

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-308-DBA-2004 (O&M)

Date of Reserve: 29.10.2025

Date of Pronouncement: 29.11.2025.

State of Punjab

....Appellant.

Versus

Kesar Kaur and another

...Respondents.

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Argued by: Mr. M.S. Bajwa, DAG, Punjab.

Proceedings against respondent No.1 abated
vide order dated 19.08.2025.

Mr. Paras Jagga, Advocate
for respondent No.2.

Sukhvinder Kaur, J.

1. The appellant-State has preferred the instant appeal against judgment dated 19.02.2003, passed by learned Additional Sessions Judge, Patiala, vide which respondents-accused have been acquitted.
2. Factual Scenario, as per prosecution version is that on 09.04.2001, on receiving of telephonic information regarding admission of Assa Singh in the hospital, HC Vas Dev Singh along with other police officials reached at Rajindra Hospital Patiala and on seeking opinion from the doctor, the injured was opined to be 'unable to speak'. When no other person was found present there from the side of the injured, the police returned back. At bus stop Boharpur, Harjot Kaur widow of Rajwant Singh

met the police and got recorded her statement alleging therein that her husband had expired two years ago. She has two children, from Loins of Rajwant Singh. After marriage, her husband separated from his parents and after his death, she was residing separately from parents of her husband. Injured Assa Singh were residing with her brother-in-law Pargat Singh, whereas her mother-in-law, sister-in-law and brother-in-law Anup Singh are residing together. Her brother-in-law Nishawar Singh along with his family was residing in Dera in his agricultural fields. Her mother-in-law Kesar Kaur and sister-in-law Kulwant Kaur @ Satti were envying whenever her father-in-law visited her. On 07.04.2001, at about 4.00 P.M., her father-in-law came to her house and at about 4.30 P.M. after taking tea when he left her house, her mother-in-law and sister-in-law, who were standing in the street, stopped her father-in-law and asked him that when they had already stopped him, why he had visited her house. They took him inside their house and after some time when she heard hue and cry of her father-in-law, she came to the gate of her house and it also attracted. Devinder Singh and Harbhajan Singh, who also came there and rescued Assa Singh from the clutches of the accused. On 09.04.2001, when Assa Singh was unable to speak and his condition was deteriorated due to the injuries, she took him to Rajindra Hospital, Patiala. On the basis of the said statement, FIR was registered. Site plan of the place of occurrence was prepared. As per MLR, four injuries received by injured were kept under observation. On 11.04.2002 accused were arrested and after interrogation they were released on bail. On 29.04.2001, on the basis of opinion of doctor, offence under Section 307 IPC was added. On 02.05.2001 bed head ticket of injured Assa Singh was obtained. Accused were again arrested qua offence under Section

307 IPC. Statements of witnesses were recorded and after completion of investigation, challan was presented before the Court.

4. After having found a prima facie case, charges for offences punishable under Sections 307, 323, 341, 34 of IPC were framed against the accused, to which they pleaded not guilty and claimed trial.

6. In order to prove its case, the prosecution has examined PW1- Dr. Mohinder Singh, Junior Resident, Rajindra Hospital, Patiala, PW2- Harjot Kaur, complainant/ eye witness to occurrence, PW3-Dr. D.S. Bhullar, who had conducted medico legal examination of injured Assa Singh, PW4- Assa Singh, injured, PW5-Devinder Singh, eye witness to occurrence, PW6- HC Vas Dev Singh, Investigating Officer and PW7-ASI Jit Singh, who partly investigated the case.

7. Statement of accused under Section 313 Cr.P.C. were recorded in which, all incriminating evidence was put to them, which they denied and pleaded innocence.

8. After considering the evidence on record, learned trial Court acquitted the accused of the offences for which they had been charge-sheeted, vide judgment dated 19.02.2003.

9. Aggrieved of the said decision, present appeal has been filed by the appellant-State challenging acquittal of the accused/ respondents.

