



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Reserved on: 26th May, 2025
Pronounced on: 04th August, 2025*

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CRL.A 781/2025

THE STATE

GOVT OF NCT OF DELHI

.....Appellant

Through: Mr. Utkarsh, APP for the State with SI
Randeep P.S. North Rohini.

versus

ARVIND

S/o Sh. Tasvir Singh
R/o B-9/341-342, Sector-5,
Rohini, Delhi

.....Respondent

Through: Mr. Saurabh Kansal, Ms. Pallavi Sharma
Kansal, Mr. Suraj Kumar Jha, Mr. Raghav
Vij, Mr. Pratham Malik and Mr. Ritul
Sharma, Advocates with Respondent in
person.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Appeal under Section 378 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.PC'*) has been filed on behalf of the Appellant/State against the Judgment and Order dated 07.10.2017 vide which the Respondent has been acquitted by the learned ASJ-03, North West: Rohini Courts, New Delhi in Case FIR No. 332/2015 under **Section 186/353/332/34** of the Indian Penal Code, 1860 (*hereinafter referred to as 'IPC'*) registered at Police Station North Rohini.



2. The *case of the Prosecution* is that the Head Constable Rohtash gave a Complaint that on 17.04.2015 at about 02:45 p.m., he along with the Constable Kuldeep, as well as, the QRT Staff, was present on duty on the anti-snatching picket near Parashuram Park, Sector-6, Rohini. At about 02:30 p.m., as they started the checking, one Scooty No. DL 11SH-8022 on which two boys were travelling without helmet at a high speed, came from the direction of Sector-5, Rohini. Head Constable Rohtash gave a signal to the Scooty to stop but they ignored the signal and tried to run away. Constable Prithvi of QRT staff pushed the barricade in their way and stopped the two boys, which irritated them, who started talking intemperately with the Head Constable. He and the other staff, demanded the documents pertaining to the Scooty, which they denied to show but started '*hatha-pai*'. They gave him beatings and tore his uniform. In the interim, the SHO also arrived for checking despite which those two boys did not stop. The SHO with great difficulty got him separated and those two persons were apprehended.
3. On enquiry, their names were disclosed as Satender and Arvind. On the Statement of HC Rohtash, the FIR No. 332/2015 was registered. After investigations, the Charge-Sheet was filed in the Court. The Charges under Section 186/353/332/34 IPC were framed against the Respondent, who pleaded not guilty.
4. The *Prosecution in support of its case*, examined 13 witnesses in all. PW-1, HC Ashwani Kumar, the Duty Officer deposed that he made his endorsement/prepared a rukka Ex.PW-1/B on the Complaint received from the Complainant and FIR Ex.PW-1/C was registered. Copies of DD No. 23A



& 25A dated 17.04.2015, Police Station North Rohini, were proved as Ex.PW-1/D and Ex.PW-1/E.

5. PW-2, *Tasvir Singh*, father of the Respondent, produced the Scooty, before the Investigating Officer, which was seized and thereafter, released on superdari *vide Superdarinama*, Ex.PW-2/A. The Scooty was identified as P-1 in the Photograph Ex.PW-2/B.

6. PW-3, *Dr. Deepti Bhalla* proved the MLC of Rohtash Singh as Ex.PW-3/A. PW-4, Retired ACP Ramesh Chander proved his Complaint under Section 195 of Cr.PC as Ex.PW-4/A.

7. PW-11, *Head Constable Rohtash* is the Complainant, who has deposed about the entire incident.

8. His testimony is *corroborated by PW-6, Inspector Praveen Kumar*, who was on patrolling duty in the area when he reached the scene of incident and found the Respondent along with another boy scuffling with Head Constable, Rohtash.

9. PW-7, *HC Ashok* had accompanied the Investigating Officer during the investigations and had got the FIR registered.

10. PW-8, *DHG Ct. Kuldip Singh*, and PW-9, *Ct. Prithvi*, who were on duty with Head Constable Rohtash, who were the eye witnesses, have deposed about the incident.

11. PW-10 *SI K.P. Singh* was the Investigating Officer, who conducted the investigations and thereafter, filed the Charge-Sheet in the Court.

