

2025:PHHC:155589-DB



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

SR. NO.104

**CRA-D-711-DBA-2004 (O&M)
RESERVED ON:10.11.2025
DATE OF DECISION:11.11.2025**

STATE OF HARYANA

...APPELLANT(S)

VERSUS

RAJU AND ANOTHER

...RESPONDENT(S)

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

Present: Mr. Parmod Kumar, AAG, Haryana.

Mr. Rahul Vats, Advocate and
Mr. KPS Virk, Advocate/Amicus Curiae
for the respondents.

N.S. SHEKHAWAT, J.

1. By way of the instant appeal, the State of Haryana has challenged the legality of the judgment dated 05.12.2003 passed by the Additional District & Sessions Judge (Adhoc), Jhajjar, whereby the accused/respondents have been acquitted of the charge under Sections 302/404/34 IPC and under Section 25 of the Arms Act.

2. The FIR Ex. PL/2 in the present case was registered on the basis of the statement Ex. PL made by Raj Kumar son of Puran Singh, cousin of Jasbir Singh, (since deceased) and the said statement has been reproduced below:-

“To,
The S.H.O.
P.S. Jhajjar

Sir,

I Rajkumar S/o Puran Singh caste Jat am resident of village Parnala P.S. Line Par. I do the work of agriculture. Jasbir, son of my Tau Charan Singh, has purchased one Maruti Car No. DL 3CC 3330. He plys it on rent. The normal abusing and beating of my brother Jasbir with Manoj S/o Sube Singh caste Kumhar took place about three months ago. Compromise between them was got effected. There was no such matter. Yesterday on 14-7-2002 at about 5 o'clock, I and my cousin brother Daya Chand S/o Kanwal Singh and Jasbir S/o Charan Singh were present at our house. Then our co-villager Raj s/o Om Chamar and Manoj s/o Sube Singh Kumhar came and said to Jasbir that your car is to be booked and we have to go to village Chadhwana. We will back in about 4 hours. Rs.700/- was fixed as rent for this and after fixing the rent and went away in our presence. When today morning they did not reach home then I, my Tau Charan Singh and Fateh Singh went from home at about 10 o'clock in search of Jasbir. When we reached Kosli Road Fatehpuri turning to go to village Fetehpuri to Chadhwana then local people were discussing that the dead body of one young boy is lying on the pathway of Drain No. 8, about 1 km away from the road. Upon getting this information, we reached there. Then saw that the dead body of my brother Jasbir is lying on the pathway. His neck from the front side and mouth was cut with sharp weapon and the dead body is lying with dirty vest. Lot of blood is lying near the dead body. Manoj and Raj Singh has committed the murder of my brother Jasbir with sharp weapon and took away his car, purse, watch, clothes, shoes, money and Mobile Phone which is used to keep.

I have left my Tau Charan Singh and Fete Singh near the dead body for safety. Legal action be taken.

Sd/-
Applicant
Raj Kumar S/o Puran Singh
Jat Parnala.”

3. After registration of the FIR , SI Sumer Singh went to the place of recovery of dead body in the area of Fatehpuri, where dead body of Jasbir was lying. Fateh Singh and Charan Singh were also present near the dead body. After conducting the investigation at the place of recovery, he also prepared the inquest report Ex.PY and recorded the statements of the witnesses, who were acquainted with the facts of the case. Thereafter by moving an application, the post-mortem of the dead body was got conducted from Dr. Arun Joshi-- and the site plan was also prepared.

4. On receipt of secret information with regard to the presence of both the accused, on 15.07.2002 Rajender Singh SI stopped a Maruti Car, which was driven by Raju @ Raj Singh-respondent No.1 and Manoj-respondent No. 2 was sitting by his side on the front seat. Both of them were interrogated by the police and they disclosed their names as Manoj and Raj Singh @ Raju. Even their shoes were blood-stained and pant of Manoj was having blood-stains. During investigation, one pistol of .315 bore was recovered from Manoj, which was taken into possession by preparing the memo. Even shoes of Raj Singh were also sealed separately and the Maruti Car was also taken into possession by the police. The rough site plan Ex.PN of the place of occurrence was prepared and the case property was handed over to MHC for safe custody.

