

104

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D-560-DB-2004(O&M)
Reserved on 15.10.2025.
Date of Pronouncement:28.10.2025

Sunny alias Deepak and others

...Appellants

vs.

State of Haryana

...Respondent

Coram :

Hon’ble Mr. Justice N.S.Shekhawat
Hon’ble Mrs. Justice Sukhvinder Kaur

Present :

Mr. Vinod Ghai, Senior Advocate with
Ms Kashish Sahni, Advocate
for appellant No.1.

Mr. Deepender Singh, Advocate
for appellants No.2 and 3.

Ms. Kashish Sahni, Advocate (Amicus Curiae)
for appellant No.4.

Mr. Pramod Kumar, AAG, Haryana.

N.S.Shekhawat J.

1. By way of the present appeal, the appellants have challenged the legality and validity of the impugned judgment and order dated 22.05.2004, passed by the Court of Additional Sessions Judge, Rohtak, whereby, they have been convicted for commission of the offences, punishable under Sections 302, 307, 326, 325 and 452 read with Section 34 of IPC and sentenced as under:-

Offence u/s	Sentence to undergo RI for	Fine of Rs.	In default of payment of fine to under RI for
302 read with 34 IPC	Imprisonment for life	10,000/-	R.I for 03 years
307 read with	R.I. for 10 years	5,000/-	02 years

Section 34 IPC			
326 read with Section 34 IPC	R.I. for 10 years	5,000/-	02 years
325 read with Section 34 IPC	R.I. for 03 years	1,000/-	06 months
452 read with Section 34 IPC	R.I. for 01 years	500/-	02 months

All sentences are run concurrently.

2. The prosecution story, as it emerges from the report under Section 173 Cr.P.C. is that on 29.06.2003, a telephonic information was received regarding the arrival of three injured, namely, Asha, Gulshan and their minor son Ritik in PGIMS, Rohtak and on receipt of the information, ASI Mahender Singh, PW-18 reached the hospital. He received the copies of MLRs of Asha and Ritik and was informed by Dr. S.P. Chugh, PW-15 that Gulshan, injured has already been shifted to Maharaja Aggarsain Hospital, New Delhi and he had left with his relatives against medical advise. On police request, two injured, namely, Asha and Ritik were declared to be unfit to make statement. Ultimately, Raju, PW-20 came to the police station and made his statement Ex.PAB, which is as follows:-

“Statement of Raju son of Bhola Ram Caste Balmiki r/o Ram Leela Parao, Rohta, aged 52 years.
I do labour work on Meat shop. Yesterday on 28.6.2003, I was sleeping in front of house of my brother Om Parkash after finishing my labour work. At about 1 or 1.30 a.m. (night time), a weeping voice of a child came from, my nephew Gulshan. I got up went in front of that house and knocked the door. No voice came out from inside. Listening my voice, Jagdish son of Maman, who is my neighbourer also came there. On my asking, he went to the house's roof of Gulshan, getting down from stairs and opened the kunda of



the house from inside. On this, I entered in the house, lighted the bulb and saw that my nephew Gulshan, his wife Asha and a baby Ritik were lying in a pool of blood on the cot, in unconscious condition. I moved them, but due to their unconsciousness; they could not tell any thing. Huge quantity of blood was oozing from the heads of Gulshan, his wife Asha and baby due to suffering of head injuries. Many other persons were gathered at the spot. Arranging a three-wheeler, I and two /three other persons carried Gulshan, Asha & Ritik in PGIMS Rohtak for treatment, where the doctor examined Gulshan and bandaged him. Due to serious condition of Gulshan, his family members carried him in Delhi for treatment. After medically examination of Asha & Ritik, doctor admitted them there. Some unknown persons, at night entered the house of Gulshan by way of stairs, have given injuries to Gulshan, Asha & Ritik in sleeping condition with the intention to kill them. Gulshan and Asha achieving consciousness can explain regarding the persons, who have given them injuries. Accused persons fled away with their respective weapon. Legal action may be taken against them. I got recorded my statement to you. Heard it, which is correct. Sd/- Raju (In Hindi). Attested:- Sd/- Mohinder Singh, Incharge/ASI, Police Post Old Bus Stand Rohtak, 29.06.2003.”

