



IN THE COURT OF 2nd ADDITIONAL SESSIONS JUDGE, KACHCHH AT BHACHAU

Present : MR. ANDLEEP TIWARI

Date of Judgment – 24.04.2026

SESSIONS CASE NO. 174 OF 2020

FIR No.	Cr.R.No. 82/2016
Police Station	Samakhyali Police Station
Offences	Section 307, 201, 114 of the Indian Penal Code & Section 135 of G.P. Act

Complainant	State of Gujarat
Represented by	Ld. A.P.P Mr. D. S. Jadeja
Accused	Latiyo @ Latif Nurmamad Kakkal Age: 26, Occupation: Labour Resident of –Madinanagar, Bhachau-Kachchh
Represented by	Ld. Advocate Mr. H. B.Vaghela (Legal Aid)

Date of Offence	07.11.2016
Date of FIR	08.11.2016
Date of Charge-sheet	12.12.2018
Date of Framing of Charges	31.08.2019
Date of commencement of evidence	30.09.2019
Date on which judgment is reserved	24.03.2026
Date of the judgment	24.04.2026
Date of the Sentencing Order, if any	24.04.2026

ACCUSED DETAILS

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on bail	Offences charged with	Whether Acquitted or convicted	Sentence imposed	Period of detention undergone during trial for purpose

							of Section 428 of the Code of Crimina l Procedu re
1	Latiyo @ Latif Nurmamad Kakkal	7.9.2018	UTP	307, 201, 144 of the IPC & 135 of G.P. Act	Convicted	7 Years RI	Days

J U D G M E N T

1. The accused person is charged under section 307, 201, 114 of the Indian Penal Code & under Section 135 of G. P. Act for the offence registered with Samakhali Police Station vide Cr.R. No. 82/2016. After registering of the offence the Investigating Officer investigated the matter and recorded the statement of all the connected witnesses, collected the necessary muddamal, arrested the accused and produced the accused person before Learned Additional Chief Judicial Magistrate Bhachau and the accused person was sent to judicial custody. The Investigating Officer filed the Charge-Sheet before the Learned Additional Chief Judicial Magistrate, First Class, Bhachau and Criminal Case No.671 of 2018 had been registered. However, as the Learned Additional Chief Judicial Magistrate Bhachau does not have the Jurisdiction to try the case as the case was exclusively triable by the Sessions Court, the case was committed to this Court, U/S.209 of the Code of Criminal Procedure.
2. The brief facts of the prosecution case are that the complainant, Bhavesh Babubhai Maharaj, was travelling on a motorcycle along with one Altafbhai Gulmamad Khalifa at that time the accused, Latif Nurmamad Kakal, along with one unknown person, intercepted them and then accused, Latif Kakal, got down from the motorcycle and, without any provocation, attacked the complainant with a knife, and caused multiple serious injuries on the head, chest, abdomen and limbs of the complainant. Thereafter, the accused fled from the place of incident. It is further the case

of the prosecution that, upon being informed by witness Altafbhai, the complainant was immediately taken by his associates to Vagad Welfare Hospital, Bhachau for treatment. The alleged motive behind the incident is prior enmity, as the accused had earlier threatened Altafbhai to discontinue his association with the complainant. On the basis of these facts, FIR being No. I-C.R. 82/2016 came to be registered with Samakhiyari Police Station.

3. The complaint of the complainant was registered as FIR and the Investigating Officer made arrangement to get drawn the various Panchnamas. Further, Panchnama of scene of offence was carried out. The detailed Panchnama was drawn in presence of individual Panch witnesses in that regard. It is the case of the prosecution that statement of the relevant witnesses were recorded. Muddamal were forwarded to the FSL for the analysis and tests there upon. Further upon receipt of the relevant analysis report of the F.S.L, the same was also made part of the investigation process. Accused person was arrested and Investigating Officer has forwarded Muddamal to the FSL and upon receipt of the FSL report and completion of investigation and finding sufficient material, charge-sheet was filed against the accused.
4. The accused remained present before the Court with his learned Advocate and after having confirmed that the accused person had received copies of the Charge-Sheet and necessary Police papers free of costs as U/s.207 of Code of Criminal Procedure Charge were framed against the accused person and was read over and explained the charge at Exhibit 6 and the plea of the accused persons were recorded at Exhibit 7 wherein the accused person had denied all the allegations and the entire evidence of the prosecution has been taken on record. After the entire evidence of the prosecution, the further statement of the accused U/s.313 of the Cr.P.C. was recorded and opportunity was sought to be given to the accused to explain the evidence that unfolded against them, the accused person conceded that entire evidence of the prosecution has been recorded in his presence but the accused person denied the evidence produced against him and stated that he is innocent and he has not committed any offence and

denied all the allegations in toto. Further the accused person had also declined to examine any witnesses for the defence.

5. In this case, I have heard learned APP Mr. D. S. Jadeja for the State – prosecution / original complainant and also heard Mr. H. H. Kanthecha learned Advocate for Accused person.
6. The prosecution has produced the following oral as well as documentary evidence :

ORAL EVIDENCE

PW No	Name	Exhibit
PW-1	Gulamhusein Ganibhai Manjothi	Ex. 8
PW-2	Abdul Hazi Khalifa	Ex. 10
PW-3	Aswin Dineshbhai Dave	Ex. 16
PW-4	Narendrasinh Naranji Solanki	Ex. 18
PW-5	Pradipsinh Vikramsinh Jadeja	Ex. 20
PW-6	Yunush Abdulbhai Manjothi	Ex. 26
PW-7	Ashokbhai Ranchhodbhai Maraj	Ex. 28
PW-8	Vijaysinh Ashoksinh Jadeja	Ex. 32
PW-9	Shaileshbhai Parsottambhai Madhvi	Ex. 34
PW-10	Yogeshbhai Gajanandbhai Joshi	Ex. 36/C
PW-11	Prabhubhai Jivabhai Bala	Ex. 38/C
PW-12	Pratikbhai Hamubhai Gala	Ex. 40
PW-13	Rajeshbhai Makanji Vaghela	Ex. 41
PW-14	Bharatbhai Bijalbhai Chavda	Ex. 42

PW No	Name	Exhibit
PW-15	Jaydeepbhai Pravinbhai Dave	Ex.45/C
PW-16	Bhavesbhai Babulal Maraj	Ex. 47
PW-17	Altaf Amad Khalifa	Ex. 49
PW-18	Manoharsinh Vikramsinh Jadeja	Ex. 50
PW-19	Prakash Babubhai Maharaj	Ex. 54
PW-20	Vinodbhai Martabhai Bodat	Ex. 55
PW-21	Hareshbhai Laxmanbhai Buchiya	Ex. 56
PW-22	Naranbhai Mahadevbhai Raval	Ex. 57
PW-23	Prahladji Lakhaji Makwana	Ex. 58
PW-24	Jaykishansinh Jashubha Zala	Ex. 59
PW-25	Mayuddin Anvarbhai Manjothi	Ex. 60
PW-26	Mitesh Bijal Sankhol	Ex. 61
PW-27	Bhupendrasinh Bhanubha Jadeja	Ex. 62
PW-28	Bhupendrasinh Kalyansinh Jadeja	Ex. 66
PW-29	Jaydeepbhai Bhikhubhai Patel	Ex. 67
PW-30	Vasantbhai Chhaganbhai Koli	Ex. 69
PW-31	Vipulbhai Laxmanbhai Gagiya	Ex. 70
PW-32	Rekhaben Jagmalbhai Sisodiya	Ex. 78
PW-33	Maheskumar Chelbhai Chaudhary	Ex. 73

