

CRA-677-DBA-2004

2025:PHHC:089454-DB



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-677-DBA-2004

Reserved on:17.07.2025

Date of Pronouncement:21.07.2025

State of Haryana

.....Appellant

V/s

Chet Ram and ors.

...Respondents

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Munish Sharma, DAG, Haryana.

Mr. Ashwani Bakshi, Advocate, for the respondents.

JASJIT SINGH BEDI, J.

The present appeal has been filed against the judgment of acquittal dated 27.08.2003 passed by the Additional District & Sessions Judge (Adhoc), Jhajjar.

2. The FIR in the present case came to be registered on 11.05.2002. The judgment of acquittal was passed on 27.08.2003. The present appeal has been filed on 02.12.2003 and has come up for final hearing now i.e. after a period of 23 years having elapsed from the date of the registration of the FIR.

3. Today, at the very outset, the learned State counsel has referred to the order dated 28.05.2025 and submits that since the respondent No.1-Chet Ram, respondent No.5-Mahabir, respondent No.6-Rajbir and



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respondent No.8-Nanha @ Satbir have since expired and the appeal qua them may be abated.

4. In view of the submission made by the learned counsel for the State, the present appeal qua respondent No.1-Chet Ram, respondent No.5-Mahabir, respondent No.6-Rajbir and respondent No.8-Nanha @ Satbir stands abated.

5. Briefly stated the facts of the case are that the complainant Ram Niwas son of Sukhi Ram resident of village Goyalan Kalan was having some dispute regarding some agricultural land with Bal Mukand son of Digh Ram resident of his village for the last some years. On 10.5.2002 at about 8.30 p.m. Nahna son of Deep Chand came to the house of the complainant when he and his brother Rajbir were present in their house. Nahna took Rajbir with him to his house saying that he wanted to take his shop on rent. The complainant kept on waiting for the return of Rajbir but he did not come back. Therefore, he left his house in the early morning at about 3.00 am. in search of Rajbir and when he came out of his village he heard the noise of some person shouting "Bachao-Bachao" from the side of Bani of village kherka Gujar. So, he rushed towards that place in the Bani and when he came near the spot in the Bani he saw the accused Chet Ram, Rishipal and Mahabir all residents of village Goyalan Kalan having caught hold of his brother Rajbir in the field of Jagdev while the accused Mukesh, Vijaypal and Rajbir resident of Goyalan Kalan who were having *lathies* in their hands, and Ajit who was having a *jaily* in his hand were giving beating to Rajbir.



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Ajit gave a *jaily* blow to Rajbir on his left leg below the knee (*Pindli*) while Mukesh, Vijay and Rajbir accused gave *lathi* blows to him on his back, hands and legs. Seeing them giving injuries to Rajbir, the complainant raised a *lalkara* as to why they were beating his brother on which Chet Ram exhorted his co-accused that he has to be beaten. The complainant ran away from there out of fear for his safety and came to the village. Then he told Rajender his cousin and Teka son of Moti Ram residents of the village about the occurrence and then accompanied by them he returned to the spot. However, the accused persons were not there while the dead body of Rajbir was lying at the spot. In the meantime many persons from the village also turned up. The complainant left Rajender and Teka near the dead body and went to the Police Post Dulhera for reporting the matter to the police accompanied by Raj Kumar son of Amar Singh. During the night he could not come to the Police Post out of the fear of the accused persons. After reaching the Police Post Dulhera he reported the matter to Chand Ram, S.I. who recorded his statement Ex.PA. It was read over to him and he put his signature thereon. Chand Ram, S.I. then made his endst. Ex.PA/2 and send the same to the Police Station on which formal FIR Ex.PA/I was recorded by Bijender Singh, ASI in Police station Sadar Bahadurgarh.