3. On the basis of the above-stated statement (Exhibit PAB), the FIR (Exhibit PAC) was ordered to be registered against unknown persons by the police.

4. Mahinder Singh, ASI visited the place of occurrence and got the spot photographed, prepared site plan and the other incriminating evidence viz. Blood stained quilt, pillows, broken pieces of bangles of Asha were taken from the spot, which were sealed vide a separate memo (Exhibit PAL), which was signed by Raju-complainant and HC Ramphal.



5. During the course of investigation, the statements of various witnesses were recorded by the Investigating Officer and the investigation commenced formally. On 12.08.2003, a telephonic message was received regarding death of Gulshan and the offence under Section 302 IPC was added and the special report was sent to the Area Magistrate. ASI Mahinder Singh along with the other police officials reached Maharaja Aggarsain Hospital, New Delhi and inquest report (Exhibit PB) was prepared at the spot. Dr. B.K. Jha, PW-1 conducted the postmortem examination and as per his opinion, the cause of death was septicemia, as a result of multi system infection, consequent to head injury. All the injuries were ante mortem in nature and sufficient to cause death in ordinary course of nature. In the meantime, Asha, injured was discharged from the hospital on 04.07.2003 and Rithik was discharged on 30.06.2003. On 07.07.2003, the investigation of the case was entrusted to ASI Dharam Singh of CIA-III, Rothak, who immediately met Asha, injured and recorded her statement, wherein she gave the details of the entire occurrence. As per her, at about 1:30 am on the night intervening 28/29.06.2003, she along with her husband, Gulshan and Ritik, son were sleeping in their room and the electric bulb was on. In the meantime, Sunny S/o Parkash and Pawan S/o Ramesh entered her room. Sunny was having hand-pump handle, whereas Pawan was carrying a hand-pump chimta in his hand. Sunny gave a blow with hand-pump handle on the head of Gulshan, who was sleeping. When she tried to rescue him, Pawan gave a chimta blow on her head and she fell down. Pawan also again tried to hit her with chimta, but she slipped and the blow landed on the head of her son Ritik. She ran towards staircase, crying and Laxman and Anil alias Gulla were also present there with '*dandas*' in their hands. All the



four accused were duly identified by her in the electric bulb light. Laxman gave a 'danda' blow on her head, due to which, she fell down on the ground. When she was lying down on the ground, Pawan gave a chimta blow on her head and Anil also gave a blow with danda, due to which, she suffered injuries on her right hand. Sunny also gave a blow with handle on her head and she became unconscious.

6. After recording the statement of Asha, the police arrested all four accused, namely, Sunny alias Deepak, Pawan alias Krishan, Anil alias Gulla and Laxman. After their arrest, on the basis of the disclosure statement suffered by Sunny, hand-pump handle was recovered from him and it was found to be blood stained. Even some hair were also sticking on it. The rough sketch was prepared and the weapon was taken into possession by the separate recovery memo. Similarly, in pursuance of the disclosure statement of Pawan, hand-pump chimta was also recovered from him, which was concealed by him and was in his exclusive knowledge. After preparing the rough sketch, the weapon was taken into the possession by the police, vide separate recovery memo. In the meantime, the co-accused Ram Kumar made extra judicial confession before Sher Singh, PW-21, with regard to involvement of himself, Jagdish alias Bobby and Pawan son of Ramdhari. After this, blood stained bed sheet, broken pieces of bangles of Asha PW-19, blood stained earth lifted from the spot, sealed parcel of blood stained cotton gauge given by the doctor and hand-pump handle and chimta were sent to FSL, Madhuban and as per the FSL report (Ex.PQ), human blood was detected on all the articles, except Chimta (Ex. PAN/1). Even the material on cotton gauge pieces was found disintegrated.



7. After completion of investigation, the Challan was presented before the Area Magistrate, who had complied with the mandatory provisions of Section 207 Cr.P.C. and since the case was exclusively triable by the Court of Sessions, it was committed to the Court of Sessions Judge, Rohtak. Ultimately, after taking into account the incriminating evidence collected against the accused, they were charge-sheeted for commission of the offence under Sections 302, 307, 326, 325, 450 IPC read with Section 34 of IPC, to which the appellants pleaded not guilty and claimed trial.

