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

Reserved on: 09.10.2026
Pronounced on: 27.10.2026
Uploaded on: 27.10.2026

\# **CNR No. DLHC010040432025**

\+ **CRL.A. 133/2025 & CRL.M.A. 24325/2026, CRL.M.(BAIL) 224/2025**

AMAN KASHYAP .....Appellant

Through: Mr. Faraz Anees and Mr. Kartik Vashisht, Advs.

versus

THE STATE OF NCT OF DELHI .....Respondent

Through: Mr. Rajat Nair, SPP with Mr. Dhruv Pande, Mr. Imon Bhattacharya and Mr. Sarthak, Advs.
IO Inspr. Pawan Kumar

\# **CNR No. DLHC010070312025**

\+ **CRL.A. 180/2025 & CRL.M.A. 24645/2026, CRL.M.(BAIL) 304/2025**

DEVINDER KUMAR .....Appellant

Through: Mr. Faraz Anees and Mr. Kartik Vashisht, Advs.

versus

THE STATE OF NCT OF DELHI .....Respondent

Through: Mr. Rajat Nair, SPP with Mr. Dhruv Pande, Mr. Imon Bhattacharya and Mr. Sarthak, Advs.
IO Inspr. Pawan Kumar

\# **CNR No. DLHC010070322025**

\+ **CRL.A. 181/2025 & CRL.M.A. 24856/2026, CRL.M.(BAIL)**

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

305/2025
PRADEEP RAI .....Appellant

Through: Mr. Faraz Anees and Mr. Kartik Vashisht, Advs.

versus

THE STATE OF NCT OF DELHI .....Respondent

Through: Mr. Rajat Nair, SPP with Mr. Dhruv Pande, Mr. Imon Bhattacharya and Mr. Sarthak, Advs.
IO Insp. Pawan Kumar

\# **CNR No. DLHC010070362025**

\+ **CRL.A. 185/2025 & CRL.M.(BAIL) 310/2025**
ASHISH @ GOLI .....Appellant

Through:

versus

STATE GOVT. OF NCT OF DELHI .....Respondent

Through: Mr. Rajat Nair, SPP with Mr. Dhruv Pande, Mr. Imon Bhattacharya and Mr. Sarthak, Advs.
IO Insp. Pawan Kumar

\# **CNR No. DLHC010127302025**

\+ **CRL.A. 289/2025 & CRL.M.(BAIL) 539/2025**
ARUN KUMAR .....Appellant

Through:

versus

STATE OF NCT OF DELHI .....Respondent

Through: Mr. Rajat Nair, SPP with Mr. Dhruv Pande, Mr. Imon Bhattacharya and Mr. Sarthak, Advs.
IO Insp. Pawan Kumar

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

CORAM:
HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present batch of five criminal appeals, being CRL.A. 133/2025, CRL.A. 180/2025, CRL.A. 181/2025, CRL.A. 185/2025 and CRL.A. 289/2025, has been preferred by the appellants, namely Aman Kashyap, Devinder Kumar, Pradeep Rai, Ashish @ Goli and Arun Kumar, respectively, assailing the common judgment of conviction dated 30.11.2024 and order on sentence dated 13.01.2025 passed by the learned Additional Sessions Judge-03, North-East District, Karkardooma Courts, Delhi, in Sessions Case No. 199/2021, arising out of FIR No. 87/2020 registered at Police Station Dayalpur.

2. Vide the order on sentence dated 13.01.2025, the appellants were sentenced to undergo simple imprisonment for a period of one year for the offence punishable under Section 148 IPC and rigorous imprisonment for a period of seven years, along with a fine of Rs. 30,000/-, for the offence punishable under Section 304 Part I IPC. In default of payment of fine, the appellants was directed to undergo simple imprisonment for a further period of two years. Both substantive sentences were directed to run concurrently.

3. Since all five appeals arise out of the same judgment of conviction and order on sentence, involve common questions of fact and law, and were heard together, they are being disposed of by this common judgment.

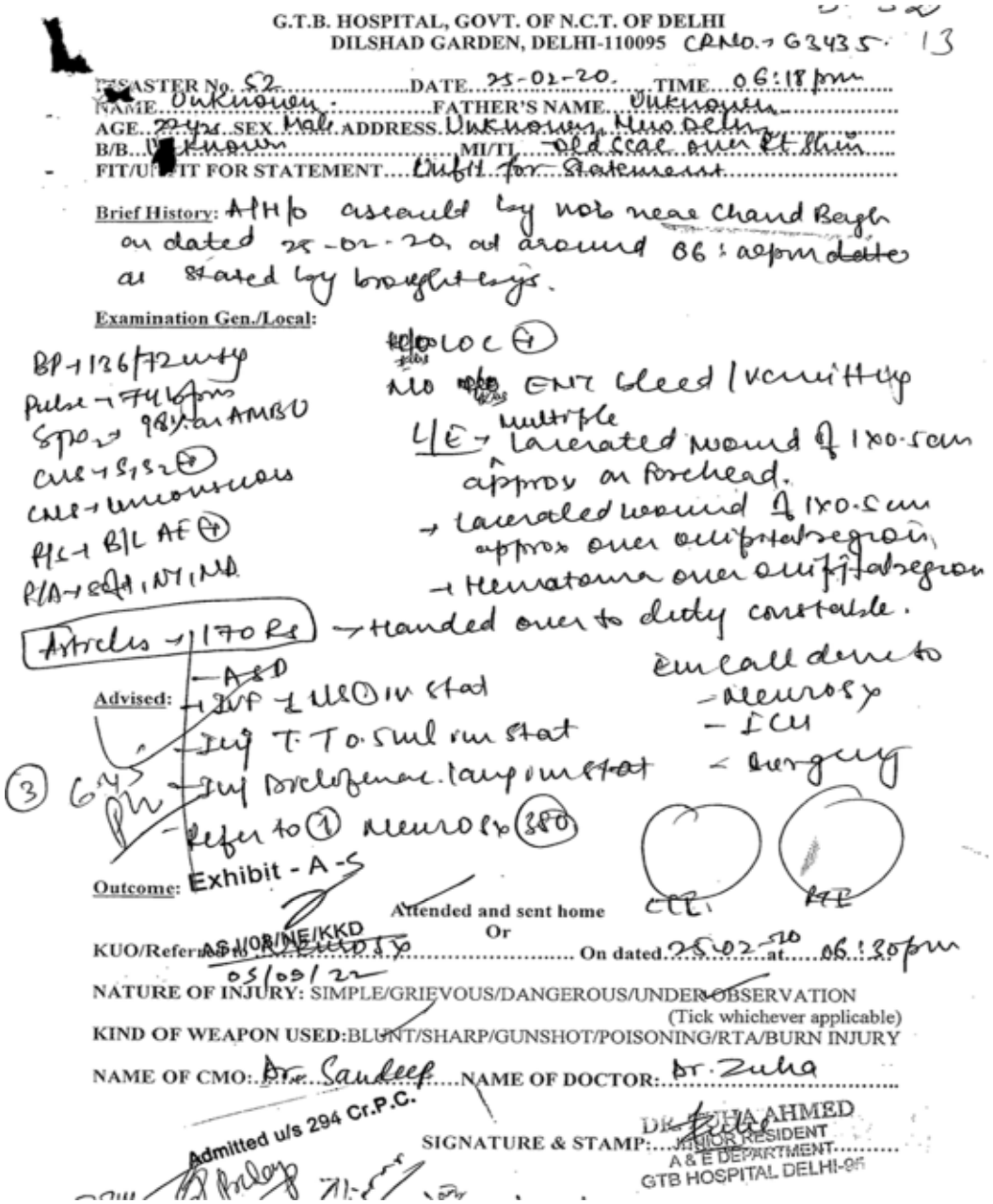
Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

