

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-536-DBA-2004 (O&M)

Date of Reserve: 11.11.2025

Date of Pronouncement: 02.12.2025.

State of Punjab

...Appellant.

Versus

Harjit Singh and another

...Respondents.

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

.....

Argued by: Mr. Bhanu Partap Singh, Addl. A.G., Punjab.

Mr. Harinder Sharma, Advocate
for the respondents.

Sukhvinder Kaur, J.

1. The appellant-State has preferred the instant appeal against judgment dated 27.11.2003, passed by learned Additional Sessions Judge, Fast Track Court, Faridkot, vide which respondents-accused have been acquitted.

2. Factual Scenario, as per the prosecution version is that on 06.10.2000, complainant Sukhwinder Singh after taking meals at Nand Dhaba when at about 10.30P.M, reached near Jain School, four persons who were standing in the dark, tried to stop him. When one of them shouted that the complainant should be caught hold, he started running towards mohalla Khokharan. Two of them started chasing him and then surrounded him. One of the assailant, aged about 25-26 years and about 5-6"7" in height, stopped him from the front side, whereas other person aged about 25-26 years

having height of about 5'-7"/8" and clean shaven, exhorted that complainant should not be allowed to escape and gave stab blow on his back. After inflicting injuries to the complainant, the assailants ran away. The complainant became unconscious and was taken to Medical College and Hospital at Faridkot by Gurjit Singh, from where he was referred to DMC Ludhiana. Statement of the complainant was recorded by the police and on the basis of the said statement, the present FIR was registered.

3. During investigation, rough site plan of the place of occurrence was prepared and one shoe was taken into police possession from the place of occurrence. On 13.10.2000, Inspector Manminder Singh along with other police official was present at Sadiq Chowk in connection with checking of bad elements and one Asha Singh independent witness had also been joined. When the police party reached at the bridge on the Sadiq Road near Khokha, two persons, namely, Harjit Singh and Paramjit Singh were apprehended. On interrogation, accused Paramjit Singh suffered a disclosure statement and on the basis of the said disclosure statement he got recovered a knife and a shoe. After completion of other investigation, challan against the accused persons was presented in the court, for judicial verdict.

4. After having found a prima facie case, charges for offences punishable under Section 307 IPC was framed against accused Paramjit Singh and under Section 307 read with Section 34 of IPC was framed against the accused Harjit Singh, to which they pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution examined PW1- ASI Rajbir Singh, PW2-Constable Jasbir Singh, PW3-Manoj Kumar, Record

Keeper, PW4-Sukhwinder Singh, complainant, PW5-Kartar Singh, PW6-Harinder Singh Registrar, PW7-ASI Jagdish Lal, PW8-Inspector Manminder Singh, PW9-Dr. Mandip Singh Bhangu, Registrar, Department of Surgery D.M.C. Ludhiana, PW10-ASI Makhan Masih and PW11-Dr. M.L. Gupta Professor, and Head of Department of Surgery, D.M.C., Ludhian.

6. Statements 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. In their defence evidence, the accused examined DW1-Sanjeev Kumar, DW2-Nachhattar Singh and DW3-Constable Sewak Singh and also tendered into evidence some documents.

7. 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 27.11.2003.

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

9. Learned counsel for the appellant-State has assailed the impugned judgment by vehemently contending that learned trial Court has wrongly held that the prosecution has failed to prove that accused inflicted injuries to Sukhwinder Singh. Conducting the test identification parade is a procedural evidence and the identification of the accused is substantive evidence. There was no previous enmity between the injured and the accused and as such their false implication in this case is ruled out. The recovery of articles of case property and other circumstantial evidence corroborates the ocular and medical evidence which fully prove the case of the prosecution. He further submitted that from the testimony of PW4

injured Sukhwinder Singh and PW5 Kartar Singh, it has been proved that accused Harjit Singh caught hold the injured, whereas accused Paramjit Singh gave knife blow to the injured. At the time of giving knife blow by the accused, PW5 Kartar Singh was coming from backside of the injured, so it was quite possible that PW4 might not have seen PW5 Kartar Singh at the spot and that is why the injured did not state about the presence of PW5 at the spot either during the investigation or during trial of the case. Learned trial Court further wrongly held that since PW5 Kartar Singh had not got the injured admitted in the hospital, his presence at the spot was doubtful. From the testimony of PW5 Kartar Singh, it had come out that he chased the accused but they escaped and when he returned at the spot, he did not find the injured there. PW6 Dr. Harinder Singh had also testified that injured had been brought to the hospital in the emergency ward by Daljit Singh as a case of stab injury sustained on the left side of back of chest. Thus, Daljit Singh brought him to hospital, keeping in view his serious condition and without waiting for PW5 Kartar Singh, who was not known to him. He further submitted that learned trial Court wrongly held that the case of the prosecution should not be believed as there was no evidence on record with regard to the motive of the crime. It has already been settled by the Hon'ble Supreme Court in various judgments that in case of an eyewitness account, the motive of the crime pales into insignificance. There was no reason with PW4 to involve the accused falsely in the present case and to leave the real culprit. He prayed that present appeal be allowed, impugned judgment dated 27.11.2003 be set aside and accused be convicted for the offences as charged with and be punished in accordance with law.

