



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-S No.49-SB of 2008
Reserved on: 03.09.2026
Pronounced on: 10.09.2026
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Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced: operative part/full judgment

Ram Kishan
Versus
State of Haryana
...Appellant
...Respondent

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Argued by:- Mr. Gurinder Singh Dhillon, Advocate
for the appellant.

Mr. Dhruv Dayal, Addl. A.G., Haryana
for the respondent-State.

MANDEEP PANNU, J.

1. Present criminal appeal has been filed by the appellant against the judgment of conviction and order of sentence dated 21st December, 2007 passed by learned Sessions Judge, Panchkula, in case FIR No.24 dated 10th February, 2006 registered under Sections 328 and 392 IPC at Police Station Chandimandir, whereby the appellant has been convicted under Section 392 of the Indian Penal Code and he was acquitted of the charge under Section 328 IPC. The appellant has been sentenced as under:-

Under Section	Imprisonment awarded	Fine	Imprisonment in default of payment of fine
Section 392 IPC	R.I. for 03 years	Rs.500/-	S.I. for 02 months



2. The prosecution story in brief is that on 10th February, 2006, statement of complainant Nirmala Devi was recorded by HC Gurbax Singh, wherein she stated that she was a resident of village Buela Bhoj, Nagal, Morni Hills. Her mother Sita Devi and elder sister Narati Devi, who was a widow and had a child aged about two years, were residing with her in the house. Her elder brother Narata Ram was working as a labourer at Ambala and used to visit them twice a month. On 7th February, 2006, at about 7:30 p.m., the complainant, her mother, sister and her son were taking food in the kitchen of their house. In the meantime, accused Ram Kishan, a sorcerer/*tantrik* and resident of their village, visited them. He had also visited their house about one and a half months earlier and had stated that their house was under the influence of evil spirits. On this occasion, he stated that he had talked to her brother Narata Ram on telephone and had been told by him that he would return that night at about 8:30 p.m. He then allegedly spread some poisonous material over them, as a result of which they became semi-conscious and were unable to speak or walk. The accused, thereafter, put the complainant, her mother and her sister on the cots lying in the adjoining room. He allegedly injected some medicine into the body of her sister with the help of a plastic syringe. He also attacked the complainant and her sister with a *danda* and, when her mother was lying on the cot, attacked her also with the *danda*. He thereafter removed ₹3,200/- from a box lying in their house after opening the lock of the box with the key which was lying in the *almirah*. All of them became unconscious and remained lying on the cots. On 9th February, 2006, their cousin Daleep, son



of Tara Chand, visited their house. He informed her brother Narata Ram, who was at that time present at Ambala. Her brother Narata Ram reached the house late in the night. Thereafter, the complainant, her brother and sister left their house for Police Post Morni. On the basis of the aforesaid statement, FIR was registered at Police Station Chandimandir. The accused was arrested and, after completion of investigation, the challan was presented before the Court for trial.

3. The accused was charged for the offences punishable under Sections 328 and 392 of the Indian Penal Code by the Court of learned Additional Sessions Judge, Panchkula, to which he pleaded not guilty and claimed trial.

4. In order to support its case, the prosecution has examined PW-1 ASI Darshan Singh, PW-2 Constable Madhu Pal, PW-3 HC Gurbax Singh, PW-4 EHC Raj Pal, PW-5 Phool Singh, Patwari, PW-6 HC Ramesh Kumar, PW-7 Nirmala Devi, complainant, PW-8 Narata Ram, brother of the complainant, PW-9 Constable Suresh Kumar, official witness, PW-10 SHO Umed Singh, PW-11 Narati Devi, injured/victim (sister of the complainant), PW-12 Dr. Lave Kumar, PW-13 Sita Devi, injured/victim (mother of the complainant), and PW-14 ASI Inder Singh, the Investigating Officer, and thereafter, closed its evidence.

5. The statement of the accused was recorded under Section 313 Cr.P.C., wherein he denied the prosecution allegations and pleaded innocence. In his defence, the accused examined DW-1 Gopi Ram and DW-2 Babu Ram.



6. Learned trial Court heard the arguments advanced by learned APP for the State as well as learned defence counsel and, upon appreciation of the evidence on record, held that the prosecution had failed to bring home the guilt of the accused for the offence punishable under Section 328 IPC and, accordingly, acquitted him of the said charge. However, learned trial Court held that the prosecution had been successful in bringing home the guilt of the accused for the offence punishable under Section 392 IPC and, accordingly, held him guilty and convicted him thereunder, with the sentence as detailed in paragraph No. 1 of the judgment.

7. Feeling aggrieved by the aforesaid judgment of conviction under Section 392 IPC passed by learned trial Court, the present appeal has been filed by the appellant-Ram Kishan, as detailed in paragraph No. 1 of the judgment.

