2025 INSC 728

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 5304 OF 2024

HAKIM ... APPELLANT

VERSUS

STATE OF NCT OF DELHI AND ANR. ... RESPONDENTS

WITH

CRIMINAL APPEAL No. 5303 OF 2024

J U D G M E N T

AUGUSTINE GEORGE MASIH, J.

1. These two appeals i.e., Criminal Appeal No. 5304 of 2024 and Criminal Appeal No.5303 of 2024 assail concurrent findings of conviction under Section 326A of the *Indian Penal Code, 1860* ("IPC 1860") and sentence thereof against Hakim ("Accused No.1") and Umesh ("Accused No.2") respectively Appellants herein, by the learned Additional Sessions Judge, Patiala House Courts, Delhi vide Order dated 29.01.2020 and by the High Court of Delhi vide Judgment dated 13.10.2022 ("Impugned Judgment"). The Appellants were sentenced to undergo rigorous imprisonment for life, and a fine of INR 1,00,000/- (Rupees One Lakh only) and in default, simple imprisonment for a period of one year.

2. Appellants, initially moved Petitions for Special Leave to Appeal (Criminal) No(s). 5874 of 2023 and 11118 of 2023 respectively, and delay was condoned in both the said petitions, *albeit* separately, and this Court issued notice only on the quantum of sentence. As the proceedings progressed, it was directed that the victim in the instant case, be also made a party and was accordingly impleaded as Respondent No.2 ("Respondent-Victim"). However, as the said petitions were taken up on 14.05.2024, the assertions made by the erstwhile petitioners implied that they intended to even dispute the injuries caused to the Respondent-Victim. Thereafter, while reserving the judgments, leave to appeal was granted.

3. The incident, as alleged by the prosecution, is that on 08.06.2014, at about 11:30 p.m., Bablu ("Complainant"), husband of the Respondent-Victim, gave a written complaint at the Govind Nagar Police Station, Mathura, Uttar Pradesh which resulted into registration of FIR No.130 of 2014 dated 08.06.2014 ("FIR"), bearing Crime No. 228 of 2014.

4. As per the complaint, at 08:00 p.m. on 08.06.2014 the Respondent-Victim (PW-4) was heading back home, subsequent to her visit to the temple of Galteshwar Mahadev, along with his sister-in-law, Rajjo Devi (PW-6). It is stated that the sister-in-law was a few steps behind the Respondent-Victim when

both the Appellants along with Gyani ("Accused No. 3") to take revenge blocked the way of the Respondent-Victim near the Govind Nagar railway crossing and told her that on account of she having moved a complaint against them to the police authorities earlier, she will face the consequences. Accused No.1 – Appellant and Accused No.3 held the Respondent-Victim while Accused No.2 – Appellant, poured acid over her and then ran away from the spot. Respondent-Victim started screaming in agony instantly. Rajjo Devi (PW-6) who was following the Victim took her to hospital and got her admitted. All the accused being their neighbours at Laxmi Nagar under the jurisdiction of Krishna Nagar Police Chowki of Kotwali Police Station, Mathura were known to each other.

5. Having recorded the statements of the Respondent-Victim (PW-4) and Rajjo Devi (PW-6) on 09.06.2014 and 11.06.2014 respectively, the Investigating Officer on completion of investigation filed the Final Report under Section 173 of the Code of Criminal Procedure, 1973 ("CrPC 1973"). Subsequent to the cognizance having been taken and on account of all the accused claiming to be not guilty, case was moved for trial before the District and Sessions Court, Mathura, Uttar Pradesh for offences under section 326A read with 34 IPC 1860.

6. During the pendency of the trial, at the behest of the Complainant, Transfer Petition (Criminal) No. 176 of 2015 was moved before this Court, seeking transfer of the trial to Delhi, which was allowed vide Order dated 01.09.2015.

7. A total of 14 witnesses were examined by the prosecution, the statements of the accused under Section 313 CrPC 1973 were recorded and 03 witnesses in defence were produced.

8. The Trial Court proceeded to convict the accused and pass the sentence as follows:

Name of the Accused	Position before us	Convicted under Section(s)	Sentence	Other details (Common)
Hakim	Appellant in Crl. Appeal No.5304/24 – Accused No.1	326A r/w 34 IPC 1860	Rigorous Imprisonment for life + fine of INR 01 Lakh i/d Simple Imprisonment for 01 year	Benefit of 428 CrPC 1973 to all accused. Out of the total fine, INR 1.25 Lakhs to be paid to the Respondent-Victim as compensation Convicts to be transferred to Tihar Jail, Delhi
Umesh	Appellant in Crl. Appeal No.5303/24 – Accused No.2	326A r/w 34 IPC 1860	Rigorous Imprisonment for life + fine of INR 01 Lakh i/d Simple Imprisonment for 01 year	
Gyani	Not a party – Accused No.3	326A r/w 34 IPC 1860	Rigorous Imprisonment for 10 years + fine of INR 50,000/- i/d Simple Imprisonment for six months	

9. Assailing the Trial Court Judgment, all three convicts moved in appeal before the High Court of Delhi through Criminal Appeal No 209 of 2020 (by Accused No.1 and Accused No.2) and Criminal Appeal No. 365 of 2021 (by Accused No.3). The Division Bench affirmed the findings on conviction of the Trial Court by observing that the guilt of all the accused/convicts was proved beyond reasonable doubt and duly supported by the evidence on record. The sentence *qua* Accused Nos.1 and 2 (appellants herein) was confirmed but qua Accused No.3 the same was reduced to 10 years from life imprisonment vide Impugned Judgment dated 13.10.2022. Furthermore, it was observed that the Respondent-Victim deserves a compensation of at least INR 5,00,000/- (Rupees Five Lakhs) and balance amount thereof (subject to what is received from the convicts) shall be borne by the State of Uttar Pradesh under Uttar Pradesh Victim Compensation Scheme, 2014 as the offence was committed within the jurisdiction of State of Uttar Pradesh.

10. Aggrieved by the Impugned Judgment of the High Court of Delhi, the two Appellants have moved this Court as iterated above.

11. Before we proceed further in this matter, let us first peruse and consider the jurisprudence, as culled out over a period of time, on the scope and ambit of

interference of this Court in a criminal appeal arising out of a Special Leave to Appeal Petition, where concurrent findings have been returned by the courts below, as in this case.

12. This Court in ***Mst Dalbir Kaur and Others v. State of Punjab***[1], while dealing with a petition under Article 136 of the Constitution of India, seeking interference in concurrent findings of conviction, reassessment of evidence and credibility of witnesses, reiterated the ratio as laid down by this Court in ***Pritam Singh v. State***[2] and observed that this Court would interfere only when exceptional and special circumstances exist, which result in substantial and grave injustice having done to the accused. Furthermore, also relying on other decisions of this Court, the Bench went on to summarize the principles governing interference of this Court in a criminal appeal by special leave as follows: (1) it does not interfere with concurrent findings based solely on evidence appreciation, even if another view is possible; (2) it avoids reappraisal unless there's legal or procedural error, misreading or inconsistency in evidence, e.g., clear contradiction between ocular and medical evidence; (3) it refrains from re-evaluating credibility of witnesses; (4)

[1] (1976) 4 SCC 158
[2] 1950 SCC 189

interference occurs where judicial process or natural justice is violated, causing prejudice; (5) it intervenes if findings are perverse or based on no evidence. Adding to the same, it clarified that this Court only ensures that the High Court has correctly applied these principles.

13. Strengthening this jurisprudence on interference, the decision in ***Bharwada Bhoginbhai Hirjibhai v. State of Gujarat***[3] observed that a concurrent finding of fact cannot be reopened in an appeal by special leave unless it is shown that the finding is based on no evidence; or that it is perverse, being such that no reasonable person could have arrived at, even if, the evidence is taken at face value; or that the finding is founded on inadmissible evidence which, if excluded, would negate or seriously impair the prosecution case; or that vital evidence favouring the convict has been overlooked, disregarded, or wrongly discarded. Furthermore, while dealing with the question of reappraisal or reappreciation of the evidence in the context of minor discrepancies, it observed that minor discrepancies in a witness's testimony should not be given undue importance for several reasons. A witness cannot be expected to

[3] (1983) 3 SCC 217

have a photographic memory or recall every detail, as the mind does not function like a video recorder. Witnesses are often overtaken by unforeseen events, and their faculties may not register all particulars. Observational abilities vary among individuals. People generally recall only the essence of conversations, not exact words. Time estimations are often rough guesses. Rapid events can confuse memory. Even truthful witnesses may, under court pressure or cross-examination, mix up facts or unconsciously fill gaps out of nervousness or fear.

