**In the Supreme Court of Bangladesh**
**High Court Division**
**(Criminal Revisional Jurisdiction)**

**Present:**
**Mr. Justice Md. Khasruzzaman**

**Criminal Revision No. 4821 of 2023**

Md. Kazim Uddin
……Convict–petitioner.
-versus-
The State and another
…..….Opposite parties.
Mr. Khondaker Md. Khurshid Alam,
Advocate
…For the convict petitioner
Mr. Mohammad Abdul Karim, D.A.G. with
Mr. Md. Azgarul Islam, A.A.G. and
Ms. Mahfuza Akhter, A.A.G.
……...For the State.
Mr. S.M. Alim, Advocate
……For the opposite party No.02.

**Judgment on 15.05.2025**

The Rule was issued at the instance of the convict-petitioner calling upon the opposite parties to show cause as to why the impugned judgment and order of conviction and sentence dated 25.09.2023 passed by the learned Additional Sessions Judge, 2nd Court, Mymensingh in

Criminal Appeal No. 1067 of 2022, dismissing the appeal and thereby affirming the judgment and order of conviction and sentence dated 20.10.2022 passed by the learned Chief Judicial Magistrate, Mymensingh in Bhaluka Police Station Case No. 20(08)2019, corresponding to G.R. Case No. 440 of 2019, convicting the petitioner under section 326 of the Penal Code, 1860 and sentencing him to suffer rigorous imprisonment for 05 (five) years and also to pay a fine of Tk. 2,000/- (two thousand), in default, to suffer simple imprisonment for 06 (six) months more for causing injury to the victim Sijan, and further convicting him under section 326 of the Penal Code, 1860 and sentencing him to suffer rigorous imprisonment for 05 (five) years and also to pay a fine of Tk. 2,000/- (two thousand), in default, to suffer simple imprisonment for 06 (six) months more for causing injury to the victim Sanwar, both the sentences will run consecutively should not be set aside.

It is noted that during the pendency of the Rule, the informant of the case, upon filing an application, was added as opposite party No. 2 to assist the State.

The prosecution case, in brief, is that on 09.08.2019 the present opposite party No. 2, namely Mosammat Selina Khatun @ Salina Aktar, being the informant, lodged a first information report (in short, the FIR) with Bhaluka Model Police Station, Mymensingh against 7 (seven) accused persons including the convict-petitioner, alleging, inter alia, that on 08.08.2019 at about 12.00 noon, the kith and kin of accused No. 1, Md. Kazim Uddin, came to his house for taking possession of the property as heirs. At that time, the accused-petitioner Md. Kazim Uddin chased them with a sharp dao, for which they fled away and took shelter at an unknown place. Thereafter, the accused Md. Kazim Uddin started moving around the house with a sharp dao. At about 12.25 p.m. on 08.08.2019, after having their hair cut from a saloon at Pailabo crossroads, the two minor sons of the informant, namely Sijan, aged about 12 years, and Sanwar, aged

about 6 years, started for their home. When they reached near the house of accused Md. Kazim Uddin at about 12.30 p.m., the accused asked them about the whereabouts of the aforesaid kith and kin. The two sons of the informant remained silent. Thereafter, the accused came forward towards them with a sharp dao. Being frightened, the two sons of the informant started running away. The accused Md. Kazim Uddin also started chasing them and dealt two sharp dao blows on the head of victim Sijan, causing grievous cutting and bleeding injuries. Thereafter, he dealt two sharp dao blows on the head of Sanwar, causing grievous cutting and bleeding injuries. The other accused persons also allegedly assaulted them with sticks on different parts of their bodies causing swelling injuries.

Hearing the hue and cry of the victims, the nearby people came forward and the accused persons left the place after threatening them with dire consequences. Having been informed of the occurrence, the informant rushed to the place of occurrence and took her two sons

to Bhaluka Health Complex and thereafter to Mymensingh Medical College Hospital. The victim Sijan was subsequently referred to Dhaka Shorawardi Medical College Hospital for better treatment. Thereafter, the informant lodged the FIR stating the aforesaid facts. On the basis of the said FIR, Bhaluka Model Police Station Case No. 20 dated 09.08.2019 under sections 143/341/323/326/307/506 of the Penal Code, 1860 was started against the accused persons including the petitioner.

PW-9, Md. Kazal Hossain, Sub-Inspector of Bhaluka Police Station, Mymensingh, being entrusted with the investigation of the case, commenced the investigation. Upon completion of the investigation, the Investigating Officer submitted Charge Sheet No. 67 dated 23.02.2020 under sections 341/323/326/307 of the Penal Code, 1860 against the accused-petitioner, while the other accused-persons were not sent up in the charge sheet.

Against the said charge sheet, the informant-opposite party No. 2 filed a Naraji Petition before the learned Chief Judicial Magistrate, Mymensingh. The learned Chief Judicial Magistrate accepted the Naraji Petition and sent the case to the Police Bureau of Investigation (PBI), Mymensingh for further investigation.

PW-7, Md. Abul Kashem, Police Inspector, PBI, Mymensingh, being entrusted with the further investigation, took up the investigation of the case. Upon completion of the further investigation, the Investigating Officer submitted supplementary Charge Sheet No. 88 dated 04.03.2021 under sections 341/323/326/307 of the Penal Code, 1860 against the accused persons, namely Md. Kazim Uddin (the accused-petitioner), Md. Abdus Salam, Md. Masud Miah and Md. Easin. The remaining accused persons, namely Most. Sulay Akter, Most. Farida and Most. Moina, were not sent up in the supplementary charge sheet.