12. PW-12, *Dr. Amit Prakash* proved the signatures of Dr. Neha on the MLC regarding the nature of injuries.



13. The *Statement of the Accused* was recorded under Section 313 Cr.P.C. wherein all the incriminating evidence was put to him, which he denied. He claimed that he was innocent and he and his brother had been falsely implicated. According to him, Head Constable Rohtash had taken money from him and when his mother protested, he got him implicated falsely in this case.

14. ***Learned ASJ in his detailed Judgment dated 07.10.2017***, considered the entire evidence and concluded that there was a doubt about the genuineness of the case of the Prosecution and the guilt of the Respondent. ***Consequently, benefit of doubt was granted to the Respondent, who was acquitted.***

15. *Aggrieved by the Order dated 07.10.2017, the present Appeal has been preferred.* The ***grounds of challenge*** are that the impugned Judgment is based on presumptions, conjectures and surmises. The evidence has not been appreciated in the right perspective. All the prosecution witnesses have fully supported the Prosecution case on all vital aspects beyond reasonable doubt. It has not been considered that *PW-11 Head Constable, Rohtash, the Complainant and PW-9 Ct. Prithvi Singh, eye witnesses* have fully supported the case of the Prosecution. *PW-8, Ct. Kuldeep, DHG has also corroborated the contents of the FIR in regard to the incident.* PW-12, Dr. Amit Parkash has proved the MLC where the nature of injuries opined as grievous. The Sanction was duly granted under Section 195 Cr.P.C. by PW-4, ACP, Ramesh Chand (Retired). The minor and formal discrepancies in the testimony of the witnesses, cannot be termed as major contradictions to disbelieve the case of the Prosecution.



16. The burden of proof had been fully discharged by the Prosecution and therefore, the impugned Judgment is liable to be set-aside and the Respondent convicted for the offences.

17. The *Respondent on the other hand, has argued and has also submitted in the Written Submissions*, that he along with his brother (who was a minor) was going on the Scooty without helmet and had been stopped by the Head Constable, Rohtash, who tried to implicate them in a false case. Head Constable Rohtash conducted an unauthorised personal search and took Rs.11,000/- from the Respondent forcibly, which was the amount collected by him as rent from his tenant. After taking illegal money, the Respondent and his brother, were allowed to leave. Upon reaching the home, he narrated the incident to his mother, who accompanied them to the location to confront Head Constable, Rohtash regarding the wrongful seizure of money. In retaliation to their protest and to shield himself from any further repercussions, Head Constable Rohtash fabricated a false case against the Respondent. He was taken to Police Station Rohini North and was implicated falsely in this case.

18. It is further argued that Head Constable Rohtash had taken a plea that the Respondent had torn his uniform, but this fact was nowhere mentioned in the DD No. 23A, which was recorded at the Police Station. It can easily be adjudged that Head Constable, Rohtash had made a false Complaint against the Respondent.

19. Furthermore, *PW-8, Constable Kuldeep* who was on duty with Head Constable, Rohtash at the time of alleged incident, categorically stated that he could not identify any of the assailants. Moreover, he also denied having



knowledge about the uniform of Head Constable, Rohtash being torn by the Respondent. He did not support the Prosecution case.

20. *PW-12, Dr. Amit Prakash* admitted that he never examined the patient and was not present when the medical opinion was given by Dr. Neha. According to MLC dated 05.06.2015, the concerned doctor was unable to opine about the nature of injury, without a PTA Report. It was only on 13.06.2015, after the PTA examination, the hearing loss was categorised as grievous. He further conceded that the alleged injuries could have been sustained between 17.05.2015 and 13.06.2015, raising a doubt about the claim of the Prosecution of injuries being caused to the Complainant. Moreover, PW-11 Head Constable Rohtash deposed that he visited BSA Hospital only on 17.04.2015 i.e. the date of alleged incident and on the next date i.e. 18.04.2015 and did not visit the hospital thereafter. This discrepancy raises a serious doubt regarding the genuineness of the injuries claimed to have been suffered by the Complainant.