8. Before proceeding any further to adjudicate the issues involved in the present case, it would be appropriate to mention the brief account of the evidence led by the prosecution as well as the defence. The prosecution examined PW-1, Dr. B.K, Jha, who had conducted the postmortem examination on the dead body of Gulshan on 13.08.2003. He was admitted in Maharaja Aggarsain Hospital on 29.06.2003 with a history of head injury. As per him, on internal examination, it was found that scalp tissues were deficient on left temporal region. Skull bones were deficient in area covered by frontoparietal temporal region in the area of 10 x 8 cm. Brain matter showed pus. Lungs were by lateral lungs hard in consistency and exudes pus on cross sections which were greenish in colour. Kidneys were enlarged with pus formation at cortex with cloudy swelling. Spleen was enlarged.

9. As per the statement of PW-1, Dr. B.K. Jha, the cause of death of the deceased was septicemia, as a result of multi system infections consequent to head injury. All the injuries were ante mortem in nature and were caused within the same duration and were sufficient to cause death in ordinary course of nature. As per him, before the postmortem, he had seen and perused the



death certificate of Gulshan, issued by Maharaja Aggarsain Hospital, New Delhi, in which the cause of death was mentioned as cardio respiratory arrest. In his opinion, this was the mode of death and not cause of death. As per him, in general, infections were caused in the dead body due to head injury. The prosecution further examined PW-2, Dr. Sonal Gupta, who had examined Gulshan on 29.06.2003. As per her, there was history of profuse bleeding from left side the scalp and history of seizure, was not known with no history of vomiting. No right side movements were there and there was no eye opening. The patient was on tracheotomy, pupils were unequal and fixed. The patient was operated on the same day and the patient remained under conservative treatment till 12.08.2003, when he died. She proved on record the reports (Exhibit PD and Exhibit PE). During the period of admission in their hospital, patient Gulshan was not in a position to make any statement. The prosecution further examined PW-4, ASI Jai Bhagwan, who went to Maharaja Aggarsain Hospital, New Delhi on knowing the death of Gulshan. He also made a request (Exhibit PJ) for postmortem report of the dead body. The statements of PW-5, HC Ram Kumar, PW 6, EHC Jagbir Singh MMHC, PW-7, C. Ram Niwas were formal in nature. The trial Court recorded the statement of PW-8 C. Vijay Pal, who proved the photographs (Exhibit P1 to P3) and negatives thereof (Exhibit P4 to P6). PW-9, C. Sumit Kumar had prepared the scaled site plan (Exhibit PN) on 01.08.2003. Similarly, the statements of PW 10 HC Partap Singh and PW11, HC Mahinder Pal Singh were formal in nature.

10. The prosecution examined PW12 Subhash Sapra, Record Keeper, PGIMS Rothak, who brought the treatment file of Asha and Ritik, who were already discharged. The prosecution examined PW13, Dr. Sachit Sharma,



Registrar, who attended Ritik, injured and stated that the X-ray skull showed fracture of left parietal bone and X-ray of the chest was normal. Ritik, injured was discharged after treating him conservatively on 30.06.2003. Even Asha, injured was referred to their unit in an unconscious condition with history of vomiting, nasal bleeding, but no history of seizure or ear bleed. The patient was managed conservatively and CT scan was performed. As per the x-ray reports, depressed fracture of right parietal bone and right fronto parietal temporal bone along with fractures of fourth and fifth right metacarpals were found. She was discharged after conservative management on 04.07.2003. In his cross-examination, he stated that the assault by unknown persons was mentioned as the history and Asha was conscious during treatment. The prosecution further examined PW-14, Dr. Priyanka Punj, Radiologist, who radiologically examined Ritik and found fracture of left parietal bone of the skull and the X-ray of the chest was normal. She also radiologically examined Asha, wife of Gulshan, injured and found that there was fracture of right fronto temporal parietal and depressed fracture right parietal bone were detected. There were also fractures of fourth and fifth metacarpal of the right hand. The prosecution further examined PW15, Dr. S.P.Chugh, who medico legally examined Gulshan and as per him, Gulshan had suffered an incised wound of 12 x2 cm over left fronto parietal region of the head and the brain matter was protruding out of the wound. Injury was kept under observation and was caused by sharp edged weapon within six hours. He was brought by Raju, his uncle and proved on record the MLR (Exhibit PU). Even, he medico legally examined Ritik, son of Gulshan and on examination, he was found unconscious and pulse was 100 per minute. He found the following two injuries on his person:-