Since the case was ready for trial, the same was sent to the Court of the learned Chief Judicial Magistrate, Mymensingh for trial and disposal. In due course, the case was taken up for trial. On 28.10.2021 a charge was framed against the accused-petitioner under sections 326/307 of the Penal Code, 1860 which was read over and explained to him, to which he pleaded not guilty and claimed to be tried.

In order to prove the charge brought against the accused-petitioner under sections 326/307 of the Penal Code, 1860, the prosecution examined 09 (nine) witnesses, while the defence examined none.

The depositions of the prosecution witnesses, together with their cross-examinations, are briefly set out below.

PW-1, Most. Selina Akter, is the informant of the case. In her examination-in-chief, she deposed that on the day of occurrence at about 12.25 p.m., after having their hair cut, her two sons were returning home and when

they reached in front of the house of the accused-petitioner, the accused asked them to disclose the whereabouts of their kith and kin. As they did not give any reply, the accused-petitioner dealt two sharp dao blows on the heads of her two sons, causing grievous bleeding injuries. She further deposed that upon hearing the incident, she rushed to the place of occurrence and found her two sons lying there. Thereafter, they were taken to Bhaluka Hospital and subsequently to Mymensingh Medical College Hospital. Her elder son Sijan was thereafter taken to Dhaka for better treatment, where he underwent an operation and remained admitted for about 25 days. Subsequently, she lodged the FIR.

In cross-examination, the informant stated that, upon hearing shouting and commotion, she rushed to the place of occurrence and found her two sons lying unconscious with bleeding injuries. She admitted that she had not personally witnessed the accused inflicting injuries upon her sons. She found about 10–12 persons at the scene but could not recall their names. She further

stated that heavy rainfall had washed away the blood from the place of occurrence. She disclosed that a dispute had arisen between her husband and accused Kazim Uddin over the latter's demand for a loan of Tk. 1,00,000. However, she denied the defence suggestions that the accused had not assaulted her sons and that she had falsely implicated him due to a family dispute. She also denied giving false evidence.

PW-2, Sijan Ahmed, is one of the victims and the elder son of the informant. In his examination-in-chief, he deposed that on the date of occurrence, after having their hair cut at Pailabo crossroads, he and his younger brother Sanwar were returning home. When they reached near the house of the accused-petitioner, the accused asked them whether they had seen his kith and kin. They replied in the negative. Thereafter, the accused asked them whether they were the sons of Jasim, to which they replied in the affirmative. He further deposed that the accused-petitioner threatened them and immediately dealt a dao blow on the head of his younger brother Sanwar.

Thereafter, he dealt three dao blows on his head, as a result of which he became senseless and could not remember anything further.

In cross-examination, PW-2, Sijan Ahmed, stated that accused Kazim Uddin asked him whether he was the son of Jasim. He could not flee as the accused caught hold of his hand. He disclosed to his mother that the accused had inflicted three sharp-weapon blows upon him and one upon his brother. His mother also saw his injuries. The place of occurrence was about 200 yards from their house. He and his brother were unconscious when their mother arrived, and he could not remember when he regained consciousness. He admitted that there was a dispute between the accused and his sister and brother-in-law. However, he denied the defence suggestions that the accused had not assaulted them, that the case had been falsely instituted at the instigation of the accused's sister and brother-in-law, and that he had given false evidence at the tutoring of his mother.

PW-3, Sanwar Ahmed, is another victim and the younger son of the informant. In his examination-in-chief, he deposed that on the date of occurrence, after having their hair cut at Pailabo crossroads, he and his elder brother Sijan were returning home. When they reached near the house of the accused-petitioner, the accused asked them whether they had seen his kith and kin. They replied that they had not seen them. Thereafter, the accused asked them whether they were the sons of Jasim, and they replied in the affirmative. He further deposed that after hearing such reply, the accused-petitioner dealt two dao blows on his head. Thereafter, he tried to run away and subsequently became unconscious and did not know what happened thereafter.

In cross-examination, P.W.3 stated that he used to play with the boys and girls of the locality. He admitted that he had not stated to the Investigating Officer that accused Kazim Uddin had enquired about their relatives. He further stated that after Kazim Uddin had inflicted a blow, he ran about 20 yards away, although he did not

know how many feet constituted a yard. He stated that he had talked to the police 15/16 days after the occurrence. He further stated that no other person was present at the time of the assault, but some people arrived thereafter, although he could not recollect their number. He narrated the occurrence to his mother upon her arrival. He also stated that Harilal's shop was about 200 yards away from their house and was not visible therefrom. He denied the defence suggestions that Kazim Uddin had not assaulted him and that he had falsely deposed at the instance of his parents or mother in a false case.

PW-4, Abdus Salam, is an independent eye witness of the occurrence. In his examination-in-chief, he deposed that on the day of occurrence at about 12.30 p.m., after having their hair cut, the injured Sanwar and Sijan were returning home in front of the house of the accused-petitioner, and this witness was also following them. They were about 150 feet ahead of him. Suddenly, they started shouting for help. He further deposed that he saw the accused-petitioner Kazim Uddin chasing the

injured boys. The accused-petitioner first dealt two sharp dao blows on the head of Sijan and thereafter dealt dao blows on Sanwar, causing profuse bleeding injuries on their bodies. Hearing the incident, nearby people rushed to the place of occurrence, and thereafter the accused Kazim Uddin fled away from the place. He also deposed that the informant wrapped the heads of her two sons with her scarf and thereafter they were taken to Bhaluka Hospital, then to Mymensingh Medical College Hospital, and subsequently to Dhaka for treatment.

