

2025 PHHC:020900



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

CRR-2749-2008(O&M)

Date of Decision:-13.02.2025

Sultan Singh.

.....Petitioner.

Vs.

State of Haryana & Ors.

.....Respondents.

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

Present:- Mr. Aditya Sanghi, Advocate with
Mr. Ashwani Bhardwaj, Advocate &
Ms. Shaveta Sanghi, Advocate for the Petitioner
(through Video Conferencing).

Mr. Dharam Pal, AAG Haryana.

Mr. Kanisth Ganeriwala, Advocate for respondent nos.2 to 7.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been preferred against the judgment dated 09.08.2008 passed by Additional Sessions Judge, Fast Track Court, Sirsa whereby the appeal filed against the judgment of conviction and order of sentence dated 21/23.04.2004 passed by Judicial Magistrate Ist Class, Dabwali has been set aside.

2. The FIR in the present case came to be registered on 27.03.1996. The judgment of conviction was passed on 21/23.04.2004 by the Judicial Magistrate Ist Class, Dabwali. The Appeal filed against the order of conviction was allowed on 09.08.2008 by the Additional Sessions Judge, Fast Track Court, Sirsa. The instant revision petition was filed on

12.12.2008 and has come up for final hearing now i.e. after a period of 29 years from the date of registration of the FIR.

3. The prosecution case is that on 27.3.1996, on receipt of a medical ruqa regarding admission of Sultan Singh and Ram Kumar sons of Gurdayal, residents of village Malikpura, from CHC Dabwali, ASI Shish Ram along with Hans Raj, ASI, Gurdayal, ASI, HC Jaswant Singh, Constable Bal Kishan and Bharat Lal, went to CHC Dabwali in govt. Gypsy bearing registration No. HR03-9933 being driven by Constable Jagdish Chander and recorded the statement of Sultan Singh son of Gurdayal, resident of village Malikpura after obtaining the opinion from the doctor. He stated that Jagdev Singh, Jagseer Singh sons of Bakshish Singh, residents of village Malikpura and his relatives Kulwant Singh, Balwant Singh son of Dal Singh, Harcharan Singh son of Kulwant Singh, resident of village Khuian Malkana, Mahinder Singh, Taar Singh and 10-15 other persons came into their fields in a Maruti Car and a tractor trolley. They raised a Lalkara that "Bagrian Nu Le Lo Aur Kabja Kar Chadoo". He stated that the gun of his father was lying a little away on the tractor and when his father ran towards the tractor then Jagseer Singh took the gun. Thereafter, Jagdev Singh raised a Lalkara "DEKHTE KAYA HO BAGRIAN NU WADH DEO". He further stated that accused Jagdev Singh, Kulwant Singh, Balwant Singh etc., caused injuries to complainant Sultan, Ram Kumar son of Gurdayal, Gurdayal and Dharampal. The accused also abducted Gurdayal and Dharampal in their maruti car with an intention to eliminate them and they also took with them the tractor of the complainant. He further stated that the cause of ill-will was that there was some dispute regarding possession of some agricultural land, between him and the assailants.

4. On the basis of the statement of the complainant, the FIR was

registered. During investigation, statements of the witnesses were recorded, the Site plan was prepared. Accused Jagsir Singh, Kulwant Singh, Balwant Singh, Avtar Singh, Sukhmander Singh and Harcharan Singh were arrested. However, later on, they were released on bail. After completion of the investigation, challan against the accused Jagsir Singh, Kulwant Singh, Avtar Singh, Balwant Singh and Sukhmander Singh for the commission of offences punishable under Sections 148/342/364/326/324 323/ 308/ 379 read with Section 149 of the Indian Penal Code was filed in the Court whereas challan against accused Harcharan Singh was filed in the Juvenile Court as he was juvenile at the time of occurrence.

5. Since the offence under Section 308 IPC alleged against the accused was triable by the Court of Session, the present case was committed to the Court of Session vide order dated 2.4.1997. Thereafter, accused Jagdev Singh was summoned by the Court of learned Addl. Sessions Judge, Sirsa vide order dated 20.9.1997 passed on an application moved under Section 193 Cr.P.C. However, vide order dated 27.3.1998, the Addl. Sessions Judge, Sirsa sent this case to the Court of Chief Judicial Magistrate Sirsa for transferring the same to the Lower Court as it was held by the Court of Additional Sessions Judge, Sirsa that no offence under Section 308 of IPC was made out against the accused.

