



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**



S.B. Criminal Revision Petition No. 1100/2025

1. Radhakishan S/o Shri Jetharam, Aged About 54 Years, R/o A-7, Bhagwanpura Basti, Industrial Area, Rani Bazar, Bikaner Rajasthan
2. Jugalkishore S/o Shri Radhakishan, Aged About 33 Years, R/o A-7, Bhagwanpura Basti, Industrial Area, Rani Bazar, Bikaner Rajasthan

----Petitioners

Versus

1. State Of Rajasthan, Through Pp
2. Smt. Sushila Guriya W/o Shri Premkumar, Resident Of Industrial Area, Rani Bazar, Bikaner

----Respondents

For Petitioner(s) : Mr. Sanjay Kumar Poonia
For Respondent(s) : Mr. Dharmveer Choudhary
Mr. N.S. Chandawat, Dy.G.A.

HON'BLE MR. JUSTICE FARJAND ALI

Order

Reportable-

Date of Conclusion of Arguments : 13/01/2026

Date on which Order is Reserved : 13/01/2026

Full Order or Operative Part : Full Order

Date of Pronouncement : 16/01/2026

BY THE COURT:-

Grievance of the Case :

1. By way of filing the instant petition, the petitioners assail the impugned order dated 16.07.2025 passed by the learned Additional Sessions Judge (Women Atrocities Cases),





Bikaner, in Sessions Case No. 59/2021, whereby charges for the offences under Sections 341, 323, 325, 307 and 354 read with Section 34 of the IPC have been framed against the petitioners, despite the absence of prima facie material and in gross abuse of the process of law.



Brief Facts of the Case

2. That the brief facts of the case, which have necessitated the filing of the present revision petition, are that on 30.05.2021 at about 11:02 a.m., respondent No.2/complainant, along with her husband Prem Kumar, submitted a written report before the Station House Officer, Police Station Kotegate, District Bikaner, alleging that several civil and criminal litigations were pending between her husband Prem Kumar and her brother-in-law Radhakishan in relation to property disputes, on account of which Radhakishan and his family were harboring animosity against her and her family. It was further alleged that on 29.05.2021 at about 8:00 p.m., while the complainant was bringing her cow home to tie it, accused Radhakishan, Kiran wife of Radhakishan, Jugal Kishore son of Radhakishan, and Ganga wife of Jugal Kishore were allegedly lying in wait. As soon as the complainant reached near her house, accused Kiran and Ganga allegedly caught hold of her hair and pulled her down, whereafter all the accused persons allegedly assaulted her with the intention to kill her. It was specifically alleged that accused



Jugal Kishore inflicted a blow on her head with a thick stick with the intention to cause her death.

3. It was further alleged that during the course of the said assault, accused Radhakishan and Jugal Kishore allegedly put their hands inside the blouse of the complainant with the intention of outraging her modesty. The complainant further alleged that she sustained grievous injuries on her head as well as injuries all over her body due to the blows inflicted by accused Jugal Kishore.
4. Upon hearing her cries, her sister-in-law Pushpa Devi and brother-in-law Kanhaiyalal allegedly reached the spot to intervene, whereupon the accused persons allegedly assaulted them as well. It was further alleged that accused Radhakishan and Jugal Kishore behaved indecently with Pushpa Devi with the intention of outraging her modesty and abused the complainant and Pushpa Devi using filthy language. It was also alleged that when other persons from the vicinity reached the spot, the accused persons fled away and, while leaving, took away the complainant's gold chain weighing approximately two tolas. It was further alleged that but for the timely intervention of the villagers, all the accused would have killed the complainant and her relatives. That on the basis of the said written report, the police registered F.I.R. No. 136/2021 dated 30.05.2021 at Police Station Kotegate, District Bikaner, against the petitioners and others for the offences under Sections 452, 323, 341, 354





and 34 of the Indian Penal Code and commenced investigation.