6. Chand Ram, S.I. went to the spot on his motorcycle in the field of Jagdev accompanied by two constables and inspected the site. He saw the dead body lying there. He prepared the inquest report Ex.PE of the dead body and picked up the blood stained earth from the spot which was sealed



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into a sealed parcel and taken into possession vide recovery memo Ex.PH. The rough site plan Ex.PBB was also prepared of the place of occurrence and the body was sent to the hospital for Post Mortem examination through Tara Chand and Rajesh constables. Dr.Kashmir Singh the Medical Officer, Civil Hospital, Bahadurgarh in association with Dr.N.K.Mundra and Dr. Anil Rathi conducted the Post Mortem examination on the dead body of Rajbir on 11.05.2002. He sealed the *paijama* of the deceased with his seal and that sealed parcel was handed over to Tara Chand, Constable with the Post Mortem examination report and inquest papers duly signed by him. Tara Chand delivered the same to Chand Ram S.I. the Investigating Officer who took the same into possession vide recovery memo Ex.PD. The same day he arrested Nahna, Vijaypal and Chet Ram accused and interrogated them on which Vijaypal accused made the disclosure statement Ex.PK stating that he had kept concealed the *lathi* in the bushes of Bani of Village kherka Gujar and could get the same recovered. Chet Ram also made the disclosure statement Ex.PJ stating that he could point out the place where the dead body of Rajbir was left after the occurrence. Nahna @ Satbir accused made a disclosure statement Ex.PL is to the effect that in conspiracy with his co-accused he had brought Rajbir to the field of Jagdev near the Bani and served him liquor and when he was almost out of his senses, he had left the place on the excuse of bringing more liquor and the accused persons who were hiding themselves at a nearby place came and attacked him. He also disclosed that he could point out the place where liquor was served to the



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deceased. Those disclosure statements were signed by the accused Satbir and Chet Ram and thumb marked by Vijaypal accused. On the next day Vijaypal took the police party and the witnesses to the stated place in the Bani and in pursuance of the disclosure statement already made got recovered the lathi from the bushes. The rough sketch Ex.PM of the lathi was prepared and it was sealed and taken into possession vide recovery memo Ex.PN. The rough site plan Ex PCC of the place of recovery of lathi was also prepared. Vijaypal, Nahna and Chet Ram then pointed out the place of occurrence turn by turn and Chand Ram, S.I. prepared the demarcation memo.Ex.PJ/1 regarding the demarcation made by Chet Ram while the demarcation memo Ex.PK/1 and Ex.PL/1 were prepared regarding the demarcation made by Vijay & Nahna @ Satbir accused respectively. The memos were attested by Naresh and Hari Dass, Pws. On 13.05.2002, the remaining five accused Mahabir, Rajbir, Ajit, Rishipal and Mukesh were arrested by Chand Ram, S.I. who were produced before him by Nambardar of village Goyalán Kalan. Then he interrogated them on which Rajbir accused made the disclosure statement Ex.PO that a *lathi* had been kept concealed by him in the bushes in the Bani of villager Kheraka Gujar and that he could get the same recovered. Thereafter, Ajit made disclosure statement Ex.PQ that he had kept concealed the *lathi* in the bushes in the Bani and could get the same recovered. Mukesh also made a similar disclosure statement Ex.PR that he had kept concealed a *lathi* in the bushes in the Bani of Kherka Gujar and could get the same recovered. On 15.05.2002 the accused led the police



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party with witnesses to the said Bani and first of all Mukesh took the police party and the witnesses to the place of concealment of his *lathi* and got recovered the same from there. Its rough sketch Ex.PS was prepared and it was sealed and taken into possession vide recovery memo Ex.PS/1 and the rough site plan Ex.PS/2 of that place was prepared. Then Rajbir got recovered the lathi from the bushes and its rough sketch Ex.PU was prepared and it was also sealed and taken into possession vide recovery memo.Ex.PU/1. The rough site plan of that place Ex.PU/2 was also prepared. Thereafter, Ajit got recovered the *jaily* from the bushes and its rough sketch Ex.PT was prepared and it was sealed and taken into possession vide recovery memo Ex.PT/1. The rough site plan Ex.PT/2 of the place of recovery was also prepared. Thereafter, all of them took the police party and the witnesses to the place of occurrence and individually demarcated the place of occurrence on which demarcation memo. Ex.PK was prepared on the demarcation of Rajbir while demarcation memos Ex.PY, Ex.PAA and Ex.PZ were prepared on the demarcation made by Ajit, Rishipal and Mukesh respectively. After sending the sealed parcel of blood stained earth and the sealed parcel of *paijama* of the deceased to the laboratory and after completion of the investigation the accused were challaned.

