

2025:PHHC:068132



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-1483-2008(O&M)

Date of Decision:-21.05.2025

Resham Singh & Ors.

.....Petitioners.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

**Present:- Mr. Jaiveer Singh, Advocate (Amicus Curiae)
for the Petitioners.**

**Mr. Harkanwar Jeet Singh, Assistant Advocate General,
Punjab.**

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed impugning the judgment dated 09.07.2008 passed by Additional Sessions Judge, (Fast Track Court), Bathinda whereby the appeal filed against the judgment of conviction and order of sentence dated 15.01.2007 passed by Sub Divisional Judicial Magistrate, Phul has been dismissed.

2. The FIR in the present case came to be registered on 22.11.2001. The judgment of conviction was passed on 15.01.2007 by the Sub Divisional Judicial Magistrate, Phul. The Appeal filed against the order of conviction was dismissed on 09.07.2008 by the Additional Sessions Judge, (Fast Track Court), Phul. The instant revision petition was filed on 08.08.2008 and has come up for final hearing now i.e. after a period of more than 23 years from the date of registration of the FIR.

3. During the pendency of the present revision petition

accused/petitioner no.1-Resham Singh has passed away and, therefore, the present revision petition qua him stands abated.

4. The brief facts of this case are that Kulbhushan Kumar complainant got recorded his statement before the police that on 22.11.2001 at 9.30 A.M. he was sitting at his shop as where he was running commission agency. He further stated that his Manager Jagdish Rai had already gone to the market. A Cielo car stopped before his shop and three unidentified persons came out of the said car. The 4th person remained seated in the car while the car remained started. All the three persons came into the shop. One person was wearing a red colour turban had a beard and was approximately 40 years old having blackish colour and this person was carrying a rifle. He described the identity of the other person alleging that he was of fair colour, was clean shaven and his height was 5.6-7" and his age was 25 to 30 years and this person was carrying a pistol and a bag, the zip of which was open. The 3rd person was slim and had wheatish colour and his age was approximately 25 to 30 years. He had wrapped his body with some cloth. The person carrying a bag directed the complainant to fill the bag with money, but the complainant informed to them that the key of the Almirah of cash was with the Manager. At this they snatched Rs.52,500/- and Mobile No.98140-16927 from him forcibly at gunpoint. While they were going back, they gave a threat that Rs.10 lacs be handed over to them at Bus Stand, Barnala otherwise they would not spare him. When these persons were leaving the shop, his Manager namely Jagdish Rai came who saw the car, on the backside of which "Zaildar" was written. All the accused went away in the car which was without a number. On the basis of these allegations, the FIR was registered. The spot was inspected and site plan was prepared. Statements of witnesses were recorded. The accused were arrested on

26.11.2001. Thereafter, disclosure statement of Mander Singh accused was recorded who disclosed that he along with Resham Singh, Bhanta Singh and Surjit Singh had gone on a Cielo Car to the shop of the complainant and had snatched Rs.4700/- and Mobile from the complainant and the same were kept concealed in the dicky of the car. Both these items were got recovered by Mander Singh by leading the police party. These items and the Cielo car were taken into police custody vide recovery memos. On completion of investigation, the challan was presented in the Court.

5. From a perusal of the documents on the record, prima facie case Under Section 382/454/506/34 IPC was made out against the accused. Charge was framed accordingly to which the accused pleaded not guilty and claimed trial.

6. In order to prove its case, the prosecution examined Parveen Kumar as PW1. Kulbhushan as PW2, Major Singh as PW3, ASI Bharat Singh as PW4, Lakhwinder Singh as PW-5 and HC Avtar Singh as PW-6.

7. After closure of prosecution evidence, statements of accused were recorded in which all the incriminating evidence was put to the accused who denied the allegations of the prosecution.

8. Based on the evidence led, the accused/petitioners came to be convicted and sentenced by the court of Sub Divisional Judicial Magistrate, Phul vide judgment and order of sentence dated 15.01.2007 as under:-

Offence under Section	Sentence	Fine	RI/SI in default of payment of fine
Section 382 IPC	RI for 03 Years each	Rs.3000/- each	RI for 03 Months each
Section 454 IPC	RI for 03 Years each	Rs.3000/- each	RI for 03 Months each
Section 506 IPC	RI for 01 Year each	Rs.1000/- each	RI for 01 Month each

All the aforesaid sentences were ordered to run concurrently.

