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CNR No-UPKJ010019982021

IN THE COURT OF THE SESSIONS JUDGE, KANNAUJ

Presiding Officer- Shri Chandroday Kumar (HJS)-UP06553

Session Trial Number-463 of 2021

State of Uttar Pradesh

... Prosecution

Versus

1. Harishankar, son of Gayaprasad, resident of village Puroutiya, Police Station Indargarh, District Kannauj.
2. Harishankar, son of Kanhaiyalal,
3. Premchandra, son of Radheshyam,
4. Shivnath alias Malik, son of Khuman,
- All residents of village Parasaramau, Police Station Indargarh, District Kannauj.
5. Shivratan, son of Muneem Sharma alias Ramesh Chandra Sharma resident of village Rakpur, Police Station Chhibramau, District Kannauj.

... Accused

Crime Number-193/2014
Under Section 147, 148, 332/149,
353/149, 308/149, 504, 506 IPC
and Section 7 C.L.A. Act
Police Station- Tirwa,
Distt. Kannauj.

Prosecution Counsel: Shri Tarun Chandra, DGC (Criminal),
Defence Counsel: Shri Ashok Kumar Pandey, Advocate.

JUDGMENT

1. INTRODUCTION

This judgment arises from the prosecution of the accused, **Harishankar son of Gayaprasad, Harishankar son of Kanhailal, Premchandra son of Radheshyam, Shivnath alias Malik son of Khuman** and **Shivratan** son of Muneem Sharma who were charged under Sections 147, 148, 332/149, 353/149, 308/149, 504, 506 of the Indian Penal Code (IPC) and Section 7

Criminal Law Amendment (CLA) Act connection with Crime No. 193 of 2014 at Police Station Tirwa, District Kannauj.

2. FACTS

1. According to the prosecution's story, the brief facts related to the case are as follows: On April 26, 2014, the complainant, HC Ram Shighasan, submitted a Tahrir (Exhibit Ka-1) to the in-charge of the Tirwa police station in Kannauj District. He reported that on April 26, 2014, at around 15:45 hrs, he was present on picket duty at Gandhi Chowk along with Constable 810 Babadeen. At that time, an individual informed them that near the deshi liquor shop at Gandhi Chowk, a person was completely intoxicated and was shouting incoherently. He was misbehaving with passersby and was on the verge of assaulting them, causing inconvenience to people trying to pass by, and he was repeatedly falling over. Upon receiving this information, he, along with the accompanying constable, proceeded to the front of the deshi liquor shop. When they tried to stop the man from abusing and acting indecently, he began to struggle with them. Being intoxicated, he ran toward a mango vendor's stall to grab a stick but fell down, injuring himself in the process. At the same time, three to four individuals who were with him started assaulting the complainant. Harishankar, son of Shri Gaya Prasad, resident of Purautiya, Police Station Indergarh, District Kannauj, struck the complainant on the head with a stick, causing a bleeding injury. At the scene, he managed to apprehend Harishankar, son of Kanhaiya Lal, resident of Village Parsaramau, Police Station Indergarh. Upon inquiry, Harishankar stated that a man from their village, named Premchand, son of Radhey Shyam Lohar, had come to sell wheat and consumed excessive liquor at the shop, which led to him losing control. Another man from their village, Shivnath alias Malik, son of Khuman, who runs a press shop at Gandhi Chowk, was also present. He, too, had struck the complainant with a stick. Another individual named Ramchandra, son of Dayaram, had arrived on a bicycle. One additional person was present, whose name and identity were unknown. Additionally, there were 8-10 other unidentified individuals at the spot who were also involved in the assault and abuse during the incident. Constable Babadeen informed the highway mobile unit via phone. Seeing the arrival of the highway mobile police, all the assailants fled the scene. The highway mobile unit took Harishankar, son of Kanhaiya Lal, into custody in their vehicle. Shopkeepers in the vicinity tried to intervene and save the complainant. They witnessed the entire incident. The complainant had sustained a head injury and was feeling dizzy and semi-conscious. Due to the criminal acts of these individuals, panic spread among the public, the road was blocked, and chaos ensued in the market. The complainant requests that a medical examination be conducted and an FIR be registered.

