

**IN THE COURT OF DR. GAGANDEEP KAUR SINGH,
SESSIONS JUDGE, BHIWANI
(UID No.HR-0096).**

HRBH010019922024



CIS No.SC-63-2023

Sessions Case No.46 of 2023/2024

Sessions Trial No.77 of 2023

Date of Instt.01.03.2023/13.05.2024

Date of Decision:11.08.2026

State

versus

1.Mukesh Kumar son of Shri Kanhiya Lal, aged 39 years, labourer, resident of village Jui Khurd, District Bhiwani.

2.Rakesh alias Ladu son of Dharamvir, aged 33 years, labourer, resident of village Kharkari, District Bhiwani.

3.Monu son of Shri Ram Chander, aged 26 years, labourer, resident of village Kharkari Bawanwali, District Bhiwani.

4.Anil son of Shri Om Parkash, aged 33 years, agriculturist, resident of village Kharkari, District Bhiwani.

FIR No.128 Dated: 07.06.2020

Under Sections: 323, 325, 506 and 307 read with Section 34 of Indian Penal Code, 1860.

Police Station: Jui Kalan

Case received by commitment from the Court of Ms.Anshuman, the then learned Judicial Magistrate Ist Class, Bhiwani vide order dated 15.02.2023.

Present:- Shri Sahil Hooda, Public Prosecutor for the State.
Accused Mukesh, Anil, Monu and Rakesh alias Ladu on bail
represented by Sh.Sandeep Sheoran, Advocate.

JUDGMENT:

Above named accused have been sent up to face trial in case bearing FIR No. 128 dated 07.06.2020, under Sections 307, 323, 325 read with Section 34 and Section 506 of Indian Penal Code 1860, Police Station, Jui Kalan.

2. The brief facts of the case are that on 07.06.2020, a telephonic message was received in Police Station Jui Kalan from Control Room, Bhiwani to the effect that Manoj son of Sita Ram, resident of village Jui Bichli was admitted in General Hospital, Bhiwani on account of injuries suffered by him in a quarrel and upon which ASI Ramesh Kumar alongwith Constable Jaibir reached at Police Post, General Hospital, Bhiwani and collected ruqqa and MLR of injured and when enquiries were made about injured Manoj, they came to know that he was referred to PGIMS Rohtak and thereafter they reached at PGIMS Rohtak and where they came to know that injured Manoj had been brought to Hisar and thereafter the aforesaid police officials reached in the house of injured Manoj at village Jui Bichli, where he was found present and he got recorded his statement Ex.P4 to the effect that on 06.06.2020, at about 12.30 AM (during night), he was sleeping in front of his shop situated on Tosham-Jui Kalan main road and in the meantime, some unknown persons came there and started beating him with iron rods. They inflicted rod blows on both of his legs and when he tried to stand, they caused rod

blows on his left hand and forehead, as a result of which he fell down on the ground and when he raised hue and cry, all the assailants fled away with their respective weapons. However, when they were fleeing away on a motorcycle, he saw that they were four persons and while leaving, they had also threatened him with dire consequences. It is further alleged that he does not know the names of the assailants who have inflicted injuries to him. He has also no enmity in the village. Some unknown persons have inflicted injuries to him. Thereafter he informed his son Rajesh on telephone and after sometime, his son Rajesh and Bhupender son of Bhagirath reached there, who after arranging a vehicle, got him admitted in Civil Hospital, Bhiwani and from there he was referred to PGIMS Rohtak and from PGIMS Rohtak, he was referred to Hisar.

3. On the basis of aforesaid statement Ex.P4 of complainant/injured Manoj, FIR under sections 323, 325 read with section 34 and section 506 IPC (Ex.P47) was registered. On 12.06.2020, PW15 SI Ramesh Kumar recorded the supplementary statement Ex.P6 of injured/complainant Manoj, in which he stated that on making enquiries, he came to know that Mukesh son of Kanhi Ram, resident of village Jui Khurd, who was partner in the liquor vend, had called his cousin brother Rakesh and his friends and they caused injuries to him. On 24.06.2020, accused Mukesh and Rakesh were arrested in this case. During interrogation they suffered their disclosure statements and in pursuance thereof, they got recovered the '*dandas*' used in the commission of present crime. On 30.09.2020, Monu son of Ram Chander was arrested in the

