

IN THE COURT OF KHATRI SAURABH, ADDITIONAL SESSIONS
JUDGE, HISAR (UID: HR0253)

HRHS010013022024



CNR No.HRHS0100-1302-2024
CIS No. SC/83/2024
Sessions Case No. RBT 96-SC
Date of Institution:14.02.2024/ 27.08.2024
Date of Decision: **08.07.2026**

State Vs. 1. Abhishek son of Suresh Kumar, resident of
38, Chhotu Ram Colony, Nirankari Bhawan
Road, Hisar,
2. Arman son of Vinod, resident of gali no.1,
Indira Nagar, Urban Estate, Hisar.
.....Accused.

FIR No. 807 dated 02.11.2023.
Under Sections: 148,149,323,324,326,307, 506,
IPC
Police Station: Urban Estate, Hisar.

Presence: Sh. Parveen Kumar, Public Prosecutor for the State assisted
by Sh. Parveen Siwach, Advocate for complainant.
Accused Abhishek on bail represented by Sh. B.S.Boundiya,
Advocate.
Accused Arman on bail represented by Sh.R.K.Vashishtha
Advocate.

JUDGMENT

The above mentioned accused have been sent up by SHO,
Police Station Urban Estate, Hisar, to face trial under Sections 148, 149,
323, 324, 326, 307, 506 (hereinafter referred to as 'the IPC' for brevity).

2. The case set up by prosecution is that on 02.11.2023,
information was received in P.S.Urban Estate, Hisar that Sandeep son of

(Khatri Saurabh)
Addl.Sessions Judge,
Hisar/UID No.HR0253

Krishan was admitted in Agroha Hospital after sustaining injuries in a fight. Thereafter, SI Hanuman along with HC Jai Parkash reached at the said hospital and obtained ruqa and MLR of the injured. After injured was rendered fit to give his statement by the concerned doctor, his statement was recorded to the effect that he was an auto driver and on 02.11.2023, at around 12.00 a.m, he heard noise outside in the street. When he came out of his house, he saw that 8-10 persons were fighting amongst themselves and were throwing bricks at the house of his neighbour Azad. Those boys comprised of Golu, Lucky, Daddu and their companions. When he objected to their actions, the said boys said that let's first teach him a lesson and thereafter, 3-4 boys caught hold him and began to punch and kick him. They were also armed with knives and several knife blows were inflicted at his left hand, neck and his left thigh. After hearing his cries, his wife Poonam came out and began shouting. Thereafter, all the assailants fled away from the spot. His wife brought him to MAMC Agroha for treatment. He sought initiation of legal action against the Golu, Lucky, Daddu and their companions.

During investigation, MLR of the injured was collected by police and sample of blood was also lifted by the police from the spot of occurrence. Rough site plan was prepared. Statement of witnesses were recorded. Injury no.4 in the MLR of injured was stated to have been caused by sharp weapon that put his life in danger. Thereafter, Section

s

326 IPC was added. On 20.11.2023, Aman @ Golu and Lucky @ Pahari were arrested and their disclosure statements were recorded. Knife used in the occurrence, was got recovered by Aman @ Golu. Rough site plan of place of recovery was also prepared. They also got the place of occurrence demarcated. Thereafter, juvenile Yuvraj @ Daddu was also apprehended and in pursuance of his disclosure statement, he also got a knife used in the occurrence, recovered from his house. He also got the place of occurrence demarcated. Concerned doctor declared injury no.7 as also dangerous to life of the injured and thereafter, Section 307 IPC was added. Later, accused Abhishek @ Golu was arrested. Later accused Vivek @ Bokha was also arrested. His disclosure statement was also recorded. Thereafter, juvenile Anmol @ Machhi was also apprehended and his disclosure statement was also recorded. He also got the place of occurrence demarcated. Juvenile Sahil @ Rajender was also apprehended. Later, accused Arman @ Pillu was also arrested. His disclosure statement was also recorded. Opinion of the concerned doctor was taken after producing the knives recovered by the police. After completion of the investigation, charge sheet against juveniles Yuvraj @ Daadu, Anmol @ Machhi and Sahil was submitted before Juvenile Justice Board, Hisar, whereas, challan against accused Abhishek, Aman Lucky @ Pahari, Vivek @ Bokha and Arman @ Pillu was submitted before the Court.

s

3. Copies of challan and other documents attached thereto were supplied to the accused, free of cost. Thereafter, the case was committed to the Court of Sessions vide order dated 31.01.2024 passed by learned Chief Judicial Magistrate, Hisar.

