

IN THE COURT OF DISTRICT JUDICIAL MOBILE MAGISTRATE (T) RAJOURI

CNR No.: JKRJ030014522025

File No.
47/Challan

Date of Institution
31-07-2007

Date of Decision
08-04-2026

State

Versus

Manzoor Hussain

.....Accused Person

IN THE MATTER OF:- Case FIR No. 195/2007 of P/S Rajouri for offences U/S 323/325 RPC.

PRESENT:-

Ld. A.P.P. for the state.

Ajaz Qureshi, Advocate for the Accused.

CORAM:- Shavika Gupta

J.O. Code:- JK00296

J U D G M E N T

1. Within the ambit of this judgment the challan in hand shall stand disposed of. The challan has been presented before this Court after the same was transferred by the Court of Ld. C.J.M. Rajouri for disposal under law.

BRIEF FACTS

Brief facts of the case are that On 17/04/07, a complaint namely TST R/o Rampur (name unclear) P/S Malyapada, at present working as a labourer at a shop of Saleem Ahmad S/o Ismail, caste Sheikh, R/o Ward No. 13 near Workers Bridge, was working at the said shop on a salary basis near Workers Bridge. On the intervening night at about 11 PM, Manzoor Khan R/o Dhanidhar along with 2/3 other persons whose names/addresses are known came to the shop and beat him. On hue & Cry, they ran away. Kindly register a case against them and take legal action. The medical certificate is also enclosed. U/S 325/323 RPC registered and investigation was handed over to HC (Head Constable) Mumtaz Khan. During investigation and after recording the statement of witnesses and obtaining medical certificate, the complaint was found true. It is stated that the accused persons namely Manzoor Hussain S/o Mumtaz Khan and others on the intervening night of 16/04/07 came to the welding shop of Saleem Ahmad S/o Ismail R/o Ward No and demanded from the owner of the shop. They demanded money and when the shop owner refused, they beat him. Manzoor Khan hit him with a stone on the head, causing injuries. Some people gathered and the accused persons ran away. Hence, offence U/S 323/325 RPC has been proved. The challan has been prepared for trial. Completion of the investigation culminated into the presentation of the instant challan before this court against the accused. This court vide its order dated 28-11-2007 framed charges

against the accused for the alleged commission of offences punishable under sections 325/323 RPC. Accused denied the charges levelled against them as false and claimed trial. Accordingly, the prosecution was directed to lead evidence in support of its case. Vide order dated 20-03-2015, accused No 02 Munshi Khan was acquitted of charges levelled against him however at that stage, the present accused no 01 namely Manzoor Hussain was proceeded U/S 512 CrPC. Thereafter, Vide order dated 01-07-2025, accused Manzoor Hussain surrendered before this court and his warrants U/S 512 CrPC were recalled and the accused was allowed to participate in the trial. Consequently, the Ld. counsel for the accused moved an application that already recorded evidence be read against accused Manzoor Hussain and the said application was allowed after Ld. APP filed their no objections.

The prosecution cited 08 witnesses and out of which the prosecution examined 03 witnesses.

PROSECUTION EVIDENCE

2. For the better appreciation of evidence the statement of witnesses recorded is discussed as under:

- (i) **PW No.1 Statement of Saleem Ahmed S/o MOhd Ismail R/o Ward NO 12 Tehsil & District Rajouri Dated 28-02-2008** deposed that On examination-in-chief, the PW stated that he knew the accused. He sells cement and iron bars in his shop. Tejpal was a servant in the shop. About one year ago, when he went to the shop, he saw the servant in an injured condition on the roof of the shop. When he inquired from him, he stated that he had fallen from the roof. He admitted him to the hospital and then returned to the shop. The police came and took his signatures on some papers which were already written. The police asked him whether Tejpal was his servant, and he replied in the affirmative. He does not say anything about the role of the accused in his injuries.

