

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRA-AS No.1 of 2015 (O&M)
Decided on: 17.11.2017**

Kuldip Singh

....Appellant

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. G.S. Attariwala, Advocate
for the appellant.

Mr. Amandeep S. Gill, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN, J.

The present appeal has been filed challenging the judgment dated 27.03.2014 vide which the respondents/accused have been acquitted by the trial Court for the charges framed against them under Sections 323, 324 read with Section 34 of the Indian Penal Code (in short 'IPC') in criminal complaint No.66 of 2005.

Brief facts of the case are that the complainant who is younger brother of Ranjit Singh, solemnized marriage with one Rekha Rajput daughter of Yashpal – accused No.10 against the wishes of her family members. It is further alleged that on 22.07.2005 accused Nos.1 to 5 and 10 forcibly entered in the residential house of the complainant on the pretext of meeting with Rekha Rajput and forcibly took her away in a car bearing No.PB-35-8668. On 09.08.2005, brother of the complainant received a message from Rekha Rajput that she is confined in a locked room against her wishes and is being given beatings. On 10.08.2005, the complainant, his brother – Ranjit Singh and Baljit

Singh were again attacked by the accused persons while traveling in a jeep and were caused injuries as detailed in the complaint. The matter was reported to the police but the police arrested the complainant on 14.08.2005 and he was medico legally examined on 18.08.2005.

It is further alleged that accused Nos.1 to 10 have forcibly solemnized second marriage of Rekha Rajput on 25.08.2005 at Hotel Vishal belonging to accused No.1 despite the fact that she was already married to brother of the complainant. The father of the complainant filed a complaint to Superintendent of Police, Pathankot on 24.08.2005 but no action was taken and his brother also filed a complaint before the District Magistrate, Gurdaspur on 10.07.2005. After the preliminary evidence, the accused Nos.1 to 4 and 10 were summoned by the trial Court vide order dated 23.04.2009 under Sections 323, 324 and 506 IPC, however, the complaint qua other accused persons was dismissed.

In pre-charge evidence, the complainant examined himself as CW4, Constable Balbir Raj as CW1, Dr. Raj Kumar as CW2, Sonu as CW3, Rekha Rajput as CW5 and Ranjit Singh as CW6. No other evidence was led and the pre-charge evidence was closed by Court order. Vide order dated 07.09.2013, the accused were charge-sheeted under Sections 323, 324 read with Section 34 IPC.

After the charge evidence, the complainant appeared himself and examined Ranjit Singh, Dr. Raj Kumar and C. Balbir Raj and they were duly cross-examined by the accused.

On closure of the evidence, the statement of the accused under Section 313 of the Code of Criminal Procedure (in short 'Cr.P.C.') was recorded and they denied all the incriminating evidence against

them and in their evidence they examined Sham Sunder, Ahlmad of the Court as DW1 and closed the evidence. The trial Court, therefore, vide its judgment dated 27.03.2014 acquitted the respondents/accused Nos.1 to 4 and 10. While acquitting the respondents/accused Nos.1 to 4 and 10, the trial Court on appreciation of the statement of the prosecution witnesses has held as under:-

“11. I have considered the rival contentions raised by learned counsel for the parties and with their able assistance I have also perused the judicial file.

12. CW-1 C.Balbir Raj No.2480 has proved the record of application for issuance of medico legal report of Kuldip Singh submitted to civil surgeon, Pathankot as Ex.C-7 and letter dated 18.8.2005 issued by Deputy Superintendent, Sub Jail, Pathankot to SMO civil hospital, Pathankot as Ex.C-8 and another letter dated 22.8.2005 issued by Deputy Superintendent, Sub jail Pathankot to SMO civil hospital, Pathankot as Ex.C-9.