BRIEF FACTS

4. The present case arises out of an incident which took place on 25.02.2020 during the communal violence in North-East Delhi. As per the prosecution, at about 5:00 PM, a young man was assaulted by a mob near Gali No. 3, Brijpuri, in the vicinity of Peer Baba Mazar, Chand Bagh, Delhi. The injured was subsequently taken to Guru Teg Bahadur Hospital (hereinafter referred to as "GTB Hospital"), where he succumbed to his injuries. He was later identified as Monish, aged about 22 years, son of Ali Sher (hereinafter referred to as the "deceased").

5. The matter first came to the notice of the police through information received from GTB Hospital on 25.02.2020. The information was recorded vide General Diary (GD) No. 165-A at about 8:40 PM and concerned two injured persons brought to the hospital, including an unidentified male aged approximately 22 years. ASI Vijyant Kumar thereafter visited the hospital and collected MLC No. D-52/2020 pertaining to the unidentified injured person, who was reported to have been assaulted by a mob near Chand Bagh. Information regarding his death was subsequently recorded vide GD No. 45-A dated 26.02.2020. The MLC of the deceased is reproduced hereinbelow:

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24



G.T.B. HOSPITAL, GOVT. OF N.C.T. OF DELHI
DILSHAD GARDEN, DELHI-110095 CR NO.→ G2435 13

DISASTER No. 52 DATE 25-02-20 TIME 06:18 pm
NAME Unknown FATHER'S NAME Unknown
AGE 22yrs SEX Male ADDRESS Unknown, Nuo Delhi
B/B Unknown MI/TI Old scar over Rt thum
FIT/UNFIT FOR STATEMENT Unfit for Statement

Brief History: A/H/o assault by mob near Chand Bagh on dated 25-02-20, at around 06:a pm date as stated by brought boys.

Examination Gen./Local:

BP→136/72 mmHg
Pulse→74/min
SpO2→ 98% on AMBU
CNS→ S1S2 (+)
CNS→ unconscious
P/L→ B/L Af (+)
P/A→ soft, NT, ND

LOC (+)
NO ENT bleed / vomiting
L/E→ multiple lacerated wound of 1x0.5cm approx on forehead.
→ lacerated wound of 1x0.5 cm approx over occipital region
→ Hematoma over occipital region

Articles→ 170 Rs → Handed over to duty constable.

Advised:
- ASD
- INJ T.T 0.5ml im stat
- Inj Dicloferac 1amp im stat
- Refer to (1) Neuro Op (SBO)

Em call done to
- Neuros
- ICU
- Surgery

Outcome: Exhibit - A-5

Attended and sent home
Or
KUO/Referred to AS I/OR/NE/KKD 05/09/22 On dated 25-02-20 at 06:30 pm

NATURE OF INJURY: SIMPLE/GRIEVOUS/DANGEROUS/UNDER OBSERVATION
(Tick whichever applicable)
KIND OF WEAPON USED: BLUNT/SHARP/GUNSHOT/POISONING/RTA/BURN INJURY

NAME OF CMO: Dr. Sandeep NAME OF DOCTOR: Dr. Zuha

Admitted u/s 294 Cr.P.C.

SIGNATURE & STAMP: DR. ZUHA AHMED JUNIOR RESIDENT A & E DEPARTMENT GTB HOSPITAL DELHI-95

6. On 29.02.2020, the dead body was identified by Ali Sher, father of the deceased. The post-mortem examination was conducted vide Post-Mortem Report No. 366/2020. The medical opinion attributed the death to

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

shock resulting from ante-mortem injuries to the brain caused by blunt force impact.

7. On 01.03.2020, ASI Vijyant Kumar prepared a rukka on the basis of the information received from the hospital and the medical record. Consequently, FIR No. 87/2020 was registered at Police Station Dayalpur for the offences punishable under Sections 147, 148, 149, 427, 436 and 302 IPC, along with Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984. The investigation was initially entrusted to Inspector Hukam Singh and was subsequently transferred to the Crime Branch, where Inspector Ritesh Kumar took over the investigation.

8. During investigation, the Investigating Officer obtained the Call Detail Records (CDRs) of the mobile phone used by the deceased. The records indicated that the phone was active on 25.02.2020 until approximately 5:07 PM, with its last recorded location in the vicinity of Brijpuri Road. The Investigating Officer also examined Ibrahim, a cousin of the deceased, who stated that the deceased had spoken to him over the telephone while travelling towards his residence but had not reached there.

9. The Investigating Officer thereafter examined Manoj Kaniyal, who claimed to have witnessed the incident. According to the prosecution, Manoj Kaniyal identified certain local residents, including the present appellant, Arun Kumar @ Munna, Ashish @ Goli, Pradeep Rai and Devender Kumar, as persons who were leading the mob involved in the assault. He also identified the deceased from the CCTV footage obtained from GTB Hospital.

10. During further investigation, the police examined the duty roster

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

and departure entries of the police personnel deployed at Brijpuri T-Point on 25.02.2020. The Investigating Officer recorded the statements of the officials who were stated to be present near the place of occurrence. Among them, Ct. Piyush, HC Deepak and Ct. Vineet claimed to have witnessed the incident. According to their statements recorded during investigation, the deceased, wearing a red T-shirt and yellow lower, was chased and assaulted by a mob before being rescued by the police officials and sent to GTB Hospital in an autorickshaw.

