Vihar, Mathura Road, New Delhi

3. Babu

S/o Sh. Bangali
R/o Jhuggi No. 36, Priya Camp
near Sukhdev Vihar, Mathura Road, New Delhi

FIR No.390/2021
u/s 308/34 IPC
PS : New Friends
Colony

First date before this Court : 09.10.2024

Arguments heard on : 11.05.2026

Date of Judgment : 18.07.2026

J U D G M E N T :

1. Vide this judgment, I shall decide the case filed under Section 308/34 of Indian Penal Court.
2. The brief facts of the case are that on 28/11/2021 on receipt of DD No. 62 A and 64A, SI Mahavir alongwith Ct Dharmender reached at the place of quarrel near Jhuggi No. 36, Priya Camp, Mathura Road, New Friends Colony where they came to know that injured had already been shifted to hospital by PCR van. Accordingly, SI Mahavir reached at Trauma Centre, AIIMS where MLC of injured was not found ready. On 29/11/2021 SI Mahavir again went to AIIMS Trauma Centre and on inquiry it was found that MLC of injured is not ready. Duty constable of hospital informed that duty of Doctor has been changed, so MLC will be available on the next day. Thereafter SI Mahavir reached at the spot where injured/complainant Santosh, s/o Sh. Gautam, r/o Jhuggi No. 31, Priya Camp near Sukhdev Vihar Depot, Mathura Road, New Delhi had given the statement that he is residing in the above given address and used to put the fruits on rehri and that on 28/11/2021 at about 11 pm he went to purchase milk from the shop of Virender but shop was found closed. Then I called Virender to give him milk. Virender Said that in the day time you purchase articles from other shop, so he will not give him milk. On this hot talk took place between him and Virender and Virender called his father Babu Lal, Dablu and Vishnu and all of them started beating them with fists and leg blows. Thereafter Virender took out a iron rod from his house and hit the same on the head of Santosh. On hearing noise, family members of Santosh also reached there, who called at number 112 and in the PCR van he was taken to Trauma Centre for treatment where he got admitted and stated that legal action may be taken against the persons namely Virender, Babu

Lal, Dablu Shah and Vishnu who gave him beatings. On the statement of injured/complainant and on the opinion on MLC, case under Section 308/34 IPC was registered against the accused persons. During investigation, on the pointing out of injured Santosh, SI Mahavir prepared the site plan. On the identification of complainant Santosh, accused Virender was overpowered and on interrogation accused Virender had disclosed his involvement on the incident on the day of incident. Accused Virender was arrested. Accused got recovered iron rod (saria) from his jhuggi and said that it was used by him on the day of incident. Said iron rod (saria) was taken into police possession. SI Mahavir recorded the statements of the witnesses under Section 161 Cr.P.C., prepared rukka, registered the FIR, prepared the site plan, collected the MLC of the injured, took opinion on the injuries of the victim and arrested the accused persons.

3. After completion of the investigation, chargesheet was prepared and filed before the Court of learned MM, which was committed to this Court for 15/10/2024.

4. Vide order dated 21/11/2024, charge under Section 308/34 IPC was framed against the accused persons namely Virender, Dablu Shah @ Ballu and Babu Lal, to which they pleaded not guilty and claimed trial.

5. On 14/11/2025 charge had been rectified in view of observations made Ld. Predecessor of this Court in order dated 27/05/2025 with respect to name of accused Dablu Shah @ Bablu. Accordingly, on 14/11/2025 rectified charge under Section 308/34 IPC was framed against the accused persons namely Virender, Dablu Shah @ Bablu and Babu Lal, to which they pleaded not guilty and claimed trial.

6. In order to prove its case, the prosecution has examined six witnesses i.e. SI Ajeet Singh as PW-1; SI Zile Singh as PW-2; Santosh as PW-3; ASI Sukhvir Sharma as PW-4; SI Mahavir Singh as PW-5 Dr. Vivek Maldar as PW-6.

7. After completion of the prosecution evidence, statements of the accused persons namely Virender; Dablu Shah @ Bablu and Babu Lal were recorded under Section 313 Cr.P.C., in which all the evidence came against them were put to them and they denied all the evidence and stated that they are innocent and falsely implicated in the present case. However, they preferred to lead defence evidence.