6. Since there existed a prima facie case for the commission of offences punishable under Sections 148/ 365/342/323/324/326/379 read with Section 149 of IPC, they were charge sheeted accordingly to which they pleaded not guilty and claimed trial. However, vide order dated 12.4.2002, charge under Section 325 IPC was also added.

7. In order to prove its case, the prosecution examined PW-1 Dr. R.K. Bishnoi, PW-2 Sultan son of Gurdayal Singh: PW3 Dharam Pal son of

Shri Surja Ram: PW4 Jagseer Singh, Patwari: PW5 SI Shish Rama PW6 SI Gurdayal Singh: PW7 Dr. Sandeep Kumar; PW8 Jai Kishan, Inspector (Retd.) and PW9 Ruli Chand son of Surja Ram. Apart from the oral evidence, the prosecution proved on record documents such as Ex.PW1/A X-ray report of Gurdial; Ex.PW1/ A1 to Ex.PW1/A3 X-ray films: Ex.PW1/B X-ray report of Sultan: Ex.PW1/C X-ray report of Dharma Pal; Ex.PW1/D X-ray report of Ram Kumar; Ex.PW2/A Statement of the complainant Sultan: Ex. PW5/A Application for obtaining the opinion from the doctor regarding Ex. PW5/B the fitness of the injured: Endorsement made on the application of the complainant: Ex.PW5/C FIR: Ex.PW5/D and Ex.PW5/E Recovery memos: Ex. PW5/F site plan; Ex.PW5/G and Ex.PW5/H application for conducting the medical examination of injured; Ex.PW5/J site plan; Ex.PW5/K and Ex.PW5/L recovery memos: Ex.PW5/M Disclosure statement: Ex.PW5/N Recovery Memo of gun; Ex.PW4/A Aksh Sizra; Ex.PW4/B Jamabandi for the year 1994-95; Ex.PW4/C Khasra Girdawari; Ex.PW7/A MLR of Sultan: Ex.PW7/B diagram; Ex.PW7/C MLR of Ram Kumar; Ex.PW7/D Diagram; Ex. PW7/E Ruqa; Ex.PW7/F Opinion regarding fitness of the injured; Ex.PW7/G & Ex.PW7/H Endorsements; Ex.PW7/J MLR of Dharampal Ex.PW7/K Diagram; Ex.PW7/L MLR of Gurdayal; Ex.PW7/M Diagram and Ex.PW7/N Declaration Report and Ex. P1 and Ex.P2 judgment and decree.

8. Statements of the accused under Section 313 Cr.P.C. were recorded, wherein they denied all the allegations against them. In their defence, they examined DW1 Harcharan Singh; DW2 Sohan Singh and DW-3 Neel Kamal Chhabra, Copyist and tendered documents Ex.D1 summoning order, Ex.D2 charge-sheet, Ex.D3 complaint and Ex.D4 judgment dt.

8.5.2003 passed in case State Vs. Jagsir Singh.

9. Based on the evidence led, the accused/respondent nos.2 to 7 came to be convicted and sentenced by the Court of Judicial Magistrate Ist Class, Dabwali vide judgment and order of sentence dated 21/23.04.2004 as under:-

Offence Section	under	Sentence RI/SI	Fine	RI/SI in default of payment of fine
148 IPC		RI for 06 Months each	Rs.500/- each	SI for 15 Days each
365 IPC		RI for 01 Year each	Rs.500/- each	SI for 15 Days each
326 IPC		RI for 01 Year each	Rs.1000/- each	SI for 01 Month each
325 IPC		RI for 06 Months each	Rs.200/- each	SI for 10 Days each
324 IPC		RI for 03 Months each	Rs.200/- each	SI for 10 Days each
323 IPC		RI for 01 Month each	Rs.100/- each	SI for 05 Days each

All the aforesaid sentences were ordered to run concurrently.

