

**IN THE COURT OF SH. PAWAN KUMAR, ASJ-06 /
SOUTH DISTRICT / SAKET COURTS /NEW DELHI**

**Date of Judgement: 09.07.2026
SC No. 533/2025
FIR No. 384/2025
U/s. 109(1) / 3(5) BNS
PS Mehrauli
CNR No. DLST01-018144-2025**

Complainant:	Mr. Sohail Mohammad S/o: Mr. Rahis Mohammad R/o: House No. 31/1, UG Floor, Ward No. 1, Mehrauli, New Delhi
REPRESENTED BY	---
ACCUSED	1. Shahabuddin @ Amjad S/o Mr. Ashaq Ahmed R/o: House No. 31/1, Ward No. 1, Mehrauli, New Delhi 2. Idrish S/o Mr. Ashaq Ahmed R/o: House No. 31/1, Ward No. 1, Mehrauli, New Delhi
REPRESENTED BY	Mohd. Naseem Khan, Ld. counsel for both the accused persons.

Date of Offence	11.05.2025
Date of FIR	12.05.2025
Date of Charge-sheet	08.08.2025
Date of Framing of Charges	01.12.2025
Date of commencement of evidence	05.02.2026
Date of which judgment is reserved	09.07.2026
Date of the Judgment	09.07.2026

Final Order	Acquittal
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Accused Details:

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offence charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr.P.C.
--	Shahabuddin @ Amjad	13.05.2025		109(1)/3(5) BNS	Acquittal	—	—
--	Idrish	13.05.2025		109(1)/3(5) BNS	Acquittal	—	—

JUDGEMENT

01. The charge-sheet was filed against both the accused persons i.e. **Shahabuddin @ Amjad and Idrish** for the offences punishable under Section 109(1) read with Section 3(5) of BNS.

02. The facts of the case in brief are that, the present case FIR was registered on the statement of Sohail Mohd. (hereinafter to be referred as the complainant). As per the FIR, on 11.05.2025 at about 11:30 pm, the maternal uncle of the complainant parked his bike outside his house i.e. H. No. 31/1, Ward No. 1, Mehrauli. In the meantime, the mother of

the accused persons tried to deflate tyre of the motorcycle being resisted by maternal uncle of the complainant. In the meantime, both the accused came there and started quarrel with the complainant and his maternal uncle. The accused Amjad brought a knife from his house and attacked upon the injured Amin and inflicted injuries on his chest and hand. Thereafter, the accused Idrish went inside the house and brought wooden stick and hit on head of the complainant. The injured was taken to the hospital and was medically examined. On the basis of the aforesaid allegations, the present case FIR was registered and after investigation, the present chargesheet was filed against the accused persons.

03. On considering the charge-sheet and the material available on record, *prima facie* case was made out against both the accused persons and accordingly, vide order dated 01.12.2025, charge was framed against them for the commission of offence punishable under Section 109(1) read with Section 3(5) of BNS, to which they pleaded not guilty and claimed trial.

04. In order to prove its case, prosecution has examined Seven (07) witnesses.

PW-1 Sohail Mohammad and PW-2 Amin Khan are the injured persons. The FIR was registered on the statement of PW-1. They have deposed that on 11.05.2025 at about 11:00 pm, they came to their residence at H. No. 31/1, Ward No. 1, Mehrauli and parked the motorcycle in the gali. Some boys asked to remove the motorcycle and in the meantime, 3-4 boys started beating them. They further deposed that some sharp edge article was used to attack upon PW-2 and he

sustained injuries on his chest and arm. PW -1 had sustained injury on his head. The injured were taken to the Madan Mohan Malviya hospital and from there they were referred to Safdarjung Hospital. The police recorded the statement of PW-1 Sohail Mohammad Ex.PW1/A. PW-1 is the witness of site plain Ex.PW1/B.

PW-1 and PW-2 were cross-examined by Ld. Addl. PP with the permission of the court and they denied that both the accused had attacked upon them and caused injuries using knife and danda. The witnesses failed to identify the accused persons as assailants.

PW-3 Aash Mohd and PW-6 Azad Ali are real brothers of the injured Amin, PW-4 Raza Mohd/cousin brother of injured Amin and PW-5 Amit Kumar Mandal (brother in law of the injured/PW-2) are eye witnesses of the incident and deposed that at about 11.30 pm they came out of the house in the gali upon hearing noise. The witnesses denied to have seen the quarrel in which the injured person had sustained injuries.

In the cross examination by Ld. Addl. PP, all the witnesses denied to have seen the incident.

