



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

**CRM-2616-2014 &
CRM-2617-2014 in/and
CRM-A-113-MA-2014
Date of decision: 07.01.2025**

BANT SINGH

...APPLICANT/APPELLANT

V/S

KESAR SINGH AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Arzoo Modi, Advocate
for the applicant/appellant.

Mr. Shubham Chander, Advocate
for the respondents.

HARPREET SINGH BRAR, J. (ORAL)

CRM-2616-2014

This is an application for condonation of delay of 530 days in
filing the present application.

For the reasons mentioned in the application, same is allowed.

Delay of 530 days in filing the appeal is hereby condoned.

CRM-2617-2014

This is an application for placing on record the order dated
15.10.2013 passed by learned Additional Sessions Judge, Sangrur as Annexure
A-1.

For the reasons mentioned in the application, same is allowed.



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Order dated 15.10.2013 passed by learned Additional Sessions Judge, Sangrur is taken on record as Annexure A-1 subject to all just exceptions.

MAIN CASE

1. The present application is preferred against the judgment of acquittal dated 24.03.2012 passed by learned Judicial Magistrate Ist Class, Malerkotla, in a complaint filed under Sections 452/323/506/34 of IPC registered at Police Station Ahmedgarh.

2. The brief facts of present complaint as per complainant are that on 21.07.2006 at about 11.00 A.M. he was taking tea, his other family members were in busy in other household works and in the meantime, respondent No.1/accused Kesar Singh having *soti* (stick), accused Balraj Singh (since deceased) having *soti* (Stick), raised *lalkara* that today he will be taught "Numberdari" and could not escape today. Then all the accused Kesar Singh, Balraj Singh (since deceased), Billu (respondent No.3 herein), Ramzan @ Yaki (respondent No.4 herein), Shakila and Harmate forcibly entered in his house by abusing and having *soties* (Sticks). Accused Kesar Singh gave him *soti* blow which hit on his thumb of his left hand. Accused Balraj Singh (since deceased) gave him *soti* blow on his back of his left arm and when he fell down the other accused gave him fist blows, kick blows and sticks blows. Accused Billu caught hold him from his legs and accused Ramzan @ Yaki lift him from shoulder and made scheme to take him outside the house to kill him. Then on raising hue and cry, his sister-in-law Sinder Kaur and his brother Baljit Singh and Jagdev Singh son of Jodh Singh resident of village Boparai Khurd Tehsil Raikot, District Ludhiana came out of the room and rescued him from the



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accused and all the accused ran away from his house along with their weapons. While running from the place, they proclaimed that they will see him another day. If on the spot, his brother and sister-in-law will not have come on the spot and would not have rescued him from the accused persons, then they would have killed him. Thereafter, his brother Baljit Singh on motorcycle took him to Civil Hospital, Ahmedgarh where he was medico-legally examined. After his admission in the Hospital, ruqa was sent to the Police Station Ahmedgarh, police came in the hospital and recorded his statement but no action was taken against the accused, which necessitated the filing of present complaint. The motive behind the above occurrence is that there is old enmity between him and accused, due to which, accused caused him injuries and non-action of police against the respondents-accused for the complainant to knock the door of the Court. Hence this complaint.

3. Having heard the learned counsel for the applicant/appellant and after perusing the record of the case with her able assistance, it transpires that the complainant stated that on 21.07.2006, the accused persons entered in his house and caused him injuries with their respective weapons but accused persons were six in number and in the MLR, only two injuries have been mentioned and the same are on non-vital part of his body. If six person start beating a person, it is not possible that the person will receive only two injuries. Further, the doctor has not mentioned the probable duration of injuries in the MLR. Moreover, the complainant said that he remained admitted in hospital for 7-8 days but there is no evidence brought on record in this regard. Furthermore, CW-3 Baljit Singh, in his testimony stated that the complainant was medico-legally examined in Civil Hospital, Malerkotla after 4-5 days,



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which is totally contradictory version of complainant as well as CW-1 Dr. Narinder Kumar that the medical examination was conducted at Civil Hospital, Ahmedgarh. Even, the x-ray report of the complainant has not been placed on the judicial file and no evidence has been brought on record about handing over the x-ray report to the police. Further, no evidence was placed on record regarding sending of ruqa to the police station. Furthermore, two other witnesses, namely, Jagdev Singh and Sinder Kaur have not been examined by the complainant to prove his versions and no any independent witness was examined. As a result, the evidence led by the prosecution do not inspire confidence of this Court.

4. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (See *H.D. Sundara and others vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023*; *Kali Ram vs. State of H.P., 1973 (2) SCC 808 and Chandrappa and others vs. State of Karnataka, (2007) 4 SCC 415*). A Division bench of this Court in the judgment passed in *State of Haryana vs. Ankit and others* passed in *CRM-A No.3 of 2022* decided on 06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

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5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant/appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

January 07, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |