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

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Judgment Reserved on: 25.02.2026
Judgment pronounced on: 10.03.2026

+ **CRL.A. 742/2016**

STATE (GOVT OF NCT OF DELHI)

.....Appellant

Through: Mr. Ajay Vikram Singh, APP for
State

Versus

OM PRAKASH & ANR

.....Respondent

Through: Mr. Satish Tamta, Sr. Advocate
alongwith Ms. Manavi Joshi, Ms.
Nisha Narayanan and Ms. Sonika
Rathore, Advocates

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. This appeal under Section 378(1) of the Code of Criminal Procedure, 1973 (the Cr.P.C.), has been filed by the respondent/ State in Criminal Appeal 80 and 81 of 2014 on the file of Additional Sessions court, Patiala House courts aggrieved by



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the judgment dated 01.11.2014 by which accused no. 1 (A1) and accused no. 2 (A2)/the respondents herein, have been acquitted by reversing the finding of guilt of the accused persons for the offences punishable under Sections 186, 353 and 34 of the Indian Penal Code, 1860 (the IPC) by the trial court.

2. The prosecution case is that, on 26.06.2003 at about 3:05 PM at premises bearing No. P-2/W1, Curzon Road Barrack, Kasturba Gandhi Marg, A1 and A2, in furtherance of their common intention and in association with other persons, voluntarily assaulted and used criminal force against PW1, a public servant, with the intention of deterring him from the discharge of his official duties, and thereby obstructed him in the performance of such duties.

3. On the basis of Exhibit PW1/A complaint of PW1, given on 26.06.2003, Crime no. 153/2003, Parliament Street, Police Station, i.e., Exhibit PW2/B FIR was registered by PW2, Head Constable. PW4, Sub Inspector (SI) was entrusted with the



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investigation of the case. PW4 conducted investigation into the crime and on completion of the same, filed the charge-sheet/final report dated 02.08.2003 alleging commission of the offences punishable under Sections 160, 186, 353, 341, 451 read with Section 34 IPC. Ext. PW8/A statutory complaint for prosecution, as contemplated under Section 195 Cr.P.C., was given by C.B. Lal, Additional Director General, Central Public Works Department.

4. The copies of the prosecution records were furnished to the accused persons, as contemplated under Section 207 Cr.P.C. After hearing both sides, the trial court, vide order dated 27.02.2006, framed a charge under Section 353, 186 read with 34 IPC, which was read over and explained to the accused persons to which they pleaded not guilty.

5. On behalf of the prosecution, PWs. 1 to 8 were examined and Ext. PW1/A, Ext. PW1/B, Ext. PW2/A, Ext. PW2/B, Ext. PW3/D1, Ext. PW4/A, Ext. PW4/B, Ext. PW4/C,



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Ext. PW4/D, Ext. PW4/D1, Ext. PW4/D2, Ext. PW4/E, Ext. PW8/A were marked in support of the case.

6. After the close of the prosecution evidence, the accused persons were questioned under Section 313(1)(b) Cr.P.C. regarding the incriminating circumstances appearing against them in the evidence of the prosecution. The accused persons denied all those circumstances and maintained their innocence. They submitted that they have been falsely implicated and they were neither present at Nirman Bhawan nor part of the alleged mob that misbehaved with and assaulted PW1 on 26.06.2003. It was further submitted that one K.N. Tiwari, AE had lodged a complaint against PW1 alleging threats and assault, which was forwarded by the Association of Engineers. As the accused persons were associated with the Engineers' body, they claimed that the present case was taken against them in retaliation.

7. No oral or documentary evidence were adduced by the accused persons in support of their case.



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8. Upon consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, *vide* the impugned judgment dated 28.06.2014 held both A1 and A2 guilty of the offences punishable under Sections 186, 353 and 34 IPC. Consequently, the trial court *vide* order on sentence dated 15.07.2014 sentenced them both to undergo simple imprisonment for a period of one year for the offence punishable under Section 353 IPC and to a fine of ₹5000/-, and in default of payment of fine, to undergo simple imprisonment for 03 months, and further to undergo simple imprisonment for a period of two months for the offence punishable u/s 186 IPC. Aggrieved by the judgment of the trial court, the accused persons filed Criminal Appeal. 80 and 81 of 2014. The appellate court reversed the judgment of the trial court and acquitted both A1 and A2. Aggrieved, the State has preferred the present appeal.

