

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

SC No. 71/2023

CNR No. DLSE01-001804-2023

STATE

Versus

1. Narender

S/o Sh. Munna Lal

R/o J4/76, Khirki Extn,

Malviya Nagar, New Delhi

2. Diya Yadav

D/o Sh. Deen Dayal

R/o J4/76, Khirki Extn,

Malviya Nagar, New Delhi

3. Raja (proceedings abated vide order dated 23.01.2026)

S/o S. Raja

R/o S-82/229, Jagdamba Camp,

Malviya Nagar, New Delhi

FIR No.278/2020

u/s 308/34 IPC

PS : C. R. Park

First date before this Court : 09.02.2023

Arguments heard on : 08.05.2026

Date of Judgment : 06.06.2026

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 present case was registered on the statement of injured Vivek that on 13.11.2020 at

around 08:00 pm / 08:30 pm when he was returning to his home from Lajpat Nagar, he received a WhatsApp message wherein accused Diya Yadav asked him to meet her near rehdi of Babu Lal Kachoriwala at Chirag Delhi and when he reached there on his motorcycle, accused Diya Yadav met him there and from there both of them reached at Mela Ground, C. R. Park, where they sat near Gym and started talking. The injured further stated that he declined the cold drink offered to him by accused Diya Yadav and after 10-15 minutes at around 09:30 pm, four boys including accused Narender, whom he as well as accused Diya Yadav already knew, came there and caught hold of the injured Vivek and started giving him beatings mercilessly and even hit him on forehead with some unknown thing. Injured stated that after causing him serious injuries on his hands, teeth and ribs and all the persons ran away from there. Thereafter, the injured reached at Crown Plaza Petrol Pump on his motorcycle and called his father, who alongwith his friend took him to the AIIMS Trauma Centre, where treatment was administered to him and he got discharged on 14.11.2020 in the morning. He stated that again on 15.11.2020 he went to Safdarjung Hospital for treatment as he was having some problems.

3. ASI Rakesh after recording said statement made endorsement and prepared the rukka and got the FIR No.278/2020 registered under Section 323/341/34 IPC and after recording of the statement of the injured/ complainant under Section 161 Cr. P. C., the Sections 323/341 IPC were

converted into Section 308 IPC. On 17.11.2020, accused no.1 and 2 namely Narender and Diya Yadav were called to the PS and interrogated them and after interrogation accused were arrested. He prepared the site plan, collected the MLC of the injured, took opinion on the injuries of the victim and arrested the accused persons and after completion of the investigation, chargesheet was prepared and filed before the Court of learned MM, which was committed to this Court for 09.02.2023.

4. Vide order dated 23.02.2023, charge under Section 308/34 IPC was framed against the accused persons, to which they pleaded not guilty and claimed trial.
5. In order to prove its case, the prosecution has examined 05 witnesses i.e. HC Harkesh as PW-1; Sh. Vivek as PW-2; W/Ct. Manju as PW-3; Dr. Chandrashekhar Singh as PW-4; and SI Rakesh as PW-5.
6. After Completion of the prosecution evidence, statements of the accused persons namely Narender; Diya Yadav and Raja 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 not to lead defence evidence.
7. It is pertinent to mention here that vide order dated 23.01.2026, the proceedings against accused no.3 Raja stood abated, after death verification report was filed by the SHO

concerned.

8. Final arguments have been heard from Shri R. K. Gurjar, learned Chief Public Prosecutor (Officiating) for the State and from Shri Gaurav Sisodia and Mr. Akar M. Khan, learned counsel for the accused no.1 and 2.

