IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-129-SB-2008 (O&M)
Reserved on:- 01.10.2026
Pronounced on: 06.10.2026
Uploaded on:- 06.10.2026

Whether only operative part of the judgment is Pronounced or the full judgment is pronounced: *operative part/full judgment*

RAMESH

.....APPELLANT

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Anirudh Kaushal, *Amicus Curiae*
for the appellants.

Mr. Vaibhav Sharma, AAG, Haryana.

MANDEEP PANNU, J

1. The present appeal has been preferred against the judgment of conviction dated 22nd December, 2007 and order of sentence dated 24th December, 2007 passed by the learned Additional Sessions Judge, Sonepat, whereby the appellant has been convicted under Sections 308 and 353 IPC in FIR No. 156 dated 26th August, 2005, registered under Sections 332, 353 and 307 IPC at Police Station City Gohana. The appellant has been sentenced as under:-

Under Section	Imprisonment awarded	Fine	Imprisonment in default of payment of fine
Section 353 IPC	R.I. for 01 year	Rs.1,000/-	R.I. for 02 months
Section 308 IPC	R.I. for 02 years	Rs.2,000/-	R.I. for 04 months

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

Both the sentences were ordered to run concurrently. The period already undergone by the appellant during inquiry, investigation and trial was ordered to be set off against the period of substantive sentence of imprisonment.

2. The prosecution story, in brief, is that on 26th August, 2005 at about 3.00 p.m., at CHC Gohana, complainant Rajinder Singh got recorded his statement before ASI Ram Rattan. He stated that he along with EHC Zile Singh was posted at City Ganaur on traffic duty and ASI Ram Niwas was posted as Traffic Incharge. He had been deputed on traffic duty at Gohana for the last one month. He knew the drivers of the jeeps by their names and faces. There used to be heavy rush at Fountain Chowk, Gohana, as there was heavy traffic and taxis for Sonipat, Panipat, Jind and Kharkhoda used to stand there. On 26th August, 2005, at about 11.00 a.m., in pursuance of the directions of ASI Ram Niwas, the complainant was present at Fountain Chowk near the shop of Murlidhar for controlling the traffic. ASI Ram Niwas was present at the main chowk and EHC Zile Singh was also present there for controlling the traffic. In the meantime, a biscuit coloured jeep bearing temporary registration No. MKE/TG/3545, being driven by Ramesh, whom the complainant already knew, came from the side of Bus Stand, Gohana. ASI Ram Niwas gave a signal to stop the jeep, but its driver Ramesh, in order to escape, accelerated the jeep. Thereupon, ASI Ram Niwas called upon the complainant to stop the jeep. When the complainant gave a signal to stop the jeep, Ramesh, the driver, dashed the jeep against him with an intention to kill him, due to which the complainant sustained injuries near his right eye, on his back and on the knee of his left leg. The complainant further stated that on an earlier occasion also Ramesh, the

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

driver, had threatened him with dire consequences if he tried to stop his jeep. It was further stated that for this reason Ramesh had caused injuries to him by hitting him with the jeep with an intention to kill him and, after causing the accident, he sped away from the spot with his jeep. ASI Ram Niwas and EHC Zile Singh got the complainant admitted in Community Health Centre, Gohana for treatment. After admitting him, the doctor provided him treatment and the complainant got his statement recorded there. Thereafter, ASI Ram Rattan along with other police officials was present at Baroda turning near CHC Gohana on patrolling duty. A Ward Servant met them and produced a ruqa given by the doctor regarding injured EHC Rajinder Singh. On receipt of the ruqa, ASI Ram Rattan along with other police officials reached CHC Gohana and presented an application before the doctor for recording the statement of the injured. The doctor declared the injured fit to make a statement. Thereafter, ASI Ram Rattan reached the ward and recorded the statement of injured EHC Rajinder Singh. The doctor mentioned three injuries in the MLR dated 26th August, 2005 of the injured, all caused by blunt weapon, and advised X ray examination. On the basis of the statement of the complainant and the MLR, a case under Sections 332, 353 and 307 IPC was made out. The ruqa was sent to the police station for registration of the case and accordingly, FIR No. 156 dated 26th August, 2005 was registered at 3.20 p.m. at Police Station City Gohana.

