



CRA-D-51-DBA-2005

-1-

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

**CRA-D-51-DBA-2005
Date of Decision: 18.07.2025**

STATE OF HARYANA

.. Appellant

Versus

VIRENDER

...Respondent

CRR-1356-2004

RAN SINGH

.. Petitioner

Versus

STATE OF HARYANA & OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Munish Sharma, DAG, Haryana
for the appellant in CRA-D-51-DBA-2005.

Mr. Harkanwar Jeet Singh, Advocate (Amicus Curiae)
for the respondent in CRA-D-51-DBA-2005 and
Mr. Viren Sibal, Advocate (Amicus Curiae)
for the petitioner in CRR-1356-2004.

JASJIT SINGH BEDI, J.

This order shall dispose of one criminal appeal and one revision
i.e. CRA-D-51-DBA-2005 preferred by the State against the acquittal of
respondent and CRR-1356-2004 preferred by the injured Ran Singh
challenging the acquittal of respondent.

2. The FIR was registered on 23.12.2002, the judgment of acquittal
passed by the Addl. Sessions Judge (Ad Hoc) Jhajjar is dated 17.04.2004, the



CRA-D-51-DBA-2005

-2-

appeal was filed on 15.07.2004 and the matter is being taken up for hearing now after a period of 22 ½ years of the registration of the FIR.

3. For the sake of convenience, the facts being are taken from CRA-D-51-DBA-2005.

4. Briefly stated the facts of the case are that on 22.12.2002 a telephonic message was received from Police Station Sadar, Bahadurgarh in Police Post Asauda that one Ran Singh son of Chunni Lal resident of village Asauda was brought in Civil Hospital, Bahadurgarh (referred to PGI) having gunshot injury and that immediate action be taken and the ruqa and the medico legal report be collected from the Police Station. Ranbir Singh, ASI, Police Post Asauda went to PGIMS, Rohtak accompanied by Satpal, HC and Sanjeet Kumar, constable after collecting the medical ruqa and the medico legal report from the Police Station Sadar, Bahadurgarh. After reaching PGIMS Rohtak, he moved an application Ex. PJ for ascertaining whether the injured was fit to make a statement or not. The doctor opined that the injured was not fit to make a statement. However, he met Jogender Singh son of Tara Chand resident of Asauda in the hospital with the injured Ran Singh and so he recorded his statement Ex. PE to the effect that he was employed at the Parle Factory and was also doing cultivation of land in the village. On 22.12.2002 at about 8.00 p.m. he and his uncle Rajender were watering their wheat crop in their field known as Naiya Wali while his uncle Ram Singh was sitting near the tubewell motor. Suddenly they heard the noise of Ran Singh shouting ' Mar Diya' 'Mar Diya'. So they both rushed to him and Ran

**CRA-D-51-DBA-2005****-3-**

Singh told them that the accused had Virender fired a pistol shot at him and had ran away. He was having a firearm injury at the left side of his chest and was bleeding. They brought him to the village in their tractor and from the Bus stand a car was hired and the injured was taken to the Civil Hospital Bahadurgarh where he was medically examined and then he was referred to PGIMS Rohtak. So he was taken there and was got admitted in that hospital. His statement Ex. PE was read over to him and the complainant Jogender Singh put his signatures thereon. Ranbir Singh, ASI then made his endst. Ex.PE/1 at and sent the same to the Police Station through Sanjeet Kumar, constable for the registration of the case on which formal FIR Ex. PE/2 was recorded by Kartar Singh, ASI. Ranbir Singh, ASI then accompanied the complainant to the spot and inspected the site. He picked up bloodstained earth from the spot which was sealed and taken into possession vide recovery memo Ex. PF. The rough site plan Ex. PK with marginal notes in his hand was also prepared by him. After the spot investigation, he again went to PGIMS Rohtak on 23.12.2002 and obtained the opinion of the doctor at about 1.45 p.m. as to whether, the injured was fit to make a statement or not. The doctor declared him fit to make a statement and so the statement of Ran Singh injured was recorded under section 161 Cr.P.C.