Prosecution evidence

Public witness

9. PW-2 Shri Vivek Rajoriya is the complainant and injured himself and has deposed that on 13.11.2020 at around 08:00 pm / 08:30 pm when he was returning to his home from Lajpat Nagar, he received a WhatsApp message from accused Diya Yadav wherein she asked him to meet her near rehdi of Babu Lal Kachoriwala at Chirag Delhi and when he reached there on his motorcycle, accused Diya Yadav met him there and from there both of them reached at Mela Ground, C. R. Park where they sat and he took the cold drink offered by accused Diya Yadav. He deposed that after five minutes, accused Narender came there and hit him on head with some object, which he could not see and as such, he started feeling giddiness; that there were other boys also, who also started giving him blows with iron rods and knives over various parts of his body including hands, head and chest. He deposed that after giving him beatings and blows, accused Narender and Diya left the spot alongwith other boys, whom he could not see properly; that due to the beatings and blows, he started bleeding from his hands, head and one of his tooth

also got cracked; that some of the public persons took him outside the park; that he called his father and informed him about the incident and as such his father and friend Mahesh came there; that he also called the police on 100 number from his mobile phone and accordingly, PCR reached at the spot; that his father and friend Mahesh took him to the AIIMS, where he was examined and treated and after that they came back to the house; that in the night his condition got severe and as such, his parents took him to the Safdarjung Hospital, where he was medically treated. He further deposed that on 16.11.2020, police came to his house and recorded his complaint-Ex.PW2/A and told about the place of incident and accordingly, police prepared the site plan-Ex.PW2/B and on the next day, in his presence, accused no.1 and 2 namely Narender and Diya Yadav were arrested vide arrest memos-Ex.PW1/A and Ex.PW2/C. The witness correctly identified the accused persons namely Narender and Diya Yadav in the Court.

PW-2, on the request of the Id. Substitute Addl. P. P. for the State, was permitted to be cross examined as he was resiling from his previous statement with regard to the involvement of accused no.3 Raja in the incident, wherein he admitted that he identified accused no.3 Raja before the IO, as one of the assailants but denied that he accompanied the IO and accused Narender to the jhuggi of accused no.3 Raja, who on the identification of accused Narender was apprehended and on his identification, accused no.3 Raja was

arrested. PW-2 was confronted with his statement under Section 161 Cr. P. C. wherein he had mentioned that accused no.3 Raja was associated with accused no.1 Narender. PW-2 did not identify accused no.3 Raja by stating that he had never seen him before. PW-1 further denied the suggestion that he was deliberately not identifying the accused Raja as one of the assailants who gave him beatings.

In his cross examination conducted on behalf of accused persons, PW-2 deposed that he used to meet and talk with accused Diya Yadav but two months prior to the incident, they stopped meeting and talking but there were no any obvious reasons for the same. He deposed that he was not aware that the accused no.1 and 2 namely Narender and Diya were in relationship and that their marriage talks were in progress at the time of incident. He was not aware if accused Narender and Diya are married to each other. PW-2 denied that before the incident, he had confrontation with accused Diya Yadav telephonically as well as during their meeting regarding deletion of her intimate photos and messages in his possession; and that before the incident, accused Narender also requested him to delete the intimate photos and messages of accused Diya in his possession. PW-2 further deposed that on the day of incident, he received WhatsApp call from accused Diya Yadav between 07:00 pm to 08:00 pm when he was in Lajpat Nagar Market and reached at Chirag Delhi to meet her at about 08:30 pm; and that on the day of incident, his brother Ashu had also gone to Lajpat Nagar Market and

he had dropped him at East of Kailash Red Light. but he did not remember the exact time of reaching at Crown Plaza and dropping his brother at Pul Prahlad Pur Gol Chakkar. He deposed that after dropping his brother at Pul Prahlad Pur Gol Chakkar, he went to Chirag Delhi to meet accused Diya Yadav and from there, they went to Mela Ground, C. R. Park on the asking of the accused Diya Yadav, but did not remember the exact time. He denied the suggestion it is he who called the accused Diya Yadav and asked her to come to Mela Ground; that no incident of beating by any of the accused persons took place there on the day of incident; that he had falsely implicated the accused persons as they were requesting them to delete the intimate photos and messages of accused Diya in his possession; that no PCR arrived at the place of incident and therefore, he was not taken to hospital by police as he had concocted a false story of incident.