10. Learned counsel for the appellant-State has assailed the impugned judgment by vehemently contending that the respondents/ accused have been wrongly acquitted by the trial Court, whereas there was sufficient and cogent evidence available on the file for convicting the accused. Learned trial Court also failed to consider the fact that accused dragged injured Assa Singh into their house and when he was coming out of

the house of the complainant, he was strangled by putting his parna around his neck. Learned trial Court has not appreciated the statement of injured that he was rescued by Kandara and his two sons, namely, Billu and Pardhan from the clutches of the accused. Further, as per medical evidence led by the prosecution, injured Assa Singh was strangled and due to said strangulation he was unable to speak. He further submitted that the trial Court has miserably failed to appreciate the prosecution evidence proving common intention and the mensrea for committing the offence in question. The ocular testimony of the prosecution witnesses has been duly corroborated by the medical evidence and statement of doctor. The statement of complainant Harjot Kaur (PW2) was fully corroborated by injured Assa Singh (PW4) and has prayed that present appeal be allowed, impugned judgment dated 19.02.2003 be set aside and accused be convicted for the offences as charged with and be punished in accordance with law.

11. On the other date, the learned counsel for respondent No.2 contended that there were material contradictions between statements of PW2-Harjot Kaur and PW4-Assa Singh. In fact, PW2 Harjot Kaur had not witnessed the alleged occurrence and she is not a eye witness. There was inordinate delay in lodging of the FIR, which was registered after due consultations and deliberations. The complainant was having grudge against the accused ladies and out of this grudge she got registered the present case against them. He submitted that the trial Court has rightly acquitted the accused in the present case, as the prosecution could not prove its case beyond the reasonable doubt and the present appeal is liable to be dismissed.

12. We have heard learned counsel for the parties and have also

perused the record.

13. In the instant case, the most material prosecution witness is PW2-Harjot Kaur, who is daughter-in-law of injured Assa Singh and respondent No.1 and the sister-in-law of respondent No.2. Her statement was recorded by the police after two days of the alleged occurrence. As per prosecution case PW2 Harjot Kaur had accompanied Assa Singh to hospital on 09.04.2001. Again as per the prosecution version, when police visited Rajindra Hospital, Patiala, then the Investigating Officer did not find any person present by the side of Assa Singh, so he left for village Boharpur, where Harjot Kaur, Assa Singh and accused ladies were residing. On the way Harjot Kaur met the police party and got recorded her statement. If Harjot Kaur had accompanied Assa Singh to the hospital, then it was but natural for her to be by his side for extending the helping hand to him, whereas, as per the prosecution version, Investigating Officer had not found any person present by the side of Assa Singh, when he had visited the hospital, which is not the natural conduct of Harjot Kaur.

14. It has been rightly noted by learned trial Court that there is fabrication in Ex.PA/1. The doctor initially opined fitness of Assa Singh to make the statement, though he could not speak due to dysphosia, but later on to change such opinion, he scored off word otherwise by drawing horizontal line and wrote word so above word otherwise and prefixed un to covert the word fit into unfit by joining prefix un with it with hyphen. So, after changing of such opinion it became that patient cannot speak (due to dysphosia), so he is unfit to make statement and the earlier opinion was thus reversed, which raises the inference that Assa Singh was reluctant to launch prosecution against the accused ladies. Doctor perhaps had succumbed to

the wishes of complainant side in league with Investigating Officer to facilitate the recording of statement of Harjot Kaur for lodging FIR. This chronology of events is more significant, when there is delay of 2 days in lodging of the FIR and FIR was not lodged with promptitude, which is fatal for the prosecution.

15. It is also pertinent to note that Assa Singh was not immediately hospitalized after the alleged occurrence on 07.04.2001 and he was hospitalized for the first time on 09.04.2001, which shows that there was no such immediate necessity of his hospitalization, which also casts a cloud of doubt upon the prosecution version that the FIR was lodged only after due consultations and deliberations to implicate the accused ladies.