21. *The learned ASJ has rightly noted the glaring contradictions* in the case of the Prosecution to acquit the Respondent. There is no merit in the present Appeal, which is liable to be dismissed.

22. Reliance has been placed on *Ghurey Lal vs. State of U.P.*, (2008) 10 SCC 450 and *Babu vs. State of Kerala*, (2010) 9 SCC 189.

23. Submissions heard and the record perused.

24. The Respondent had been charged for the offence under section 186/353/333 IPC.

25. The incident has been narrated by PW-11 HC Rohtash, the Complainant who had deposed that on 17.04.2015 while he was performing



his duty at Police Picket near Parshuram Park, near Pawan Dhaba, Sector-6, Rohini from 9 A.M to 9 P.M, DHG Const. Kuldeep was posted along with him. At about 02:30 P.M the QRT vehicle of P.S. North Rohini also came near the Picket for checking Anti-Snatching activities. At around 02:45 P.M., he saw one Scooty on which two persons were riding, were without any helmet. He signalled to both of them to stop, but they tried to run. The QRT staff which was standing near the Barricade, stopped them by blocking their way by putting a Barricade on the road. The Scooty stopped and the Complainant asked them to produce the requisite documents of the Scooty on which, heated arguments commenced. Both the boys then started beating him. In this scuffle, the button of his uniform broke and the Pocket cover and the shoulder strip got torn. He sustained injuries near his ear. The SHO, P.S. North Rohini also reached the spot along with the staff and rescued him by overpowering the two boys.

26. He further deposed that the information was conveyed to the Police Station by SHO to SI K.P. Singh who along with *PW-7, HC Ashok*, came to the spot. His statement Ex.PW10/A was recorded. The Respondent was identified by him as one of the two boys who was driving the Scooty. He was accompanied by his younger brother who was found to be JCL and no proceedings were initiated against him.

27. The testimony of the Complainant is fully corroborated by *PW5 Inspector Praveen Kumar*, who was posted as SHO at P.S. North Rohini. He deposed that on 17.04.2015 he was patrolling in the area in his Gypsy. At about 2:45 P.M when they reached near the place of incident i.e. Anti-snatching Picket, he saw HC Rohtash scuffling with two boys. He



immediately over powered the boys and informed Police Station North Rohini and SI K.P Singh came to the spot. There is no material cross-examination of either PW11 or of PW6 on these aspects.

28. The third witness to corroborate the incident is *PW8 Const. Kuldeep DHG* who also deposed on similar lines. He deposed that the Respondent along with another person was driving the Scooty without helmet and tried to speed away, but was stopped by putting a barricade by Const. Prithvi. The boys on being asked to show the documents, got into a scuffle with HC Rohtash. *He also fully supported the incident, but was unable to identify the Respondent.* Merely because he was unable to identify the Respondent, it cannot be said that he turned hostile or failed to support the case of the Prosecution, more so, when the Respondent was admittedly apprehended on the spot and arrested vide Memo Ex.PW10/E. The Respondent himself has not denied being apprehended on the spot for driving a scooty without Helmet.

29. *PW9 Const. Prithvi* who was on duty at QRT vehicle at the Anti-snatching Picket at the time of incident, has also corroborated that when the Respondent tried to speed away on his scooty, being without an helmet, he stopped them by putting a barricade on the road and the Respondent along with his brother was apprehended. Thereafter, he entered into a scuffle with HC Rohtash.

30. The entire incident further finds corroboration in the testimony of PW10 SI K.P. Singh, I.O who on getting the information about the incident, had reached the spot. He recorded the statement of the Complainant Ex.PW10/A and apprehended the Respondent and his brother. He got the



FIR registered and thereafter, seized the Scooty vide Memo Ex.PW10/D and arrested the Respondent vide Arrest Memo Ex.PW10/E and conducted his Personal Search vide Memo Ex.PW10/F.