1. An incised wound 2x0.5 cm over the occipital region.

2. An incised wound 1x0.5 cm over the parieto occipital region.

The injuries were caused by sharp edged weapon and proved the MLR (Exhibit PV).

11. On the same day, he also medico legally examined Asha, wife of Gulshan, who was also unconscious and found the following injuries on her person:-

1) An incised wound 8x0.5 cm over the fronto parietal region.

2) An incised wound 4 x0.5 cm, 1 cm medial to injury No.1. Fresh bleeding was present.

3) An incised wound 6x0.5 cm over the right frontal region.

4) An incised wound 3x0.5 cm, 1 cm medial to injury No.3.

5) An incised wound 5 x 0.5 cm over parieto occipital region.

12. Even the injury suffered by Ritik was declared to be grievous in nature and not dangerous to life, vide opinion (Exhibit PZ/1). Even the injuries suffered by Asha were declared to be grievous in nature. PW16, ASI Samey Singh had registered the formal FIR (Exhibit PAC) initially. PW17, SI Patanjali Kumar stated that on receipt of information regarding death of Gulshan, the offence under Section 302 IPC was added in the original report and special report (Exhibit PAD) was sent to Illaqua Magistrate. PW18, ASI Mahender Singh had initially conducted the investigation and supported the case of the prosecution. The prosecution further examined PW19, Asha, who supported her earlier statement and assigned specific roles to the accused in the present case. She stated that her mother-in-law, brother-in-law were present in the hospital, when she regained consciousness, but she did not talk to them and did not tell the names of the assailants to them. She told the names of the accused to the



police. Similarly, the prosecution further examined PW20, Raju/complainant, who had reported the matter to the police, vide his statement (Exhibit PAB). The police also accompanied him to the place of occurrence and from the spot, two pillows, one quilt, one bed sheet smeared with blood and broken pieces of bangles were taken into possession by the police. In his cross-examination, he had admitted that Gulshan was working at a meat shop of Shyama (Ex.MC). He was running a shop, but practically he did not sit on the shop. The prosecution further examined PW-21 Sher Singh, who also supported the case of the prosecution and stated that Ram Kumar, co-accused had suffered an extra judicial confession in his presence. PW22, Dharminder Singh was also joined in the investigation in the present case. The prosecution further examined PW 23, ASI Dharam Singh, to whom the investigation was entrusted on 07.07.2003 and he was posted in CIA-III on the said day. He recorded the statement of Asha on 08.07.2003 and even obtained her signatures on the memos. The prosecution closed the evidence and the entire incriminating evidence was put to all the accused/appellants, who pleaded false implication in the present case.

13. The defence also examined DW1, Kailash Wanti, teacher, who stated that Krishan, accused was admitted in their school on 17.04.1993 and remained till 31.03.1996. Exhibit DA was the school leaving certificate prepared by him and checked by two other officials. The defence further examined DW3, Pritam s/o Nanha Ram, who stated that Krishan was not the alias name of Pawan and Krishan was his son and referred to various documents to contend that Pawan was never known as Krishan and he has been falsely involved.