DOCUMENTARY EVIDENCE

Exh. No	Description
Ex. 9	Seizure Panchnama of Motorcycle
Ex. 17	Scene of Offense Panchnama
Ex. 19	Seizure Panchnama of Clothes
Ex. 21	Arrest Panchnama
Ex. 27	Panch Slip
Ex. 29	Seizure Panchnama (T-shirt)
Ex. 30	Panch Slip
Ex. 35	Panchnama regarding blood sample
Ex. 37	Identification Parade Panchnama
Ex. 39	Panchnama regarding blood sample
Ex. 43	Recovery Panchnama of Weapon (Knife)
Ex. 44	Panch Slip regarding recovery of knife
Ex. 46	Panchnama regarding blood sample
Ex. 48	Original Complaint
Ex. 63	Yadi/Memo regarding information from hospital
Ex. 64	Janva Jog Entry of Samakhyali Police Station
Ex. 65	Yadi to depute investigation of the crime
Ex. 66	Yadi for registration of FIR
Ex. 68	Injury Certificate of Bhavesh Maharaj
Ex. 71	Yadi to FSL, Rajkot for muddamal

Exh. No	Description
	analysis
Ex. 72	Forwarding Letter of FSL
Ex. 79	Collector Circular regarding prohibition of weapon
Ex. 80	Yadi for drawing site map incident
Ex. 82	Yadi for identification Parade
Ex. 83	FSL Receipt
Ex. 84	Yadi for sending muddamal to FSL, Rajkot
Ex. 85	Yadi for sending muddamal to FSL, Rajkot
Ex. 86	FSL Receipt
Ex. 88	Yadi for collection of blood sample
Ex. 89	Yadi for collection of blood sample
Ex. 90	Yadi for drawing site map incident
Ex. 91	Forwarding Letter of FSL

7. In these circumstances the points for determination which arises in the facts and circumstances of the present case are as follows:

- 1) Whether the prosecution proves beyond reasonable doubt that on 22/11/2016, the accused inflicted a knife blow to the complainant and thereby attempted to commit his murder and as well as caused disappearance of evidence of offence, thereby committing offences punishable under Sections 307, 201, 114 of the IPC?
- 2) Whether the prosecution proves beyond reasonable doubt that on the date of the offence the accused was armed with a knife in

contravention issued by the District Magistrate and which is punishable under Section 135 of the Gujarat Police Act ?

3) What order?

8. My findings are as follows:

- 1) In Partly Affirmative
- 2) In Negative
- 3) As per final order

Arguments

9. The Ld. APP and the Ld. Advocate for the defence had advanced the following arguments.

Arguments of prosecution:

10. On behalf of the State, Ld. A.P.P. has advanced his arguments at length which is summarized as under:

Learned APP has submitted that the prosecution has proved its case beyond doubt in view of oral as well as documentary evidence. The Ld. A.P.P. had submitted that almost all the witnesses of the incident had fully supported the case of prosecution and they had described in detail about the manner in which the offence was committed by the accused person. He has also submitted that majority of the prosecution witnesses had supported the case of the prosecution. He has further submitted that police personnel's have no reason to falsely implicate the accused persons in the present case, as nothing surfaces on record to suggest any previous animosity of the I.O with the accused person. He further submitted that looking to all the oral as well as documentary evidence placed by the prosecution, prosecution has proved this case, hence, the accused person should be convicted with severe punishment.

The medical certificate supports use of sharp weapon. There is no reason for false implication. Hence, the prosecution has proved offences under Sections 307, 201, 114 IPC beyond reasonable doubt. The Learned APP further submitted that the deposition of the Investigating Officer support the crime and the deposition of this witnesses also supported the case of the complainant. Hence, there is no reason to disbelieve the deposition of

the investigating officer and police personnel's and accordingly argued to convict the accused persons with severe punishment.

Arguments of Defence:

11. The Ld. Advocate for the defence has vehemently argued that it is the duty of the prosecution to prove the charges made against the accused by placing strong and cogent evidence. It was also submitted that the witnesses examined by the prosecution are almost police personnel and hence they are interested witness. The prosecution failed to prove this case by placing cogent evidence, and therefore, accused should be exonerated from the charges leveled against them. The Ld. Advocate strenuously argued that in absence of any credible witness the case of the prosecution is not tenable and all these state of affairs raise serious doubts about the case of the prosecution. The learned advocate argued that the prosecution witnesses are mainly police personnel and interested witnesses. Independent witnesses from a crowded public place were not examined. Several panch witnesses turned hostile and did not support prosecution. The injury was simple in nature and not life-threatening, hence intention to commit murder is not established. It was further submitted that no weapon was recovered from the accused. Inconsistencies regarding timing, place and procedure create serious doubt. He has further submitted that the accused should not be convicted on the basis of the depositions of the witnesses as there are major contradictions in the depositions of the witnesses and therefore, it was requested that the accused persons may be exonerated from the charges leveled against them.

Point of Determination No. 1

12. In order to prove Point Nos. 1 and establish its case the prosecution has examined following witnesses:-
13. The prosecution examined **PW-1, Gulamhusein Ganibhai Manjothi**, at Ex. 8. He deposed on oath that on 11/11/2016, he was passing near the Samakhiyari bus station, the police called him and asked him to sign some ready documents. He stated that he knows nothing else about the case and that no motorcycle was seized in his presence. As this witness has not

supported the case of the prosecution and therefore he was cross examined by the Ld. APP. But nothing emerged therein to support the case of the prosecution.

14. The prosecution examined PW-2, Abdul Hazi Khalifa at Ex. 10. He deposed on oath that he was called to the Samakhiyari Police Station on 11.11.2016 and was asked to sign documents. He stated that no motorcycle was seized in his presence. As this witness has not supported the case of the prosecution and therefore he was cross examined by the Ld. APP. But nothing emerged therein to support the case of the prosecution.

15. The prosecution examined PW-3, Aswin Dineshbhai Dave at Ex. 16. He deposed on oath that in the year 2016, he was passing near the house of Ramanbhai, at that time the police called him and informed him that one Bhaveshbhai had sustained a knife injury and that a Panchanama of the place was to be carried out. He stated that the place of incident was in front of the house of Ramanbhai in the Shantinagar plot area. He further stated that to the south of the place was the house of Ramanbhai, to the north there was an open plot with bushes, and there was an east-west street. He deposed that blood stains were found near the house of Ramanbhai, from which the police collected blood-stained soil as well as control soil from nearby area. He further stated that there was a platform (otla) beside the house of Ramanbhai where blood stains were present, and the police collected samples using cotton. He stated that the police carried out the Panchanama and completed all procedures, read over the Panchanama to him, and obtained his signatures.

During cross-examination by the defence, he stated that it is true that he had not acted as a Panch in any other Panchanama prior to this case. He stated that Bhavesh Babulal resides in his society and stated that Bhavesh Babulal is related to him. He denied few other suggestions.