PW-2 further deposed that after the incident he did not accompany the police to the spot; no site plan was prepared by the police in his presence after taking him to the spot by volunteering that the site plan was prepared by police in the PS; that the site plan was prepared on the next day when he returned from the hospital; that accused Narender and Diya were arrested in his presence by denying the suggestion that accused persons were not arrested in his presence or on his identification; and that his father and friend reached at the spot after about 15-20 minutes of his calling his father and he did not remember the exact time when they reached to him.

Medical and scientific evidence

10. PW-4 Dr. Chandrashekhar Singh deposed that he was deputed by Medical Superintendent of Safdarjung Hospital to appear on behalf of Dr. Akshay Narayan, Sr. Resident since he had left the services of the hospital and his present whereabouts are not known in the office records. He deposed that he had worked with Dr. Akashay Narayan and had seen him writing and signing and was well conversant with his handwriting and signatures. PW-4 proved the letter/ opinion of Dr. Akashy Narayan regarding the MLC of patient Vivek S/o Sh. Pawan as Ex.PW4/A. He further deposed that as per the opinion of Dr. Akshay Narayan, the patient was found having fractures i.e. one of fourth rib on right side and other one a doubtful fracture of fifth rib on the right side and Dr. Akshay Narayan opined the injuries of the patient Vivek to be grievous in nature.

In his cross examination, PW-4 deposed that he worked with Dr. Akshay Narayana from May, 2017 to May, 2019; that at the time of preparation of report-Ex.PW4/A, he was not present; that he did not have personal knowledge about the case; and that he did not diagnosed or treated patient Vivek.

Police witness

11. PW-1 HC Harkesh deposed that on 17.11.2020, he was posted at PS C. R. Park and was present in the PS and joined the investigation of the present case. He deposed that accused

Narender was called in the PS and was interrogated by SI Raksh; that accused Narender confessed his involvement in the present case; that accused Narender was arrested vide arrest memo – Ex.PW-1/A; personally searched vide memo – Ex.PW1/B and his disclosure statement was recorded vide Ex.PW1/C. He further deposed that on 18.11.2020 he again joined the investigation, when accused Narender led them to the house of accused Raja i.e. S-82/229, Jagdamba Camp, Malviya Nagar, New Delhi where accused Narender identified him; that accused Raja was brought to the PS, interrogated vide memo- Ex.PW1/F and arrested vide memo – Ex.PW1/D, personal search of accused Raja was conducted vide memo – Ex.PW1/E. PW-1 correctly identified the accused persons namely Narender and Raja in the Court.

In his cross examination, PW-1 deposed that they reached at the house of accused Raja at about 08:00 am but do not remember the time when they reached PS. He denied that he did not join the investigation; that he did not go to the house of accused Raja with accused Narender; that his signatures were obtained on the papers by the IO in the PS; that he never joined the investigation of the present case.

12. PW-3 W/Ct. Manju deposed that on 17.11.2020, she joined the investigation of the present case with ASI Rakesh Kumar during which accused Diya Yadav was interrogated and after interrogation IO recorded the disclosure statement of accused Diya Yadav- Ex.PW3/A; that thereafter IO arrested accused Diya vide memo – Ex.PW3/C; that on the

instructions of the IO, accused Diya Yadav was personally searched arrested vide memo – Ex.PW3/B during which mobile phone make Vivo was recovered. PW-3 correctly identified the accused Diya Yadav in the Court.

During cross examination, PW-3 denied that accused Diya Yadav did not disclose anything to the IO; that disclosure statement Ex.PW-3/A was recorded by IO on his own and she signed the same on the asking of the IO; and that the accused Diya Yadav was falsely implicated in the present case.