11. The prosecution further alleged that Ct. Piyush, being the beat constable of the area, was acquainted with certain members of the mob and identified the appellant and four other accused persons. It was alleged that these persons were present towards the front of the mob, carrying weapons and exhorting others to assault the victim. On 01.04.2020, the appellant, along with Arun Kumar and Ashish @ Goli, was apprehended during investigation.

12. Upon completion of investigation, the charge-sheet was filed on 25.06.2020 against seven accused persons, namely Arun Kumar, Aman Kashyap, Ashish @ Goli, Pradeep Rai, Devender Kumar, Krishan Kant and Rahul Bhardwaj, for offences under Sections 147, 148, 149, 302, 120-B, 379, 411 and 34 IPC. The learned Chief Metropolitan Magistrate took cognizance on 07.11.2020, and the case was committed to the Court of Sessions on 16.03.2021.

13. On 31.07.2021, charges were framed against the accused persons for offences relating to criminal conspiracy, unlawful assembly, rioting and murder, including the offence punishable under Section 302 read with

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

Sections 120-B and 149 IPC. Separate charges under Section 379 read with Section 34 IPC were framed against Krishan Kant and Rahul Bhardwaj concerning the alleged removal of the deceased's mobile phone. An additional charge under Section 188 IPC was framed on 16.01.2023. The accused persons pleaded not guilty and claimed trial.

14. In support of its case, the prosecution examined 18 witnesses. The principal witnesses concerning the occurrence and identification of the appellant were Shashi Kant (PW-1), Manoj Kaniyal (PW-5), Ct. Piyush (PW-10), HC Deepak (PW-12) and Ct. Vineet (PW-13). The prosecution also relied upon the medical evidence, CCTV footage from GTB Hospital, call records, site plans and the evidence of the investigating officers. The relevant portion of the testimonies made by the witnesses is reproduced hereinbelow:

Witnesses	***Statement In Chief Examination***	***Statement In Cross Examination***
PW-1 SHASHI KANT	*On dated 25.02.2020 I was present in my house.* *XXX* *I was going to Police picket for taking help. That I was in knowledge that someone is beating one boy in the Gali no. 3 Brijpuri and the said boy had worn red colour t - shirt and out of these person I know the five persons they were beating the said boy and these are*	*…It is correct that I had deposed on 21.08.2021 that I had identified some of boys, who had inflicted injuries upon the victim, as Ashish, Arun, Pradeep, Devender, Aman etc. I can identify all of these five boys. (The witness points towards accused Ashish, Arun, Aman, Pradeep and Devender saying that these are those boys whose names I had taken in my deposition dated 21.08.2021. (Vol. I had*

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

	politician type person of our colony. *XXX* *… He had shown me some pictures on the computer screen and out of them I have identified the five persons. Ashish, Arun, Devender, Pradeep.*	*seen them only as part of the mob but I did not see them beating or hitting the victim). It has been recorded incorrectly in my deposition dated 21.08.2021 that I had seen these boys inflicting injuries upon the victim. It has happened for the reason that my deposition was recorded on that day through VC.*
PW- 5 MANOJ KANIYAL	*On 25.02.2020 at about 5 pm, when I was present at my house, I heard some noise from outside. Accordingly, I left my house and went towards Brijpuri Pulia. There was a large mob present at that spot. The persons in the mob were having wooden rods, petrol bombs and other arms in their hands. They set on fire several shops on the road. Some Hindu persons also gathered at the spot and a fight started between the two groups. On seeing the fight and stone pelting, I ran towards Aggarwal T-Point and called police officials. Upon seeing police officials, all the persons in the mob fled from the spot. I did not*	*It is wrong to suggest that I gave statement to the police to this effect that on 30.03.2020 when I saw some video footage related to the incident dated 25.02.2020, I identified the accused persons namely Aman, Ashish @ Goli, Devender, Pradeep and Munna. It is wrong to suggest that I had seen these accused in the mob on 25.02.2020 and had identified them as I knew them before the incident. It is wrong to suggest that I am deposing falsely regarding the identification of the accused as I have been won over by the accused.*

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

	identify any of those persons in the mob.	
PW- 10 CT. PIYUSH	*On 25.02.2020, I was posted as beat officer of Brijpuri in PS Dayalpur. On this day, I was on duty since about 7 am at main Wazirabad road. Brijpuri T point, alongwith ASI Shyam Sunder, ASI Vijayant. HC Naresh, HC Ashok. HC Krishan Pal. Ct. Vineet. Ct. Nikesh, Ct. Subhash, Ct. Deepak and other staff from P.S. On this day, at about 5 p.m., I was present alongwith aforesaid officials at Brijpuri T point itself. I saw one boy running towards us from the side of Brijpuri and a mob chasing him. This boy had worn red colour T-shirt and yellow lower and probably he would be around 22-23 years old. There was police barricade beside the wall of water plant at some distance from Brijpuri T point. That boy fell down near that police barricade and the mob kept assaulting him at that place with danda, iron rod. He was bleeding from his head. We the police team*	*When this incident of the boy running towards us took place, my position was at point C in site plan Ex. PW 10/A. The boy had fallen down at point B, as shown in the site plan. This point B was in front of gali no.2, A block, Brijpuri.* *XXX* *I was using a smart phone during those days. I did not prepare any video of aforesaid incident, because we were more concerned about saving that boy, rather than making video of the same. I did not make any written complaint, or DD entry about aforesaid incident. I had only informed SHO.*

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

	rushed towards him and the mob was driven away from that place. Thereafter, I stopped one auto TSR and with the help of HC Natech Tyagi and Ct. Rohit, I lifted this boy info that auto. Thereafter, auto driver was asked to take this boy to GTB hospital. *XXX* *I had seen and identified 5 person in that mob, which chased this boy upto the police barricade and which was assaulting that boy. These 5 persons were Arun, Ashish, Aman, Pradeep @ Sandeep and Devender. I knew all these 5 persons since prior to aforesaid incident, as being beat officer I had seen and met them in my area. All these 5 persons were in front of this mob and were shouting 'maaro maaro'. They were carrying danda and iron rod, as well as sword. All the accused persons are present in the court today (correctly identified).*	
PW- 12 HC DEEPAK	*At around 5 p.m., HC Naresh Tyagi, HC Ashok, Ct. Piyush, Ct.*	*The aforesaid accused persons identified by me were leading that mob, which*