5. On 27.12.2002 Ranbir Singh, ASI went to village Asauda in search of the accused where he met Anil brother of the accused and he produced the accused before him and he was arrested in this case. On 28.12.2002 Ranbir Singh, ASI, Dharampal Singh, HC, Sanjeet, HC etc. went

**CRA-D-51-DBA-2005****-4-**

to Police Station and associated Sanjeet PW8 with them who met them at the gate of Railway Station. They took out the accused from the Police lock-up and interrogated him on which he made the disclosure statement that he had kept concealed the pistol used by him in occurrence in the Jhundas behind the wall of J.S. Middle school wrapped in a polythene bag and could get the same recovered. It was signed by him and attested by aforesaid witnesses. In pursuant of that disclosure statement, he got recovered the pistol from the stated place. The rough sketch Ex. PH/1 of the pistol was prepared and it was sealed and taken into possession vide recovery memo Ex. PH. The rough site plan Ex.PL of the place of recovery was also prepared. After sending the case property to FSL Madhuban and completion of the investigation the accused was challaned.

6. On commitment a prima facie case under section 307 IPC and 25 of the Arms Act having been made out against the accused, he was charged accordingly to which he pleaded not guilty and claimed trial.

7. The prosecution, in support of its case examined 9 witnesses. Dr. K.K. Jakhar who medico legally examined Ran Singh son of Chunni Lal resident of village Aasauda appeared as PW-1 and found multiple holes in the clothes of the injured corresponding to the injuries. The pulse rate and the B.P. was unrecordable and the clothes were having blood stains. A lacerated wound was present on the lower part of the chest and lateral part of right side and fresh bleeding was present. There were multiple small circular shape wounds about 30 in number present around that wound in a circular manner. The duration of injury was within one hour and the injured was referred to

**CRA-D-51-DBA-2005****-5-**

PGIMS Rohtak for the surgeon's opinion and management. His medico legal report is Ex.PA. He also sent ruqa Ex. PB to the Police Station for the information of the Police. The Patwari Halqa who visited the spot and prepared the scaled site plan Ex. PC appeared as PW2 while Satay Parkash proved the sanction order Ex.PD passed by the District Magistrate, Jhajjar for the prosecution of the accused under Section 25 of the Arms Act. He appeared as PW3. The affidavit Ex.PM of Karan Singh, MHC was placed on record to the effect that on 28.12.2002 Ranbir Singh, ASI deposited with him the sealed parcels of the bloodstained earth and one parcel of the pistol and that on 17.01.2003 he handed over the same to Ved Parkash, constable vide RC No.47 for taking the same to FSL Madhuban and that during the period the sample remained with him and nobody tampered with the seal. Ved Parkash appeared as PW6 and supported that version. According to him he took the samples to FSL Madhuban and deposited the same in the laboratory and on his return to the Police station he handed over the receipt to Karan Singh, MHC in the Police Station and during the period the sample remained with him nobody tampered with the seals.

8. Joginder Singh, complainant appeared as PW4 and deposed that on the date of occurrence he and his uncle Rajender were watering his wheat crop in the field known as Naiya Wali. That field was some 8 or 9 killas away from the tubewell motor. Ran Singh his another uncle was sitting near the motor. At about 8.00p.m. they heard the alarm of Ran Singh. He and Rajender went to that place but by the time they reached, the assailant had

**CRA-D-51-DBA-2005****-6-**

already left and they could not see him. They noticed some injuries on the person of Ran Singh and so they brought him to the village in their tractor. From the Bus stop of the village some car was hired and he was taken to Civil Hospital, Bahadurgarh where he was got admitted. The doctor medically examined him and sent a ruqa to the Police Station regarding his arrival. He had referred the injured to the Hospital PGIMS Rohtak and that fact was also mentioned in the ruqa. So he was taken there and Police recorded his statement Ex.PE in that behalf. He, however, stated that neither Ran Singh told them the name of the assailant nor they made any enquiry from him in that behalf because they were in a hurry to take him to the hospital. The Public Prosecutor got him declared hostile and leading questions were put to him. In reply he deposed that he had made no statement before the police that Ran Singh had told them that he was given injuries by Virender accused. He, however, deposed that bloodstained earth was picked up from the spot in his presence and that it was sealed and taken into possession vide recovery memo Ex.PF. Rajender Singh appeared as PW5 and deposed that on the date of occurrence about a year ago he and Joginder were watering their field when they heard the alarm of Ran Singh and so they went there. They saw that Ran Singh was having some injuries on his person and so they brought him to the village in their tractor and from there he was taken to Civil Hospital, Bahadurgarh in a car. He further deposed that neither the injured told them the name of his assailant nor they made any enquiry from him in that behalf. Ran Singh injured however, supported the prosecution