5. Again Ranbir Singh, Inspector, Sumer Singh SI and Suraj Bhan

HC took out the accused from the police lock-up and interrogated them

again. In pursuance of their respective disclosure statements, Raju @ Raj Singh got recovered a wrist watch, an electric wire of about 3 meters in length, one pant of white colour and one t-shirt of grey colour and the same were sealed and were taken into possession. Thereafter, Manoj took the police party to a place near drain and got recovered one *ustra* (sharp-edged knife, which is used by barbers), one purse containing DL and some currency notes, one mobile phone and the articles were taken into possession. After conducting usual investigation, the challan was prepared against the accused and was presented before the court of Area Magistrate. Even sanction was obtained from District Magistrate for prosecuting Manoj-respondent No. 2 under Section 25 of the Arms Act and the case property was sent to FSL, Madhuban for chemical examination and other tests. Since, the case was exclusively triable by the Court of Sessions, the challan was committed to the Sessions Court and finding a prima facie case under Sections 302/404/34 IPC and Section 25 of the Arms Act, charge was framed against the accused. However, the respondents pleaded not guilty and claimed trial.

6. During the course of trial, the prosecution examined 18 witnesses, namely Suraj Bhan as PW-1, Sajjan Kumar, Patwari Halqa as PW-2, HC Rattan Lal as PW-3, C. Umed Singh as PW-4, Braham Parkash, ASI as PW-5, Satya Parkash Kaushik, Reader to Deputy Commissioner as PW-6, Raj Kumar as PW-7, Daya Chand as PW-8, Charan Singh as PW-9, Rajender Singh, SI/SHO as PW-10, HC Surender as PW-11, HC Vijay Singh as PW-12, HC Rattan Singh as PW-13, HC Raj Kumar as PW-15, Dhanpat as PW-16, Sumer Singh, SI as PW-17 and Mahender Singh, SI as PW-18.

7. After concluding the evidence by the prosecution, the statement of accused/respondents were recorded under Section 313 Cr.P.C. and the entire incriminating evidence was put to them. However, in their defence, both the respondents stated that they had been falsely implicated in the present case and had no connection with the crime in question. Even, both the respondents opted to lead evidence, but no witness was examined. Only the statement of HC Braham Parkash, which was recorded under Section 161 Cr.P.C., was exhibited as Ex. DA.

8. Learned counsel appearing on behalf of the State-appellant has vehemently argued that in the present case, there was sufficient evidence to establish that there was prior enmity between the accused and Jasbir (since deceased). PW-7 Raj Kumar had specifically deposed that in July 2002, a dispute had taken place between the accused and the deceased, however, the matter was resolved amicably. Even after resolution of the dispute, the accused were having a grudge against the deceased and the trial Court had not correctly appreciated the evidence in this regard.

9. Learned State counsel next submitted that there is no denying the fact that both the respondents/accused were last seen in the company of Jasbir (since deceased) by Daya Chand. Even Daya Chand had categorically deposed that both the respondents had come to the house of the deceased and had hired his car on the pretext of going to some other village. However, when the deceased did not return in the night, next morning his family started searching for him and it was a strong circumstance against the respondents/accused. Learned State Counsel further submitted that even though it was a case of circumstantial evidence, however, the chain of

crime beyond the shadow of reasonable doubt. Even the chain of circumstances was complete in all respect and led to only one hypothesis, which clearly proved the involvement of respondents in the crime and no other possibility was there. Apart from that, the articles belonging to the deceased were also recovered from the respondents/accused and such recovery was admissible under Section 27 of the Evidence Act.

10. On the other hand, learned Amicus Curiae as well as learned counsel appearing on behalf of the respondents have vehemently argued that it was a case based on circumstantial evidence and the trial Court had acquitted the respondents after taking into consideration the entire evidence. Still further, the onus was on the prosecution to prove that all links in the chain of circumstances were complete and the prosecution could not have relied upon the lacunas in the case of the defence and such pleas are not acceptable to the Court. Even the prosecution was bound to prove the case by leading certain and explicit evidence and the evidence led by the prosecution was so inherently weak that no presumption of guilt could be raised from the same.

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

12. In the present case, the case is based on circumstantial evidence and in such a matter, the onus is heavy on the prosecution to prove that only the accused tried by the trial court were involved in the crime. Even the circumstances placed on record by the prosecution have to be of a conclusive nature and tendency, and they should be such as to exclude every hypothesis but the one proposed to be proved and it must be such as to show

that within all human probability, the act was definitely done by the accused, who were tried by the court.

13. In the present case, we agree with the findings recorded by the trial Court that the story propounded by the prosecution seems to be improbable and unbelievable. As per prosecution version, the alleged occurrence had taken place on the night intervening 14/15.07.2002, when both the respondents/accused had allegedly taken away Jasbir in his car and they had left the house of the deceased together. However, the respondents were arrested by the police on 15.07.2002 after getting an information about the presence of both the accused. Even surprisingly, at the time of their arrest, the shoes and pant of Manoj were found to be blood-stained, whereas shoes of Raj Singh/accused were also blood-stained. It is equally unbelievable that the accused were roaming in the same area in the same snatched car, without even cleaning their clothes/shoes. Even they wanted to take away the car and to sell the same, still they chose to roam in the same area for the last more than 24 hours. Still further, even the manner, in which the offence was allegedly committed, was also highly unbelievable.