16. Thereafter the prosecution examined PW-4, Narendrasinh Naranji Solanki at Ex. 18. He deposed on oath that in the year 2016, he was present at Shivsagar Hotel near Samakhiyali Police Station and at that time the police personnel came there and took him to the police station to

remain as a Panch. He stated that at the police station, a lady was present holding a cloth bag containing a red coloured shirt and a blue coloured jeans pant. He further stated that the police seized those clothes. Thereafter, the Panchanama was read over to him and his signatures was obtained.

During cross-examination by the defence, he stated that it is true that he had not remained as a Panch in any other Panchanama prior to this case. He stated that Bhavesh Babulal resides in his society. He denied few other suggestions.

17. The prosecution examined **PW-5, Pradipsinh Vikramsinh Jadeja**, at Ex. 20. He deposed on oath that about three years prior, he was passing near the main bridge at Bhachau, then the police stopped him and informed him that they were arresting Asgar Osman and that a Panchanama in that regard was to be carried out. He stated that thereafter the police arrested Asgarbhai and conducted the Panchanama of the arrest, and his signatures were obtained therein.

During cross-examination by the defence, he stated that it is true that he had not remained as a Panch in any other Panchanama prior to this case. He stated that he knows Bhavesh Babulal as he belongs to the same village. He denied few suggestions put to him by the defence.

18. The prosecution examined **PW-6, Yunush Abdulbhai Manjothi, Panch** at Ex. 26. He deposed on oath that on 26/11/2016, he was called to Samakhiyari Police Station where a lady named Aminaben produces a red shirt and blue pants belonging to her son. In his presence and the police sealed these clothes in a cloth bag. As this witness has not supported the case of the prosecution and therefore he was cross examined by the Ld. APP. But nothing emerged therein to support the case of the prosecution. During cross-examination by the defenece he stated that he has lived in Samakhiyari for 50 years and knows the complainant. He stated that he does not know the specific contents of the documents he signed and that he signed ready-made documents provided by the police. He then denied few suggestions.

19. **The prosecution examined PW-7, Ashokbhai Ranchhodbhai Maraj, at Ex. 28.** He deposed on oath that on 09/11/2016, he was called to the Vagad Welfare Hospital ICU ward in Bhachau regarding an injury caused to Bhavesh Maraj. He stated that the Police showed him a white blood-stained t-shirt belonging to Bhavesh Maraj, which was then sealed in a bag in the presence of himself and another panch Miteshbhai. During cross-examination he stated that it is true that he went to the hospital and signed the documents because Bhavesh requested him to do so. He stated he is not educated and did not know what the police had written. He denied few suggestions.
20. **The prosecution examined PW-8, Vijaysinh Ashoksinh Jadeja, at Ex. 32.** He deposed on oath that approximately four years ago, he was called to the Bhachau Police Station and in his presence, the accused Asgar Osman Kakal was present and he was having injuries on his hand and he stated the injuries were caused due to slip of a bike. He stated that thereafter the arrest panchnama was prepared. During cross-examination, he stated that he was called by PSI Gojiya. He stated that it is true that the police wrote the panchnama and he had simply signed it.
21. **The prosecution examined PW-9, Shaileshbhai Parsottambhai Madhvi, at Ex. 34.** He deposed on oath that 3-4 years ago, he was called to the Samakhiyari Police Station where he saw a bottle labeled with the name Asgar Osman Kakal. During cross-examination, he stated that it is true that he lives in the same area in which Bhavesh Maraj lives. He also stated that it is true he could not state what was written on the white paper label attached to the bottle. He denied few suggestions.
22. **The prosecution examined PW-10, Yogeshbhai Gajanandbhai Joshi, at Ex. 36.** The prosecution examined PW-10, Yogeshbhai Gajanandbhai Joshi, Panch witness at Ex. 37. He deposed on oath that he was called to the Mamlatdar Office by Bhaveshbhai for the identification. He stated that he does not remember the exact date or time. He further stated that he went

inside the Mamlatdar Office where he met Bhaveshbhai and Altafbhai, and that he did not meet any other person there. He stated that when he was present there, about six persons were made to stand, and thereafter Bhaveshbhai identified one Asgar Osman Kakal. He further stated that no other person was present at that time and no other procedure took place in his presence. He stated that he remained there for about one to one and a half hours. During his deposition the document at Ex. 37 was exhibited. He stated that he can identify Asgar Osman Kakal, but he stated that, he is not present in Court today. He also stated after seeing the photographs of the accused taken at the time of arrest from the Court record, he said that he was unable to identify the accused from those photographs.

During cross-examination by the defence, he stated that it is true that Bhaveshbhai is his friend and that he had gone to remain as a Panch at his say. He denied that while he was speaking, the Panchanama was being written. He denied few suggestions.

- 23. The prosecution examined PW-11, Prabhubhai Jivabhai Bala at Ex. 38.** He deposed on oath that four years ago, he was called to the police station to remain as a panch for a sample. He stated that there he saw a bottle containing blood, labeled with the name Bhavesh.

During cross-examination, he stated that he does not know Bhavesh Maharaj. He stated that it is true that the police read out the panchnama to him and he then signed it. He stated he could not say who had written the panchnama. He denied few suggestions.

- 24. The prosecution examined PW-12, Pratikbhai Hamubhai Gala, at Ex. 40.** He deposed on oath that three to four years ago, he was traveling from Bhachau to Samakhiyari, at that time he was called by police to remain as a panch. He stated that the Police informed him that a blood sample had arrived from Lakadiya Hospital and showed him a glass bottle containing the sample. He signed the panchnama after it was read out to him. He identified his signature on the panchnama at Ex. 35. He further identified the material object glass bottle in court.

During cross-examination, he stated that he signed the panchnama as

directed by the police. He stated that he stayed at the police station for about an hour and only signed for once. He denied few suggestion.

25. **The prosecution examined PW-13, Rajeshbhai Makanji Vaghela, at Ex. 41.** He deposed on oath that three to four years ago, he was called to the Mamlatdar office by police around 1:00 PM. Then he was taken before the Mamlatdar and asked if he could identify a person whose name he does not recall. He stated that he remained there till 2:30 PM and then signed a paper.

This witness has not supported the case of the prosecution and therefore he was cross examined by the Ld. APP. As this witness has not supported the case of the prosecution and therefore he was cross examined by the Ld. APP. But nothing emerged therein to support the case of the prosecution.

During cross-examination by the defense, he stated that he signed the paper as per the say of the police and no identification parade proceedings took place in his presence. He denied a suggestion.

26. **The prosecution examined PW-14, Bharatbhai Bijalbhai Chavda, at Ex. 42.** He deposed on oath that four years ago, he was called to Samakhiyari Police Station where the accused Latif was present. Thereafter the accused volunteered to show where the knife was hidden. Then the accused led the police and panchas to his residence in Medinanagar, Bhachau, where he brought a blood-stained knife from a shelf. He also stated that the knife was seized, and he signed the recovery panchnama (Ex. 43). Thereafter he had identified the *muddamal* weapon.

During cross-examination, he stated that he did not recall the name of the officer who called him. He stated that it is true that the police had identified the accused. He also stated that he had signed the panchnama at the police station. Lastly he denied a suggestion.

27. **The prosecution examined PW-15, Jaydeep Pravinbhai Dave at Ex. 45.** He deposed on oath that about four years ago, he was called by the police to Samakhiyari Police Station in the afternoon. He stated that one police constable, Jaykishansinh Zala, produced a vial containing blood. He further stated that the vial had a white label affixed on it bearing a name,

and the name Latif was written on the label. He stated that the said vial was seized in his presence. He further stated that Hansrajbhai was present with him, and a Panchanama was prepared and their signatures were obtained.