4. During the pendency of the trial, accused Aman, Vivek and Lucky were declared to be child-in-conflict with law by this Court vide order dated 30.08.2024 and their case was sent to Juvenile Justice Board, Hisar, for further proceedings.

5. Finding a prima facie case for commission of offence punishable under sections 148, 149, 324, 326, 307, 506 IPC against accused Abhishek and Arman, they were charge sheeted accordingly vide order dated 19.09.2024 to which they pleaded not guilty and claimed trial.

6. In order to prove its case prosecution examined PW1 Sandeep son of Jai Singh, PW2 Azad Singh, PW3 Sandeep son of Krishan Kumar, PW4 Poonam, PW5 HC Satish Kumar, PW6 Ct. Amit Kumar, PW7 EHC Rakesh Kumar, PW8 SI Hanuman Singh, PW9 Inspector Kaptan Singh, PW10 Dr. Harish Aggarwal, PW11 Dr.Kashyap Bishnoi, PW12 HC Jai Parkash, PW13 HC Kapil, PW14 EHC Kuldeep Singh and PW15 L/HC Sonia.

FSL Report Ex.PX was also tendered and thereafter, evidence of prosecution was closed by learned PP for the State vide his statement recorded separately.

s

7. Accused Abhishek and Arman in their statements under Section 313 Cr.P.C. denied all allegations levelled against them and pleaded innocence. They further stated that they did not commit any offence and they have been falsely implicated. The case is false and PWs have deposed falsely.

8. No evidence in defence was led by accused.

9. I have heard Ld. PP for the State and learned defence counsel and have perused the entire evidence available on record carefully.

10. After taking into account the entire oral and documentary evidence led on record, this Court is of the considered view that prosecution has miserably failed in proving the guilt of accused beyond the shadow of reasonable doubt due to the reasons set out hereinbelow.

11. PW3 Sandeep son of Krishan Kumar was the injured, whereas, his wife PW4 Poonam was the alleged eye witness. PW3 Sandeep testified that at the time of occurrence, assailants were having muffled faces and he could not identify them due to darkness. He categorically testified that accused Abhishek and Arman were not the same persons who had inflicted knife injuries upon him and they were also not involved in throwing bricks and stones at the house of Azad. Similarly, PW4 Poonam has also stated that she also could not identify the accused persons due to darkness as they were having muffled faces.

s

She also categorically stated that accused in question were not involved in the present occurrence. Furthermore, PW1 Sandeep son of Jai Singh also stated that in the intervening night of 01.11.2023 and 02.11.2023, while he was sleeping in his house, at around 12.00 a.m., he heard noise from outside and when he went outside, Poonam told him that Sandeep had been beaten and attacked with knife by several members. The names of the assailants were not disclosed. He also stated that he could not identify accused persons in the Court and could not say whether they were the same persons who had inflicted injuries to Sandeep. Further more, PW2 Azad Singh stated that in the intervening night of 01.11.2023 and 02.11.2023 at around 12'O clock in the night, he heard noise of quarrel in the street outside his house. From his gallery, he saw that 8-10 persons were fighting with each other and were abusing each other. When he tried to speak to them, they started throwing bricks and stones at his house and he went inside the house due to fear and closed the gate. He also could not identify the accused persons due to darkness. He stated that he gave CCTV footage from the camera installed at his house to police in a pendrive Ex.P2 along with a certificate under Section 65-B of Evidence Act Ex.P3 bearing his signatures. PW1 to PW4 were declared hostile on the request of learned PP for the State and in their respective cross-examination, all of them denied their respective statements Ex.P1, Ex.P4, Ex.P5 and Ex.P6 given to police during investigation. All of them

s

categorically denied that they were deposing falsely due to any alleged compromise with the accused persons. PW3 Sandeep and PW4 Poonam were the injured and eye witness respectively and they themselves have not been able to identify the accused in question. They completely ruled out their involvement in the occurrence in question. PW1 Sandeep and PW2 Azad Singh have also not identified the accused as culprits who had inflicted knife injuries upon the person of PW3 Sandeep son of Krishan. It is true that evidence of a hostile witness is not to be discarded in its entirety and so much portion thereof as supports the case of prosecution, can be relied upon. This Court has carefully gone through the contents of cross-examination of PW1 to PW4 but there exists nothing therein which could support the case of prosecution in any manner. None of the material witnesses examined on behalf of prosecution have been able to establish the identity of any of the accused in the present case and hence, they become entitled to be acquitted on that score alone.

