



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 4767 OF 2026
(Arising out of SLP (Crl.) No. 12710 of 2025)

ABHISHEK

... APPELLANT

VERSUS

STATE OF RAJASTHAN & ORS.

... RESPONDENTS

J U D G M E N T

VIPUL M. PANCHOLI, J.

1. Leave granted.
2. The present appeal challenges the judgment and order dated 01.04.2025 passed by the High Court of Judicature for Rajasthan at Jodhpur in S.B. Criminal Revision Petition No.133 of 2024, whereby the High Court partly allowed the revision petition filed by respondent Nos. 2 to 4 herein, quashed the charge framed against respondent No. 2 under

Section 307 of the Indian Penal Code, 1860 (for brevity “IPC”), and directed the Trial Court to frame the charge under Section 308 of the IPC.

3. The factual matrix giving rise to this appeal is as under:

3.1. On 26.11.2020, an incident occurred in the agricultural field of the appellant situated in Village Polas, Tehsil Degana, District Nagaur, Rajasthan. While the appellant was engaged in pruning *Khejri* (Persian Mesquite) trees, respondent No. 2 accompanied by other family members (including respondent Nos. 3 to 4), entered the field driving a tractor at high speed and repeatedly drove the tractor towards the appellant and his family members in an attempt to run them over, striking the mother of the appellant (Indra Devi) on her waist, causing her to fall.

3.2. Thereafter, Respondent No. 2 and the other co-accused persons assaulted the appellant and his family members with sharp-edged agricultural equipment/weapons (*kashi*/axes). The appellant sustained an incised wound measuring 7 cm × 3 cm × bonedep over the lateral aspect of his left arm. The father of the appellant (Dilip Kumar) also sustained two

incised injuries, including a bone-deep wound over the dorsal aspect of the right wrist measuring 7 cm × 3 cm × bonedeeep and another measuring 6 cm × 3 cm × muscleeep on the forearm. The mother of the appellant also sustained an abrasion measuring 2 cm × 1 cm.

3.3. On 27.11.2020, F.I.R. No. 119 of 2020 dated 27.11.2020 was registered at Police Station Merta Road, District Nagaur, Rajasthan, under Sections 143, 307, 323, 341 and 447 of the IPC, against the accused persons (including respondent Nos. 2 to 4).

3.4. Upon completion of investigation, Charge-sheet No. 36 dated 17.07.2021 was submitted before the jurisdictional Magistrate, implicating the accused under Sections 447, 323, 324 and 326 read with Section 34 and Section 307 of the IPC. The case was thereafter committed to the Court of Additional District and Sessions Judge, Merta and registered as Session Case No. 43 of 2021. By an order dated 28.11.2023, the Additional Sessions Judge framed charge against respondent No. 2 under Sections 447, 323, 324 and 326 read with Section 34 and Section 307 of the IPC and against the

remaining accused persons under Sections 447, 323, 324 and 326 read with Section 34 of the IPC.

3.5. Aggrieved by the framing of charge, respondent Nos. 2 to 4 approached the High Court in S.B. Criminal Revision Petition No.133 of 2024. *Vide* the impugned order dated 01.04.2025, the High Court held that the injuries suffered by the appellant and his father were on non-vital parts of the body (wrist and arm) and his mother suffered abrasions and thus concluded that *“offence under Section 307 IPC is not made out against the petitioner No.1. At the most, the case may not travel beyond the offence under Section 308 IPC”*.

3.6. Aggrieved by the impugned order, the appellant has filed the present appeal.

- 4.** Mr. Nishant Bishnoi, learned counsel appearing on behalf of the appellant, submitted that the High Court committed an error of law in setting aside the charge framed under Section 307 of the IPC and directing the framing of a charge under Section 308 of the IPC instead and made the following submissions:

4.1. It is submitted that the High Court failed to appreciate the settled legal position that to constitute an offence under Section 307 of the IPC, it is not essential that bodily injury capable of causing death must actually be inflicted and the intention and knowledge of the accused are to be gathered from the totality of the circumstances, including the nature of the weapons used, the prior enmity between the parties and the manner of execution of the attack and not merely from the seat or gravity of the wounds actually sustained.