7. On receipt of the case after commitment the document relied upon by the prosecution were perused and a prima facie case under section 148/149/302 IPC having been made out against the accused, they were



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charged accordingly to which they pleaded not guilty and claimed to be tried.

8. In support of its case, the prosecution examined 13 witnesses in all. PW-1/Ram Niwas-complainant was examined as PW-1. His version has already been narrated above.

PW-2/Bhim Singh, Inspector, prepared the challan after completion of the investigation. PW-3/Karan Singh, was posted as MHC with whom Chand Ram, S.I. deposited a sealed parcel of clothes of the deceased and a sealed parcel of blood stained on earth for keeping the same in safe custody. He handed over the same to Roshan Lal, Constable, PW4 for taking the same to FSL Madhuban on 28.05.2002 vide RC No.291 and he deposited the same there. Their affidavits Ex.PB and Ex. PC show that seals on the sample remained intact till the sample reached the chemical examiner. Bijender Singh, ASI recorded FIR Ex.PA/2 on receipt of statement Ex.PA of the complainant recorded by Chand Ram, ASI and sent to the police station through Niranjana Singh Constable. PW6/Tara Chand took the dead body to the Civil Hospital, Bahadurgarh for obtaining Post Mortem examination. After the Post Mortem examination the doctor handed over to him a sealed parcel of the *paijama* of the deceased at 3.30 p.m. and he handed over the same to Chand Ram, S.I. alongwith Post Mortem report and inquest paper duly signed by him and the sealed parcel was taken into possession vide recovery memo Ex.PD. He also deposed that he left the spot with the dead body for Hospital at 11.00/11.15 a.m. and that the police party had reached



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at the spot at about 9.00 am. PW-7/Mahabir Constable took the special report to the Magistrate and delivered the same to him at about 01:15 pm. The special report was handed over to him at 11:00/11:30 am. PW-10/Dhani Ram, Patwari Halqa prepared the scaled site plan Ex.PG on 08.06.2002 at the pointing out of the Investigating officer.

Teka son of Moti Ram was examined as PW-8. He deposed that on 11.05.2002 Ram Niwas came to him in his *Baithak* in the early morning where he and Rajender were sleeping and told them that Rajbir had been given injuries in the Bani by the accused persons. They both accompanied him to the spot and saw the dead body of Rajbir lying there in the field of Jagdev. As it was still dark they stayed there till day break. Rajbir was having injuries all over his body. The Police arrived at the spot at 9.00 a.m. and inquest was prepared. He identified the dead body. Hari Ram, PW-11 nephew of the deceased deposed that on 11.05.2002 he and his uncle Naresh were present at the spot with the police. The investigating officer picked up blood stained earth from the spot and it was sealed into a sealed parcel with seal RS and the sealed parcel was taken into possession vide recovery memo. Ex.PH. The seal after use was handed over to him. Thereafter, they met the Investigating officer at the Bus stop of their village when the three accused Chet Ram, Satbir and Vijaypal were in police custody. They were interrogated in their presence on which Chet Ram made the disclosure statement stating *inter alia* that he could point out the place where the dead body was left. His disclosure statement is Ex.PJ which was signed by them