During cross-examination by the defence, he stated that it is true that he cannot say from where the said vial was brought by Constable Jaykishansinh. He stated that it is true that only the name Latif was written on the vial and nothing else. He stated that on that day he had made one signature before the police. He denied few suggestions.

28. Thereafter the prosecution examined **PW-16, Bhavesh Babulal Maraj at Ex. 47. (the complainant)** He deposed on oath that the incident took place on 07/11/2016 at about 9:00 to 9:30 p.m. and at that time, he, his brother Prakash, and his friend Altaf were sitting near Brahman Samajwadi on the Ambaliyara Road. He stated that Altaf received a phone call from Latif Nurmamad Kakal, and there was an exchange of words on the phone. He further stated that on the next day, i.e., on 08/11/2016, at about 6:00 to 6:30 p.m., he and Altaf were coming on his motorcycle from the side of E.T. Company, then the accused Latif inflicted a knife blow on his right hand. He stated that he was driving the motorcycle and due to the blow, he lost balance and fell down. He further stated that people gathered at the place of incident and as the houses of Vasantbhai and Ramanbhai were nearby, they also came there. Thereafter, he was taken to Vagad Welfare Hospital, and during the night, PSI Chaudhary recorded his complaint. Thereafter during his deposition the original complaint was exhibited as Ex. 48.

During cross-examination by the defence, he stated that his complaint was recorded within about four to five hours of the incident at Vagad Welfare Hospital and that he had not gone to the police station to lodge the complaint. He denied few suggestions. Thereafter he stated that it is true that two to four cases have been registered against him, including offences under the Prohibition Act, and also a case of firing in public has been registered against him. Lastly he denied few other suggestions.

29. Thereafter the prosecution had examined **PW-17, Altaf Aamad Khalifa, at Ex. 49**. He deposed on oath that he knows the complainant Bhaveshbhai. He deposed that in the year 2016, but he does not remember the date by, he and Bhaveshbhai was travelling on a motorcycle at about 5:45 p.m. in the Shantinagar area of Samakhiyari. He also stated that at that time, the accused suddenly attacked Bhaveshbhai with a knife and inflicted about eight blows, due to which Bhaveshbhai fell down from the motorcycle, which was driven by Bhaveshbhai. He further stated that the accused, caught hold of the collar of the shirt of Bhaveshbhai, and pulled him down and inflicted successive knife blows. He stated that he intervened and rescued Bhaveshbhai, and thereafter the brother of Bhaveshbhai, Prakash and one Munabhai came there. He stated that thereafter they took Bhaveshbhai to the hospital. He further stated that Bhaveshbhai lodged a complaint before the police and his statement was also recorded, wherein he narrated the entire incident. He further stated that on the day prior to the incident, the accused had called him on phone and threatened him not to move with Bhavesh, otherwise it would not be good for him.

During cross-examination, he stated that he had studied up to Standard V and he is not well conversant with reading and writing. He stated that prior to the incident, he did not know the accused. He stated that it is true that he had not informed anyone regarding the identity of the accused. He denied the suggestion that there was prior enmity between the complainant and the accused and that for settlement, the accused was called to Samakhiyari and in that process, the complainant had assaulted the accused and sustained injuries after falling down, and that the accused ran away. He denied few suggestions. Thereafter he stated that after the incident, no threats were given to him and that the accused did not meet him nor threatened him thereafter. He further stated it is true that no act was done by the accused which would cause fear to him. He stated that it is true that he had not stated the phone number of the alleged threat in his police statement. He further stated that after giving his statement to the police, he

did not meet the police again and that the police had not read over his statement to him. Lastly he denied a suggestion.

30. Thereafter the prosecution had examined **PW-18, Manoharsinh Vikramsinh Jadeja, at Ex. 50**. He deposed on oath that he knows the complainant Bhaveshbhai. He deposed that the incident occurred in the year 2016 in the month of November, but he does not remember the exact date. He stated that at the time of the incident, he was present at his hotel namely Radhekrishna at Samakhiyari along with Prakash and Mitesh. He stated that at that time, Altaf had called Prakash on phone and informed to come immediately as Bhavesh had been assaulted with a knife by Latif Kakal near the house of Raman Mandapwala. He further stated that thereafter he, Prakash and Mitesh went to the place in an Alto car and after reaching there, they found Bhavesh bleeding from his head. He stated that they took Bhavesh to Vagad Welfare Hospital at Bhachau. He further stated that on the way, Altaf informed them that Bhavesh was assaulted by Kakal and one other person Anwar was also present, although he does not know his name. He stated that Altaf had also told them that the accused had called and threatened him. He stated that he does not know the accused.

During cross-examination, he stated that it is true that he had not witnessed the incident and therefore has no personal knowledge about the occurrence. He stated that he does not remember when the police had called him to record his statement and he had met the police only once after the incident for giving his statement. He stated that it is true that cases under prohibition and for public firing are registered against Bhavesh. He stated that he does not know whether there was any prior enmity between the complainant and the accused or whether any settlement meeting had taken place during which the complainant assaulted the accused and sustained injuries due to falling down. Lastly he denied few suggestions.

31. Thereafter the prosecution had examined **PW-19, Prakash Babubhai Maharaj, at Ex. 54**. He deposed on oath that the incident took place on

08/11/2016. At that time, he was present near Hotel Krishna along with Munnabhai and Mitesh. At about 6:45 p.m., he received a phone call from Altaf who told him that Latif had attacked Bhavesh with a knife and asked him to immediately come near the house of Ramanbhai. Thereafter, he along with Munnabhai and Mitesh went in an Alto car bearing No. GJ-12 AE-1615 to the place of incident and after reaching there, he saw that Ramanbhai was tying a cloth bandage on the head of his brother Bhavesh, and he saw injuries on his head, stomach and hand from which the blood was oozing. Thereafter, he stated that they took Bhavesh in the car to Vagad Welfare Hospital for treatment. He further stated that on the way, Altaf narrated about the whole incident. He further stated that Altaf also told him that he picked up a wooden stick of a mandap in his hand, and at that time Vasant Chhagan Koli also came there, and then the accused fled away on the motorcycle with an unknown person. He also stated that the unknown person had instigated by saying that Bhavesh should be killed. During cross-examination, he stated that it is true that he had not witnessed the incident personally and therefore has no personal knowledge about the occurrence. He stated that the police had called him on 09th and that nobody else was with him at that time. He stated that when the police met him at the hospital, no inquiry was made with him. He denied few suggestions.

32. Thereafter the prosecution had examined **PW-20, Vinodbhai Martabhai Bodat, (ASI) at Ex. 55**. He stated that on 19/01/2017, he was on duty at Samakhiyari Police Station, and at that time he was directed by the Writer Head Constable to carry the muddamal related to C.R. No. 82/2016 registered under Section 307 of IPC at Samakhiyari Police Station to the FSL, Rajkot. Accordingly, he received the muddamal from the Writer Head and on 20/01/2017, he went from Samakhiyari to Rajkot and deposited the same at FSL. He further stated that he received an acknowledgment of such deposit, which he handed over to the Investigating Officer, who thereafter recorded his statement. He stated that except this, he had not carried out any other work.