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

	Vineet and Ct. Rohit were present with me at Brijpuri T point. At that time, I saw one boy aged about 22 years, who was wearing red T-shirt and yellow lower came towards the picket from the side of Brijpuri. That boy sat near the wall of the water plant at a distance of about 20-25 feet from the picket. I saw that the boy was bleeding from his head and a mob comprising of 300-400 persons were following him and were shouting 'maaro maaro'. The rioters in the said mob were carrying sticks, iron rods and swords in their hands. The said mob reached near the boy and started beating him. I had identified some of rioters, whose names were revealed by Ct. Piyush. They were Aman, Munna, Devender, Sandeep, Pradeep and Ashish.	*assaulted the boy and when they were assaulting the boy, at that time itself Ct. Piyush had told me about their respective names. I had never been beat constable of the area of Brijpuri. I was called at crime branch, Chanakyapuri at 01.04.2020 for the purpose of identification of accused persons, but I was never called for TIP of accused persons before any Magistrate. I had not given information in writing to any of my senior officer, so as to mention the name of accused persons, whom I had seen in aforesaid incident. It is wrong to suggest that I was introduced name of the aforesaid accused persons for the first time in the office of crime branch. I had not explained description of aforesaid accused persons, before any of my officers in the past.*
PW- 13 CT.	*I did not know any member of this mob*	*The names of accused persons were informed to*

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

VINEET	*personally, but Ct. Piyush, who was beat constable of that area, identified and informed us about 5 persons, who were members of this mob. He had pointed out to those persons telling their names as Arun @ Munna, Ashish @ Goli, Aman, Pradeep @Sandeep & Devender. I had seen faces of these persons and I can identify these 5 persons even today. These 5 persons are present in the court today (witness has identified these 5 accused persons correctly by pointing out to them with their correct names).* *XXX* *This mob consisted of many persons and may be around 300-400 persons, but aforesaid 5 persons were leading and in the front part of the mob. When the aforesaid boy fell down, this mob including aforesaid 5 persons continued beating and assaulting that boy. Then,*	*me by Ct. Piyush, when they were assaulting the injured. After the incident was sent to the hospital in auto, the same mob was again coming forward and were being pushed back. During this process, Ct. Piyush had pointed out to the respective persons, whose names were told by him.* *XXX* *I had not handed over name of aforesaid accused persons in writing to any senior officer. I had not described description of physical appearance of these persons before any senior officer. No other officer had taken information from me about the incident with aforesaid injured, except for IO.*

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

	we the police team charged towards that mob and the aforesaid mob took back steps. Thereafter HC Naresh, Ct. Piyush and Ct. Rohit lifted that injured boy. One TSR was passing by, which was stopped and this injured person was put in that TSR. The TSR driver was asked to take the injured to GTB hospital.	

15. Upon appreciation of the evidence, the learned Trial Court, vide judgment dated 30.11.2024, convicted the appellants, for the offences punishable under Sections 148 and 304 Part I read with Section 149 IPC. The remaining two accused persons, namely Krishan Kant and Rahul Bhardwaj, were acquitted of the charges against them. The sentence was thereafter imposed vide order dated 13.01.2025, as noted hereinabove.

16. Aggrieved by the aforesaid judgment of conviction and order on sentence, the appellants have preferred the present appeal.

SUBMISSIONS ON BEHALF OF THE APPELLANTS:

17. Learned counsel appearing on behalf of the appellant submits that the prosecution case arises out of an incident allegedly occurring on 25.02.2020, whereas the FIR came to be registered only on 01.03.2020. It is contended that the delay assumes significance in the circumstances of the present case, particularly when the prosecution claims that several police officials were present at the place of occurrence and had personally

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

witnessed the assault upon the deceased. Despite their alleged knowledge of the incident and the identity of the assailants, no contemporaneous written complaint or Daily Diary (DD) entry identifying the appellant was made by any of the said officials.

18. Learned counsel further submits that there are material discrepancies concerning the identification of the deceased and the place and time of the alleged occurrence. It is pointed out that the medico-legal record refers to Chand Bagh as the place of assault, whereas the prosecution witnesses have referred to Brijpuri Pulia and the area near Aggarwal Sweets. It is contended that these locations are situated at a considerable distance from one another. Further, reliance is placed upon the PCR call attributed to PW-1 Shashi Kant, recorded at approximately 6:10 PM on 25.02.2020, wherein he reported that a boy was lying near Aggarwal Sweets. However, according to the prosecution, the deceased had already been identified in the CCTV footage of GTB Hospital at approximately 5:49 PM on the same day.

19. Learned counsel submits that the prosecution case principally rests upon the testimonies of PW-1 Shashi Kant, PW-5 Manoj Kaniyal and the police witnesses, namely PW-10 Ct. Piyush, PW-12 HC Deepak and PW-13 Ct. Vineet. It is contended that the independent witnesses did not support the prosecution case regarding the appellant's participation in the assault. PW-5 Manoj Kaniyal, despite having allegedly identified the assailants during investigation, categorically stated in his deposition that he had not identified any person in the mob. He also denied the prosecution suggestions concerning the identification of the accused

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

persons, including the appellant.

20. Learned counsel further submits that the testimony of PW-1 Shashi Kant is equally unreliable insofar as the alleged participation of the appellant is concerned. Although PW-1 had initially attributed the assault to certain accused persons, during his subsequent examination before the learned Trial Court on 21.02.2022, he stated that none of the accused persons present before the Court was amongst those who had assaulted the deceased. Upon being cross-examined by the learned Special Public Prosecutor, PW-1 identified five accused persons, including the appellant, but clarified that he had only seen them as members of the mob and had not witnessed them beating or inflicting injuries upon the deceased. He further stated that his earlier deposition dated 21.08.2021 had incorrectly recorded that he had seen the said persons inflicting injuries, attributing the discrepancy to the fact that his evidence had been recorded through video conferencing.

21. It is further contended that the statements of PW-1 recorded under Sections 161 and 164 of the CrPC, could not have been treated as substantive evidence of the appellant's involvement, particularly when the witness himself did not maintain the allegation of assault during his subsequent testimony before the Court. Learned counsel also questions PW-1's ability to witness the occurrence from the location attributed to him and submits that the call-detail records do not conclusively establish his presence at the precise place of occurrence. It is argued that the learned Trial Court placed undue reliance upon electronic location evidence despite acknowledging its limitations in determining an individual's exact

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

location.

22. Learned counsel further submits that although approximately ten police officials were stated to be deployed in the area, statements of only six officials were recorded during investigation, out of whom PW-10, PW-12 and PW-13 were examined as eyewitnesses. It is contended that the circumstances in which these witnesses came forward, coupled with the substantial delay in recording their statements, render their evidence doubtful. PW-10 Ct. Piyush, who claimed to be the beat constable of the area and to have known the appellant prior to the incident, admitted during cross-examination that he neither made any written complaint nor recorded any DD entry regarding the occurrence. His statement under Section 161 CrPC was recorded only on 01.04.2020, more than a month after the alleged incident.