9. It was submitted by the learned Additional Public Prosecutor appearing for the State that the impugned judgment



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passed by the Appellate court is bad in law and liable to be set aside. It was submitted that the Appellate Court erred in rejecting the prosecution case on the ground that the testimony of PW1 alone was insufficient. It is contended that no particular number of witnesses is required to prove a fact, and that a conviction can be safely founded upon the testimony of a sole witness, provided such testimony is found to be reliable and trustworthy. It is also contended that the appellate court erred in drawing adverse inference from the fact that PW5 and PW6 failed in identifying the accused persons, since both the witnesses were admittedly not present inside the room at the exact time of the occurrence and had reached the spot only after hearing a commotion. It was also submitted that the Appellate Court erred in magnifying minor discrepancies and alleged improvements in the testimonies of the prosecution witnesses and that trivial inconsistencies, which do not strike at the root of the prosecution case, cannot constitute a valid ground for acquittal.



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10. The learned counsel for appearing for the accused persons submitted that the impugned judgment is well-reasoned, based on proper appreciation of the evidence on record and settled principles of criminal jurisprudence, and does not suffer from any infirmity calling for an interference by this Court. The findings of the appellate court are neither perverse nor contrary to law, and therefore, the appeal deserves to be dismissed.

11. Heard both sides and perused the record.

12. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgement calling for an interference by this court.

13. I make a brief reference to the oral and documentary evidence relied on by the prosecution in support of the case. The gist of Ext. PW1/A complaint dated 26.06.2003 is that on the said day, PW1, Chief Engineer, Married Accommodation Project Zone, CPWD, posted at B-2/W-I First Floor, Curzon Road Barracks, K.G. Marg, New Delhi 110001, was assaulted at about 03.05 PM



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in his office by a group of around 20 persons who suddenly entered the premises. Three security personnel were overpowered, while about eight persons remained outside in the first-floor verandah. The mob abused him and four persons leading the group physically attacked him by hitting his head, neck, and temple. During the incident, a glass of water on his table was broken, his spectacles were damaged, and the telephone equipment was thrown onto the floor. The assailants thereafter fled. It came to notice that some of the aforesaid persons had gathered in the room of the DG(W), CPWD and at Gate No. 3 of Nirman Bhawan. PW1 proceeded there with two officers and one security guard and identified A1, Assistant Engineer, PWD Government of Delhi, as the leader of the mob. A1 was handed over to the CISF security at Gate No. 3 but he managed to slip away when PW1 went to the room of the DG(W) on the first floor. Another participant in the mob was A2, Assistant Engineer, PWD Government of Delhi. PW1 identified both A1 and A2 present in the Court. PW1 did not



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undergo any medical examination as there was no visible external or internal injury on his head, neck or temple/cheek.

14. PW1, in his examination before the trial court, substantially supported the version he set out in Ext. PW1/A. In his cross examination, PW1 deposed that he could not recollect how many persons were standing outside his office. According to PW1, about 20 persons had come inside his room. He admitted that he did not call the police when he saw the 20 persons. PW1 further deposed that he was alone in his room doing his work and no other official was present with him. According to PW1, the room was bolted from inside and he made a call to the Director General at about 3.40 PM. The mob remained inside his room for about 25 minutes. He admitted that he had not mentioned the bolting of the door in his Ext. PW1/A. He further deposed that he, along with three other persons namely PW5, PW6 and one Ram Chander Singh, left for the office of the Director General at about 3.45 PM. The driver was also with them. He admitted that he did not



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physically catch A1. PW1 denied that he had threatened or beaten one K.N. Tiwari or any other person on that day. In June 2007, he came to know for the first time that some complaint and subsequently a case had been filed against him by K.N. Tiwari.

