

**IN THE COURT OF MS. ADITI GARG
ADDL. SESSIONS JUDGE (POCSO)-06,
WEST DISTRICT, TIS HAZARI COURTS : DELHI**

S.C. No. 319/2017

CNR No.DLWT01-004860-2017

State

Vs.

Raghav Mukhiya

S/o Sugarath Mukhiya

R/o WZ-48/5, Roop Chand Wali Gali

Khyala Village, Delhi.

FIR No. 54/2017

U/s 326A IPC

PS : Khyala

Date of institution of case : 18.05.2017

Date of committal to Sessions Court : 25.07.2017

Date of assignment to this Court : 18.01.2024

Date on which Judgment is reserved : 26.10.2024

Date on which Judgment is delivered : 08.11.2024

JUDGMENT

1. Scars of Life. The glaring and inhuman act of acid attack has increased rampantly. It has transcended religion, gender and caste, across the world. Acid attacks are not only against women but also against minor children and it may be out of revenge or strong hostility. The aim of the culprit is not to kill the victim (s) but to leave them in a crippled condition which will hamper their day-to-day task and moreover which will lead to conditions unacceptable by society. Acid attack leaves scars and injuries on the



body which are far from getting healed or cured. The effects of acid attack on the skin include blindness and permanent scars. It is immediate and devastating. But scars are not just physical and violence of this kind and consequent disfigurement also include psychological scars that manifest in the form of loss of self identity and more.

2. The present case reflects how lethal acid could be recklessly used scarring an adult and two minors for life.
3. In a nutshell, the prosecution story is that on 18.02.2017, an information regarding Acid Attack was received in PS Khyala vide DD No. 45A wherein the caller informed that acid has been thrown on two girls and one man and all injured persons have been taken to Sehgal Hospital, Paschim Vihar. Upon receiving such information, SI Deepak and Ct. Ram Niwas reached at Sehgal Neo Hospital, Meera Bagh where three injured persons namely Deepak and his daughters namely 'B' and 'I' were found admitted vide MLCs No. B-1081/17, B-1080/17 and 1079/17 respectively. Injured Deepak was declared 'fit for statement' by the doctor concerned and accordingly, IO SI Deepak recorded his statement, which reads as under :-

“ब्यान किया की मैं पता उपरोक्त पर सहपरिवार रहता हु और अपना private काम करता हु | आज दिनांक 18/2/17 को समय करीब 9.30 रात में अपनी पत्नी मिनाक्षी उम्र 35 साल, अपने साले संदीप कुमार s/o जगदीश कुमार r/o [REDACTED] उम्र 30 साल व अपनी दोनों लड़कियों ई [REDACTED] उम्र 14 साल जो आठवीं कक्षा में पढ़ती है और [REDACTED] उम्र 11 साल जो



तीसरी कक्षा में पढ़ती है, के साथ अपने घर के बाहर बैठा हुआ था जो उसी दौरान एक लड़का उम्र करीब 30 वर्ष कद 5'5" रंग-काला जिसके हलके से दाँत बाहर थे व जिसने लाल रंग की T-Shirt व काली रंग पैंट तथा पैरो में हवाई चप्पल पहनी हुई थी बार-2 मेरे घर के बाहर लगातार चक्कर काट रहा था। जो मेरे साले संदीप ने उस आदमी को डोंट के भगा दिया तथा इसके बाद मेरा साला संदीप थोड़ी देर के बाद अपने घर चला गया क्योंकि मैंने अपने बीवी बच्चों के साथ शाहपुरा संतगढ़ शादी में जाना था तो करीब 10.15 PM के आसपास मेरी दोनों लड़कियाँ [REDACTED] व [REDACTED] घर के बाहर बैठी हुई थी मैं दरवाजे के अंदर खड़ा था व मेरी पत्नी घर के अंदर थी जो उसी समय वही आदमी जिसको कुछ देर पहले मेरे साले संदीप ने धमका के भगाया था वह मकान के बाहर आया व अचानक मेरी दोनों बाहर बैठी हुई लड़कियों व मेरे ऊपर तेज़ाब फेंक कर भाग गया जो तेज़ाब गिरते ही मेरी दोनों लड़कियाँ जोर-2 से चिल्लाने लगी मैं एकदम से घबरा गया तथा मैंने तेज़ाब फेंकने वाले आदमी के पीछे भागा मगर वह अँधेरे का फायदा उठाकर भाग गया जो तेज़ाब से मेरी दोनों लड़कियाँ काफी बुरी तरीके से झुलस गयी व मेरे शरीर पर भी काफी जगह तेज़ाब गिरने से झुलस गया है व घर पर टंगे कपड़े भी तेज़ाब के गिरने की वजह से गल गए। मैं तुरंत अपनी दोनों बेटियों को इलाज के लिए Sehgal Neo Hospital, Meera Bagh, Paschim Vihar, Outer Ring Road ले आया जो उस नामालूम आदमी ने मेरी बेटियों व मेरे ऊपर तेज़ाब फेंककर हमें जलाया है जिसको मैं सामने आने पर पहचान सकता हूँ जो उस नामालूम व्यक्ति के खिलाफ कानूनी कार्यवाही की जाये।



आपने मेरा ब्यान लिखा सुन लिया समझ लिया ठीक है।”

4. Upon such statement, the rukka was prepared for registration of FIR for offence u/s 326A IPC. Ct. Ram Niwas was given the original rukka with FSL team visit request application for handing it over to the duty officer. In the hospital, Dr. Vikas Kumar handed over three sealed parcels with sample seals and same were seized by IO SI Deepak. Site plan was prepared at the instance of the complainant. The Crime Team and FSL Team also inspected the spot of occurrence.
5. During investigation on 19.02.2017 while police officials alongwith complainant Deepak, his wife Meenakshi and brother-in-law Sandeep were searching for the assailant and when they reached near Aggarwal Sweets, near T-Block, Vishnu Garden, Delhi, they saw one person coming from the front side and after seeing him, complainant Deepak, his wife Meenakshi and brother-in-law Sandeep identified the said person to be the same person who had thrown acid and ran away. The said boy was apprehended who disclosed his name as Raghav Mukhiya and after his thorough interrogation, he was arrested in the present case at the instance of the complainant Deepak and his brother-in-law Sandeep. The medical exhibits were deposited in FSL. After preparation of charge-sheet, same was filed in the Court.
6. Considering the material available on record, Ld. Predecessor of this Court vide order dated 28.07.2017 framed charges for offence u/s 326A of IPC.



7. In order to substantiate the prosecution case, prosecution has examined 13 witnesses.
8. **PW-1, SI Rampal, Incharge, Mobile Crime Team West District** deposed that in the intervening night of 18/19.02.2017 he was posted as Mobile Crime Incharge of West District and on the said night at about 1 am i.e on 19.02.2017 an information was received on wireless from control room of West District and he along with ASI Ajeet singh, photographer and ASI Ranjeet Singh, Finger Print Official, Ct. Amit, who was Assistant Finger Print Official left the office of Crime Team in the government vehicle and they reached the spot which was house No. [REDACTED], Khyala where he met SI Deepak along with other police officials. PW1 further deposed that at about 1.20 am, he had started inspection of spot and concluding the inspection at about 1.50 am and on his directions, ASI Ajeet Singh had also clicked the photograph from all the angles and at the spot, a plastic container was found on the staircase containing some acid type substance. PW-1 further deposed that one acid stained polythene and jeans pant of blue colour was also found and this jeans was in burned condition of left leg. Acid type substance was also noticed on the staircase at the gate of the house and its sprinkles on the door and some substance was found on the floor of the house. PW-1 prepared the detailed report Ex. PW1/A and has also correctly identified the spot and photographs of spot were marked as mark

PW1/A1 to PW1/A12.