present case and during interrogation, he suffered his disclosure statement and in pursuance thereof, he got recovered the '*danda*' used in the commission of present crime and he also got demarcated the place of occurrence. On 20.10.2020, accused Anil was arrested in the present case and during interrogation he suffered his disclosure statement and in pursuance thereof, he got recovered the danda and motorcycle bearing registration No.HR-19K-3835 which was used in the commission of present case and also got demarcated the place of occurrence. During further investigation opinion of concerned doctor regarding nature of injuries of injured Manoj was obtained and vide his opinion the doctor declared injury No.2 as grievous in nature and injury No.5 was declared as dangerous to life and then Section 307 IPC was added in the present case. After completion of investigation, police filed challan against accused persons under Sections 307, 323, 325 read with section 34 and Section 506 IPC before the Court of learned Area Magistrate, who supplied copies of challan to accused free of costs, as envisaged under Section 207 of Cr.P.C. and committed the case to the Court of Sessions vide order dated 15.02.2023.

4. As per order dated 20.04.2023, all the accused were charge sheeted for the commission of offences punishable under Sections 323, 325, 307 and 506 read with section 34 IPC, to which, they pleaded not guilty and claimed trial.

5. To substantiate the charge against accused, prosecution has examined as many as following sixteen witnesses:-

- PW1 : Dharmender, Draftsman, SP Office, Bhiwani.
- PW2 : Jagmohan, Motor registration Clerk, SDM Office, Charkhi Dadri.
- PW3 : Manoj, the injured/complainant
- PW4 : Rajesh son of Manoj
- PW5 : Lady Constable Suman
- PW6 : HC Sunil Kumar
- PW7 : EASI Ajit Singh
- PW8 : HC Dharam Dev
- PW9 : Rakesh Bidlan, MRT, PGIMS Rohtak
- PW10 : Yogender, Record-keeper, General Hospital, Bhiwani.
- PW11 : Dr.Vikas Rewaria, Medical Officer, PHC Birohar
- PW12 : Inspector Siri Bhagwan
- PW13 : ASI Rakesh Kumar, the part investigating officer of the case
- PW14 : HC Rohtash Kumar, the part investigating officer of the case
- PW15 : SI Ramesh Kumar, the part investigating officer of the case
- PW16 : Dr.Lovkesh Verma

After exhausting the list of witnesses, vide his separately recorded statement of even date, learned Public Prosecutor for the State closed the prosecution evidence.

6. Statements of accused under Section 313 of Cr.P.C. were recorded wherein they denied each and every incriminating material appearing against them in prosecution evidence and pleaded for their

innocence. They pleaded that they have been falsely implicated in this case as nothing was recovered from them. Accused opted not to lead defence evidence.

7. I have heard learned Public Prosecutor for the State and learned defence counsel.

8. Learned Public Prosecutor for the State has argued that prosecution has successfully proved its case by examining sixteen witnesses and documentary evidence produced on the file. It is further argued that in their disclosure statements, accused also admitted their involvement in the present case and in pursuance thereof, they also got recovered the dandas which were used in the commission of present crime and accused Anil also got recovered the motorcycle bearing registration No.HR-19K-3835 on which accused persons had fled away after committing commission of the present crime. It is further argued that though PW5 Manoj, the complainant/injured has not supported prosecution case, however, there are other evidence on the file to connect accused persons in the present offences and prosecution has duly proved its case against them. At the fag end, it is prayed that accused persons be convicted and punished with severe punishment for the offences charged with.

9. On the other hand, learned defence counsel has argued that from the hostile testimony of PW3 Manoj (injured/complainant), case of prosecution stands shattered. It is further argued that statements of Investigating Officer and other police officials stand falsified from

statements of aforesaid witness as he has clearly deposed that accused were not the assailants who had caused injuries to him. At the fag end, it is argued that all the accused are liable to be acquitted.

10. Arguments addressed by learned Public Prosecutor for the State and learned defence counsel have been fully appraised and the material placed on the record have been gone through thoroughly and carefully.

11. In order to bring home the guilt of accused to the hilt, prosecution in this case was required to establish that on 06.06.2020, at about 12.30 AM, in the area of Tosham Road, Jui Kalan, falling under the jurisdiction of Police Station Jui Kalan, all the accused in furtherance of their common intention caused simple and grievous injuries to complainant Manoj, with intention to kill him and under such circumstances that if by that act they would have caused his death, they would have been guilty of murder and also committed criminal intimidation by threatening said Manoj.

12. In the present case, whole case of the prosecution rests upon testimonies of PW3 Manoj (injured/complainant), but this witness has not supported the prosecution case.