8. Accused persons examined themselves in their defence as DW1 Babu Lal; DW2 Virender and Dablu Shah @ Bablu DW3.

9. Final arguments have been heard from Shri R. K. Gurjar, learned Chief Public Prosecutor (Officiating) for the State and from Sh. K.S. Arya and Ms. Shagufta Praveen, Ld. Counsel for the accused persons.

Prosecution evidence

Public witness

10. PW-3 Shri Santosh is the complainant who had deposed that on 28/11/2021 at about 11 pm he went to purchase milk from the market. He knocked the door of the shop of accused Virender, who used to sell milk as he wanted to purchase the milk. PW3 asked accused Virender for milk but accused Virender refused for the same. Accused Virender told him that in the day time he used to purchase milk from other shop and in the night he visited the shop of accused Virender for purchase of milk. Accused Virender dragged PW3 from his shop towards the gali. Accused Virender

alongwith his two associates i.e., accused Dabloo and Babu Lal started beating him with fists and leg blows. Thereafter, accused Virender hit a rod on his head. He started bleeding from his head. Wife of PW3 reached the pot from house and she called the police at 112 number. Police took him to AIIMS Trauma Centre, New Delhi and after stitching his wounds, he was discharged from the hospital in the morning. On the next day he went to police station and made statement Ex PW3/A to police. He had gone through the contents of his complaint recorded by the police and thereafter put his signatures on the same. He accompanied to the place of occurrence with police and police prepared the site plan at his instance. Accused Virender was arrested by the police at his pointing out vide arrest memo Ex PW3/B and personal search of accused Virender Ex PW3/C was also prepared. PW3 identified all the three accused persons prior to the incident being the resident of the same area. While rod Ex PW3/P-1 was produced in court by MHC(M), PW3 deposed that rod was like this which was used in beating to him but again said that it was the same rod which was used by accused Virender to cause injury to him.

During cross examination PW3 deposed that the shop of accused Virender is being closed around 11 pm and when he went to the shop of accused Virender, same was closed but he was standing at the gate of shop of accused Virender. PW3 denied that the shop of accused Virender is being closed at around 10 pm. PW3 further deposed that he had not consumed liquor on the day of incident. PW3 denied that as the shop of accused Virender was already closed and he hit the shutter of shop of accused with his leg under the influence of liquor or that he had abused accused

Virender as he did not give him milk and due to said reason a quarrel had taken place. PW3 further deposed that one Vishnu was also involved in the incident but he ran away from the said place after the incident. PW3 denied that Vishnu was his friend or that I did not know him. PW3 further deposed that accused Virender had disclosed the name of Vishnu to him in the police station. He had deposed that he had no knowledge whether accused Virender had lodged FIR No. 389/2021 under Sections 323/341/506/34 IPC in PS New Friends Colony against him. PW3 admitted that he had appeared in case FIR No. 389/2021 before the Court.

Medical and scientific evidence

11. PW-6 Dr. Vivek Maldar deposed that he was deputed by Dr. Tej Prakash Sinha, Faculty Incharge, AIIMS Trauma Centre, New Delhi to appear on behalf of Dr. Anup Baisla since he had left the services of the hospital. PW-6 proved the MLC Ex PW56/A of injured Santosh, son of Gautam prepared at AIIMS Trauma Centre, New Delhi and opinion on the aforesaid MLC Dr. Anup Baisla opined as simple blunt.

Despite opportunity, Ld. Counsel for accused persons did not cross examine PW6.

Police witnesses

12. PW-1 SI Ajeet Singh deposed that on 29/22/2021 while he was posted as ASI in PS New Friends Colony and working as duty officer from 8 am to 8 pm, SI Mahavir Singh handed over a rukka in the police station for recording of FIR. He made endorsement Ex PW1/A on the said rukka and handed over the same to Computer Operator for recording the FIR. He also issued

certificate under Section 65B of the Indian Evidence Act Ex PW1/B. After recording of the FIR, same was handed over to SI Mahavir Singh alongwith original rukka.

During cross examination by Ld. Counsel for accused persons PW1 stated that he handed over the *rukka* to the computer operator at around 6.48 pm and he recorded the FIR within half an hour.