9. **PW-2 SI Ajit Singh** deposed that on 19.02.2017 he was posted in Mobile Crime Team, West District, Delhi and on that day on receipt of wireless message from District Control Room, he along with SI Ram Pal, Incharge and ASI Ranjit Singh, Finger Print Proficient went to the spot I.e [REDACTED] Khyala, Delhi in government vehicle where IO/SI Deepak along with staff found present. PW-2 further deposed that on the directions of Incharge and IO, he took 12 photographs at the spot from different angles and has also produced the negatives of those photographs which were Ex. PW2/A1 to Ex. PW2/A12 and the photographs already placed on record and marked as Mark PW1/A1 to PW1/A12 and were exhibited in his testimony as Ex. PW2/B-1 to Ex. PW2/B-12.
10. **PW3 is the Injured girl Ms. [REDACTED]** who deposed that on 18.02.2017 at around 9.30 pm, she was with her father, her maternal uncle (Mama) 'S' and her younger sister 'B' were present outside their home. PW-3 further deposed that while they were sitting outside, they saw a person roaming around. Since they had to go to marriage, they thought that perhaps that man was intending to commit theft in their house. Her father, therefore, scolded him (papa ne usse daant kar bhaga diya). Her Mama also scolded him. PW-3 further deposed that they were all set to leave for attending the marriage and she and her younger sister 'B' were outside their home. PW-3 further deposed that her Mama



'S' had already left and her parents and her brother and other sister were inside the house. Accused then returned and threw acid on her and upon her sister 'B'. PW-3 further deposed that after pouring/throwing acid on them, that man/accused ran away and she and her sister got burning sensation all over their bodies and her father was in the verandah at that time and acid also fell on him. PW-3 also deposed that her mother took her and her sister to the hospital whereas her father ran behind that man, who threw acid on them. PW-3 further deposed that her father had come to the hospital but he was not given treatment and they were taken to Sehgal hospital by her mother. PW-3 further deposed that her father got burn marks on his one upper arm and one thigh, probably the thigh of the right leg. PW-3 further deposed that she suffered burn injuries on both hands, face, head, thigh, shoulder, chest and a little acid fell on her legs also. PW-3 has correctly identified her one inner wear and one outer wear with holes and was in torn condition and one printed maroon colour underwear which was also in torn condition and the same were collectively exhibited as Ex. P1.

11. **PW-4 is another injured girl Ms. B** who deposed that on 18.02.2017 at around 9.30 pm she was sitting with her elder sister 'I' on the stairs outside her house when one man was loitering around and her father scolded you (ek aadmi ghum raha tha aur papa ne usse daanta) and her Mama (maternal uncle) also scolded him and her father and her Mama both were at home. PW-4 further deposed that woh



kala thha, gittha aur hlke se daant bahar thhe (वो काला था, गिट्ठा था और उसके हलके से दाँत बाहर थे) and was wearing red T-shirt and hawaai Chappals. PW-4 further deposed that 15 minutes ke baad wo kala aadmi dobara waapis aaya aur hamare ghar ke andar jhaank raha thha. Wo bahar khara ho kar baar baar dekh raha thha aur ghar ke aas-pass chhip bhi raha thha. ussne mujh par aur meri behen par acid dala. Thoda mere papa par bhi gira. Mere papa ne uska pichha kiya par wo andhere ka fayda uttha kar bhaag gaya (15 मिनट्स के बाद वो काला आदमी दोबारा वापिस आया और हमारे घर के अंदर झाँक रहा था | वो बाहर खड़ा हो कर बार बार देख रहा था और घर के आस-पास छिप भी रहा था | उसने मुझ पर और मेरी बहन पर एसिड डाला | थोड़ा मेरे पापा पर भी गिरा | मेरे पापा ने उसका पीछा किया पर वो अँधेरे का फायदा उठा कर भाग गया |) PW-4 further deposed that at that time she and her sister were sitting on the stairs outside their house and accused was standing near the door. PW-4 also deposed that their neighbour took her and her mother to Sehgal hospital on his bike and his family member took her sister on his scooty to the hospital. PW-4 further deposed that her father was at home and he dropped her brother and other sister to her grandmother's home on his scooty and he later joined them in the hospital. PW-4 has correctly identified the accused Raghav Mukhiya to be the same person who had poured acid on them and PW-4 has also correctly identified light black/grey colour top (inner wear thermal like T-shirt) in torn condition which was exhibited as Ex. P2.

12.

PW-5 Mr. 'Deepak' (complainant) is another injured person



and father of two injured girls, who deposed that on 18.02.2017 at about 9-9.30 pm he along with his brother-in-law namely Sandeep Kumar, his wife namely Ms. 'M' and his daughters namely Ms. 'T' and Ms. 'B' were present at outside of house and at the same time, one person was roaming around their house and his brother-in-law scolded that boy who left the place. PW-5 further deposed that his brother-in-law went to his house and he and his wife went inside the house to get ready for going to attend marriage and both the victims Ms. 'T' & Ms. 'B' were sitting outside the house. PW-5 further deposed that at about 10.15-10.30 pm, the said boy came to his house and thrown/poured acid upon victims and acid was also poured upon him and nearby clothes and articles. PW-5 further deposed that he tried to chase and catch the accused but he fled away due to darkness in the gali. PW-5 further deposed that both the victims were taken to Sehgal hospital where they got basic treatment and referred to Safdarjung hospital where both victims were treated for about 7-10 days, however, on being dissatisfied with the treatment of Safdarjung hospital he got discharged the victims and they admitted in Sehgal hospital where they remained admitted for about a week. PW-5 made complaint Ex. PW5/A to the police and had shown the place of incident to IO who prepared site plan Ex. PW5/B. PW-5 further deposed that on 19.02.2017, he along with Sandeep, his wife and police officials went to T-Block near Aggarwal Sweets where they looked here and there for the accused and they saw one person coming out



from gali and they pointed out the said person to be the same person who committed the offence who disclosed his name as Raghav Mukhiya. PW-5 further deposed that accused Raghav Mukhiya was arrested vide arrest memo Ex. PW5/C and was taken away by the police officials.

13. **PW-6 Smt. ' [REDACTED] '** is the mother of the injured girls who deposed that on 18.02.2017 at about 9-9.30 pm she along with her brother namely Sandeep Kumar, her husband namely Ms. 'D' and her daughters namely Ms. 'T' and Ms. 'B' were present at outside of house and at the same time, one person was roaming around their house and her brother scolded him and that boy left the place. PW-6 further deposed that her brother went to her house and she and her husband went inside the house to get ready for going to attend marriage and both the victims Ms. 'T' & Ms. 'B' were sitting outside the house. PW-6 further deposed that at about 10.15-10.30 pm, the said boy came to her house and thrown/poured acid upon victims and acid was also poured upon her husband and nearby clothes and articles. PW-6 further deposed that her husband tried to chase and catch the assailant but he fled away due to darkness in the gali. PW-6 further deposed that both the victims were taken to Sehgal hospital where they got basic treatment and referred to Safdarjung hospital where both victims were treated for about 7-10 days. PW-6 further deposed that being dissatisfied with the treatment of Safdarjung hospital she got discharged the victims and they admitted in Sehgal hospital where they remained admitted



for about a week. PW-6 further deposed that her husband made complaint to the police vide complaint Ex. PW5/A. PW-6 also deposed that on 19.02.2017 she along with Sandeep, her husband and police officials went to T-Block near Aggarwal Sweets where they were searching for the assailant and they saw one person were coming out from gali and they pointed out towards the said person to be the same person who committed the offence and said person disclosed his name as Raghav Mukhiya PW-6 further deposed that accused was arrested vide arrest memo Ex. PW5/C and was taken away by the police officials.

14. **PW-7 Jagdish Kumar (father-in-law of complainant)**

deposed that on 18.02.2017 he along with his son Ajay went to the house of his daughter M [REDACTED], who along with her family were residing at house No. [REDACTED] and they were sitting in a room and his daughter along with her family were in another room and were preparing for going in a function. PW-7 further deposed that at about 10.15 am he immediately heard shouting of his daughter M [REDACTED] and he came out of the room and saw that his grand daughters (navasi) 'B' & 'T' and his son-in-law Deepak were injured and somebody had thrown acid upon them and they were shifted to Sehgal Nursing Home. PW-7 made a call at 100 number and gave information to the police.

15. **PW-8 Sh. Ajay** deposed that on 18.02.2017 he along with his father went to the house of his sister Me [REDACTED] who along with her family were residing at house No. [REDACTED]



██████████ and they were sitting in a room and his sister along with her family were in another room and were preparing for going in a function. PW-8 further deposed that at about 10.15 am he immediately heard shouting of his sister M██████████ and he came out of the room and saw that his niece 'B' & 'T' and his brother-in-law Deepak were injured and somebody had thrown acid upon them and they were shifted to Sehgal Nursing Home. PW-8 made a call at 100 number through mobile No.8700417525 and gave information to the police.