13. CW-2 Dr.Raj Kumar, who medico legal examined Kuldip Singh has deposed that on 22.8.2005 at 1.30 PM he conducted medico legal examination of Kuldip Singh son of Shamsher Singh, resident of Sohawra Kalan, Tehsil Pathankot by the order of SDM Pathankot and has proved various injuries on his person. He further deposed that injury No.1 was kept under observation for orthopedic surgeon and after getting the x-ray report there was fracture of shaft ulna and it was declared grievous in nature as per report of Orthopedic Surgeon Dr.Tarsem Singh and all the injuries were caused by blunt weapon and probable duration of injuries was within 12 days and he also proved MLR as Ex.PW1/A, copy of application and order of SMO civil hospital, Pathankot as Ex.PW1/B and x-ray of accused was conducted at civil hospital by

Dr.Harsh Mahajan, Radiologist and report of x-ray issued to Dr.Tarsem by Radiologist, civil hospital, Pathankot and Dr.Tarsem Singh gave the report and his opinion and proved the same as Ex.PW1/C and deposed that ski gram/x-ray of the patient is lying with Radiologist, civil hospital, Pathankot and as per report the fracture was caused on injury No.1 as mentioned in the MLR.

14. *In his cross-examination he deposed that he conducted medico-legally examination of Kuldip Singh and found injuries No.1 and 2 on the person of Kuldip Singh and further deposed that both the injuries on the person of patient are on left arm and same can be the result of fall from the motor cycle/scooter and he did not receive opinion of radiologist and there was external mark on injury No.2.*

15. *CW-3 Sonu has deposed as per the story put forth by the complainant but he did not turn up to face cross-examination, hence, evidence of this witness can not be taken into consideration.*

16. *Complainant while appearing as CW-4 has reiterated the contents of his complaint and in his cross-examination in precharge evidence he admitted that FIR No.38 dated 10.8.2005 has been registered against him under Sections 326, 324, 323, 148, 149 of IPC and there are, as many as 8 accused in that case and said FIR was registered by Ranbir. Singh and Jagdish Singh and he was arrested in this case on 17.8.2005 and interestingly, he admitted that in the said case police got them medically examined on 15, 16 and 18.8.2005 thrice and suggestion was put that on these dates on his medical examination no injury was described on his person. Though he voluntarily deposed that his signatures were obtained on the said medical saying that it is mere formality but he could not tell whether any application was filed in the Court*

regarding aforesaid signatures. Suggestion was put that his arm was already broken and he also did not deny the suggestion when he deposed that he did not remember if Rekha Rajput and Ranjit Singh have filed Criminal Miscellaneous Petition regarding rape in the Hon'ble Punjab & Haryana High Court and same was dismissed.

17. It is worth noting here that in para No.4 of the complaint it has been alleged that on 9.8.2005 at 9.00 PM Rekha Rajput wife of Ranjit Singh informed her husband that she is being confined in a locked room against her wishes and consent and is being beaten and tortured at the hands of accused No.1 to 5 and 10, who are her relatives compelling her to enter into second marriage with some man of their choice and despite her request to them that she is already married accused are beating her and requested Ranjit Singh to talk to her parents and immediately telephone line was disconnected and in para No.5 it has been alleged that on 10.8.2005 at 6.30 AM complainant and his brothers Ranjit Singh and Baljit Singh were attacked by accused No.1 to 10 when they were going on their jeep and accused Rajinder Singh raised lalkara, on which accused No.2 to 5 and 10 attacked on the jeep and Dodu broke the glass of jeep with his drat and snatched keys of jeep and raised 2/3 lalkaras but the complainant in his cross-examination has come up with the new version when he deposed that on 10.8.2005 they were going on their jeep to buy cow and admitted that in his previous statement he has deposed that they were going for playing. Thus, it is nowhere stated that on receiving the telephone from Rekha Rajput on the night of 9.8.2005 the complainant party was going to get Rekha Rajput released on 10.8.2005.