In cross-examination, PW-4 stated that he had accompanied the injured persons to Mymensingh along with Kabir, Abdul Khalek, Rafiqul and Chan Mia. He further stated that the accused had chased the injured persons approximately 100 to 150 feet towards the east of his house before inflicting the blows. He admitted that he was a neighbour of the informant and stated that his residence was situated approximately 400 to 500 Haat (hands) to the east of the accused's house, whereas the barber's shop was situated approximately 500 to 600 feet

to its west. He also stated that, upon reaching the place of occurrence, he found no one there and that other persons, including Abdul Khalek, Kabir and Chan Mia, arrived subsequently. He further stated that he had given his statement to the investigating police officer on 13.09.2019 at the place of occurrence and that, although he alone had made the statement, several other persons were present. According to him, approximately 50 persons from the surrounding area had assembled, including independent persons. He denied the defence suggestions that the case was false, that he had falsely testified on account of his relationship with the informant, and that no occurrence had taken place on the alleged date and time.

P.W.5, Kabir Hossain, is another independent witness of the case. In his examination-in-chief, he deposed that the occurrence took place on 08.08.2019 at about 12:00 o'clock near the house of accused Kazim Uddin. On the date of occurrence, the accused, armed with a sharp dao, chased Sijan and Sanwar and inflicted

two chopping blows on the head of Sijan. When Sijan started screaming and the witness and others were coming the place of occurrence, the accused also inflicted two chopping blows on the head of Sanwar with the said dao. On noticing their presence, the accused fled towards his house with the weapon. He further deposed that the injured persons were initially taken to Bhaluka Hospital. As they were not retained there for treatment, they were subsequently taken to Mymensingh by ambulance. He accompanied them up to Bhaluka and later heard that they had been taken to Dhaka. He also stated that he had made a statement to the police.

In cross-examination, he stated that he made his statement to the police officer on 23.11.2019. He did not find the complainant's mother at the place of occurrence and stated that, upon reaching there, he found no one except the injured persons and the accused. He further stated that he and other persons arrived at almost the same time, within approximately one minute, and that about 20 to 30 persons, including women, gathered there.

He stated that the two injured persons had been chased along a road approximately 15 to 20 cubits north of the accused's house. He also identified the houses of Malek Saheb, Rahim Bhai, Jasim and Badi as lying between his own house and the place of occurrence. He was working beside a house when he heard the screams of Sijan and Sanwar and went to the place of occurrence. Other persons also arrived after hearing about the incident. He expressed ignorance regarding any land dispute involving the complainant and stated that the complainant was his neighbour and Bhabi (sister-in-law). He denied the suggestion that no occurrence had taken place at the alleged date and time. He further denied the defence suggestion that the case had been falsely instituted on account of an inheritance-related dispute involving the accused and his maternal uncle's family, and that he had given false evidence.

PW-6, Kalam, is a fish seller and an independent witness of the case. In his examination-in-chief, he deposed that on the day of occurrence at about

12.00/12.25 a.m., after selling fish at the crossroads, he was returning home. At that time, he saw the accused Kazim Uddin carrying a dao in his hand. He further deposed that after going a little further, he found the injured Sijan and Sanwar lying on the ground with bleeding injuries on their heads. The nearby people rescued them and took them to Bhaluka Hospital by CNG and thereafter to Mymensingh Medical College Hospital and subsequently to Dhaka for treatment.

In cross-examination, he stated that the informant, Selina, is his paternal aunt. Upon reaching the place of occurrence, he found the informant and Kabir present there. About 15 to 20 other persons were also present at the place of occurrence, and their houses were situated in its vicinity. He made statement before the police officer two days after the occurrence. Selina and Kabir also made their statements before the police. He denied the suggestion that he did not see accused Kazimuddin running with a dao in his hand. He further denied that he did not visit the place of occurrence, that no occurrence

took place, that the case was false or that he gave false evidence.

PW-7, Md. Abul Kashem, Police Inspector, PBI, Mymensingh, is the second Investigating Officer of the case. In his examination-in-chief, he deposed that the first investigating officer, after visiting the place of occurrence, prepared the draft map and index, prepared the seizure list and recorded the statements of 08 (eight) witnesses under section 161 of the Code of Criminal Procedure, which were found to be correct. He further deposed that during his further investigation, he examined 3 (three) more witnesses and recorded their statements under section 161 of the Code of Criminal Procedure. Upon completion of the investigation, he submitted supplementary Charge Sheet No. 88 dated 04.03.2021.

PW-8, Dr. Md. Mostaque Ahmed, Medical Officer of Taj Uddin Ahmed Medical College Hospital, Gazipur, is the Medical Officer who examined the injured persons

in this case. In his examination-in-chief, he deposed that on the day of occurrence at about 1.40 p.m., the injured Sijan was examined and he found the following injuries:

1. Cut injury on scalp across vertex of scalp obliquely measuring 15 cm × 4 cm × scalp depth with cutting of bone and profuse bleeding.

2. Cut injury on the left parietal region of scalp measuring 10 cm × 2 cm × scalp depth.

He further deposed that the injuries were caused by a sharp weapon and the nature of the injuries was grievous. Accordingly, he issued an injury certificate which was marked as Exhibit-4 and his signature thereon was marked as Exhibit-4/1.

