
(2025) 12 DEL CK 0014

Delhi HC

Case No: Criminal Appeal No.755 Of 2018

Sachin @ Atul

APPELLANT

Vs

State

RESPONDENT

Date of Decision: Dec. 20, 2025

Acts Referred:

- Code of Criminal Procedure, 1973- Section 313, 374(2), 428
- Indian Penal Code, 1860- Section 34, 392, 394, 397, 411

Hon'ble Judges: Manoj Kumar Ohri, J

Bench: Single Bench

Advocate: Archit Upadhayay, Muskan Aggarwal, Shubhi Gupta

Final Decision: Dismissed

Judgement

Manoj Kumar Ohri, J

1. The present appeal has been filed under Section 374 (2) Cr.P.C against the judgment of conviction dated 09.01.2017 and the order on sentence dated 20.01.2017 passed by learned Additional Sessions Judge, North East District, Karkardooma Courts in SC No. 74/2016 in proceedings arising out of FIR No. 64/2016 registered under Sections 392/394/397/411/34 IPC at P.S New Usmanpur.

Vide the impugned order on sentence, the appellant was sentenced to undergo RI for 7 years along with payment of fine of Rs.3,000/-, in default whereof he would undergo 6 months SI, for the offence punishable under Sections 392/34 read with 397 IPC. The fine amount was directed to be paid to the complainant/victim as compensation and the benefit under Section 428 Cr.P.C was granted to the appellant.

2. The appellants latest nominal roll on record reflects that he has completed the substantive sentence imposed upon him in the present case and was released from jail upon payment of fine at jail gate on 25.06.2021. A status report under the

signatures of the concerned DCP has been handed over in Court, stating that efforts were made to reach the appellant at his given address and inquiries were made even from neighbors; however, the appellant could not be traced. A perusal of proceedings shows that the appellant has remained untraceable since 2022. Keeping in view the import of the decision in Bani Singh & Ors. Vs. State of U.P. (1996) 4 SCC 720, arguments on merits are heard.

3. The case of the prosecution is that on 16.01.2016 at about 2.00 PM, the complainant/Pappu was urinating on a road near a broken wall leading to Khajuri Khas, when a boy (the appellant herein) came and pushed him down a slope. He rolled down the said slope, and two other boys were standing there, waiting for him. The appellant came, pointed a knife-type weapon towards him, and robbed him of Rs.200/-. The two other boys who were standing there caught hold of him, assaulted him, and took out his mobile phone as well as cash of Rs.1,100/- from his pant pocket and started running. The complainant raised alarm, gave chase to the boys and, with the help of public persons, managed to catch the appellant. The appellant was beaten up by the public persons and the complainant, who himself had suffered injuries at the hands of the appellant as well as his associates. Someone called PCR and the complainant as well as the appellant were removed to the hospital.

DD no. 42B was registered at P.S. New Usmanpur and assigned to SI Dharmender, who along with Ct. Gagan reached the spot of the incident, learnt that the parties had already been removed to the hospital, and then reached the hospital. At the said hospital, PCR In-charge HC Satya Pal handed over custody of the appellant to SI Dharmender along with the weapon of offence, which was a blade-type knife, and cash of Rs.200/-, stating that it was recovered from the appellant during his search. SI Dharmender collected the MLC of the injured complainant Pappu and recorded his statement. Based on this statement, rukka was prepared and the concerned FIR was registered thereafter against the appellant. A sketch of the recovered weapon was prepared and the same as well as the cash of Rs.200/- recovered from the appellant were seized. The appellant was formally arrested; however, his associates, i.e., the other two assailants, could not be traced. Upon completion of investigation, the chargesheet was filed. The Trial Court framed charges against the appellant under Sections 392/34 and 397 IPC, to which he pleaded not guilty and claimed trial.

4. The prosecution examined 9 witnesses in support of its case. The injured complainant/Pappu was examined as PW-5. The relevant PCR In-charge at the time of the incident, HC Satya Pal, was examined as PW-1 and deposed about reaching the spot of the incident upon receipt of information about a quarrel, the appellants search, and removal of the complainant and the appellant to the hospital. Dildar Khan, examined as PW-6, deposed about witnessing the complainants altercation with the appellant and his associates, as well as about public persons catching hold of the appellant by overpowering him. PW-9/SI Dharmender, PW-8 Ct. Gagan who joined the investigation with him, and PW-7/SI Sonal Raj are the police officials

responsible for carrying out a majority of the investigation in the present case. The remaining witnesses are formal police witnesses.