18. It is also worth noting here that in his examination-in-chief complainant has deposed that

Yashpal caught hold him in the jeep by his hair and gave 2/3 slaps on his face and Bhup Singh pulled him out of the jeep and gave him 2/3 slaps and gave two fist blows in his stomach and then Rajinder Singh gave a blow of dang on his head, which was stopped by him with his left arm, due to which his bone got fractured/cracked and then Bhup Singh gave a blow of dang on his head but he saved himself but in his cross-examination he deposed that he suffered two injuries and also admitted that no medical of 6/7 injuries narrated in his statement was done. He admitted that his wife was murdered and suggestion was put that in that incident his arm was broken and interestingly, he voluntarily deposed that he suffered injuries but arm was not broken. He also admitted that he has not produced any record regarding breaking of wind screen of the jeep. Suggestion was also put that Yashpal Singh has not tried to pick away Rekha nor Rajinder Singh, Bhup Singh, Dodu etc. have given pushes to Neelam. Suggestion was put that no injury was inflicted to him. Suggestion was also put that accused has not caused any injury to him or he has not lodged any complaint to PS Taragarh.

19. *In his further cross-examination in after charge evidence he admitted that in his complaint at point Marks-A to A-1 it is written that Ranjit and Baljit Singh ran away from the spot and suggestion was put that Ranjit Singh, Kashmir Singh or Sonu were never present as alleged in the complaint and on receiving call on 9.8.2005 he alongwith other co accused attacked Ranbir Singh and Dodu on 10.8.2005 and caused injuries.*

20. *Rekha Rajput while appearing as CW-5 has deposed that her marriage was solemnized with Ranjit Singh on 15.7.2005 at Indora District Kangra in Shiv Mandir Katgarh. As she had married Ranjit Singh against*

wishes of her parents, as such, they had not joined at the time of marriage and due to her marriage her parents were unhappy and they started threatening her in-laws of dire consequences. She further deposed that Rajinder Singh, Bhup Singh and Maan Singh accused are elder brothers of her father and accused No.10 is her father and after marriage she had started residing in her matrimonial home alongwith her husband and she had resided there till 22.7.2005 and in the evening at 5.30 PM Rajinder Singh, Bhup Singh, Maan Singh, Randhir Singh, Dodu and Rachpal, her father came at her matrimonial home and had entered in the house forcibly without their consent and her father called her out from her room by sending her jethani namely Neelam and when she came out of her room then accused Rajinder abetted her father to pick her and to take her back to home by throwing her in the car and thereafter, her father took her on his shoulders and accused Rajinder Singh, Ranbir Singh gave slaps on the face of her father-in-law, mother-in-law, her jethani Neelam and Kuldip Singh and then accused Rajinder Singh, Ranbir Singh, Dodu locked them inside the room and then they took her in Tata Indigo car to her parental house and gave her beatings and pressurized her to marry her to someone of their choice. Thereafter, they kept on beating her daily, compelling her to dissolve her first marriage with Ranjit Singh and to solemnize second marriage and they locked her in a room. Then on 9.8.2005 at 9.00 PM she made a telephone call through a base phone lying in the room where she was locked to her husband and she apprised him of beatings being given by Ranbir Singh, Rajinder Singh compelling her to solemnize second marriage and she requested him to take her back.