16. **PW-9 Sh. Jitendra Kumar, Sr. Scientific Officer (Chemistry), FSL Rohini, Delhi** deposed that on 10.03.2017, four sealed cloth parcels and two sealed glass jars which were duly sealed and tallied as per forwarding authority's specimen seal were received in case FIR No.54/2017 PS Khyala and same were marked to him for chemical analysis. PW-9 further deposed that from the parcels Nos. 1 to 6, exhibits 1 to 6 were taken out and on chemical examination, exhibits 1, 2, 3, 4, 5A, 5B & 6 were found to have containing 'sulphuric acid'. After examination remnants of the exhibits have been sealed with the seal of 'J.K. FSL DELHI. PW-9 proved his detailed report bearing No.FSL 2017/C-1817 dated 06.04.2017 (running into 2 pages) which was exhibited as Ex. PW9/A.
17. **PW-10 Dr. Vikas Kumar, Medical Officer, Aam Aadmi Mohalla Clinic, Mohan Garden, Uttam Nagar, New Delhi** deposed that on 18.02.2017 he was working in Sehgal Neo Hospital as Sr. Medical officer and on that night at about



11 pm, three injured persons namely baby E [REDACTED] D/o Sh. Deepak Kumar, aged 13 years, baby B [REDACTED] D/o Sh. Deepak Kumar, aged 7 years and Mr. Deepak Kumar S/o Sh. Budhram aged 35 years came in the casualty with the alleged history of burn, thrown acid by unknown person near 108 Khyala, Sant Bazar, around 10.40 PM. PW-10 further deposed that he examined the injured baby E [REDACTED] vide MLC No.B-1079/17 and on examination, burn injury on bilateral upper limb, on face, neck and on left leg and the nature of injury was opined by him as 'grievous'. The percentage of burn injured was about 30-40 per cent and the detailed MLC is Ex. PW10/A. PW-10 further deposed that injured baby B [REDACTED] was examined vide MLC No.B-1080/17 and on examination, burn injury was found on abdomen, pelvis region and on buttock bilateral and the nature of injuries was opined by him as 'grievous'. The percentage of burn injuries was about 20 per cent and the detailed MLC is Ex. PW10/B. PW-10 further deposed that injured Deepak was examined vide MLC No.B-1081/17 and on examination, burn injury was found on left side of face, left and right leg and the nature of injury was opined by him as 'simple'. The percentage of burn injuries was about 10 per cent and the detailed MLC is Ex. PW10/C.

18. **PW-11 IO SI Deepak** deposed that on 18.02.2017 he was posted as SI at PS Khyala and on that day he was emergency duty during intervening night of 18/19.02.2017 and at about 11.13 pm he received DD No.45A (already exhibited as AD-3) regarding throwing of acid on two girls



and one man by one person and injured have been taken to Sehgal Hospital, Paschim Vihar. PW-11 further deposed that he along with Ct. Ram Niwas went to Sehgal Hospital and he collected the MLCs of Deepak, 'I' & 'B' and they were admitted in the hospital. PW-11 made inquiry from doctor regarding fitness of Deepak for recording of his statement. The doctor declared injured Deepak fit for statement and he recorded his statement Ex.PW5/A. PW-11 further deposed that in his statement, complainant Deepak gave physical description and age of that unknown person who had thrown acid on him and on his daughters and he made endorsement Ex. PW11/A and handed over tehrir to Ct. Ram Niwas and he was sent to PS for registration of FIR. PW-11 also deposed that the doctor handed over three sealed parcels containing clothes of all three injured sealed in the separate parcels along with sample seal. These sealed parcels were seized by him vide seizure memo Ex. PW11/B. PW-11 further deposed that Deepak was discharged from the hospital after treatment. He along with injured Deepak came at the place of incident i.e outside the house of complainant situated at [REDACTED], Delhi and he prepared site plan Ex. PW5/B at the instance of complainant. PW-11 further deposed that Ct. Ram Niwas came to the spot with copy of FIR and original rukka which he gave to him and he also sent a request for inspection of spot by FSL team along with rukka through Ct. Ram Niwas. PW-11 also deposed that crime team was also informed for inspection of the spot



and at about 1.30 am, crime team officials came at the spot and photographs of the crime scene were taken by the photographer and the spot was inspected by SI Ram Phal/Incharge of Crime Team who thereafter prepared the report and gave it to him. SI Ram Phal instructed him regarding lifting of exhibits from the spot. Ct. Ram Niwas was left at the spot as FSL team had not reached at the spot by that time. PW-11 also deposed that during early morning hours, FSL team reached at the spot and inspection was conducted by the team. There was a plastic container and one polythene having some contents of liquid lying at the spot. A blue jeans pant was hanging on the door of the house of complainant and the bottom part of the jeans was appearing burnt. PW-11 further deposed that the FSL team officials also directed him to seize these exhibits. These articles I.e plastic container, polythene and jean pant were lifted from the spot and he prepared three separate parcels of these articles and sealed with the seal of 'DJ' and same were seized vide seizure memo Ex. PW11/C. PW-11 further deposed that he along with Ct. Ram Niwas, complainant, his wife M [REDACTED] and his brother-in-law Sandeep started making search of the offender in the nearby area. When they were present near Aggarwal Sweets, [REDACTED], one person was seen coming from the side of street namely Roop chand wali Gali. On seeing complainant, that person turned back and started fleeing away. Complainant identified that person as same who had thrown acid on him and his daughters.



PW11 SI Deepak further deposed that the said person was apprehended by him and Ct. Ram Niwas and was also identified by his wife and his brother-in-law. On interrogation, the said person disclosed his name as Raghav Mukhiya and he was arrested in this case vide arrest memo Ex. PW5/A and his personal search was conducted vide memo Ex. PW11/D. Accused also made disclosure statement Ex. PW11/E. Then he along with Ct. Ram Niwas and accused came to PS and all the seized exhibits were deposited with MHC(M). PW11 further deposed that on 20.02.2017 accused was produced in the court and you were remanded to JC. As accused had disclosed that he had purchased the acid from a hawker, PW-11 made search to trace that person who used to sell acid in the residential area but said person could not be found. PW-11 also visited some factories to make inquiry of that hawker but he could not get any clue. PW11 further deposed that on 21.02.2017 he visited Sehgal Hospital where injured 'T' & 'B' were admitted and he made inquiries from them and recorded their statements. Both the injured were bed ridden at that time and doctor informed that they had suffered severe burn injuries and so would not be able to do their own work for a long time. PW11 further deposed that on 28.02.2017 he deposited the MLCs of all injured in Sehgal hospital for seeking opinion regarding nature of injuries. Doctor opined nature of injuries as simple on the MLC of Deepak, however, on the MLCs of 'T' & 'B', nature of injuries were opined as grievous. PW11 further deposed



that on 10.03.2017 all the seized exhibits of this case were sent to FSL and he made efforts to search the source of acid but he could not get any clue. PW-11 prepared the chargesheet and thereafter he proceeded on medical leave. Thereafter chargesheet was filed in the court by some other police official which he was on leave. PW-11 has correctly identified the accused as well as the plastic container without cap as Ex. P3, the glass jar in broken condition as Ex. P4, plastic polythene as Ex. P5, the glass jar as Ex. P6 & jeans which was seized from the spot as Ex. P7.

19. **PW-12 Ct. Ram Niwas** deposed that on 18.02.2017 he was posted at PS Khyala as constable and on that day SI Deepak received DD No.45A at about 11.15 pm and on receipt of which he took PW-12 along with him to Sehgal Neo Hospital, Meera Bagh where collected MLC of Deepak, [REDACTED] and B [REDACTED] PW-12 further deposed that SI Deepak recorded statement of injured Deepak and took rukka and handed it over to him for registration of FIR at PS Khyala. He got FIR registered and came back to the spot at [REDACTED], Delhi where SI Deepak was also present. PW-12 further deposed that he handed over the copy of FIR and rukka to SI Deepak, who prepared the site plan of the spot at the instance of injured Deepak which is already Ex. PW5/B. PW-12 also deposed that crime team officials were also called at the spot and they inspected the spot and took the photographs of the spot and he was left at the spot to take care of the spot and SI Deepak left the spot. PW-12 further deposed that in the



morning i.e 19.02.2017 SI Deepak along with FSL team officials came to the spot and FSL team inspected the spot and took the photographs of the spot. On the direction of FSL team, SI Deepak lifted from the spot i.e [REDACTED]

[REDACTED] Khyala one plastic container having some acid, one white colour torn polythene on which acid type material was present and one blue colour jeans pant which was burnt from the lower portion of the left leg. SI Deepak kept the plastic container acid and the above stated polythene separately in a jar of glass and gave serial no.1 and 2 to it and kept the jeans in a white cloth pullanda and gave serial no.3 to it. PW-12 further deposed that SI Deepak sealed all the above stated three pullandas and gave seal 'DJ' and seal after use handed over to him. SI Deepak took the above stated pullanda into police possession vide seizure memo Ex. PW11/C. PW-12 further deposed that thereafter they along with the injured, his wife and Sandeep (brother-in-law of Deepak) started searching of you and when they reached at Aggarwal Sweets near T Block, Vishnu Garden, injured Deepak, his wife and Sandeep pointed towards one person who was coming from the front side and stated that he was the person who caused injuries to them by throwing acid on them. PW-12 further deposed that the said person was overpowered by them and they came to know the name of the said person as Raghav Mukhiya and he was arrested vide arrest memo Ex. PW5/C and was also personally searched vide memo Ex. PW11/D. Accused also made disclosure statement which was



recorded by SI Deepak vide Ex. PW11/E and thereafter they came back to PS. PW-12 has correctly identified the plastic jar in which there was some acid and glass jar as Ex. P3 & P4, polythene with some liquid which appears to be acid as Ex. P5, glass jar as Ex. P6 & the jeans as Ex. P7.

