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

% ***Judgment Reserved on: 08.04.2026***
Judgment pronounced on: -16.04.2026

\+ **CRL.A. 13/2018**

SONU LAKRA .....Appellant

Through: Mr. Archit Upadhayay, Advocate (DHCLSC).

versus

STATE .....Respondent

Through: Mr. Utkarsh, APP for the State

CORAM:
HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 374 of the Code of Criminal Procedure, 1973, (the Cr.PC.), the sole accused in SC No. 27228/2016 on the file of the Additional Sessions Judge-02, Central District, Tis Hazari Courts, Delhi, assail the judgment dated 09.10.2017 and the order on sentence dated 28.10.2017 as per which he has been convicted and sentenced for the offence

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punishable under Section 307 of the Indian Penal Code, 1860 (the IPC).

2. The prosecution case is that on 29.09.2012 at about 7:30 PM, in front of the house of one Babu at Pusta Gopalpur, Delhi, the accused, along with Monu (a CCL), in furtherance of their common intention, wrongfully restrained PW3, abused and assaulted him, and while the CCL caught hold of PW3, the accused with a knife stabbed him on the left side of his chest, with such intention and under such circumstances that, had death been caused, he would have been guilty of committing murder. Accordingly, as per the charge-sheet/final report dated 30.11.2012, the accused is alleged to have committed the offence punishable under Section 307 read with Section 34 IPC.

3. On the basis of Ext. PW3/A FIS/FIR of PW3 recorded at Sushruta Trauma Centre on 29.09.2012, Crime No. 214/2012, Timarpur Police Station, i.e., Ext. PW8/B FIR dated 29.09.2012 alleging commission of the offence punishable under Section 307

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read with Section 34 IPC was registered by PW8, Head Constable. PW10, Sub Inspector conducted investigation into the crime and on completion of the same, filed the charge-sheet/final report dated 30.11.2012 alleging commission of the offences punishable under the aforementioned sections.

4. The jurisdictional Magistrate after complying with the formalities contemplated under Section 209 Cr.PC, committed the case to the Court of Sessions concerned. After hearing both sides, the trial court, *vide* order dated 08.02.2013, framed a Charge under Section 307 read with 34 IPC which was read over and explained to the accused to which he pleaded not guilty.

5. On behalf of the prosecution, PWs. 1 to 10 and CW1 were examined and Exhibits PW1/A-D, PW2/A-F, PW3/A, PW4/DA, PW5/A, PW6/A, PW7/A-B, PW8/A-C, and PW9/A-B, CW1/A, CW1/C, CW1/D and PX, were marked in support of the prosecution case.

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6. After the close of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.PC regarding the incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those circumstances and maintained his innocence. He stated that he has been falsely implicated in the present case. He further alleged that PW3 and his family members have been continuously threatening to kill him and his family after registration of the case and during trial. The police officials of Timarpur Police Station have also been harassing him.

7. After questioning the accused under Section 313(1)(b) Cr.PC, compliance of Section 232 Cr.PC was mandatory. In the case on hand, no hearing as contemplated under Section 232 Cr.PC is seen done by the trial court. However, non-compliance of the said provision does not, *ipso facto* vitiate the proceedings, unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused (See **Moidu K. vs.**

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State of Kerala, 2009 (3) KHC 89 : 2009 SCC OnLine Ker 2888). Here, the accused has no case that non-compliance of Section 232 Cr.PC has caused any prejudice to him.

8. No documentary evidence was adduced in support of the defence case.

9. Upon consideration of the oral and documentary evidence, and after hearing both sides, the trial court, *vide* the impugned judgment dated 09.10.2017, found the accused guilty of the offence punishable under Section 307 IPC. *Vide* order on sentence dated 28.10.2017, the accused has been sentenced to undergo rigorous imprisonment for a period of three years along with fine of ₹50,000, and in default of payment of fine, to undergo simple imprisonment for a period of three months. Aggrieved, the accused has preferred the appeal.