8. Notice of the appeal was given to the State, upon which, learned State counsel appeared and contested the appeal.

9. Learned counsel for the appellant has assailed the judgment of conviction, *inter-alia*, on the ground of material contradictions in the testimonies of the complainant and injured witnesses, particularly regarding the consciousness of the child, the inherent improbability of the prosecution version as the child aged about one and a half years was allegedly left unattended for about 40 hours without any neighbour or villager noticing or responding to his cries, unexplained and inordinate delay in lodging the FIR, medical evidence which does not inspire confidence and does not corroborate the prosecution timeline, the alleged



source of ₹3,200/- having been stated by the complainant to be the sale proceeds of goats being falsified by the defence evidence, the prosecution version regarding administration of poison and use of force for committing robbery having become doubtful upon acquittal of the appellant under Section 328 IPC, non-association of any Panch, Sarpanch, Chowkidar or other independent person from the village despite their availability, admission of the Investigating Officer regarding non-association of any independent witness, material contradictions regarding the date, time and manner of arrest of the appellant, and the defence version of false implication for extraction of money, supported by the alleged previous conduct of the complainant party in lodging a case against one Satpal which was subsequently compromised after payment of money, having not been properly appreciated by learned trial Court.

10. Learned State counsel opposed the contentions raised by learned counsel for the appellant and supported the judgment of conviction. It was submitted that the testimony of the complainant and injured witnesses, duly corroborated by the official witnesses and the investigation, establishes the occurrence as well as the theft of Rs.3,200/- from the complainant. The medical evidence also corroborates the prosecution version, as injuries were found on all the three injured persons in their respective MLRs. The recovery of the *danda* and currency notes pursuant to the disclosure statement of the appellant further lends assurance to the prosecution case. The discrepancies pointed out by learned counsel for the appellant are minor and do not discredit the otherwise consistent



prosecution evidence. The acquittal of the appellant under Section 328 IPC does not preclude his conviction under Section 392 IPC, as the ingredients of robbery stand independently established from the evidence on record. It was accordingly submitted that the impugned judgment of conviction under Section 392 IPC calls for no interference.

11. I have considered the submissions advanced by learned counsel for the appellant as well as learned State counsel, the evidence available on the record and the findings recorded by learned trial Court.

12. The prosecution case rests substantially upon the statements of the complainant Sita Devi and her two daughters, Narati Devi and Nirmala Devi, who are stated to have been present in the house at the time of the occurrence. I have examined their depositions not in isolation but in the light of the FIR, the medical evidence and the other material brought on record. On such examination, I find that the prosecution version suffers from serious infirmities which go to the root of the matter and create a reasonable doubt regarding the occurrence itself.

13. The prosecution story, in substance, is that on 07.02.2006 at about 7:30 P.M., the appellant came to the house of the complainant on the pretext that the house was under the influence of an evil spirit and he wanted to perform a prayer for removing the said evil. He allegedly joined the family for the evening meal, sprayed some poisonous substance upon them and, after they became semi-conscious, took them to another room, assaulted them with a *danda*, injected Nirmala and Narati Devi and thereafter, searched the house and removed ₹3,200/-. According to Sita



Devi, the family members, thereafter, became unconscious and regained consciousness only subsequently. This version, however, does not stand the test of probability when considered in its entirety.

14. The first and perhaps the most significant circumstance is the alleged effect of the substance administered by the appellant. The entire prosecution version proceeds on the assertion that something was sprayed upon the family while they were taking their meal, as a consequence whereof Sita Devi, Narati Devi and Nirmala Devi became semi-conscious and subsequently unconscious. It is further alleged that the appellant injected Nirmala Devi and Narati Devi. Such an allegation is of considerable significance because it constitutes the very foundation for explaining how the appellant could allegedly overpower three adult women, assault them, search the house and thereafter, leave the premises. Yet, the medical evidence does not furnish the necessary corroboration to this crucial part of the prosecution story.

15. There is no satisfactory medical evidence establishing that the three women were rendered semi-conscious or unconscious by any poisonous substance sprayed upon them, or that Nirmala Devi and Narati Devi were rendered incapacitated by any injection administered by the appellant. The doctor stated that, as per the FSL report, nothing was recovered from the blood of the three persons. Although reference was made during the deposition to detection of Diazepam in one of the exhibits, the same was objected to on the ground of mode of proof and, in any event, the medical evidence does not establish that any such substance was



administered by the appellant, much less that it was sprayed in the food or injected into the two witnesses by him. The distinction between the mere detection of a substance in a laboratory exhibit and proof of the prosecution allegation regarding its administration cannot be overlooked. Thus, the most unusual and material part of the prosecution narrative remains without dependable medical corroboration.

