



2025:DHC:10826



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

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***Date of Decision: December 2, 2025***+ **CRL.L.P. 740/2018**

RAMESH

.....Petitioner

Through: Mr. Dinesh Kumar, Adv.  
through V.C.

versus

BRAHM PRAKASH &amp; ANR

.....Respondents

Through: None.

**CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present petition is filed under Section 378 of the Code of Criminal Procedure, 1973 (*hereinafter 'CrPC'*) seeking leave to challenge the judgment dated 06.09.2018 (*hereinafter 'the impugned judgment'*), passed by the learned Magistrate, in CC No. 02/2013, whereby the learned Trial Court had acquitted the respondents of the offences under Sections 325/341 of the Indian Penal Code, 1860 (*hereinafter 'IPC'*).

2. At the outset, it is pertinent to note that the present petition has been preferred by the victim under Section 372 of the Cr.PC.

3. It is settled law that the victim's right to appeal against acquittal is absolute and no special leave is required by a victim to prefer such a challenge. [Ref: *Joseph Stephen v. Santhanasamy* : (2022) 13 SCC 115]



4. In view of the above, the present case is directed to be renumbered as an appeal.

**CRL. A.** (to be numbered)

5. Succinctly stated, the complainant/Appellant had filed a complaint under section 200 of the Cr.P.C. alleging that on 22.02.2023, the Respondents/accused restrained the complainant and physically attacked him and inflicted injuries by kicking and punching him. The complainant was rescued by 3-4 by-standers who helped him get released from the clutch of the accused persons.

6. During the preliminary evidence, the Appellant examined himself as CW-1, his wife Smt. Anju as CW-2 and their relative Mr. Ravinder as CW-3. *Vide* order dated 02.07.2014, both the accused persons were summoned and *vide* order dated 03.02.2015, the charges under sections 323/341 of the IPC were framed against both the accused persons.

7. After due consideration of the evidence placed on record, the learned Trial Court *vide* the impugned judgment, acquitted the accused persons by observing that there are significant gaps in the case of the prosecution, there is no medical record or document to support the assertion of injuries sustained and the prosecution has failed to prove the charges against the accused persons beyond reasonable doubt.

8. Aggrieved by the impugned judgment of acquittal, the present appeal has been filed.

9. The only ground pressed by the appellant is that the learned Trial Court has erred in doubting and discrediting the



testimonies of the witnesses and the absence of medical documents could not have been held fatal to the case of the prosecution.

10. Submissions heard and material placed on record perused.

### *Analysis*

11. It is trite law that the Appellate Court must exercise caution and should only interfere in an appeal against acquittal where there are substantial and compelling reasons to do so.

12. The criminal jurisprudence is premised on the principle that a conviction cannot be sustained on the basis of mere surmises or conjecture. It is thus for the prosecution to establish, by means of cogent and credible evidence, each element of the alleged offence that too beyond reasonable doubt. The standard is not a mere formality but rather serves as an indispensable safeguard against the risk of wrongful conviction.

13. Further, the prosecution case must stand on its own legs and cannot derive strength from any perceived weakness in the defence.

14. In the present case, from the appreciation of the material on record, it is apparent that there were significant gaps in the case of the prosecution and that the prosecution failed to establish the case against the respondents beyond reasonable doubt.

15. The complainant had examined himself as CW-1 and had deposed that after the incident, he had immediately made a call to his counsel Sh. D.K on his mobile after taking a mobile phone of another bystander, and then he was advised to approach police



station. He then went to the Police Station Preet Vihar (then stated P.S. Jahangir puri) and filed his written complaint. However, a perusal of his complaint shows that he has not mentioned anything related to a call with his advocate or borrowing of a phone from a bystander to connect with his advocate. This omission is not a minor discrepancy, but a material inconsistency which strikes at the credibility of the prosecution's narrative, as it concerns the complainant's first version of events.

16. Another significant aspect is with respect to the alleged presence of CW-3/Ravinder at the place of incident. CW-2/Smt Anju, has deposed that during the incident, their relative CW-3/Ravinder was coming from his office by bus and when he saw the complainant and his wife, he got down from the bus and rescued them. However, this material fact with respect to the presence of CW-3, who would naturally be expected to be mentioned as a material eyewitness in the initial and subsequent accounts of the complainant, finds no mention in either in the deposition of CW-1/Complainant or in the complaint given by him.

17. It is also pertinent to note that though CW-3/Ravinder has been examined before the summoning of the accused, his preliminary evidence is bereft of any details with respect to the date of the incident, the route number of the bus he had boarded, the time of the incident. Further, CW-3/Ravinder was dropped as a witness and was not examined after the framing of charges. The failure to examine a purported material eyewitness during trial



deprives the accused of an opportunity to cross-examine him, and creates a serious dent in the prosecution case, particularly where the prosecution relies on him as an independent witness of the incident.

18. Additionally, the most crucial aspect, that is the factum of injuries sustained has also not been established in the present case. Though it is alleged that the Appellant was beaten up by fists and leg blows, there is no corroborative medical evidence even to indicate that he was beaten or sustained any injuries. The Appellant has not examined any doctor or provided any document to show that he was administered any medications due to the injuries sustained.

19. In the circumstances, in the absence of medical evidence, the prosecution was required to discharge its burden by leading credible, cogent, and consistent oral evidence. However, the prosecution evidence is marred by contradictions, embellishments, and omissions on material particulars, which cast serious doubt on the veracity of the allegations. Consequently, the benefit of such doubt ought to be extended to the accused persons.

20. It is also well settled that when two views are possible—one pointing to the guilt of the accused and the other towards his innocence—the view favourable to the accused must be adopted.

21. Hence, I am of the considered view that the learned Trial Court has rightly acquitted the accused persons *vide* the impugned judgment dated 06.09.2018 and the same does not merit any interference.



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22. The present appeal, along with the pending application(s), if any, are hereby dismissed.

**AMIT MAHAJAN, J**

**DECEMBER 2, 2025**

**“SK”**