13. **PW3 Manoj, the injured/complainant** in his examination-in-chief stated that he was a shopkeeper and his shop was situated at Tosham Road, Jui Kalan. On 06.06.2020, at about 12.30 A.M., he was sleeping outside his shop and suddenly, some unknown persons came there and started beating him with iron rods and they caused injuries on his both

legs. When he tried to get up, they gave a blow of iron rod on his left hand as well as forehead, due to which he fell down and he raised alarm and thereafter all the assailants sped away from the spot alongwith their weapons on their motorcycle while giving him death threats. They were four persons. Thereafter, he called his son Rajesh, who alongwith Bhupender came at the spot and they shifted him in a vehicle at Civil Hospital, Bhiwanil, from where, after giving him first aid, he was referred to PGIMS Rohtak, from where he was referred to Hisar. However, he was not admitted in a hospital at Hisar. Accused, present in the court, were not the assailants. Police recorded his statement Ex.P4 at his home, which bears his signatures at point A. He remained at his home from 07.06.2020 to 19.06.2020. However, on 20.06.2020, he got his hand operated at General Hospital, Bhiwani and in this regard, he submitted his treatment documents before investigating officer alongwith his application Ex.P5 which bears his signature at point A. In view of his above statement, PW3 Manoj, the complainant was declared hostile at the request of learned Public Prosecutor and was subjected to probing cross-examination. In his cross-examination, he has deposed that he has heard and understood statement Ex.P6. Volunteered no such statement was given by him before the police. He has denied that he was intentionally and deliberately not identifying the accused persons due to compromise effected outside the court. During cross-examination by learned defence counsel, he deposed that accused present in the court were not the persons who had caused injuries to him.

PW4 Rajesh in his examination-in-chief stated that on the intervening night of 06/07.06.2020, he was present at his house. At about 12.30 a.m., his father told him through mobile phone that some unknown persons had inflicted injuries to him while he was sleeping outside his shop. Thereafter he reached at the spot and got his father admitted in Genera Hospital, Bhiwani after having arranged a vehicle, from which, his father was referred to PGI Rohtak. He had shown the place of occurrence to the police and in this regard, investigating officer had recorded his statement. During cross-examination, he deposed that he did not know the accused persons present in the court. He had not seen the accused persons while inflicting injuries to his father.

14. In view of above discussed evidence of star witness of prosecution i.e. PW3 Manoj, prosecution has failed to connect accused persons with the present case. In other words, prosecution has failed to lead cogent or satisfactory evidence for bringing home the guilt of abovesaid accused persons to the hilt.

15. Remaining witnesses are formal in nature. **PW1 Dharmender, draftsman** has proved the scaled site plan Ex.P1. **PW2 Jagmohan, Motor Registration Clerk, SDM Office, Charkhi Dadri** proved the attested copy of registration details Ex.P3 of bike bearing registration No.HR-19K-3835. **PW5 Lady Constable Suman** remained associated in investigation with ASI Rakesh, investigating officer and proved various documents. **PW6 HC Sunil** remained associated in investigation with ASI Rakesh, investigating officer and proved various documents. **PW7 EASI Ajit**

Singh remained associated in investigation with ASI Rakesh, investigating officer and proved various documents. **PW8 HC Dharam Dev** remained associated in investigation with ASI Ramesh Kumar, investigating officer and proved various documents. **PW9 Rakesh Bidlan**, MRT, PGIMS Rohtak produced the CR file alongwith x-ray films and one CT film of injured Manoj Ex.P31 **PW10 Yogender, Record-keeper, General Hospital, Bhiwani** proved copy of CR file of patient Manoj Ex.P32 and Ex.P33. **PW11 Dr.Vikas Rewaria, Medical Officer, PHC Birohar, District Jhajjar** medico-legally examined injured Manoj vide MLR Ex.P34. He also proved ruqqa Ex.P35, police requests Ex.P36, Ex.P38 and Ex.P40, his opinions Ex.P37, Ex.P39 and Ex.P41. **PW12 Inspector Siri Bhagwan** prepared report under section 173 Cr.P.C. against the accused persons and submitted the same in the court for their trial. **PW13 ASI Rakesh Kumar** is the part investigating officer of this case and he deposed about the steps taken by him during investigations of the case. **PW14 HC Rohtash Kumar** is also the part investigating officer of this case and he deposed about the steps taken by him during investigations of the case. **PW15 SI Ramesh Kumar** is the part investigating officer of this case and he deposed about the steps taken by him during investigations of the case. **PW16 Lokesh Verma** deposed that on 07.06.2020, after having examined four x-ray films Ex.P40 to Ex.P43 of patient Manoj, he prepared his report Ex.P44, which bears his signatures. On the same day, after examining CT scan film Ex.P45 of said Manoj, he prepared his report Ex.P46 which also bears his signatures. As per his reports, patient had

fracture of left side radius bone, small bone (distal phalanx) of third finger of right hand, right tibia bone fracture (old fracture) and fracture of frontal bone extended into frontal sinus (left side) on the head.

