



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Reserved on: 04th May, 2026*
Pronounced on: 17th July, 2026

+ CRL. A. 305/2021

STATE

Govt. of NCT of Delhi
 [through its Standing Counsel (Crl.)]Appellant

Through: Ld. APP for State with Insp Sharad
 Kumar Bishnoi, SHO, PS- Subzi
 Mandi Railway Station.

versus

ASHISH KUMAR

S/o Late Sh. Anil Kumar
 R/o H.No.20, Gali No.2,
 G-Block, Andha Mugal,
 Pratap Nagar, Gulabi Bagh, Delhi.Respondent

Through: Mr.Raaj Malhotra, Advocate Amicus.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. **Criminal Appeal** under Section 377(3) of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "CrPC"*) has been preferred by the *Appellant, State* against the Judgment dated **10.01.2020** *vide* which the *Respondent, Mr. Ashish Kumar* was convicted for the offences under Sections 392 and 394 of the Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*) and Order on Sentence dated **18.01.2020** whereby the Respondent was sentenced to undergo ***Rigorous Imprisonment for the period of 5 years for the offence under Section 392 of the IPC and fine of***



Rs.5,000/-, and in default of payment of fine to undergo Simple Imprisonment for a period of 3 months. The Respondent was also sentenced to *Rigorous Imprisonment for the period of 5 years for the offence under Section 394 of the IPC and fine of Rs.5,000/-, and in default of payment of fine to undergo Simple Imprisonment for a period of 3 months.*

2. **Briefly stated**, the case of the Prosecution is that *vide* General Diary (GD) No. 04A, information was received regarding amputation of the leg of one person namely, Aman who was run over by a train near Sanjay Nagar, Gulabi Bagh, Delhi. The GD entry was marked to Assistant Sub-Inspector (ASI) Ratan Singh, who along with Constable Saurav, went to the alleged place of occurrence, but found none present. The injured had already been taken to Trauma Centre, Civil Lines in a PCR Van. Thereafter, they reached the Trauma Centre, where the MLC of the injured Aman, was collected.

3. The injured was in severe pain and was not in a fit condition to make any statement. Accordingly, General Diary No. 04A, was kept pending.

4. On **19.09.2018**, ASI Ratan Singh went to the residence of the injured at Sonipat, where his statement was recorded. The injured Aman stated that he is a permanent resident of Sonipat and was pursuing his studies at Hansraj College, Delhi and he used to travel regularly between Sonipat and Delhi by train. On **14.09.2018**, at about 11:40 A.M., after attending his classes, he was returning to his residence by Paschim Vihar Express train. He was standing near the entrance of the train and was using his mobile phone, when suddenly the Respondent, *Ashish Kumar* who was travelling in the same coach, suddenly snatched his mobile phone. As he resisted the snatching of the phone, he was allegedly pushed out of the moving train.



Aman fell on the railway track and his leg came under the wheels of the train. The Respondent, however, fled from the spot with his mobile phone. He further stated that he would be able to identify the Respondent, if produced before him.

5. On the basis of the aforesaid statement of the injured, **FIR No. 24/2018** was registered under Sections 392 and 394 of the IPC, at Police Station Subzi Mandi Railway Station.

6. During the course of investigation, on **22.09.2018**, ASI Ratan Singh, Constable Saurav, along with the injured, as they were going towards the alleged place of occurrence, they noticed the Respondent standing near Majar near Hanuman Mandir, Sub-Way, Gulabi Bagh, Delhi. On the identification by the injured, the Respondent was apprehended by the Police Officials. However, nothing was recovered from his possession.

7. After completion of the investigation, ***Charge-Sheet for the offences under Sections 392/394 of the IPC*** was filed before the learned Metropolitan Magistrate. After compliance of the statutory requirements, the case was committed to the Court of Session, for trial.

8. Thereafter, charges were framed against the Respondent for the offences under **Sections 392/394 of the IPC**; in the alternative, **under Section 307 of the IPC**, vide Order dated 27.05.2019. **The Respondent pleaded not guilty and claimed trial.**

9. The Prosecution examined six witnesses. **PW-1**, Aman, injured reiterated the incident, as narrated in his statement **Ex.PW1/A**, to the Police.

10. **PW-2**, Sh. Satish Kumar the father of the injured and **PW-3**, Smt. Poonam, mother of the injured, corroborated with the version of the injured son.



11. **PW-6, Dr. Pramod Kumar** proved the MLC bearing No. 10702/2018 as **Ex. PW6/A**, of the injured. **PW-4, Dr. Ritesh Anand** proved the discharge summary of the injured dated **18.09.2018** as **Ex. PW4/A**.
12. **PW-5, ASI Ratan Singh**, Investigating Officer, deposed regarding the investigations undertaken by him and also the arrest of the respondent.
13. The *statement of the Respondent was recorded under Section 313 of the CrPC*, wherein he stated that he is innocent and that he has been falsely implicated in this case.
14. The ***learned Additional Sessions Judge*** after appreciating the rival contentions of the parties ***vide Judgment dated 10.01.2020***, **convicted the Respondent for the offences under Sections 392/294 of the IPC**. Consequently, by **Order on Sentence dated 18.01.2020**, the Respondent was sentenced to undergo *Rigorous Imprisonment for the period of 5 years for the offence under Section 392 IPC and fine of Rs.5,000/-, and in default of payment of fine to undergo Simple Imprisonment for a period of 3 months*. The Respondent was also sentenced to *Rigorous Imprisonment for the period of 5 years for the offence under Section 394 IPC and fine of Rs.5,000/-, and in default of payment of fine to undergo Simple Imprisonment for a period of 3 months*.
15. **However, the Respondent was acquitted for the offence under Section 307 of the IPC.**
16. Aggrieved by the acquittal of the Respondent under Section 307 of the IPC, *vide Judgment dated 10.01.2020* the ***Appellant, State has filed the present Appeal under Section 377(3) of the CrPC.***
17. The **Grounds of Challenge** are that the prosecution has proved its case beyond reasonable doubt under Section 307 of the IPC, as all the