16. Regarding injuries, PW-12 Dr. Lave Kumar medically examined Nirmala Devi and Narati Devi on 10.02.2006 and Sita Devi on 14.02.2006. The injuries found upon them were essentially simple blunt injuries. In the case of Nirmala Devi, there was blunt trauma over the scalp and forehead, complaint of pain in the left gluteal region and multiple abrasions over the back. In the case of Narati Devi, there was an injury over the scalp and complaints of pain in the right shoulder joint, right gluteal region and nose. In the case of Sita Devi, there were blunt injuries over the scalp, chest, right leg, right ankle and right knee. All these injuries were opined to be simple.

17. More importantly, the doctor did not opine that the injuries necessarily established the manner of assault narrated by the witnesses. Rather, in respect of Nirmala Devi, injuries Nos.1 and 2 could be due to a fall on a hard surface, injury No.4 could also be due to a fall, whereas injury No.3 could not be the result of a fall. Similarly, in respect of Narati Devi, injuries Nos.1, 2 and 4 could be due to a fall, whereas injury No.3 could not be the result of a fall. As regards Sita Devi, the doctor stated that all the injuries could be due to a fall. Thus, the medical evidence does not



furnish affirmative corroboration to the allegation that the three women were assaulted in the particular manner narrated by them.

18. There is another circumstance which renders the prosecution story inherently doubtful. The house was admittedly surrounded by houses of other persons. Sita Devi herself stated that Narati Devi had called persons for help, but no one came. If three adult women had been rendered semi-conscious or unconscious, thereafter taken to another room, beaten with a *danda* and two of them injected, and the appellant had remained sufficiently present to search the house and take away money, the absence of any independent witness or immediate intervention assumes significance. No neighbour, Panch, Sarpanch or Numbardar was associated either immediately after the alleged occurrence or at the time of the subsequent proceedings.

19. The presence of the one and a half years old child also assumes significance. Sita Devi stated that the small child remained conscious because he had not taken the meal. This circumstance does not sit comfortably with the broad prosecution narrative of the alleged poisonous substance being sprayed upon the persons present in the house and the family thereafter becoming unconscious. If the substance was indeed sprayed in the surroundings or administered through the food in the manner alleged, the prosecution has not satisfactorily explained the precise manner in which the child remained unaffected, particularly when the prosecution itself relies upon the presence of the child as a circumstance explaining what happened in the house.



20. As per the testimony of the complainant, the child remained conscious throughout as he had not taken the meal. It is difficult to comprehend that a child of such tender age, while his mother and two other family members allegedly became semi-conscious and thereafter unconscious, would remain completely quiet and neither raise any cry nor attract the attention of the neighbours, particularly when the prosecution alleges that the women were subsequently assaulted and shifted to another room. It is equally difficult to accept, without any further explanation or evidence, that a child of one and a half years could remain without food for almost two days and yet no circumstance regarding his care, feeding or condition has been brought on record. This circumstance, though not conclusive by itself, materially adds to the improbability of the prosecution case.

21. This circumstance, by itself, may not demolish the prosecution case, but when considered along with the absence of medical evidence regarding poisoning or sedation, it adds to the improbability of the story.

22. The alleged removal of ₹3,200/- also does not receive satisfactory corroboration. The amount is not substantial, but the significance lies not in its quantum but in the manner in which the prosecution sought to establish its possession and removal. In cross-examination, Sita Devi stated that the family had obtained ₹3,200/- from a person named Gopi of village Mathana after selling goats and that all the currency notes were of ₹100 denomination. However, DW-1 Gopal Ram has specifically stated that he personally knew Narata Ram and his family,



who were residing in his neighbourhood, and that the family had not sold any goat to him and he had not paid any money to them. Thus, even the explanation furnished by the complainant regarding the source of the ₹3,200/- does not receive support from the defence evidence. More importantly, there is no convincing independent evidence connecting the appellant with the alleged removal of this amount.

23. The timing of the subsequent events also gives rise to serious doubt. According to Sita Devi, she regained consciousness on 10.02.2006 during the day, though she could not specify the time. She stated that the complaint was lodged on 10.02.2006 at about 2:00 P.M. She further stated that the police had come to the house at about 10:00 A.M. on the same day and remained there for about two hours. On the other hand, the medical witness stated that Nirmala Devi and Narati Devi came to him at about 7:30 P.M. on 10.02.2006 for medical examination. The sequence of regaining consciousness, approaching the police, police visiting the house, alleged recovery of the syringe and *danda*, recording of the statement and thereafter, medical examination is therefore not free from doubt. The prosecution has not satisfactorily explained this chronology.