23. Learned counsel submits that PW-10's conduct is inconsistent with that expected of a police official who had allegedly witnessed a serious assault and recognised the persons responsible for it. Although PW-10 claimed to have informed the Station House Officer (SHO), no contemporaneous record of such information was produced. It is further contended that despite knowing the identities and residential addresses of the alleged assailants, PW-10 took no effective steps to report their involvement or secure their apprehension until the Investigating Officer approached him on 01.04.2020.

24. Learned counsel further submits that the evidence of PW-12 HC Deepak and PW-13 Ct. Vineet does not independently establish the appellant's identity. Both witnesses acknowledged that the names of the

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

alleged assailants had been communicated to them by PW-10 Ct. Piyush. PW-12 admitted that he had never served as a beat constable in Brijpuri and that he had neither furnished a written report identifying the accused nor previously described their physical appearance to his superior officers. Similarly, PW-13 categorically stated that he did not personally know any member of the mob and that PW-10 had pointed out the five persons and informed him of their names. Learned counsel submits that the identification by PW-12 and PW-13 was therefore substantially dependent upon the identification allegedly made by PW-10.

25. It is further pointed out that no test identification parade (TIP) was conducted in respect of the appellants. PW-12 and PW-13 admitted that they had not participated in any TIP proceedings before a Magistrate. PW-13 also stated that he had seen two of the identified persons for the second time only when he appeared before the learned Trial Court on 02.05.2023. Learned counsel submits that, in the absence of prior familiarity, a judicial TIP or other reliable contemporaneous identification material assumed particular importance. It is argued that the identification of the appellant in Court, after the witnesses had been exposed to the accused persons during investigation, ought to have been examined with greater caution.

26. Learned counsel also draws attention to the inconsistencies in the accounts furnished by the police witnesses concerning the circumstances of the assault, the movements of the mob and the reporting of the occurrence. It is submitted that PW-10 claimed to have seen the deceased being chased and assaulted near the barricade, whereas PW-12 and PW-13 described the injured person approaching the police picket while

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

already bleeding and subsequently being assaulted by the mob. Further, PW-13 referred to the mob returning approximately 10 to 15 minutes after the injured had been sent to hospital but admitted that he had not disclosed this circumstance to the Investigating Officer.

27. Learned counsel further relies upon the testimony of PW-18 Inspector Ritesh Kumar Sharma, the Investigating Officer, who admitted that no police official had approached him *suo motu* during his initial visit to Police Station Dayalpur to claim to be an eyewitness to the incident. PW-18 further admitted that he had not enquired from the Duty Officer whether any DD entry or information concerning the incident had been recorded. He stated that PW-10 had explained his failure to report the incident until 01.04.2020 on the ground that he was unaware of the injured person's death and the registration of the FIR. Learned counsel submits that these admissions materially undermine the prosecution's claim that the police witnesses had witnessed the incident and identified the assailants on 25.02.2020 itself.

28. Learned counsel also questions the manner in which the investigation was conducted and submits that material electronic evidence was not produced before the learned Trial Court. It is contended that photographs and video footage allegedly used during investigation for identifying the deceased and the accused persons were not duly brought on record in a manner enabling their contents to be tested. Particular reliance is placed upon the alleged non-production of footage relating to the rioting and the identification of the appellant.

29. It is further submitted that the call-detail records relied upon by the

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

prosecution do not conclusively establish the appellant's presence at the place of occurrence at approximately 5:00 PM on 25.02.2020. Learned counsel points out that the records relied upon contain entries before and after the alleged time of occurrence, but do not establish the appellant's precise location during the relevant period between approximately 5:00 PM and 6:00 PM.

30. Learned counsel also disputes the evidentiary value of the alleged recovery of a sword at the instance of the appellant. It is submitted that PW-17 SI Pawan Malik claimed to have recovered the sword from beneath a diwan at the appellant's residence pursuant to his disclosure statement. However, the prosecution failed to establish a reliable forensic connection between the recovered weapon and the injuries sustained by the deceased. It is further pointed out that the appellant's father was stated to be present during the recovery proceedings but did not sign the seizure memo.

31. Learned counsel further submits that the Investigating Officer failed to trace the autorickshaw driver who allegedly transported the injured person to GTB Hospital. PW-18 admitted that although the autorickshaw was visible in certain CCTV recordings, its registration number could not be ascertained. He further admitted that no public notice was issued to trace the driver. It is contended that the driver was a potentially material witness who could have provided independent evidence regarding the circumstances in which the injured was rescued and transported to hospital.

32. Learned counsel submits that the learned Trial Court failed to appreciate the evidence in its entirety and instead proceeded to rely upon

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

isolated portions of the testimonies of PW-1, PW-10, PW-12 and PW-13. It is argued that the rejection of the subsequent clarification furnished by PW-1, the reliance upon police witnesses whose statements were recorded after a considerable delay, the absence of contemporaneous reporting and the deficiencies in the identification process collectively give rise to reasonable doubt concerning the appellant's participation in the alleged offence.

33. Learned counsel lastly submits that the ingredients of Sections 148 and 304 Part I read with Section 149 of the Indian Penal Code, 1860 (IPC), have not been established against the appellant beyond reasonable doubt. It is contended that the prosecution failed to prove that the appellant was a member of the unlawful assembly sharing the common object attributed to it, or that he personally participated in the assault upon the deceased. It is further argued that the evidence does not establish the requisite intention necessary to sustain the conviction under Section 304 Part I IPC with the aid of Section 149 IPC. Mere alleged presence in a large gathering, without reliable proof of membership of an unlawful assembly and the requisite common object or knowledge contemplated by Section 149 IPC, cannot form the basis of criminal liability.

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

34. *Per contra*, Mr. Rajat Nair, learned Special Public Prosecutor (SPP) appearing on behalf of the State, submits that the incident occurred during the communal riots that took place in North-East Delhi on 24.02.2020 and 25.02.2020, when the police machinery was engaged in controlling

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

widespread violence and responding to numerous emergency calls. It is submitted that the circumstances prevailing during the said period are relevant while appreciating the delay in registration of the FIR and recording of statements of certain prosecution witnesses. According to the State, the PCR communication system was experiencing technical difficulties on account of the unusually high volume of calls. Consequently, the delay in the receipt and tracing of the PCR call made by PW-1 Shashi Kant cannot, by itself, be treated as a circumstance indicating fabrication of the prosecution case.