13. PW-5 SI Rakesh is the IO of the present case. He deposed that on 14.11.2020, after receiving the DD entry No.10 he reached at AIIMS Trauma Centre, where he collected the MLC of injured Vivek and contacted the injured on telephone and asked him to come to PS on the next day; that on 15.11.2020, injured Vivek did not come to PS and when he contacted him, his father informed him that Vivek was admitted in Safdarjung Hospital. that on 16.11.2020, he recorded the statement of injured -Ex.PW2/A and prepared rukka-Ex.PW5/A and thereafter got the FIR no.278/2020 registered; that the injured and his father showed him the place of incident and he prepared the site plan- Ex.PW5/B; that he again examined complainant Vivek regarding his injuries and added Section 308 IPC in the case; that on 17.11.2020, accused Narender and Diya were called in PS and complainant/injured Vivek, who was already present in the PS, identified them being the persons who caused injuries

to him; that he interrogated and arrested the accused persons namely Narender and Diya Yadav vide memos Ex.PW5/A & Ex.PW2/C, respectively; that personal search of accused Narender was conducted vide memo – Ex.PW5/B and his disclosure statement was recorded vide memo – Ex.PW5/C wherein accused Narender disclosed the involvement of accused Raja in the present case; that the personal search of accused Diya was conducted vide memo – Ex.PW3/B; that disclosure statement of accused Diya was recorded vide memo – Ex.PW3/A; One day police remand of accused Narender was obtained and on 18.11.2020, accused Narender took him and Ct. Parveen alongwith the complainant Vivek to the house of accused Raja, who was arrested vide memo – Ex.PW1/D, his personal search was conducted vide memo – Ex.PW1/E, his disclosure statement was recorded vide memo – Ex.PW1/F; that accused Narender also pointed out the place of incident and memo was prepared Ex.PW5/B; that he recorded the statements of the witnesses and after medical examination, both the accused were sent to judicial custody; that he obtained the opinion of Doctor regarding the nature of injuries which were opined to be grievous vide report – Ex.PW4/A; and that after completion of investigation, he sent the file to Prosecution Branch for checking which was later on filed ASI Satya Prakash in the Court.

In his cross-examination, he admitted that on the day when he visited the spot of incident, he did not examine any independent witness as no eye witness was not present and

that the incident stated to be of about 09:30 pm but information was given to the police only in the morning. He admitted that the injured did not call PCR after incident. He deposed that no weapon of offence was seized in the case as accused Narender disclosed that some stones were used and the stones could not be recovered at the spot despite efforts; that no blood was lifted from the spot; and that no clothes of injured were seized by the Doctor nor any clothes were given to the him by the injured. He denied that all the accused were falsely implicated in the present case.

14. Vide joint statement dated 31.01.2024, all the accused persons admitted the factum of preparation of MLC No.500253980/14 NOV 2020 of Vivek S/o Sh. Pawan on 14.11.2020 in JPN Apex Trauma Centre, AIIMS by Dr. Avvari Raja Pradhith, Jr. Resident.

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

15. 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.

Arguments

16. It is argued by learned Chief Public Prosecutor (Officiating) for the State that the prosecution through the testimony of PW-2 Vivek Rajoriya, who is the victim / complainant is able to prove that on 13.11.2020, the accused Narender, Diya Yadav and Raja along with their other

associates had beaten him with iron rods and knives on his hands, head and other parts of body with the intention and knowledge that same could result into the death of the victim. He further argued that testimony of PW-2 is also duly corroborated by his MLC Ex. PW4/A. From the MLC, it is proved that the victim has received number of injuries on his head. He further argued that accused persons were duly identified by the victim and nothing has come out in the cross-examination of the victim PW-2 to disbelieve his testimony. He further argued that the testimony of PW-2 is duly corroborated by other witnesses examined by the prosecution. Therefore, the accused persons are liable to be convicted.