21. This witness has nowhere deposed about the occurrence dated 10.8.2005 and in her pre-charge

evidence she did not deny the suggestion when she deposed that she does not know if any CRM No.59679-M of 2005 was dismissed and copy of same was proved as Ex.DA but at the same time she admitted that she has never filed any complaint before the Court after dismissal of Criminal Miscellaneous No.59679-M of 2005 and suggestion was put that in her petition in Hon'ble High Court she has named only three persons and never named Bhup Singh, Maan Singh and Dodu and she was confronted with said writ petition and statement made in the Court on 27.2.2013 in which there is no mention of Bhup Singh, Maan Singh and Dodu nor there is mention of any time. Suggestion was put that for the first time in the Court she is deposing wrongly regarding the occurrence and admitted that there is no reference in the writ petition that on 9.8.2005 at 9.00 PM she made a telephone call through base phone lying in the room and she informed her husband of the beatings given by Ranbir Singh and Rajinder Singh to solemnize second marriage as stated in her examination-in-chief on 27.2.2013. She also admitted that there is no reference regarding second marriage in the writ petition and forcibly marriage in hotel Vishal at Sujanpur and she has not filed any appeal or revision against the criminal revision petition. Suggestion was also put that on 22.7.2005 in the evening at 5.30 PM Rajinder Singh, Bhup Singh, Maan Singh, Randhir Singh, Dodu and Yashpal had not come to her house and she was not called out of the room by sending her jethani Neelam. It is also worth noting here that said Neelam was the best witness to depose about the occurrence dated 22.7.2005 but she has not been examined by the complainant for the reasons best known to him.

22. *Ranjit Singh, brother of complainant while appearing as CW-6 has deposed as per the story put forth*

by the complainant and in his cross-examination he admitted that he had filed joint petition in the Hon'ble High Court vide Criminal Miscellaneous No,59679-M of 2005, which was dismissed and he had not preferred any appeal before the Hon'ble Appellate Authority. He admitted that FIR has been got registered by Ranbir Singh and Jagdip Singh and both of them are real uncles of Rekha Rajput. This witness though admitted that FIR No.38 was registered on 10.8.2005 but he did not deny the suggestion when he deposed that he does not remember if police arrested him on 15.8.2005 and suggestion was put that during the intervening period no MLR was conducted. Interestingly, he admitted that in his examination-in-chief he has leveled allegations that Rajinder Singh raised lalkara to each lesson to marry their daughter and same was not stated in Criminal Writ. Petition filed in Hon'ble High Court.

23. *It is also worth noting here that the deposition made by this witness with regard to causing of alleged injuries by the accused to the complainant party have not been narrated by him in the said Writ Petition filed by him and Rekha Rajput in Hon'ble Punjab & Haryana High Court. If any such occurrence had also taken place as stated by this witness in his examination-in-chief then they might have stated the same in the aforesaid Criminal Writ Petition. Suggestion was also put that no injury was caused to him or his brother and that is why there was no reference of any injury in their medical examination.*

24. *In his further cross-examination in after charge evidence he admitted that during 10.8.2005 to 15.8.2005 they have not got them medically examined from any private hospital. He also admitted that no reference was made in the petition before Hon'ble High Court as to which accused had caused what injury to whom or that*

arm of Kuldeep Singh was fractured. Interestingly, this witness on the one hand had denied that it has been mentioned in the complaint that he was not present on the spot and he was confronted with the complaint at points Mark-A to Mark-AI where it was recorded that he and Baljit Singh ran away from the spot. He made contradictory statement to the contents of the complaint when he voluntarily deposed that he has not run away from the spot but he witnessed the occurrence by hiding him. He also admitted that no application was filed by him for getting him medically examined after his arrest nor any complaint was lodged with the higher authorities nor any reference was made in the Writ Petition filed by him in Hon'ble High Court regarding the injuries suffered by him and no reference was made by him with regard to the statement made by him at points Mark-B to B-1 got recorded in his examination-in-chief.

25. *CW-2 Dr.Raj Kumar has proved on record injuries on the person of complainant Kuldeep Singh and has also proved MLR of Kuldeep Singh as Ex.PW1/A, copy of application and order of SMO civil hospital, Pathankot as Ex.PW1/B and opinion of Dr.Tarsem Singh as Ex.PW1/C. In his cross-examination he admitted that medical examination of Kuldeep Singh was conducted on 22.8.2005 at 1.30 PM and both the injuries on Kuldeep Singh are on left arm and both the injuries can be result of fall from the motor cycle/scooter. In his further cross-examination in after charge evidence he admitted that he has not described colour of injuries and duration of injuries can be determined by colour of injuries. In the MLR there is no mention of colour of injuries. He also admitted that there is no skia gram on the judicial file and regarding injury No.1 there is no swelling or bluish on injury as discussed by him.*

