

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-604-2023 (O&M)

Date of Reserved: 10.12.2025

Date of Pronouncement: 23.12.2025.

Manoj Kumar

....Applicant.

Versus

State of Punjab and others

...Respondents.

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Present: Ms. Preeti Singh, Advocate (Legal Aid Counsel)
for the applicant.

Ms. Pooja Nayar Sharma, DAG, Punjab.

Sukhvinder Kaur, J.

1. The appellant has preferred the instant appeal against judgment dated 02.03.2023, passed by learned Additional Sessions Judge, Ludhiana, vide which accused/ respondents No.2 to 4 have been acquitted.

2. The present FIR was registered on the statement of complainant Manoj Kumar and after completion of investigation, challan was presented against the accused on 28.2.2008. However, before presentation of challan, the complainant also filed his private complaint on 03.09.2007 and the said complaint was posted for preliminary evidence. After taking preliminary evidence, the learned Court passed the summoning order. However, vide order 01.09.2016 passed by learned Additional Sessions Judge, Ludhiana, the said summoning order in which accused were summoned, was set aside.

The complaint file was segregated and consigned to record room, as the state case was already pending. However, vide order dated 04.04.2017

passed in CRM-M 431-2017, titled as 'Manoj Kumar Vs. Yashpal and others', this Court directed the trial court to proceed with both the cases, while considering that both the cases were instituted on a police report. This Court in the said order also observed that the sum and substance and principle behind Section 210 Cr.P.C. is to avoid multiplicity of proceedings and rule out the possibility of conflicting judgments. This Court in fact set aside the order dated 01.09.2016 passed by learned Additional Sessions Judge, whereby the summoning order was set aside. In the light of order passed by this Court, the complaint case file was summoned and it was observed that there was no need to alter the charge and the application dated 31.10.2022 moved by the applicant for alteration of charge was dismissed and both the State case and complaint case were ordered to be clubbed together.

3. The present case was registered on the statement of complainant Manoj Kumar alleging that he was running a Floor Mill which was taken on rent from Yashpal and Gulshan Kumar (accused) and he was also regularly paying rent and also paying bill of electricity consumed by him. On 15.08.2007 he talked with Yashpal and Gulshan regarding the sale and purchase of premises in which Floor Mill was running. He was ready to pay Rs.5,00,000/- but Yashpal and Gulshan were demanding Rs.12,00,000/- and the said amount was out of his reach. Both accused gave him time of 10 days to vacate the premises. Thereafter, he filed civil suit in which stay was granted by the Court on 21.08.2007. On 28.08.2007 when the complainant alongwith his younger brother Sanjay came to close their shop and when they were just to proceed after closing the Floor Mill, accused Yashpal caught hold him from his neck and demanded the keys of the said premises.

Goldy and Yashpal had reached at the spot in Santro car bearing No. PB-10-BE-1665 and gave fist blow on his chest. Yashpal slapped him and when he refused to handover the keys. There were two other persons with Gulshan Kumar who on seeing the gathering of people fled away from the spot. When he raised alarm, Varinder Kumar Koffy, Randhir Singh, Councilor, Ravi Kumar and Bittu came at the spot. They caught hold of him from his collar and scuffled with him. On the basis of this statement, the present FIR was registered. In due course, the accused were arrested. On completion of investigation and other formalities report qua accused was submitted before learned Area Magistrate as required under Section 173(2) of Cr.P.C.

4. After finding a prima facie case against the accused, he was charge-sheeted for the offence punishable under Sections 448 read with Section 511 IPC, 364, 365, 506 read with Section 34 of IPC, to which they pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution has examined PW1 Sanjay, PW2 Varinder Kumar, PW3 Manoj Vohra, PW4 Retired Inspector Dalbir Singh, PW5 Retired Inspector Sukhwinder Singh, PW6 Retired Inspector Joginder Singh, PW7 Gurjeet Kaur.