10. The learned counsel for the appellant/accused assailed the impugned judgment and order on sentence as being perverse and contrary to the evidence on record. It was contended that the

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conviction is founded primarily on the sole testimony of PW3, the injured witness, without any reliable independent corroboration, thereby rendering the prosecution case doubtful. It was further submitted that material witnesses have not supported the prosecution case, inasmuch as PW4 did not witness the incident and PW9, projected as an eye-witness, is a related witness and has been falsely planted.

10.1. It was further urged that there are material contradictions in the prosecution version, particularly regarding the presence of PW9 at the spot. The learned counsel pointed out that PW3, in his initial statement forming the basis of the FIR, did not mention the presence of any eye-witness, whereas PW9 subsequently claimed to have witnessed the incident. This inconsistency, it was submitted, goes to the root of the prosecution case and creates serious doubt about its veracity.

10.2. The learned counsel further contended that the prosecution case suffers from serious investigative lapses. It was

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submitted that no scientific evidence has been collected to connect the appellant with the alleged offence, as no fingerprints were lifted from the alleged weapon of offence and no effort was made to scientifically link the weapon with the appellant. It was argued that in terms of Section 114 of the Indian Evidence Act, 1872 (the Evidence Act), an adverse inference ought to be drawn against the prosecution for withholding such material evidence. It was also submitted that the recovery of the alleged weapon is doubtful and planted, as no independent public witness was associated with the recovery, and the prosecution has failed to establish the chain of circumstances or prove motive beyond reasonable doubt.

11. *Per Contra*, it was submitted by the learned Additional Public Prosecutor that the prosecution has proved its case beyond reasonable doubt and that the impugned judgment does not call for any interference. It was contended that the nature of the weapon used and the manner of assault clearly establish the requisite intention and knowledge on the part of the appellant. The learned

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prosecutor argued that the appellant was carrying a knife of considerable length (approximately 30 cm), which is not a normal circumstance, and the same was used to stab on a vital part of the body, i.e., the left side of the chest. The dimension of the injury (approximately 6 × 2 cm) further demonstrates the severity of the assault, and such an act, by its very nature, is sufficient to attract the ingredients of Section 307 IPC.

11.1. It was further submitted that the testimony of PW3, the injured witness, is reliable and inspires confidence, and it is a settled principle of law that conviction can be based on the sole testimony of an injured witness. The learned prosecutor contended that the so-called discrepancies pointed out by the defence are minor in nature and do not go to the root of the prosecution case. It was argued that the presence of the accused and the manner of assault stand duly established from the evidence on record, and that the defence has failed to discredit the core of the prosecution version.

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11.2. With regard to the absence of scientific evidence, it was submitted that non-lifting of fingerprints or lack of forensic examination is not fatal to the prosecution case when there is clear and cogent ocular evidence available. It was argued that Section 114 of the Evidence Act cannot be invoked to draw an adverse inference against the prosecution in the facts of the present case, as the chain of direct evidence is complete. Accordingly, it was submitted that the prosecution has successfully established the guilt of the appellant and the conviction and sentence awarded by the learned trial court are liable to be upheld.

12. Heard both sides and perused the records.

13. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgement calling for an interference by this court.

14. On going through the records, it is seen that after the appeal was filed, the sentence was suspended *vide* order dated 04.01.2018. Thereafter, the appellant/accused has never appeared

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before this Court. As per order dated 05.11.2024, this Court took notice of the order passed by the trial court, declaring him a proclaimed offender. The notice, bailable and non-bailable warrants issued by this Court, remains unexecuted till date. No provision of law has been shown to me which enables the appeal to be adjourned *sine die*. Advocate Archit Upadhayay, has already been appointed by the Delhi High Court Legal Services Committee to represent the appellant. The mere fact that the appellant fails to appear before the Court does not preclude this Court from examining the correctness of the impugned judgment on merits. It is a settled position of law that a criminal appeal cannot be dismissed for non-prosecution and the appellate court is duty-bound to consider the appeal on merits on the basis of the records available. In this regard, reference may be made to the decisions in **Bani Singh & Ors. v. State of U.P.**, **AIR 1996 SC 2439** and **K.S. Panduranga v. State of Karnataka**, **AIR 2013 SC 2164**. Accordingly, having regard to the nature of the case and the

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completeness of the record, this Court proceeds to examine the appeal on merits after hearing both sides.