In cross-examination, he stated that it is true that he had not received any written order for carrying the muddamal. He stated that prior to receiving the muddamal from the Writer Head, he had no knowledge about its condition. He voluntarily stated that the muddamal was received by him in sealed condition, however, he had not seen whose seal was affixed on it. He stated that he had no knowledge about the contents of the sealed muddamal or as to how it was collected. He denied few other suggestions.

33. Thereafter the prosecution had examined **PW-21, Hareshbhai Laxmanbhai Buchiya, (Head Constable) at Ex. 56**. He deposed on oath that he was on duty at Samakhiyari Police Station, and at that time he was directed by the Writer Head Constable to carry the related to C.R. No. 82/2016 registered under Section 307 of IPC at Samakhiyari Police Station, to the FSL, Rajkot. Accordingly, he received the muddamal from the Writer Head and on 08/10/2018, and he went from Samakhiyari to Rajkot and deposited the same at FSL. He further stated that he received an acknowledgment of such deposit, which he handed over to the Investigating Officer, who thereafter recorded his statement. He stated that except this, he had not carried out any other work.

In cross-examination, he stated that it is true that he had not received any written order for carrying the muddamal. He stated that prior to receiving the muddamal from the Writer Head, he had no knowledge about its condition. He voluntarily stated that the muddamal was received by him in sealed condition, however, he had not seen whose seal was affixed on it. He stated that he had no knowledge about the contents of the sealed muddamal or as to how it was collected. He denied few other suggestions.

34. Thereafter the prosecution had examined **PW-22, Naranbhai Mahadevbhai Rao, Police Service (Head Cobstable) at Ex. 57**. He deposed on oath that on 26/11/2016, he was on duty at Samakhiyari Police Station, he was directed by the Investigating Officer to collect the blood sample of accused Asgar Osman Kakal from Government Hospital, Lakadiya. Accordingly, on the same day, he brought the blood sample and handed it over to the Investigating Officer in presence of two independent

panch witnesses. He stated that except this, he had not carried out any other work.

In cross-examination, he stated that it is true that in his statement, he has not mentioned the time at which he had gone to collect the muddamal and the time at which he returned, nor has he stated the mode of transport used by him. He further stated that he has not mentioned the names of the panch witnesses in his statement. He also admitted that there are more than one doctors at Lakadiya CHC. He denied few suggestions.

35. Thereafter the prosecution had examined **PW-23, Prahladi Lakhaji Makwana, Police Service (Head Constable) at Ex. 58**. He deposed on oath that on 08/12/2016, he was on duty at Samakhiyari Police Station, he was directed by the Investigating Officer to collect the blood sample of the complainant, Bhavesh Babulal Maraj from Government Hospital, Lakadiya. Accordingly, on the same day, he collected the blood sample and handed it over to the Investigating Officer in presence of two independent panch witnesses. He further stated that except this, he had not carried out any other work.

In cross-examination, he stated that it is true that in his statement, he has not mentioned the time at which he had gone to collect the muddamal and the time at which he returned, nor has he stated the mode of transport used by him. He further stated that he has not mentioned the names of the panch witnesses in his statement. He also admitted that there are more than one doctors at Lakadiya CHC. He denied few suggestions.

36. Thereafter the prosecution had examined **PW-24, Jaykishansinh Jashubha Zala, Police Service (Head Constable) at Ex. 59**. He deposed on oath that on 10/09/2018, he was on duty at Samakhiyari Police Station, and he was directed by the investigating officer to collect a blood sample of the accused, Latif Nurmamad Kakal, from the Government Hospital in Lakadiya. He brought the sample and handed it over to the investigating officer in the presence of two independent panchas. He performed no other task in this case.

During cross-examination, he stated that he did not mention the specific

time of departure or return, nor the vehicle used, in his police statement. He stated that he did not name the panchas in his statement. He denied few suggestions.

37. Thereafter the prosecution had examined **PW-25, Mayuddin Anvarbhai Manjothi, at Ex. 60**. He deposed on oath that he knows the accused but knows nothing about the incident. This witness has not supported the case of the prosecution and therefore he was cross examined by the Ld. APP. During this cross-examination, he denied the contents of his police statement dated 10/11/2016

During cross-examination by the defense, he stated that he did not witness the incident and had no personal knowledge of it. He stated that the police only asked for his name and address.

38. Thereafter the prosecution had examined **PW-26, Mitesh Bijal Sankhol at Ex. 61**. He stated that about eight years ago, he was called by the police at Vagad Welfare Hospital, Bhachau, where in his presence, the T-shirt of Bhavesh Maraj was seized, put in a bag, and a panchnama was prepared. He further deposed that on the date of the incident, he, Prakash Maraj, and Munnabhai were sitting at Krishna Hotel when Prakash received a phone call from Altaf who told him that Bhavesh was stabbed by Latif. Thereafter, they went near the house of Ramanbhai Mandapwala where Bhavesh was found injured, and then they took him to the hospital. He further stated that on the way, Altaf informed him about the incident. Thereafter, they took Bhavesh to Vagad Welfare Hospital.

In cross-examination, he stated that the panchnama was written by the police and he signed the same on being asked. He further stated that both he and Ashok Maraj signed the panchnama prepared by the police. He stated that Bhavesh Maraj is his friend and belongs to the same community, and that Prakash Maraj is also his friend with whom he usually sits. He stated that Krishna Hotel is situated about half a kilometer from Samakhiyari village. He stated that it is true that he has not witnessed the incident and has no personal knowledge about it. He further stated that when they reached the house of Ramanbhai, at that time about 50 persons

had gathered there. He stated that Bhavesh was taken to the hospital in an Alto car along with five persons, wherein Bhavesh was lying on the rear seat and his head was on the lap of Altaf. He further stated that when they reached Bhachau hospital, about 10–15 persons had already gathered there and that they reached the hospital within 10–15 minutes from Samakhiyari. He denied a suggestion.

39. Thereafter the prosecution had examined **PW-27, Ramdevsingh Harisinh Rana, Police Service (Head Constable) at Ex. 62**. He deposed on oath that on 08/11/2016, he was in charge of PSO duty at Samakhiyari Police Station, and at about 19:40 hours, he received a telephonic message from Dr. Jaydipbhai Patel of Vagad Welfare Hospital who told him that one Bhavesh Babulal Maraj, had sustained injuries on his head, both elbows, abdomen and below the chest due to attack by knife, and that the said injuries were inflicted by Latif Kakal of Bhachau. It was further informed that the injured was brought to the hospital by Miteshbhai Bijalbhai Maraj and the injured was conscious. Accordingly, he registered Janva Jog Entry No. 58/2016 dated 08/11/2016 and deputed the investigation to PSI M.C. Chaudhary. He further stated that thereafter, on the same day, PSI M.C. Chaudhary submitted a written complaint along with a forwarding note for registration of offence, and on the basis of which he had registered First C.R. No. 82/2016 for the offences punishable under Sections 307, 114 of IPC and Section 135 of the G.P. Act, at the Samakhiyari Police Station and he had entrusted further investigation to PSI M.C. Chaudhary. During his deposition the Janva Jog entry was exhibited as Ex. 63, on the extract of Janva Jog entry as Ex. 64, the deputation note of investigation as Ex. 65, and the crime registration form as Ex. 66.

In cross-examination, he stated that it is true that he had not carried out any investigation in the present offence. He denied a suggestion. He stated that it is true that his superior officer had forwarded the complaint for registration of offence, and accordingly, in discharge of his duty, he registered the offence. He denied a suggestion.