6. Statements of the accused under Section 313 Cr.P.,C. were recorded in which all the incriminating evidence was put to them, which they denied and pleaded innocence and false implication. However, no defence evidence was led by the accused.

7. Learned trial Court held that prosecution had failed to prove its case against the accused beyond the reasonable doubt and acquitted the accused of the offences in the present case.

8. Aggrieved of the said decision, present appeal has been filed by the appellant challenging acquittal of the accused/ respondents No.2 to 4.

9. Learned counsel for the applicant vehemently contended that the trial Court has erroneously considered the version of the applicant as given in the complaint to be the improved version then in the FIR, inspite of the fact that the private complaint was lodged immediately after the incident when the applicant found that the police had not fairly recorded the crime scene in the FIR. The trial Court has given undue weightage to certain anomalies in the police proceedings regarding over writing and cutting of dates. The respondents/ accused have been given undue advantage due to the defects in the police investigation and has discarded the endeavours of the applicant made in his private complaint to bring on record the facts accurately. The evidence on record was not appreciated by the trial Court in the right prospective that in furtherance of their common intention accused attempted to commit criminal trespass by forcibly entering into Floor mill in possession of complainant Manoj Kumar with mala fide intention to grab the said property. He urged that all the prosecution witnesses examined by the prosecution were consistent in their testimony and there was aforesaid motive behind the occurrence. He prayed that present appeal be allowed, impugned judgment dated 02.03.2023 be set aside and accused be convicted for the offences as charged with and be punished in accordance with law.

10. We have heard learned counsel for the parties and have also perused the record.

11. As per the initial version of the complainant got recorded before the police Ex.PW3/A, on 29.08.2007 he alongwith his brother Sanjay had come to their Floor Mill for closing it and when they were locking the

said Mill, then accused Yashpal caught hold of him from his neck and tried to snatch keys of Mill from him. Yashpal and his son Goldy came in a car bearing No.B10-BE-1665 and they tried to snatch the keys with an intention to take forcible possession of the Mill. The other accomplices of Gulshan Kumar fled from the spot. Many people gathered there including Varinder Kumar Koffy, Randhir Singh, Sibia Councilor, Ravi Kant and Bittu. The accused scuffled with them and gave them beatings and on seeing the gathering fled from the spot. Thus, in the initial statement made by the complainant there were no such allegation that the accused had thrown him in the car with an intention to abduct or confine him, but in the private complaint filed by him, he improved his version and stated that on 28.8.2007 at about 9.30 PM accused Yash Pal, Gulshan Kumar and Goldi alongwith some anti-social elements came in the premises of Floor Mill and forcibly tried to dispossess him and they had come in Santro car and were armed with deadly weapons like Hockeys, base-balls alongwith two new locks. They attacked the complainant and started giving injuries to him. They wanted to take him to some other place with an intention to cause injuries and murder him. On their raising hue and cry, neighbourers came there and complainant was taken out of the car, in which the complainant had been abducted by the accused. Thus, by giving the aforesaid improved version, he tried to implicate more persons as accused.

12. There is also unexplained delay in registration of the present FIR. As per the prosecution, the alleged occurrence took place on 28.8.2007 at about 9/9.30 PM, whereas the present FIR was got registered on 30.8.2007.

13. PW3 Manoj Vohra admitted in his cross-examination that ASI Joginder Singh had reached at the spot after 5/10 minutes from 9.30 PM on 28.8.2007 and he, Varinder Kumar and Sanjay Kumar did not suffer any statement before ASI Joginder Singh when he reached at the spot. PW2 Varinder Kumar also admitted during his cross-examination that the PCR team had come at the spot on 28.08.2007 at about 9.30 P.M., but he Manoj and Sanjay did not make any statement to the police. PW1 Sanjay stated that on 28/29/30.08.2007 they did not give any statement to the police.

14. This is also not the case of the prosecution that the complainant was injured or was unconscious and was not in the condition to get his statement recorded. Thus despite the availability of the police at the spot after the incident, no statement was got recorded by the complainant, which raises the strong doubt that the FIR was got registered on 30.8.2007 after due manipulations.