5. That upon completion of investigation, the investigating agency did not find involvement of the wives of the accused-petitioners in the alleged incident and accordingly dropped their names from the case. However, a charge-sheet came to be filed against the present petitioners for the offences under Sections 307, 354, 323, 341, 325 and 34 of the Indian Penal Code before the learned Chief Judicial Magistrate, Bikaner, who took cognizance of the aforesaid offences and committed the case to the Court of Sessions. The case was thereafter transferred to the Court of the learned Additional Sessions Judge (Women Atrocities Cases), Bikaner (hereinafter referred to as "the learned trial court").
6. That upon consideration of the material placed on record by the investigating agency and after hearing the arguments of the parties on the point of charge, the learned trial court, vide impugned Order dated 16.07.2025, framed charges against the accused-petitioners for the offences under Sections 341, 323, 325, 307 and 354 read with Section 34 of the Indian Penal Code. The said charges were read over and explained to the accused-petitioners, to which they pleaded not guilty and claimed trial.
7. Thus, being aggrieved and dissatisfied with the impugned Order dated 16.07.2025 passed by the learned Additional Sessions Judge (Women Atrocities Cases), Bikaner, the petitioners have preferred the present revision petition under





Sections 397 read with Section 401 of the Code of Criminal Procedure, 1973 before this Court.

8. Heard learned counsels present for the parties and gone through the materials available on record.

Court's Observations

9. This Court has bestowed its anxious and deliberate consideration to the rival submissions advanced at the Bar and has meticulously examined the material available on record, including the contents of the FIR, statements recorded during investigation, medical evidence, and the impugned order framing charges.
10. Before advertng further to the merits of the present case, it would be apposite to note that this Court has, on an earlier occasion, exhaustively examined the scope, ingredients and contours of Section 307 IPC in a similar factual backdrop. In *S.B. Criminal Revision Petition No.128/2023*, decided on 10.05.2023, this Court observed that the Penal Code classifies offences affecting the human body into distinct categories with graded punishments, such as voluntarily causing simple hurt, causing hurt by dangerous weapons, voluntarily causing grievous hurt, and grievous hurt by dangerous weapons. It was emphasized that such classification is deliberate and intended to maintain a clear statutory distinction between offences of hurt and the graver offence of attempt to murder.
11. This Court, in the said decision, specifically observed that causing or receiving injury is not an indispensable or





determinative factor for constituting an offence under the first limb of Section 307 IPC. The statutory language makes it clear that what is punishable under Section 307 IPC is the act done with such intention or knowledge and under such circumstances that, if death had been caused by that act, the offender would have been guilty of murder. Thus, even the presence or absence of injury does not, by itself, conclude the applicability of Section 307 IPC.

12. It was further clarified that the distinction between the two limbs of Section 307 IPC lies primarily in the degree of punishment and not in the nature or gravity of injury suffered. Even under the second limb of Section 307 IPC, the statute does not prescribe any particular kind or degree of injury-simple, grievous or life-threatening, for attracting the offence. The decisive and indispensable requirement remains the existence of a homicidal intention or knowledge at the time of commission of the act.

13. Significantly, this Court held that intention is a mental element, incapable of direct proof, and must necessarily be inferred from the surrounding circumstances of each case. Such intention may be gathered from the nature of the act, the weapon used, the number and location of injuries, the manner in which the assault was carried out, the conduct of the accused before, during and after the incident, and the degree of prior animosity, if any, between the parties. Mere existence of discord, acrimony or strained relations of an





ordinary nature was held to be insufficient to infer an intention to kill.

14. This Court further observed that factors such as the numerical or positional dominance of the accused, failure to take undue advantage of such dominance, absence of repeated or forceful blows, and restraint in the manner of assault are significant indicators negating homicidal intent. It was categorically held that not taking undue advantage of a dominating position constitutes a strong circumstance militating against the inference of an intention to commit murder.

15. The aforesaid principles, as enunciated earlier by this Court, underscore that Section 307 IPC cannot be invoked mechanically or on the mere assertion that grievous injuries have been caused. The provision demands a careful judicial scrutiny of the attendant facts and circumstances to ascertain whether the essential ingredient of intention or knowledge to cause death is prima facie made out.

16. Guided by the aforesaid settled principles and the earlier exposition of law by this Court, the principal controversy which falls for determination in the present revision petition revolves around the applicability of Section 307 IPC, i.e., attempt to murder, in the factual matrix of the case at hand. It is, therefore, imperative to advert to the statutory scheme engrafted under Chapter XVI of the Indian Penal Code 1860, which deals with offences affecting the human body, particularly under the head "Of Hurt". The legislature, in its





wisdom, has carved out a graded and well-demarcated classification of bodily injuries ranging from hurt under Section 319 IPC to grievous hurt under Section 320 IPC, followed by distinct penal provisions prescribing punishment depending upon the nature of injury, weapon used, intention, knowledge, and the attendant circumstances. This legislative stratification is not ornamental but substantive and is intended to ensure proportionality between culpability and punishment.