17. On the other hand, learned counsel for the accused persons has argued that there are lots of loop holes in the prosecution case which make the testimony of victim unreliable. He argued that as per complaint on 13.11.2020, the accused Diya Yadav has made WhatsApp call on the mobile phone of the victim and the victim asked her to meet in front of Lajpat Nagar Police Station and thereafter, the accused Diya Yadav sent him message to come to Chirag Delhi but no call record or WhatsApp message has been placed on record which corroborate the testimony that she called the complainant. He further argued that the incident is of 13.11.2020 at 09:30 pm but FIR has been lodged only on 16.11.2020 i.e. after three days and there is no explanation on behalf of the prosecution for the delay in lodging the FIR. He

further argued that as per the story of the prosecution, the victim was brutally beaten by four persons and the accused Narender hit with some unknown object, hence there should be number of injuries on the body of the victim but as per the MLC of the injured there is only one injury on the victim which shows that the MLC of the victim is not corroborating his testimony. He has further argued that if the complainant / victim was beaten at 08:00 pm on 13.11.2020, there appears to be no reason why complainant was medically examined on 14.11.2020 at 01:35:17 i.e. after a gap of almost five hours. He argued that the alleged beating injuries to the victim was given at the public place but no public person was examined by the IO which also create doubt to the version of the prosecution. Hence, in these circumstances, prosecution has failed to prove beyond reasonable doubt that accused persons have caused injuries to the victim Vivek Rajoriya. Therefore, the accused persons are entitled to be acquitted.

Analysis of evidence and finding

18. I have heard the arguments and gone through the record. 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.”

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.

19. Now reverting back to the case, the star witness of the case is the victim himself i.e. PW-2 Vivek Rajoriya, who in his examination in chief has deposed that on 13.11.2020 at about 08:00-08:30 pm, he received a WhatsApp call from accused Diya Yadav to meet her near rehdi of Babu Lal Kachoriwala at Chirag Delhi and thereafter, he reached there on his motorcycle and accused Diya Yadav met and asked him to visit mela ground at C. R. Park and there, accused Narender came there with some object, which he could not see properly, and hit the same on his head and he felt giddiness. Thereafter, some boys with accused Narender started giving him blows with iron rods and knives over various parts of his body including his hands, head and chest. He in his cross examination as well as in his statement recorded by PW5/ complaint EXPW2/A did not stated that accused Diya Yadav as herself beaten him. Hence, I am fully agree with the contention of the learned counsel for the accused persons that PW-2 complainant / victim neither in his testimony nor in his complaint Ex. PW2/A stated that accused Diya Yadav herself had beaten him.

20. It appears that she has been made accused only with the aid of section 34 IPC as according to chargesheet accused

Narender has disclosed to him that accused Diya who was his wife used to talk on phone with victim Vivek but she has made distance from victim Vivek but victim was still harassing her by sending messages and whatsapp, therefore, he made plan to teach lesson to Vivek and on 13.11.2020, in furtherance of said plan accused Diya called the victim to the Mela Ground, there they beat him. Section 34 IPC is reproduced as below:

“Acts done by several persons in furtherance of common intention.—

When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.”

21. From perusal of testimony of PW1, it is evident that PW1 has not deposed that Diya has called accused Narender in his presence. He has not deposed that accused Diya has instigated in his presence to accused Narender or other person who gave beating to him. He did not depose that accused Narender or other person stated to him why they are beating him or they are beating him because of his relation with accused Diya. The Prosecution had neither produced any other witness that accused Diya Yadav has called the co-accused Narender along with other associates at the Mela Ground, Chirag Delhi, as nor any call details or any message/ whatsapp has been produced to corroborate prosecution case that accused Diya called the accused Narender at the spot where accused Narender along with his associate beaten the victim. Further on perusal of record, I find that victim/ PW1 neither in his testimony nor in his complaint Ex. PW2/A has given any reason why accused Diya Yadav will be involved with accused Narender to beat him.

Rather, in his cross examination he categorically stated that he is not aware whether accused Narender and accused Diya was in relationship and their marriage talks were in progress. He also denied the suggestion that he had verbal confrontation with accused Diya telephonically or during their meeting regarding deleting of her intimate photographs. Hence, prosecution has failed to produce any evidence against accused Diya Yadav that she had pre-planned with accused Narender and in pursuance of said pre-planning called the victim at C. R. Park or that she in furtherance of said pre-planning had called the co-accused Narender on the day of incident for giving beating to the injured Vivek Rajoriya. Therefore, I hold that prosecution has miserably failed to prove that accused Diya Yadav had caused injury to the victim /injured Vivek Rajoriya or that she had any common intention with co-accused Narender and other associates for giving beating to him.

