

**IN THE COURT OF SH. SANJAY GARG-II,
PRINCIPAL DISTRICT & SESSIONS JUDGE, SHAHDARA,
KARKARDOOMA COURTS, DELHI**

**Sessions Case No. 31/2026
CNR No. DLSH01-000604-2026**

State **Vs.** **1. Vivek,**
S/o Sh. Rajiv @ Goli,
R/o Flat No. 6, Gali No. 3,
Bank Colony, Mandoli,
Harsh Vihar, Delhi.

2. Rajiv @ Goli,
S/o Sh. Ram Kishan,
R/o Flat No. 6, Gali No. 3,
Bank Colony, Mandoli,
Harsh Vihar, Delhi.

FIR No. **:** **218/2025**

Police Station **:** **Nand Nagri**

Under Sections **:** **109(1)/238(a)/3(5) BNS**

Chargesheet presented on : **20.08.2025**
Judgment reserved on : **07.04.2026**
Judgment pronounced on : **07.04.2026**

J U D G M E N T

1. Accused Vivek and Rajiv @ Goli are facing trial for the commission of offences punishable under Sections 109(1)/238(a) read with Section 3(5) BNS.

2. The case of the prosecution as borne out from the chargesheet is that upon receipt of DD No. 182A dated 07.04.2025, IO ASI Krishan Pal reached the spot i.e. Entrance Gate, Subzi Mandi, near Shani Mandir, A-1 Block, Nand Nagri, Delhi, where he came to know that the injured had been taken to GTB Hospital. He called the Crime Team to the spot. The Crime Team inspected the spot; took its photographs; lifted blood from the spot in a gauze and handed it over to the IO in an envelope. IO sealed the envelope and prepared seizure memo in that regard. Thereafter, IO went to GTB Hospital and obtained the MLC of injured Sh. Mukesh. Since the complainant/injured was in severe pain, he told the IO that he would give his statement after the treatment.

3. On 09.04.2025, the complainant/injured Sh. Mukesh visited the police station and got his statement recorded. The complainant stated that a few days prior to the incident, he had a quarrel with the accused Rajiv @ Goli and his sons but the matter was settled. On 07.04.2025 at about 10:30 p.m., when the complainant was going home after purchasing medicine and had reached Subzi Mandi, opposite A-1 Block, Nand Nagri, the accused Rajiv @ Goli and his sons namely accused Vivek and CCL 'P' came having knives in their hands and all of them repeatedly attacked his head with knives by uttering that they would kill him. The complainant somehow managed to escape and rushed to the police station. The police officials took him to GTB Hospital. The complainant also stated that his brother namely Sh. Nitin had also informed the police about the incident on the emergency telephone No. 112.

Alleging that the accused persons had assaulted him with the intention to kill, the complainant sought action against them.

4. On the basis of the above statement of the complainant, FIR under Section 109(1) read with Section 3(5) BNS was registered. During investigation, the IO prepared site plan of the place of incident on the pointing of the complainant and recorded statements of the witnesses under Section 180 BNSS. On 17.04.2025, the accused Rajiv @ Goli surrendered before the Court. IO interrogated and arrested the accused Rajiv @ Goli with the permission of the Court and obtained his police custody remand for one day. During the police remand, the accused Rajiv @ Goli got recovered the weapon of offence i.e. knife from his shop in the Subzi Mandi. Thereafter, the accused Rajiv @ Goli was produced before the Court and was sent to judicial custody. On 07.05.2025, the accused Vivek also surrendered before the Court. He was interrogated and arrested with the permission of the Court and his police custody remand was obtained for one day. The accused Vivek disclosed that he had thrown the knife used in the commission of offence in a district park but the same could not be recovered. Thereafter, the accused Vivek was produced before the Court and was sent to judicial custody. Final opinion on the MLC of the complainant was obtained in which the doctor opined the nature of injuries as grievous. Since the accused persons failed to produce their clothes worn during the incident and the accused Vivek did not get recovered the knife used in the commission of the offence, Section 238(a) BNS was added in the case. After the completion of

investigation, the chargesheet was filed before the Ld. JMFC on 20.08.2025.

5. Cognizance of the offence was taken by the Ld. JMFC on 05.01.2026. After compliance of the provisions of Section 230 BNS, the chargesheet was committed to the Sessions Court for trial.
6. On 16.02.2026, the charge for the commission of offences punishable under Sections 109(1)/238(a) read with Section 3(5) BNS was framed against the accused persons to which they pleaded not guilty and claimed trial.
7. The prosecution examined ASI Jitender Kumar (Incharge, Crime Team), SI Vinod Singh (Duty Officer), Constable Hari Om (Member, Crime Team), the brother of the complainant Sh. Nitin and the complainant Sh. Mukesh as PW1 to PW5. Since the complainant/injured, who was the material witness, did not support the case of the prosecution, the remaining prosecution evidence was closed.
8. I have heard the Ld. Addl. PP (substitute) for the State and the Ld. Counsel for the accused persons. The material on record has also been perused.
9. Complainant Sh. Mukesh was the star witness of the case of the prosecution. He was examined as PW5. In his testimony, he

deposed that on 07.04.2025 at about 10:30 p.m., when he was returning home after purchasing medicine and had reached A1 Block, Subzi Mandi, Nand Nagri, some boys stopped him and stabbed his head and other body parts. Somehow, he saved himself from them and reached PS Nand Nagri. However, the complainant failed to identify the accused persons as the assailants. Further, though he admitted his signature on the initial statement dated 09.04.2025 (Ex. PW5/A) but stated that he was not aware about the contents thereof as the same were not read over to him. Since the complainant did not support the case of the prosecution, he was cross-examined by the Ld. Chief PP for the State. In the said cross-examination, the complainant stated that the accused Rajiv @ Goli and Vivek were known to him being neighbours but reiterated that they had not caused injuries to him on the day of incident. He denied that he had been won over by the accused persons.

10. The brother of the complainant namely Sh. Nitin has been examined by the prosecution as PW4. He deposed that on 07.04.2025 at about 10:30 p.m., when he was at his home, someone called him from the phone of the complainant and informed that some boys had stabbed the complainant near Subzi Mandi, Nand Nagri. He deposed that pursuant thereto, he immediately informed the police about the incident on emergency telephone No. 112. PW4 was also cross-examined by the Ld. Chief PP for the State, wherein he denied that the informant had told him

that the accused Rajiv @ Goli and his sons had stabbed the complainant.

11. Apart from the said witnesses, the prosecution has examined the Duty Officer SI Vinod Singh (PW2) and the crime team officials ASI Jitender Kumar (PW1) and Constable Hari Om (PW3). However, the testimonies of the said witnesses are formal in nature and do not throw any light on the identity of the assailants.
12. Since the complainant/injured Sh. Mukesh turned hostile on the identity of the assailants, it would have been a futile exercise to examine the remaining prosecution witnesses, who were formal in nature. The prosecution evidence was thus closed. As no incriminating evidence came on record against the accused persons, their statement under Section 351 BNSS were also dispensed with.
13. In the light of the above discussion, the prosecution has failed to bring home the guilt of the accused persons. Accordingly, the accused Vivek and Rajiv @ Goli are acquitted of the charge for the commission of offences punishable under Sections 109(1)/238(a) read with Section 3(5) BNS.

Pronounced in the open court
on 07.04.2026

(SANJAY GARG-II)
Principal District & Sessions Judge,
Shahdara, Karkardooma Courts, Delhi