3. FIR

2. Based on the Tahrir (Exhibit Ka-1), a First Information Report (FIR) was registered at the Police Station in Kotwali Tirwa, District Kannauj, under Sections 147, 148, 332, 353, 308, 504, 506 of the Indian Penal Code (IPC) and

Section 7 CLA. Act. This FIR, assigned Crime No. 193 of 2014, was filed against the accused individuals, Harishankar, Harishankar, Premchandra, Shivnath alias Malik and a relative of Ramchandra on April 26, 2014, at 15:45.

3. At the same time, the same extract was entered into General Diary (GD) No. 32. on April 26, 2014. The investigation of this case was assigned to Inspector Harnath Singh at Police Station Tirwa District Kannauj.

4. INVESTIGATION

4. The IO, Harnath Singh, visited the scene, prepared the site map Exhibit Ka-4, and recorded witnesses' statements. Upon completing the investigation, the IO submitted a charge sheet against the accused, Harishankar, Harishankar, Premchandra, Shivnath alias Malik and Shivratan under Sections 147, 148, 332, 353, 308, 504, 506 IPC and Section 7 CLA Act in the Court of the Additional Chief Judicial Magistrate (ACJM), Kannauj.

5. COGNISANCE AND COMMITTAL

5. The learned ACJM, Kannauj, took cognisance of the matter and, upon determining the case to be triable by the Court of Sessions, committed the case to the Court of Sessions, following compliance with section 207 of the Code of Criminal Procedure (CrPC).

6. CHARGES

6. This court registered the case as Session Trial Number 463 of 2021 and framed the charge against the accused, Harishankar, Harishankar, Premchandra, Shivnath alias Malik, and Shivratan under sections 147, 148, 332/149, 353/149, 308/149, 504, 506 IPC and Section 7 CLA Act. The accused pleaded innocence and claimed to be tried.

7. The prosecution examined the following witnesses to substantiate the charges against the accused:

7. WITNESSES

PW1, Constable Ram Singhasan, the first informant,

PW2, SI Sukhram Singh, proved FIR and G.D.,

PW3, Chandraswaroop, hostile witness,

PW4, Inspector Harnath Singh, prepared the site map and submitted the chargesheets, and

PW5, Dr. Jitendra Kumar, proved the medical reports of injured persons Ram Shinghasan, Harishchandra and Premchandra.

8. DOCUMENTARY EVIDENCE

8. The prosecution produced the following papers under documentary evidence:

Exhibit Ka-1, Tahrir,

Exhibit Ka-2, FIR, proved by PW2,

Exhibit Ka-3, GD, proved by PW2,

Exhibit Ka-4, Site Map, proved by PW4,

Exhibit Ka-5, Chargesheet No. 138/2014, proved by PW4,

Exhibit Ka-6, Chargesheet No. 138A/2014, proved by PW4,

Exhibit Ka-7, Medical report of injured Ram Singhasan,

Exhibit Ka-8, Medical report of injured Harishchandra, and

Exhibit Ka-9, Medical report of injured Premchandra.

9. DEFENCE VERSION

9. During the examination conducted under Section 313 of the Criminal Procedure Code, the accused individuals stated that they were falsely implicated in the case and that they were not involved in the incident.

10. ARGUMENTS

10. I heard the arguments of the learned District Government Counsel (DGC) (Criminal) and learned counsel for the defence. I carefully reviewed the evidence and materials available on the record.

11. THE FOLLOWING POINTS FOR DETERMINATION EMERGE:

1. Whether the prosecution has proved beyond a reasonable doubt that on 26.04.2014, the accused were members of an *unlawful assembly* that committed rioting (Sections 147/148 and 149 IPC)?
2. Whether the accused voluntarily caused hurt to a public servant (Ram Singhasan) and used criminal force to deter him from duty (Sections 332/353 IPC read with 149 IPC)?
3. Whether the accused attempted to culpable homicide not amounting to murder of the public servant (Section 308 IPC read with 149 IPC)?
4. Whether the accused intentionally insulted or intimidated the victim (Sections 504 and 506 IPC)?
5. Whether the accused violated Section 7 of the CLA Act (possession/use of prohibited weapon)?