He also examined the injured Sanwar and found a sharp cutting injury on the front of the scalp longitudinally measuring about 10 cm x 2 cm x 2 cm with severe bleeding. Thereafter, he issued an injury certificate which was marked as Exhibit-5.

In cross-examination, P.W. 8, Dr. Md. Mostaque Ahmed, stated that he noted multiple fractures on the basis of a CT scan conducted at Mymensingh Medical College Hospital, as no CT scan facility was available at Bhaluka. He further deposed that such injuries could not be caused by a fall. The first injury was on the crown of the head and the second on the left side of the head above the ear. He admitted that the medical certificate did not disclose the names of the persons who identified the two injured persons. He also deposed that he personally examined the injured person and issued the medical certificate upon consulting medical records, which he did not produce before the Court. He denied the suggestions that the relevant records did not contain particulars of all the injuries and that he had issued a fabricated medical certificate under the influence of the informant. He could not ascertain whether the weapon used to inflict the injuries was light or heavy.

PW-9, Md. Kazal Hossain, Sub-Inspector of Bhaluka Police Station, Mymensingh, is the first

Investigating Officer of the case. In his examination-in-chief, he deposed that after taking up the investigation, he visited the place of occurrence, prepared the draft map and index, prepared the seizure list, examined the witnesses and recorded their statements under section 161 of the Code of Criminal Procedure. Upon completion of the investigation, he submitted Charge Sheet No. 67 dated 23.02.2020.

After recording the evidence of the prosecution witnesses, the accused Md. Kazim Uddin was examined under section 342 of the Code of Criminal Procedure. During such examination, he claimed innocence and prayed for trial. The accused further informed the Court that he would not adduce any defence witness or produce any document in support of his defence.

After perusal of the materials on record, the Chief Judicial Magistrate, Mymensingh, by his judgment and order of conviction and sentence dated 20.10.2022, convicted the petitioner under section 326 of the Penal

Code, 1860 for causing grievous injury on the head of injured Sijan and sentenced him to suffer rigorous imprisonment for 05 (five) years with a fine of Tk. 2,000/- (two thousand), in default, to suffer simple imprisonment for 06 (six) months more.

The Chief Judicial Magistrate also convicted the petitioner under section 326 of the Penal Code, 1860 for causing grievous injury on the head of injured Sanwar and sentenced him to suffer rigorous imprisonment for 05 (five) years with a fine of Tk. 2,000/- (two thousand), in default, to suffer simple imprisonment for 06 (six) months more. The Trial Court directed that both the sentences shall run consecutively.

Being aggrieved by and dissatisfied with the aforesaid judgment and order of conviction and sentence, the convict-petitioner preferred Criminal Appeal No. 1067 of 2022 before the learned Sessions Judge, Mymensingh. Subsequently, on transfer, the appeal was heard by the learned Additional Sessions Judge, 2nd

Court, Mymensingh, who by his judgment and order dated 25.09.2023 dismissed the appeal and thereby affirmed the judgment and order of conviction and sentence dated 20.10.2022 passed by the learned Chief Judicial Magistrate, Mymensingh in G.R. Case No. 440 of 2019, arising out of Bhaluka Model Police Station Case No. 20 dated 09.08.2019, under section 326 of the Penal Code, 1860.

Being aggrieved by and dissatisfied with the said judgment and order of conviction and sentence dated 25.09.2023 passed by the learned Additional Sessions Judge, 2nd Court, Mymensingh in Criminal Appeal No. 1067 of 2022, the convict-petitioner preferred the instant criminal revision before this Court and obtained the Rule.

Mr. Khondaker Md. Khurshid Alam, the learned Advocate appearing on behalf of the convict-petitioner, submits that the Trial Court failed to properly appreciate the evidence and materials available on record and thereby most erroneously convicted and sentenced the

accused-petitioner under section 326 of the Penal Code, 1860. He further submits that the Appellate Court also failed to properly assess the evidence of the prosecution witnesses and most erroneously affirmed the judgment and order of conviction and sentence passed by the Trial Court. Referring to the evidence of PWs-1, 4 and 5, the learned Advocate also submits that there are material contradictions amongst the said witnesses regarding the manner in which the alleged occurrence took place and also regarding who first arrived at the place of occurrence.

The learned Advocate contends that the alleged dao was not seized by the Investigating Officer and was not produced before the Trial Court. Referring to the charge sheet and the evidence of the Investigating Officers, namely PW-7 and PW-9, he also contends that the Investigating Officers could not explain anything regarding the alleged weapon either in the charge sheet or in their depositions before the Court. Accordingly, such failure creates a doubt regarding the alleged occurrence.

He further contents that although the informant stated in the FIR that her elder son Sijan was taken to Dhaka Shorawardi Medical College Hospital referred by the doctors of Mymensingh Medical College Hospital, no document relating to such treatment at Dhaka was produced before the Court as an exhibit. He also contends that the aforesaid facts and circumstances clearly demonstrate that the prosecution miserably failed to prove the charge brought against the convict-petitioner beyond reasonable doubt. Accordingly, he prays that the Rule be made absolute and the impugned judgments and orders passed by the Courts below be set aside.