20. **PW-13 ASI Binod Kumar** deposed that on 19.02.2017 he was posted at PS Khyala and working as MHC(M) and on that day, IO/SI Deepak had deposited 6 exhibits and 3 sample seals in a sealed condition in malkhana and he took the same and made relevant entries in register No.19 vide serial No.1634, the copy of the same was exhibited as Ex. PW13/A. PW-13 further deposed that on 10.03.2017 on the instructions of IO, he handed over the sealed exhibits along with sealed samples to Ct. Ram Avtar for depositing the same to FSL vide RC No.45/21/17, the copy of the same was exhibited as Ex. PW13/B. PW-13 further deposed that on 12.05.2017 the FSL result was received and handed over to SI Anand to deposit the same in the court.

21. On the Statement of the accused recorded U/s 294 Cr.P.C., the following documents were not disputed :-

Copy of FIR No.0054/2017, PS Khyala which is Ex. AD-1, Certificate U/s 65B of Indian Evidence Act which is Ex. AD-2, DD No.45A dated 18.02.2017 which is Ex. AD-3, DD No.47A dated 18.02.2017 which is Ex. AD-4, DD No.5A dated 19.02.2017 which is Ex. AD-5, DD No.7A dated 19.02.2017 which is Ex. AD-6, RC No.45/21/17 dated 10.03.2017 which is Ex. AD-7, acknowledgment dated 10.03.2017 which is Ex. AD-8, entries in register



no.19 which is Ex. AD-9 (running into two pages), the documents i.e. CPRDD No.18FEB171430587, 18FEB171140609, 18FEB171110694 and 18FEB171470708 which are Ex. AD-10 (colly.) and certificate U/s 65B of Indian Evidence Act dated 16.05.2017 regarding aforesaid CPRDD which is Ex. AD-11.

22. Prosecution evidence was completed. Thereupon all the incriminating evidence as come on the judicial record were put to the accused. Accused denied the incriminating evidence and took the plea that he has been falsely implicated in this case by the victims and their parents. Accused claimed that he had not visited the place of victims as alleged by them and that the police officials did not take him at the place where the victims were residing for the purpose of identification of such place and that he was arrested from a factory in Khyala Industrial Area where he was sleeping. Further that, the place of arrest has not been correctly mentioned in the arrest memo. Accused had not led any evidence in his defence.
23. I have heard Sh. Abhishek Rana, Ld. Addl. PP for the State assisted by Ms. Mangla Verma & Ms. Joicy, Ld. Counsels for the complainant as well as Ms. Shobha Gupta, Ld. Counsel for the accused and have gone through the record.
24. Sh. Abhishek Rana, Ld. Addl. PP for the State submits that case of the prosecution has been proved on the record from the evidence of both the child victims as well as the complainant and their testimonies are duly corroborated by



the other witnesses who all have consistently deposed against the accused. Furthermore, the FSL report also shows that the liquid thrown by the accused is 'Sulfuric Acid' He has prayed that considering the facts and circumstances of the case as well as the testimony of the prosecutrix, the accused be convicted for the offence u/s 326A IPC.

25. Ms. Mangla Verma, Ld. Counsel for the complainant has filed written synopsis and has argued that the accused has been duly identified by the PW4 Injured B [REDACTED] PW5 Sh. Deepak. It is argued that though PW3 Injured I [REDACTED] has not identified the accused to be the assailant, however, there are Court observations that the height and complexion of the assailant are deposed by the witness. It is argued that such physical attributes (as deposed by the witness/PW3) matches with the accused. It is also argued that the defence's case rests on hollow assertion, bereft of any corroborative substance, that the accused has been falsely implicated and that someone else has thrown acid being irritated by PW5 selling liquor in the area, however, such suggestion has been vehemently denied by PW3, PW5 and PW6 and even in the evidence of PW11 SI Deepak it has come that no fact came in his knowledge that the complainant is into the business of selling illicit liquor. It is prayed that considering the consistent testimonies of the witnesses, the accused be convicted for offence u/s 326A IPC. Reliance is also placed on the following judgments :-

(i) *Jagjeet Singh & Ors. Vs. Ashish Mishra 2022 (9) SCC 321.*



- (ii) *Hakim & Anr. Vs. State NCT of Delhi CrI. Appeal No. 209/2020 decided on 13.10.2022 by Hon'ble High Court of Delhi.*
- (iii) *State of UP Vs. Naresh & Ors. 2011 (4) SCC 324.*
- (iv) *Balu Sadam Khalde Vs. State of Maharashtra 2023 SCC OnLine SC 355.*
- (v) *Sidhartha Vashisht @ Manu Sharma Vs. State of NCT of Delhi (2010) 6 SCC 1.*
- (vi) *Kulvinder & Ors. Vs. State (NCT of Delhi) 2018 SCC OnLine Del 10731.*
- (vii) *Anees Vs. State of NCT of Delhi 2024 SCC OnLine SC 757.*
- (viii) *Tulshiram Sahadu Suryavanshi Vs. State of Maharashtra (2012) 10 SCC 373.*

26. Per contra, Ms. Shobha Gupta, Ld. Counsel for the accused has also filed her written synopsis and has argued that as per the prosecution story, time of incident is shown at 10.15 PM on 18.02.2017 but the information was received in the PS at 1 AM on 19.02.2017 and thus there is delay of 3 hours and there is no explanation to this inordinate delay. It is argued that why the victims were not taken to Government hospital and why till that time the police was not informed by the complainant or any other family members. It is argued that the injured witnesses have admitted in their cross-examination that there was dark when they were allegedly attacked and therefore it was not possible for them to see the face of the assailant. It is also argued that there are several contradictions in the testimonies of the injured witness, the complainant and other witnesses. It is argued that in fact the complainant used to sell illicit liquor in the area and the neighbours of



the complainant were against the said illegal business and therefore someone had thrown acid upon the complainant and his family, however, the police officials who were hand in glove with the complainant had falsely implicated the accused who is an illiterate tribal. It is prayed that under such circumstances the accused be acquitted.

27. I have considered the submissions at Bar and having gone through the record and the evidence.
28. The present case involves the allegations of acid attack punishable u/s 326A IPC.

“SECTION 326 A states – Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine. Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim.”

29. The Section is predicated upon the following :
- (i) permanent or partial damage or deformity or burns caused to any part of the body of a person or causing grievous hurt;*
 - (ii) by throwing acid or administering acid or using any other means;*
 - (iii) with the intent or with the knowledge that it is likely to cause such injuries or hurt.*



30. Therefore, it is clear that Section 326A covers a situation where partial or permanent damage/ deformity/ burn/ grievous hurt to any part of the body can not only be caused by an acid but by “any other means”.
31. Notwithstanding the expansion in Section 326A itself of the nature of substance by the use of the phrase “any other means”, the legislature has in fact in a subsequent provision Explanation 1 of Section 326B itself provided meaning to the word “acid” used in Section 326A. “Acid”, as per the said Explanation, includes any substance which has acidic or corrosive character of burning nature capable of causing bodily injury leading to scarce or disfigurement or temporary or permanent disability. Therefore by this provision, it is quite evident that the legislature has included in the meaning of “acid” two clear and categorical aspects: first, any substance with an acidic/ corrosive/ burning nature; and second, that it has the capability of causing bodily injury leading to scars or disfigurement or temporary or permanent disability. The word “acid” therefore as used in Section 326A is not merely restricted to substances which are classically/scientifically termed as acids but extends and includes all those substances which have acidic/corrosive/burning nature and are capable of causing scarring/disfigurement/temporary or permanent disability. This is notwithstanding the fact that by including “any other means”, the legislature has intended to apply Section 326A to a larger set of substances/methods which may cause such injuries to the person.