15. This delay assumes more importance when there is cutting in the statement of complainant allegedly suffered with the investigating officer. Where the occurrence has been explained, the date has been changed as 29.08.2007 from 28.08.2007. Then there is cutting on date 29.08.2007 on the endorsement of investigating officer, where the date had been changed as 30.08.2007 from 29.08.2007. This fact was also admitted by PW3, that the date on the statement Ex. PW3/A had been mentioned as 30.08.2007 and at point C and E on Ex.PW3/A, the date had been changed from 28.08.2007 to 29.08.2007.

16. It has not been explained that why the date had been changed and by whom it had been changed. While appearing as PW3 Manoj Vohra, complainant admitted that statement Ex. PW3/A was recorded by him

during the night time on 28.08.2007 to the police. Learned trial Court has rightly held that, if it is taken to be true, then the whole case of the prosecution stands demolished, as in that statement he stated that yesterday, on 28.08.2007, the incident had occurred. Meaning thereby that he had got recorded his statement on 29.08.2007 and not on 28.08.2007 and due to this reason, the dates were changed from 28.08.2007 as 29.08.2007 and from 29.08.2007 to 30.08.2007.

17. PW3 stated that Santro car was taken into police possession on 28.08.2007, but as per recovery memo the said car had been taken into police possession on 31.08.2007 in the presence of Gulshan Kumar, the alleged eyewitness. Said Gulshan Kumar has also not been examined by the prosecution for the reasons best known to it.

18. The complainant nominated the same persons as accused in the complaint, which were nominated by him in his initial statement made before the police, but when he stepped into witness box during proceedings of this case, he nominated two more persons, while alleging that he came to know about those persons afterwards. Trial Court has rightly observed that his this version is not believable, as the FIR was registered in August, 2007, whereas the statement was suffered by the complainant in the year in August, 2022 and it has not been explained by the complainant that why names of those two persons, who were subsequently named by him were not disclosed for 15 long years. It shows that the complainant was trying to put forth the improved version.

19. The statement of complainant is also contradictory to the official witnesses examined by the prosecution. As per the complainant and eyewitness, police reached at the spot and thereafter, they went to the police

station, whereas PW6 Inspector Joginder Singh stated that on 30.08.2007, when they were on police picket duty, then complainant came there and suffered statement Ex PW6/A. He also stated that accused were arrested on 31.08.2007, but as per complainant and other eyewitnesses, when the police party reached at the spot, the accused persons were also there and even the Santro car was also standing there, which again engulfs the entire prosecution story in doubt.

20. In the instant case, keeping in view all the aforesaid discrepancies and snags the trial Court has rightly reached at the conclusion that the prosecution witnesses were not successful in bringing home guilt to the accused beyond the reasonable doubt and it becomes doubtful if the recovery took place in the mode and manner as alleged by the prosecution. So, the accused has been rightly acquitted by giving him the benefit of doubt.

21. It is well settled that judgment of acquittal should not be interfered with lightly. In the case of **Sadhu Saran Singh Vs. State of U.P. and others, 2016 (2) RCR (Criminal) 319**, the Hon'ble Supreme Court reiterated that generally an appeal against acquittal has always been altogether on a different pedestal from that of an appeal against the conviction. It was held that in an appeal against acquittal, where the presumption of innocence in favour of the accused is reinforced, the Appellate Court would interfere with the order of acquittal only when there was perversity of fact and law.

22. Learned counsel for the applicant was unable to point out any illegality, infirmity or perversity in the impugned decision dated 02.03.2023 which calls for interference.

23. In view of the above, no case is made out for grant of leave to appeal against acquittal of accused/ respondent. The application without having any merits stands dismissed and the leave to appeal is declined.
24. Pending applications, if any, also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

(ANOOP CHITKARA)
JUDGE

23.12.2025
Komal

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