35. In response to the discrepancies concerning the place of occurrence and the identification of the deceased, learned SPP submits that the investigation established the movement of the deceased towards Brijpuri Road on 25.02.2020. Reliance is placed upon the call-detail records of the deceased and the information furnished by his cousin, Ibrahim, regarding his movement towards Mustafabad. It is further submitted that the deceased was identified by his uncle, Shabir Ali, in the CCTV footage of GTB Hospital at approximately 5:49 PM on 25.02.2020. Learned SPP contends that the reference to Chand Bagh in the medico-legal record cannot be treated as conclusive proof of the precise place of assault, particularly when the hospital was receiving a large number of injured persons during the riots and the person who brought the deceased to the hospital was not identified.

36. Learned SPP further submits that the appellant has incorrectly suggested that the accused persons were identified through the CCTV footage of GTB Hospital. It is clarified that the said footage was used for

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

identifying the injured person who had been brought to the hospital and for connecting him with the incident witnessed near Brijpuri T-Point. According to the prosecution, the accused persons were identified on the basis of the information furnished by the witnesses during investigation and their subsequent identification before the learned Trial Court. It is therefore contended that the appellant's objection concerning non-production of CCTV footage depicting the accused persons proceeds on an incorrect understanding of the prosecution case.

37. Learned SPP places reliance upon the evidence of PW-1 Shashi Kant and submits that the witness had, in his earlier statements and initial deposition before the learned Trial Court, identified persons involved in the assault upon the deceased. It is contended that PW-1 subsequently attempted to resile from the portion of his earlier deposition attributing the assault to the accused persons. Learned SPP supports the finding of the learned Trial Court that the subsequent change in the witness's version did not warrant rejection of his entire testimony, particularly when his account regarding the occurrence, the presence of the mob and the identity of the injured person was consistent with other prosecution evidence. It is further submitted that the statement of PW-1 recorded under Section 164 of the CrPC, was relevant for corroborating or contradicting his testimony in accordance with law.

38. Learned SPP further relies upon the testimonies of PW-10 Ct. Piyush, PW-12 HC Deepak and PW-13 Ct. Vineet, who were deployed at Brijpuri T-Point on 25.02.2020. It is submitted that the said witnesses consistently deposed that at approximately 5:00 PM, a young man wearing

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

a red T-shirt and yellow lower was chased by a mob, fell near the barricades adjoining the wall of the water plant and was assaulted by members of the mob. The police officials thereafter intervened, dispersed the mob and arranged for the injured person to be transported to GTB Hospital in an autorickshaw. Learned SPP submits that their testimonies materially corroborate one another regarding the occurrence, the place of assault and the circumstances in which the injured person was rescued.

39. Regarding the identification of the appellant, learned SPP submits that PW-10 Ct. Piyush was the beat constable of the locality and was acquainted with the appellants and the other accused persons prior to the incident. PW-10 identified Aman Kashyap, Arun @ Munna, Ashish @ Goli, Pradeep and Devender as persons who were at the forefront of the mob and were carrying weapons. Learned SPP further submits that PW-12 and PW-13 identified the said persons in Court and attributed participation in the assault to the mob led by them. It is contended that the absence of a test identification parade (TIP) does not, in the circumstances of the case, render the identification evidence inadmissible, particularly when PW-10 claimed prior familiarity with the accused persons.

40. Learned SPP submits that the delay in recording the statements of the police witnesses has been satisfactorily explained by the circumstances prevailing during the riots and the subsequent investigation of numerous cases arising therefrom. Reliance is placed upon the testimony of PW-18 Inspector Ritesh Kumar Sharma, who explained that several riot-related cases were being investigated simultaneously and that the police personnel deployed at the scene were not necessarily aware of the Investigating

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

Officer assigned to the present FIR. It is further submitted that PW-10 was unaware of the subsequent death of the injured person and the registration of the present FIR. Learned SPP submits that absence of an immediate written complaint or DD entry identifying the accused persons does not justify discarding otherwise reliable eyewitness testimony.

41. Learned SPP also relies upon the investigation conducted after the identification of the deceased and the examination of the police witnesses. It is submitted that the witnesses identified the injured person in the hospital footage and indicated the place where he had been assaulted. The Investigating Officer thereafter visited the relevant locations and took steps to apprehend the persons identified during investigation. Learned SPP submits that the prosecution evidence, when considered cumulatively, establishes a consistent sequence connecting the assault near Brijpuri T-Point with the injured person subsequently brought to GTB Hospital.

42. Learned SPP further submits that the learned Trial Court has duly considered the medical evidence, particularly the post-mortem findings concerning the injuries sustained by the deceased and the cause of death. It is contended that the medical evidence supports the prosecution account of a violent assault by members of the mob. Learned SPP submits that the inability to attribute a particular fatal injury to an individual accused does not absolve the appellants of liability where their membership of the unlawful assembly and the requisite common object are otherwise established.

43. Learned SPP submits that the learned Trial Court has correctly

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

invoked Section 149 IPC, while determining the criminal liability of the appellant. It is contended that the prosecution was not required to establish which particular accused inflicted each injury upon the deceased, once the participation of the appellant in the unlawful assembly and the common object of its members stood proved. Learned SPP points out that the learned Trial Court, after considering the absence of evidence identifying the author of the fatal injuries, restricted the conviction to the offence of culpable homicide not amounting to murder under Section 304 Part I read with Section 149 IPC, besides the offence under Section 148 IPC. It is therefore submitted that the findings of the learned Trial Court reflect a considered appreciation of the evidence rather than an indiscriminate attribution of criminal liability.

44. In support of the aforesaid submissions, learned SPP places reliance upon ***Vijaya Singh and Another v. State of Uttarakhand, 2024 SCC OnLine SC 3510***, and ***R. Shaji v. State of Kerala, (2013) 14 SCC 266***, concerning the evidentiary use of statements recorded under Section 164 CrPC. Reliance is also placed upon ***Raja v. State, (2020) 15 SCC 562, and Malkhansingh v. State of M.P., (2003) 5 SCC 746***, concerning identification evidence and the effect of non-conduct of TIP proceedings. With respect to reliance upon police witnesses, learned SPP refers to ***Girja Prasad v. State of M.P., (2007) 7 SCC 625, Tahir v. State (Delhi), (1996) 3 SCC 338***, and ***Baldev Singh v. State of Haryana, (2015) 17 SCC 554***. Learned SPP further relies upon ***Firoz Khan Akbarkhan v. State of Maharashtra, 2025 SCC OnLine SC 627***, to contend that procedural or investigative lapses which do not affect the substance of the prosecution

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

evidence cannot, by themselves justify interference with an otherwise sustainable conviction.