5. The injured complainant/Pappu, deposing as PW-5, stated that he was selling guavas on his rehri on the date of the incident, and when he went to urinate near a broken wall beside the road, one person came from behind and pushed him. He fell down on the road, and the said person showed him a knife and took out a sum of Rs.1,100/- from his pant pocket and a sum of Rs.100/- from the front pocket of his shirt. He identified the appellant as the assailant who had robbed him at knifepoint. The witness further stated that two of the appellants associates were present at some distance, and they too gave beatings to him. The said associates took out his mobile phone, and thereafter, the three assailants started running away from the spot. He chased them and raised alarm. Some public persons nearby also chased the assailants along with him and one of the three assailants i.e., the appellant, was overpowered. Someone made a call at number 100, and the police reached the spot of the incident. Public persons had given beatings to the appellant, and he had sustained injuries. As a result, the appellant was taken to the hospital by the police. The witness, too, was taken to the hospital along with the appellant as he had also sustained injuries. He exhibited his statement recorded by the police as Ex. PW-5/A. He stated that the knife was made of steel.

In cross-examination by the learned APP for the State, he admitted the suggestion that the appellant had taken out a sum of Rs.200/- from the witness shirt, whereas it was one of the appellants two associates who had taken out the sum of Rs.1,100/- from his pant pocket. On the recovered weapon (Ex. P-2), i.e., a knife with a steel blade, being produced in Court, he stated that a similar knife having same shape and size was used by the appellant.

In cross-examination by the appellant, he reiterated that it was the appellant who had pushed him from behind. He stated that he had seen the appellant when he fell down on the slope near the wall. When he was pushed, he fell about 5-6 feet ahead towards the slope. The two associates of the appellant came near him when he stood up. He stated that the PCR officials took him to the hospital as he had sustained a fracture injury on his arm. He saw Dildar Khan (PW-6) in the crowd gathered at the spot when public persons were beating the appellant. Dildar immediately came to the witness as soon as he saw him and made a PCR call.

6. Dildar Khan was examined as PW-6. He stated that he was running his fruit rehri on 16.01.2016 and at about 2:00 PM, he noticed a quarrel going on nearby where three boys were grappling with one person. When the said one person raised alarm, the witness and other public persons chased the three boys who were attempting to flee. One of them was overpowered by public persons in his presence. He identified the appellant as the assailant who was overpowered by the public. He borrowed the phone from someone and made a call at number 100 about the incident. He deposed that the complainant had told him that the appellant had used a knife

during robbery and robbed a sum of Rs.1,300/- from him. He also stated that the PCR police officials had taken the appellant to the hospital by PCR vehicle along with the complainant.

In cross examination, he stated that he knew the complainant as the complainant was his room partner one year prior to the incident. He denied the suggestion that the complainant had called him to the spot and volunteered that he was going somewhere with his rehri when he saw the quarrel in question. He stated that at the time of the incident, the complainant also used to sell fruits but nowadays he does not do any work because of the injuries he sustained on his arm during the incident in question. He stated that he had seen the three assailants giving beatings to the complainant.

7. The appellants statement under Section 313 Cr.P.C. was recorded, wherein he claimed innocence and alleged false implication. He generally denied all the allegations put to him and stated that he was consuming a snack near the spot of the incident and upon seeing a quarrel break out, rushed to the spot, whereafter he was overpowered by public persons and produced before the police. He stated that he was falsely booked in the present case. However, he did not lead any defence evidence.

8. I have heard the learned counsels for the parties and gone through the record.

9. The injured complainant/PW-5 is the star witness of the prosecution, and he has given a clear, cogent, and consistent account of the incident in question. His testimony stands corroborated by PW-6/Dildar Khan, who deposed that he saw three persons give beatings to the complainant and that one of the said three persons was overpowered and caught by public persons. He identified the appellant herein as the person who was overpowered by public persons and apprehended at the spot itself. He also supported the prosecution version inasmuch as he corroborated that a knife was recovered from the appellant and total of Rs.1,300/- were robbed from the possession of the complainant besides one mobile phone.

10. As such, both the key witnesses have duly proved the incident in question. Considering the credible and reliable testimony of the injured complainant/PW-5 as well as the eyewitness PW-6, the immediate reporting of the crime and the arrest of the appellant, the recovery of the weapon of offence from the appellants person, this Court has no hesitation in holding that the offences under Sections 392/34 read with 397 IPC stand established beyond reasonable doubt. The impugned judgment and order on sentence are upheld, and the present appeal is dismissed.

11. A copy of this judgment be communicated to the Trial Court.