26. CW-1 C.Balbair Raj No.2480 has proved the record of application for issuance of medico legal report of Kuldip Singh submitted to civil surgeon, Pathankot as Ex.C-7 and lettg dated 18.8.2005 issued by Deputy Superintendent, Sub Jail, Pathankot to SMO civil hospital, Pathankot as Ex,C-8 and another letter dated 22.8.2005 issued by Deputy Superintendent, Sub jail Pathankot to SMO civil hospital, Pathankot as Ex.C-9. In his cross-examination he admitted that Kuldeep Singh was detained in Sub Jail, Pathankot on 17.8.2005 vide UT No.5950 dated 17.8.2009 and he was already medico-legally examined by the order of the Court before coming in Sub Jail, Pathankot. In his further cross-examination in after charge evidence he admitted that whenever prisoner is brought to prison he is examined by the doctor.

27. It is worth noting here that in the complaint dated 24.8.2005 Ex.C-5 submitted by Shamsher Singh, father of complainant to SP, Pathankot it has been alleged that on 10.8.2005 accused attacked his three sons Kuldip Singh, Baljit Singh and Ranjit Singh at about 6.30 and when they were going to hospital for medical examination then accused had arranged naka and due to it his sons could not get medically examined and during quarrel Ranjit Singh and Baljit Singh tried to save them then accused also caused injuries to them. These allegations are quite contradictory to the story as put forth in the complaint. Further, the alleged occurrence is dated 10.8.2005 and if the police has not taken any action, the complainant or his father could have approached the higher authorities immediately and the complainant could have brought to the notice of the learned Magistrate that they have not been medico legally examined when they were produced in the Court in the State case. But instead of approaching the higher authorities immediately, the

said complaint was lodged with the SP, Pathankot on 24.8.2005 and the alleged occurrence took place on 10.08.2005.

28. *It is also worth noting here that in the entire complaint there is no allegation that accused have caused injuries to Baljit Singh and Ranjit Singh, rather, as per the averments made in the complaint Ranjit Singh and Baljit Singh ran away from the spot to save their lives and there is no allegation leveled against the accused that they also caused injuries to Baljit Singh and Ranjit Singh. Moreover, said- Baljit Singh has neither been cited as witness nor examined by the complainant to corroborate the version as put forth by Shamsheer Singh in his complaint dated 24.8.2005 Ex.C-5.*

29. *Alleged occurrence dates back to 10.08.2005 and present complaint has been filed on 10.10.2005. if the police has not taken any action on the complaint lodged with the police then no explanation has been given by the complainant for not approaching the higher authorities immediately. there is also unreasonable delay in filing the present complaint. The complainant has also not explained as to why the complaint case was not filed at the earliest and on account of this delay, it not only gets bereft of the advantage of spontaneity, danger creeping in of the introduction of exaggerating account or a concocting story as a result of deliberation and consultation and for these reasons, it was essential for the complainant to satisfactorily explain this delay but this inordinate delay has not been explained by the complainant satisfactorily.*

30. *Copy of complaint lodged by Havaladar Surjit Singh to District Magistrate, Gurdaspur dated 10.7.2005 has been proved on record as Ex.C-6 and as per the said complaint Ranjit Singh on the asking of his wife went to see her and then Billu Katal, Dodu Katal and Dhanu*

Singh alongwith other persons tried to kill his brother and elder brother, who reached there to save his brother and suffered injuries but in the entire complaint there is no such allegation that on 10.8.2005 Ranjit Singh was going to see his wife Rekha Rajput when he was caused alleged injuries, thus, there are material variations in the allegations leveled by the complainant in the instant complaint and complaints Exs.C-5 and C-6. Complaint Ex.C-6 is dated 10.7.2005 and in the said complaint occurrence dated 10.8.2005 has also been mentioned and it is highly improbable that the occurrence which allegedly took place in the month of August, 2005 would be mentioned one month prior to it had occurred.