10. On the other hand, the learned counsel for the respondents

contended that after analyzing the entire evidence on record and after proper appreciation of the same accused have been rightly acquitted by the trial Court, as the offence against the accused persons has not been proved beyond the shadow of reasonable doubt and the present appeal is liable to be dismissed.

11. We have heard learned counsel for the parties and have also perused the record.

12. It was incumbent upon the prosecution to prove that the accused caused injuries to the complainant with the intention to cause death and injuries were sufficient in the ordinary course to cause death or that accused knew that the injuries were likely to cause death of the person to whom harm was attempted to be done. So foremost the prosecution was to prove that the injury had been caused by the accused persons. To prove the same prosecution has examined PW4 Sukhwinder Singh injured and PW5 Kartar Singh, who allegedly witnessed the occurrence. Though while appearing as PW4 Sukhwinder Singh injured stated that when he was going to his house after taking meals at Nand Dhaba, four persons shouted that he should be caught hold and while running away when he reached near Jain School, then two persons caught hold of him to whom he identified as Paramjit Singh and Harjit Singh. He further deposed that Paramjit Singh raised lalkara and then Harjit Singh caught hold him and after that Paramjit Singh gave a blow of his sharp weapon on his back and after receiving the said injury, he became unconscious. During his cross-examination, he was confronted with his police statement, wherein he had stated that four persons were standing in the dark and he did not know those four persons.

From his statement it is quite obvious that the accused persons were not

earlier known to him. Admittedly, their test identification parade had not been done. Thus he identified the accused persons for the first time in the Court. The identification for the first time in the Court is a very weak kind of evidence and especially in the present case it is of no consequence when during his police statement he had stated that those four persons were standing in the dark. So in that eventuality, it was not possible that he could have identified those persons who were standing in the dark.

13. PW5-Kartar Singh also deposed that he did not know the accused persons prior to the occurrence and accused were shown to him only after the occurrence. Only two persons were shown to him. Thus, it is clear that the accused persons were also not known to him before the occurrence and he also identified the accused in the Court for the first time. PW5 also admitted that accused had been shown to him before recording of his statement, so much weightage cannot be given to the testimony of this witness. In this context, learned trial Court has rightly relied upon the judgment in **Kanan and others Vs. State of Kerala, AIR 1979, Supreme Court, 1127**, wherein the Hon'ble Supreme Court held that when the witness identifies the accused, who is not known to him in the Court for the first time, his evidence is absolutely useless unless there has been a previous test identification parade. So also keeping in view the ratio of law laid down in **Kanan's case** (supra) the identity of the accused being the assailants is not established in the present case, especially when the alleged occurrence had taken place during the night and even as per PW4 it was dark at that time and the injury was given by the assailants from his backside. It is also pertinent to note that as per PW4 he became unconscious after receiving the injury, so there was hardly any occasion for PW4 to identify the assailants/

accused.

14. Presence of PW5 Kartar Singh is also doubtful at the time of the alleged occurrence. PW4 in his testimony did not state anywhere that PW5 Kartar Singh was present at the time of the occurrence. Even in his police statement, he nowhere stated that PW5 had witnessed the occurrence. PW5 admitted in his statement that PW4 Sukhwinder Singh is his wife's sister's husband (co-brother). So the possibility of PW5 being an introduced witness, being near relative of PW4 Sukhwinder Singh cannot be ruled out. The perusal of evidence on record also reveals that PW5 Kartar Singh did not take the injured PW4 Sukhwinder Singh to the hospital, which also raises strong doubt regarding his presence at the place of occurrence.

15. As per the prosecution case one shoe of one of the assailants was recovered from the place of occurrence and other shoe was recovered from the house of accused Paramjit Singh. Admittedly, place of occurrence was a busy place and it was a thorough fare. So, it is highly improbable that one shoe was recovered from the alleged place of the occurrence on the third day of the occurrence.

16. Learned trial Court has rightly observed that though as per the medical evidence the injury received by PW4 Sukhwinder Singh was dangerous to life, yet it has not been proved that the said injury had been caused by the accused persons. Moreover, no motive for the alleged occurrence has been attributed to the accused persons. Though, it is not essential to prove motive in each and every case, yet keeping in view the facts and circumstances of the present case, proving of the motive for causing the alleged injuries by the accused persons, certainly would have strengthened the case of the prosecution.

17. 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 with and they have been rightly acquitted by learned trial Court.

18. It is well settled that judgment of acquittal should not be interfered with lightly. In the case of Sadhu Saran Singh Vs. State of U.P. and others, 2016 (2) RCR (Criminal) 319, the Hon'ble Supreme Court reiterated that generally an appeal against acquittal has always been altogether on a different pedestal from that of an appeal against the conviction. It was held that in an appeal against acquittal, where the presumption of innocence in favour of the accused is reinforced, the Appellate Court would interfere with the order of acquittal only when there was perversity of fact and law.

19. Learned counsel for the appellant was unable to point out any illegality, infirmity or perversity in the impugned decision dated 27.11.2003 which calls for interference.

20. In view of the above, the appeal being bereft of any merit is dismissed and impugned judgment dated 27.11.2003 passed by learned trial Court is upheld.

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

(SUKHVINDER KAUR)
JUDGE

(N.S. SHEKHAWAT)
JUDGE

02.12.2025.

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