8. The accused/petitioners preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, (Fast Track Court), Bathinda, vide judgment dated 09.07.2008.

9. The aforementioned judgments are under challenge in the present revision petition.

10. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated 22.10.2008.

11. The Counsel for the accused/petitioners contends that PW-3 Major Singh turned hostile and PW-4 ASI Bharat Singh never appeared in the court for his cross examination. Therefore, his testimony cannot be read in evidence. The evidence of PW-3 Major Singh is discrepant in material particulars. Further, there are numerous contradictions in the statements of PW-1 Parveen Kumar & PW-2 Kulbhushan, complainant. He thus contends that the present revision be allowed and the accused be acquitted of the charges framed against them.

12. The Counsel for the State on the other hand has placed on record the custody certificates of both petitioners dated 20.05.2025 as per which petitioner-Bhanta Singh @ Kulwant Singh has undergone custody period of 10 months and 09 days whereas petitioner-Mander Singh has undergone custody period of 09 months and 03 days. He contends that PW-2 Kulwinder (complainant) has reiterated the whole prosecution case. His testimony has been corroborated by that of PW-1 Parveen Kumar. Though, the witnesses have not leveled allegations against Surjit Singh since acquitted, however, the other accused have duly been identified as having committed the offence. PW-3 Major Singh has also proved the confessional statement made by all the accused except Surjit Singh. He thus contends that there is no merit in the present petition and the same is liable to be dismissed.

13. I have heard counsel for the parties.

14. PW2 Kulbhushan complainant has reiterated the prosecution case on oath and his testimony has been fully corroborated by PW-1 Parveen Kumar. The credibility of PW-1 and PW-2 during the cross-examination has not been shattered. Both these witnesses have proved beyond doubt that all the accused except Surjit Singh committed the offence punishable under Sections 382/454/506. Similarly, PW3 Major Singh has proved that confessional statement that was made by all the accused except Surjit Singh. Although, there are minor contradictions in the cross-examination of PW-1, PW-2 and PW-3 but nothing cogent has come on record which could create any doubt in the prosecution case. Minor contradictions are bound to occur with the span of time. These contradictions go to establish that PW-1, PW-2 and PW-3 have given a natural version of the incident in their testimony. PW3 Major Singh has turned hostile only with regard to the accused Surjit Singh, but this witness supported the prosecution case with regard to the confessional statement made by the other accused. Although, PW-4 ASI Bharat Singh failed to turn up for his cross-examination, yet his non-appearance for cross-examination does not create any doubt in the prosecution case particularly when PW-1, PW2 and PW3 have proved the case of the prosecution beyond the shadow of reasonable doubt. PW-5 has brought on record R.C. of car No.HR51-6860. PW-6 HC Avtar Singh has proved through his affidavit Ex.PW6/A that case property was remained intact in his possession.

10. In view of the above discussion, I find no merit in the present petition and the same stands dismissed.

15. As regards the imposition of sentence, it may be noted that the occurrence took place in the year 2001, the conviction was recorded on 15.01.2007, the appeal was dismissed by the Court of Additional Sessions

Judge, (Fast Track Court), Bathinda on 09.07.2008, the revision petition was filed on 07.08.2008 and has come up for hearing now after 24 years of the registration of the FIR. Therefore, while upholding their conviction, the sentence is modified as under:-

BHANTA SINGH @ KULWANT

Offence under Section	Sentence	Fine enhanced to	RI/SI in default of payment of fine
Section 382 IPC	10 months and 09 days i.e. the period already undergone by the accused	Rs.10,000/-	RI for 06 Months
Section 454 IPC	10 months and 09 days i.e. the period already undergone by the accused	Rs.5,000/-	RI for 06 Months
Section 506 IPC	RI for 01 Year	Rs.1000/-	RI for 01 Month

MANDER SINGH

Offence under Section	Sentence	Fine enhanced to	RI/SI in default of payment of fine
Section 382 IPC	09 months and 03 days i.e. the period already undergone by the accused	Rs.10,000/-	RI for 06 Months
Section 454 IPC	09 months and 03 days i.e. the period already undergone by the accused	Rs.5,000/-	RI for 06 Months
Section 506 IPC	RI for 01 Year	Rs.1000/-	RI for 01 Month

All the sentences shall run concurrently. Out of the aforesaid fine amount, Rs.20,000/- be paid as compensation to the complainant Kulbhushan Kumar.

26. The present revision petition stands disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

May 21, 2025
Vinay

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