**CRA-D-51-DBA-2005****-7-**

case deposing as PW7 that on 22.12.2002 he was sitting near the engine in the field on 8-30 p.m. and he had lit a fire being winter days. At that time, the accused Virender came to him and wished him and then he fired at him with the revolver in his hand and thereafter, he ran away. The fire caused injuries to him on his ribs. He raised an alarm on which Joginder and Rajender came running when they were 5-6 killas away watering their field. They took him to the Bus Stand of their village and from there they hired a Maruti car and he was taken to Civil Hospital, Bahadurgarh. The doctor at Bahadurgarh examined him and gave him one injection and thereafter, he was referred to PGIMS Rohtak where he remained admitted for 21 days. On 23rd he was declared fit to make a statement and so the Police officer recorded his statement u/s 161 Cr.P.C. He also deposed that the accused was his grandson in collateral relationship and that some 4-5 years ago they had some dispute over drain water and proceedings u/s 107 Cr.P.C also took place between them.

9. Ranbir Singh, ASI who investigated the case appeared as PW9 and deposed that on 23.12.2002 he received a telephonic message from Police Station Sadar, Bahadurgarh in Police Post Aasauda that one Ran Singh had been brought in an injured condition to the hospital at Bahadurgarh. He came to the Police station and obtained the medical ruqa and the MLR of the injured and as the injured had been referred to PGIMS, Rohtak he went there and moved application Ex. PJ for ascertaining as to whether the injured was fit to make a statement or not. The doctor opined vide his report Ex. PJ/1 that

**CRA-D-51-DBA-2005****-8-**

he was not fit to make a statement. So he recorded the statement of Joginder who was available in the hospital, got this case registered and visited the spot and prepared the rough site plan Ex.PK. He also lifted blood stained earth from the spot which was taken into possession vide recovery memo Ex. PF. After spot investigation he again returned to PGIMS, Rohtak and at about 1.45p.m. on 23.12.2002 he recorded the statement of the injured as the doctor declared him fit to make the statement. He further deposed that on 27.12.2002 he had gone to village Asauda in search of the accused when he was produced by his brother Anil before him and he was arrested in this case. On 28.12.2002 he, Dharampal and Sanjit, Head constables went to the Police Station and associated Sanjit, PW from the gate of the Police Station and in their presence the accused was taken out of the Police lock-up and was interrogated on which he made the disclosure statement Ex. PG that he had kept concealed a revolver in the Jundas wrapped in a polythene bag and then in pursuance of that disclosure statement he got recovered the pistol. The rough sketch Ex. PH/1 thereof was prepared and it was sealed and taken into possession vide recovery memo Ex. PH. The site plan Ex.PL of the place of recovery was also prepared with marginal notes. Sanjit, PW8 has corroborated that version.

The prosecution also placed on record the report of the laboratory (Ex.PN) showing that bloodstained earth contained human blood. The pistol sent to the FSL was found to be in working order and product of combustion of smoke less powder were detected from the barrel of the



CRA-D-51-DBA-2005

-9-

countrymade pistol. It had been fired through but the time of its last firing could not be detected.

10. In his examination under section 313 Cr.P.C. the accused stated that it was a false case and he had been implicated falsely.

11. Based on the evidence led, the accused/respondent was acquitted by the Court of Addl. Sessions Judge (Ad Hoc) Jhajjar vide judgment dated 17.04.2004.

12. It is the aforementioned judgment of acquittal which is under challenge in the present appeal.

13. The learned counsel for the appellant-State and the petitioner, injured Ran Singh in CRR-1356-2004 contend that even though PW4-Joginder Singh and PW5-Rajinder Singh did not support the prosecution case, the version of the injured Ran Singh (PW7) is consistent regarding how the occurrence took place. The medical evidence of PW1-Dr. K.K. Jakhar is consistent with the ocular account of injuries being caused by a firearm. As per the FSL Report a country-made pistol recovered from the accused was found to be in working condition. They, thus contend that the impugned judgment of acquittal of accused/respondent be set aside and the accused be convicted of the offence for which he has been charge-sheeted.

14. On the other hand, the learned Amicus Curiae representing the respondent/accused contends that two material prosecution witnesses namely PW4-Joginder Singh and PW5-Rajinder Singh did not support the prosecution case. Though, the injured is stated to have been referred to

**CRA-D-51-DBA-2005****-10-**

PGIMS Rohtak, no doctor from that hospital was examined to substantiate the prosecution case of Ran Singh having received injuries with a 12 bore country-made pistol. The FSL report only says that the weapon is a firearm in working condition and therefore cannot be connected with the offence in question. He, thus contends that the appeal against acquittal filed by the State and the revision petition filed by the injured Ran Singh are liable to be dismissed.