12. APPRICIATION OF EVIDENCE

PW1 (Constable Ram Singhason): He stated that on 26.4.2014 at ~3:45 PM, he and HC Babadeen were on picket duty near the liquor shop. They saw a drunk man (Premchandra) misbehaving. When PW1 ordered him to stop, the man ran to pick up a stick and fell, injuring his head. Thereafter, 3–4 men (including *Harishankar, son of Gayaprasad*) surrounded PW1 and his assistant and assaulted them. PW1 was struck on the head by Harishankar (son of Gayaprasad) and injured. PW1 then called the Highway Mobile police, who arrived and chased the crowd; one person (Harishankar, son of Kanhailal) was caught. The caught man revealed the names of people who had fled, including Shiv Nath alias Malik, Ram Chandra, and an unknown person. PW1 named others before the police (based on names supplied by the caught man) in the FIR: Harishankar and Premchandra, Shiv Ratan (also known as Shivnath), and one unknown individual. PW1 wrote his statement (FIR) later and also underwent a medical examination.

During cross-examination, PW1's testimony showed major inconsistencies: he admitted he could not positively identify who hit him, since he was busy helping the fallen man. He only knew of *Harishankar (s/o Gaya Prasad)* because he was caught, but he did not actually see him strike. PW1 first denied knowing the miscreants, then claimed he did. His account of names varies (he mentions "two Harishankars" and is uncertain about "Shiv Ratan"). He could not specify who struck him from behind. He conceded that no independent bystander was ready to witness the incident (shoppeople were present but did not testify). Crucially, PW1's inability to clearly identify the attackers (except by hearsay) and the shifting details in his statement weaken its reliability.

PW2 (Retired SI Sukhram Singh): He testified as the Head Moharrir who registered the FIR. He confirms that PW1 wrote a complaint at the police station, which was entered as FIR No. 193/2014 for offences under Sections 147, 148, 332, 353, 308, 504, and 506 of the IPC, as well as Section 7 of the CLA. He matched the complaint with the First Information Report (FIR). He also prepared the GD diary and other records. PW2's evidence shows the procedure was followed. However, he admits he recorded PW1's injury details as told by PW1 without personally verifying them. He also could not explain why he issued a letter for a medical examination without seeing the injuries. As a matter related to the police, a biased letter was sent for medical purposes. Thus, the investigation record has lapses, but PW2's evidence itself adds little to the facts of the incident.

PW3 (Chandraswaroop "Babloo" - Shopkeeper): An independent witness, PW3 runs a gas stove shop near the scene. He initially testified that he did *not* see any quarrel or police-public incident that day at the stated time. He said he was alone in the shop and did not witness anything. On cross-examination, he maintained he never left his shop, did not see any fight, and only learned of this case when summoned. He did not know or recognise any of the parties (neither the complainant nor the accused). In sum, PW3's testimony negates the occurrence of any observable event at his location and is wholly contradictory to PW1's account. He is effectively a hostile or

antagonistic witness: he saw nothing. This undermines the prosecution's case because it provides no independent corroboration of PW1's story.

PW4 (Inspector Har Nath Singh) – the Investigating Officer: He detailed the steps of the investigation. He recorded statements from PW1, the other constable (Babadeen), and some bystanders (Bablu and Sonu) during the site inspection. He prepared several CD entries and an eventual charge sheet. On cross-examination, PW4 admitted *significant lapses*: he did not seize or attempt to find the **stick** alleged to have caused injury; he did not note any bloodstained clothes or tangible evidence from the scene; he did not meticulously map the routes of the accused or the arrival path of the mobile police van; he did not ask the doctor detailed questions about the injuries. Critically, he acknowledged that the medical report showed only simple injuries on the complainant, not “grievous” or life-threatening wounds. Yet he included Section 308 (attempt to murder) in the chargesheet based on PW1's statement alone. He conceded that many details (like the cause of the fall, the weapon used, etc.) were not corroborated by material evidence. His admissions highlight a one-sided investigation and a failure to verify the prosecution's story. The defects he revealed—contradictions between medical and ocular evidence, and neglect of evidence – throw the case into doubt.

PW5 (Dr. Jitendra Kumar) – the Medical Officer: He examined Ram Singhason on 26.4.2014 and described the injury: a 2.5 cm by 6 cm laceration on the forehead (deep to muscle) with fresh bleeding. He opined it was a simple injury caused by a blunt object or by a fall, **not grievous or life-threatening**. The next day, he examined two other men: the accused *Harishankar* (caught) had no injuries, and *Premchandra* (the first man) had two old lacerations (back of head and lower leg). All injuries to Ram Singhason and Premchandra were “simple” in nature, requiring only ordinary healing. There were no grievous injuries. PW5's medical findings directly contradict the charge of attempt to culpable homicide not amounting to murder. They confirm that only minor hurt occurred. This supports the view that no intention to kill (nor even a grievous injury) is proved.

