

(2026) 03 DEL CK 0476
In the Delhi High Court
Case No : Criminal Appeal No. 752 Of 2004

Jaswant Sngh

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 12-03-2026

Acts Referred:

Indian Penal Code, 1860 — Section 307, 308, 503, 506, 506I

Citation : (2026) 03 DEL CK 0476

Hon'ble Judges : Vimal Kumar Yadav, J

Bench : Single Bench

Advocate : N.S. Dalal, Nidhi Dalal, Alok Kumar, Rachna Dalal, Kiran Bairwa

Final Decision : Disposed Of

Judgement

Vimal Kumar Yadav, J

1. The present appeal has been preferred by the appellant assailing the judgment of conviction dated 12.08.2004 and the order on sentence dated 21.08.2004 passed by the learned Additional Sessions Judge, Delhi, whereby the appellant was convicted for the offence punishable under Section 506 Part I of the Indian Penal Code (IPC hereinafter). The appellant already stands acquitted of the charge under Section 307 IPC and, therefore, the said finding is not under consideration. The controversy in the present appeal is confined to the legality and sustainability of the conviction under Section 506 Part I IPC.

2. Succinctly, the prosecution's case, as emerged from the impugned judgment and the record, is that in the intervening night of 27/28.09.1997, a quarrel allegedly took place between the complainant PW-6 Tej Ram Bhardwaj and the appellant in respect of a tenanted shop, where former was a tenant and latter was the landlord. Seemingly, the commercial use of the tenanted premises over a period of time developed deep commercial interest in it and the tenant was not willing to vacate whereas the landlord was equally, if not more, keen to have it vacated. This soured the relationship to the extent which led to the present state

of affairs and litigation.

3. On the basis of the statement of the complainant, FIR No. 695/1997, Ex. PW-1/A, under Section 506 IPC was registered at Police Station Saraswati Vihar. Subsequently, being dissatisfied with the contents of the FIR, the complainant filed a separate complaint case alleging use of fire-arm, on the basis of which proceedings under Section 307 IPC were also initiated and clubbed with the charge sheet somewhere in July / August 1999. Both matters were tried together. Upon appreciation of the evidence, the learned trial court disbelieved the prosecution's case under Section 307 IPC but convicted the appellant under Section 506 Part I IPC, paving the way for instant appeal.

4. The grounds urged in appeal, as borne out from the memorandum of appeal, are-

(a) That the learned trial court failed to appreciate the evidence in its correct perspective;

(b) That the prosecution witnesses are interested and partisan;

(c) That the complainant and his brother resiled from their earlier statements and turned hostile;

(d) That the allegations regarding the offence under section 307 of the IPC was not accepted by the Ld. Session's judge and it was based on the same statements and evidence, therefore, the allegation should be disbelieved in totality;

(e) That there was no legally admissible evidence of any threat, which is the core ingredient of Section 506 of Indian Penal Code, 1860 and there is no statement to this effect;

(f) That the alleged incident of firing finds no mention in the FIR;

(g) That no independent public witness was examined despite availability;

(h) That the medical evidence shows injuries on the person of the appellant himself, and no injury at all to the complainant.

(i) That the entire prosecution case was a result of prior enmity arising out of tenancy disputes and an ongoing criminal case against the complainant.

(j) That there was an ulterior motive on the part of the complainant and they had made up the story to implicate the appellant.

(k) The calling of the police and immediate arrest of the accused was part of the same plan.

5. The suggestion in cross examination given to complainant PW-6 has been evaluated and interpreted by learned Trial Court in a manner in which it should have been and certainly that suggestion cannot be considered and taken as a

kind of admission on the part of the appellant. It should have been appreciated against the backdrop of the whole case in its totality, juxtaposing it with the initial complaint Ex.PW.6/B, where not a whisper of use of firearm is there.

6. Before appreciating the evidence, it is necessary to advert to the statutory framework. Section 503 IPC defines criminal intimidation as follows:

“Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of anyone in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, commits criminal intimidation.”

7. Section 506 IPC provides punishment for criminal intimidation.

8. From a plain reading of Section 503 IPC, it is evident that the following essential ingredients must co-exist:

(a) There must be a threat of injury;

(b) Such threat must be with intent to cause alarm;

(c) The threat must be such as to compel the victim to do or omit an act which he is legally entitled to do or not to do.

9. Unless these ingredients are cumulatively established, an offence under Section 506 IPC is not made out.

10. With this legal framework, the evidence on record is required to be looked into, examined and analyzed.

11. The conviction rests primarily on the testimonies of PW-3 Pradeep Kumar, PW-4 Bhagwan Dass, and PW-6 Tej Ram Bhardwaj. PW-6 Tej Ram Bhardwaj, the complainant, in his examination-in-chief, categorically stated, “Accused Jaswant Singh did not give any threat to me.” His police statement is Ex. PW-6/A.

12. However, he was declared hostile. Even in cross-examination by the prosecution, the foundational fact of threat was not established. The complainant’s own testimony thus completely negates the most essential ingredient of Section 503 IPC. Once the complainant himself denies the existence of any threat, the offence of criminal intimidation collapses at the threshold.