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and attested by them. Then Vijay was interrogated and he also made the disclosure statement that he could point out the place where dead body was left after the occurrence. He further disclosed that he had kept concealed the lathi under the bushes in the Bani of Village Khera Gujar and could get the same recovered. Thereafter, Satbir @ Nahna was interrogated on which he made disclosure statement Ex.PL to the effect that in pursuant of the conspiracy with his co-accused he brought Rajbir in the field of Jagdev near the Bani and served him liquor and that when he was almost out of senses he left the place on the excuse of bringing more liquor and then the accused person who were hiding at a nearby place attacked him. He also disclosed that he could point out the place where liquor was served to him. Then all the three accused took the police party and the witnesses to the stated place and pointed out the place where dead body was left. Demarcation memos Ex.PJ/1, Ex.PK/1 and Ex.PL/1 were prepared on the demarcations made by Chet Ram, Vijaypal and Satbir respectively. On the next day Vijaypal led the police party and the witnesses to the Bani and got recovered the *lathi* from under the bushes and its rough sketch Ex.PM was prepared and it was sealed and taken into possession vide recovery memo Ex.PN. PW-12/Narian, son of Ram Niwas deposed about the disclosure statements, recovery and *nishandehi* of the place of occurrence by the accused Rajbir, Mahabir, Ajit, Rishipal and Mukesh who were arrested later on 13.05.2002. The Investigating Officer recorded their statements regarding the manner in which the occurrence took place and who participated in it. They all made



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the disclosure statements that they had kept concealed their *lathies* and *jaily* and that they could get the same recovered. The disclosure statements of Rajbir, Ajit and Mukesh were recorded vide memo Ex. PO, Ex. PQ and Ex.PR. Then in pursuant of their disclosure sure statements the accused Rajbir, Ajit and Mukesh got recovered the *lathies* and *jaily* from the stated places. The same were sealed and taken into possession vide recovery memos. Ex. PU/I, Ex. PT/1 and Ex. PS/1. The site plan of the places of recovery Ex. PU/2, Ex. PT/2 and Ex. PS/2 were prepared. The accused also demarcated the place of occurrence and demarcation memos Ex. PU, Ex. PZ, Ex. PAA, Ex. PY and Ex. PX were prepared on the demarcation made by Rajbir, Mukesh, Rishipal, Ajit and Mahabir respectively.

Chand Ram, S.I. who investigated the case, appeared as PW-13 and deposed about the details of the investigation conducted by him. He recorded the statement Ex. PA of the complainant and got registered this case. Then he visited the spot, prepared the inquest report, picked up blood stained earth and obtained the post mortem examination over the dead body. On the same day he arrested Chet Ram, Vijaypal and Nahna and recorded their disclosure statements mentioned above and also got effected the recovery of *lathi* from Vijaypal accused on the next day. Then, on 13.05.2002, he arrested the remaining five accused, interrogated them, recorded their disclosure statement and got recovered the weapons of offence and also obtained the demarcation of the place of occurrence by each of the accused.



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PW-9/Dr. Kashmir Singh conducted the post mortem examination over the dead body of Rajbir deceased with Dr. N.K. Maundra and Dr. Anil Rathi. He found bruises and contusions with abrasions over the face, chest and posterior aspect of the scalp over right side. Both bones of the forearm were found fractured with swelling. There were multiple contusions with abrasions over the left forearm which were dark pink to bluish in colour. There were multiple contusions and abrasions on the back and buttocks which were dark pinkish to bluish in colour. Some ribs of right side of chest had sustained fracture. There were contusions over the scrotum and over right and left thigh anterior and posterior aspects. Bilateral both bones of legs were fractured and blood clot was present with mud swelling on dissection liver was found ruptured over posterior aspect of left lobe and over the junction of right and left lobe. Abdominal cavity was full of blood. The cause of death was due to shock and haemorrhage as a result of injury to vital organs and the same were antemortem in nature and sufficient to cause death. The post mortem report is Ex. PF. The post mortem examination was conducted on police request Ex.PF/1

The prosecution also placed on record the report Ex.PEE of FSL Madhuban showing that there were blood stains of human origin on the pajama of the deceased. The blood stained earth also contained human blood.

9. In their examination under section 313 Cr.P.C. the accused stated that it was a false case they had been falsely implicated. Deceased



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Rajbir was a man of quarrelsome nature. Many civil and criminal type of cases were pending against him and his brother Ram Niwas. They had no concern with this case. This false case had been planted upon them to grab their land. They were innocent. The accused, however led no evidence in defence.

10. Based on the evidence led, the accused-respondents came to be acquitted vide judgment dated 27.08.2003 passed by the Additional District & Sessions Judge (Adhoc), Jhajjar.