15. I make a brief reference to the oral and documentary evidence relied on by the prosecution in support of the case. The gist of the case of PW3, the injured, in Exhibit PW3/A FIS/FIR, recorded on 29.09.2012, is as follows:- On 29.09.2012 at about 07:20 PM, while returning home from Gopalpur village *via* Bypass Pusta, he met Maria (PW4), who was known to him, and had a brief conversation with her. Thereafter, at about 07:30 PM, when he reached in front of the house of one Babu, the accused and his brother Monu (the CCL) met him and questioned him as to why he was talking to PW4. Upon his responding, an altercation ensued, during which both of them abused and assaulted him, and threatened him saying that they would finish him and that he should not speak to PW4 in future. He further stated that Monu (the CCL) caught hold of him while the accused stabbed him with a knife near his left armpit (close to the chest). Thereafter, both of

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them fled from the spot. He fell down at the place of occurrence. He somehow managed to reach his house, where his tenant informed the PCR, and he was taken by a CATS ambulance to the Trauma Centre for treatment. He alleged that the accused and his brother Monu (the CCL) had attacked him with a knife with the intention to kill him and caused injuries, and so prayed that legal action be taken against them in accordance with law.

15.1. PW3, when examined before the trial court, deposed that on 29.09.2012, at about 07:20 p.m., while he was on his way to his village *via* Pusta, he met PW4, an acquaintance. While he was talking to her, the accused, along with his brother Monu (the CCL), came and questioned him as to why he was talking to PW4. He responded by asking, "*Who are you to ask me like this?*" On hearing this, both of them started quarrelling and abusing him. When he asked them not to abuse him, saying that they would teach him a lesson, the accused gave him a stab injury with a knife on his left armpit, while Monu (the CCL) caught hold of him.

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After stabbing him, both of them ran away from the spot. Thereafter, he somehow managed to reach his house, where he asked his tenant to call the PCR. A CAT Ambulance reached his house and took him to the Trauma Centre, where he was treated. PW3 further deposed that the accused had stabbed him with the intention to kill him. The police recorded his detailed statement, which is Ex. PW3/A, bearing his signature at point A. PW3 further identified Ext. P3 as the knife used for the assault.

15.2. PW3 stood by his case in his cross-examination. He deposed that it took him about 2 to 3 minutes to reach his home from the place of the incident. He remained in the hospital for about a month. He stated that he knows PW9, who is his relative, and that he met the latter while on the way to his house after the incident. PW3 further added that PW9 was present at the time of the incident itself. PW3 further deposed that the place of the incident is a thoroughfare. He did not ask for help from anyone as nobody was present at that time.

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16. PW4 deposed that her parents were the tenants of PW3. She was working in an NGO at Kashmere Gate and her parents were residing on rent in the house of PW3, which was at, Gopalpur. On her visits home, she used to meet PW3 with whom she was on friendly terms. PW4 further deposed that she, like the accused, was a native of Jharkhand and, therefore, she used to treat the accused as her brother. On 29.08.2012, she had gone to Gopal Pur to purchase some goods and, while she was returning, PW3 met her on the way and while they were talking, the accused Sonu coming from behind, pushed her, and started quarrelling with PW3. According to PW4, while both of them were quarrelling, she proceeded to her house as she had to cook food. On the next day, she came to know that the accused Sonu had stabbed PW3 and that the latter has been admitted in the hospital. On 02.10.2012, the mother of the accused, along with a few other ladies, came to her and took her to Timarpur Police Station, where she was asked to give a statement to the police. PW4 further deposed that she

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questioned as to why she should give a statement when she had not witnessed the incident of stabbing; however, despite the same, her statement was recorded by the police. PW4, on being put a leading question by the prosecutor, admitted the date of incident to be 29.09.2012 and the time around 07:00 PM.