14. Learned senior counsel appearing on behalf of the appellants has vehemently argued that Exhibit PAB was lodged by Raju PW20, who had stated that some unknown persons had caused injuries to Gulshan, since deceased as well as Asha and Ritik, both injured. Even Asha, PW19 has not disclosed the name of the assailants to Raju, PW20, who had reached at the spot immediately after occurrence. Even during her hospitalization, the other family members had admittedly met her in the hospital, but she did not disclose the names of the assailants to them. Even the police failed to record statement of Asha in the hospital till 04.07.2003. Even after her discharge on 04.07.2003, she remained in village and her statement was recorded for the first time on 07.07.2003. Consequently, the trial Court had committed a grave legal error in placing reliance on the solitary statement of Asha, PW-19. Learned Senior counsel further argued that even while appearing as a witness, the alleged eye witness, namely, Asha PW-19 had made considerable improvements in her statement and her version was highly contradictory on material points. Learned Senior counsel further contends that even the police did not investigate the case fairly and rather tried to fabricate false evidence against the appellants and their co-accused. PW21, Sher Singh was introduced as an eyewitness of the alleged extra judicial confession, allegedly made by Ram Kumar, co-accused on 09.07.2003. Still further, the medical evidence also completely falsified the version of the prosecution. Rather, from a cumulative reading of the ocular account as well as the medical evidence would clearly show that even the improved statement of Asha PW-19 did not advance the case of the prosecution in any manner. Still further, in the present case, Pawan, appellant was never known as Krishan and even the said fact finds mention in the school record



proved by Kailash Wanti DW-1 and the family record of father of Krishan. Even the injuries attributed to various accused in the present case did not find mention in the medical record, which was produced by the prosecution before the trial Court. Even the trial Court had committed grave error in overlooking the defence evidence, which proved the innocence of the appellants on record.

15. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the appellants and submitted that the trial Court had correctly placed reliance on the statement of PW19 Asha, who herself had suffered injuries in the incident. She was in fact a simple illiterate lady from a very poor family background and certain minor infirmities are bound to be there in the statement of such witnesses. Overall, there was nothing on record to discredit her testimony and the trial Court has correctly placed reliance on her statement. Apart from that, the prosecution had examined PW1, Dr. B.K. Jha, who proved on record the postmortem examination report and clearly stated that the cause of death of the deceased Gulshan was septicemia, as a result of multi system infection, consequent to head injury. All the injuries were ante mortem in nature and were caused within the same duration and were sufficient to cause death in ordinary course of nature. Apart from that, the statement of Dr. B.K. Jha, PW-1 was duly corroborated by the statement of PW2, Dr. Sonal Gupta, who proved the injuries suffered by Gulshan. Still further, the prosecution had examined PW13, Dr. Sachit Sharma, who proved the record pertaining to the injuries suffered by Ritik and Asha and also placed on record the X-ray report. PW14, Dr. Priyanka Punj, Radiologist had conducted the radiological examination of Ritik and Asha and proved the X-ray reports. Dr. S.P. Chugh, PW15 had medico legally examined Gulshan,



Ritik and Asha and proved their MLRs on record. He also rendered the opinion with regard to nature of injuries suffered by Ritik and Asha and declared the injuries to be grievous in nature. Learned State counsel further submitted that all the four appellants were specifically named by PW19, Asha as assailants and had duly identified them. Even, she was subjected to lengthy cross-examination, but the prosecution could not bring on record any material to show that she was liable to be disbelieved. Learned State counsel has extensively referred to the findings recorded by the trial Court and submitted that the impugned judgment and order are liable to be upheld by this Court.

16. I have heard learned counsel for the parties and perused the record carefully.

17. In the present case, the FIR (Exhibit PAC) was initially registered on the basis of the statement (Exhibit PAB) made by first informant Raju PW20 before ASI Mahender Singh, PW18. In his statement, he did not name any accused and he was the first person to find Gulshan, his wife Asha and their son Ritik lying down on a cot in a pool of blood. They were unconscious because of serious injuries suffered by all the three injured on their person. On hearing the hue and cry, all the neighbours also reached at the spot and all the three injured were referred to PGIMS Rohtak. Consequently, the FIR was initially registered against unknown persons. During the course of investigation, Asha, injured was found admitted in the hospital in a critical condition, which is apparent from her MLR and X-ray reports. Consequently, the statement of Asha was recorded on 07.07.2003, when the investigation was transferred to ASI Dharam Singh, PW23. First of all, Asha, herself had suffered serious injuries on her person and there is no reason to disbelieve her presence at the place of occurrence. Apart