32. Applying these provisions to the facts and circumstances of the case, it is quite evident that this case squarely falls within the meaning of Section 326A IPC. In order to prove the injuries caused to injured girls Bhumi & Isha and the complainant Deepak, the prosecution has examined PW-10 Dr. Vikas Kumar who deposed that on 18.02.2017 he was working in Sehgal Neo Hospital as Sr. Medical Officer and on that night at about 11 pm, three injured persons namely baby E [REDACTED] baby B [REDACTED] and Mr. Deepak Kumar came in the casualty with the alleged history of burn, thrown acid by unknown person near 108 Khyala, Sant Bazar, around 10.40 PM.
33. PW-10 Dr. Vikas Kumar deposed that he examined the injured baby E [REDACTED] vide MLC No.B-1079/17 and on examination, burn injury on bilateral upper limb, on face, neck and on left leg and the nature of injury was opined by him as 'grievous'. The percentage of burn injuries upon Baby E [REDACTED] was about 30-40 per cent and the detailed MLC is Ex. PW10/A. PW-10 also deposed that injured baby B [REDACTED] was examined vide MLC No.B-1080/17 and on examination, burn injury was found on abdomen, pelvis region and on buttock bilateral and the nature of injuries was opined by him as 'grievous'. The percentage of burn injuries on Baby B [REDACTED] was about 20 per cent and the detailed MLC is Ex. PW10/B. PW-10 further deposed that injured Deepak was examined vide MLC No.B-1081/17 and on examination, burn injury was found on left side of face, left and right leg and the nature of injury was opined



by him as 'simple'. The percentage of burn injuries was about 10 per cent and the detailed MLC is Ex. PW10/C.

34. Thus, permanent/partial damage had been caused to injured baby E [REDACTED] on her bilateral upper limb, on face, neck and on left leg with the percentage of burn injuries about 30-40 percent as mentioned in MLC is Ex. PW10/A. Permanent/partial damage was caused to injured baby B [REDACTED] upon her abdomen, pelvis region and on buttock bilateral with the percentage of burn injuries about 20 per cent as mentioned in the MLC No.B-1080/17 Ex. PW10/B.

35. Permanent/partial damage was caused to injured Deepak upon left side of face, left and right leg with the percentage of burn injuries about 10 per cent as mentioned in the MLC No.B-1081/17 Ex. PW10/C.

36. Further, it is not necessary to determine the exact substance which was used in the assault, but it was enough that it satisfied the twin conditions as envisaged in the definitional provision of Explanation 1 of Section 326A i.e. that of being acidic/corrosive/burning nature fact and that it was capable of causing scarring/disfigurement/ temporary or permanent disability. Both these elements stand conclusively proved by a bare perusal of the detailed medical record of the three injured persons.

37. Now coming to the testimony of PW-3 I [REDACTED], PW-4 B [REDACTED] and PW-5 Deepak, all of them have consistently deposed that on 18.02.2017 at about 9.30 PM, all these three witnesses alongwith Sandeep (brother-in-law of PW5) were sitting outside their house and one person was



roaming around their house. Since the family of PW-5 had to attend a marriage, they thought that said person might be intending to commit theft. Upon this PW5 Deepak and his brother-in-law Sandeep rebuked and scolded the said person and the said person left from there. However, after 15 minutes, that person again came back and after hiding himself for some time, after seeing the opportunity, he threw acid upon PW-3 I ■■■, PW-4 B ■■■ and some acid also fell upon PW-5 Deepak. All these three witnesses have also deposed that after pouring/throwing acid on them, that man ran away and PW-3 I ■■■ and PW-4 B ■■■ got burning sensation all over their bodies. Thereafter, PW-5 tried to chase and catch the accused but he fled away due to darkness in the gali.

38. Here it would be relevant to reproduce the exact words deposed by PW-4 B ■■■ regarding the actual incident of throwing of acid upon her, her sister and father, which reads as under :-

“15 मिनट्स के बाद वो काला आदमी दोबारा वापिस आया और हमारे घर के अंदर झाँक रहा था | वो बाहर खड़ा हो कर बार बार देख रहा था और घर के आस-पास छिप भी रहा था | उसने मुझ पर और मेरी बहन पर एसिड डाला | थोड़ा मेरे पापा पर भी गिरा | मेरे पापा ने उसका पीछा किया पर वो अँधेरे का फायदा उठा कर भाग गया।”

39. PW-3 I ■■■ also correctly identified the black color gown with two separate pieces, one inner wear and one outer wear with holes and in torn condition as well as one printed maroon colored underwear which is also in torn condition to be her clothes which she was wearing at the time of



incident.

40. PW-4 B [REDACTED] correctly identified one light black/grey colored top (inner wear thermal like T-Shirt) in torn condition to be her clothes which she was wearing at the time of incident.
41. PW-1 SI Ram Pal, Incharge of Mobile Crime Team has deposed that he alongwith PW-2 SI Ajit Singh, photographer of Crime Team, after inspection of the spot of occurrence, had clicked photographs of the spot which were proved on record as Ex.PW2/A1 to Ex.PW2/A12. PW-1 also proved the Crime Team Report as Ex.PW1/A, which mentions the following situation of the spot of occurrence:-

"घर के सामने सीढ़ियों पर एसिड टाइप का तरल पदार्थ बिखरा हुआ था व सीढ़ी के पास एक सफ़ेद डिब्बा प्लास्टिक पड़ा था जिसमे भी एसिड टाइप का तरल पदार्थ था / एक पॉलिथीन जो एसिड से सनी हुई थी व फटी हुई थी मौके पर पड़ी थी व एक नीले रंग की जीन्स की पेन्ट जिसका बायां पैर नीचले हिस्से से जला हुआ था फर्श पर पड़ी हुई थी और फर्श पर भी कुछ सफ़ेद रंग का जला हुआ पदार्थ बिखरा हुआ था कमरे के दरवाजे पर भी एसिड टाइप का तरल पदार्थ के छींटे लगे हुए थे।"

42. The accused's intention and knowledge that his act will cause grievous injury is also proved by the amount of acid used as proven by PW9 the FSL Expert vide report Ex.PW9/A which states that approximately 30 ml of acid was found each in the container and the polythene when they were examined by the FSL. Acid was also found splattered on the door of the house, jeans, clothes of



PWs 3, 4 and 5 and on the floor of the house as per the Scene of Crime Report reproduced above.

43. During cross-examination of PW-3 I [REDACTED], PW-4 B [REDACTED] and PW-5 Deepak, nothing material could come on record regarding the incident of throwing of acid upon the three witnesses.
44. Ld. Defence Counsel has vehemently argued regarding the manner and place of the arrest of the accused. Now let us examine the testimony of the witnesses on the aspect of arrest of accused. PW-5 Deepak, his wife PW-5 Meenakshi, PW-11 IO SI Deepak and PW-12 Ct. Ram Niwas have all consistently deposed that on the next day of the incidence i.e. on 19.02.2017 when all of them had gone in search of the assailant of the present case and had reached at T-Block near Aggarwal Sweets, they saw one person coming out from gali and they pointed out towards the said person to be the same person who committed the offence. The said person was overpowered and he disclosed his name as Raghav Mukhiya. Accused Raghav was arrested vide arrest memo Ex. PW5/C.
45. The accused in his statement recorded u/s 311 Cr.PC has disputed the place of arrest and states that the police officials arrested him from a factory at Khyala Industrial Area where he was sleeping. This line of defence is introduced for the first time by the accused in his statement u/s 311 Cr.PC and even no suggestions have been put with regard to the place of arrest of the accused in the cross-examination of PW-5 Deepak, PW-6 Meenakshi at whose



instance and after their identification the arrest was made and even to PW-11 I.O. SI Deepak who arrested the accused. Furthermore, to substantiate this fact, accused has not led any evidence in his defence. He could have summoned the factory owner who could have thrown some light on this far-fetched defence sought to be raised by the accused. As discussed above, all the witnesses have consistently deposed about the manner and also regarding the place of arrest of the accused. In the cross-examination of all these witnesses, nothing fruitful could come which could have raised any doubt over the veracity of their statements.

46. As regards the contention of Ld. Defence Counsel that there is delay of 3 hours in reporting the matter to the police, the Court is of the view that this contention is absolutely baseless and untenable. It is wholly contrary to the detailed medical report which makes it evident that PW-3, PW-4 and PW-5 having suffered a case of an acid attack had to run to the hospital first, for emergency attention to surgery, just to repair the damage done to them from the attack. It is impossible to accept that any person would go to the police first than the hospital for emergent medical situation. This theory is so far fetched that it deserves to be rejected at the very threshold. It is also evident from the testimony of PW-5 both the victims were taken to Sehgal hospital where they got basic treatment and referred to Safdarjung hospital where both victims were treated for about 7-10 days, however, on being dissatisfied



with the treatment of Safdarjung hospital he got discharged the victims and they admitted in Sehgal hospital where they remained admitted for about a week.