15. We have heard the learned counsel for the parties and gone through the record.

16. The prosecution case is based entirely upon the evidence of the injured Ran Singh himself without any evidence of any other eyewitness. The complainant/Joginder Singh and his uncle Rajender were some 8 killas away from the spot where the injured was sitting and as it was about 8 PM on 22.12.2002 they could not see the assailant. They had not claimed to have seen the assailant either in the FIR or in the statement of Rajender recorded under Section 161 Cr.P.C. In those statements they mentioned that the injured told them as they reached him on his alarm that the accused had caused him an injury with a pistol. But while deposing in Court both of them failed to support that version. They deposed that as they were in a hurry to remove the injured to the hospital neither they enquired from the injured who caused him injury nor the injured told them who inflicted the injury on him. Hence, there is no corroboration to the statement of the injured. The complainant is the nephew of the injured while Rajender is brother of the injured in collateral

**CRA-D-51-DBA-2005****-11-**

relationship. Yet, they failed to support the prosecution versions. The injured was an old man of about 60 years of age. There is no evidence that he had any share in the land or was cultivating the same. Therefore, there is little evidence as to why he had gone to the field on a winter night.

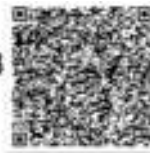
17. The doctor did not take out any pellet from his body either at Bahadurgarh or at PGIMS Rohtak. The doctor at Bahadurgarh noticed about 30 wounds in circular shape on the ribs of the injured but no pellet was taken out. According to the injured, only one shot was fired at him by the accused and then he ran away. He was referred to PGIMS Rohtak where he remained lying admitted for several days. But neither any doctor from that hospital was cited as a witness nor was any such doctor examined. This creates a doubt about whether Ran Singh was taken to PGIMS Rohtak and remained admitted there. As already mentioned, no pellet was taken out nor any handed over to the police. No X-ray was conducted the doctor so advising. In the witness box, Dr. K.K. Jakhar (PW1) deposed that he saw no pellet or bullet in any injury nor he noticed any metallic foreign body in any injury. When the injury was caused from a 3-4 feet distance as deposed by the complainant, there would certainly have been pellets embedded in the body. The doctor (PW1) stated that he noticed lacerated wound 2cm x 1cm on the right chest lower part with multiple small circular wounds around that wound. In case it was a bullet injury, the bullet would, in all probability be in the wound as the shot fired was from a close range. There was no exit wound. The depth of wound was not mentioned. No cloth of the injured was taken into possession

**CRA-D-51-DBA-2005****-12-**

or sent for Forensic Science Laboratory. Therefore, so there is no evidence that there were any bullet hole or pellet hole in the shirt or baniyan etc. Non-examination of the doctor of PGIMS Rohtak and not taking the shirt etc. of the injured into possession for sending the same to FSL create a doubt that there was no injury with any firearm.

18. There was no light in the field where the injured was sitting but he stated that he had lit a fire as it was winter season. There is no mention that he had lit a fire either in the FIR or in his statement under Section 161 Cr.P.C. Therefore, it is an improvement made by him in that behalf to establish the identity of the accused. Injured Ran Singh was taken to Civil Hospital, Bahadurgarh and he was conscious. Three-four persons were with him in the car and Police Post Aasauda was falling on the way. But no report was lodged with the police. When the doctor had referred him to PGIMS Rohtak again they passed through Aasauda but at that time too no report was lodged. The injured could have been taken to the hospital by some persons and one or two person could have gone to the Police Station for reporting the matter. But no such steps were taken.

19. The recovery of the pistol is also not free from doubt. The disclosure statement was recorded in the presence of Sanjit son of the injured and Dharampal, HC. The recovery was also effected in their presence. Neither any independent person was associated at the time of interrogation nor at the time of recovery. The interrogation took place at Police Post Aasauda when the Nambardar, Sarpanch etc. could have been called for the



CRA-D-51-DBA-2005

-13-

purpose but no such steps were taken. No such person was taken with the police party when the recovery was effected. So when independent persons were available, their non-joining in such proceedings creates a doubt in the prosecution case in the peculiar facts and circumstances of the case.

20. 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.”

21. 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 of acquittal passed by the Court of Addl. Sessions Judge (Ad Hoc) Jhajjar. Therefore, the appeal stands dismissed.

**CRA-D-51-DBA-2005**

-14-

22. **CRR-1356-2004**

In view of the fact that the State appeal against the judgment of acquittal stands dismissed, the instant revision petition challenging the acquittal also stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

(GURVINDER SINGH GILL)
JUDGE

18.07.2025

JITESH

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