13. PW-2 SI Singh while working as Duty Officer from 8 pm to 8 am, he recorded the DD No. 62-A Ex PW2/A, DD No. 63-A Ex PW2/B and DD No. 64-A Ex PW2/C, on the basis of information received from the PCR. The contents of the said DD entries were regarding quarrel in Priyanka Camp near Sukhdev Vihar DTC Depot. Aforesaid DDs were handed over to SI Mahavir for investigation. DD No. 63-A was handed over to HC Goverdhan for investigation.

Despite opportunity Ld. Counsel for accused persons did not cross examined PW2.

14. PW-4 ASI Sukhvir Sharma had accompanied with IO SI Mahavir Singh. He had deposed that on 29/11/2021 while he was posted at PS New Friends Colony and was performing his duty as Beat Officer at Priya Camp area as he was on patrolling duty in the area, at about 7.30/8 pm SI Mahavir met him in the area and he accompanied him for attending the call of this case. Complainant Santosh met them there. IO prepared site of this case at the instance of complainant. Accused Virender, who was present in Court was correctly identified by PW4, was apprehended, interrogated and arrested vide memo Ex PW3/B. Accused

Virender got effected recovery of iron rod (*saria*) from a corner of his jhuggie and IO seized the same vide memo Ex PW4/A. IO conducted the jamatalashi of accused Virender vide memo Ex PW3/C. Accused Virender made disclosure statement Ex PW4/B. PW4 correctly identified iron rod (*saria*) Ex PW3/P-1, which was recovered by accused Virender, in Court.

During cross examination by Ld. Counsel for accused persons, PW4 admitted that the iron rod (*saria*) was not sealed in pullanda.

15. PW-5 SI Mahavir Singh is the IO of the present case. He deposed that On 28/11/2021 he was posted at PS New Friends Colony and on that day DD Entry 62-A Ex PW2/A and DD Entry No. 64-A Ex PW2/C were marked to him. He alongwith Ct. Dharmender reached at Priya Camp Mathura Road, New Delhi where they came to know that the injured had been removed to the hospital and the quarrel had taken place near Jhuggi No. 36, Priya Camp. Accordingly, he reached AIIMS Trauma Centre, New Delhi. The MLC of injured Santosh was not ready by that time. As injured was busy in his treatment, so he could not record his statement. On the next day, he again visited the AIIMS Trauma Centre, New Delhi and collected the MLC of injured Santosh. He visited the spot of the incident. Complainant Santosh met him there and he recorded his statement Ex PW3/A. He prepared *rukka* Ex PW5/A and thereafter he returned to police station and got lodged the FIR Ex PW1/C. He again visited the spot of incident. Beat ASI Sukhvair met him there and PW5 joined him in the investigation. Complainant also met him there. He prepared site plan Ex PW5/B at the instance of complainant. PW5 correctly

identified accused Virender, who was apprehended by him at the instance of complainant, in Court. Accused Virender was arrested vide arrest memo Ex PW3/B. Accused Virender got effected recovery of iron rod from a corner of his jhuggie. PW5 seized the same vide seizure memo Ex PW4/A. Accused Virender made disclosure statement Ex PW4/B. He conducted the jamatalashi of accused Virender vide Ex PW3/C. He recorded statement of witnesses. Thereafter he returned back to police station. Accused Virender was locked up in the lock up and the case property was deposited in the malkhaana. During investigation, he collected the result on the MLC, which was opined as simple blunt. During investigation, accused Dablu Shah @ Bablu and accused Babu Lal were formally arrested vide arrest memo Ex PW5/C and Ex PW5/D. PW5 correctly identified accused Babu Lal in Court. He could not identify accused Dablu Shah @ Bablu that day as he was absent that day and was exempted for that day. After completion of investigation, he prepared the charge sheet and filed the same in Court. PW5 correctly identified the iron rod (saria) Ex PW3/P-1, which was got recovered by accused Virender.

In his cross-examination, he deposed that he received the PCR call on 28/11/2021 at about 11.15 pm and he reached at the spot within 15-20 minutes. Some public persons met him at the spot but they did not agree to depose. Otherwise it was revealed that the injured was taken to hospital. PW5 further deposed that on 29/11/2021 at about 5 pm he recorded the statement of injured Santosh at his residence. Injured had not visited the police station prior to recording of his statement. PW5 further deposed that he was not aware about the cross FIR, if any, i.e., FIR No. 389/2021,

registered at police station New Friends Colony and for the same reason he cannot say whether or not accused in the said alleged cross FIR was arrested. PW5 denied that he completed all the proceedings pertaining to case FIR No. 390/2021 at the police station after the arrest of complainant Santosh in case FIR No. 389/2021.