22. As far as other accused Narender is concerned, I am fully agree with the learned counsel for the accused persons that there are lot of contradictions in victim/ PW1 testimony. In his testimony, he deposed that he received the call from accused Diya at about 08:00-08:30 pm who asked him to come near the rehri of Babu Lal Katochriwalah at Chirag Delhi but in his complaint Ex. PW2/A, he stated that he asked her to come in front of Lajpat Nagar Police Station and only when he reached Lajpat Nagar Police Station and waited there, Diya asked him to come at Chirag Delhi by sending a message. Further as per his testimony accuse Diya asked him to meet at Chirag Delhi on WhatsApp call whereas in his complaint he stated that she sent

the whatsapp message. Further, according to his testimony, when they reached at Mela Ground, C. R. Park, accused Diya asked him to have cold drink and accordingly, and he had cold drink given to him by her but as per his complaint Ex. PW2/A, when the accused Diya gave him cold drink, he refused to drink the same. Further, according to his testimony, accused Narender first gave him blow with some object which he could not see properly and thereafter, he and other persons hit him with iron rods and knives on various parts of the body. However, in his complaint Ex. PW2/A, he did not state that he was hit with iron rods and knives by those persons.

23. Besides above said contradiction, while in his complaint Ex. PW2/A he stated that he has received injury on his hand, teeth and ribs and in his cross-examination, he deposed that he has bleeding from his hands, head, face and one of his tooth was also cracked but from his MLC Ex. A1 prepared in AIIMS hospital, it is evident that he has only one injury i.e. laceration minor over left parietal area of scalp 2x1x0.5 cm. Undoubtedly from Ex. PW4/A, which prepared by Dr. Akshay Narayan, it is mentioned that the victim Vivek Rajoriya was referred from Safdarjung hospital to AIIMS and on examination he found that “*the NCCT head showed no evidence of intracranial bleed or bony calvarial fracture, Chest X-ray was suggestive of fracture of 4th rib on the right side and a doubtful fracture of the 5th rib on the left side and the Ultrasound FAST was negative. Based the abovementioned reports, the nature of injury appears to be Grievous. Further opinion regarding the same to be sought from the MLC making hospital*”. Thus, he also have fracture over his ribs and has

grievous injuries. However, Dr. Akshay Narayan was not examined by the prosecution and in his place Dr. Chandrashekhar Singh / PW4 has appeared and prove Ex. PW4/A. However, in the cross-examination, he admitted that he does not have any personal knowledge about the present case.

In my view, testimony of PW-4 Dr. Chandrashekhar Singh only proves that Dr. Akshay Narayan has given opinion that there was fracture on the body of the victim but same is not sufficient to prove that actually there was any fracture in the absence of non-examination of Dr. Akshay Narayan and non production of ex ray plate. The prosecution should have produced X-ray of the victim and only then PW4 being Doctor/ expert witness could opine whether there was fracture on the body of the victim.

Further in the document PW4/A it is mention that patient was referred from AIIMS hospital but in the MLC Ex. A1 it is not mentioned that victim was referred to Safdarjung hospital for further treatment. Rather, said facts mentioned in EXPW4/A is contradicted by victim PW-2 Vivek Rajoriya himself in his testimony as he deposed that from the hospital he came to his home. In the night, his condition got severe and thereafter, his parents took him to Safdarjung hospital where he was medically treated. Hence, from his testimony, it is proved that he has not been referred from AIIMS hospital but he himself went to Safdarjung hospital. Thus proper facts has not been recorded in document PW4/A. Therefore, I hold that prosecution is unable to prove that victim has fracture on his body and that his injuries were grievous.