3. After completion of necessary formalities, challan was prepared and presented before the Court. After commitment of the case and after hearing the parties, the learned Additional Sessions Judge, Sonipat found a *prima facie* case to be made out against the accused and framed charges

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

under Sections 332, 353 and 307 IPC. The accused pleaded not guilty to the charges and claimed trial.

4. Thereafter, the prosecution, in order to prove its case, examined PW1 ASI Rajpal, who is a formal witness and has proved on record the ruqa Ex.PA, FIR Ex.PA/1 and his endorsement thereon as Ex.PA/2. PW2 Constable Rajesh Kumar is also a formal witness, who has proved on record the scaled site plan as Ex.PB. PW3 EHC Rajinder Singh is the complainant, who unfolded the prosecution story and stated on oath that on 26th August, 2005, he was on duty at Fountain Chowk, Gohana. ASI Ram Niwas, Traffic Incharge, deputed him to control the traffic at Fountain Chowk, Gohana. At about 11.00 a.m., he was standing in front of the shop of Murlidhar. ASI Ram Niwas was also present at a short distance, while EHC Zile Singh was standing a little ahead of him. In the meantime, a jeep bearing No. MKE/TG/3545 came from the side of the Bus Stand. The accused, who was present in the Court, was driving the said vehicle. ASI Ram Niwas signalled the accused to stop the vehicle, but he did not stop. ASI Ram Niwas asked the complainant to stop the jeep and when he tried to stop the vehicle, the accused suddenly struck the jeep against him. He further stated that they used to ask the accused not to allow passengers to sit on the roof of the jeep, due to which the accused had threatened him with dire consequences. The accused hit the jeep against him in order to kill him, as a result of which he became unconscious. Thereafter, he was shifted to CHC Gohana by ASI Ram Niwas and EHC Zile Singh. He had received injuries on his back and right knee. He was admitted there and his statement Ex.PC was recorded by the police, which was signed by him. PW4 ASI Ram Niwas is an eyewitness, who has tried to corroborate the version of Rajinder Singh regarding the

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

occurrence. He has deposed in his examination-in-chief that the name of the accused was told to him by EHC Rajinder Singh, who is present in the Court. He further deposed that after the incident, EHC Rajinder Singh told him that the driver had hit him with the jeep with an intention to kill him. PW5 Constable Manohar Lal is a formal witness, who has deposed regarding the delivery of special reports and delivery of copies of the FIR to the concerned authorities. PW6 HC Zile Singh has also tried to corroborate the version of PW3 Rajinder Singh regarding the occurrence. He deposed that the jeep was not stopped despite being asked by Rajinder Singh and that he sustained injuries when he was hit by the jeep. He further stated that ASI Ram Niwas and he reached near Rajinder Singh and took him to CHC Gohana. ASI Ram Rattan also reached CHC Gohana and recorded their statements. He identified the driver of the jeep as Ramesh, who was present in the Court. PW7 SI Mahabir Singh is a formal witness, who has deposed regarding forwarding of the challan under Section 173 Cr.P.C. PW8 ASI Ram Rattan is the Investigating Officer, who has deposed regarding recording of the statement of the complainant after the doctor opined that he was fit to make a statement. He has also deposed regarding preparation of the site plan and taking into possession the jeep produced by the accused vide recovery memo Ex.PD/2. Thereafter, PW9 Rohtas was examined, who is the owner of jeep No. HR-56-4005. He deposed on oath that he had brought the said jeep to the Court and that the same was involved in the present case. The jeep had been taken by him on supurdari and the supurdarinama is Ex.PE. In his cross examination, he stated that at the time of the alleged incident, the driver of the said jeep was Leela. Thereafter, the prosecution closed its evidence.

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

5. Thereafter, the statement of the accused was recorded under Section 313 Cr.P.C., wherein all the incriminating evidence appearing against him was put to him. He denied the same and pleaded false implication. In his defence, he examined Rajesh as DW1, who deposed on oath that on 26th August, 2005, the police required the jeep of the accused for Begar, which was refused by the accused and thereafter he was falsely implicated in the present case. DW2 Bijender also deposed and corroborated the version of DW1. Both the witnesses admitted in their cross examination that they were jeep drivers. Thereafter, the defence counsel closed the defence evidence.

6. Thereafter, the learned trial Court heard the arguments advanced by the learned APP for the State and learned defence counsel and found the accused guilty under Sections 308 and 353 IPC and convicted him accordingly, as detailed in paragraph No. 1 of the judgment.