15. PW3, Stenographer, DG CPWD, Nirman Bhawan deposed that on 26.06.2003, at about 3.00 PM, some members of an association, who were about 30 to 40 in number, came there raising slogans. After some time, PW1 came out of his room and asked the security guard to remove them. The members of the mob left after about 10 to 15 minutes. PW1 remained there for about 2 to 3 minutes and thereafter left. PW3 further deposed that he neither saw any member of the mob abusing anyone nor noticed any item in a damaged condition in PW1's office. He was also not told about any incident of abuse, damage or manhandling by PW1. He further deposed that he cannot identify any of the accused persons. At this juncture, the prosecutor is seen to have sought the permission of the court to 'cross examine' the witness on the



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ground that he was resiling from his earlier statement. This request was allowed by the trial court.

15.1. On further examination by the Prosecutor, PW3 admitted that he had been interrogated by the police, but denied having stated to the police that when he reached the office of PW1 on hearing a commotion, he had seen the articles on the table scattered, the telephone instrument lying on the floor, the glass broken, or the spectacles of PW1 lying on the floor or that PW1 had told him that the latter was abused, misbehaved with or manhandled by members of the mob, or that he could identify those persons. PW3 failed to identify A1 and A2, who were present in the Court.

16. PW5, Superintendent Engineer, PWD deposed that on 26.06.2003, while posted as Superintending Engineer (P&A) at K.G. Marg, at about 3.00 PM, he along with PW6, the then Executive Engineer heard slogans from outside. Upon opening the door, they did not find anyone outside, though they felt some



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uneasiness. The slogans had stopped by then. They then proceeded to the room of PW1. On entering the room of PW1 to ascertain what had happened, they found him disturbed. Telephones were lying on the floor, one spectacle was lying broken on the table, broken pieces of a water glass were lying both on the table and on the floor, and one paper holder was also found broken on the table. One private security guard cum peon, Ram Chander, was clearing the table and floor. PW5 further deposed that PW1 told them that he had been assaulted and abused by some persons. PW1 then called the Director General, CPWD on telephone and was narrating the incident, but the conversation appeared to be incomplete. Thereafter, he along with PW6, the private security guard and PW1 proceeded to Nirman Bhawan in the official car of PW1. On reaching Gate No. 3 of Nirman Bhawan, which is the entry gate to the DG office, they found some persons standing near the security personnel. PW1 pointed towards one person and raised an alarm stating that the said person had assaulted him



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earlier that day in his office. This was also told to the security staff present there, who detained the said person. Thereafter, PW1 went to the office of the Director General Works, leaving them at the gate. After a few minutes, a large crowd came from upstairs and the person who had been detained by the security staff slipped away. PW5 could not identify the person who had been detained by the security personnel. At this juncture, the prosecutor is seen to have sought the permission of the court to put a leading question on the point of identification. This request was allowed by the trial court. The attention of PW5 was drawn towards the accused persons present in the court, but PW5 was not able to identify them.

17. PW-6, Executive Engineer, CPWD, substantially supported the case of PW-5 during his chief examination before the trial court. However, PW6 also failed to identify the accused persons present in the court.



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18. Both A1 and A2 stand charged for the offences punishable under Sections 353 and 189 read with Section 34 of the IPC on the allegation that they assaulted PW1 while he was in the discharge of his official duties, thereby deterring and preventing him from performing his public functions.

19. The main question that arises for consideration is whether the prosecution has been able to establish, beyond reasonable doubt, that an assault was committed upon PW1 while he was discharging his public duty.

20. The case of PW1 regarding assault or damage is not supported by PW5 and PW6. Both witnesses categorically deposed that although they heard certain slogans being raised, they did not witness any abuse, manhandling, or damage being caused to PW1. Further, the identity and specific role attributed to each of the accused persons have not been established, as the said witnesses failed to identify any of the accused. The testimony of PW1 also does not prove the ingredients of the



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offences charged against the accused persons beyond reasonable doubt. In the absence of any reliable ocular evidence, the trial court was right in acquitting the accused persons. There is no infirmity calling for an interference by this Court.

21. In the result, the appeal *sans* merit is dismissed.

22. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

MARCH 10, 2026

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