

State vs Md Mustkeen on 17 May, 2025

SC No. 692/2022

State Vs. Md. Mustkeen & A

IN THE COURT OF SH. GAUTAM MANAN
ADDITIONAL SESSIONS JUDGE-09
WEST, TIS HAZARI COURTS, DELHI

In the matter of:-

SC No. 692/2022
CNR No. DLWT01-009834-2022
FIR No. 368/2022
Police Station Hari Nagar
Under Section 392/394/307/34 IPC

State

Versus

1. Md. Mustkeen
S/o. Md. Dilshad
R/o. B-237, JJ Colony,
Hastsal Road, Uttam Nagar,
New Delhi.
2. Mehendi Hasan
S/o. Md. Riyaz,
R/o. H.No. 917,
Gali No. 48 Khala Par,
Talab Wali Gali, Haddi Godam,
Muzaffar Nagar, U.P. ... Accused persons

Judgment
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SC No. 692/2022

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Date of institution	10.10.2022
Conclusion of arguments	17.05.2025
Judgment Pronounced on	17.05.2025
Decision	Acquitted

JUDGMENT

1. Accused Mustkeen and Mehendi Hasan are facing trial in present case on allegations that they in furtherance of their common intention, committed robbery of gold chain and bracelet of complainant Simar Jeet Singh and caused gunshot injuries upon injured Pradeep Singh.

Brief facts

2. Brief facts of the case are that on 22.05.2022 on receipt of DD No. 103A SI Kunal Sandhu (IO) along with Ct. Vinod reached at near Hari Nagar Clock Tower roundabout where in front of gate of Shastri Market, blood was scattered and crowd was gathered. An empty shell of a bullet was found on the road and other staff of the police station also came to the spot. Injured was taken to DDU Hospital, Hari Nagar. IO left Ct. Vinod to guard the spot and reached DDU Hospital where complainant Simarjeet Singh met him and injured Pradeep Singh Sandhu found admitted. Crime team was called at the spot.

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3. Complainant Simran Jeet Singh got his statement recorded which reads as under :-

".....I live with my family at the above address and run a property dealing office in the name of Gill Properties at the above address. On 22.05.2022, I was eating ice-cream with my brother-in-law Pradeep Singh Sandhu So Sh. Kartar Singh R/o H. No. C-133, 1st Floor, Hari Nagar, Delhi Age-35 yrs and my nephew Amav near Hari Nagar Ghanta Ghar roundabout, at around 11:20 PM, a white Xcent car, whose number I could read as DL-IZ-0453, came there in which there were four boys, three of them got down from the car and surrounded us. One of the boys pointed a pistol at me and the other pointed a pistol at my brother-in-law Pradeep and threatened him to take out whatever belongings he had. In the meantime, one of the two boys who had pistols broke my gold chain from my neck and the other one broke my gold bracelet from my hand and tried to take the ring off my hand. When we resisted, they started pushing and shoving us and during this one of the boys shot us with the intention of killing us. The bullet hit my brother-in-law Pradeep's face and my brother-in-law started bleeding and all four boys fled in their car towards Mayapuri. I took my brother-in-law to DDU Hospital where the above-mentioned boys threatened us with a pistol and snatched my gold chain and bracelet and shot my brother-in-law. I can identify those four boys if they come in front of me".....

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4. IO left Ct. Vinod at DDU Hospital. Crime Team inspected that spot. Photographs of the scene of crime were taken. An empty bullet of 7.65 was found and sketch thereof was prepared. The said bullet was sealed and seized. Blood on swab in a plastic vile and earth control sample were lifted from the spot.

5. IO then reached at the Hospital after leaving the police staff at the spot and collected the MLC of Pradeep Singh wherein Doctor mentioned that he had received gunshot injury. Doctor concerned handed over six pullandas to IO which were taken into police possession.

6. On the basis of statement of the complainant, circumstances and MLC, an FIR under Section 394/397/307/34 IPC and Section 25/27 Arms Act was got registered. During investigation, IO prepared site plan at the instance of complainant. Statement of the caller Chandan Saluja was also recorded.

7. During investigation, injured Pradeep Singh Sandhu was referred to Higher Centre i.e. B.L. Kapoor Hospital. On 25.05.2022 the Doctor at B.L. Kapoor Hospital handed over pullanda containing the bullet which was taken out during operation of neck of SC No. 692/2022 State Vs. Md. Mustkeen & Anr.

injured Pradeep. Pullanda in sealed condition was taken into police possession along with sample seal.

8. During the investigation, CCTV cameras of different places were checked for searching the vehicle involved in the crime. During the investigation, IO found vehicle bearing No. HR 38Z 2812 as a suspect in the speed cameras installed on the Outer Ring Road (Near Keshopur Mandi) from Peeragarhi to Janakpuri. The aforesaid vehicle No. HR 38Z 2812 was checked and found stolen from Wazirabad in case FIR No. 0014051/2022 dated 23.05.2022.

9. On 27.05.2022, SI Sachin Yadav with Ct. Ganpat and Ct. Vinod in search of accused persons reached Shankar Chowk, Near Water ATM, NH-8 DLF Gurugram HR and they found vehicle No. HR-382-2812 standing abandoned on the side of the road of Jaipur to Delhi Highway. SI Sachin Yadav checked the vehicle and took the same into possession IO recorded the statement of victim Pradeep Singh Sandhu.