24. The conduct attributed to the complainant and the other injured witnesses after the alleged occurrence is also difficult to reconcile with the gravity of the incident narrated by them. According to Sita Devi, they regained consciousness on 09.02.2006 when Daleep came to the house, and the entire occurrence was narrated to him. Her son Narata Ram then came during the night of 09.02.2006. Yet, despite the alleged



administration of a poisonous substance, assault upon three women, injection of two of them, unconsciousness and alleged theft, no Panch, Sarpanch or Numbardar was called. The police were approached only on 10.02.2006. While delay of itself may not be fatal, in a case in which the prosecution story is already attended by other improbabilities, the absence of prompt and natural conduct assumes considerable relevance.

25. The non-production of the alleged blood-stained clothes is another circumstance which cannot be completely ignored. Sita Devi stated that blood was coming from her head and her clothes had become stained with blood. She further admitted that the police did not take those clothes into possession and she herself did not hand them over to the police. If the prosecution sought to establish a violent assault with a *danda* causing bleeding from the head, the blood-stained clothes could have constituted relevant corroborative evidence. Their non-seizure, particularly when the police allegedly visited the house on the very next day, is another missing link in the prosecution case.

26. This Court is conscious that the three injured witnesses cannot be discarded merely because they are related to one another. Their evidence has to be assessed on its own merits. However, the rule that an injured witness ordinarily carries greater evidentiary weight does not dispense with the requirement that the testimony must be credible and consistent with the surrounding circumstances and the medical evidence. In the present case, the evidence of the three witnesses is not supported by the medical evidence on the most material aspect of the prosecution story, namely, the



alleged spraying of a poisonous substance, the resulting unconsciousness and the administration of injections. The injuries which were actually found are simple and, in substantial part, were capable of being caused by a fall. The medical evidence, therefore, does not provide the degree of corroboration which would be expected in the circumstances narrated by the witnesses.

27. It is also significant that the prosecution case is not merely that the appellant assaulted the witnesses. The allegation is of a rather unusual sequence of events-coming to the house on the pretext of removing an evil influence, participating in the meal, spraying some substance, causing three persons to become semi-conscious/unconscious, shifting them to another room, assaulting them, administering injections to two of them, searching the house and removing ₹3,200/-, and thereafter, leaving. Such a sequence requires careful scrutiny. When the alleged cause of unconsciousness is not established medically, the alleged injection is not medically connected with the condition of the witnesses, the injuries are simple and substantially compatible with a fall, the alleged recovery of the money is doubtful, independent witnesses are absent and the chronology of the complaint and medical examination is itself not satisfactorily explained, the prosecution version becomes difficult to accept beyond reasonable doubt.

28. I would, therefore, hold that the infirmities in the prosecution case are not of a merely peripheral nature. They affect the core of the prosecution story. The prosecution was required to establish the guilt of the appellant beyond reasonable doubt and not merely to demonstrate that the



witnesses had suffered some simple injuries. The existence of injuries, by itself, does not establish that those injuries were caused by the appellant in the manner alleged.

29. So far as the offence under Section 392 IPC is concerned, the evidence is even less satisfactory. The allegation of removal of ₹3,200/- rests substantially upon the statement of Sita Devi, while the circumstances surrounding the alleged possession of the amount are themselves doubtful. The defence evidence of DW-1 Gopi Ram further creates doubt regarding the explanation furnished by the complainant concerning the source of the money. There is no satisfactory independent corroboration of the alleged theft. Once the very occurrence, as narrated by the prosecution, becomes doubtful, the conviction for robbery cannot be sustained merely on the assertion that ₹3,200/- was taken from the house.

30. In the ultimate analysis, therefore, I find that the prosecution has failed to establish a coherent and medically corroborated account of the occurrence. The cumulative effect of the aforesaid circumstances creates a reasonable and substantial doubt regarding the involvement of the appellant. The benefit of such doubt must necessarily go to him. The conviction and sentence recorded against the appellant cannot, therefore, be sustained. The appellant is entitled to acquittal of the charge under Section 392 IPC.

31. In view of the aforesaid discussion, I find that the prosecution has failed to prove its case against the appellant beyond reasonable doubt. The material contradictions, inherent improbabilities in the prosecution



version, absence of satisfactory medical corroboration with regard to the alleged administration of any poisonous substance or injection, the doubtful recovery of ₹3,200/-, and the other circumstances noticed hereinabove create a reasonable doubt regarding the involvement of the appellant. The appellant is, therefore, entitled to the benefit of doubt.

32. Accordingly, the present appeal is allowed. The judgment of conviction and order of sentence passed by learned trial Court are set aside, and the appellant is acquitted of the charge framed against him of offence punishable under Section 392 IPC. His bail bonds, if any, stand discharged. The appellant shall be released forthwith, if not required in any other case.

33. All pending applications, if any, also stand disposed of.

10.09.2026
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(MANDEEP PANNU)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No