31. *The alleged occurrence took place on 10.8.2005 and it has been alleged that due to influence of the accused the complainant could not get him medico legally examined on 10.8.2005 and thereafter and then as per the directions of SDM, Pathankot on his application dated 19.8.2005 Ex.C-7 he was medico legally examined. But copy of application dated 15.8.2005 submitted by ASI Subash Chander with incharge/doctor MPHC, Taragarh in case bearing FIR No.38 dated 10.8.2005 under Sections 326, 324, 323, 148, 149 IPC, PS Narot Jaimal Singh for medical examination of Kuldeep Singh accused who is complainant of present case has been proved on record as Ex.D-14 and on the said application doctor has certified that there was no physical ailment at the time of examination of Kuldeep Singh. Copy of another application for medical examination of Kuldeep Singh in the aforesaid FIR submitted by ASI Subash Chander alongwith report of doctor has been proved on record as Ex.D-15 and there is no mention in the said report that Kuldeep Singh has suffered any injury. If Kuldeep Singh was having any injury on his person allegedly given by accused on 10.8.2005*

then on his medical examination by the doctor on 15.8.2005 and then on 17.8.2005, the doctor who medically examined him might have reported about the said injury. Thus, the story put forth by the complainant that on 10.8.2005 and thereafter accused party did not permit him to get him medically examined is highly improbable.

32. *In view of the above discussion, the charges against the accused are held to have not been proved at all. Whereas, in a criminal trial, the charge against the accused is required to be proved beyond even a reasonable shadow of doubt to secure conviction of an accused. As a result, present complaint has no merits and same stands dismissed. Accused are acquitted of the charges framed against them. Their bail bonds and surety bonds are also discharged. File be consigned to the record room.”*

It is submitted on behalf of the appellant that it is proved from the statement of the complainant witnesses that on 10.08.2005, Rekha wife of Ranjit Singh was forcibly taken away by the respondents and while appearing as a witness, she has supported this version as CW5. It is further submitted that from the statement of CW3 – Sonu and statement of the appellant as CW4, it has come on record that the accused persons in conspiracy with each other caused injuries to the appellant on 10.08.2005. It is further submitted that from the statement of CW2 Dr.Raj Kumar, who medico legally examined the complainant, the injuries are proved and, therefore, the ocular version of the complainant is duly proved from the medical evidence. It is also submitted that from the complaint Ex.C5 dated 24.08.2005 submitted by father of the complainant – Shamsher Singh to Superintendent of Police, also it is proved that the matter was brought to the notice of

police but no action was taken.

Counsel for the respondents, on the other hand, has submitted that the judgment passed by the trial Court is well-reasoned and the respondents/accused have rightly been acquitted by the trial Court after due consideration of appreciation of evidence on record.

The present appeal was filed in the year 2015 and the lower Court record has already been requisitioned and I have gone through the same with the able assistance of counsel for the parties. After hearing the learned counsel for the parties and perusing the records, but I find no merit in the present appeal for the following reasons:-

a) The statement of CW3 Sonu cannot be considered as a legal evidence as this witness never turned up for the purpose of his cross-examination.

b) The complainant – Kuldip Singh, while appearing as CW4 has admitted in his cross-examination in pre-charge evidence that an FIR No.38 dated 10.08.2005 was registered against him under Sections 326, 324, 323, 148 and 149 IPC and there are 08 accused persons in this FIR which was got registered by Ranbir Singh and Jagdish Singh. The complainant was arrested on 17.08.2005 by the police and was medically examined on 15.08.2005, 16.08.2005 and 18.08.2005 i.e. for 03 times, however, no injury was found.