24. Further, incident is of 13.11.2020 at about 8.30 PM but FIR has been register on 16.11.20. Though, PW1 has deposed that he made call to police on 100 number after the incident but no PCR form/ record has been produced by the prosecution to prove that victim made call to the police. Whereas, as per testimony of PW5 SI Rakesh, the information was received in PS only at about 6.00/7.00 am vide DD No. 10 on 14.11.2020. Hence, information to police has been given after about 11-12 hours of incident. The victim/ PW1 in his testimony has not given any reason why accused Narender and his associates has given beating to him. Though from suggestion given to PW1 by counsel for accused persons it appear that reason was that victim has relation with accused Diya with whom accused Narender also has relation at that time. Though victim has denied of having knowledge of said relation but there has to be some reason for alleged beating of victim by accused Narender and his associate and in my view same could be the reason. Though according to accused due to said reason accused was falsely implicated in this case but in my view the victim would not cause injury to himself because he want to implicate the accused Narender. In my view, testimony of PW-1 could not be completely discarded because there is contradiction in his testimony as disclosed above. In these circumstances, I hold that prosecution from testimony of PW-1 has been able to prove that accused Narender had beaten him and caused him injury.

25. As far as prosecution charges that accused has beaten the victim with the intention or knowledge death could be caused in my view since there is contradiction in his testimony and in his

complaint EXPW2/A as in his testimony he depose that he was beaten by iron rod and knives but in his complaint he has not stated the said facts and only stated that he was hit by accused Narender with some sharp objects and further prosecution is only able to prove through his MLC EXA-1, single injury upon the victim which is simple in nature and there is no opinion that same is by sharp edge weapon, therefore, in my view, the prosecution has failed to prove that accused Narender has beaten the victim with the intention or knowledge that in case of death same amount to attempt to culpable homicide not amount to murder. Hence considering the above facts I hold that prosecuting has failed to proved that accused attempted to cause culpable homicide not amount to murder punishable u/s 308 IPC, However, since prosecution is able to proved that accused Narender beaten the victim Vivek and caused hurt to him I convict him for offence u/s 323 IPC.

Conclusion

26. In view of the above discussion, I hereby acquit the accused Diya Yadav for the charged offences. Her bail bond stand cancelled and surety is discharged. Whereas, I hereby convict the accused Narender for the offence under Section 323 IPC.

Announced in the open Court **(SANJEEV KUMAR AGGARWAL)**
Today, on **06.06.2026** Principal District & Sessions Judge
South East, Saket Courts,
New Delhi

FORM 'A'

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	HC Harkesh	Joined investigation with IO
PW-2	Mr. Vivek Rajoriya	Victim / injured / complainant
PW-3	W/Ct. Manju	Joined investigation with IO in the arrest of accused Diya Yadav
PW-4	Dr. Chandrashekhar Singh	Proved the opinion regarding MLC of injured
PW-5	SI Rakesh	Investigation Officer

B. DEFENCE WITNESSES, IF ANY :

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

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	Arrest memo of accused Narender	PW-1
Ex. PW1/B	Personal search memo of accused Narender	PW-1
Ex. PW1/C	Disclosure statement of accused Narender	PW-1
Ex. PW1/D	Arrest memo of accused Raja	PW-1
Ex. PW1/E	Personal search memo of accused Raja	PW-1
Ex. PW1/F	Disclosure statement of accused Raja	PW-1
Ex. PW2/A	Complaint	PW-2
Ex. PW2/B	Site plan of the place of incident	PW-2
Ex. PW2/C	Arrest memo of accused Diya Yadav	PW-2
Ex. PW2/D	Statement of victim under Section 161 Cr.P.C.	PW-1

Ex. PW3/A	Disclosure statement of accused Diya Yadav	PW-3
Ex. PW3/B	Personal search memo of accused Diya Yadav	PW-3
Ex. PW4/A	Letter / opinion of Dr. Akshay Narayan regarding MLC of patient Vivek	PW-4
Ex. PW5/A	Rukka	PW-5
Ex. PW5/B	Pointing out memo of the place of incident	PW-5
Ex. A1	MLC of the victim	Admitted by accused persons under Section 294 Cr.P.C.

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
NIL		

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