7. Feeling aggrieved by the above said judgment of conviction and order of sentence passed by the learned trial Court, the present appeal has been preferred by the appellant.

8. Notice of the appeal was given to the State, which appeared and contested the same.

9. Learned *Amicus Curiae* for the appellant has argued that the identity of the appellant as the driver of the jeep is itself doubtful, particularly in view of the statement of PW9 Rohtas, owner of the jeep, who stated that Leela was driving the jeep at the time of the occurrence. It is submitted that this material circumstance was not put to the appellant in his statement under Section 313 Cr.P.C. and, therefore, could not be used against him. It is further contended that the alleged occurrence took place at a busy

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

public junction, yet no independent witness was examined, although the Investigating Officer admitted that he had enquired from the shopkeepers present at the spot. The non-examination of such witnesses, when the prosecution case rests mainly upon police officials, creates a serious doubt in the prosecution version.

10. Learned *Amicus Curiae* has further argued that there is an unexplained delay in recording the statement of the complainant and sending the ruqa, coupled with material discrepancies regarding the time when the Investigating Officer reached the hospital. According to learned *Amicus Curiae*, these circumstances make the prosecution version doubtful. It is also argued that the essential ingredients of Section 308 IPC have not been established. Mere hitting of the complainant with the jeep would not, by itself, establish that the appellant had the requisite knowledge or intention contemplated under Section 308 IPC. The learned trial Court itself found that there was no premeditation and that the appellant had acted in a heat of passion while attempting to escape. Learned *Amicus Curiae* has further submitted that the medical evidence was not properly proved as the doctor was not examined. The MLR, X ray and treatment record were not proved through competent medical evidence and there are also inconsistencies regarding the place of injuries as described by the prosecution witnesses.

11. It is further contended that the alleged previous threats attributed to the appellant were never satisfactorily established and there is no material showing any prior enmity or circumstance indicating that the appellant intended to attack the complainant. With regard to Section 353 IPC, learned *Amicus Curiae* has argued that the mere fact that the jeep came into contact with the complainant does not establish the intentional use of

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

criminal force for preventing him from discharging his duty. The prosecution has failed to rule out the possibility that the incident occurred while the appellant was attempting to escape from the traffic checking. Learned *Amicus Curiae* has lastly submitted that all these circumstances, when considered cumulatively, create a reasonable doubt regarding the identity of the driver, the manner of occurrence and the requisite intention or knowledge of the appellant. It is, therefore, contended that the appellant is entitled to the benefit of doubt and his conviction deserves to be set aside.

12. On the other hand, learned State counsel has argued that there is no illegality in the judgment passed by the learned trial Court. The learned trial Court has rightly considered all the contentions raised on behalf of the appellant and has rightly relied upon the testimony of complainant Rajinder Singh, which has been duly corroborated by the other official witnesses present at the spot. All the three witnesses have identified the accused as the driver of the jeep who tried to run over the complainant. It is further argued that merely because PW9 Rohtas, the owner of the jeep, stated in his cross-examination that Leela was the driver of the jeep at the time of the alleged incident, the same does not establish that Leela was in fact driving the vehicle at the relevant time. Apart from this bald statement, nothing has come on record to show that Leela was driving the jeep. PW9 has nowhere stated that he was present at the place of occurrence. Therefore, his statement is of no material assistance to the appellant.

13. Learned State counsel has further argued that non-examination of the doctor or non-proof of the injuries does not affect the prosecution case, as the ocular testimony of the complainant and other witnesses clearly establishes that the accused increased the speed of the jeep and struck the

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

complainant with an intention to kill him. The complainant himself has specifically stated that when he tried to stop the jeep on the directions of ASI Ram Niwas, the accused suddenly struck him with the jeep. It is further argued that the complainant has also deposed that the accused had earlier threatened them with dire consequences if they stopped his vehicle. Thus, the requisite intention and knowledge on the part of the accused stand established and the offence under Section 308 IPC is clearly made out. The learned State counsel has, therefore, submitted that there is no ground to interfere with the judgment of conviction passed by the learned trial Court.

14. This Court has heard learned counsel for the appellant and learned State counsel and has gone through the record of the case with their assistance. The submissions raised by learned counsel for the appellant have been considered in the light of the evidence available on record.