47. Further as per the PCR form (admitted by the accused u/s 294 Cr.PC) Ex.AD-10 (Colly.), the first call was made to the police at 11.13 PM in which the caller has informed that acid has been thrown on two girls and one man and he had brought them to Sehgal Nursing Home and such information was reduced in writing vide DD No. 45A. Thereafter, further information were also forwarded to the police vide DD Nos. 47A dt. 18.02.2017, DD No.5A dt. 19.02.2017 at 12.08 AM in night and DD No. 7A dt. 19.02.2017 at 12.10 AM in night. Thus the contention that the first call was made to the police after three hours of the incident is meritless. For the sake of arguments, even if the said submission is taken on its face value, then the first and the foremost duty of the father/PW5 and his other family members/relatives is to rush the injured girls to the hospital first and then to think of reporting the matter to the police. Even in such situation, as aforesaid, the incident was reported to the police at the earliest.
48. It is argued by counsel for accused that PW-3 I [REDACTED] has not identified the accused. It is argued that in her examination-in-chief, PW3 after seeing the accused on the TV screen has deposed that she does not remember if he is the same person who threw acid on her and her sister. In this regard, it is observed that at that juncture the Ld. Predecessor of this Court while recording the testimony of PW3, had



observed that the accused is visibly short stratured and the height of accused as mentioned in the conviction slip is 5'2". Here it would be relevant to refer to the complaint Ex.PW5/A, wherein the complainant/PW5 Deepak has referred to the assailant as the person "उसी दौरान एक लड़का उम्र करीब 30 वर्ष कद 5'5" रंग-काला जिसके हलके से दाँत बाहर थे व जिसने लाल रंग की T-Shirt व काली रंग पैंट तथा पैरो में हवाई चप्पल पहनी हुई थी" Thus, even these physical attributes of the assailant matches with the accused.

49. In the present case, as aforesaid, all material prosecution witnesses including the injured witnesses were able to correctly identify the accused in Court. The witnesses also spoke in one voice in their statements about the physical appearance and the clothes that the accused was wearing at the scene of the crime. Further, it is well settled law that identification of the accused in Court is a substantive piece of evidence, while a Test Identification Parade (TIP) is only an aid to the investigation. Further, as held by the Supreme Court in *Sidhartha Vashisht @ Manu Sharma v. State (NCT of Delhi)* (2010) 6 SCC 1, "even where there is no previous TIP, the Court may appreciate the dock identification as being above-board and more than conclusive". This was also reiterated by the Hon'ble Delhi High Court in *Kulwinder & Ors vs. State (NCT of Delhi)* 2018 SCC OnLine Del 10731. In the present case, since the arrest of the accused was made at the instance and on identification of the eye witnesses (PW 5 and 6) the next day, a TIP is not required and conviction can be based on



the dock identification of the accused.

50. It is also argued by Ld. Defence Counsel that in fact the complainant used to sell illicit liquor in the area and the neighbours of the complainant were against the said illegal business and therefore someone had thrown acid upon the complainant and his family, however, the police officials who were hand in glove with the complainant had falsely implicated the accused who is an illiterate tribal. In this regard, the accused has not taken any steps to atleast bring an iota of evidence on record. Accused has not examined any person of the neighbourhood of the complainant to show that the complainant was into the business of selling illicit liquor and/or that his neighbours were fed up of the complainant to such an extent that someone had poured acid upon the complainant and his family.
51. As per Section 106 of the Evidence Act, when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Section 106 of the Evidence Act reads as follows:

"106. Burden of proving fact especially within knowledge.— When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Illustration (a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him. (b) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him."

52. Section 106 of the Evidence Act referred to above provides that when any fact is especially within the knowledge of



any person, the burden of proving that fact is upon him. The word “especially” means facts that are pre-eminently or exceptionally within the knowledge of the accused. The ordinary rule that applies to the criminal trials that the onus lies on the prosecution to prove the guilt of the accused is not in any way modified by the rule of facts embodied in Section 106 of the Evidence Act. Section 106 of the Evidence Act is an exception to Section 101 of the Evidence Act. Section 101 with its illustration (a) lays down the general rule that in a criminal case the burden of proof is on the prosecution and Section 106 is certainly not intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult, for the prosecution to establish the facts which are, “especially within the knowledge of the accused and which, he can prove without difficulty or inconvenience”.

53. The Hon’ble Supreme Court in the case titled as ***Anees Vs. State Govt. of NCT 2024 SCC OnLine SC 757***, after referring to the judgments in the cases of ***Shambhu Nath Mehra v. The State of Ajmer, AIR 1956 SC 404, Nagendra Sah v. State of Bihar, (2021) 10 SCC 725 and Tulshiram Sahadu Suryawanshi and Anr. v. State of Maharashtra, (2012) 10 SCC 373***, has held as under :-

“A manifest distinction exists between the burden of proof and the burden of going forward with the evidence. Generally, the burden of proof upon any affirmative proposition necessary to be established as the foundation of an issue does not shift, but the burden of evidence or the burden of explanation may

shift from one side to the other according to the testimony. Thus, if the prosecution has offered evidence, which if believed by the court, would convince them of the accused's guilt beyond a reasonable doubt, the accused, if in a position, should go forward with counter-vailing evidence, if he has such evidence. When facts are peculiarly within the knowledge of the accused, the burden is on him to present evidence of such facts, whether the proposition is an affirmative or negative one. He is not required to do so even though a prima facie case has been established, for the court must still find that he is guilty beyond a reasonable doubt before it can convict. However, the accused's failure to present evidence on his behalf may be regarded by the court as confirming the conclusion indicated by the evidence presented by the prosecution or as confirming presumptions which might arise therefrom. Although not legally required to produce evidence on his own behalf, the accused may, therefore, as a practical matter find it essential to go forward with proof. This does not alter the burden of proof resting upon the prosecution."

54. Thus, in view of the above settled proposition of law, it is observed that in the present case, once the prosecution has proved the foundational facts that the accused had thrown acid upon the complainant and his two daughters and if the accused was in the special knowledge of any certain facts that somebody in the neighbourhood was fed up of the complainant who was in the business of selling illicit liquor then it was for the accused to prove such facts on record.
55. In the case of **State of U.P VS. Naresh And Ors, 2011 (4) SCC 324**, the Hon'ble Supreme Court held that the evidence of an injured witness should be relied upon unless there are major contradictions and discrepancies and held as under :-

"The evidence of an injured witness must be given



due weightage being a stamped witness, thus, his presence cannot be doubted. His statement is generally considered to be very reliable and it is unlikely that he has spared the actual assailant in order to falsely implicate someone else. The testimony of an injured witness has its own relevancy and efficacy as he has sustained injuries at the time and place of occurrence and this lends support to his testimony that he was present during the occurrence. Thus, the testimony of an injured witness is accorded a special status in law. The witness would not like or want to let his actual assailant go unpunished merely to implicate a third person falsely for the commission of the offence. Thus, the evidence of the injured witness should be relied upon unless there are grounds for the rejection of his evidence on the basis of major contradictions and discrepancies therein.

56. In **Balu Sudam Khalde v. State of Maharashtra, 2023 SCC OnLine SC 355**, the Supreme Court discussed the following principles that need to be taken care of while appreciating the evidence of an injured eye-witness:

“(a) The presence of an injured eye-witness at the time and place of the occurrence cannot be doubted unless there are material contradictions in his deposition.

(b) Unless, it is otherwise established by the evidence, it must be believed that an injured witness would not allow the real culprits to escape and falsely implicate the accused.

(c) The evidence of injured witness has greater evidentiary value and unless compelling reasons exist, their statements are not to be discarded lightly.

(d) The evidence of injured witness cannot be doubted on account of some embellishment in natural conduct or minor contradictions.

(e) If there be any exaggeration or immaterial embellishments in the evidence of an injured witness, then such contradiction, exaggeration or



embellishment should be discarded from the evidence of injured, but not the whole evidence.

(f) The broad substratum of the prosecution version must be taken into consideration and discrepancies which normally creep due to loss of memory with passage of time should be discarded.