12. PW2 Azad Singh tendered CCTV footage from camera installed at his house, in a pendrive Ex.P2 along with the certificate under Section 65-B of the Act Ex.P3. With regard to the said certificate Ex.P3, it is pertinent to note that same does not satisfy the mandatory requirements of Section 65-B of Evidence Act as under Sub-section 4 (B) of Evidence Act, it is necessary that the said certificate must give the particulars of the device involved in the production of the electronic

s

record, whereas, in the said certificate, no details of the DVR has been given from which the CCTV footage contained in pendrive Ex.P2 was prepared. Secondly, this Court has also gone through the CCTV footage contained in pendrive Ex.P2 in which the face of the group of boys throwing stones near the house of Azad Singh, is not clearly visible due to darkness. It is further important to note that the occurrence of knife blows being inflicted upon PW3 Sandeep, was not recorded in the said CCTV footage. Since the material witnesses have already given a clean chit to the accused in question, the CCTV footage contained in pendrive Ex.P3 coupled with the defective certificate under Section 65-B of the Act, is not sufficient to help the prosecution in proving the guilt of the accused beyond the shadow of reasonable doubt.

13. PW8 SI Hanuman was the investigating officer in the present case, whereas, PW12 HC Jai Parkash, PW13 HC Kapil and PW14 EHC Kuldeep Singh had remained associated in the investigation of the present case with PW8 SI Hanuman Singh. This Court does not deem it necessary to set out entire evidence led by the said witnesses as substantial portion of their testimony was pertaining to juveniles Aman, Lucky, Vivek, Yuvraj, Anmol and Sahil. Since in the present trial, only the guilt of accused Arman and Abhishek is liable to be decided, the investigation carried out by the above said witnesses qua the said accused only comprised of arresting them and thereafter recording disclosure

s

statement of Arman Ex.P30 and disclosure statement of Abhishek as Ex.P22 and they were further stated to have got the place of occurrence demarcated vide demarcation memo Ex.P31 and Ex.P23. Admittedly, nothing was recovered by police from any of the said accused. It is pertinent to note that the alleged disclosure statement of the above accused are nothing but confessional statements alleged to have been suffered by them before police officials in police custody and in view of bar contained in Section 25 &26 of Evidence Act, they are not admissible in evidence. The spot of occurrence had already been visited by police when rough site plan Ex.P13 was prepared on 02.11.2023 and its subsequent demarcation by the accused in question vide memo Ex.P23 dated 12.12.2023 and Ex.P31 dated 10.01.2024 is of no legal relevance as the place of occurrence was already within the previous knowledge of the police.

14. The remaining witnesses examined in the present case were of formal character. PW5 HC Satish had recorded FIR Ex.P7 and proved his endorsement Ex.P8. PW6 Ct. Amit prepared scaled site plan Ex.P9. PW7 EHC Rakesh Kumar deposed regarding the deposit of case property by SI Hanuman Singh with him on various dates. PW9 Inspector Kaptan Singh had obtained the opinion of Board of doctor regarding the nature of injury no.4 and 6 of Sandeep as per his MLR and thereafter, he submitted charge sheet against the accused. PW11 Dr. Kashyap Bishnoi, proved