40. Thereafter the prosecution had examined **PW-28, Bhupendra Kalyan**

Jadeja at Ex. 66. He deposed on oath that on 31/08/2018, he was on duty at Samakhiyari Police Station, and then he had obtained a transfer warrant of accused Latif Nurmamad Kakal from the Court at Bhachau and thereafter took custody of the accused from the Court at Naliya and handed him over to the Investigating Officer. He stated that except this, he had not carried out any other work.

In cross-examination, he stated that he has no personal knowledge about the offence. He further stated that he had only taken custody of the accused and handed him over to the Investigating Officer.

41. Thereafter the prosecution had examined **PW-29, Dr. Jaydweepbhai Bhikhubhai Patel at Ex. 67.** He deposed on oath that on 08/11/2016, he was on duty as a Medical Officer at Vagad Welfare Hospital, Bhachau, at about 06:55 PM, one Mitesh Bijalbhai Maraj brought the injured patient Bhavesh Babulal Maraj for treatment. He also stated that he treated the patient as an indoor patient and recorded the history wherein it was stated that Latif Kakal, resident of Bhachau, had inflicted knife blows and caused injuries.

He further stated that on the examination, the patient had sustained the following injuries:

- (1) CLW over the right side of the head measuring 10 x 10 cm,
- (2) CLW over the lower part of the right side of the chest measuring 3 x 1 cm,
- (3) CLW over the right elbow measuring 5 x 1 cm,
- (4) CLW over the abdomen measuring 2 x 1 cm,
- (5) CLW over the left hand measuring 2 x 1 cm, and
- (6) abrasion extending from the left shoulder to the chest.

He stated that after providing treatment, he informed the police on telephone about the incident. During his deposition the Medical Certificate at Ex. 68 was exhibited. He further stated that the injuries sustained by the patient were possible by sharp as well as blunt weapons. He after seeing the muddamal knife, stated that the injuries found on the patient were possible by such weapon.

In cross-examination, he stated that in the certificate at Ex. 68, it is not mentioned as to who had brought the injured, and who had caused the injuries, the exact nature of injuries, or the period required for healing. He denied that the injuries were simple in nature. He also denied that such injuries could be caused by falling from a motorcycle, but he stated that the injury Nos. 1 and 6 could be possible by falling from a motorcycle. Lastly he denied few suggestions.

42. Thereafter the prosecution had examined **PW-30, Vasantbhai Chhaganbhai Koli, at Ex. 69**. He deposed on oath that about eight years ago, he was passing near the house of Ramanbhai at Samakhiyari. At that time, he saw that Bhavesh Maraj had sustained knife injuries. He further stated that he informed the brother of Bhavesh Maraj, and thereafter, the brother of Bhavesh came with an Alto car and took the injured to the hospital. He further stated that he had seen about five to six knife blows inflicted on Bhavesh Maraj. He also stated that there were two persons on a Honda motorcycle, whom he had seen, and he also said that if the photographs of those persons are shown to him then he would be able to identify them. He further stated that since several years have passed and he now wears spectacles, he would be able to identify the accused if shown photographs. Then after seeing the photograph, he identified the accused, but he did not identify the accused in Court.

In cross-examination, he stated that when he reached near the house of Ramanbhai Mandapwala, about 10 persons had gathered there. He stated that he knew Bhavesh Maraj since a long time. He stated that the police had not called him for inquiry and that he had not gone to the police station in connection with the present case. He denied few suggestions.

43. Thereafter the prosecution had examined **PW-31, Vipulbhai Laxmanbhai Gojiya at Ex. 70**. He deposed on oath that on 19/11/2016, he was on duty as PSI at Samakhiyari Police Station, and the investigation of First C.R. No. 82/2016 registered under Section 307 of IPC at Samakhiyari Police Station was entrusted to him. He stated that he took over the investigation, acquainted himself with the case papers and recorded the further statement

of the complainant. He further stated that he arrested accused Asgar Osman Kakal and produced him before the Court within the stipulated time. He also stated that he had recorded the statements of relevant witnesses, and sent the seized muddamal to FSL with forwarding letters. He further stated that absconding accused Latif Nurmamad Kakal was shown as absconding and charge-sheet was filed against accused Asgar Osman Kakal. He further stated that if any panch or witness has stated that panchnamas or statements were not recorded as per their say, then the same is false. During his deposition the documents at Exh.71 to 77 were exhibited. He further stated that the accused Asgar Osman Kakal, whom he had arrested, is not present before the Court today.

In cross-examination, he denied all the suggestions put to him.

44. Thereafter the prosecution had examined **PW-32, Rekhaben Jagmalbhai Sisodiya at Ex. 78**. She deposed on oath that she was on duty as PSI at Samakhiyari Police Station, the investigation of the present case was entrusted to her. She stated that she took over the investigation, read the case papers, and found that accused Latif Nurmamad Kakal was in jail in connection with another offence of Kothara Police Station. She therefore obtained his custody through a transfer warrant, arrested him in the present offence, and produced him before the Court within the stipulated time. She further stated that she recovered the weapon used in the offence at the instance of the accused by drawing panchnama. She also stated that when she inquired the accused about the clothes worn at the time of offence, the accused stated that he had burnt those clothes, and therefore she submitted a report before the Court for addition of Section 201 of IPC. She further stated that she seized necessary muddamal, sent the same to FSL with forwarding letters, recorded statements of relevant witnesses, prepared necessary reports and lists, and after finding sufficient evidence, filed supplementary charge-sheet against the accused. She further stated that if any panch witness has stated that panchnamas were not prepared as per their say, then the same is false. During her deposition the documents at Ex. 79 to 91 were exhibited.

She further stated that the accused Latif Osman Kakal, whom she had arrested, is not present before the Court today, however, she identified from his charge-sheet photograph. She also identified muddamal knife recovered in the offence.

In cross-examination, she denied all the suggestions put to her.

45. Thereafter the prosecution had examined **PW-33, Maheshkumar Chelabhai Chaudhary at Ex. 94**. He deposed on oath that on 08/11/2016, he was on duty as PSI at Samakhiyari Police Station, at that time the inquiry of Janva Jog Entry No. 58/2016 dated 08/11/2016 was entrusted to him. During the course of such inquiry, he visited Vagad Welfare Hospital where the injured was admitted and met the complainant Bhavesh Babulal Maraj. As per the version given by the complainant, he taken the complaint into writing, read it over to him, and after obtaining his signature, signed the same and forwarded it along with a report to the PSO for registration of offence. Thereafter, First C.R. No. 82/2016 at Samakhiyari Police Station came to be registered under Section 307 of IPC and other provisions, and the investigation was entrusted to him. He further stated that he carried out the investigation, visited the scene of offence, prepared panchnama in presence of two independent panch witnesses as per their version, prepared necessary panchnamas and reports, recorded statements of relevant witnesses, and seized necessary muddamal. He stated that if any panch or witness has stated that panchnamas or statements were not recorded as per their say, then the same is false. He was shown the original complaint at Ex. 48, and he identified the same as the complaint recorded by him.

In cross-examination, he denied few suggestions. He stated that it is true that he had not recorded the statement of the doctor during his investigation. He denied few other suggestions.