11. The aforementioned judgment is under challenge before this Court.

12. The learned counsel for the appellant-State contends that there is no delay in the registration of the FIR. The occurrence took place on 10.05.2002 at about 8.30 p.m. The statement of the complainant was recorded on 11.05.2002 at about 8:30 am at Police Post Dulhera and the Special Report reached the Illaqa Magistrate at 01:15 pm. The conduct of the complainant in not interfering when his brother was being beaten up does not create a doubt in the prosecution case because he has stated in his deposition that on account of fear, he had seen the occurrence and had fled away from the spot. The medical evidence is totally in consonance with the ocular account. *Lathis* and a *jaily* were recovered from the accused. He, thus, contends that the impugned judgment of acquittal dated 27.08.2003 is liable to be set aside and the surviving accused-respondents No.2 to 4 and 7,



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namely, Vijaypal, Rishipal, Mukesh and Ajit be convicted of the charges framed against them.

13. The learned counsel for the accused-respondents No.2 to 4 and 7 contends that the conduct of the complainant-Ram Niwas/PW-1 in not interfering when his brother was being beaten up belies his presence at the spot and shows that he is not an eye-witness. There is a significant delay in the registration of the FIR. As per the complainant-Ram Niwas, he had had seen the occurrence at about 8.30 p.m. on 10.05.2002. However, no attempt was made by him to approach the investigating agency up until 8.30 a.m. when his statement was recorded at Police Post Dulhera on 11.05.2002 and the special report reached the Illaqa Magistrate at 01:15 pm. This delay is fatal to the prosecution case and shows that this eye-version account has been created by the investigating agency. The weapons recovered from the accused were not sent for forensic analysis to ascertain any bloodstain on them. The view taken by the Trial Court in acquitting the accused is a possible view and not perverse so as to warrant interference by this Court. He, thus, contends that the present appeal against the acquittal of the accused-respondents No.2 to 4 and 7 is liable to be dismissed.

14. We have heard the learned counsel for the parties.

15. A perusal of the statement of the complainant would reveal that it is against normal human conduct. There was no necessity of taking the deceased to some other place for the purpose of taking his shop on rent. He was taken at about 8.30 p.m. and yet the complainant did not deem it



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appropriate to go to the house of Nanha to look for the deceased when he did not return back home in time. Instead, he came out of the village in his search and started going towards the Bani. There was no reason for him to have gone there instead of searching for him in the village itself. It is strange that he went such a long distance during the night without any information that Rajbir had been taken towards Bani. So his version in this behalf appears to be quite unnatural. It is again unnatural behaviour when he saw the accused persons beating his brother with *lathies* and *jaily* and he still returned silently to the village simply on the threats given to him that he would also be beaten. While running away from the spot he could have raised an alarm but according to him while returning to the village he raised no alarm even after reaching the village. *Harizan* basti was falling on the way and he could have called persons from there. He did not disclose anything at his house even though he had grown up sons nor did he disclose anything to the sons and wife of the deceased and went a long distance to the house of Rajender and Teka where he and Rajender were sleeping. Teka had grown up sons and Rajender was also having grown up children but nothing was disclosed to them. After hearing the complainant, both Teka and Rajender accompanied him with a *lathi* and *jaily* and the complainant was still unarmed despite knowing that the accused were seven in number and all armed.

Strangely, after reaching the spot at 3.30 am., they saw none of the accused there but only the dead body of Rajbir. They sat silently at the