16.1. PW4, in her cross-examination, denied the suggestion that she had stated to the police that she was in love with PW3 or that the accused objected to her talking to PW3 due to the said reason. PW4 admitted that she did not try to meet PW3 after she came to know about the incident. PW4 further denied the suggestion that she was falsely implicating the accused in the case.

17. PW6, Medical Officer, Sushruta Trauma Center, Metcalf Road, Delhi, deposed that on 29.02.2012 at about 8:10 PM, he had examined PW3, who was brought with an alleged history of physical assault. On examination, he found a stab wound on the lower chest in the mid-axillary region of the ribs measuring 6 × 2 cm. After primary examination, he referred the patient to the

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General Surgery Department for further management. PW6 identified his signature in Ex. PW6/A MLC issued by him. PW6 further deposed that Dr. Satender used to work as Senior Resident in the General Surgery Department, Sushruta Trauma Center in the year 2012 and the latter had since left the services of the hospital, and his present whereabouts are not known. PW6 deposed that he had seen Dr. Satender writing and signing during the discharge of his duties. PW6 further deposed that the opinion regarding the nature of injury given by Dr. Satender has been recorded in Ext. PW6/A MLC which at point X bears the signature of the latter at point Y.

17.1. PW6, in his cross-examination, deposed that, the patient was conscious and oriented at the time of admission. The patient had a bleeding wound. He had not taken any blood samples of the patient. He had advised the patient to undergo CECT chest and abdomen before referring the patient to the General Surgery Department.

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17.2. PW9, deposed that PW3 is his brother-in-law (*saala*) and that House No. 262, Pushta Gopalpur, Delhi, belongs to his in-laws. On 29.09.2012, while on his way to the house of his in-laws and at about 7:30 PM, he saw two persons quarrelling with PW3. PW9 identified the appellant/accused in the court. PW9 further deposed that before he could reach near them, he saw the person, along with the accused catching hold of PW3 at which time the accused stabbed PW3 with a knife. PW9 deposed that seeing the incident, he got scared and ran to the house of his in-laws to inform them regarding the incident. In the meantime, PW3 also came running. He had handed over the blood-stained shirt and vest of PW3 to the police and that the police prepared a *pulanda* of the same, i.e., Ext. PW5/A. On 30.09.2012, he accompanied the police from the house of his in-laws to the house of one Babu, where the accused and his brother Monu (the CCL) used to reside. The accused was found in the said house and was arrested *vide* Ext. PW2/A arrest memo. PW9 further deposed that the disclosure

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statement of the accused was recorded *vide* Ex. PW2/C disclosure statement. PW9 further deposed that the accused led them to the place of incident and thereafter led them to the bushes near the government wall and stated that he had thrown the knife there after the incident. The knife was recovered from the bushes at the instance of the accused and the police prepared Ext. PW2/D sketch of the knife. A *pulanda* of the knife was prepared and the same was seized *vide* Ex. PW2/E seizure memo. PW9 identified the blood stained shirt and vest of PW3 which were marked as Exts. P1 and P2. PW9 identified the knife recovered at the instance of the accused and the same was marked as Ex. P3.