from that, she is a simple rustic villager and would not spare the real assailants of her husband and her son and would be the last person to substitute the innocent persons with the accused. In fact, it seems that there was some laxity on part of the earlier investigating officer and consequently, the investigation in the present case was transferred to PW23 ASI Dharam Singh from CIA-III, Rohtak. On the same day, he recorded the statement of Asha, without any delay. Even otherwise, the appellants have failed to mention any reason for falsely involving them in a criminal case by PW19. Even during the course of arguments, learned counsel for the appellants has mentioned several minor infirmities in the statement of PW19, which could never be taken into consideration to disbelieve her and rather, from a perusal of her testimony, it is apparent that she had consistently deposed in conformity with the case of the prosecution on almost every material aspect. She also mentioned the vivid description of the entire occurrence, wherein all the four appellants had actively participated and caused injuries to her as well as her son Ritik and her husband Gulshan, deceased.

18. Apart from that, Asha, PW19 had clearly deposed that at midnight on 28.06.2003, she was sleeping with her husband Gulshan and son Ritik and the electric bulk was switched on in their room. Sunny alias Deepak, appellant No.1 and Pawan @ Krishan, appellant No.2 entered into their room and she woke up. Appellant No.1 was armed with a hand-pump handle and appellant No.2 was armed with a hand-pump chimta. Sunny, appellant No.1 gave a hand-pump handle blow on the head of her husband Gulshan, which was also recovered from him during the course of investigation and was found to be blood stained. She tried to rescue Gulshan and appellant No.2 gave a blow with



hand-pump chimta on her head and she fell down on the cot. Appellant No.2 gave another hand-pump chimta blow, but she slipped and the blow landed on the head of Ritik. She rushed towards the staircase, but found that appellants No.3 and 4 were present there, duly armed with 'dandas'. Laxman gave a blow with a danda on her head and she fell down. While she was lying down, appellant No.2 gave a blow with hand-pump Chimta, which she warded off with her right hand. Appellant No.1-Sunny also gave a blow with handle on her head and as a result of which, she became unconscious. However, she had identified all the appellants in the light of the bulb and had categorically assigned specific roles to all the appellants in the present case.

19. During the course of trial, the prosecution had examined PW15, Dr. S.P. Chugh, who first attended the three injured, namely, Gulshan, Asha and Ritik and Gulshan later on succumbed to the injuries on 12.08.2003. PW15, Dr.S.P.Chugh proved on record the MLR of Gulshan as Exhibit PU, MLR of Ritik as Exhibit PV and MLR of Asha as Exhibit PX. He found that there was an incised wound of 12x2 cm over left fronto parietal region of head of Gulshan and the brain matter was protruding out of the wound. It was an injury caused by sharp edged weapon and he was brought by Raju, complainant. On the same day, he medico legally examined Ritik and found the following injuries on his person:-

- 1. An incised wound 2x0.5 cm over the occipital region.*
- 2. An incised wound 1x0.5 cm over the parieto occipital region.*

20. Similarly, he also examined Asha, wife of Gulshan and found the following five injuries.

- 1) An incised wound 8x0.5 cm over the fronto parietal region.*



- 2) *An incised wound 4 x 0.5 cm, 1 cm medial to injury No.1. Fresh bleeding was present.*
- 3) *An incised wound 6x0.5 cm over the right frontal region.*
- 4) *An incised wound 3x0.5 cm, 1 cm medial to injury No.3.*
- 5) *An incised wound 5 x 0.5 cm over parieto occipital region.*

21. In fact, he had declared the injuries suffered by Asha and Ritik as grievous in nature. Still further, PW14, Dr. Priyanka Punj had examined Ritik and found fracture of left parietal bone of the skull and proved her report (Exhibit PR). On the same day, she radiologically examined Asha and found that there was fracture of right fronto temporal parietal and depressed fracture right parietal bone. There were fractures of fourth and fifth metacarpal of right hand and the x-ray report in this regard was Exhibit PS. Even, she also proved the CT scan report as Exhibit PT . Apart from that, the prosecution examined PW13, Dr. Sachit Sharma, who had also examined Ritik and Asha for further management. Apart from that, the prosecution also examined PW1, Dr. B.K.Jha, who had conducted the postmortem examination on Gulshan on 13.08.2003 and proved the PMR report as Exhibit PA. Even the Inquest papers, including police request were also exhibited as Exhibit PB and Exhibit PC respectively. As per him, the cause of death of the deceased-Gulshan was septicemia, as a result of multi system infections, consequent to head injury. All the injuries were ante mortem in nature and were caused within the same duration and were sufficient to cause death in ordinary course of nature. From a perusal of the statement of Asha, PW-19 and the testimonies of the doctors examined by the prosecution, it is apparent that her statement has been duly corroborated by the doctors, who were produced by the prosecution. In fact, the