4.2. It is further submitted that the respondents, driven by deep-seated animosity from earlier disputes, arrived at the place of incident fully equipped with dangerous, sharp-edged weapons (axes) along with a tractor. Furthermore, respondent No. 2 intentionally drove the tractor at high speed onto the agricultural property of the appellant, running over his mother and inflicting severe internal injuries before repeatedly maneuvering the vehicle in an attempt to run down the other family members.

4.3. It is contended that the tractor and axes deployed by the respondents are instruments inherently capable of causing death in the ordinary course of nature. The appellant and his

father sustained severe, deep incised wounds measuring 7 cm × 3 cm reaching up to the bone. The High Court erred in characterizing these injuries as being on “non-vital” parts, overlooking the fact that these wounds were inflicted on their arms and shoulders while they were actively defending themselves against axe blows targeted directly at their heads.

4.4. It is further contended that at the stage of framing of charge, the Court is required to examine whether the material on record discloses a *prima facie* case or raises a strong suspicion against the accused and is not required to conduct a mini-trial. Reliance is placed on the decisions of this Court in ***State of Madhya Pradesh v. Saleem alias Chamaru***,¹ and ***Jage Ram v. State of Haryana***,² to urge that the act, irrespective of its medical result, coupled with the requisite intent or knowledge, fully justified the charge under Section 307 of the IPC framed by the Sessions Judge.

4.5. Learned counsel for the appellant prayed that the impugned order of the High Court be set aside and the order

1 (2005) 5 SCC 554

2 (2015) 11 SCC 366

dated 28.11.2023 passed by the Additional Sessions Judge framing charge under Section 307 of the IPC be restored.

5. Mr. S. Udaya Kumar Sagar, learned counsel appearing on behalf of the respondent-State, reiterated that the High Court committed an error of law in setting aside the charge framed under Section 307 of the IPC against respondent No. 2 and directing the Trial Court to frame a charge only under Section 308 of the IPC and the order dated 28.11.2023 passed by the Additional Sessions Judge in Case No.43 of 2021 was well-founded on the investigating material and ought not to have been interfered with. Learned counsel made the following submissions:

5.1. Reliance is placed upon the judgment of this Court in ***State of Maharashtra v. Balram Bama Patil***,³ to contend that it is not essential that a bodily injury capable of causing death must actually be inflicted to attract Section 307 of the IPC and the decisive criterion is whether the act, irrespective of its medical result, was executed with the requisite intention or knowledge. Therefore, the High Court erred in

3 (1983) 2 SCC 28

holding that the offence under Section 307 of the IPC was not made out merely because the injuries sustained by the victims landed on non-vital parts of the body.

5.2. It is submitted that the materials collected during the investigation *prima facie* establish the clear intention and knowledge of respondent No. 2 to cause death. Respondent No. 2 deliberately deployed a tractor as a lethal instrument, aggressively trespassing into the field of the appellant and making repeated, high-speed passes to run over the appellant, ultimately striking the mother of the appellant and causing her to fall. Respondent No. 2 and his family members subsequently launched an armed assault using sharp-edged cutting weapons (*kashi*/axes), which were later recovered pursuant to disclosure statements under Section 27 of the Indian Evidence Act, 1872 (for brevity “IEA”).

5.3. It is further submitted that the incised wounds sustained by the appellant and his family members measuring 7 cm × 3 cm reaching up to the bone and a muscle-deep wound measuring 6 cm × 3 cm were the direct consequence of defensive actions taken to shield his head from a lethal blow and the fact that the appellant succeeded

in warding off a strike to the head does not dilute the culpability or negate the intention to commit murder.