prosecution witnesses had supported the case of the prosecution. The Respondent has been wrongly acquitted under Section 307 of the IPC.

18. It was asserted that one of the ingredients for convicting a person for the offence under Sections 307 of the IPC is “**knowledge**”. It is proved from the testimony of the injured that the Respondent had pushed him out of a running train and had complete knowledge that, such act of his may cause death of the injured. Thereby, he ought to have been convicted under Section 307 of the IPC. Reliance is placed on Raj Kumar Singh @ Raju v. State of Rajasthan, (2013) 8 SCC 599.

19. **Written submissions** were filed on behalf of the Respondent, wherein it was submitted that the judgment of the learned ASJ was well-reasoned and did not merit any interference.

Submissions Heard and Record Perused.

20. In the present case, the Respondent has been convicted for the offences under Sections 392/394 of the IPC, **however, has been acquitted under Section 307 of the IPC. The State is aggrieved by the acquittal of the Respondent under Section 307 of the IPC.**

21. In order to appreciate the grounds of challenge that have been raised in the present Appeal, it would be pertinent to understand the scope of Section 307 of the IPC

22. **Section 307 of the IPC**, reads as under:

“307. Attempt to murder. —

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall



be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned. Attempts by life convicts. — When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.”

23. Thus, in order to constitute an offence under 307 of the IPC, the most important ingredient is *the intent or knowledge* to cause the injury, by which act death can be caused. Under Section 307 of the IPC, the offence of attempt to murder is committed, irrespective of the injury caused to the injured, so long as the requisite *mens rea*, i.e. the intention or knowledge as defined under the said Section, is proved beyond reasonable doubt.

24. In the case of *Hari Singh versus Sukhbir Singh*, (1988) 4 SCC 551, the Supreme Court emphasized that intention or knowledge is an essential precondition for attracting the offence under Section 307 of the IPC. Without these ingredients being established, there can be no offence of attempt to murder. The intention is to be gathered from all the circumstances and not merely from the consequences that ensue.

25. Similar observations were made by the Supreme Court in the case of *Sarju Prasad versus State of Bihar*, 1964 SCC OnLine SC 236, wherein it was held that unless the prosecution proves the requisite intention under Section 307 of the IPC, there can be no conviction under the said Section.

26. In *Vasant Vithu Jadhav versus State of Maharashtra*, AIR 2004 Supreme Court 2678, the Supreme Court reiterated that the court, “*the Court has to consider whether the act, irrespective of its result, was done with the intention or knowledge to murder a person.*”

27. In the light of the aforesaid law, it would be pertinent to refer to the circumstances in which the alleged incident happened.



28. The sole eye-witness to the alleged incident was **PW-1**, *Aman Kumar*, the injured. He had deposed that on 14.09.2018, after attending his college at about 11:40 AM, he had boarded the train to return to his house at Sonipat. While he was standing near the gate of the train and holding his mobile phone, suddenly the *Respondent*, *Ashish Kumar*, came near him and tried to snatch the phone out of his hand. The injured, however, resisted the act of the Respondent and held his mobile phone tightly, whereafter, the accused gave him a push and as a result the injured fell from the running train, as a result, his right leg was run over by the running train.

29. **PW-1** had further explained in his cross-examination that when he fell, his mobile phone also fell from his hand, which was subsequently picked up by the Respondent, who ran away with the same.

30. From these facts stated hereinabove, it emerges is that while attempting to commit the robbery, the Respondent, had pushed the injured, who fell from the running train. It cannot be overlooked that the injured was standing at the door holding his mobile phone, and the push was essentially for the purpose of snatching the phone out of the hand of the injured and not with an intent to cause injury which could lead to his death.

31. From the testimony of **PW-1**, it is established that the push given by the Respondent to the injured, was with the sole intention of robbing the mobile phone *and not with an intent to cause any injury*. The learned Additional Sessions Judge has rightly observed that the only intention proved on the part of the Respondent, was to illegally take away the mobile phone out of the hand of the injured, and not to murder or kill him.

32. It had also been observed that the injured may have suffered grievous injury i.e. amputation of his leg, but any injury caused during committing



the offence of robbery, is punishable under Section 392 and 394 of the IPC. The same is not sufficient to attract the offence under Section 307 of the IPC.

33. The Respondent has, therefore, *been rightly acquitted for offence under 307 of the IPC*. There is no infirmity in the Judgment of learned Additional Sessions Judge.

34. *There is no merit in the present Appeal which is hereby, dismissed in the aforesaid terms.*

35. Pending Application(s), if any, are also disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

JULY 17, 2026/R