17.3. PW9, in his cross-examination, deposed that he had reached the house of his in-laws on 29.09.2012 at about 10:00 AM. He had only seen the accused Sonu stabbing PW3 with the knife, but had not seen him taking out the knife from his possession before stabbing. The accused stabbed PW3 with his right hand. He did not see towards which direction the accused and his associate

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fled after the incident as he had run away towards the house of his in-laws. PW9 denied the suggestion that no such incident of stabbing had occurred or that he was not present at the spot or that he was a planted witness or that he had signed the documents later on at the Police Station at the instance of the Investigating Officer. PW9 further denied the suggestion that the accused has been falsely implicated in the present case or that nothing incriminating had been recovered at the instance of the accused.

18. The appellant stands convicted for the offence punishable under Section 307 IPC. To bring home an offence under Section 307 IPC, the prosecution is required to establish that the act was done with such intention or knowledge and under such circumstances that, if death had been caused, the act would have amounted to murder. The intention or knowledge of the accused has to be gathered from the nature of the weapon used, the manner of its use, the part of the body targeted and the surrounding circumstances attending the occurrence. In the case on hand, the

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prosecution case rests primarily on the testimony of PW3, the injured witness. It is well settled that the testimony of an injured witness carries great evidentiary value and ordinarily, a conviction can be based solely on such testimony if it inspires confidence and is found to be trustworthy. The question, therefore, is whether the testimony of PW3, read in conjunction with the medical evidence on record, is sufficient to establish that the appellant committed the offence of attempt to murder.

19. PW3 has categorically deposed that on the date of the incident, the appellant, along with the CCL, accosted him and, while the CCL caught hold of him, the appellant/accused inflicted a stab injury with a knife on his left armpit/chest region. The testimony of PW3 is clear and consistent on the material particulars and nothing substantial has been elicited in the cross-examination to discredit the same. The presence of PW3 at the scene of occurrence is natural and undisputed, and there is no reason as to why PW3 would falsely implicate the appellant and

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allow the real assailant to go scot-free. The medical evidence adduced through PW6 fully corroborates the ocular version. The MLC reflects that PW3 sustained a stab wound measuring 6 × 2 cm on the chest region. The nature, dimension and location of the injury clearly show that the blow was inflicted on a vital part of the body. The chest being a vital region, any injury caused thereto with a sharp-edged weapon is inherently dangerous and capable of endangering life. The manner in which the injury was inflicted, coupled with the fact that PW3 was restrained at the time of the assault, leaves little room for doubt that the act was deliberate and not accidental. The testimony of PW4, though not that of an eye-witness to the actual act of stabbing, assumes relevance in establishing the surrounding circumstances leading to the incident. PW4 has deposed that the appellant used to object to PW3 talking to her and that immediately before the incident, the appellant had confronted PW3, which lends assurance to the prosecution version regarding the genesis of the occurrence and the motive behind the

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assault. The said testimony of PW4, therefore, reinforces the version of PW3 with respect to the circumstances preceding the incident. The testimony of PW9 also supports the prosecution case. PW9 has deposed that he witnessed the appellant/accused stabbing PW3 while the CCL restrained PW3. Merely because PW9 is related to PW3 does not render the testimony of PW9 unreliable. It is a settled principle that the evidence of a related witness cannot be discarded solely on that ground if it is otherwise credible and consistent. In the present case, nothing substantial has been elicited in the cross-examination of PW9 to discredit the testimony of PW9. The recovery of the weapon of offence at the instance of the appellant, as proved by PW2, a Constable, in the team of PW10, the Investigating Officer, and supported by PW9, further strengthens the prosecution case and provides additional corroboration.

20. It is also significant that the appellant was carrying a knife of considerable length (approximately 30 cm), which is not

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an article ordinarily carried by a common person in the normal course of life. The possession of such a deadly weapon, in the absence of any plausible explanation, itself indicates preparedness to cause serious harm. When such a weapon is used to inflict a blow on a vital part of the body, it furnishes a strong circumstance to infer the requisite intention contemplated under Section 307 IPC. The contention of the appellant that only a single injury was inflicted and that such an injury would not attract Section 307 IPC cannot be accepted. It is a well settled position of law that even a single blow, if inflicted with a deadly weapon on a vital part of the body and accompanied by the requisite intention or knowledge, is sufficient to bring the act within the ambit of Section 307 IPC. The emphasis under Section 307 IPC is not on the number of injuries inflicted but on the intention or knowledge with which the act is done, as discernible from the nature of the weapon used, the part of the body targeted and the surrounding circumstances.