17.A holistic and conjoint examination of the provisions contained in Sections 319 to 338 of the Indian Penal Code unmistakably reveals that the legislature has enacted a complete, exhaustive and internally coherent code governing offences relating to bodily injury under the rubric "Of Hurt". Section 319 IPC lays down the foundational definition of "hurt" as the causing of bodily pain, disease or infirmity, thereby delineating the minimal threshold of physical harm cognizable under criminal law. Section 320 IPC thereafter elevates certain specifically enumerated categories of injury to the status of "grievous hurt", reflecting a legislative determination that such injuries, by their very nature, seriousness, permanence or potential consequences, warrant enhanced penal consequences. The intervening provisions, namely Sections 321 and 322-introduce the essential element of voluntariness, thereby distinguishing accidental or unintended harm from culpable conduct animated by intention or knowledge.





18. What follows is a meticulously tiered penal architecture, wherein Sections 323 and 325 IPC prescribe punishment for voluntarily causing simple hurt and grievous hurt respectively, sans aggravating factors, while Sections 324 and 326 IPC introduce a further degree of severity where hurt or grievous hurt is inflicted by dangerous weapons or means. The Code then proceeds to carve out aggravated species of the same genus of offences, predicated not merely on the nature of injury but on the object, purpose and contextual culpability of the act- such as extortion (Sections 327 and 329), coercion of confession or restoration of property (Sections 330 and 331), obstruction of public duty (Sections 332 and 333), provocation (Sections 334 and 335), and rash or negligent acts endangering life or safety (Sections 336 to 338). Each provision occupies a carefully demarcated statutory field, calibrated to address varying degrees of moral blameworthiness and social harm.

19. This graduated statutory scheme evinces a clear legislative intent that offences involving bodily injury must ordinarily be adjudged within the contours of these specific provisions, unless the factual matrix unmistakably transcends the domain of hurt or grievous hurt and enters the exceptional territory of homicidal culpability. The existence of such an elaborate framework militates against a casual or mechanical escalation of offences into the realm of Section 307 IPC. Where the injuries suffered, the means employed, and the attendant circumstances are adequately and squarely





addressed by the provisions governing hurt and grievous hurt, particularly Sections 325 or 326 IPC, the invocation of Section 307 IPC would amount to unsettling the delicate balance consciously struck by the legislature between proportionality of punishment and degree of culpability. The criminal law, being a penal statute, demands strict construction, and the specific provisions relating to hurt cannot be rendered otiose by an indiscriminate resort to the residuary and exceptional offence of attempt to murder.

20. Turning now to the doctrinal and jurisprudential contours of Section 307 IPC, it is imperative to underscore that the offence of attempt to murder occupies a qualitatively distinct plane from offences of hurt or grievous hurt, notwithstanding any superficial overlap in the resultant physical injuries. The sine qua non of Section 307 IPC is not the gravity of injury simpliciter, but the mens rea of a homicidal degree, namely, an intention or knowledge so imminently dangerous that, had death ensued, the act would have constituted murder under Section 300 IPC. The provision criminalises the attempt, not the consequence; it punishes the dangerous proximity of the act to the commission of murder, judged through the prism of intention, knowledge and surrounding circumstances. It is for this reason that the law has consistently held that even grievous, life-threatening or permanent injuries do not, ipso facto, attract Section 307 IPC, unless the mental element accompanying the act demonstrably reflects a design to cause death or such bodily injury as is sufficient in the





ordinary course of nature to cause death. Conversely, the mere absence of grievous injury does not preclude the application of Section 307 IPC if the act, weapon, manner and circumstances unequivocally betray a homicidal intent. The provision thus rests on a delicate judicial exercise of inference, requiring courts to sift through the totality of circumstances with circumspection, restraint and analytical rigour.

21. In undertaking this exercise, courts are required to examine a constellation of factors, including but not limited to: the nature of the weapon employed and whether it is ordinarily capable of causing death; the part of the body targeted and the precision or deliberation with which the blow was aimed; the number of blows inflicted and whether the assault was persistent or desisted prematurely; the degree of force applied; the conduct of the accused before, during and after the incident; and the existence of any immediate provocation or sudden quarrel. The presence of these indicators must cumulatively point towards a clear, cogent and compelling inference of homicidal intent. In the absence thereof, the criminal liability must ordinarily remain confined to the offences expressly dealing with hurt or grievous hurt. The jurisprudence surrounding Section 307 IPC cautions against its overzealous invocation, lest it blur the vital doctrinal distinction between an intention to cause serious bodily harm and an intention to extinguish life itself. Criminal law does not punish outcomes in abstraction; it punishes





culpable states of mind manifested through overt acts. To elevate every case of grievous injury into an attempt to murder would be to collapse the carefully constructed statutory gradation of offences under Chapter XVI IPC, thereby undermining the principle of proportionality which lies at the heart of penal justice. Section 307 IPC, therefore, must remain confined to those exceptional cases where the facts, taken at their highest, irresistibly lead to the conclusion that the accused crossed the threshold from causing injury to attempting homicide.