ANALYSIS AND FINDINGS:

45. This Court has heard learned counsel for the parties and perused the material available on record.

46. At the outset, it is pertinent to note that the factum of death of the deceased, on account of the injuries sustained during the incident dated 25.02.2020, stands established by the medical evidence. The post-mortem report attributes the cause of death to shock resulting from ante-mortem injuries to the brain caused by blunt force impact. Thus, the controversy in the present appeals principally concerns the identification and participation of the appellants in the assault and the extent of their criminal liability for the death of the deceased.

APPRECIATION OF THE OCULAR EVIDENCE:

47. The appellants have primarily assailed the reliability of the prosecution witnesses, particularly PW-1 Shashi Kant, PW-10 Ct. Piyush, PW-12 HC Deepak and PW-13 Ct. Vineet. It is contended that PW-1 resiled from his earlier version, that the statements of the police eyewitnesses were recorded after a considerable delay and that no test identification parade (TIP) was conducted.

48. Insofar as PW-1 is concerned, the record reveals that although he initially attributed the assault to the accused persons, during his subsequent examination dated 21.02.2022, he clarified that he had seen the five appellants as members of the mob but had not personally

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

witnessed them beating or hitting the deceased. The learned Trial Court was therefore, required to appreciate both portions of his sworn testimony. His earlier statement recorded under Section 164 of the CrPC, could not independently establish the participation of the appellants in the assault.

49. In ***State of U.P. v. M.K. Anthony, (1985) 1 SCC 505***, the Supreme Court held that while appreciating the evidence of a witness, the Court must consider whether the testimony, read as a whole, appears to have a ring of truth. Once that impression is formed, the Court must scrutinise the deficiencies and inconsistencies to ascertain whether they are sufficiently material to discredit the witness. The evidence cannot be evaluated by isolating individual sentences from their context.

50. Applying the aforesaid principle, the testimony of PW-1 requires careful consideration. Although PW-1 initially attributed the assault to the accused persons, during his subsequent examination dated 21.02.2022, he clarified that he had seen the five appellants as members of the mob but had not personally witnessed them beating or hitting the deceased. The said clarification cannot be ignored. Nevertheless, PW-1 did not resile from identifying the appellants as persons present in the mob which was involved in the occurrence. His testimony, therefore, retains evidentiary significance to that limited extent.

51. PW-5 Manoj Kaniyal, on the other hand, did not identify any of the appellants before the learned Trial Court and denied the suggestions put to him by the prosecution regarding their identification. His testimony, therefore, cannot be relied upon to establish the identity of the assailants. However, his statement concerning the presence of a violent mob in the

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

Brijpuri area at the relevant time is consistent with the broader circumstances of the occurrence as described by the other witnesses. The question of identification must consequently be examined principally on the strength of the testimonies of PW-10, PW-12 and PW-13.

52. PW-10 Ct. Piyush, who was posted as the beat constable of the locality specifically identified all five appellants as persons who were present at the forefront of the armed mob and were exhorting others by shouting *'maaro maaro'*. He further stated that he was acquainted with the appellants prior to the incident, having seen and met them during the discharge of his official duties. PW-12 and PW-13 substantially corroborated his account regarding the deceased being pursued by a mob, the assault near the police barricades and the subsequent intervention of the police personnel. Although PW-12 and PW-13 derived their knowledge of the names of the accused persons from PW-10, they claimed to have personally observed the persons pointed out by him during the occurrence and identified them before the learned Trial Court.

53. The appellants have also questioned the credibility of PW-10, PW-12 and PW-13 on the ground that they are police officials. In ***Girja Prasad (supra)***, the Supreme Court held that the testimony of a police official cannot be discarded merely because of his official status and that such evidence must be assessed on its own merits. In the present case, the presence of the said witnesses at the police picket is supported by the duty records, and their accounts substantially correspond regarding the manner in which the deceased was pursued, assaulted and subsequently rescued. Their official status, therefore, cannot constitute an independent ground

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

for rejecting their testimonies.

IDENTIFICATION OF THE APPELLANTS AND ABSENCE OF TIP

54. The appellants have placed considerable emphasis upon the non-conduct of a TIP. However, in ***Malkhansingh (supra)***, the Supreme Court explained that identification before the Court constitutes substantive evidence, whereas a TIP ordinarily serves the purpose of testing the ability of a witness to identify a person during investigation. The absence of a TIP does not render identification evidence inadmissible, although its evidentiary value must be assessed with due caution.

55. In the present case, the identification made by PW-10 stands on a different footing from the identification of a previously unknown person. PW-10 claimed prior acquaintance with all five appellants by virtue of his posting as the beat constable of the locality. PW-12 and PW-13, although not previously acquainted with the appellants in the same manner, deposed that PW-10 had pointed out the concerned persons during the occurrence and that they had personally observed them. Thus, their identification is not independent of PW-10 insofar as the names of the appellants are concerned, but their evidence lends support to the occurrence and the contemporaneous pointing out of the persons allegedly involved.

DELAY IN RECORDING STATEMENTS AND INVESTIGATIVE DEFICIENCIES:

56. The appellants have further questioned the prosecution case on account of the delay in recording the statements of the police eyewitnesses. The occurrence took place on 25.02.2020, whereas the

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

statements of PW-10, PW-12 and PW-13 were recorded on 01.04.2020. The delay is substantial and warrants scrutiny, particularly since PW-10 claimed prior acquaintance with the appellants.

57. In ***State of U.P. v. Satish, (2005) 3 SCC 114***, the Supreme Court explained that delay in recording the statement of a witness under Section 161 CrPC does not automatically render the testimony unreliable, the effect of such delay depends upon the explanation offered and the surrounding circumstances

58. The delay in recording the statements of the police eyewitnesses is undoubtedly a circumstance which calls for scrutiny. The incident occurred on 25.02.2020, whereas their statements were recorded on 01.04.2020. PW-18 Inspector Ritesh Kumar Sharma, the Investigating Officer, admitted that the police personnel had not approached him *suo motu* and that he had called them for examination during investigation. He also explained that several cases arising out of the riots were being investigated simultaneously and that PW-10 was unaware of the subsequent death of the injured person and the registration of the present FIR.

59. The explanation furnished by PW-18 cannot be accepted mechanically merely because the incident occurred during the riots. Nevertheless, the delay must be considered in the factual circumstances prevailing at the relevant time. The evidence of PW-10 regarding his presence at the spot and the identification of the appellants has to be examined in conjunction with the corroborative accounts of PW-12 and PW-13. On such examination, this Court finds that the delay does not by

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

itself discredit the occurrence described by the witnesses or establish that the appellants were falsely implicated.