At this stage, the Public Prosecutor stated that the witness turned hostile and sought permission for cross-examination. Permission was granted. During cross-examination by the Public Prosecutor, the witness stated that he is educated up to 8th class and that his shop turnover was about 2 lakhs. Tejpal was working as a labourer in his shop for the last one year and used to sleep on the roof of the shop. During that period, he did not fall from the roof. He stated that he has a relationship with the accused for a long time and that they have good relations. He denied that Manzoor Hussain had taken 38,000 from him. He also denied that Manzoor Hussain had beaten the servant Tejpal at night. He further stated that Tejpal left his shop one month after the occurrence. He stated that he has given the statement in court due to good relations with the accused. He denied that he filed the complaint in favour of the accused or that he has compromised with the accused. He further denied that, being a resident outside the Union Territory of Jammu & Kashmir, he had given such a statement. No further questions were put by the defence counsel despite opportunity.

PW- Davinder Kumar S/o Ganga Ram R/o Pathanmorha Tehsil & District Rajouri On examination in chief by C.P.O state that he does not know the accused. He has no knowledge

of occurrence. Police has not taken any statement . No further question. Council of accused not cross examine.

PW-Dwarka Nath S/o Jia Lal Caste Brahmin R/o Pathanmorha Tehsil & District Rajouri On examination-in-chief, the PW stated that he does not know the accused present in the courtroom as well as the other accused. He further stated that he does not know anything about the case and also does not know about the occurrence. At this stage, the learned APP stated that the witness has turned hostile and prayed for permission to cross-examine. Permission for cross-examination was granted. During cross-examination, the witness stated that he has a shop at Ward No. 13 and that in the evening, after closing the shop, he went home. He further stated that complainant Tejpal used to roam around in a drunken condition. He denied that he had seen the incident. He further denied that upon hearing noise he went outside. He also denied that he had seen the accused beating the complainant. He further stated that the police had not come to the place of occurrence and had not recorded his statement.

No further questions were put. Despite opportunity, the defence counsel did not cross-examine the witness.

3. The above mentioned witnesses were examined by the prosecution in order to prove the change against the accused person. Accordingly, vide order dated 06.03.2026 the prosecution evidence was closed and the file was kept up for recording the statement of accused person U/S 342 Cr.P.C.

INGREDIENTS OF THE OFFENCE

4. The accused person is charged of the offences punishable under Sections 224 RPC. The ingredients necessary to be proved in order to constitute an offence under the said sections are briefly enumerated as below:

(a) Section 323 RPC states -Punishment for voluntarily causing hurt-

“Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both”..

(b) Section 325 RPC states -Punishment for voluntarily causing grievous hurt.-

“Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine”.

ANALYSIS

In the present case, the prosecution has examined three witnesses. However, none of the said witnesses has identified the accused or deposed anything incriminating against him. There is no evidence on record to establish the identity of the accused as the person involved in the alleged offence. Further, the essential ingredients required to constitute the offence are not proved. The

testimonies of the prosecution witnesses do not inspire confidence and fail to establish the culpability of the accused.

It is also pertinent to note that despite sufficient opportunities granted by the Court, the prosecution failed to examine any further witnesses to substantiate its case. In such circumstances, there is no incriminating evidence available on record against the accused. Hence, recording of statement under Section 342 Cr.P.C. is dispensed with.

FINAL ORDER

For what has been stated and discussed hereinabove, the Court is satisfied that the evidences tendered at the trial are inadequate, uncorroborated and thus unreliable and have failed to prove the case of the prosecution beyond reasonable doubt. The implication of the accused in the present case seems to be unacceptable. The rule of criminal jurisprudence is that the prosecution has to prove the guilt of the accused beyond all reasonable doubts, and where doubt exists in the story, it is the accused who is to be benefitted. In view of the above discussion, the prosecution has failed to prove the guilt of the accused for the commission of offences punishable under Section 323/325 RPC beyond reasonable doubt in FIR No. 195/2007 State V/S Manzoor Hussain & Ors. Hence, the accused stands acquitted from the charges leveled on him, the instant challan is disposed of and the accused person shall be discharged from the surety and personal bond executed by him in this Court. Original documents if any, retained be returned to the rightful claimant against proper receipt. The property seized, if any, shall be disposed of by the prosecution under rule after expiry period of appeal. File be consigned to records after its due compilation. In view of the above discussion, this Court is of the considered opinion that the prosecution has failed to prove its case against the accused beyond reasonable doubt. Accordingly, the accused is entitled to benefit of doubt. Hence, the accused is acquitted of the charges.

Judgment to be uploaded.

ANNOUNCED:

08-04-2026

Shavika Gupta

District Mobile Magistrate (T)

Rajouri