5.4. It is contended that respondent No. 2 has past criminal antecedents involving offences against the human body and vehicle-related rashness. At the threshold stage of framing of charges, a detailed examination or mini-trial is impermissible and the investigating materials and medical records establish a strong *prima facie* case to try respondent No. 2 under Section 307 of the IPC. Therefore, learned counsel for the respondent-State prayed that the impugned order be set aside.

- 6.** None appeared on behalf of the respondent Nos. 2 to 4 - accused persons despite service of notice having been completed.
- 7.** We have heard learned counsel appearing on behalf of the parties and perused the material available on record. The issue that falls for our consideration is whether the High Court was justified in setting aside the charge framed against respondent No. 2 under Section 307 of the IPC and directing framing of a charge under Section 308 of the IPC on the

reasoning that the injuries inflicted upon the victims were on non-vital parts of the body.

8. The legal position concerning the ingredients and application of Section 307 of the IPC is well-settled. To attract Section 307 of the IPC, the Court must ascertain whether the act, irrespective of the ultimate outcome, was committed with such intention or knowledge and under such circumstances that, if death had been caused, the offender would have been guilty of murder. In **Balram Bama Patil (supra)**, reiterated in **Saleem alias Chamaru (supra)** and **Jage Ram (supra)**, this Court held that to justify a conviction under Section 307 of the IPC, it is not essential that a fatal or life-threatening bodily injury must actually be sustained and the nature, gravity and site of the wound may assist in determining the intention of the accused, intention or knowledge can and must be deduced from the totality of circumstances, including the nature of the weapons deployed, the persistence of the assault, the prior animosity between the parties and the manner in which the attack was launched. The relevant paragraph of **Jage Ram (supra)** is reproduced as under:

“13. In *State of M.P. v. Kashiram* [*State of M.P. v. Kashiram*, (2009) 4 SCC 26 : (2009) 2 SCC (Cri) 40 : AIR 2009 SC 1642] , the scope of intention for attracting conviction under Section 307 IPC was elaborated and it was held as under: (SCC pp. 29-30, paras 12-13)

“12. ... ‘13. It is sufficient to justify a conviction under Section 307 if there is present an intent coupled with some overt act in execution thereof. It is not essential that bodily injury capable of causing death should have been inflicted. The section makes a distinction between the act of the accused and its result, if any. The court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section. Therefore, an accused charged under Section 307 IPC cannot be acquitted merely because the injuries inflicted on the victim were in the nature of a simple hurt.

14. This position was highlighted in *State of Maharashtra v. Balram Bama Patil* [*State of Maharashtra v. Balram Bama Patil*, (1983) 2 SCC 28 : 1983 SCC (Cri) 320] , *Girija Shankar v. State of U.P.* [*Girija Shankar v. State of U.P.*, (2004) 3 SCC 793 : 2004 SCC (Cri) 863] and *R. Prakash v. State of Karnataka* [*R. Prakash v. State of Karnataka*, (2004) 9 SCC 27 : 2004 SCC (Cri) 1408] .

16. Whether there was intention to kill or knowledge that death will be caused is a question of fact and would depend on the facts of a given case. The circumstances that the injury inflicted by the accused was simple or minor will not by itself rule out application of Section 307 IPC. The determinative question is the intention or knowledge, as the case may be, and not the nature of the injury.’

See *State of M.P. v. Saleem* [*Saleem case*, (2005) 5 SCC 554 : 2005 SCC (Cri) 1329] , SCC pp. 559-60, paras 13-14 and 16.