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spot upto 5.00 am. None else was called nor any information was sent to the house of deceased or to any other person. The occurrence took place in the month of May and people in the village start moving about 4.00 am. or 4.30 am. for going to their fields for answering the call of nature. Admittedly, the people of the village used to go to the Bani for easing themselves. The Police Post Dulhera was about 2 km from the village of the complainant. Naresh and Jai Bhagwan were real brothers of the complainant. He had two grown up sons Hari Dass aged about 22 years and Narain aged about 19 years. Still he went silently at 3.00 am. to the house of Teka which was 6-7 houses away from his house. Teka had five sons. He could have easily sent one or two persons to the police station and others could have come to the spot. But none was sent for reporting the matter to the police at 3.30 a.m. nor was anybody in the village informed. Even after 5.00 a.m. the complainant did not go to the Police Post directly for reporting the matter to the police. Instead he went to the village in search of Rajkumar for taking him alongwith to the Police Post. The Police Post Dulhera was about 2 k.m. from the village of the complainant as already mentioned and anybody could have accompanied him. Rajkumar was not available at his house at 5.00 am. He had gone to his field. So the complainant went to his field. Yet, from the field they did not go straight to the police station for lodging the report. As the report was made at 8.30 a.m. the story regarding search for Rajkumar was concocted for covering the delay.



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In the FIR it was stated that the complainant accompanied by Teka and Rajender reached at the spot (at 3.30 a.m.) and in the meantime many persons of the village had also arrived at the spot. But in the witness box he stated that upto 5.00 am. no other person arrived at the spot. So the delay does not stand explained. The FIR could have been lodged at 3.30 am. and fear of the accused persons is no excuse for not having gone to the police. There were 8-10 persons of a young age besides the complainant, his two brothers and two cousins in the family and so no one could have prevented them from going to the police.

Thus, apparently, the occurrence took place on 10.05.2002 at 8.30 p.m., the statement was made to the police on 11.05.2002 at 8.30 a.m. and the special report reached the Illaqa Magistrate at 01:15 p.m.. This unexplained delay is fatal to the prosecution case.

16. The prosecution has also relied upon on the recovery of the weapons of offence. The three accused Chet Ram, Rishipal and Mahabir were having no weapon. The allegations against them were that they were catching hold of the deceased while the others were inflicting *lathi* blows and Ajit gave a *jaily* blow thrustwise. Nahna had left the spot after serving liquor. Thus, Vijaypal, Mukesh and Rajbir got recovered *lathies* in pursuant of their disclosure statements while Ajit got recovered the *jaily*. Its one prong was found broken. There is no penetrating injury on the person of the deceased, though, the complainant stated that he had inflicted a *jaily* blow



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thrust wise. Therefore, the medical evidence is contrary to the ocular account.

17. The recovered *lathies* were branches of *kabli kikar*. Though, they were sealed and taken into possession but were not sent to FSL, Madhuban for detection of any blood. Therefore, they cannot be connected to the offence in question, moreso, when no independent person was joined either at the time of recording the disclosure statement or at the time of recovery.

18. As to how an appeal against a judgment of acquittal is to be dealt with, the Hon'ble Supreme Court in ***Kallu @ Masih & Ors. Vs. State of Madhya Pradesh 2006(1) RCR (Criminal) 427*** has held as under:-

“ 8. While deciding an appeal against acquittal, the power of the Appellate Court is no less than the power exercised while hearing appeals against conviction. In both types of appeals, the power exists to review the entire evidence. However, one significant difference is that an order of acquittal will not be interfered with, by an appellate court, where the judgment of the trial court is based on evidence and the view taken is reasonable and plausible. It will not reverse the decision of the trial court merely because a different view is possible. The appellate court will also bear in mind that there is a presumption of innocence in favour of the accused and the accused is entitled to get the benefit of any doubt. Further if it decides to interfere, it should assign reasons for differing with the decision of the trial court.”



19. In view of the aforementioned discussion and keeping in view the law laid down in *Kallu @ Masih & Ors. Case (supra)*, we find no reason to interfere with the well reasoned judgment dated 27.08.2023 passed by the Additional District & Sessions Judge (Adhoc), Jhajjar, whereby the respondents (including respondent No.1-Chet Ram, respondent No.5-Mahabir, respondent No.6-Rajbir and respondent No.8-Nanha @ Satbir, since deceased) have been acquitted. Therefore, the present appeal stands dismissed.

20. The pending applications, if any, stand disposed of accordingly.

(JASJIT SINGH BEDI)
JUDGE

(GURVINDER SINGH GILL)
JUDGE

21.07.2025
Sukhipreet

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