14. By the same token, another Bench of this Court in ***Murugan v. State of Tamil Nadu***[4] reiterated the precedents, observing that it is a well-established legal principle that when the lower courts have returned concurrent findings of guilt against an accused based on proper appreciation of the evidence, this Court, while exercising jurisdiction under Article 136 of the Constitution of India, ordinarily refrains from re-evaluating the evidence afresh. Interference is warranted only if it is clearly demonstrated that the courts below failed to consider material evidence or that their conclusions suffer from perversity, irrationality, or other serious

[4] (2018) 16 SCC 96

infirmities rendering the findings unreasonable or unjustified in law. In the absence of such grounds, the concurrent conclusions are not lightly disturbed by this Court.

15. With the above guiding principles in mind, we called upon the counsel for the parties to put forth their respective submissions.

16. Taking exception of the Impugned Judgment, learned Senior Advocate on behalf of the Appellants has pressed that they have been falsely implicated and that the prosecution has failed to prove the ingredients so as to attract the offence under Section 326A IPC 1860. To buttress this aspect, he submits that there is no claim of eye injury in the FIR or the statement of the Respondent-Victim or the medical record. Thereby, the prosecution has failed to establish that the claimed eye injury was result of pouring of acid on the Respondent-Victim by Accused No.2. Rather, reference to multiple hospitals by the Respondent-Victim was an attempt to obtain a suitable medical report with respect to the eye injury. Reference has been made to the statement of DW-2, who gave statement to the effect that he had seen the eye of the Respondent-Victim to be defective prior to the incident.

17. It was further contended that in order to prove the claim that an acid or a chemical was poured on the Respondent-Victim, the prosecution was to show the source of procurement of the said substance, which it failed. In such a situation, the conviction under Section 326A IPC 1860 is unsustainable in law. Alleged burns could, therefore, be caused by hot water. Arguing that such lapses are to the benefit of the accused, reliance was placed on decisions of this Court in ***State of Uttar Pradesh v. Wasif Haider and Others***[5]***, Kailash Gour and Others v. State of Assam***[6]***, Sunil Kundu and Another v. State of Jharkhand***[7]***, Karan Singh v. State of Haryana and Another***[8] and ***Dayal Singh and Others v. State of Uttaranchal***[9].

18. The learned Senior Advocate further went on to assert that there is an inordinate delay of 11 days in recording statements of witnesses PW-4 and PW-6, creating a serious doubt as per observations in ***Shahid Khan v. State of Rajasthan***[10]**,** and ***Vijaybhai Bhanabhai Patel v. Navnitbhai Nathubhai Patel and Others***. Moreover, in the site plan prepared at the instance of PW-4, the presence

[5] 2019(2) SCC 303
[6] 2012(2) SCC 34
[7] 2013 (4) SCC 422
[8] 2013 (12) SCC 529
[9] 2012 (8) SCC 263
[10] 2016 (4) SCC 96

of PW-6 is not indicated, therefore she is not an eye-witness. Apart from improvements in the testimony of Respondent-Victim, the prosecution has failed to establish the spot of occurrence owing to contradiction in the statement of the Respondent-Victim and the site plan so prepared. Even further, as per PW-6, it was the police who took Respondent-Victim to the hospital, which does not match with the contents in the complaint.

19. Learned Senior Advocate on behalf of the Appellants further contented that the observation to the effect that the Investigating Officer was not bound to follow the Standard Operating Procedure prescribing detailed methodology *vis-à-vis* an acid attack case is not good in law. It is further submitted, while drawing equivalence with Standard Operating Procedures under the Narcotic Drugs and Psychotropic Substances Act, 1985, that such stringent procedures are mandatory in nature as held by this Court in ***Noor Aga v. State of Punjab and Another***[11] to safeguard the rights of the accused.

[11] 2008 (16) SCC 417

20. Learned Counsel states that Accused No.1 is a army personnel, aged above 70 years, and it is improbable for him to having been an accomplice in the said act.

21. On the basis of the above submissions, prayer has been made to allow the appeals and set aside the impugned judgments.

22. On the other hand, learned Senior Advocate appearing on behalf of the Respondent No.1 ("Respondent-State") and Respondent-Victim have supported the judgments of the Courts below.

