

**IN THE COURT OF SH. SAMAR VISHAL, ADDITIONAL
SESSIONS JUDGE-02, SOUTH DISTRICT, SAKET, NEW
DELHI**

CNR no. DLST01-002705-2021

Session Case No. 144/2021

In the matter of :

State

Versus

1. Singa Ram

S/o Sh. Seelu Durai

R/o C-1st/1056, Madangir

New Delhi

2. Shanta Kumar

S/o Tong Raj

R/o C-1st/917, Madangir

New Delhi

3. Amar Kumar

S/o Sh. Sander Kumar

R/o D-1st/26, Madangir, New Delhi

FIR No.	:	70/2015
Police Station	:	Ambedkar Nagar
Under Section	:	307/34 IPC & 27 Arms Act

Date of assignment	:	18.02.2019
Date of committal	:	19.01.2021
Date on which arguments heard	:	16.03.2026
Date of decision	:	16.03.2026
Decision	:	Acquitted

JUDGMENT

1. The accused Singa Ram, Shanta Kumar, and Amar Kumar have been put to trial in the present case for the commission of

offences punishable under Sections 307/34 of the Indian Penal Code and Sections 25/27 of the Arms Act.

2. The case of the prosecution, in brief, is that the present FIR was registered on the complaint of the complainant Om Prakash, who stated that on the night of 16.01.2015, he, along with his friends Mukesh and Rahul, was having a party at a flat situated in CPO Block, Madangir.

3. It is alleged that after the party, in the early hours of 17.01.2015 at about 12:45 AM, the complainant along with his aforesaid friends was returning home. When they reached near House No. 148, CPO Block, Madangir, in front of Gali No. 23, three persons came from behind. Upon turning back, the complainant identified them as the accused Singa Ram, Shanta Kumar, and Amar Kumar, who were known to him.

4. It is further alleged that accused Singa Ram was carrying a country-made pistol in his hand, while co-accused Shanta Kumar and Amar Kumar exhorted him to fire and kill the complainant. Thereupon, accused Singa Ram aimed the pistol at the complainant and threatened to kill him. When the complainant attempted to flee from the spot, accused Singa Ram fired a shot, which struck the complainant on his right thigh, causing him to fall down.

5. Thereafter, the complainant's friends Rahul and Mukesh ran away from the spot, and all the three accused chased them while raising threats. During the course of the incident, the pistol allegedly fell from the hand of accused Singa Ram, and due to

fear, the accused persons fled from the spot, leaving the weapon behind.

6. It is further the case of the prosecution that Rahul took the injured complainant to Hamdard Hospital, where he received medical treatment. The complainant has alleged that all the accused persons, in furtherance of their common intention, fired upon him with the intention to kill him

7. Upon receipt of a PCR call, Sub-Inspector Satish along with Constable Rasool reached the spot, where they met Mukesh. At the place of occurrence, they found empty cartridges, a country-made pistol, bullet leads, and blood stains. The crime team was summoned, which inspected the scene of crime and took photographs.

8. The Investigating Officer seized all the exhibits, including the country-made pistol, cartridges, and bullet leads, in accordance with law. Thereafter, he proceeded to the hospital, where the complainant was found admitted and undergoing medical treatment. The statement of the complainant was recorded, on the basis of which the present FIR was registered.

9. Upon completion of investigation, a chargesheet was filed for offences punishable under Sections 307/34 of the Indian Penal Code and Sections 25/27 of the Arms Act. During the course of proceedings, accused Shanta Kumar was declared a proclaimed offender.

10. Charge was framed on 17.08.2022 against the accused persons under Sections 307/34 IPC and 25/27 Arms Act, to which they pleaded not guilty and claimed trial. The prosecution, in order to substantiate its case, examined its witnesses.

11. It is pertinent to note at the outset that the complainant/victim as well as the alleged public witnesses did not support the case of the prosecution and were hostile to the prosecution. The remaining witnesses examined by the prosecution are formal in nature.

12. PW-1 HC Mahesh deposed that on 17.01.2015, he was posted as a photographer with the Crime Team, South-East District. On that day, upon receipt of information from the Investigating Officer, he along with the Crime Team reached the spot i.e., House No. 148, CPO Block, Madangir, New Delhi. He stated that on the instructions of the Investigating Officer, he took photographs of the scene of crime from different angles. However, his further examination-in-chief was deferred for want of production of photographs and negatives of the crime scene. These photographs were never brought on record.