15. The first question which arises for consideration is regarding the identity of the appellant as the person who was driving the jeep at the time of the occurrence. PW3 Rajinder Singh has categorically identified the appellant in Court and has stated that he was driving the jeep which came from the side of Gohana Bus Stand. PW4 ASI Ram Niwas and PW6 HC Zile Singh have also supported the occurrence and identified the appellant as the driver. Their presence at the spot is natural as they were on traffic duty. Therefore, merely on the basis of the statement of PW9 Rohtas, owner of the jeep, that the driver was Leela, the identity of the appellant cannot be discarded. PW9 was not present at the place of occurrence and has not stated that he had seen Leela driving the jeep at the relevant time. His statement in cross-examination, therefore, is not sufficient to displace the direct testimony of the prosecution witnesses, who were present at the spot. Thus,

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

this Court finds that the identity of the appellant as the driver of the jeep stands established.

16. The contention regarding delay in recording the statement of the complainant and registration of the FIR also does not create any serious doubt in the present case. The occurrence took place at about 11.00 a.m. The injured was taken to CHC Gohana and the doctor declared him fit to make a statement. His statement was thereafter recorded and the FIR was registered on the same day. The time taken in the intervening proceedings, in the facts of the present case, cannot by itself be treated as fatal to the prosecution case.

17. The next question is whether the prosecution has been able to establish the ingredients of Section 308 IPC. Section 308 IPC requires proof of the intention or knowledge contemplated under Section 299 IPC. It is not sufficient merely to prove that an act was committed which resulted in an injury. The prosecution has to establish that the act was committed with such intention or knowledge that, if death had resulted, the accused would have been guilty of culpable homicide not amounting to murder. There is no doubt that in an appropriate case, an offence under Section 308 IPC can be established even in the absence of medical evidence. The existence of an injury is not by itself an essential ingredient of the offence. However, the facts of each case have to be considered to determine whether the prosecution has established the requisite intention or knowledge.

18. In the present case, the prosecution has specifically alleged that the appellant deliberately drove the jeep against the complainant and that the complainant sustained injuries as a result thereof. The prosecution has relied upon the alleged injuries to support the manner in which the occurrence took

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

place. However, the doctor who examined the complainant has not been examined by the prosecution. The MLR has not been proved through the doctor. The alleged X-ray and treatment record have also not been proved through competent medical evidence. Thus, the medical evidence which could have established the nature and extent of the injuries allegedly suffered by the complainant is not available on the record.

19. This assumes significance because there are also discrepancies in the testimony of the prosecution witnesses regarding the place of the injuries. The absence of medical evidence, therefore, cannot be treated as a mere technical omission in the facts of the present case. When the prosecution itself relies upon the injuries allegedly caused by the jeep for drawing an inference regarding the manner of the occurrence and the intention of the appellant, the non-examination of the doctor and non-proof of the medical record assumes importance.

20. The prosecution has also relied upon the alleged previous threats given by the appellant to the complainant. However, this part of the prosecution case has not been satisfactorily established. No date, month or occasion has been mentioned when the alleged threat was given. There is no material on record to show that any such threat was reported to any superior police officer or was entered in any official record. Thus, the alleged previous threat cannot be safely relied upon for drawing an inference that the appellant had any prior intention to cause such an attack upon the complainant. It is also significant that the learned trial Court itself found that there was no premeditation and that the appellant had acted in a heat of passion in an attempt to make his escape good. This finding is relevant while considering the question of intention or knowledge required for Section 308

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

IPC. If there was no premeditation and the occurrence took place when the appellant was attempting to escape after being asked to stop the vehicle, the prosecution was required to establish by other reliable evidence that, notwithstanding the absence of premeditation, the appellant had the requisite knowledge or intention contemplated by Section 308 IPC. The evidence on record establishes that the appellant did not stop the jeep when asked to do so and that, when PW3 attempted to stop the vehicle, the jeep came into contact with him. However, the mere fact that the jeep struck PW3 cannot, in the circumstances of the present case, by itself establish the particular intention or knowledge required for an offence under Section 308 IPC. The prosecution has not been able to bridge the gap between the act of the jeep striking PW3 and the necessary *mens rea* required for Section 308 IPC.