medical evidence is always placed on record to support the ocular account and the majority of the injuries mentioned by PW-19, Asha in her testimony find mentioned in the medical record produced by the prosecution. Apart from that, a person, who is being caused serious injuries on her head cannot describe the injuries with precision and it can never be stated that there was any contradiction between the ocular account and the medical evidence. Even, we have gone through the detailed findings, recorded by the trial Court in this regard and find no reasons to differ with the trial Court.

22. Learned Senior counsel for the appellants has further referred to the testimony of PW21 Sher Singh to contend that he was only introduced by the prosecution at a later stage to involve three co-accused, namely, Jagdish @ Bobby, Pawan and Ram Kumar. However, it is apparent that all certain technical grounds, the testimony of PW21 Sher Singh was rejected by the trial Court and the three co-accused, namely, Jagdish @ Bobby, Pawan son of Ramdhari and Ram Kumar were ordered to be acquitted by the trial Court. Even the acquittal of the said three accused is not a subject matter of adjudication before the Court and the arguments raised by learned Senior counsel for the appellants are not relevant at this juncture.

23. Apart from that, learned Senior Counsel for the appellants has strenuously argued that the name of Pawan @ Krishan is actually only Krishan, and this fact was sought to be proved by producing Kailash Wanti (DW1), a teacher in Government Senior Secondary School, Rohtak. However, her testimony did not advance the case of the accused in any manner, as in her cross-examination, she expressed her ignorance regarding the nickname of appellant No.2. Even DW-2 Jagdish Parshad also made similar statement.



Further, the testimony of DW3- Pritam also did not help the case of the defence in any manner as he was father of the accused and was interested witness. Even otherwise, there was no dispute with regard to the identity of all the appellants as they were duly named by Asha, injured in the present case and she had no reason to falsely named all the appellants in the present case. Apart from that, the prosecution had also examined PW22 Dharmender, son of Mamu Ram in whose presence, appellant No.1 was interrogated and in pursuance of his disclosure statement, a handle of hand-pump was recovered from him. Similarly, a chimta of hand-pump was recovered from Pawan, appellant No.2 and the hand-pump handle recovered from appellant No.1 was having blood stains also. Still further, the prosecution had also examined PW21 ASI Dharam Singh, who was posted as CIA-III, Rohtak and was entrusted with the investigation of the present case on 07.07.2003. He recorded the statement of Asha and other witnesses under Section 161 Cr.P.C. He also arrested all the accused in the present case and also proved on record the recoveries from them. Even all these witnesses were subjected to lengthy cross-examinations, but their testimonies could not be shattered in any manner.

24. Even otherwise, we have carefully perused the findings recorded by the trial Court and the trial Court has discussed the evidence led by both the sides in detail and after due appreciation of evidence, all the four appellants have been found to be guilty. Even in the present case, the substantive evidence of Asha, PW19 was duly corroborated by medical evidence and there was no dispute with regard to identity of the accused in the present case. Even, all the witnesses of the prosecution had supported the case of the prosecution and we find no reasons to interfere with the findings recorded by the trial Court.



25. As a consequence, finding no merits in the present case, the same is ordered to be dismissed.
26. Case property, if any, be dealt with and destroyed after the expiry of period of limitation for filing the appeal, in accordance with law.
27. The trial Court record be sent back.

(N.S.SHEKHAWAT)
JUDGE

(SUKHVINDER KAUR)
JUDGE

28.10.2025
hemlata

Whether speaking/reasoned : Yes
Whether reportable : Yes