23. Counsel on behalf of Respondent-Victim has referred to the evidence led by the prosecution to counter the submissions put forth by the Senior Counsel for the Appellants. He demolished the arguments of the Appellants and then contended that the courts below, while passing their respective judgments have considered all material evidence on facts and law laid down by this Court, and therefore, no interference is called for on the conviction and sentence as imposed on the Appellants. The appeals are devoid of merit deserving dismissal.

24. We have considered the arguments rendered by the parties before us.

25. The submissions, as have been made by the learned Senior Advocate for the Appellants, have to be considered and dealt with by restricting ourselves within the parameters and boundaries as laid down in the above referred judgements while navigating the jurisdictional field of interference.

26. Injury of the eye of the Respondent-Victim and the cause thereof, which stands questioned, requires to be dealt with first. As per the evidence led by the prosecution, different Doctors appeared as prosecution witnesses who had treated the victim on various occasions i.e., PW-5, PW-8, PW-9, PW-10, PW-11, PW-12 and PW-14. All of them have testified that the injuries on the skin and the deformity of the face, including loss of vision, *albeit* not fully i.e., 90% in the left eye of the Respondent-Victim were the result of serious Chemical Burn injuries. The doctors supported the prosecution's case on this count as well with regard to the cause and the injuries itself. Prosecution has produced and proved the photograph on the Aadhaar Card of the Respondent-Victim where it is reflected that she had normal eyes and face. Therefore, this plea of the Appellants fails.

27. The question of the nature and contents of the alleged substance used and thrown on the victim would not arise as the possibility of recovery of the same does

not arise as the incident was committed at railway crossing adjacent to the railway line where all the accused ran away after committing the offence. However, chemical burns on the person of the Respondent-Victim are substantiated from testimonies and medical evidence as referred to above. This ground also fails.

28. The explanation relating to the delay in recording of statement of Respondent-Victim (PW-4) and PW-6 stands explained and substantiated on the basis of the medical documentary evidence. Further, it is stated that their family was under constant threat because of which all had to leave Mathura to save and protect themselves apart from the aspect of medical treatment of the victim. The fact that the statements were recorded immediately on their return to Mathura by the police is substantiated.

29. As to the veracity of the testimony of PW-6 as an eye-witness is concerned, suffice it to say that she was merely 10 paces away from the site of occurrence and thus was well positioned not only to hear the conversation but also to witness the specific act and role of the Appellants and third accused accosting and assaulting the Respondent-Victim before they ran away from the spot.

30. With regard to the non-following of the Standard Operating Procedure by the Investigation Officer. It is enough to mention here that the same are procedural guidelines and not mandatory. The prosecution has followed due procedure and measures in the investigation. Hence, no interference is required by this Court as far as the said contention is concerned.

31. On the submission as is being sought to be projected by the Counsel regarding improbability of Accused No.1 of having committed the act as an accomplice is concerned, it may be observed that the age has no bearing on the crime. Even further, the Appellant had regularly been appearing before the Trial Court when it was observed that he was maintaining good health then. The plea of improbability has no legal force in the presence of eye-witnesses and their testimony. This leads us to the non-acceptance of this submission as well of the Appellant's counsel.

32. In the light of the above, the judgements on which reliance have been placed by the Counsel for the Appellants would be of no avail both on facts and law.

33. Having perused and considered the Trial Court Judgment as well as the Impugned Judgment in detail as also the legal position, we find that both the courts below have dealt with the contentions raised by the

Appellants in depth in the right perspective and we are in agreement with the concurrent findings thereof. Moreover, the case-at-hand does not fall within the circumstances permitting, requiring or calling for an interference by this Court, as have been discussed above. The view that the guilt of both, Accused No.1 and Accused No.2, has been proved beyond reasonable doubt is not only a plausible one but established. Hence, we are not inclined to interfere.

34. The decision on conviction of both the Appellants as rendered by the Trial Court and affirmed by the High Court of Delhi, being good in law, is accordingly upheld to the said effect.

35. Having considered the aspect of conviction of the Appellants, we shall now consider the sentence that was awarded by the Trial Court and affirmed by the High Court of Delhi as the senior Counsel for the Appellants has raised the plea for reduction thereof.