13. ‘6. Undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. It is, therefore, the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed, etc. This position was illuminatingly stated by this Court in *Sevaka Perumal v. State of T.N.* [*Sevaka Perumal v. State of T.N.*, (1991) 3 SCC 471 : 1991 SCC (Cri) 724] ’ (*Saleem case* [*Saleem case*, (2005) 5 SCC 554 : 2005 SCC (Cri) 1329] , SCC p. 558, para 6)”

9. Recently, in the case of ***Surender Kumar v. State of Haryana***,⁴ this Court reiterated that the determining factor under Section 307 of the IPC is the requisite intention or knowledge coupled with an overt act and that the mere fact

that the injury was caused on a non-vital part of the body would not, by itself, exclude the applicability of Section 307 of the IPC.

- 10.** We are of the view that at the stage of framing charges under Sections 227 and 228 of the Code of Criminal Procedure, 1973 (for brevity “Cr.P.C.”), the Court is not required to hold a mini-trial or weigh the evidentiary material as if adjudicating guilt after a full-fledged trial and the Court is only required to examine whether the investigating material, statements of witnesses and records disclose a *prima facie* case and raise a suspicion against the accused.
- 11.** In the facts of the present case, the materials collected during the investigation, including the statements recorded under Section 161 of the Cr.P.C., the spot inspection reports and the recoveries made under Section 27 of the IEA, reveal that **(a)** respondent No. 2 aggressively drove a heavy motor vehicle (a tractor) at high speed into the agricultural field of the appellant and repeatedly steered it towards the appellant and his family members, ultimately hitting the mother of the appellant, **(b)** respondent No. 2 and other co-accused persons, armed with sharp-edged cutting weapons

(axes/*kashi*), launched an assault on the appellant and his father, **(c)** the medico legal certificates of the appellant and his family members reveal that both the appellant and his father suffered deep incised wounds measuring up to 7 cm × 3 cm extending bone-deep and 6 cm × 3 cm extending muscle-deep, and **(d)** the Charge Sheet also records the statement of the appellant that the accused persons surrounded the appellant and his family and attacked their heads with axes and when the appellant and his father raised their arms to protect their heads, the blow struck their shoulders resulting into deep incised wounds.

12. In view of these factual allegations against respondent No. 2, we are of the view that the High Court committed an error in conducting a summary and technical assessment of the injuries and concluding that the offence under Section 307 of the IPC is not made out and the case could not travel beyond Section 308 of the IPC on the reasoning that the wounds were located on the limbs being the non-vital part of the body. The Additional Sessions Judge had evaluated the materials placed on record and thereafter framed the charge under Section 307 of the IPC against respondent No. 2. At this stage,

it is also required to be observed that the High Court overlooked the statutory safeguards provided under Section 216 of the Cr.P.C., which vests power in any court to alter or add to any charge at any time before judgment is pronounced. Thus, if during the course of the trial, based on the evidence adduced, it emerges that the ingredients of Section 307 of the IPC are not established, the trial court is empowered under Section 216 of the Cr.P.C. to alter or amend the charge accordingly to Section 308 of the IPC or any other appropriate lesser offence. Therefore, the interference of the High Court at the threshold stage was unwarranted and cannot be sustained in law.

- 13.** For the aforesaid reasons, the present appeal is allowed. Accordingly, the impugned judgment and order dated 01.04.2025 passed by the High Court of Judicature for Rajasthan at Jodhpur in S.B. Criminal Revision Petition No. 133 of 2024 is hereby set aside and the order dated 28.11.2023 passed by the Court of Additional District and Sessions Judge at Merta in Session Case No. 43 of 2021 framing charge, *inter alia*, under Section 307 of the IPC against respondent No. 2 is restored.

14. It is clarified that the observations recorded hereinabove are confined solely to the adjudication of the present appeal and shall not influence the outcome or merits of the trial proceeding, which shall be decided strictly in accordance with the evidence and material placed on record. The Trial Court is directed to proceed with the trial in accordance with law.

15. Pending application(s), if any, shall stand disposed of.

.....**J.**
[ARAVIND KUMAR]

.....**J.**
[VIPUL M. PANCHOLI]

OCTOBER 07, 2026
NEW DELHI