13. PW-2 Om Prakash @ Monu, who is the complainant and injured witness, deposed that on 16.01.2015, he along with his friends Mukesh and Rahul was having a party at a flat in CPO Block, Madangir, and after the party, while returning home at about 12:45 AM on 17.01.2015, when they reached near House No. 148, CPO Block, Madangir, two to three boys came from behind shouting, and one of them fired a gunshot from behind,

which hit him on his right leg. He categorically stated that he had not seen who fired the shot and that he could not identify the assailants. He further deposed that someone made a call to the police at 100 number and his friend Rahul took him to Hamdard Hospital, where he was medically treated. He admitted that his statement was recorded by the police in the hospital.

14. When the accused Singa Ram and Amar Kumar were pointed out in Court, the witness failed to identify them as the assailants. During his cross-examination by the learned Additional Public Prosecutor, the witness denied all material portions of his previous statement given to the police, wherein he had allegedly named the accused persons and attributed specific roles to them, including exhortation and firing by accused Singa Ram. Though he admitted that he sustained a gunshot injury on his right leg while running, he denied that the accused persons had fired upon him or that they had acted with any intention to kill him. He also denied the suggestion that he was deliberately not identifying the accused persons or that he had been won over by them.

15. PW-3 Rahul, an alleged eye-witness and friend of the injured, deposed that on the night of 16.01.2015, he was present at his home when he received a phone call from his friend Mukesh informing him that their friend Om Prakash had been shot at. Upon receiving the information, he immediately rushed to the spot at CPO Block, Madangir, where he found the injured Om Prakash lying on the street with a bullet injury on his leg, and Mukesh present there. He stated that he took the injured to

Majidia Hospital in an auto, while Mukesh did not accompany him. He further deposed that he had no knowledge as to who had fired the shot, as he was not present at the time of the incident. He also stated that neither Mukesh nor the injured told him about the identity of the assailant, and according to him, only Mukesh could have known about the assailant. He categorically stated in Court that he had never seen the accused persons Singa Ram and Amar Kumar before and did not know them.

16. Upon being recalled for further examination, the witness went a step further and stated that the Investigating Officer never made any inquiry from him nor recorded his statement, though he admitted that the injured was taken to the hospital for medical examination. As the witness resiled from his earlier statement, he was declared hostile and cross-examined by the learned Additional Public Prosecutor. During such cross-examination, he denied all material portions of his alleged statement under Section 161 Cr.P.C., including the presence of the accused persons at the spot, their identification, the alleged exhortation, and the act of firing attributed to accused Singa Ram. He specifically denied having made any statement to the police implicating the accused persons or describing the manner of the incident as suggested by the prosecution. He also denied the suggestion that the accused persons had attacked the injured with the intention to kill or that he was deliberately concealing the truth to save them.

17. PW-4 Mukesh @ Monu, who was cited as a material witness to the incident, deposed that he did not remember the

exact date, month, or year of the occurrence. He stated that on the day of the incident, he was present at a chauraha at E-1st, Madangir, when he heard some noise and saw public persons running here and there. However, he categorically stated that he did not know anything further about the case. He failed to identify the accused persons Singa Ram and Amar Kumar when they were pointed out in Court.

18. As the witness did not support the prosecution case, he was cross-examined by the learned Additional Public Prosecutor. During his cross-examination, he denied all material portions of his alleged statement given to the police, wherein he was purported to have been present with the complainant and to have witnessed the incident involving the accused persons. He specifically denied having seen the accused persons at the spot, denied any exhortation by them, and denied the act of firing attributed to accused Singa Ram. He also denied that any weapon was dropped at the spot or that the accused persons had attacked the complainant with the intention to kill him. The witness further denied the suggestion that he had been won over by the accused persons or that he was deliberately suppressing the truth.