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21. It is equally well settled that, for sustaining a conviction under Section 307 IPC, it is sufficient to establish the presence of intention coupled with an overt act in furtherance thereof, and it is not necessary that bodily injury capable of causing death must, in fact, have been inflicted. The Section makes a distinction between the act of the accused and its result, if any, and the Court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under such circumstances as contemplated under the provision. Therefore, an accused charged under Section 307 IPC cannot be acquitted merely because the injuries inflicted are simple in nature. [See **State of Maharashtra v. Balram Bama Patil and Ors., 1983 (2) SCC 28; Girija Shanker v. State of Uttar Pradesh, 2004 (3) SCC 793;** and **State of Madhya Pradesh v. Saleem @ Chamaru & Anr., 2005 (5) SCC 554**. Applying the aforesaid principles, the fact that only a single injury was inflicted or that the injury may not fall within the category of grievous hurt does not dilute the culpability of the

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appellant, once the intention and the manner of assault clearly bring the act within the scope of Section 307 IPC.

22. The learned prosecutor submitted that the injury caused does fall within the definition of grievous hurt under Section 320 IPC, particularly clause Eighthly. Clause Eighthly of Section 320 IPC contemplates an injury which endangers life or causes the victim to be in severe bodily pain or unable to follow his ordinary pursuits for a period of twenty days. In the present case, even if it is assumed that the injury has not been conclusively proved to fall within the strict parameters of Section 320 IPC, the same is not determinative for the purpose of Section 307 IPC. The gravamen of the offence under Section 307 IPC lies in the intention or knowledge with which the act is done and not merely in the nature or classification of the injury. The injury caused, the weapon used and the part of the body targeted clearly indicate that the appellant had the requisite intention or knowledge contemplated under Section 307 IPC.

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22.1. It was further contended that the recovery of the weapon of offence is doubtful, as no independent witnesses were joined and the recovery is supported only by police officials. It is true that no independent witness has been associated with the alleged recovery and no satisfactory explanation has been furnished in that regard. However, it is equally well settled that recovery of the weapon of offence is not *sine qua non* for sustaining a conviction when there is reliable ocular evidence available on record. In the present case, even if the evidence regarding recovery is kept aside, the testimony of PW3, duly corroborated by medical evidence, is sufficient to establish the prosecution case.

22.2. The contention of the appellant regarding absence of scientific evidence and the attempt to invoke Section 114 of the Evidence Act also does not merit acceptance. Section 114 of the Evidence Act enables the Court to draw presumptions, including an adverse inference in appropriate cases. However, such a

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presumption is discretionary and cannot be invoked in a routine manner. In the present case, there is clear and cogent ocular testimony of PW3, which stands corroborated by medical evidence. In such circumstances, the absence of forensic evidence or failure to lift fingerprints does not justify drawing any adverse inference against the prosecution. The law is well settled that lapses in investigation do not necessarily lead to the rejection of the prosecution case when the evidence on record is otherwise reliable and trustworthy.

23. In view of the foregoing discussion, this Court is of the considered opinion that the prosecution has succeeded in proving beyond reasonable doubt that the appellant inflicted a knife blow on the chest of PW3 with such intention and under such circumstances that, if death had been caused, the act would have amounted to murder. Hence, I find no infirmity in the impugned judgment warranting interference by this court.

24. Accordingly, the appeal, *sans* merit, is dismissed.

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25. Application(s), if any, pending, shall stand closed.

CHANDRASEKHARAN SUDHA
(JUDGE)

APRIL 16, 2026
p'ma/mj

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