13. FINDINGS

11. On the above evidence, the prosecution has not established the guilt of the accused beyond a reasonable doubt:

Unlawful Assembly and Rioting (Sections 147/148/149 IPC): It is not shown that the accused formed an unlawful assembly with a common object. PW1 mentioned several individuals present, but he did not see any planning or common purpose for the riot. Merely being present in a crowd does not prove membership of an unlawful assembly unless a common objective is proved (Section 141 IPC). Here, there are no reliable witnesses to confirm that each accused participated in “rioting.” PW1's testimony is internally

inconsistent and does not clearly identify *all* the accused at the scene. Given these contradictions, the doubt extends to whether an unlawful assembly even existed as charged. In any case, the accused's membership in such an assembly remains unproven.

Voluntarily Causing Hurt to a Public Servant (Sec. 332) and Assaulting to Deter (Sec. 353): The complainant (PW1) was a public servant on duty, so Section 332/353 would apply if he was hurt or obstructed in his duty. While PW1 certainly sustained a head injury, the evidence fails to link the assault conclusively to any *specific* accused. PW1 himself could not say who struck him; aside from Harishankar (who was caught), the other named accused were identified only by hearsay. Moreover, medical evidence shows PW1's injury was simple, not grievous, which suggests he was not seriously attacked. A conviction under Section 332 requires proof that the accused *voluntarily caused hurt* to a public servant. Here, since it is unclear *who* hit PW1 (and the caught accused denied any serious assault), there is reasonable doubt whether any accused (other than the one apprehended) committed that act. The prosecution has not eliminated reasonable doubt on this point. Thus, the elements of Sec. 332/353 are not proved against any accused beyond a reasonable doubt.

Attempt to Murder (Section 308 IPC): To sustain an attempt to culpable homicide not amounting to murder charge, the injuries must be such that death might have ensued (or there must have been knowledge to cause death). The evidence shows the opposite: PW5's report clearly states the injury to PW1 was simple and **not life-threatening**, and there is no evidence of intent or knowledge to kill. The accused did not use any dangerous weapon (just a wooden stick), and no grievous injury occurred. As the Investigating Officer admitted, the medical findings do not support an attempt-to-culpable homicide not amounting to murder case. A charge under Section 308 is thus not made out. (At best, the act would fall under simple hurt or culpable homicide not amounting to murder, which the prosecution did not even allege.) The attempted culpable homicide not amounting to murder count fails on the evidence.

Intimidation and Insult (Sections 504, 506 IPC): Section 504 (insult) and 506 (threat) require proof of intentional insult or threat to provoke breach of peace or cause alarm. PW1 mentioned some provocative statements ("beat him severely, break him") by onlookers, but these are not clearly attributed to any accused, nor are they sufficient to prove deliberate intimidation by the accused named. Furthermore, given the serious doubts in the main story, these lesser offences are not substantiated either. No independent witness confirmed that the accused had used any threatening words. In the absence of credible evidence about intentional threats or insults by the accused, the charges under Section 504/506 also fail to stand.

Section 7 CLA Act: The prosecution did not produce any evidence that the accused carried a prohibited weapon or violated the CLA Act. No arms or illegal implements were seized, and PW1's account only mentions a wooden

stick (not a “lethal weapon” as defined). Without proof of any specific offence under the CLA Act, this charge cannot be maintained.

12. Applying these findings to the evidence, it is clear that *each* element of the charged offences remains in doubt. It is a fundamental principle that the accused is presumed innocent until guilt is proved beyond a reasonable doubt. Here, the prosecution’s case is marred by serious contradictions, omissions, and a lack of corroboration. For instance, the ocular evidence (PW1’s testimony) clashes with the medical evidence (simple injuries) and with other witness testimony (no independent eyewitness saw the assault). In such a situation, the law mandates that the accused receive the benefit of any reasonable doubt. As the Supreme Court has noted, “once there is a clear contradiction between medical and ocular evidence coupled with ... contradictions in oral evidence and clear laches in investigation, then the benefit of doubt has to go to the accused ([Krishnegowda and Ors. Vs. State of Karnataka](#): MANU/SC/0321/2017).