Appreciation of the entire Evidence on record

46. It is a settled principle of criminal jurisprudence that the prosecution must establish its case beyond reasonable doubt. **In Balu Sudam Khalde v. State of Maharashtra 2023 SCC Online SC 355, the Hon'ble Supreme**

Court has laid down the governing principles for appreciation of ocular evidence, particularly the testimony of an injured eyewitness. It has been held that while assessing such evidence, the Court must examine whether the testimony, read as a whole, carries a ring of truth, that minor discrepancies or trivial inconsistencies do not justify rejection of otherwise reliable evidence, that the presence of an injured witness at the time and place of occurrence ordinarily cannot be doubted, and that the evidence of an injured witness carries greater evidentiary value and should not be discarded lightly unless compelling reasons exist. It has further been observed that suggestions made during cross-examination and the answers thereto form part of the evidence and may be considered along with other material on record.

Applying the above principles to the facts of the present case, the complainant is himself the injured witness. His presence at the scene stands established by the deposition of **PW.17 Altaf Amad Khalifa** and also from the injuries sustained by him and its reflection in the medical reports. In his deposition, the complainant stated that he and Altaf were coming on his motorcycle from the side of E.T. Company and at that time the accused Latif inflicted a knife blow on his right hand. He also stated that he was driving the motorcycle and due to the blow, he lost balance and fell down. Further nothing emerged during his cross-examination to shatter his evidence or the fact that the accused had not inflicted the knife injury. Further no material contradiction was brought on record by the defence and no circumstance was established to show that the accused was falsely implicated or the case of the prosecution was improbable. Therefore when the evidence is read as a whole, it presents a coherent and consistent narrative of the occurrence. In view of the settled legal position governing appreciation of injured eyewitness testimony and upon superimposing the facts of the present case on those principles, I am of the opinion that the evidence of the injured complainant inspires confidence and is worthy of acceptance. The prosecution has thus succeeded in proving beyond reasonable doubt that the accused inflicted knife blows to the complainant

during the incident in question.

47. Further in this case, the accused person is facing a charge for the Attempt to Murder which is punishable under Section 307 of the Indian Penal Code. In order to decide the present case, it is imperative for me to refer to the settled law as laid down by the Hon'ble Supreme Court of India regarding the scope and ambit of Section 307 of the Indian Penal Code in the following cases-

“In Maniklal Sahu vs. State of Chhattisgarh, 2025 INSC 1107, the Hon'ble Supreme Court held that - "29. An offence under Section 307 IPC has the following essential ingredients:-

- (i) The death of a human was attempted;*
- (ii) That the death was attempted to be caused, or caused in the consequence of the act of the accused; and*
- (iii) That the act was done with the intention of causing death; or that it was done with the intention of causing such bodily injury as:*

a. the accused knew to be likely to cause death; or b. was sufficient in the ordinary course of nature to cause death, or that the accused attempted to cause death by doing an act known to him to be so dangerous that it must in all probability cause:

i. death, or

ii. such bodily injury as is likely to cause death.

30. Thus, from the above, the most important ingredient to constitute the offence of attempt to commit murder punishable under Section 307 of the IPC is the intention or knowledge. To bring home guilt against an accused under this provision, it is necessary for the prosecution to establish that the intention of the accused was one of the three kinds mentioned in Section 300 of the IPC. A person commits an offence under Section 307 of the IPC when he has the intention to commit murder and in pursuance of that intention, does an act towards its commission irrespective of the fact whether that act is the penultimate act or not. The provision requires that the act must be done with such intention, or knowledge, or in such

circumstances that if death be caused by that act, the offence of murder will emerge.

31. It is clear as noonday that causing an injury that would endanger life is not an essential condition for the applicability of Section 307 of the IPC. Even if the injuries inflicted are simple in nature, that by itself cannot be a ground for acquittal, if the offence otherwise falls under Section 307 of the IPC.

32. The word "intent" means design, or determination with which a person acts. It presupposes knowledge. It is the purpose to use particular means to effect certain result. The "act" referred in Section 307 of the IPC attempted to must be with the "intention" of killing a human. Intention is a state of mind which cannot be proved by direct evidence as a fact; it can only ordinarily be inferred from proved facts. It may be proved by *res gestae*, by acts or events previous or subsequent to the incident or occurrence, or on admission. We say so because it shows the presence of will in the act which consummates a crime. The relevant circumstances from which the intention can be gathered. We have supplied a suggestive, and not exhaustive list:-

1. the nature of the weapon used;
2. the manner in which the weapon was used;
3. the part of the body where the injuries were inflicted;
4. the nature of the injuries caused;
5. the opportunity available which the accused gets.

34. To justify a conviction under Section 307 IPC it is not essential that bodily injury capable of causing death should have been inflicted. Although, the nature of injury actually caused may often give considerable assistance in coming to a finding as to the intention of the accused, yet such intention may also be deduced from other circumstances, and may even, in some cases, be ascertained without any reference at all to the actual wounds. The provision makes a distinction between an act of the accused and its result, if any. Such an act may not be attended by any

result so far as the person assaulted is concerned, but still there may be cases in which the culprit would be liable under the provision. It is not necessary that the injury actually caused to the victim of the assault should be sufficient under ordinary circumstances to cause the death of the person assaulted. What the courts have to see is whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the provision. An attempt in order to be criminal need not be the penultimate act. It is sufficient in law if there is present an intent coupled with some overt act in execution thereof..."

In **Jage Ram And Others v. State of Haryana, 2015 SCC ONLINE SC 69**, the Hon'ble Supreme Court had held that - "12. For the purpose of conviction under Section 307 IPC, prosecution has to establish (i) the intention to commit murder and (ii) the act done by the accused. The burden is on the prosecution that accused had attempted to commit the murder of the prosecution witness. Whether the accused person intended to commit murder of another person would depend upon the facts and circumstances of each case. To justify a conviction under Section 307 IPC, it is not essential that fatal injury capable of causing death should have been caused. Although the nature of injury actually caused may be of assistance in coming to a finding as to the intention of the accused, such intention may also be adduced from other circumstances. The intention of the accused is to be gathered from the circumstances like the nature of the weapon used, words used by the accused at the time of the incident, motive of the accused, parts of the body where the injury was caused and the nature of injury and severity of the blows given etc."

Now I have to see whether in the set of the facts of the present case whether the charge against the accused person of attempt to murder which is punishable under Section 307 of the I.P.C., and in order to find out the culpability of the accused persons, I have to enlist the ingredients of Section 307¹ of the Indian Penal Code (I.P.C.), and now if we scan the

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(i) That the death of a human being was attempted;

(ii) That such death was attempted to be caused by, or in consequence of the act of the

facts of the present case and superimpose it on the ingredients of the offence under Section 307 of the Indian Penal Code, then it surfaces that the testimony of the injured witness **PW-16, Bhavesh Babulal Maraj at Ex. 47. who** receives corroboration from the evidence of the accompanying **PW.17 Altaf Amad Khalifa at Exh.49** and both of these witnesses have supported the version that when they were traveling on a motorcycle from the side of E.T. at that time the accused had inflicted a knife blow on the complainant and thereafter he fled from the spot. The medical evidence of **PW-29, Dr. Jaydweepbhai Bhikhubhai Patel at Ex. 67** further lends corroboration to the ocular testimony. Further the Doctor in his cross-examination, had denied that the injuries were simple in nature. It is also pertinent to mention that the *muddamal* knife was also recovered at the behest of the accused person and this also substantiates the story of the prosecution. Thus, the prosecution has successfully established that the accused had attacked the complainant with a knife and caused injury and now the surrounding circumstances are required to be examined to ascertain whether the essential ingredients of Section 307 of the Indian Penal Code are attracted.