19. PW-6 SI Satish Kumar, the Investigating Officer, deposed that on the intervening night of 16/17.01.2015, upon receipt of a PCR call regarding firing, he along with Constable Rasool reached the spot at CPO Block, Madangir, where he found a country-made pistol, an empty cartridge, a bullet lead, and blood lying on the road. The crime team was called, the spot was inspected, photographs were taken, and the exhibits were lifted

and seized. He further deposed that he went to the hospital, collected the MLC of the injured Om Prakash, recorded his statement, prepared the rukka, and got the FIR registered. He also prepared the site plan and recorded statements of witnesses. He stated that accused Singa Ram was later apprehended on the basis of secret information and arrested, while the other accused persons joined the investigation after obtaining anticipatory bail and were formally arrested. The case property was sent to FSL, Rohini.

20. However, certain material lapses emerged in his testimony during examination. He admitted that he did not collect the photographs taken by the crime team for a considerable period and had no explanation for the same. He further admitted that he had not taken any steps to follow up the FSL result. He also did not obtain any opinion regarding the fitness of the injured to give his statement at the time of recording the same. No independent public witnesses were joined in the investigation, and no scientific evidence such as fingerprints was collected to connect the accused persons with the recovered weapon. He further admitted that he did not take police custody remand of the accused to trace other accused persons or to further the investigation.

21. Thus, while PW-6 has proved the procedural aspects of the investigation, his testimony suffers from significant omissions and lapses, and does not establish any direct or reliable link between the accused persons and the commission of the alleged offence.

22. It is pertinent to note that the accused persons have admitted certain documents under Section 294 Cr.P.C., including the FSL report and the sanction under Section 39 of the Arms Act. However, even if the said documents are taken on record as admitted, the same do not advance the case of the prosecution in any manner. The FSL report, in the absence of any reliable evidence connecting the accused persons with the recovered weapon, does not establish their involvement in the alleged offence. Similarly, the sanction under Section 39 of the Arms Act is merely a procedural requirement and does not, by itself, constitute incriminating evidence against the accused. In the absence of substantive and reliable ocular or circumstantial evidence linking the accused persons with the commission of the offence, the admitted documents do not carry any probative force against them.

23. I have carefully considered the entire evidence on record and the submissions made. The cardinal principle of criminal jurisprudence is that the prosecution must prove its case beyond reasonable doubt, and the burden never shifts upon the accused.

24. In the present case, the prosecution has primarily relied upon the testimony of the complainant/injured witness and the alleged eye-witnesses, namely PW-2 Om Prakash, PW-3 Rahul, and PW-4 Mukesh. However, a careful scrutiny of their testimonies reveals that all the material witnesses have turned hostile and have not supported the case of the prosecution in any material particular.

25. PW-2 Om Prakash, who is the injured witness and the star witness of the prosecution, has categorically deposed that he did not see the assailant and could not identify the person who fired the shot. He failed to identify the accused persons in Court and denied all material portions of his previous statement wherein the accused were named and specific roles were attributed to them. Though he admitted having sustained a gunshot injury, he did not attribute the same to the accused persons. His testimony, therefore, completely demolishes the prosecution case on the aspect of identity of the assailants, which is a fundamental requirement in a criminal trial.

26. PW-3 Rahul, who was projected as an eye-witness, has also not supported the prosecution case. He categorically stated that he reached the spot only after receiving information about the incident and did not witness the occurrence. He denied knowledge of the assailants and failed to identify the accused persons in Court. He also disowned his previous statement made to the police. Thus, his testimony does not establish any incriminating circumstance against the accused.

27. PW-4 Mukesh, another material witness, has also turned hostile and has not supported the prosecution case. He stated that he only heard some noise and saw people running, but did not witness the incident or identify the accused persons. He denied all material aspects of the prosecution story. His testimony, therefore, is of no assistance to the prosecution.

28. Thus, all the material witnesses, including the injured witness, have failed to support the prosecution case on the crucial aspects of identity of the accused persons and the manner of occurrence. Their testimonies lack any probative value insofar as the involvement of the accused is concerned.

29. The remaining witnesses, including PW-1, PW-5, and PW-6, are formal or police witnesses. PW-1 merely proved that photographs of the spot were taken, though even the photographs were not brought on record. PW-5 and PW-6 deposed regarding recovery of the weapon and the investigation conducted. However, it is a settled principle of law that in the absence of substantive evidence connecting the accused with the offence, recovery evidence by itself is insufficient to sustain conviction.