Statement of Accused under Section 313 Cr.P.C.

16. In their statements under Section 313 Cr.P.C., the accused persons denied all the incriminating evidence put to them as incorrect and deposed that they have been falsely implicated in the case.

Defence witnesses

17. DW-1 Babu Lal is the accused in the present case had examined himself as defence witness and deposed that on the day of incident i.e., 28/11/2021, his son Virender has closed the shop at 10.30 pm. They went to their house. They were preparing to have food. At about 11 pm, there was certain bang on the door of their house and someone was shouting outside the house. He went to open the door and saw Santosh was standing there and shouting and asking for milk. DW1 said that the milk was finished and they were left with no more milk. Santosh started beating him and threw him on the ground. At that point of time, his son Virender came running outside to save him. By that time, five persons came in support of Santosh and they also started beating them. One of them was carrying danda. They called the police and police took them to the hospital for medical examination. After that, in the morning they were called by the IO to the police station

and they stayed there till evening.

During cross examination DW1 denied the suggestions that he and Dablu beaten Santosh with fists & legs blow or Virender hit the rod on Santosh head.

18. DW-2 Virender is also accused in the present case had examined himself as defence witness in this case and deposed that on the day of incident i.e., 28/11/2021, he had closed the shop at 10.30 pm and went to his house. They were preparing to have food. At about 11 pm, there was certain bang on the door of their house and someone was shouting outside the house. His father Babu Lal went to open the door and saw Santosh was standing there and shouting and asking for milk. His father said that the milk was finished and they were were left with no more milk. Santosh started beating his father and threw him on the ground. At that point of time, he came running outside to save his father. By that time, five persons came in support of Santosh and they also started beating them. One of them was carrying danda. They called the police and police took them to the hospital for medical examination. After that, in the morning they were called by the IO to the police station and they stayed there till evening.

During cross examination DW2 denied the suggestions that he hit the rod on the head of Santosh.

19. DW-3 Dablu Shah @ Bablu is also accused in the present case had examined himself as defence witness in this case and deposed that on the day of incident i.e., 28/11/2021, he was not present at the spot of incident. He was on his driving duty at the time of incident. He had returned after two days and came to know

that he was falsely implicated in the present case. Police persons from PS New Friends Colony called him. He went to police station and also applied for bail.

During cross examination DW3 denied the suggestions that he and Bablu gave fists and legs blow to Santosh and Virender hit Santosh with rod.

Arguments

20. It is argued by learned Chief Public Prosecutor (Officiating) for the State that the prosecution through the testimony of PW-3 prosecution has been able to prove that on 28/11/2021 accused Virender alongwith his two associates Dabloo and Bablu had beaten him with fists and leg blows and thereafter accused Virender hit on his head with iron rod when PW3 has gone to the shop of accused Virender to purchase milk at about 11 pm. It is further argued that testimony of PW3 is duly corroborated with the testimonies of other witnesses as well as from medical documents, which proved that PW3 was hit on his head by iron rod, which is vital body part of PW3 and accused persons very well knows that by their said act, they will cause death of victim/PW3 and thus prosecution has been able to prove that accused persons had been guilty of culpable homicide not amounting to murder and thus accused persons are liable to be convicted under Section 308/34 IPC.

21. On the other hand, learned counsel for the accused persons has argued that there are lots of loop holes in the prosecution case, which makes the testimony of PW3 unreliable. Ld. Counsel for accused persons further argued that it is PW3 who on the late night

of 28/11/2021 came to the shop of accused Virender, which was found closed at that time and thereafter several times he hit the shutter of shop under the influence of liquor and when father of accused Virender namely Babu Lal went to open the door he saw that PW3 was standing there shouting and asking for milk and when accused Babu Lal told that they have no milk, PW3 started beating Babu Lal and at that time accused Virender came to save his father. Thereafter five persons came in support of PW3 and started beating accused Virender and Babu Lal and they called the police and thus it is the complainant PW3 and his associates, who were aggressor and lodged false complaint against the accused persons. He further argued that it is the complainant who beaten the accused Virender and Babu Lal and in this regard, an FIR bearing No. 389/2021 was lodged by the accused against the complainant under Sections 323/341/506/34 IPC in PS New Friends Colony, which is pending before the Court of Ld. JMFC, therefore, in these circumstances accused persons are entitled to be acquitted.