PW-7 SI Manish is the investigating officer and deposed that on the intervening night of 11/12.05.2025, he was on emergency duty. One PCR call of quarrel recorded vide DD No. 176A was assigned to HC Rohitash. On 12.05.2025, one information of MLC was recorded vide DD No. 19A and same was assigned to ASI Mukesh. He further deposed that vide DD No. 24 A and 25A, the aforesaid calls were assigned to him for inquiry. Thereafter, the witness reached to the spot i.e. H. No. 31/1, Ward No. 1, Mehrauli and came to know that the injured had already been taken to Safdarjung Hospital. The witness collected the

MLC of both the injured from Madan Mohan Malviya Hospital and thereafter, he went to Safdarjung Hospital. The injured Amin Khan was opined to be unfit for statement. The IO recorded the statement of the complainant Ex.PW1/A. On his request, the crime team and FSL team inspected the scene of crime and collected the exhibits from there. The IO seized the exhibits vide seizure memo Ex.PW7/A. The IO got the FIR registered by preparing the tehrir Ex.PW7/B. The witness prepared the site plan Ex.PW1/B. The IO seized two motorcycles from the spot vide separate seizure memos Ex.PW7/C and Ex.PW7/D. He further deposed that on the next day, he received a secret information that both the accused persons would be present in Sanjay Van. The witness alongwith Ct. Gokul Meena, Ct. Dharampal accompanied with the secret informer went to Sanjay Van and both the accused persons were found present there. The IO arrested them vide arrest memo Ex.PX-9 and Ex.PX-10 and the corresponding personal search are Ex.PX-11 and Ex.PX-12. The IO recorded their disclosure statement Ex.PW7/G and Ex.PW7/H. Both the accused person got recovered the danda and scissor being used in the offence. The accused Idrish got recovered one wooden danda from his house and same was seized vide seizure memo Ex.PW7/I and the IO prepared sketch of the said danda Ex.PW7/J. The accused Shahabuddin got recovered scissor from a storage space from his house and IO seized it vide seizure memo Ex.PW7/K and the witness prepared sketch of the same Ex.PX-17. The IO prepared the separate recovery site plan of danda and scissor Ex.PW7/L and Ex.PW7/M respectively. IO prepared pointing out memo Ex.PW7/N.

05. In course of the trial, both the accused persons have admitted documents u/s 330 BNSS and in pursuance thereof, corresponding

witnesses were dropped. The admitted documents are; FIR (Ex. PX-1), endorsement (Ex. PX-2), certificate under Section 65B Indian Evidence Act (Ex. PX-3), the Scene of Crime Reports (Ex. PX-4 and Ex. PX-5), medical examination of injured Sohail (Ex. PX-6) and injured Amin (Ex. PX-7), Seizure memo of clothes of the accused Shahabbuddin (Ex. PX-8), Arrest memo of accused Idrish and Shahabbuddin @ Amjad (Ex. PX-9 and Ex. PX-10), Personal search memos of accused Idrish and Shahabbuddin @ Amjad (Ex. PX-11 and Ex. PX-12), DD No. 19A (Ex. PX-13), DD No. 24A (Ex. PX-14), DD No. 25A (Ex. PX-15), Seizure Memo of wooden stick (Ex. PX-16) and scissor (Ex. PX-17), Panchnama / Superdarinama of the vehicles (Ex. PX-18 & Ex. PX-19).

06. On completion of the prosecution evidence, the statements of both the accused were recorded under Section 353 BNSS by putting all the incriminating circumstances of the prosecution evidence. The accused persons denied all the incriminating circumstances which came in the prosecution evidence. The accused persons pleaded innocence and claimed false implication. The accused persons opted not to lead defence evidence and accordingly defence evidence was closed.

07. I have heard the arguments advanced by Ld. Addl. PP and Ld. Counsel for the accused.

08. The entire prosecution case is based upon the deposition of the injured person and the eye witnesses. The injured person and the eye witnesses did not support the case of the prosecution. The injured person i.e. PW-1 and PW-2 deposed that they were attacked by 3-4 unknown persons and they cannot identify them. The injured and eye

witnesses failed to identify the accused persons as assailants despite being pointed out by Ld.Addl. PP. It is pertinent to note that as per the FIR, the accused persons were known to the witnesses and they were specifically named in the FIR.

09. On the aspect of appreciation of the testimony of a hostile witness, the Apex Court in the landmark judgement of ***Khujji @ Surendra Tiwari vs The State Of Madhya Pradesh 1991 SCR (3) 1***, observed as follows:

“.....We have given our anxious consideration to the submissions made by the learned counsel for the contesting parties. The fact that an incident of the type alleged by the prosecution occurred on May 20, 1978 at about 8.20 p.m. is not seriously disputed nor is the location of the incident doubted. The evidence of PW 3 Kishan Lal and PW 4 Ramesh came to be rejected by the trial court because they were declared hostile to the prosecution by the learned Public Prosecutor as they refused to identify the appellant and his companions in the dock as the assailants of the deceased. But counsel for the State is right when he submits that the evidence of a witness, declared hostile, is not wholly effaced from the record and that part of evidence which is otherwise acceptable can be acted upon. It seems to be well settled by the decisions of this Court Bhagwan Singh v. State of Haryana, [1976] 2 SCR 921; Rabinder Kumar Dey v. State of Orrisa, [1976] 4 SCC 233 and Syed Iqbal v. State of Karnataka, [1980] 1 SCR 95 that the evidence of a prosecution witness cannot be rejected in toto merely because the prosecution chose to treat him as hostile and cross-examined him. The evidence of such witnesses cannot be treated as effaced or washed off the record altogether but the same can be accepted to the extent their version is found to be dependable on a careful scrutiny thereof.....”