60. The contention regarding the discrepancies highlighted by the appellants regarding the reference to Chand Bagh in the medico-legal record, the PCR call mentioning Aggarwal Sweets and the place of occurrence identified by the police witnesses must be considered in the context of the entire evidence. The description of the place from where an injured person was reportedly brought to the hospital does not necessarily constitute independent proof of the exact location of the assault. Likewise, the hospital CCTV footage was relied upon for identifying the injured person and not as visual evidence establishing the participation of the appellants. The absence of footage depicting the appellants committing the assault cannot, therefore, be treated as the withholding of such direct evidence where the prosecution case rests upon eyewitness identification.

61. The reliance placed upon the call-detail records also does not conclusively resolve the issue of identification. Such records may indicate the approximate location of a mobile device but do not necessarily establish the precise physical location of its user at a particular moment. The absence of a call-detail entry placing an appellant at the exact spot of occurrence is not sufficient to contradict otherwise reliable ocular evidence. Equally, the Court does not consider the call-detail records as independent proof of the appellants' participation in the assault.

62. In ***Firoz Khan Akbarkhan (supra)***, the Supreme Court reiterated that deficiencies or lapses in investigation do not necessarily justify rejection of the prosecution case where the evidence otherwise establishes

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

the offence. The Court must examine whether the particular omission affects the credibility of the evidence or causes prejudice in assessing the guilt of the accused. Applying this principle, the investigative deficiencies highlighted by the appellants must be acknowledged, but they do not automatically displace the ocular evidence if that evidence is otherwise found reliable.

APPLICABILITY OF SECTION 149 IPC:

63. The Court now proceeds to examine the applicability of Section 149 IPC, which forms the principal basis of the conviction. The learned Trial Court expressly recognized that the prosecution had not established which particular accused inflicted the fatal head injuries. The conviction was consequently founded upon the principle of constructive liability under Section 149 IPC. It is, therefore, necessary to examine whether the statutory ingredients of the said provision stand established.

64. In ***Masalti v. State of U.P., AIR 1965 SC 202***, the Supreme Court explained that where an offence is committed by a member of an unlawful assembly in prosecution of its common object, the prosecution is not invariably required to establish an individual overt act on the part of every member. However, the Court must first be satisfied that the accused was a member of the unlawful assembly and shared the requisite common object or knowledge.

65. The aforesaid principle was reiterated in ***Lalji v. State of U.P., (1989) 1 SCC 437,*** wherein the Supreme Court held that the common object of an unlawful assembly may be inferred from the nature of the assembly, the weapons carried by its members and their conduct before

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

and during the occurrence. Once the statutory requirements of Section 149 IPC are established, the prosecution is not required to prove which particular member inflicted each injury.

66. However, in ***Kuldip Yadav v. State of Bihar, (2011) 5 SCC 324***, wherein the Supreme Court emphasised that before recording a conviction with the aid of Section 149 IPC, the Court must arrive at a clear finding regarding the nature of the common object and its unlawful character. Mere presence in an assembly or possession of a weapon, without the requisite common object or knowledge, is insufficient. Thus, Section 149 IPC cannot be invoked merely because an offence has been committed by one or more persons forming part of a gathering.

67. In the present case, the evidence establishes more than the mere presence of the appellants in a crowd. PW-10 identified all five appellants at the forefront of the armed mob, exhorting others to assault the deceased. The deceased was pursued, surrounded and assaulted even after he had fallen near the police barricades. The conduct attributed to the appellants, the weapons carried by members of the mob and the continued assault upon the deceased provide the factual basis for concluding that the assembly had an unlawful common object of assaulting the deceased and causing bodily harm to him.

68. Once the membership of the appellants in the unlawful assembly and the requisite common object or knowledge are established, the absence of proof identifying the individual author of the fatal injuries does not, by itself, absolve them of liability under Section 149 IPC. The appellants cannot claim acquittal merely because the prosecution was

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

unable to determine which member of the mob inflicted the particular head injuries recorded in the post-mortem report. The offence must, however, be shown to have been committed in prosecution of the common object of the assembly, or to have been one which its members knew to be likely to be committed in prosecution of that object.

NATURE OF THE OFFENCE UNDER SECTION 304 PART I IPC:

69. The final question concerns the nature of the offence for which the appellants have been convicted. The factum of death of the deceased stands established by the medical evidence, which attributes the cause of death to shock resulting from ante-mortem injuries to the brain caused by blunt force impact. However, the mere fact that death resulted from the assault does not, by itself, determine whether the offence falls under Section 304 Part I or Part II IPC.

70. Section 304 Part I IPC applies where the act causing death is accompanied by the intention to cause death or such bodily injury as is likely to cause death. Part II, on the other hand, applies where there is knowledge that death is likely to result, without the intention contemplated under Part I. In Virsa Singh v. State of Punjab, AIR 1958 SC 465, the Supreme Court explained the distinction between the intention to inflict a particular bodily injury and the consequences of that injury while considering the ingredients of culpable homicide and murder. Although the said decision was rendered in the context of Section 300 IPC, the distinction between intention and knowledge remains material to the present enquiry.

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

71. The manner in which the deceased was assaulted is relevant to determining the requisite mental element. The prosecution evidence describes the deceased being pursued by an armed mob, assaulted after falling near the barricades and subjected to repeated blows, including injuries to the head. These circumstances are capable of bearing upon the inference of an intention to cause bodily injuries likely to result in death.

72. In the present case, the prosecution evidence concerning the weapons carried by the assembly, the exhortations attributed to the appellants and the manner in which the deceased was assaulted must be considered together. These circumstances are relevant to determining whether the offence involving the requisite intention under Section 304 Part I IPC was committed in prosecution of the common object of the assembly, or was known by its members to be likely to be committed in prosecution of that object. The conclusion must rest upon these proved circumstances, rather than upon the mere occurrence of death.

CONCLUSION

73. Accordingly, ***CRL.A. 133/2025, CRL.A. 180/2025, CRL.A. 181/2025, CRL.A. 185/2025*** *and* ***CRL.A. 289/2025*** are hereby dismissed. The common judgment of conviction dated 30.11.2024 and order on sentence dated 13.01.2025 passed by the learned Additional Sessions Judge-03, North-East District, Karkardooma Courts, Delhi, in Sessions Case No. 199/2021, arising out of FIR No. 87/2020 registered at Police Station Dayalpur, are upheld insofar as the present appellants are concerned.

74. Pending applications, if any, shall stand disposed of in accordance

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24

with the aforesaid decision.

75. A copy of this judgment, along with the Trial Court Record, be sent to the concerned Jail Superintendent and the learned Trial Court for information and necessary compliance.

MADHU JAIN
(JUDGE)

OCTOBER 27, 2026/P

Signature Not Verified
Signed By:BHARTI
Signing Date:27.10.2026
18:34:24