27. In assessing the value of the evidence of the eyewitnesses, two principal considerations are whether, in the circumstances of the case, it is possible to believe their presence at the scene of occurrence or in such situations as would make it possible for them to witness the facts deposed to by them and secondly, whether there is anything inherently improbable or unreliable in their evidence. In respect of both these considerations, circumstances either elicited from those witnesses themselves or established by other evidence tending to improbabilise their presence or to discredit the veracity of their statements, will have a bearing upon the value which a Court would attach to their evidence. Although in cases where the plea of the accused is a mere denial, the evidence of the prosecution witnesses has to be examined on its own merits, where the accused raise a definite plea or put forward a positive case which is inconsistent with that of the prosecution, the nature of such plea or case and the probabilities in respect of it will also have to be taken into account while assessing the value of the prosecution evidence."

57. In the light of the above-noted settled proposition of law as held by the higher Courts as well as from the above-noted discussion of the evidence of the injured witnesses which is duly corroborated by the testimony of other prosecution witness, this Court is of the considered opinion that the prosecution has successfully proved on record that it was indeed the accused Raghav Mukhiya who had thrown acid upon PW-3, PW-4 and PW-5 and also that the accused has not been able to prove on record his hollow defence sought



to be raised by him in the present case.

58. Thus, in the above-noted facts and circumstances on appreciation of the entire evidence on record, it is observed that the prosecution has successfully proved the basic ingredients for proving the offence under Section 326A IPC against the accused, beyond reasonable doubt.
59. Accordingly, accused Raghav Mukhiya, s/o Sugarath Mukhiya is hereby convicted for offence u/s 326A IPC.



Announced in the open Court
on 8th November, 2024

मूल प्रति से सत्यापित
TRUE COPY ATTESTED


8/11/24

मेसजर
Reader
अतिरिक्त जिला एवं सत्र न्यायाधीश
Addl. Distl. & Sessions Judge
दिल्ली
Delhi

— Sd —
(ADITI GARG)
Addl. Sessions Judge-06 (West)
Tis Hazari Courts, Delhi

Additional Sessions Judge-06 West
तीस हजारी न्यायालय, दिल्ली
THC, Delhi

State Vs. Raghav Mukhiya
SC No. 319/17
FIR No. 54/2017 PS Khyala
05.03.2025

Ms. Aditi Garg
Additional Sessions Judge-06 West
Special Court Under POCSO Act
Room No. 22, Ground Floor
THC, Delhi

Present: Sh. Subhash Chauhan, Ld. Substitute Addl. PP for State
Sh. Hamza Tariq, Ld. Counsel for victims **through VC**
Sh. Arshi Malik, Ld. Proxy counsel for victims
Convict produced from JC
Sh. Shobha Gupta, Ld. Counsel for convict
Ms. Shabiya Khatoon, Ld. counsel for DCW.

Vide separate orders on sentence, convict Raghav Mukhiya has been sentenced as under :-

For offence under Section 326A, convict is sentenced to rigorous imprisonment for the period of ten years and fine of Rs.20,000/- and in default of payment of fine SI for one year.

Benefit of Section 428 Cr.P.C is extended to the convict.

It is also ordered that out of the total fine of Rs.20,000/- imposed upon the convict, in case of realization of the same, an amount of Rs.13,500/- shall be released to the State.

Vide the said order on sentence, orders with respect to the final compensation of Rs.20,00,000/- (Rs. Twenty Lakhs only) have also been passed in favour of the three victims.

Copy of the order on sentence be also sent to the Secretary, Govt. of NCT of Delhi, New Delhi for information and compliance.

Copy of the order on sentence along with the particulars of all three victim persons be sent to learned Secretary, DLSA, West, Tis Hazari Courts, Delhi for necessary compliance.

Copy of order on sentence be supplied to convict. **File be consigned to record room.**



Attestal from
2007
7
Reader
05/3/25

— 52 —
(Aditi Garg)
Addl. Sessions Judge-06 (West)
Tis Hazari Court/05.03.2025
अतिरिक्त जिला एवं सत्र न्यायाधीश
Addl. Distt. & Sessions Judge
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi

**IN THE COURT OF MS. ADITI GARG
ADDL. SESSIONS JUDGE (POCSO)-06,
WEST DISTRICT, TIS HAZARI COURTS : DELHI**

**S.C. No. 319/2017
CNR No.DLWT01-004860-2017**

State

Vs.

**Raghav Mukhiya
S/o Sugarath Mukhiya
R/o WZ-48/5, Roop Chand Wali Gali
Khyala Village, Delhi.**

**FIR No. 54/2017
U/s 326A IPC
PS : Khyala**

Date of institution of case	: 18.05.2017
Date of committal to Sessions Court	: 25.07.2017
Date of assignment to this Court	: 18.01.2024
Date on which Judgment is reserved	: 26.10.2024
Date on which Judgment is delivered	: 08.11.2024
DLSA report submitted on	: 13.01.2025
Arguments on sentence heard on	: 30.01.2025
Order on Sentence on	: 05.03.2025

ORDER ON SENTENCE

1. Vide judgment dated 08.11.2024, convict Raghav Mukhiya has been convicted for the offence punishable under Section 326A IPC.

2. I have heard arguments on the point of sentence advanced at Bar by the Ld. Addl. PP on behalf of the State and Ld. LAC for convict.



3. Sh. Aditya Trehan, Ld. Addl. PP has vehemently argued that nature of offence committed by convict is a heinous crime. He submits that the accused has ruined the life of three injured persons which included two minor girls by throwing acid upon them. Ld. Addl. PP has pointed out that the injured baby E [REDACTED] was examined vide MLC No.B-1079/17 Ex. PW10/A and on examination, burn injury on bilateral upper limb, on face, neck and on left leg and the nature of injury was opined by him as 'grievous'. The percentage of burn injuries upon Baby E [REDACTED] was about 30-40 per cent. It is further submitted that injured baby B [REDACTED] was examined vide MLC No.B-1080/17 Ex. PW10/B and on examination, burn injury was found on abdomen, pelvis region and on buttock bilateral and the nature of injuries was opined by him as 'grievous'. The percentage of burn injuries on Baby B [REDACTED] was about 20 per cent. It is also submitted that injured Deepak was examined vide MLC No.B-1081/17 Ex. PW10/C and on examination, burn injury was found on left side of face, left and right leg and the nature of injury was opined by him as 'simple'. The percentage of burn injuries was about 10 per cent.

4. It is argued that it has been duly proved on record that permanent/partial damage had been caused to injured baby E [REDACTED] on her bilateral upper limb, on face, neck and on left leg with the percentage of burn injuries about 30-40 percent as mentioned in MLC is Ex. PW10/A. Permanent/partial damage was caused to injured baby B [REDACTED] upon her abdomen, pelvis region and on buttock bilateral with the percentage of burn injuries about 20 per



cent as mentioned in the MLC No.B-1080/17 Ex. PW10/B. Permanent/partial damage was caused to injured Deepak upon left side of face, left and right leg with the percentage of burn injuries about 10 per cent as mentioned in the MLC No.B-1081/17 Ex. PW10/C. Ld. Addl. PP has prayed and submitted that convict needs no sympathy and maximum punishment provided under the law may be provided to him.

5. Per contra, Ms. Shobha Gupta, Ld. Counsel for convict has submitted that convict is a young person aged 28 years. It is submitted that the convict is a poor person and has already languished in jail for more than four years and is not earning anything at present. It is further submitted that the convict, who belongs to the lower strata of the society, is the sole bread earner of his family comprising of his wife and four minor children. It is prayed that a lenient view be taken against the convict.

6. I have given thoughtful consideration to the arguments advanced by Bar by both the sides.

7. In ***State of UP Vs. Shri Kishan (2005) 10 SCC 420***, the Hon'ble Supreme Court has emphasized that just and proper sentence should be imposed. It was held :-

“...Any liberal attitude by imposing meager sentences or taking too sympathetic view merely on account of lapse of time in respect of such offences will be result-wise counter productive in the long run and against societal interest which needs to be cared for and strengthened by string of deterrence inbuilt in the sentencing system. The Court will be failing in its duty if appropriate punishment is not awarded for a crime which has been committed not only against the individual



victim but also against the society to which the criminal and victim belong. The punishment to be awarded for a crime must not be irrelevant but it should conform to and be consistent with the atrocity and brutality with which the crime has been perpetrated, the enormity of the crime warranting public abhorrence and it should "respond to the society's cry for justice against the criminal".