48. In the present case, the injury sustained by the complainant was not a single or simple injury. Further recently the Hon'ble Supreme Court in **State of Himachal Pradesh v. Shamsher Singh, 2025 INSC 503**, had held that that to attract Section 307 IPC, it is not necessary that the hurt should be grievous or of any particular degree. If hurt of any nature is caused and it is proved that there was intention or knowledge to cause death, Section 307 IPC would stand attracted. In the instant case the accused had repeated the strikes and inflicted multiple blows which clearly indicates his intention to cause death.

49.. Further the Intention has to be gathered from the nature of the weapon

accused;

(iii) That such act was done with the intention of causing death; or that it was done with the intention of causing such bodily injury as; (a) the accused knew to be likely to cause death; or (b) was sufficient in the ordinary course of nature to cause death, or that the accused attempted to cause death by doing an act known to him to be so imminently dangerous that it must in all probability cause (a) death, or (b) such bodily injury as is likely to cause death, the accused having no excuse for incurring the risk of causing such death or injury.

used, the part of the body targeted, the severity of the injuries, and the overall circumstances of the occurrence. In the present case, the nature of the injury, its size and location, and the fact that the accused attacked the complainant with a knife when he was riding a motorcycle and all these factors indicate that the accused had intended to cause death or such bodily injury as was likely to cause death. Therefore, the prosecution has proved that the accused voluntarily caused hurt to the complainant with the specific intention or knowledge necessary to constitute the offence of attempt to murder under Section 307 of the Indian Penal Code. Consequently, the ingredients of Section 307 I.P.C. are attracted in the facts of the present case.

50. Further in the present case the non-recovery of the clothes of the accused worn at the time of the incident from the accused does not automatically attract Section 201 IPC as this section applies only when the prosecution proves that the accused caused disappearance of evidence or gave false information with the intention of screening an offender and to convict a person the prosecution must establish by other evidence that the accused disposed of or concealed the weapon or intentionally supplied false information, however in this case the prosecution had failed to do so and hence the ingredients of Sec 201 are not proved by the prosecution. Therefore, in view of the above discussion **the present point of determination is decided in partly affirmative.**

Point for determination No.2

51. In order to prove this point the prosecution has not examined any witness to prove the notification under Section 135 of the Gujarat Police Act, whereby carrying of Knife was prohibited within the District of Kachchh. The prosecution had only placed on record a xerox copy of notification at Ex. 79 and which cannot be taken into consideration and therefore it cannot be concluded that the accused has violated the section 135 of the Gujarat Police Act and consequently he is not liable for the offence. **Hence, this issue is decided in negative.**

Point of Determination No. 3

52. In the above circumstances, it is hereby concluded that prosecution has proved beyond reasonable doubt the charges under Section 307 of the Indian Penal Code against the accused. Hence, as a sequel to the above discussion, I pass the following order:

ORDER

- (1) The accused Latiyo @ Latif Nurmamad Kakkal is hereby convicted of the offence punishable under Section 307 of the Indian Penal Code.
- (2) The accused Latiyo @ Latif Nurmamad Kakkal is hereby acquitted for the offence punishable under Section 201 of the Indian Penal Code.
- (3) The accused Latiyo @ Latif Nurmamad Kakkal is hereby acquitted of the offence punishable under Section 135 of the Gujarat Police Act.
- (4) Now the accused to be heard on the quantum of sentence.

Pronounced in the open Court on this 24th Day of April, 2026.

Date: 24.04.2026

Place: Bhachau

(Andleep Tiwari)

2nd Additional Sessions Judge,

Kachchh at Bhachau

UNIQUE ID CODE NO.GJ01587

FAISAL

FURTHER ORDER ON QUANTUM OF SENTENCE

Heard Mr. H. B. Vaghela, learned Advocate for the accused, and Mr. D. S. Jadeja, learned APP for the State.

Learned Advocate for the accused submitted that the accused is aged about 34 years, having family responsibilities, and he had three daughters which are aged 9 years, 10 years and 13 years and he was the sole bread earner for the family. It was also stated that the mother of the accused is also old aged and she also needs the care from her son. It was also submitted that there are fair chances of his reformation. It is therefore prayed that a lenient view be taken. The Ld. Advocate had also placed reliance on the judgment passed by the Hon'ble Supreme Court of India in **Amit Rana @ Koka vs. The State of Haryana, 2024 SCC ONLINE SC 1763** where it was held that "7.....On scanning the provisions under Section

307, IPC, we have already found that in case the victim suffered hurt in terms of the second part of Section 307, IPC, the convict can be sentenced to undergo imprisonment for life. **In the event the court did not consider that imprisonment for life is not to be imposed the other option, going by the provision, is only to impose such punishment as is mentioned in the first part of Section 307, IPC. The first part, as noticed hereinbefore, prescribes punishment with imprisonment of either description for a term which may extend to 10 years and also to pay fine.** A bare perusal of the second part of Section 307, IPC, would undoubtedly show that it did not prescribe for imposition of punishment more than what is prescribed under the first part thereof. We have already noted that the maximum imprisonment permissible under the first part of Section 307, IPC, is "imprisonment of either description for a term which may not extent to 10 years and also fine.....".

Learned APP submitted that the accused attacked the complainant with a knife while he was riding a motorcycle and this shows the malicious intention of the accused. It was also submitted that the accused has other criminal antecedents and he is a headstrong person and therefore he had prayed that maximum punishment be imposed on the accused. It was also submitted that the present accused had jumped temporary bail and was absconding for a period of almost 3 months.

I have considered the nature of the offence, the manner in which it was committed, the age and background of the accused, and the aggravating circumstances highlighted by the Ld. APP. I have also considered the injury nature of the injury caused to the complainant. I have also considered the family condition of the accused and the age of his 3 daughters. Further I have also considered the judgment of **Amit Rana (supra)** and therefore considering the totality of circumstances. I am of the view that the present accused is not liable to be sentenced to undergo imprisonment for life and the chances for his reformation cannot be completely ruled out and hence following sentence would meet the ends of justice.

ORDER

- I. The accused Latiyo @ Latif Nurmamad Kakkal is sentenced to undergo rigorous imprisonment for a period of seven year and to pay a fine of Rs.25,000/- (Rupees Twenty Five Thousand) for the offence

punishable under Sections 307 of the Indian Penal Code and in case of default in the payment of fine the accused is further directed to undergo a simple imprisonment for a period of 3 months.

- II. It is further ordered that, the period of detention undergone by the accused before the date of conviction shall be set off against the sentence as provided under Section 428 of Cr.P.C.
- III. Copy of the Judgment and Order on sentence be supplied to the accused person free of cost.
- IV. Muddamal articles shall be destroyed after the expiry of the appeal period or shall be disposed of in accordance with the order of the appellate Court.
- V. The amount of the fine imposed shall be paid as compensation to the complainant after due verification under Section 357(2) of the Code of Criminal Procedure, 1973.

Pronounced in the open Court on this 24th Day of April, 2026.

Date: 24.04.2026
Place: Bhachau

(Andleep Tiwari)
2nd Additional Sessions Judge,
Kachchh at Bhachau
UNIQUE ID CODE NO.GJ01587

Faisal