22. Tested on the anvil of the aforesaid principles, this Court finds that the material placed on record, even if accepted in toto, does not prima facie disclose the existence of such intention or knowledge as is sine qua non for constituting an offence under Section 307 IPC. The allegations indicate the use of a blunt object (lathi), resulting in a lacerated wound, which has been opined by the medical jurist to be grievous in nature. However, there is no material to suggest that the blow was repeated with such ferocity or persistence, or that the assailants adopted a method or means which unmistakably points towards a deliberate design to extinguish life. The absence of use of any sharp-edged or deadly weapon, the nature and location of injuries, and the overall manner of assault assume significance while deciphering intention.

23. Equally material is the surrounding factual backdrop. The parties admittedly belong to the same family, being brothers





and close relatives, and have been embroiled in long-standing civil and criminal disputes relating to property. While animosity and inimical relations are alleged, it is well-settled that every inimical relationship does not ipso facto translate into an intention to kill. Animosity is a double-edged sword; it may provide motive for false implication as much as it may explain the occurrence. For invoking Section 307 IPC, the animosity must be of such an acute and intense degree that it reasonably leads to the inference that one party intended to eliminate the other.

24. In the present case, the record does not prima facie disclose such degree of hostility as would compel the conclusion that the petitioners harboured a settled intention to commit murder on the spur of the moment.

25. It is also pertinent to note that the prosecution story itself indicates that after the alleged assault, the accused persons fled away upon the arrival of villagers. There is no allegation that the petitioners continued the assault after the complainant allegedly fell to the ground or that they ensured the consummation of the alleged homicidal intent. The conduct of the accused, viewed in totality, does not comport with the conduct ordinarily associated with an attempt to commit murder. Had there been a clear intention to cause death, the assailants would, in the normal course of human conduct, have employed more lethal means or persisted in the assault until the intended consequence was achieved.





26. The medical evidence, which forms a crucial piece of corroborative material, records a grievous injury caused by a blunt object. The medical opinion does not suggest that the injury was sufficient in the ordinary course of nature to cause death, nor does it indicate imminence of death. The legislative intent behind carving out Section 325 IPC is precisely to deal with such situations where grievous hurt is caused without the element of homicidal intent. To mechanically superimpose Section 307 IPC in such circumstances would amount to obliterating the fine statutory distinction consciously maintained by the legislature between grievous hurt and attempt to murder.

27. At this stage, this Court is conscious of the principle that suspicion, however grave, cannot take the place of legal proof, even for the limited purpose of framing a charge. While the material on record may justify the framing of charges under Sections 323, 325, 341 and 354 IPC, the invocation of Section 307 IPC appears to be an over-extension of the prosecution case, not supported by the foundational facts necessary to attract the said provision. Permitting the prosecution to proceed under Section 307 IPC in the absence of the essential ingredient of intention would result in unwarranted prejudice to the accused and would constitute an abuse of the process of the Court.

28. Consequently, this Court is of the considered view that the learned trial court fell into manifest error in framing charge against the petitioners under Section 307 IPC without





adverting to the settled legal parameters governing the said offence. However, the material on record does disclose a prima facie case for the remaining offences, which are triable by the competent Magistrate in accordance with law.

29. Accordingly, the revision petition is allowed in part. The order dated 16.07.2025 passed by the learned Additional Sessions Judge (Women Atrocities Cases), Bikaner, in Sessions Case No. 59/2021, is hereby quashed and set aside to the extent of framing of charge under Section 307 of the IPC against the accused-petitioners. The charge regarding the offences punishable under Sections 341, 323, 325 and 354 read with Section 34 of the IPC are maintained as it is. Since the maintained charges are exclusively triable by the Court of Magistrate, therefore, it is deemed appropriate to transfer the case for conducting trial to the Court of Chief Judicial Magistrate, Bikaner.

30. The revision petition is partly allowed in above terms. The Stay petition and all pending applications, if any, are disposed of.

(FARJAND ALI),J

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