s

MLR of Sandeep as Ex.P38 along with the carbon copy Ex.P37, ruqa Ex.P39, treatment file Ex.P34, x-ray report Ex.P40, CT scan films Ex.P41 to Ex.P45. He further testified that Board of doctors including himself, Dr. Umesh Chhabra and Dr. Harish Aggarwal gave their opinion regarding the nature of injuries suffered by Sandeep as Ex.P35 and proved his signatures thereon whereby, injuries no.4 and 6 were stated to be grievous, caused by sharp weapon which put the life of injured in imminent danger. He further stated that police had moved an application dated 08.01.2023 before the Board of doctors, whereupon they gave their opinion Ex.P46. Sealed parcels containing a metallic knife Ex.P47 (MO) and another knife with wooden handle Ex.P48 (MO) were also produced and they were confirmed by PW11 as the same knives which were produced by the police before them while taking their medical opinion along with FSL report Ex.PX. PW10 Dr. Harish Aggarwal also proved signatures of Dr.Chirag on his opinion Ex.P33, treatment file Ex.P34, opinion of Board of doctors Ex.P35, opinion of Board of doctors dated 05.12.2023 Ex.P36. As is clear from the nature of testimony of above witnesses, same is not sufficient to link any of the accused with the alleged offence beyond the shadow of reasonable doubt. Although medical evidence led on record proves that PW3 Sandeep had suffered grievous and sharp injuries upon his person which put his life into imminent danger, no credible and cogent evidence has been produced on

s

record to prove that such injuries had been inflicted upon his person by any of the accused in question.

15. Hence, it cannot be said that prosecution has succeeded in discharging its burden of proving the guilt of accused beyond the shadow of reasonable doubt and hence, benefit of doubt is liable to be extended to them. Accordingly, accused Abhishek and Arman are hereby acquitted of all the allegations levelled against them. Their bail bonds and surety bonds stand discharged. Bonds in compliance of Section 437-A Cr.P.C, furnished, accepted and attested. Case property be disposed off as per law after expiry of the period of limitation to appeal. File be consigned to the record room after due compliance.

Announced in open Court
08.07.2026
Gurdeep SG-1

(Khatri Saurabh)
Addl. Sessions Judge, Hisar.
UID No.HR0253.

s

Khatri Saurabh
Addl Sessions Judge,
Hisar HR0253

APPENDIX

A LIST OF PROSECUTION WITNESSES

Sr. No	Rank	Name	Nature of Evidence
PW-1	-	Sandeep S/o Jai Singh	Eye Witness
PW-2	-	Azad Singh S/o Ram Dhari	Eye Witness & Footage
PW-3	-	Sandeep S/o Krishan Kumar	Victim
PW-4	Formal witness	Poonam W/o Sandeep	Eye Witness
PW-5	HC	Satish Kumar	FIR
PW-6	CT.	Amit Kumar No. 1042	Site Plan
PW 7	EHC	Rakesh Kumar No. 251/HSR	Parcels of Case Property
PW 8	SI	Hanuman SinghNo. 2189/FBD	Investigation Officer/Challan
PW 9	Inspector	Kaptan Singh	Inspector/SHO regarding Challan
PW 10	Dr.	Harish Aggarwal	MLR of Victim Sandeep
PW 11	Dr.	Kashyap Bishnoi	MLR and Injury Opinion
PW 12	HC	Jai Parkash No. 623/HSR	Recovery Memo & Disclosure Statement
PW 13	HC	Kapil No. 929/HSR	Recovery Memo & Disclosure Statement
PW 14	EHC	Kuldeep Singh No. 683/HSR	Arrest Memo & Disclosure Statement of

s

			Accused Abhishek
PW 15	L/HC	Sonia No. 839/HSR	Recovery Memo & Disclosure Statement
Given Up	Dr.	Umesh Chabbra	Opinion
Given Up	-	Geeta Devi W/o Satish	To present Birth Certificate
Given Up	-	Dilbag S/o Fateh Singh	To present Birth Certificate
Given Up	-	Mamta W/o Rajender	To present Birth Certificate

B LIST OF DEFENCE WITNESSES:

NIL

C. COURT WITNESSES (IF ANY):

NIL

A. LIST OF PROSECUTION EXHIBITS

Sr. No.	Exhibit Number	Particulars/
1	Exhibit P-1	Statement of Sandeep dated- 02.11.2023
2	Exhibit P-2	Pendrive
3	Exhibit P-3	Certificate u/s 65 B of Indian Evidence dated 10.11.2023
4	Exhibit P-4	Statement of Azad Singh dated 02.11.2023
5	Exhibit P-5	Statement of Sandeep dated 02.11.2023
6	Exhibit P-6	Statement of Poonam dated 02.11.2023
7	Exhibit P-7	FIR No. 807 dated 02.11.2023

s

Khatri Saurabh
Addl Sessions Judge,
Hisar HR0253

CNR No.HRHS0100-1302-2024SC/83/2024

State Vs. Abhishek etc.