c) Though in the complaint, it is alleged that Rekha Rajput – CW5 informed Ranjit Singh, her husband that she is confined in a locked room by the accused persons and was given beatings, however, no intimation was given to the police and rather, it is alleged in the complaint that on 10.08.2005, the complainant, his brothers – Ranjit Singh and Baljit Singh were attacked by

all the accused persons while there were traveling in a jeep.

d) The complainant as CW4 has given different version for coming out of the house on 10.08.2005 as earlier it was stated that they were going for playing but subsequently an improvised version was given that they were going to buy a cow and it has nowhere come in evidence that they were going to get Rekha Rajput – CW5 released on 10.08.2005.

e) Rekha Rajput while appearing as CW5 though submitted that she was married with Ranjit Singh on 15.07.2005 and was picked up by the accused persons from her matrimonial home on 22.07.2005 and she gave a telephone call on 09.08.2005 that she was locked in her parental home, however, disclosed about the occurrence dated 10.08.2005 and in her pre-charge evidence did not deny a suggestion about dismissal of CRM-M No.59679 of 2005 filed by her in this Court seeking protection. She further submitted that subsequent to dismissal of the said petition, she did not file any other complaint in the Court and further denied that the aforesaid petition filed before this Court, she has named only 03 persons i.e. Bhup Singh, Maan Singh and Dodu but in the statement made in the Court on 27.02.2013, she has not named these 03 persons and thus, she has made improvements in her earlier version to involve the respondents/accused persons.

f) It has also come in the statement of CW5 that she nowhere informed her husband about solemnization of her second marriage at Hotel Vishal, Sujanpur and therefore, the allegations in the complaint in this regard are not at all proved that second marriage of Rekha Rajput was performed by the respondents/accused persons.

g) It has also come in the statement of CW6 –

Ranjit Singh, brother of the complainant that against the dismissal of the joint petition by this Court i.e. CRM-M No.59679 of 2005, he has not preferred any further appeal and that an FIR was got registered by Ranbir Singh and Jagdish Singh against him as well as Kuldip Singh and that on 15.08.2005, the complainant – Kuldip Singh was arrested by the police in FIR No.38 dated 10.08.2005. This witness has also made improvements regarding levelling allegations against the accused persons which were not mentioned in the criminal writ petition earlier filed before this Court.

h) The trial Court even has noticed number of discrepancies in statement of the prosecution witnesses regarding the incident relating to 10.08.2005 to 15.08.2005 which are not reproduced for the sake of brevity as these are noticed in the order of the trial Court reproduced hereinbefore which makes the prosecution version highly doubtful.

i) It has come in the statement of CW2 – Dr. Raj Kumar who medico legally examined Kuldip Singh on 22.08.2005 that both the injuries on the body of Kuldip Singh was on his left arm and did not deny the suggestion that the same could be caused due to fall from the motorcycle/scooter.

j) There is no explanation about giving the complaint Ex.C5 by father of the complainant – Shamsher Singh regarding the incident of 10.08.2005, after a delay of 14 days i.e. on 24.08.2005.

Even otherwise, the occurrence is dated 10.08.2005 and the complaint has been filed on 24.08.2005 and there is no complaint except Ex.C5 filed by father of the complainant on 24.08.2005 that the complainant has approached the police authorities for registration of an FIR.

k) It is a matter of record that in fact the appellant – Kuldip Singh along with his brothers – Ranjit Singh and 05 other persons faced trial in FIR No.38 dated 10.08.2005 registered under Sections 326, 324, 323, 148 and 149 IPC at Police Station Narot Jaimal Singh, Pathankot and they have been convicted by the trial Court vide order dated 27.03.2014 under Sections 326, 324, 323 and 148 IPC for 03 years rigorous imprisonment and fine on account of causing injuries to the respondents/accused persons and, therefore, this complaint has been filed as a counter-blast to the FIR registered against the appellant in which he has been convicted by the trial Court.

For the reasons stated hereinbefore, I do not find any merit in the present appeal and the same is accordingly dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

17.11.2017
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No