Mr. Mohammad Abdul Karim, the learned Deputy Attorney General appearing on behalf of the State-opposite party No. 1, referring to the evidence of the prosecution witnesses, submits that the prosecution has successfully proved the charge brought against the accused Md. Kazim Uddin beyond all reasonable doubt. Therefore, the learned Deputy Attorney General submits that the Trial Court convicted and sentenced the accused-

petitioner, and the Appellate Court also rightly affirmed the said judgment and order of conviction and sentence. Thus, the impugned judgment and order does not call for any interference by this Court. Referring to the evidence of PW-1, the learned Deputy Attorney General further submits that the broken pieces of the scalp bones of the injured victims were produced before the Court and that the accused-petitioner, without any reason, dealt sharp dao blows on the heads of two minor boys causing grievous injuries. Therefore, the learned Deputy Attorney General prays for discharging the Rule.

Mr. S.M. Alim, the learned Advocate appearing for the informant-opposite party No. 2, submits that the allegation of assaulting the two minor sons of the informant with a sharp dao causing grievous injuries was investigated initially by PW-9 and subsequently by PW-7, and both the Investigating Officers found the allegation to be true. Consequently, the accused-petitioner was sent up in both the original charge sheet and the supplementary charge sheet.

Referring to the evidence of all the prosecution witnesses, the learned Advocate appearing for opposite party No. 2 submits that the prosecution has successfully proved that the accused-petitioner dealt sharp dao blows on the heads of the victims causing grievous injuries. Therefore, the Trial Court committed no illegality in convicting and sentencing the accused-petitioner. He further submits that the Appellate Court, upon proper appreciation of the evidence and materials on record, rightly affirmed the judgment and order of conviction and sentence passed by the Trial Court.

The learned Advocate has relied upon the decision in the case of Jharu and another Vs. State, reported in 69 DLR (AD) 362, and submits that where a single testimony is found to be convincing, complete and self-contained, such testimony is sufficient to bring home the charge, whether corroborated by other witnesses or not. Accordingly, he submits that there being no illegality in the impugned judgments and orders, the Rule is liable to be discharged.

Heard the learned Advocates appearing for the respective parties and perused the revisional application, the judgments of the Courts below, the evidence and other materials available on record, as well as the law and decision referred to by the parties.

The sum and substance of the submission of the learned Advocate for the convict-petitioner is that the prosecution failed to prove the allegation brought against him under section 326 of the Penal Code, 1860 by adducing any legal evidence, and as such, the judgment and order of conviction and sentence passed by the Courts below are liable to be set aside.

The petitioner has filed the instant criminal revision invoking the revisional jurisdiction of this Court under section 439 read with section 435 of the Code of Criminal Procedure. In exercising revisional jurisdiction, the High Court Division has the authority to examine the correctness, legality and propriety of the findings recorded by the Courts below in awarding conviction and

sentence. In other words, this Court is required to examine whether the impugned judgment and order affirming the conviction and sentence awarded by the Trial Court is lawful and sustainable in law.

In view of the submissions advanced by the learned Advocates for the parties, this Court is required to examine and scrutinize the relevant evidence and materials available on record to ascertain the actual facts of the case and to arrive at a proper and just decision.

In the instant case, charge was framed against the accused-petitioner under sections 326/307 of the Penal Code, 1860. However, after trial, the accused-petitioner was convicted under section 326 of the Penal Code, 1860 by the Trial Court and the same was subsequently affirmed by the Appellate Court.

In order to prove the charge, the prosecution examined 09 (nine) witnesses. Now, in order to appreciate the above arguments of the learned Advocates

of both the parties, it is necessary to examine the evidence on record.

PW-1, the informant and mother of the victims, deposed in her examination-in-chief that:

আসামী কাজিম উদ্দিন দা দিয়ে সিজানের মাথার উপরিভাগে এবং আমার ছোট ছেলের মাথার উপরিভাগে আরো দুইটি কোপ দিয়ে মারাত্নক রক্তাক্ত জখম করে। লোকজনের নিকট শুনে ঘটনাস্থলে এসে দেখি আমার দুই ছেলে ঘটনাস্থলে পড়ে রয়েছে। গরু জবাই করলে যেমন রক্তাক্ত অবস্থায় পড়ে থাকে আমার ছেলে দুটিও সেভাবেই পড়ে ছিল। আমি তাদেরকে ভালুকা হাসপাতালে নিয়ে যাই।পরে সেখান থেকে রেফার্ড করায় ময়মনসিংহ নিয়ে আসি। আমার বড় ছেলেকে রেফার্ড করায় তাকে ঢাকায় নিয়ে যাই এবং সেখানে ২৫ দিন হাসপাতালে ছিল। তার অপারেশন করানো হয়। তার মাথা থেকে টুকরো টুকরো মাথার খুলি বের করা হয় (হাড়ের টুকরো সাক্ষী কাগজে মোড়ানো অবস্থায় উপস্থাপন করলে ৩/৪ টি হাড়ের টুকরা দেখলাম।) পরে থানায় এসে মামলা দায়ের করি। (underlined for emphasis).

PW-2, Sijan Ahmed, who is one of the victims and the elder son of the informant, deposed in his examination-in-chief that:

আসামী কাজিম উদ্দিন আমাকে আঘাত করেছিল। ঘটনার তারিখ আমার মনে নাই। আমি আর আমার ছোট ভাই ছানোয়ার পাইলাব চৌরাস্তা থেকে চুল কাটিয়ে ফিরার পথে কাজিম উদ্দিনের বাড়ীর কাছে আসার পর সে আমাকে জিজ্ঞাসা করে যে তার আত্নীয় স্বজনকে দেখেছি কিনা। আমি বললাম আমরা দেখিনাই। তারপর সে বলল যে, আমি জসিমের ছেলে কিনা। আমরা বললাম হ্যাঁ। তারপর সে বলল মাদারচোদ তোরে আজ কুপাবো। প্রথমে সে আমার ছোট ভাইকে একটি কোপ দেয় দা দিয়ে। এরপর সে আমার হাত ধরে মাথায় তিনটি কোপ দেয় এবং আরেকটি পিঠে কোপ দেয়। (জখমীর মাথায় আঘাতের চিহ্ন আছে) আমি অজ্ঞান হয়ে পড়ে যাই। তার আর কিছু মনে নাই।

PW-3, Sanwar Ahmed, who is also another victim and the younger son of the informant, deposed in his examination-in-chief that:

০৮/০৮/২০১৯ ইং তারিখে চুল কেটে বাড়ী ফেরার সময় আসামী কাজিম উদ্দিন জিজ্ঞাসা করে যে আমরা তার আত্নীয় স্বজনকে দেখেছি কিনা তখন আমি ও আমার ভাই বলি যে না আমরা দেখি নাই। পওে সে আমাদেরকে জিজ্ঞাসা করে যে, আমরা জসিমের ছেলে কিনা। আমরা বলি হ্যাঁ। একথা বলার পর আসামী দা দিয়ে আমার মাথায় দুটি কোপ দেয়। এরপর আমি দৌড়ে পালানোর চেষ্টা করি। এরপর আর আমি কিছু জানি না।

PW-4, Abdus Salam, is an independent eye witness of the occurrence. He deposed in support of the prosecution case and stated that on the day of occurrence at about 12.30 p.m., after having their hair cut, the injured Sanwar and Sijan were returning home in front of the house of the accused-petitioner and this witness was also coming behind them. He further deposed that the injured boys were about 150 feet ahead of him and suddenly they started shouting for help. Thereafter, he saw the accused-petitioner Kazim Uddin chasing the injured boys. The accused-petitioner first dealt two sharp dao blows on the head of Sijan and thereafter dealt dao blows on Sanwar, causing grievous bleeding injuries. He also deposed that hearing the hue and cry, the nearby people rushed to the place of occurrence and thereafter the accused Kazim Uddin left the place. The informant wrapped the heads of her two sons with her scarf and thereafter they were taken to Bhaluka Hospital and subsequently to Mymensingh Medical College Hospital and then to Dhaka for better treatment.

PW-5, Kabir Hossain, is also an independent witness of the case. In his examination-in-chief, he deposed that on the day of occurrence, the accused-petitioner dealt two sharp dao blows on the heads of Sijan and Sanwar. He stated that when Sijan started shouting, the accused Kazim Uddin again dealt two dao blows on the head of Sanwar. He further stated that upon seeing the presence of witnesses, the accused Kazim Uddin fled away towards his house with the dao. Thereafter, the injured persons were taken to Bhaluka Hospital by CNG and subsequently to Mymensingh Medical College Hospital and then to Dhaka for treatment.

PW-6, Kalam, is a fish seller and an independent witness of the case. In his examination-in-chief, he deposed that on the day of occurrence at about 12.00/12.25 p.m., after selling fish at the crossroads, he was returning home. At that time, he saw the accused Kazim Uddin going with a dao in his hand. He further deposed that after going a little ahead, he found the injured Sijan and Sanwar lying on the ground with

bleeding injuries on their heads. The nearby people rescued them and took them to Bhaluka Hospital by CNG and thereafter to Mymensingh Medical College Hospital and subsequently to Dhaka for treatment.

Upon careful examination of the evidence of PWs-1, 2, 3, 4, 5 and 6, it appears that all these witnesses consistently deposed regarding the manner of occurrence and the involvement of the accused-petitioner in causing sharp dao injuries on the heads of the victims. Their evidence has remained consistent and unshaken despite extensive cross-examination by the defence.

PW-7, Md. Abul Kashem, Police Inspector, Police Bureau of Investigation (PBI), Mymensingh, is the second Investigating Officer of the case. In his examination-in-chief, he deposed that after taking over the investigation, he examined the materials collected by the first Investigating Officer. He stated that the first Investigating Officer, after visiting the place of occurrence, prepared the draft map and index, prepared

the seizure list and recorded the statements of 08 (eight) witnesses under section 161 of the Code of Criminal Procedure, which were found to be correct. He further deposed that during the course of further investigation, he examined 3 (three) more witnesses and recorded their statements under section 161 of the Code of Criminal Procedure. Upon completion of the investigation, he submitted supplementary Charge Sheet No. 88 dated 04.03.2021 under sections 341/323/326/307 of the Penal Code, 1860 against the accused persons.

PW-9, Md. Kazal Hossain, Sub-Inspector of Bhaluka Police Station, Mymensingh, is the first Investigating Officer of the case. In his examination-in-chief, he deposed that after being entrusted with the investigation, he visited the place of occurrence, prepared the draft map and index, prepared the seizure list, examined the witnesses and recorded their statements under section 161 of the Code of Criminal Procedure. He further deposed that after completion of the investigation, he submitted Charge Sheet No. 67 dated 23.02.2020

against the accused-petitioner under sections 341/323/326/307 of the Penal Code, 1860.

It appears that both the Investigating Officers were cross-examined by the defence. However, the defence failed to bring out any material contradiction, inconsistency or deviation from their respective statements made in examination-in-chief.