21. The contention regarding non-examination of independent witnesses also requires consideration. The occurrence allegedly took place at Fountain Chowk, Gohana, which was admittedly a busy place where there were shops and heavy traffic. The prosecution witnesses themselves stated that members of the public were present there. PW8 ASI Ram Rattan, the Investigating Officer, also admitted that he had made enquiries from the shopkeepers at Fountain Chowk, but none of them was cited or examined as a witness. Though the evidence of a police official cannot be discarded merely because he is a police official, in the present case the absence of any independent witness assumes some significance when the prosecution seeks to establish the manner of the occurrence and the intention of the appellant mainly through official witnesses. However, the non-examination of independent witnesses, by itself, would not be sufficient to discard the entire prosecution case. The testimony of PW3, PW4 and PW6 regarding the

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

occurrence cannot be rejected merely for this reason. Their evidence is sufficient to establish that the appellant was driving the jeep and that the jeep was not stopped when the complainant attempted to stop it. This circumstance, therefore, has relevance while considering Section 353 IPC, though it is not sufficient to establish the higher degree of *mens rea* required under Section 308 IPC.

22. The medical evidence, therefore, assumes a different significance while considering the two offences. For Section 308 IPC, the prosecution has failed to establish the requisite intention or knowledge beyond reasonable doubt. The absence of medical evidence, coupled with the absence of proof of the alleged previous threats and the finding regarding absence of premeditation, creates a reasonable doubt regarding the ingredients of Section 308 IPC. The appellant is, therefore, entitled to the benefit of doubt qua the said offence.

23. However, the position regarding Section 353 IPC is different. PW3 was admittedly a police official who was performing traffic duty at Fountain Chowk. PW4 ASI Ram Niwas had directed him to stop the jeep. The appellant did not stop the vehicle despite the signal given by the police officials. PW3 has specifically stated that when he tried to stop the jeep, the appellant suddenly drove it against him. PW4 and PW6 have also supported the occurrence. Thus, the evidence establishes that the appellant used the jeep against the complainant while the complainant was performing his duty as a traffic official and was trying to stop the vehicle. For an offence under Section 353 IPC, it is not necessary that the public servant must suffer a proved bodily injury. What is required is an assault or use of criminal force with the intention of preventing or deterring the public servant from

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

discharging his duty. In the present case, the act of the appellant in driving the jeep against the complainant when he was attempting to stop the vehicle is sufficient to establish the use of criminal force for preventing him from performing his traffic duty. The absence of medical evidence, therefore, does not affect the conviction under Section 353 IPC.

24. The defence version that the police had demanded the jeep for Begar and that, on refusal, the appellant was falsely implicated has also been considered. DW1 and DW2 have supported this version, but both are jeep drivers and their statements do not satisfactorily explain the consistent evidence of PW3, PW4 and PW6 regarding the occurrence. The defence version, therefore, does not create a reasonable doubt regarding the commission of the offence under Section 353 IPC.

25. Thus, on an overall consideration of the evidence, this Court finds that the prosecution has succeeded in establishing that the appellant used the jeep against PW3 while he was performing his duty as a traffic official and thereby committed an offence punishable under Section 353 IPC. However, the prosecution has failed to establish beyond reasonable doubt that the appellant had the requisite intention or knowledge for committing an offence under Section 308 IPC. The conviction of the appellant under Section 308 IPC, therefore, cannot be sustained and is set aside. The conviction of the appellant under Section 353 IPC is maintained.

26. Coming to the quantum of sentence, the occurrence took place on 26th August, 2005 and more than twenty one years have elapsed since then. The appellant has already undergone imprisonment for a period of one month and six days. Keeping in view the age of the case, the long period which has elapsed since the occurrence and the period already undergone by

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document

the appellant, this Court is of the considered view that the ends of justice would be met if the substantive sentence under Section 353 IPC is reduced to the period already undergone by the appellant. The sentence of fine, as imposed by the learned trial Court, shall remain unaltered.

27. Consequently, the present appeal is party allowed.

28. The Court appreciates the valuable assistance rendered by learned *amicus curiae* Mr. Anirudh Kaushal. He has carefully examined the record and advanced the contentions available to the appellant with diligence and clarity. The assistance rendered by learned *amicus curiae* has been of considerable help to the Court in effective adjudication of the present appeal.

29. All pending miscellaneous application(s), if any, stands disposed of.

(MANDEEP PANNU)
JUDGE

06.10.2026
Poonam Negi

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*

POONAM NEGI
2026.10.06 16:31
I attest to the accuracy and
integrity of this document