10. In a criminal trial, the identity of the accused persons is of vital importance. It is the settled preposition of law that dock identification of the accused in the court by the witness is a substantive piece of

evidence. In the present case, the injured persons and the eye witnesses failed to identify the accused persons. The eye witnesses denied to have witnessed the incident of quarrel. There is no evidence on record to establish the identity of the accused persons as the assailants in this case. Moreover, the alleged weapon of offence i.e. scissor being recovered by the police was not sent to the FSL. Furthermore, the FIR records that the injury caused by using knife and no such knife was recovered.

11. In a criminal trial, the onus remains on the prosecution to prove the guilt of accused beyond all reasonable doubts and benefit of doubt, if any, must necessarily go in favour of the accused. It is for the prosecution to travel the entire distance from may have to must have. If the prosecution appears to be improbable or lacks credibility the benefit of doubt necessarily has to go to the accused.

12. In **Sujit Biswas vs. State of Assam, (2013) 12 SCC 406**, it was held that suspicion, however grave, cannot take the place of proof and the prosecution cannot afford to rest its case in the realm of “may be” true but has to upgrade it in the domain of “must be” true in order to steer clear of any possible surmise or conjecture.

13. Further, in **Jose vs. Sub Inspector of Police, Koyilandy & Ors., (2016) 10 SCC 519**, the Supreme Court held as under:-

“In a criminal prosecution, the court has a duty to ensure that mere conjectures or suspicion do not take the place of legal proof and in a situation where a reasonable doubt is entertained in the backdrop of

the evidence available, to prevent miscarriage of justice, benefit of doubt is to be extended to the accused. Such a doubt essentially has to be reasonable and not imaginary, fanciful, intangible or non-existent but as entertainable by an impartial, prudent and analytical mind, judged on the touch stone of reason and common sense. It is also a primary postulation in criminal jurisprudence that if two views are possible on the evidence available, one pointing to the guilt of the accused and the other to his innocence, the one favourable to the accused ought to be adopted.”

14. To summarize, not a scintilla of evidence has come on record against the accused for offence u/s 109 (1) BNS r/w Section 3(5) of BNS, in view of hostile testimony of the eyewitness. Hence, I have no hesitation in holding that prosecution has failed to prove guilt of both the accused beyond all reasonable doubts. Therefore, accused persons deserve to be acquitted in the instant case.

15. ***Accordingly, accused Shahabuddin @ Amjad and Idrish stand acquitted of the charges under Section 109 (1) r/w Section 3(5) BNS. Both the accused persons be released from custody, if not required in any other case.***

16. File be consigned to record room after due compliance.

**Announced in Open Court,
On 09th of July, 2026.**

**(Pawan Kumar)
Additional Sessions Judge-06
South/Saket Courts/09.07.2026**

APPENDIX

1. Chart of witnesses examined on behalf of the prosecution.

Prosecution witness no.	Name of witness	Description
1.	Sohail Mohammad	Injured/complainant
2.	Amin Khan	Injured
3.	Aash Mohd.	Eye witness
4.	Raza Mohd.	Eye witness
5.	Amit Kumar Mandal	Eye witness
6.	Azad Ali	Eye witness
7.	SI Manish	Investigating Officer

2. Chart of exhibited documents.

Exhibit no.	Description of the exhibits	Proved by/ Attested by
Ex.PW1/A	Statement of the complainant	PW-1 & PW-7
Ex.PW1/B	Site plan	PW-1 & PW-7
Ex.PW2/X1	Statement of injured Amin Khan	PW-2
Ex.PW3/X1	Statement of witness Aash Mohd.	PW-3
Ex.PW4/X1	Statement of witness Raza Mohd.	PW-4
Ex.PW5/X1	Statement of witness Amit Kumar Mandal	PW-5
Ex.PW6/X1	Statement of witness Azad Ali	PW-6
Ex.PW7/A	Seizure memo of exhibits collected by the Crime Team and FSL Team	PW-7

Ex.PW7/B	Tehrir	PW-1 & PW-7
Ex.PW7/C & Ex.PW7/D	Seizure memo of motorcycles	PW-7
Ex.PW7/E & Ex.PW7/F	Disclosure statement of both the accused persons	PW-7
Ex.PW7/G & Ex.PW7/H	Supplementary disclosure statement of both the accused persons	PW-7
Ex.PW7/I & Ex.PW7/J	Seizure memo and sketch of wooden danda respectively.	PW-7
Ex.PW7/K & Ex.PX-17	Seizure memo and sketch of scissor respectively.	PW-7
Ex.PW7/L & Ex.PW7/M	Recovery site plan of danda and scissor	PW-7
Ex.PW7/N	Pointing out memo	PW-7

3. Chart of Material objects exhibited in evidence.

Material object no.	Description of the exhibits	Proved by/ Attested by
Wooden Danda	(Identity not disputed)	PW-7
Scissor	Ex.P-1	PW-7

Certified that the judgment including appendix contains 11 pages and each page bears my signature.

(Pawan Kumar)
Additional Sessions Judge-06
South/Saket Courts/09.07.2026