Analysis of evidence and finding

22. The accused persons have been charged for the offence under Section 308 IPC, which is reproduced as under :

“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."

23. From Section 308 IPC, it is evident that when an accused attempt to assault a person with intention or knowledge that it could cause death of the victim and if death is not caused in that eventuality offence of Section 308 IPC is made out.

24. Though prosecution has examined 6 witnesses but except PW3 all the witness are either formal witness or not much material witness as PW1 SI Ajeet Singh is only the duty officer, who proved the endorsement on the rukka Ex PW1/A, FIR Ex PW1/C. PW2 SI Zile Singh is also the duty officer and proved DD No. 62-A as Ex PW2/A, DD No. 63-A as Ex PW2/B and DD No. 64-A as Ex PW2/C. From the perusal of DD No. 62-A, it is evident that there was only mentioned that there was a quarrel with a lady caller and in DD No. 63-A caller has informed that quarrel is going on and in DD No. 64-A it is mentioned that caller informed that quarrel is going on. Hence from these DDs nothing is coming out that who had made these calls and thus only proved that only quarrel took place. PW4 is ASI Sukhvir Sharma, who joined the investigation with the IO SI Mahavir and only deposed that accused Virender was arrested in his presence vide arrest memo Ex PW3/B and got recovered iron rod but he had admitted that iron rod (saria) was not sealed in a pullanda.

25. Star witness of the case is the victim himself i.e. PW-3, who is also the complainant in this case, though he has deposed that on 28/11/2021 at about 11 pm he went to purchase milk from the market and he knocked the door of the shop of accused Virender, who used to sell the milk and asked accused Virender for milk but

he had refused and told him that in the day time he used to purchase the milk from other shop and in the night he visited his shop for purchase of milk.

I found substance in the contention of Ld. Counsel for accused persons that the deposition of the PW1 that shop of the accused Virender was closed but he was standing near his shop appear to be false and found substance in the contention of Ld. Counsel for accused persons that shop of accused Virender was closed when Complainant/ PW3 reached to his shop and only when the complainant hit on shutter of accused shop with his leg accused Virender came out and objected to the behaviour of complainant, which led to the hot argument between the complainant/PW3 and accused Virender and subsequently aggravated into a quarrel because if the accused was standing at the gate of his shop, then why would victim/ PW3 would knock the door of the shop (as stated in his examination in chief) or shout to give milk (as stated in his complaint).

Further though PW3 has depose that accused Virender had dragged him from his shop towards the gali and his two associates Dabloo and Babu Lal had given fist and leg blow to him but on perusal of his complaint I found that he has not stated in his complaint that he was dragged towards gali.

Further PW3 in his testimony has depose that Dabloo and Babu Lal was also standing near the gate of shop when he reached to the shop of accused Virender, though in his complaint EXPW3/A he has stated that when he has altercation with accused Virender then he called his family member Babulal, Dablu and Vishnu but in his testimony he has not stated the said fact.

Further though PW3 has stated that he was given fist and leg blows by accused Dabloo and Babu Lal but on perusal of the MLC of the PW3, it is evident that complainant has received only one injury i.e., laceration wound over scalp region, thus the MLC does not corroborate the testimony of PW3 that he was dragged or was beaten with fist and leg blows by accused Virender, Dablu and Babu Lal, otherwise he would have number of injuries on his body instead of just one injury over his head. Further, PW1 has not deposed that accused Dablu and Babu Lal caught hold him when accused Virender allegedly hit him with rod. It is also not deposed by him that accused Dabloo and Babu Lal knew that accused Virender carry rod with him as according to his complaint they were called by accused Virender only after his altercation with him over milk. It is worthwhile to mention here that accused Babu Lal is the father of the accused Virender, who is also one of the injured in the case FIR No. 389/2021 lodged by the accused Virender, hence, he has motive to implicate accused Babu Lal & Dablu in this case. In these circumstances, I do not find testimony of PW3 reliable that accused Dabloo and Babulal beaten him or they share any common intention with accused Virender to hit him with iron rod. Therefore, I hold that prosecution has failed to prove the charges against the accused Babu Lal and Dablu.