PW-8, Dr. Md. Mostaque Ahmed, Medical Officer of Taj Uddin Ahmed Medical College Hospital, Gazipur, is the doctor who examined the injured persons. In his examination-in-chief, he deposed that on the date of occurrence at about 1.40 p.m., he examined the injured Sijan Ahmed and found the following injuries:

1. Cut injury on scalp across vertex of scalp obliquely measuring about 15 cm × 4 cm × scalp depth with cutting of bone and profuse bleeding.

2. Cut injury on left parietal region of scalp measuring about 10 cm × 2 cm × scalp depth.

He further deposed that the injuries were caused by a sharp weapon, the age of injury was approximately 01 (one) hour, and the nature of injury was grievous. He also deposed that CT scan of the injured Sijan showed multiple linear fractures of frontal bone on both sides with intracranial hemorrhage.

So far as the injured Sanwar Ahmed is concerned, PW-8 deposed that he found:

A sharp cutting injury on front of scalp longitudinally measuring about 10 cm × 2 cm × 2 cm with severe bleeding.

He further deposed that the injury was caused by a sharp weapon, the age of injury was approximately 01 (one) hour and the nature of injury was grievous. He also deposed that the CT scan of the brain of injured Sanwar showed a linear fracture of frontal bone close to the middle.

On the basis of the aforesaid findings, PW-8 issued medical certificates in respect of both the injured persons,

which were marked as Exhibits-4 and 5 respectively. He also proved the said certificates in his deposition before the Court.

In cross-examination, PW-8 affirmed that he examined the injured persons and issued the medical certificates. The defence failed to create any doubt regarding the correctness of the medical evidence or the genuineness of the injury certificates.

The evidence of PW-8 clearly corroborates the ocular evidence adduced by the prosecution witnesses. The medical evidence establishes that both victims sustained grievous injuries on their heads caused by a sharp weapon, which is consistent with the prosecution case that the accused-petitioner assaulted them with a dao.

The Trial Court, upon considering the oral and documentary evidence on record, found that the prosecution had successfully proved the charge against the accused-petitioner beyond all reasonable doubt. The

Trial Court specifically considered the evidence of the injured witnesses, independent witnesses and the medical evidence and came to the conclusion that the injuries sustained by the victims were grievous in nature and that the same were caused by the accused-petitioner by means of a sharp weapon. Accordingly, the learned Chief Judicial Magistrate, Mymensingh convicted the accused-petitioner under section 326 of the Penal Code, 1860 and sentenced him as stated earlier.

Being aggrieved by the said judgment and order of conviction and sentence, the convict-petitioner preferred Criminal Appeal No. 1067 of 2022 before the learned Sessions Judge, Mymensingh.

The learned Additional Sessions Judge, 2nd Court, Mymensingh, upon hearing the appeal and after considering the evidence and materials on record, found that the prosecution witnesses were subjected to cross-examination by the defence, but no material contradiction or inconsistency could be brought out.

The Appellate Court also found that the medical evidence fully supported the prosecution case and that PW-8, the doctor who issued the injury certificates, proved the said certificates by giving evidence before the Court. Upon such consideration, the Appellate Court affirmed the judgment and order of conviction and sentence passed by the Trial Court.

Having gone through the impugned judgment and order passed by the Appellate Court, it appears that the Appellate Court meticulously considered the evidence of the prosecution witnesses and the materials on record. The Appellate Court found that although the prosecution witnesses were subjected to cross-examination by the defence, no material contradiction, inconsistency or deviation could be brought out from their evidence.

The Appellate Court further found that the medical certificates marked as Exhibits-4 and 5 supported the grievous injuries sustained by the victims. The doctor who issued the said medical certificates was examined as

PW-8, and he gave evidence in support of the issuance of those certificates.

Upon such consideration, the Trial Court arrived at the following findings:

উক্ত জখমী সনদপত্রসমুহকে সমর্থন করে পি ডব্লিউ-৮ ডা: মো: মোশতাক আহম্মেদ সাক্ষ্য প্রদান করেন। তিনি তার সাক্ষ্যে বলেন যে, তিনি জখমী সিজান আহাম্মেদের মাথার খুলি জুড়ে ও মাথার বামপাশে গুরুতর কাটা জখম এবং জখমী সানোয়ার আহম্মেদ এর মাথার ত্বকের সামনের দিকে লম্বালম্বিভাবে একটি গুরুতর কাটা জখম প্রাপ্ত হন যা দি পেনাল কোড, ১৮৬০ এর ৩২০ ধারার ৭ম/৮ম অংশ অনুযায়ী গুরুতর জখম।

On the basis of the aforesaid findings, the Appellate Court affirmed the judgment and order of conviction and sentence passed by the Trial Court.

The Appellate Division in the case of Jharu and another Vs. State, reported in 69 DLR (AD) 362, held:

> "…… A single testimony if convincing and found to be full complete and self contained, whether corroborated by other

> witness or not, is sufficient to bring home the charge and as such, there will be no illegality in convicting an accused on the basis of such single evidence……..”

The settled principle of law, as enunciated by the Appellate Division, is that an accused can be convicted on the basis of the testimony of a single witness if such testimony is found to be reliable, convincing, complete and self-contained. Corroboration by other witnesses is not always necessary where the evidence of such witness inspires confidence.