Further, a criminal conviction cannot be based on suspicion or incomplete evidence. The investigating officer himself has admitted that many details of the prosecution’s story were never substantiated by independent proof. Without reliable evidence connecting each accused to the alleged criminal acts, the prosecution has not discharged its burden. In the words of the Supreme Court, when the prosecution evidence is filled with “discrepancies, contradictions and improbable versions,” it cannot form a basis for conviction ([Krishnegowda and Ors. Vs. State of Karnataka](#): MANU/SC/0321/2017). Here, the witnesses’ accounts are inconsistent and contradictory to the core facts, which “go to the root of the matter” and fatally weaken the case ([Krishnegowda and Ors. Vs. State of Karnataka](#): MANU/SC/0321/2017).

13. Given the totality of evidence and in the light of the settled law of criminal jurisprudence, the guilt of the accused is not established beyond a reasonable doubt. On the contrary, the benefit of doubt clearly favours the accused. Therefore, all points in favour of conviction fail, and the accused are entitled to acquittal.

ORDER

The prosecution has failed to prove the charges under Sections 147, 148, 332, 353, 308, 504, and 506 of the IPC, as well as Section 7 of the CLA Act, against the accused beyond a reasonable doubt. Accordingly, each of the accused is **held not guilty** of the offences charged. All accused are therefore **acquitted and set at liberty** on these charges. Their bail bonds are discharged, and their sureties are cancelled. If not wanted in any other case, the accused shall be released from custody forthwith.

All seized property, if any, shall be returned to its rightful owner in due course. A copy of this judgment should be sent to the Superintendent of Police, Kannauj, for information. Office to ensure compliance.

The Judgment signed, dated and pronounced by me on this 4th day of June, 2025.

हिन्दी सारांश

- अभियोजन ने दिनांक 26.04.2014 को तिर्वा गांधी चौक के निकट हुई मारपीट की घटना में पाँच लोगों के उपद्रव एवं एक आरक्षी को चोट मारने का आरोप लगाते हुए धाराएँ 147, 148, 332, 353, 308, 504, 506 भारतीय दण्ड संहिता एवं 7 सी.एल.ए. एक्ट के तहत अभियोग ठोके। वादी आरक्षी राम सिंहासन ने गवाह के रूप में घटना का वर्णन किया, किन्तु उसकी गवाही में कई विरोधाभास थे। पुलिस ने एफ.आई.आर. दर्ज की पर चिकित्सीय रिपोर्ट के बाद पाया कि चोट सामान्य थी।
- गवाहों की आपसी गवाही असंगत और अप्रमाणिक पाई गई है: मुख्य गवाह ने हमलावरों की सही पहचान नहीं कर पाया, अन्य प्रत्यक्षदर्शी कुछ भी देखे नहीं। अतिरिक्त: जांच अधिकारी ने भी घटना स्थल से कोई हथियार वस्तु नहीं ज़ब्त की, दोषियों की भागने की दिशा पर कोई नक्शा नहीं बनाया, और मेडिकल रिपोर्ट को भी पूरी तरह जांचा नहीं।
- चिकित्सक की रिपोर्ट में वादी की एक ही मामूली चोट पाई गई, जो गंभीर या जानलेवा नहीं थी। इससे यह भी सिद्ध नहीं हो पाया कि हमलावरों का हत्याकांड का इरादा था।
- उपरोक्त सारी असंगतियाँ, सबूतों की कमी और जांच की खामियों से अभियोजन आरोप प्रमाणित नहीं हो सके। आपराधिक कानून के अनुसार मुकदमेबाजी में संदेह का लाभ अभियुक्त को दिया जाता है।
- अतः अभियुक्तों पर लगे सभी आरोपों में संदेहजनक स्थिति बनी रहने के कारण उन्हें बरी किया जाता है।
- न्यायालय ने परिणामतः अभियोजन पक्ष के सबूतों की अशकुंजीता के आलोक में सभी अभियुक्तों को निर्दोष मानते हुए बरी कर दिया है।

Date: June 04, 2025

**(Chandroday Kumar)
Sessions Judge,
Kannauj.**