31. The Respondent had tried to question the genuineness of the testimony of the Prosecution witnesses' *firstly*, on the ground that in DD No.23A Ex.PW1/B, it had been written that the information was given by HC Rohtash while he in his testimony had deposed that the information was given by the SHO. This cannot be considered as a contradiction, what to say a major contradiction creating a dent in the case of Prosecution. It is not in dispute that information was conveyed to the Police Station and DD No.23A Ex.PW1/B had been recorded in the Police Station. It mentioned that the information was received from HC Rohtash. Whether the information got conveyed by HC Rohtash or SHO Inspector Praveen Kumar is immaterial, because it was only the information conveyed and in no way impacted the truthfulness of the incident. Moreover, the documentary evidence takes precedence over the ocular evidence as fading of memory over a period of time, may result in such minor slip.

32. *Pertinently, happening of incident of being stopped as he was without helmet on the Scooty, is not disputed by the Respondent.* Also, it is not in dispute that on receiving information vide DD No.23A Ex.PW1/B, PW10 SI K.P. Singh, I.O. along with PW-7, HC Ashok reached the spot. This cannot be a ground to disbelieve the testimony of the Prosecution witness.

33. *Secondly*, he tried to plead his innocence by alleging that HC Rohtash demanded money and took away Rs.11,000/- that was in his pocket, which he had collected from his tenants as rent. The Respondent had not



questioned being stopped by the Police officials or that he was not wearing a helmet. The Respondent was arrested on the spot vide Memo Ex.PW10/E and his personal search was conducted vide Memo Ex.PW10/F, which again was not challenged.

34. The perusal of these documents show that the time of arrest was 5 P.M which is quite understandable since it would take some time for the scuffle to settle and for the I.O to arrive and to conduct an enquiry. The most significant document is *Ex.PW10/F the Personal Search Memo*, wherein it is clearly recorded that Rs.11,000/- were recovered in the personal search of Respondent. Had there been any intention to either demand money to let go the Respondent for violating the traffic rule by not wearing the helmet, there was nothing which prevented the I.O to have pocketed this money. The very fact that this money had been shown as found in the Personal Search Memo of the Respondent, demolishes his defence that he was being asked for illegal gratification.

35. The Respondent had sought to explain that after the scuffle, Rs. 11,000/- were snatched from him and he and his brother was allowed to leave. He went back to his house and brought his mother back to the scene of incident to confront HC Rohtash for having taken away his Rs.11,000/-.

36. Pertinently, the Arrest Memo Ex.PW10/E clearly states that Smt. Sunita mother of the Respondent whose number was mentioned therein, had been informed about the arrest of the Respondent. The mother may have come to the scene of incident once she received information about the arrest of the Respondent, but it nowhere appeals to reasons that the Respondent was let off and he went back to his house and brought back his mother.



Once having entered into a scuffle with the Police, it is not believable that he would have been let off or that he would have gone back home to bring his mother and out of apprehension, Rs. 11,000/- were returned and shown as recovery in the Personal Search Memo. Rather, the recovery of money in the Personal Search Memo, falsifies the defence of money extraction from the Respondent.

37. Much has been argued about the alleged torn uniform not being seized to corroborate the testimony of PW-11 HC Rohtash. However, even if uniform is not produced, the scuffle and beating of PW-11 HC Rohtash, is proved by his testimony and those of eye witnesses. Even if it is accepted that his uniform was not torn and thus, not seized, then too scuffle and beating has been proved beyond reasonable doubt, and non-seizure of uniform is of no consequence.

38. The defences that had been taken by the Respondent, is totally not believable. The consistent testimony of the Prosecution witnesses proved that HC Rohtash who was on duty was prevented from discharge of his duty of checking the documents of the Respondent who was travelling without helmet on his Scooty.

39. *Section 186 IPC* states that ***whoever voluntarily obstructs any public servant in discharge of his public function, is liable to be punished with imprisonment or with fine or both.*** It is clearly and fully proved from the testimony of prosecution witnesses that PW-11 HC Rohtash while on duty, had been obstructed in discharge of his official duty as the respondent instead of showing the documents of Scooty, entered into a scuffle.



40. It is also pertinent to mention that the Complaint under Section 195 Cr.P.C Ex.PW4/A was duly made by PW4 retired ACP on which the cognizance has been taken.

41. The *offence under Section 186 IPC is proved beyond reasonable doubt*. The learned ASJ fell in error in giving undue importance to the minor contradiction in the recording of the DD entry to disbelieve the case of the prosecution. The Respondent is therefore, convicted under Section 186 IPC.

42. *The second offence* for which the Respondent was charged was under *Section 353 IPC* which makes *the act of assault or criminal force to deter public servant from discharge of his duty punishable*. In the present case, as has already been detailed above, it has been proved from the afore discussed Prosecution witnesses that when HC Rohtash asked for the documents of the Scooty from the Respondent who was driving it without helmet, he started beating HC Rohtash. Likewise, other PWs PW9 Const. Prithvi and PW10 SI K.P. Singh have also deposed about the scuffle between the Respondent and HC Rohtash. *It is, therefore, established that HC Rohtash was beaten by the Respondent*.

43. *Section 349 IPC* defines ‘**Force**’. It states that a person is *said to use force* to other **if they caused**, change of motion or cessation of motion to that other, or brings any substance to come into contact with them or something they wear or carry, affecting their sense of feelings.

44. *Section 350* defines ‘**criminal force**’ as whoever intentionally uses force to any person without his consent, in order to commit an offence or knowing it to be likely that such use of force would cause injury, fear or



annoyance to the person to whom the force is used. The illustration (d) to Section 350 IPC reads as under :

“Section 350(d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z; and if he has done so without Z’s consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.”

45. The definition of Section 350 IPC read with illustration, clearly demonstrates that beating and the scuffle between PW-11HC Rohtash and the Respondent, would qualify as use of *criminal force*. It is also established that such criminal force was used by the Respondent to obstruct HC from discharging his duty. **The offence under Section 353 IPC is proved beyond reasonable doubt.**

46. *The third Offence* with which the Respondent was charged is under **Section 333** which provides punishment for voluntarily causing *grievous hurt* to deter public servant from his duty. It thus, needs to be examined if grievous hurt was caused to PW-11 HC Rohtash.

47. The most pertinent document is the MLC Ex.PW3/A which has been proved by PW3 Dr. Dipti Bhalla, CMO, BSA Hospital, Rohini. She has deposed that HC Rohtash had been examined by Dr. Swapnil, Jr. Casualty on 17.04.2015 under her supervision. He had an alleged history of physical assault with the complaint of reduced hearing from right ear and pain. He was referred to Senior ENT for expert opinion and for further management. The MLC was prepared by Dr. Swapnil and is Ex.PW3/A.



48. The perusal of this MLC shows that there was no fresh external injury over patient's body at the time of medical examination but he had a complaint of pain in his ear and was referred for expert opinion and further management. He was also recommended to get the X-ray conducted of bilateral AP/LA of right ear.

49. From the MLC, it emerges that there was no apparent external injury. While HC Rohtash had complaint of pain in his ear, but in his testimony there is not a whisper of he having been slapped, beaten or injury inflicted on his right ear. Pertinently, this MLC also stated that no opinion could be given without the PTA Report.

50. It further states that PTA was done on 13.06.2015 and it was found that there was loss of hearing and the *injury was certified as grievous*. Pertinently, this Report dated 13.06.2015 has not been placed on record. Moreover, PW11 HC Rohtash had admitted in his cross-examination that he had visited BSA Hospital on the date of incident i.e. 17.04.2015 and on the date, but he never visited the Hospital, thereafter. There is not a single medical document to show that the pain in the right ear was consequent to any injury caused by the Respondent or that it resulted in loss of hearing. *The offence under Section 333 IPC is, therefore, not proved, under which the Respondent is entitled to be acquitted.*

Conclusion:

51. In view of the aforesaid discussion, it is hereby held that learned ASJ fell in error in acquitting the Respondent for the offence under Section 186/353 IPC. *The Judgment is hereby set aside and the Respondent is held*



guilty under Section 186/353 IPC, but his acquittal under Section 333 IPC is upheld.

52. List for arguments on Sentence on **11.08.2025**.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 04, 2025
RS/VA