14

8	Exhibit P-8	FIR Endorsement dated 02.11.2023
9	Exhibit P-9	Scaled Site Plan dated 01.01.2024
10	Exhibit P-10	Affidavit of Witness EHC Rakesh dated 11.02.2026
11	Exhibit P-11	Application to Medical Officer, Agroha dated 02.11.2023
12	Exhibit P-12	Police Proceeding dated 02.11.2023
13	Exhibit P-13	Rough site plan of place occurrence dated 02.11.2023
14	Exhibit P-14	Disclosure Statement of Accused Lucky dated 21.11.2023
15	Exhibit P-15	Disclosure Statement of Accused Lucky dated 21.11.2023
16	Exhibit P-16	Demarcation Memo dated 21.11.2023
17	Exhibit P-17	Rough Site Plan of Knife dated 21.11.2023
18	Exhibit P18	Recovery memo of Knife dated 21.11.2023
19	Exhibit P-19	Rough Site Plan of Knife dated 21.11.2023
20	Exhibit P-20	Copy of Photograph of CCTV footage
21	Exhibit P-21	Arrest memo of Accused Abhishek dated 12.12.2023
22	Exhibit P-22	Disclosure Statement of Accused Abhishek dated 12.12.2023
23	Exhibit P-23	Demarcation Memo dated 12.12.2023
24	Exhibit P-24	Photographs of CCTV footage
25	Exhibit P-25	Passed Zimni Order by Ld. Sh. Manoj Dahiya , JMIC,Hisar
26	Exhibit P-26	Arrest memo of Accused Vivek dated 20.12.2023
27	Exhibit P-27	Disclosure Statement of Accused Vivek dated 21.12.2023
28	Exhibit P-28	Demarcation Memo Dated 21.12.2023
29	Exhibit P-29	Arrest memo of Accused Arman dated 10.01.2024
30	Exhibit P-30	Disclosure Statement of Accused Arman dated 10.01.2024
31	Exhibit P-31	Demarcation Memo dated 10.01.2024

s

Khatri Saurabh
Addl Sessions Judge,
Hisar HR0253

32	Exhibit P-32	M.O (Blood stained earth)
33	Exhibit P-33	Endorsement by Medical Officer dated 02.11.2023
34	Exhibit P- 34	BHT of Sandeep Kumar dated 02.11.2023
35	Exhibit P-36	Opinion by doctor dated 05.12.2023
36	Exhibit P-37	Carbon copy of MLR of Sandeep Dated 02.11.2023
37	Exhibit P-38	MLR of Sandeep Kumar Dated 05.12.2023
38	Exhibit P-39	Ruka dated 02.11.2023
39	Exhibit P-40	X-Ray Report dated 02.11.2023
40	Exhibit P-41 to P-45	X-Ray films dated 02.11.2023
41	Exhibit P-46	Opinion by doctor dated 08.01.2024
42	Exhibit P-47	M.O (Knife)
43	Exhibit P-48	M.O (one Knife metallic blade alongwith wooden handle)
44	Exhibit P-49	Arrest Memo of Accused Aman dated 20.11.2022
45	Exhibit P-50	Arrest Memo of Accused Lucky dated 20.11.2022
46	Exhibit P-51	Apprehension Memo
47	Exhibit P-52	Disclosure Report dated 30.11.2023
48	Exhibit P-53	Rough Sketh Plan dated 30.11.2023
49	Exhibit P-54	Possession Memo Knife dated 30.11.2023
50	Exhibit P-55	Apprehension Memo of Juvenile Anmol
51	Exhibit P-56	Apprehession Juvenile Report of Anmol dated 23.12.2023
52	Exhibit P-57	Occurance Memo dated 23.12.2023
53	Exhibit P-X	FSL Report

B. LIST OF DEFENCE EXHIBITS:

NIL

C. COURT EXHIBITS:

NIL

C. LIST OF MATERIAL OBJECTS

NIL

s