10. On 16.06.2022, SI Dharmender of PS Rajender Nagar informed at PS Hari Nagar vide DD No. 104-A that accused Mohd.

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Mustkeen and Mehendi Hasan were arrested in case FIR No. 167/2022 u/s. 395/397/34 IPC & 25/54/59 Arms and they had made disclosure statement regarding involvement in this case and they would be be produced on 17.06.2022 at Tis Hazari Court. IO obtained photocopy documents related to the arrest of both the accused in case FIR 167/2022 from SI Dharmender. Statements of police witnesses were recorded.

11. On 24.06.2022, IO after obtaining permission from the Court interrogated accused Md.Mustakeen and Mehendi Hasan in judicial custody at Tihar Jail and they were persons arrested formally. On 28.06.2022 and 29.06.2022, SI Sachin filed applications for conducting the TIP of accused persons, however, accused persons refused to participate in the judicial TIP.

12. During investigation, police custody of accused persons were taken. During remand, complainant Simar Jeet and injured Pradeep came in connection with progress of his case and identified both the accused persons as robbers. Supplementary statement of injured and the complainant was recorded. Pointing out memo at the instance of accused persons was prepared.

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During PC remand, weapon used in the commission of offence, was got recovered by the police of PS Rajender Nagar. Thereafter, accused persons were sent JC.

13. On 01.09.2022, IO obtained the opinion on the MLC of Pradeep regarding nature of injury from B.L. Kapoor Hospital which was opined as grievous in nature whereas the Doctor at Deen Dayal Hospital opined the nature of injury of injured Pradeep as simple. The recovered one country made illegal pistol and three live rounds and empty cartridge were submitted to FSL Rohini. After completion of investigation, charge sheet in the present case was filed.

Charge

14. Charge for the offence punishable under Section 392/394/307/34 IPC was framed against accused persons. They pleaded not guilty and claimed trial.

Prosecution Evidence

15. Prosecution examined two witnesses i.e. complainant Simar Jeet Singh(PW-1) and injured Pradeep Singh Sandhu as PW-2. PW1 Simar Jeet Singh (complainant) deposed in respect of the incident and testified that on 22.05.2022, he along with his SC No. 692/2022 State Vs. Md. Mustkeen & Anr.

brother-in-law Pradeep Singh Sandhu and niece Arnav were eating ice-cream at Gol Chakkar, Hari Nagar Ghanta Ghar. At about 11.20 p.m. a white colour Xcent car having registration No. DL1Z 0453 came there. Four boys were sitting in the said car and out of those four boys, three boys came down and surrounded them.

16. Complainant deposed that a boy pointed out a pistol towards him and second boy pointed out pistol towards Pradeep. The offenders threatened them to hand over all the articles to them. In the meantime, one of the offender who was having pistols, broke the gold chain from his neck. Second boy broke a bracelet from his hand. Thereafter, the said offender tried to rob the ring which he was wearing on his finger, when he agitated the offender started grappling with them.

17. Complainant deposed that in the meantime, one of the offenders in order to kill them fired from country made pistol and bullet fired by the said offender struck over the face of his brother-in-law Pradeep. Due to the impact of the injury, his brother in law Pradeep bleed from his mouth. Thereafter, all the four offenders ran away towards Maya Puri side while sitting in the said car.

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18. PW-1 further deposed that thereafter, he took his brother-in-law Pradeep to DDU Hospital where Pradeep was medically examined. IO recorded his statement Ex.PW1/A and got the present FIR registered. Thereafter, he accompanied the police officials to place of occurrence and IO conducted the proceedings at the spot.

19. PW1 further deposed that during investigation, he participated in judicial TIP, but in the said judicial TIP, but he was not able to identify the said offender (Sultan). He deposed that he cannot identify the offenders as at the time of commission of offence as there was darkness at the place of occurrence and the incident had occurred at 11.20 p.m. and robbers had covered their face with cloth pieces and their faces were not visible.

20. PW-2 Pradeep Singh Sandhu also deposed on similar lines. He deposed that one of the robbers in order to kill them fired from country made pistol and bullet fired by the said offender struck his face. Due to the impact of the injury, he bled from his face. Thereafter, all the four offenders ran away towards Maya Puri side while sitting in the said car. Simarjeet took him to DDU Hospital where he was medically examined.

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21. PW2 also deposed that he could not identify the offenders as at the time of commission of offence, there was darkness at the place of occurrence and offenders had covered their face with cloth pieces and their faces were not visible.

22. As PW-1 and PW-2 failed to identify the accused persons as robbers and no other material witness has been cited by the prosecution to connect the accused persons with the crime, prosecution evidence was closed. Recording of statements of accused persons under Section 313 Cr.PC were dispensed with.

23. I have heard Ld. Addl. PP for the State and learned counsel for the accused and have gone through the record.

Appreciation Of Evidence

24. Entire case of the prosecution hinges upon the testimony of PW1 & 2. There are victims and injured witness. Both of them were unable to identify the offenders. Both of them deposed that there was darkness at the place of occurrence and offenders had covered their face with cloth pieces and their faces were not visible. Despite cross-examinations conducted by Ld. Addl. PP for the State, PW-1 and PW-2 failed to corroborate the version of prosecution on the identity of accused persons.

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25. Testimony of both the witnesses reflects that the identity of accused persons as robbers is not established. Other witnesses of the prosecution were police witnesses who are formal in nature. In the light of testimony of material witnesses, it is held that prosecution has failed to establish charge against accused. Accordingly, accused Mohd. Mustkeen and Mehandi Hasan are acquitted of the charge under Sections 392/394/307 IPC.

They are directed to furnish bail bonds u/s. 437-A Cr.P.C in the sum of Rs 10,000/- with surety in the like amount. File be consigned to Record Room.

Announced in the open court on 17th May, 2025.

(Gautam Manan) Addl. Sessions Judge-09/West, Tis Hazari Courts, Delhi