10. The accused/respondent nos.2 to 7 preferred an appeal which was allowed by the court of Additional Sessions Judge, Fast Track Court, Sirsa vide judgment dated 09.08.2008 setting aside the aforementioned judgment of conviction.

11. The complainant/petitioner has filed the instant revision petition impugning the aforementioned judgments of acquittal.

12. The Counsel for the complainant/petitioner contends that the judgment of the appellate Court is against law and facts and is based on conjectures and surmises. The appellate Court has not properly appreciated the evidence on record while acquitting the respondent nos.2 to 7. The medical evidence is totally in consonance with the ocular account. It has been established beyond doubt that the injured were caused injuries by the accused persons. Minor contradictions have been given undue importance. The Appellate Court failed to take notice of the fact that the Civil Court of original jurisdiction and the appellate Court has decided the issue of ownership and possession of land in dispute in favour of the complainant party and that finding could not have been ignored. In fact it was wrong for the appellate Court to hold that the complainant party was the aggressor side.

The co-accused of the respondent nos.2 to 7 namely Harcharan Singh was convicted by the Principal Magistrate, Juvenile Justice Board, Sirsa vide order dated 01.09.2006 and that order not having been challenged, the findings arrived at have attained finality affecting the facts of the present case as well. She, therefore, contends that the judgment of acquittal be set aside and the case be remanded back for a fresh adjudication.

13. The Counsel for the respondent nos.2 to 7 on the other hand contends that the medical evidence was contrary to the ocular account. It was the complainant party which was the aggressor side. The findings of the Civil Court in proceedings regarding possession cannot be looked into in evidence in a criminal trial and, therefore, has no relevance in the instant proceedings. There is a considerable delay in the registration of the FIR. The occurrence took place in the year 1996. Therefore, it would be an exercise in futility to remand the case back for a fresh adjudication after almost 30 years. He, therefore, contends that the present petition was liable to be dismissed.

14. I have heard Counsel for the parties.

15. As per the prosecution case Dharampal and Gurdial were kidnapped by the accused and were kept confined in the house of Jagseer Singh with intention to kill them but admittedly no beating was given to them at the house of Jagseer Singh.

It is alleged that Harcharan Singh had taken away the tractor owned by complainant party. However, this allegation becomes doubtful as he had received a grievous injury with a sharp edged weapon on his right hand, therefore, it was not possible for Harcharan Singh to have driven away the tractor in question.

As regards the arrival of Gurdial Singh and Dharampal in the

hospital, it may be pertinent to note that there is overwriting over the time of arrival. It shows that these injured had reached the hospital at 6:00 p.m. but by overwriting it shows that they reached the hospital at 9:00 p.m. The present occurrence had taken place in the day time but the statement of Sultan Singh was recorded at 7:15 p.m. and the special report of this case was sent to the Illaqa Magistrate at 12:05 a.m. It shows that the statement of the injured witness has not been recorded in the manner, as has been shown by the prosecution. These discrepancies in the timeline also create a doubt in the prosecution case.

The Investigating Officer has stated that he did not find blood either at the place of occurrence or at the house of Jagseer Singh where Gurdial Singh and Dharampal were confined. The injuries on the person of injured are superficial as has been stated by PW7. So far the injuries with a sharp edged weapon on the person of Gurdial are concerned, the same can be caused with a shaving blade.

No doubt a civil case regarding the place of occurrence has been decided in favour of the complainant party, however, the findings of the civil courts and criminal courts are independent of each other as has been held in *Iqbal Singh Marwah & Anr. Vs. Meenakshi Marwah & Anr. 2005(2) Supreme 549*.

Taking into consideration the aforesaid discussion I find that the view taken by the lower appellate court is a possible view and should not be interfered with in revisional jurisdiction.

16. In the instant case, another fact that cannot be lost sight of is that the FIR is dated 27.03.1996 and as many as 29 years have elapsed since the date of the registration of the FIR. Therefore, in addition to the grounds mentioned above, it would be grave injustice in case the case is remanded

back for fresh adjudication. Therefore, it would be in the fitness of things if a quietus is accorded to the dispute.

17. In view of the aforementioned discussion, the present petition stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

February 13, 2025
Vinay

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