36. Learned Senior Counsel for the Appellants has prayed for leniency with regard to the sentence imposed upon them by the Courts below. To the effect of reduction of sentence, reliance is placed on numerous decisions of this Court whereby this Court has taken into account the mitigating circumstances either for reducing the sentence or affirming the reduction by the concerned High Court. These being ***Hem Chand v. State of***

***Haryana*[12]*, State of Punjab v. Manjit Singh and Others*[13]*, Bavo alias Manubhai Ambalal Thakore v. State of Gujarat*[14]*, Ramnaresh and Others v. State of Chhattisgarh*[15], and ***Yogendra alias Jogendra Singh v. State of Madhya Pradesh*[16]**.**

37. We have considered the decisions of this Court as relied upon by the Appellants, apart from others. In ***Jameel v. State of Uttar Pradesh***[17] this Court, while referring to the decision in ***Gurmukh Singh v. State of Haryana*[18]** reiterated the relevant factors while determining sentence of a convict. These include: (a) motive or past enmity; (b) whether the act was impulsive; (c) the accused's intent or knowledge when causing injury; (d) whether death was immediate or occurred later; (e) the injury's gravity and nature; (f) the accused's age and health; (g) if the injury arose in a sudden fight without premeditation; (h) type and size of weapon and force used; (i) accused's criminal history; (j) if death resulted from shock despite non-fatal injury; (k) pending cases; (l) whether within family; and (m) post-incident conduct.

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[12] 1994 (6) SCC 727
[13] 2009 (14) SCC 31
[14] 2012 (2) SCC 684
[15] 2012 (4) SCC 257
[16] 2019 (9) SCC 243
[17] (2010) 12 SCC 532
[18] (2009) 15 SCC 635

38. We have perused the Order on Sentence dated 29.01.2020 passed by the Trial Court, which has been brought on record by the Accused No.1. The Trial Court has duly considered the circumstances at-hand, including the mitigating and aggravating circumstances for all the convicts.

39. As to the Appellants, the Trial Court observing that they are a father-son duo, one being a retired army personnel and the other an advocate respectively, therefore, had aggravated their sentence resulting in life imprisonment with fine. While on the other hand, as to Accused No.3, the fact that he was 19 years old at the time the incidence took place and observing that he had a chance for reformation, the same was taken as a mitigating factor leading to the lesser sentence being imposed upon him i.e. 10 years with fine.

40. On that, the learned Senior Advocate on behalf of the Accused No.1 has pleaded for parity with the Accused No.3, who, while being convicted, was awarded the sentence of rigorous imprisonment for 10 years along with fine of INR 50,000/- and in default or non-payment of the said fine, simple imprisonment for six months. The prayer is based on the similarity of their role and involvement in the offence.

41. Senior Counsel has referred to I.A. No.209652 of 2023 where the Accused No.1 has filed his medical records. It appears, therein, that he is about 73 years old and even the Senior Medical Officer of Central Jail, Tihar has mentioned for the Appellant to be considered as "seriously sick patient" on 24.07.2023. He has multiple ailments, namely, anaemia, PSVT, CAD, Bronchial Asthma, Hypertension, BPH, CKD state-IV, and Epididymo-orchitis with LUTS and therefore, we are conscious of the said fact. He is also under treatment from the Departments of Urology and Nephrology at Safdarjung Hospital, Delhi.

42. Therefore, considering the role in the offence, age and ailments being suffered by the Appellant- Accused No.1, we are inclined to interfere and reduce the sentence and bring it at par with the sentence awarded to the Accused No.3 for his role in holding the Respondent-Victim. The Appellant-Accused No.1 (Hakim) is, thus, sentenced to rigorous imprisonment for 10 years along with fine of INR 50,000/- and in default or non-payment of the said fine, simple imprisonment for six months.

43. The Trial Court Judgment and the Order on Sentence dated 29.01.2020 stands modified to the said effect of the reduced sentence for the Appellant – Accused No.1 (Hakim).

44. As regards the Appellant-Accused No.2 (Umesh), it is observed that being an advocate, he was not only well-read in law but owed a duty to the court being its officer requiring him to conduct with dignity, respect law and fellow beings. Having let down the community as a whole, we are not inclined to interfere with the sentence awarded to him vide the Trial Court Judgment, as affirmed by the Impugned Judgment.

45. In the light of the above, the Criminal Appeal No. 5304 of 2024 preferred by Accused No.1 is partly allowed as mentioned above, while the Criminal Appeal No. 5303 of 2024 preferred by Accused No.2 stands dismissed.

46. Pending application(s), if any, also stand disposed of.

.....J.
[ABHAY S. OKA]

.....J.
[AUGUSTINE GEORGE MASIH]

NEW DELHI;
MAY 19, 2025