13. PW-4 Bhagwan Dass, brother of the complainant, also did not support the prosecution’s case fully and resiled from material parts of his earlier statement. He admitted the tenancy dispute and further admitted that a criminal case under Sections 307/308 IPC was pending against the complainant himself. His testimony clearly establishes that he is an interested witness and that there existed a motive for false implication.

14. PW-3 Pradeep Kumar was projected as an independent witness. However, from the record, it emerges that he was not an ‘independent witness’ in

the strict sense. He admitted his familiarity and association with the complainant and is related to the complainant side albeit professionally. His testimony, therefore, requires cautious scrutiny. Moreover, his statement materially contradicts that of PW-4 on crucial aspects such as the height and nature of the door, position of the alleged bullet mark, and visibility conditions at the spot. These contradictions go to the root of the prosecution's case and further erodes and corrodes its credibility.

15. Another important circumstance highlighted by the learned counsel for the Appellant is that FIR No. 695/1997, Ex. PW-1/A, does not contain even a whisper of use of firearm leave alone any allegation regarding firing from such a weapon. The FIR speaks only of criminal intimidation. The subsequent allegation of firing surfaced only in the complaint case. This led to the acquittal of the accused by the learned Session's Court. This material information further creates a serious dent in the prosecution story and renders the version doubtful.

16. It has further come on record that around 20–25 persons had allegedly gathered at the spot at the time of the incident. Despite availability of such public persons, no independent public witness was joined in the investigation, nor has any explanation been offered for this omission by the police. This lapse assumes significance in a case resting solely on oral testimonies of interested witnesses and PW-3 Pradeep Kumar is no exception at all.

17. The visibility conditions at the spot also assume relevance. PW-3 and PW-4 both admitted to the absence of electricity supply and stated that there was only moonlight. It is evident that the visibility was poor. While identification may still be possible if people are known to each other prior to the incident, so such conditions further weaken the prosecution case and call for stronger corroborative evidence, which is conspicuously absent.

18. It is important to reiterate that the key witnesses, the complainant as well as his brother, did not corroborate each other's statements. Therefore, their statements remain uncorroborated and unsubstantiated. Further, there was no other eye-witness apart from the tempo driver who turned out to be associated with the complainant himself. Thus, his testimony is required to be read very carefully and his independence and impartiality comes under cloud; given his relation with PW-6 Tej Ram.

19. A significant circumstance in favour of the appellant is the medical evidence which has come on the record. PW-7 Dr. Neera Bindal proved the MLC of the appellant as Ex. PW-7/A, which records injuries and smell of alcohol. The presence of injuries on the person of the accused probabilises the defence version that the incident was not one-sided and that the appellant himself was subjected to violence. Incidentally, no injury is there on the body of PW-6 Tej Ram Bhardwaj. How it is possible that PW-6 came out unscathed from an assault in which gunshot was also allegedly fired. Incidentally, no trace of any use of firearm could be found except the oral testimony. PW-6 Tej Ram Bhardwaj is a

matured person and when he made statement to the police the entire facts should have been incorporated. Why there is not even a murmur about the gunshot in the FIR, which was incidentally fired on Tej Ram. How can such an important aspect escape through the mind of PW-6, that it was not recorded to the police.

20. At this stage, it is apposite to refer to the principles laid down by the Supreme Court in *Sharad Birdhichand Sarda v. State of Maharashtra*, (1984) 4 SCC 116, wherein the Court crystallised the five golden principles governing appreciation of evidence, namely:

- (a) The circumstances from which the conclusion of guilt is to be drawn must be fully established;
- (b) The facts so established must be consistent only with the hypothesis of guilt of the accused;
- (c) The circumstances must be of a conclusive nature and tendency;
- (d) They must exclude every possible hypothesis except the one to be proved;
- (e) There must be a complete chain of evidence so as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused.

21. Applying these principles to the present case, this Court finds that the chain of circumstances is neither complete nor consistent. More fundamentally, the statutory ingredients of Section 503 IPC are amiss and not satisfied, as the complainant himself denies any threat was extended to him or any alarm was caused. The conclusion by implication or inferential outcome drawn by learned Trial Court that use of firearm is enough to establish that the victim was intimidated does not seem to be correct in this case. No firearm use has been recovered, on the contrary all the weapons of appellant were lying deposited with authorized arm dealer. No empty cartridge or lead was recovered and for that matter the so- called bullet mark on the wooden door or the glass door having about 01 foot diameter hole could have been shown on record. It was primarily for the victim PW-6 Tej Ram inasmuch as the police had registered a case under section 506 IPC only and thus had no occasion to look for all these things.

22. In view of the foregoing discussion, this Court is of the considered opinion that the prosecution has failed to prove the charge under Section 506 Part I IPC beyond reasonable doubt. The appellant is rather entitled to the benefit of doubt.

23. Consequently, the judgment of conviction dated 12.08.2004 and the order on sentence dated 21.08.2004 are set aside and the appellant stands acquitted of the said charge.

24. Bail bond (if any) stands cancelled and surety stands discharged. Documents / FDR (if any) on record be released, upon acknowledgment. Pending applications if any, stands disposed of.

25. Copy of this judgment be transmitted to the court concerned and Prison Authorities, for necessary compliance.