8. In ***Sagar Vs. State of Haryana (2014) 15 SCC 558***, it was held by the Hon'ble Supreme Court as under :-

"In view of the above, the law on the issue can be summarized to the effect that one of the prime objectives of criminal law is the imposition of adequate, just, proportionate punishment which is commensurate with the gravity and nature of the crime and manner in which the offence is committed. The most relevant determinative factor of sentencing is proportionality between crime and punishment keeping in mind the social interest and consciousness of the society. It is a mockery of the criminal justice system to take a lenient view showing misplaced sympathy to the accused on any consideration whatsoever including the delay in conclusion of criminal proceedings. The punishment should not be so lenient that it shocks the conscience of the society being abhorrent to the basic principles of sentencing. Thus, it is the solemn duty of the court to strike a proper balance while awarding sentence as awarding a lesser sentence encourages a criminal and as a result of the same society suffers."

9. In the present case, accused has been convicted for offence u/s 326A IPC.

"SECTION 326A – Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine. Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim."



10. Considering the above-noted facts and circumstances of the case, in my considered opinion, ends of justice would be met if convict Raghav Mukhiya is sentenced as under :-

For offence under Section 326A, convict is sentenced to rigorous imprisonment for the period of ten years and fine of Rs.20,000/- and in default of payment of fine SI for one year.

Benefit of Section 428 Cr.P.C is extended to the convict.

COMPENSATION :

11. It has been held in Delhi Domestic Working Women's forum Vs. Union of India and Ors. (1995) 1 SCC 14 that:

"Compensation payable by the offender was introduced in the Criminal Justice Act 1972 which gave the Courts powers to make an ancillary order for compensation in addition to the main penalty in cases where 'injury, loss, or damage' had resulted. The Criminal Justice Act 1982 made it possible for the first time to make a compensation order as the sole penalty. It also required that in cases where fines and compensation orders were given together, the payment of compensation should take priority over the fine. These developments signified a major shift in penology thinking, reflecting the growing importance attached to restitution and reparation over the more narrowly retributive aims of conventional punishment. The Criminal Justice Act 1982 furthered this shift. It required courts to consider the making of a compensation order in every case of death, injury, loss or damage and, where such an order was not given, imposed a duty on the court to give reasons for not doing so. It also extended the range of injuries eligible for compensation. These new requirements mean that if the court fails to make a compensation order, it must furnish reasons. Where reasons are given, the victim may apply for these to be subject to judicial review. The 1991 Criminal Justice Act contains a number of provisions which directly or indirectly encourage an even greater role for compensation.."



12. In judgment dated 03/05/2013 passed by the Hon'ble Supreme Court of India in Criminal Appeal No. 689/2013 titled as "Ankurh Shivaji Gaikwad Vs. State of Maharashtra", it has been held that:

"Amongst others, the following provisions on restitution and compensation have been made:

12. Restitution shall be provided to reestablish the situation that existed prior to the violations of human rights or international humanitarian law. Restitution requires inter alia, restoration of liberty, family life, citizenship, return to one's place of residence, and restoration of employment or property.

13. Compensation shall be provided for any economically assessable damage resulting from violations of human rights or international humanitarian law, such as;

(a) Physical or mental harm, including pain, suffering and emotional distress;

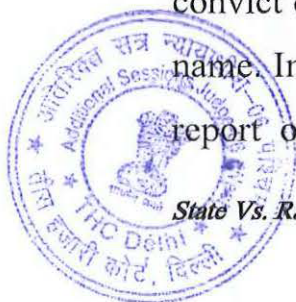
(b) Lost opportunities including education;

(c) Material damages and loss of earnings, including loss of earning potential;

(d) Harm to reputation or dignity;

(e) Costs required for legal or expert assistance, medicines and medical services."

13. Victim Impact Report along with the report regarding paying capacity of convict was called from District Legal Services Authority (DLSA), West. Regarding the verification of the affidavit of the convict, it has been reported that the convict used to do labour work and reside in rented premises. The convict does not have any movable or immovable property in his name. In the opinion of Ld. Secretary, in view of the verification report of the affidavit, the convict does not have any paying

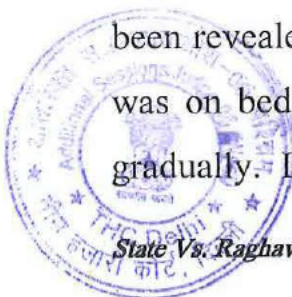


capacity or sources to pay compensation. A recommendation has been made by DLSA West that reasonable compensation under Delhi Victim Compensation Scheme may be awarded to victim.

14. An affidavit has also been filed on behalf of prosecution that approximately Rs.13,538/- has been incurred on the prosecution of convict. ***Out of the fine of Rs.20,000/- imposed upon the convict, an amount of Rs.13,500/- shall be released in favour of the State.***

15. In the present case, the injured I ■■■, B ■■■ and Deepak were interacted on the aspect of final compensation. During interaction, the injured I ■■■ informed that she has completed her graduation in the year 2024 and injured B ■■■ is pursuing her 11th standard. Injured I ■■■ and B ■■■ have already been granted total interim compensation of Rs.3,00,000/- each to both of them. The injured Deepak has informed that due to the incident, surgery was performed upon him.

16. The present case pertains to the year 2017. There are three victims. At the relevant time, victim Deepak, father of victim I ■■■ and victim B ■■■ was not doing a permanent job while injured I ■■■ was studying in 8th standard and injured B ■■■ was studying in 3rd standard. Due to the incident of acid attack, the family structure crippled down. During victim interaction, it has been revealed that due to the above said incident, victim Deepak was on bed rest for couple of days and his health deteriorated gradually. It has been further revealed that he had got heart



surgery done and since the incident had not been able to contribute to financial pool of the family.

Victims I [REDACTED] and B [REDACTED] were both school going children at the relevant time and due to the incident of acid attack, both of them could not pursue their career to their full potential. This incident had not just handicapped the family financially, it also impacted the family members psychologically. Due to the acid attack, victim I [REDACTED] suffered 30-40% disability due to which she had to take study gap for one year. During interaction, the Court observed that she still has acid burn marks on her body and had humbly stated that she feels insecure and under-confident because of the trauma from the incident. Victim B [REDACTED] is currently pursuing her studies in 11th class. She also has burn marks and she also revealed how the present incident had made her emotionally vulnerable.

17. Therefore, it can be seen that this incident had destroyed the childhood of victims I [REDACTED] and B [REDACTED], while taking away the employment opportunity from victim Deepak. Hence it becomes imperative to provide Restorative and Compensatory Justice to the injured persons I [REDACTED], B [REDACTED] and Deepak. Keeping in view of the aforesaid, it is directed that :-

(I) All three victims namely I [REDACTED], B [REDACTED] and Deepak be granted compensation of Rs. 1 Lakh each from the *Avlamban Fund Scheme, 2004* issued in compliance of order dated 28.11.2024 in Bail Application No. 1230/2024 titled as Preeti Vs.

State & Anr.



(ii) Victim I ■■■ be paid the final compensation of Rs. Nine Lakhs and Victims Deepak and B ■■■ be paid the final compensation of Rs. Four Lakhs each.

(iii) Since victim I ■■■ has completed her graduation and is still unemployed, Govt. of NCT of Delhi shall provide employment to injured I ■■■ on compassionate grounds appropriate to her education qualification as well as medical status. Govt. of NCT of Delhi shall also provide vocational training to the victim I ■■■, if she is willing to take the same.

18. Since, convict Raghav Mukhiya is not having financial capacity to pay the compensation amount, the compensation amount shall be paid to the victims by DLSA, West District, New Delhi. It is clarified that any earlier compensation paid to the victims **shall not be** subject to adjustment from the above-mentioned final compensation.

19. Learned Secretary, DLSA West shall release the said amount in Bank Account of victim within one month on receipt of this order and shall further ensure that the said amount is disbursed in such a manner that the same be used for welfare and rehabilitation of the victim. Copy of this order along with the particulars of the victim be sent to learned Secretary, DLSA, West, Tis Hazari Courts, Delhi for necessary compliance. Copy of order on sentence be supplied to convict.

20. Convict is informed of his right to prefer an appeal against this judgment. He has been apprised that if he cannot afford to



engage an Advocate, he can approach the Legal Aid Cell, Tihar Jail or write to Secretary, Delhi High Court, Legal Services Committee, High Court of Delhi. File be consigned to record room.



Announced in the open Court
on 5th March, 2025

— sd —

(Aditi Garg)
ASJ (POCSO)-06, West
Tis Hazari Courts, Delhi

Attested True
copy

(Reender)

05-3-2025

अतिरिक्त जिला एवं सत्र न्यायाधीश
Addl. Distt. & Sessions Judge
तीस हजारी न्यायालय, दिल्ली
Tis Hazari Courts, Delhi