16. Further, no doubt in the present case in pursuance of their disclosure statements, all the accused persons got recovered dandas and accused Anil also got recovered motorcycle bearing registration No.HR-19K-3835 which was used in the commission of present crime, but the same are not sufficient to prove involvement of accused persons in present offences as there were also no distinguishable marks on the said dandas and even such type of dandas are usually kept by villagers at their houses and fields and also that no blood was found on the said dandas as admitted by PW14 HC Rohtash Kumar and PW15 SI Ramesh Kumar in their cross-examinations. Even otherwise, no independent witness was joined by investigating officer at the time of arrest of all the accused, suffering of alleged disclosure statements by them and at the time of aforesaid alleged recoveries. It is true that there is no straight jacket formula to discard the statements of official witnesses, but as discussed above, when some glaring lacunae are found in the prosecution case, in that eventuality, had the investigating agency associated independent witnesses, it would have certainly lent credence to the prosecution case.

17. As far as recovery of motorcycle bearing registration No.HR-19K-3835 from accused Anil is concerned, a perusal of statement Ex.P4 reflects that registration number of the motorcycle is not mentioned therein. Even otherwise, as discussed above, since PW3 Manoj did not

support the prosecution version and was declared hostile and therefore, recovery of said motorcycle is also not much helpful to the case of prosecution. Even accused persons had suffered disclosure statements while they were in police custody and therefore, the same are hit by Section 23 of Bharatiya Sakshya Adhiniyam, 2023 (old section 25 of Indian Evidence Act). Hence, on the file there is no corroborative evidence to connect the accused persons with the commission of present crime and therefore, it is not safe to convict accused persons only on the basis of testimonies of official witnesses.

18. From the aforesaid discussed evidence and the fact that material witness PW3 Manoj, injured/complainant has been declared hostile and did not support case of prosecution and hence, testimonies of remaining witnesses are not helpful to case of prosecution and it can be safely concluded that prosecution has miserably failed to connect accused persons with the commission of offences charged with.

19. As a result of above mentioned discussion, I hold that prosecution has failed to bring home guilt of all the accused persons and the charges against them are not proved beyond shadow of reasonable doubt. Hence, while giving benefit of doubt, accused persons namely Mukesh Kumar, Anil, Monu and Rakesh alias Ladu are acquitted of the charges framed against them subject to their furnishing bonds in compliance of provisions of Section 481 of BNSS. The previous bail bond-surety bonds of the accused persons stand discharged. Case property, if any, be disposed of, as per rules on the subject, after expiry of

period of appeal/revision, if any. File be consigned to records, after due compliance.

Announced in open court
Dated:11.08.2026

(lovekesh, E.A.)

(Dr. Gagandeep Kaur Singh)
Sessions Judge, Bhiwani.
(UID No.HR0096)

HRBH010019922024



CIS No.SC-63-2023

Present:- Shri Sahil Hooda, Public Prosecutor for the State.
Accused Mukesh, Anil, Monu and Rakesh alias Ladu on bail
represented by Sh.Sandeep Sheoran, Advocate.

Vide my separate judgment of even date, accused Mukesh, Anil, Monu and Rakesh alias Ladu have been acquitted of the charges framed against them. The previous bail bond-surety bonds of the accused stand discharged. Accused persons are directed to furnish bail bonds in the sum of Rs.50,000/- each with one surety in the like amount each under Section 481 of BNSS undertaking therein to appear before the Hon'ble High Court as and when the notice is issued by the Hon'ble High Court in respect of any appeal or petition filed against the judgment of this Court and the bail bonds shall remain in force for a period of six months. Personal bail bonds furnished by accused, which are accepted and attested. Surety bonds not furnished by the accused persons. As prayed by accused, the same be furnished within week. Case property, if any, be disposed of, as per rules on the subject, after expiry of period of appeal/revision, if any. File be consigned to records, after due compliance.

Announced in open court
Dated:11.08.2026

(lovekesh, E.A.)

(Dr. Gagandeep Kaur Singh)
Sessions Judge, Bhiwani.
(UID No.HR0096)