26. As far as accused Virender is concerned, it is testified by complainant/ PW3 that he was hit with iron rod on his head by accused Virender. Certainly as evident from MLC of victim/ PW3 which is proved by PW6 Dr. Vivek as PW6/A it is evident that PW3 has received injury on his head. There is also no suggestion to PW3 that there was no quarrel between PW3 and

accused Virender. The suggestion to PW3 that he was drunk and abused the accused Virender as he did not give milk and due to said reason quarrel took place and further from testimony of accused Virender Rather who appears as DW1 where in he stated that that PW3 thrown his father on ground and he came to save his father and then he was beaten. Thus he admit the quarrel between him and PW3. There is no suggestion to PW1 that injury was self inflicted. Testimony of injured need no corroboration and same is sufficient to commit a person if found trustworthy. As evident from MLC EXPW6/A injury sustained by PW3 is simple in nature and it is unlikely that if the rod was hit on the head of complainant with full force by accused, then complainant would received only simple injury. Therefore it appear that accused had not hit the complainant with iron rod with full force, which means that accused has no intention or knowledge that by his act he is likely to cause death of complainant or victim/ PW3. Hence in my view even if the entire testimony of complainant is taken as gospel truth, that he was hit with iron rod, same does not prove that accused Virender had hit on the head of complainant/PW3 with the intention or knowledge that he is likely to cause him such bodily injury which could cause his death.

Further with respect to the alleged iron rod EXPW3/P1 by which he allegedly hit by accused Virender he first stated that said rod is like the iron rod by which he was hit but then against said it is same iron rod. This clearly show that he is not sure about the identity of iron rod. It is worthwhile to mention here that said iron rod was without any seal and was having one paper slip only having particular of the case. Before identifying identify iron he

has not given any specific feature of iron rod by which he identify the iron rod. Further from testimony of PW4 it is evident iron rod which accused Virender allegedly got recovered is saria. Usually no body call saria as iron rod when speaking in Hindi, hence if PW3/ P1 which is actually Saria had been the weapon of offence by which accused Virender hit the PW3 he would called the same as Saria and not iron rod. Hence identification of iron rod by him in Court as weapon of offence does not inspire much confidence. Further aforesaid saria by which accused caused injuries to complainant PW3 has not been produced before Doctor concerned to prove that whether the injury on the victim/ PW3 could be caused by said iron rod or not. Therefore, prosecution has not been able to prove beyond reasonable doubt that accused Virender had caused injuries on the head of PW3 with saria produced in the Court.

27. DW1/accused Babu Lal in his testimony has deposed that he heard the bang on the door of his house and then he came out and saw complainant/PW3 who was shouting and asking for milk and he told that milk has finished but he starting beating him and threw him on the ground and then his son came out to save him and at that 5 persons came to save complainant and beaten them. Similar facts has been disclosed by DW2/ accused Babu Lal and -DW3/ accused Dabloo in their testimony. Undoubtedly in their testimony they admitted that they did not make any complaint to the senior officer but merely on this ground their testimony cannot be disbelieved. As evident from the cross examination of PW3 he has been asked question that accused Virender has lodged FIR no.389/2021 against him u/s 323/341/506/34 IPC in PS Friend

Colony. Though PW1 has depose that he has no knowledge about the same but on next question he admitted that he appeared in said case in Court. Accused have file certified copy of chargesheet of said case, though not exhibited but being public document same can be relied upon. From said chargesheet it is proved that police on receiving DD no. 62A and 64A on 28.11.2021 which was regarding quarrel at Jhuggi No. 36 Priya Camp, Mathura Road reached at AIIMS hospital and collected MLC of Virender (i.e. accused in this case) and register the case FIR no. 389/21 on his statement. Hence considering testimony of DW1 to DW3 that they were beaten by complainant and after perusing chargesheet which was file on the basis of FIR lodged by accused Virender in my view create reasonable doubt that complainant/PW3 might have created such situation himself that accused Virender hit him under provocation or to save himself and his father but same does not prove beyond reasonable doubt that accused Virender caused injury to victim/ PW3 with the intention or knowledge that by such act he is likely to cause death of victim/ PW3 of victim punishable under Section 308 IPC is made out. However I hold that prosecution has been able to prove that accused Virender has caused hurt to the complainant/ PW3. However, in my view considering the circumstances mentioned above, it cannot be ruled out the accused Virender might have hit complainant/ PW3 to save himself and his father from the complainant, therefore it would not be in the interest to justice to convict him for even causing hurt to complainant/ PW3, hence, I acquit him for the offence u/s 323 also and thus acquit him for offence he is charged.