In the instant case, the prosecution has examined several witnesses including the injured victims, the informant, independent eye witnesses, the Investigating Officers and the Medical Officer. Upon careful scrutiny of their evidence, it appears that all the prosecution witnesses consistently stated that the accused-petitioner dealt sharp dao blows on the heads of the two minor sons of the informant, causing grievous injuries.

The evidence of the injured witnesses, namely PW-2 Sijan Ahmed and PW-3 Sanwar Ahmed, is of particular importance as they are the victims of the occurrence. Their evidence remained unshaken during cross-examination. Their testimony is further corroborated by the independent witnesses as well as the medical evidence adduced by PW-8.

The submission of the learned Advocate for the convict-petitioner that there are contradictions among the prosecution witnesses regarding the manner of occurrence and the arrival of witnesses at the place of occurrence does not appear to have any substance. Minor discrepancies, which are natural due to passage of time and differences in perception, cannot discredit the entire prosecution case when the core of the prosecution story remains consistent.

It is also argued on behalf of the convict-petitioner that the alleged dao was not seized and produced before the Court. However, mere non-production of the weapon

of offence does not necessarily render the prosecution case doubtful when the ocular evidence of reliable witnesses and the medical evidence sufficiently establish the occurrence and the involvement of the accused. In the present case, the prosecution witnesses have consistently stated about the use of a sharp dao by the accused-petitioner and the nature of injuries sustained by the victims. The medical evidence also clearly establishes that the injuries were caused by a sharp weapon and were grievous in nature. Therefore, the absence of seizure of the weapon of offence cannot by itself disprove the prosecution case when the other evidence available on record proves the charge beyond reasonable doubt.

It is also argued by the learned Advocate for the convict-petitioner that although the informant stated in the FIR that the injured Sijan was referred to Dhaka Shorawardi Medical College Hospital for better treatment, no document relating to such treatment was produced before the Court. However, this submission does not carry much weight in view of the fact that the

prosecution has successfully proved the grievous injuries sustained by the victim through the evidence of PW-8, the Medical Officer, and the injury certificates marked as Exhibits-4 and 5. The evidence of PW-8 clearly establishes that the injured Sijan sustained grievous injuries on his scalp, including fracture of the frontal bone and intracranial hemorrhage. Similarly, injured Sanwar also sustained a grievous injury on his scalp with fracture of the frontal bone. Such medical evidence fully supports the prosecution case regarding the nature and extent of injuries caused to the victims.

It is noted that the accused-petitioner, during his examination under section 342 of the Code of Criminal Procedure, claimed innocence but did not produce any defence witness or any documentary evidence in support of his plea. A mere denial of the prosecution allegation cannot dislodge the consistent and reliable evidence adduced by the prosecution.

This Court has considered the scope of revisional jurisdiction. The petitioner has invoked the revisional jurisdiction of this Court under section 439 read with section 435 of the Code of Criminal Procedure. It is well settled that in exercising revisional jurisdiction, this Court does not ordinarily re-appreciate the evidence as an Appellate Court unless it finds any illegality, impropriety, perversity or miscarriage of justice in the findings of the Courts below.

The revisional jurisdiction is intended to ensure that the proceedings of the Courts below have been conducted according to law and that the findings recorded are based upon legal evidence. This Court is required to examine whether the judgments and orders passed by the Courts below suffer from any illegality or irregularity warranting interference.

Upon careful examination of the impugned judgments and orders, the evidence of the prosecution witnesses, the medical evidence and the materials

available on record, it appears that the Trial Court and the Appellate Court properly appreciated the evidence and arrived at concurrent findings of fact.

The prosecution has proved beyond reasonable doubt that the accused-petitioner, with a sharp dao, assaulted the two minor sons of the informant, namely Sijan Ahmed and Sanwar Ahmed, causing grievous injuries on their heads. The ocular evidence of the injured witnesses and independent witnesses is consistent, reliable and corroborated by the medical evidence.

It appears that by the judgment and order of conviction and sentence dated 20.10.2022, the learned Chief Judicial Magistrate, Mymensingh convicted the accused-petitioner under section 326 of the Penal Code, 1860 for causing grievous injury on the head of injured Sijan Ahmed and sentenced him to suffer rigorous imprisonment for 05 (five) years with a fine of Tk. 2,000/- (two thousand), in default, to suffer simple imprisonment for 06 (six) months more.

The Trial Court further convicted the accused-petitioner under section 326 of the Penal Code, 1860 for causing grievous injury on the head of injured Sanwar Ahmed and sentenced him to suffer rigorous imprisonment for 05 (five) years with a fine of Tk. 2,000/- (two thousand), in default, to suffer simple imprisonment for 06 (six) months more. The Trial Court directed that both the sentences shall run consecutively.

Having considered the nature of the offence, the manner in which the occurrence took place and the injuries caused to the two minor victims, this Court finds that the sentence imposed by the Trial Court and affirmed by the Appellate Court does not call for any interference.

In view of the foregoing discussions and considering the evidence and the law, this Court is of the view that the Appellate Court below did not commit any illegality or error of law in passing the impugned judgment and order affirming the judgment and order of

conviction and sentence passed by the Trial Court against the convict-petitioner.

Accordingly, this Court does not find any merit in the Rule.

In the result, the Rule is discharged.

Thus, the impugned judgment and order of conviction and sentence passed by the Appellate Court dismissing the appeal and thereby affirming the judgment and order of conviction and sentence passed by the Trial Court is affirmed.

Send down the records.

Communicate the order.

**(Md. Khasruzzaman, J:)**