16. In Ex.PD complainant Harjot Kaur got recorded that both the accused persons envied her as her father-in-law used to visit her house. The trial Court has rightly observed that, thus an envious animus was in the mind of Harjot Kaur, so her testimony is to be scrutinized with more caution. The perusal of her police statement Ex.PD and her testimony as PW2 reveals that she had made material improvements while deposing in the Court. In Ex.PD, she stated that when her father-in-law came out of her house then the accused ladies took him inside their house, thereafter, after hearing alarm of her father-in-law, she came at the gate of her house whereas, while appearing as PW2, she stated that when her father-in-law after taking tea came out, then both the accused ladies caught him hold from neck and dragged him inside their house. This factum regarding holding him from neck and dragging into the house of the accused persons, is missing in her statement Ex.PD. While appearing as PW2, she stated that after hearing cries of Assa Singh, she came out and saw that he was being dragged by

accused, but no such fact was stated in Ex.PD. Name of Kandhara Singh was not mentioned in Ex.PD, but while appearing as PW2, she stated that door of the house was broke open by Devinder Singh, Harbhajan Singh and Kandhara Singh to rescue Assa Singh, who was being strangulated by accused by putting parna (piece of cloth) around his neck. So, these material improvements and statement of PW2 show that she is not a reliable witness, who was interested in falsely implicating the accused ladies.

17. While appearing as PW2, in her cross-examination, she stated that she could not see that what happened inside the room, though she had heard the cries of Assa Singh. So, there is nothing in her statement that she had seen the accused while strangulating Assa Singh and as such she cannot held to be an eye witness to the alleged occurrence.

18. Assa Singh, while appearing as PW4 stated that he was strangulated with Parna and his beard was pulled. He was rescued by Kandhara and his sons, namely, Billu and Pardhan. He did not depose that any pressure on his neck was put by the accused ladies.

19. PW5 Devidner Singh, has given altogether different version regarding the manner in which the alleged occurrence took place. He stated that he saw that in house of Kesar Kaur, Assa Singh was laid down on cot and his legs were tied by Kulwant Kaur with scarp and Kesar Kaur was sitting on him and was pressing his throat with pressure of thumbs. He had deposed that Kandhara Singh had not come at the spot, while PW2 and PW4 stated that he had come at the spot and had rescued Assa Singh. Thus, statements of this witness is in complete contradiction with PW2-Harjot Kaur and PW4-Assa Singh. These material contradictions in the statements of PW2, PW4 and PW5 had caused dent in the case of the prosecution.

20. In Ex.PE, copy of FIT, it was mentioned that homicidal strangulation was alleged on 07.04.2001, attributed to Satti, Kesro, Nishawar and Ninder. It was so alleged by Harjot Kaur in her statement Ex.PD, but she had not named Nishawar and Ninder. It shows that there are exaggerations, improvements and contradictions in prosecution evidence.

21. So far, loss of speech of Assa Singh was alleged it was not of permanent nature as he made statement before the trial Court as PW4 and at that time, when he testified in the Court on 03.05.2002, he was 86 years old.

22. In light of above, after analyzing the evidence on record it can safely be concluded that prosecution has failed to prove its case against the accused beyond reasonable doubt. Evidence on record is indeed insufficient to convict the accused of the offences as charged and they have been rightly acquitted by learned trial Court.

23. It is a settled position that an order of acquittal is not to be interfered with lightly because presumption of innocence of the accused is further strengthened by acquittal. Interference is called for only under compelling circumstances, where impugned findings are perverse, unreasonable and convincing material on record is ignored unjustifiably by the trial Court, which is not there in the present case. Reference in this regard can be made to judgment of Hon'ble Supreme Court in **'Mahamadkhan Nathekhan vs. State of Gujarat' 2014 (14) SCC 589.**

24. Learned counsel for the appellant State has not been able to point out any illegality, infirmity or perversity in the impugned decision dated 19.02.2003 calling for any interference.

25. In view of the above, the appeal being bereft of any merit is dismissed and impugned judgment dated 19.02.2003 passed by learned trial

Court is upheld.

26. Pending applications, if any, also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

(N.S. SHEKHAWAT)
JUDGE

29.11.2025.

Komal

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