Conclusion

28. In view of the above discussion, I hereby acquit all the accused persons namely Virender, Dablu Shah @ Bablu and Babu Lal for the charged offences. Their bail bonds stand cancelled and sureties are discharged.

File be consigned to record room.

Announced in the
open Court today,
on 18.07.2026

(SANJEEV KUMAR AGGARWAL)
Principal District & Sessions Judge
South East, Saket Courts,
New Delhi

Previously:
Principal District & Sessions Judge
South East, Saket Courts,
New Delhi

LIST OF PROSECUTION / DEFENCE / COURT
WITNESSES

A. PROSECUTION

WITNESS NO.	NAME OF WITNESS	DESCRIPTION / ROLE OF THE WITNESS (INFORMANT, EYE-WITNESS, INVESTIGATING OFFICER / POLICE WITNESS, EXPERT WITNESS, MEDICAL JURIST / DOCTOR, PANCH WITNESS, OTHER WITNESS ETC.)
PW-1	SI Ajeet Singh	Duty Officer, who recorded FIR of this case.
PW-2	SI Zile Singh	Duty Officer, who recorded DD Nos. 62-A, 63-A and 64-A.
PW-3	Santosh	Complainant and victim of this case
PW-4	ASI Sukhvir Singh	Accompanied with IO in investigation
PW-5	SI Mahavir Singh	IO of this case
PW-6	Dr. Vivek Maldar	Proved the MLC of injured

B. DEFENCE WITNESSES, IF ANY :

WITNESS NO.	NAME OF WITNESS	DESCRIPTION / ROLE OF THE WITNESS
DW-1	Babu Lal	Accused himself
DW-2	Virender	Accused himself
DW-3	Dablu Shah@ Bablu	Accused himself

C. COURT WITNESSES, IF ANY :

WITNESS NO.	NAME OF WITNESS	DESCRIPTION / ROLE OF THE WITNESS
Nil		

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS

A.PROSECUTION

EXHIBIT NUMBER	DESCRIPTION OF THE EXHIBIT (FIR, COMPLAINT, PANCHNAMAS, MEDICAL CERTIFICATES, FSL REPORTS, SEIZURE MEMOS, SITE PLANS, DYING DECLARATIONS, ETC.)	PROVED BY / ATTESTED BY
Ex. PW1/A	Rukka	PW-1
Ex. PW1/B	Certificate under Section 65B of The Indian Evidence Act	PW-1
Ex. PW1/C	Computerized FIR	PW-1
Ex. PW2/A	DD No. 62-A	PW-2
Ex. PW2/B	DD No. 62-B	PW-2
Ex. PW2/C	DD No. 62-C	PW-2
Ex. PW3/A	Complaint/statement	PW-3

Ex. PW3/B	Arrest memo of accused Virender	PW-3
Ex. PW3/C	Personal search memo of accused Virender	PW-3
Ex. PW4/A	Seizure memo of iron rod (saria)	PW-4
Ex. PW4/B	Disclosure statement of accused Virender	PW-4
Ex. PW5/A	Rukka	PW-5
Ex. PW5/B	Site plan	PW-5
Ex. PW5/C	Arrest memo of accused Dablu Shah @ Bablu	PW-5
Ex. PW5/D	Arrest memo of accused Babu Lal	PW-5
Ex. PW6/A	MLC of the victim	PW-6

B.DEFENCE

EXHIBIT NUMBER	DESCRIPTION OF THE EXHIBIT	PROVED BY / ATTESTED BY
Nil		

C.COURT EXHIBITS

EXHIBIT NUMBER	DESCRIPTION OF THE EXHIBIT	PROVED BY / ATTESTED BY
Nil		

LIST OF MATERIAL OBJECTS :

MATERIAL OBJECT NUMBER	DESCRIPTION OF THE OBJECT / EXHIBIT	PROVED BY / ATTESTED BY
Ex PW3/P-1	Iron Rod (saria)	PW3 PW4 PW5

(SANJEEV KUMAR AGGARWAL)
Principal District & Sessions Judge
South East, Saket Courts,
New Delhi

Previously:
Principal District & Sessions Judge
South East, Saket Courts,
New Delhi