Surender Kumar vs State Of Haryana on 8 September, 2026

2026 INSC 1006

Reportable

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY APPELLATE JURISDICTION

Special Leave Petition (Crl.) No.14611 of 2026

Surender Kumar ...Petitioner (s

Versus

State of Haryana & Ors. ...Respondent (s)

ORDER

A dispute arose with respect to waterlogging, occasioned by draining of rainwater, which led to an assault by the accused on the petitioner, his brother and uncle. The petitioner and his brother sustained multiple injuries caused by the armed assailants, as complained of before the police. An FIR was lodged under Sections 147, 148, 149, 323, 325, 506 of the Indian Penal Code, 1860 (IPC) at Police Station Nissing, Karnal and six accused were arrayed; charges were framed and the trial commenced.

2. A Neurosurgeon in a private hospital with whom the Date: 2026.09.17 16:23:12 IST Reason:

> injured sought treatment, was examined as PW5, who deposed that the injuries sustained by the brother of the petitioner, which was a fracture on the right parietal bone with underlying haemorrhagic contusion, in his opinion, could have been dangerous to life of the injured. PW6 was the Medical Officer of the Primary Health Centre, Sagga, Karnal, who examined the injured when they were brought to the hospital immediately after the incident. Insofar as the injuries sustained by the petitioner's brother, he was of the opinion that the gravity of the injury should be left to be spoken of by the surgeon who treated the patient.

3. At the investigation stage, when the injury report of the Neurosurgeon was obtained, the accused moved for examination of the injuries by a Medical Board. PW6 was the member of the Board who examined the petitioner's brother. According to the Board, the injuries sustained, though, were grievous, did not pose any danger to life.

4. After the prosecution witnesses were examined, the petitioner moved Annexure P8-application for altering the charge to one under Section 307 of the IPC, which was opposed by the accused as per Annexure P9. By Annexure P10, The Court of the Judicial Magistrate First Class at Karnal, dismissed the application. According to the Court, the Medical Board's report prevails and hence, there was no cause to bring in Section 307.

5. A challenge by way of revision to the Sessions Court also failed, as is evident from Annexure P12. It was specifically contended before the Sessions Court that initially the Investigating Officer had registered the FIR under Section 307 and only on the examination by the Medical Board, as requested by the accused, Section 307 was deleted. The Sessions Court, while affirming the findings of the Magistrate, also found that there was no allegation by the first informant, the petitioner herein, that they had been attacked by the accused persons with the intention to kill them. The examination of the doctor, who examined the injured victims and the accused, revealed that two accused also suffered multiple injuries.

6. The High Court, in a revision filed, by the impugned order agreed with the order of the Magistrate on the ground that the Neurosurgeon was working in a private hospital which was superseded by the opinion of the Medical Board of the Government Medical College at Karnal.

7. We are of the opinion that the grievousness of the injuries or the possibility of injury which could have led to death, is not a necessary ingredient to attract Section 307. Section 307 reads thus: -

> 'S.307 Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.'

8. It has two limbs, insofar as the punishment is concerned but only one regarding the culpability. The culpability being found if there is commission of any act with such intention or knowledge that the act could result in death; making the perpetrator guilty of murder. As regards punishment, the accused shall be punished with imprisonment of either description for a term which may extend to 10 years and shall also be liable to fine; which is the first limb. The second limb provides that if such act, caused with intention or knowledge, results in hurt to any person then the offender shall be liable either to imprisonment for life or to such punishment as provided in the first limb. Hurt, grievous or simple, is not a precondition to attract Section 307, but, if there is a hurt, be it simple or grievous, and the act causing such hurt is with the intention or knowledge that such act could have caused death; making the perpetrator guilty of murder, then a graver punishment is provided.

9. In State of Madhya Pradesh v. Kashiram and Others1, this Court held that to justify the conviction under Section 307, it would be sufficient if there is intent coupled with some overt act in execution thereof. It is not essential that there should be a bodily injury capable of causing death or even an injury in the nature of simple hurt. Relying on a number of decisions, it was held that the intention

to kill or knowledge that death will occur, is a question of fact depending on a given case to find culpability under Section 307. The mere fact that the injury inflicted was simple or minor, will not by itself rule out the application of Section 307, since the determining question is the intention or knowledge.

10. Chimanbhai Jagabhai Patel v. State of Gujarat and Another2 found the ingredients under Section 307 to be; (i) the overt act of the accused, (ii) the intention or knowledge;

(2009) 4 SCC 26 (2009) 11 SCC 273 to cause a bodily injury, which he knew would likely cause death, or such bodily injury which in the ordinary course of nature would lead to death, or that act is so imminently dangerous that in all probability death would be occasioned and (iii) that the accused had no excuse for incurring the risk of causing such death or injury. Pasupuleti Siva Ramakrishna Rao v. State of Andhra Pradesh and Others3 differentiated the punishments; as we found in the first and second limbs. One, the intention alone leading to a punishment of 10 years and if it is accompanied with hurt, then extending to life imprisonment. State of M.P. v. Saleem alias Chamaru and Another4 categorically held that to sustain a conviction under Section 307, there is no necessity for a bodily injury capable of causing death. A simple injury caused, would not as a corollary mean absence of intention to cause the death, which intention or knowledge has to be discerned from the circumstances surrounding the crime. State of Madhya Pradesh v. Kanha alias Omprakash5 and Jage Ram and Others v. State of Haryana6 held that the (2014) 5 SCC 369 (2005) 5 SCC 554 (2019) 3 SCC 605 (2015) 11 SCC 366 absence of a fatal injury would not dislodge Section 307, but the nature or gravity of the injury and the nature of the weapon used could lead to an inference of intent and knowledge.

11. The nature of the hurt on which the courts laboured in the impugned orders, according to us, though relevant cannot on that sole basis result in a finding of attempt to murder. But the finding of the Sessions Court that there is no intention or knowledge alleged, could be taken as a reason or justification for not bringing in Section 307.

12. The trial had proceeded substantially, and it was at a late stage, the prayer was made to bring in Section 307. Both the medical certificates were available when the chargesheet was filed, since it was obtained during investigation. At the time of taking cognizance, the injured victim did not complain of Section 307 having not been incorporated, which was absent in the chargesheet itself. The injured were very conscious of the injuries sustained by them and were also aware of the manner in which the acts were perpetrated by the accused. No such case of an intention or knowledge as would attract Section 307 having been raised at the initial stage or at the stage of cognizance or when the evidence was being led; which the investigation also did not detect, the application made at the later stage, cannot be entertained and hence, the finding leading to rejection of incorporation of Section 307, is justified.

13. We find absolutely no reason to entertain the Special Leave Petition and the same stands dismissed. However, we also make it clear that it is the Court’s prerogative to alter the charge at any time when the trial is continuing, provided there is sound and justifiable cause, as emanating from the evidence led before court.

14. Pending application(s), if any, shall stand rejected.

..... J.

(J. B. PARDIWALA) ..... J.

(K. VINOD CHANDRAN) NEW DELHI;

SEPTEMBER 08, 2026.