30. Moreover, the recovery in the present case is itself doubtful. The alleged recovery of the pistol and other exhibits was effected from a public place, yet no independent public witness was joined in the proceedings. No fingerprints or other scientific evidence were collected to connect the accused persons with the weapon.

31. It is also noteworthy that the statement of the complainant recorded under Section 161 Cr.P.C., which forms the basis of the prosecution case, has been completely disowned by him during his deposition in Court. It is trite law that a statement made to the police under Section 161 Cr.P.C. is not substantive evidence and can only be used for the purpose of contradiction. In the absence

of any substantive evidence in Court, such previous statements cannot be relied upon to convict the accused.

32. In these circumstances, the prosecution has failed to establish the identity of the accused persons as perpetrators of the offence.

33. In view of the foregoing discussion, this Court is of the considered opinion that the prosecution has failed to prove its case beyond reasonable doubt against the accused persons. The benefit of doubt must, therefore, go to the accused.

34. Accordingly, accused Singa Ram and Amar Kumar are hereby acquitted of the charges under Sections 307/34 of the Indian Penal Code and Sections 27 of the Arms Act.

35. Their bail bonds are cancelled and sureties are discharged, subject to provisions of Section 437A Cr.P.C.

36. The case shall be revived on the apprehension of accused Shanta Kumar who was declared as the proclaimed offender during trial.

**Announced in the open Court
on 16.03.2026**

**(Samar Vishal)
ASJ-02/South District
Saket / New Delhi
16.03.2026**

APPENDIX

1. Chart of Witnesses Examined on behalf of Prosecution

Prosecution Witnesses No.	Name of Witness	Description
1	HC Mahesh	Police witness
2	Om Prakash @ Monu	Complainant
3	Rahul	Public witness
4	Mukesh @ Monu	Public witness
5	Retired SI Sajjan Kumar	Investigating Officer
6	SI Satish Kumar	Investigating Officer

2.Chart for Exhibited Documents

Exhibit No.	Description of the Exhibit	Proved by / Attested by
Ex.PW1/A	Statement of complainant	PW1
Ex.PW5/A	SOC Report	PW5
Ex.PW6/A	Sketch memo	PW6
Ex.PW6/B	Seizure memo of pistol, empty cartridge and bullet lead	PW6
Ex.PW6/C	Seizure memo of blood in gauze	PW6
Ex.PW6/D	Seizure memo of exhibits	PW6
Ex.PW6/E	Rukka	PW6
Ex.PW6/F	Site plan	PW6
Ex.PW6/G	Statement of Mukesh	PW6
Ex.PW6/H	Arrest memo of accused Singa Ram	PW6
Ex.PW6/I	Personal search memo of accused Singa Ram	PW6
Ex.PW6/J	Disclosure statement	PW6
Ex.PW6/K	Pointing out memo	PW6
Ex.PW6/L and	Arrest memos of	PW6

Ex.PW6/M	accused Santa Kumar and Amar Kumar	
Ex.PW6/N and Ex.PW6/O	Personal search memo of accused Santa and Amar	PW6
Ex.PW6/P and Ex.PW6/Q	Point out memo	PW6

3. Chart of admitted documents by accused under section 294 Cr.P.C

Sr No.	Description of the documents	Exhibit
1	Endorsement on rukka	Ex.PA-1
2	Copy of FIR	Ex.PA-2
3	Certificate under section 65B of IEA	Ex.PA-3
4	DD no.5A, DD no.7A, DD no.12B all dated 17.01.2015	Ex.PA-4 to Ex.PA-6
5	MLC of Om Prakash	Ex.PA-7
6	RC no.26/21/15 dated 09.03.2015	Ex.PA-8
7	Acknowledgment of	Ex.PA-9

	case acceptance	
8	RC no.88/21/19 dated 14.02.2019	Ex.PA-10
9	Acknowledgment of case acceptance	Ex.PA-11
10	RFSL result dated 10.06.2019	Ex.PA-12

Certified that this judgment including appendix contains 16 pages and each page bears my signatures.

**(Samar Vishal)
ASJ-02/South District
Saket / New Delhi
16.03.2026**