14. The prosecution tried to highlight the manner of committing the crime by recording two disclosure statements Ex. PA and Ex. PB of both the respondents. However, again the said story does not inspire confidence. It has been mentioned that the plastic wire had been placed around the neck of Jasbir and it was pulled by the accused and it was difficult for him to get rid of it. However, if Manoj had sat on his chest, his hands were free and he could have resisted the causing of injuries on his neck and other parts of the body with the help of *Ustra* (knife). Further, Manoj had allegedly inflicted

incised wounds, two lacerated wounds and many contusions of lacerations all over the body. Apart from that, it is also noticed that Jasbir was having a fracture at the face bone, which was not possible by the use of *ustra*. Still further, we agree with the findings recorded by the trial Court that in the present case, the prosecution had utterly failed to prove the motive to commit the crime. It has been alleged that Jasbir (since deceased) had a quarrel with Manoj-respondent and there was exchange of blows between both the parties. However, the matter was compromised at village level.

15. The prosecution could not lead any evidence to show as to when the occurrence had taken place nor any other documentary/oral evidence could be led with regard to said fight. Even if it is assumed that a quarrel had occurred between the parties a few days earlier, still there was no question of the respondents coming to the deceased for hiring the taxi and even the deceased would not have agreed to accompany them with his taxi. Apart from that, it is hard to believe that for going a village at a distance of 40 kms, the respondents had agreed to pay a sum of Rs. 700/- and especially when the respondents belonged to extremely poor families.

16. It has been held by the Hon'ble Supreme Court in the matter of **“Bhaskarrao and others Vs. State of Maharashtra”, 2018 AIR (Supreme Court) 2222; 2018 (5) RCR (Criminal) 228** as follows:-

*“14. As the trial court and High Court, having appreciated the evidence on record, has come to diametrically opposite conclusions, mandating herein to observe certain witness statements which may have an important bearing in this case. In the processes of appreciating the evidence at the appellate stage, we need to keep in mind the views of this court as expressed in **Tota Singh and Anr. v. State of Punjab, 1987(2) RCR (Criminal) 35 : 1987 CriLJ 974** -*

"The High Court has not found in its judgment that the reasons given by the learned Sessions Judge for discarding the testimony of PW2 and PW6 were either unreasonable or perverse. What the High Court has done is to make an independent reappraisal of the evidence on its own and to set aside the acquittal merely on the ground that as a result of such reappraisal, the High Court was inclined to reach a conclusion different from the one recorded by the learned Sessions Judge. This Court has repeatedly pointed out that the mere fact that the Appellate Court is inclined on a reappraisal of the evidence to reach a conclusion which is at variance with the one recorded in the order of acquittal passed by the Court below will not constitute a valid and sufficient ground for setting aside the acquittal. The jurisdiction of the Appellate Court in dealing with an appeal against an order of acquittal is circumscribed by the limitation that no interference is to be made with the order of acquittal unless the approach made by the lower Court to the consideration of the evidence in the case is vitiated by some manifest illegality or the conclusion recorded by the Court below is such which could not have been possibly arrived at by any court acting reasonably and judiciously and is, therefore, liable to be characterized as perverse. Where two views are possible on an appraisal of the evidence adduced in the case and the court below has taken a view which is plausible one, the Appellate Court cannot legally interfere with an order of acquittal even if it is of the opinion that the view taken by the Court below on its consideration of the evidence is erroneous."

15. In **Ramesh Babulal Doshi v. State of Gujarat, 1997(3) RCR (Criminal) 62 : 1996 CriLJ 2867**, this Court observed:

"This Court has repeatedly laid down that the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to

interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellate court answers the above question in the negative the order of acquittal is not to be disturbed."

17. Keeping in view the above referred discussion and the law laid down by the Hon'ble Supreme Court, it can be safely concluded that the impugned judgment by the learned trial Court is based on sound reasons and there does not seem to be any illegality or perversity in the impugned judgment. Accordingly, the present appeal is ordered to be dismissed, being devoid of any merits. Pending application(s), if any, shall also stand disposed off, accordingly.

(N.S. SHEKHAWAT)
JUDGE

(SUKHVINDER KAUR)
JUDGE

11.11.2025
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO