

CRR-2795-2008 (O & M)

2025:PHHC:009474



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

(201)

CRR-2795-2008 (O&M)

Date of Decision: 22.01.2025

Palwinder Singh and anr.

... .Petitioners

Versus

State of Punjab

. ..Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Nandan Jindal, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed impugning the judgment dated 13.12.2008 passed by the Additional Sessions Judge, Sangrur whereby the appeal filed against the judgment of conviction and order of sentence dated 19.07.2004 passed by the Judicial Magistrate Ist Class, Malerkotla has been partly allowed.

2. The FIR in the present cases came to be registered on 27.01.2001. The judgment of conviction and order of sentence was passed on 19.07.2004. The appeal against the aforesaid judgment of conviction and order of sentence came to be partly allowed on 13.12.2008 by the Additional Sessions Judge, Sangrur. The present revision petition was filed on 22.12.2008 against the aforesaid judgments of conviction and order of



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sentence and has come up for final hearing now i.e. after a period of 23 years from the date of registration of the FIR.

3. In brief, the case of prosecution is that 22.01.2001 at 11.25 P.M, a telephonic on message was received from MHC Jaswant Singh, Police Station, Malerkotla at Kup Kalan that Ujaggar Singh resident of village Phalaund Khurd was admitted in Civil Hospital, Malerkotla. No Investigating Officer was present in the police post. C-I Ajaib Singh got DDR No. 17 recorded in police post Kup Kalan. On 23.01.2001, ASI Jatinder Pal Singh, Police Station Ahmedgarh alongwith Gurmeet Singh No. 1025 went to Civil Hospital, Malerkotla and received a copy of MLR No. RTS/23/2001 and got an opinion of the doctor regarding fitness of Ujaggar Singh. Ujaggar Singh made a statement that he was a resident of village Phalaund Khurd, Police Station Ahmedgarh, District Sangrur and an agriculturist. Earlier, he was in Army. They were five brothers and one sister, out of which two brothers had expired. They all were residing separately. His brother Gurmail Singh was a bachelor. Gurmail Singh had executed a Will pertaining to his property in his (complainant) as well as his nephew Harpreet Singh's favour. There was a dispute going on between him and Harpreet Singh. On 22.01.2001 at about 7-00 P.M, he was coming back to his house. His wife Baljit Kaur and his son Karmajit Singh were standing out side the gate of their house. The electric bulbs were on at that time. When he reached near his house, Harpreet Singh, Palwinder Singh sons of Mehar Singh, Mehar Singh son of Bakhatpur Singh and the son-in-law of



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Mehar Singh were standing there. Mehar Singh raised a *Lalkara*. He (complainant) tried to run towards his house but fell down on the ground. Palwinder Singh gave a *Gandasa* blow with its reverse side which struck on his right leg. Harpreet Singh also gave a blow with the reverse side of *Gandasa* striking on his left leg; Mehar Singh also gave a blow with *Gandasa* which struck his right arm. Then all the four accused inflicted injuries to him with their weapons. He shouted for help. His wife and son had seen the occurrence and they also shouted for help. All the accused fled away from the spot with their weapons. After that Chotta Singh, Sarpanch brought him to Civil Hospital, Malerkotla where he was medico legally examined. The motive behind the occurrence was that the accused was pressing him to withdraw the cases pending between them and due to that they caused injures to him. From the statement and copy of MLR eight injuries were mentioned on the person of complainant.

Injury No. 3 was declared as simple whereas other injuries were kept under observation. On 27-01-2001, the X ray report of Ujaggar Singh was received in which injuries No. 2,4,5,7 and 8 were declared as grievous. A case under Section 325/323/34 IPC was registered against the accused. During investigation, the Investigating Officer prepared the rough site plan of the place of the occurrence and recorded the statement of witnesses. The accused were arrested. During investigation, the accused admitted that they had thrown the weapons used in the occurrence in the Canal at village Kanganwal. Later on, on 09-02-2001, Doctor R.C. Thind declared injuries



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No.2,4,7,8 as grievous. When the accused inflicted injuries to the complainant, in the self-defence of Ujaggar Singh, accused-petitioner No.1/Palwinder Singh also suffered injuries. There were two injuries on the person of accused-petitioner No.1/Plawinder Singh which were declared simple. After completion of investigation challan against all the accused was presented in the court.

4) Charges against the accused were framed under Sections 325/323/34 IPC. Having pleaded not guilty to the charge, the prosecution examined PW-1 Ujaggar Singh (complainant), PW-2 Doctor RS Thind, Medical Officer, Civil Hospital Malerkotla, PW-3 Kamaljit Singh/eye witness, PW-4 Cr. Ajaib Singh, PW-5 Dr. Harpreet Singh, Medical Officer, PW-6 No. Gurmeet Singh, PW-7 ASI Anoop Singh and PW-8 ASI Jatinder Pal Singh..

5) In the statement of the accused under Section 313 Cr. P.C., all the incriminating material appearing against them was put to them and plea of accused was that they had been falsely implicated in this case. There was litigation pending between them and due to that the complainant got them implicated in this false case in connivance with police and doctors. The accused did not lead any evidence in defence.

6. Based on the evidence led, the accused/petitioners alongwith their co-convicts came to be convicted and sentenced by the Court of the Judicial Magistrate Ist Class, Malerkotla, vide judgment of conviction and order of sentence dated 19.07.2004 as under:-



Name of the accused	Offence U/S	Sentence RI/SI	Fine	In default
Harpreet Singh	325 IPC	RI 01 year	Rs.1,000/-	RI 03 months
	325/34 IPC	RI 09 months	Rs.500/-	RI 02 months
	323 IPC	RI 03 months	Rs.200/-	RI 01 month
Palwinder Singh	323 IPC	RI 01 year	Rs.1,000/-	RI 03 months
	325/34 IPC	RI 09 months	Rs.500/-	RI 02 months
	323 IPC	RI 03 months	Rs.200/-	RI 01 month
Mehar Singh	325 IPC	RI 01 year	Rs.1,000/-	RI 03 months
	325/34 IPC	RI 09 months	Rs.500/-	RI 01 month
	323 IPC	RI 03 months	Rs.200/-	RI 01 month
Baljit Singh	325/34 IPC	RI 09 months	Rs.500/-	RI 02 months
	323 IPC	RI 03 months	Rs.200/-	RI 01 months

All the sentences were ordered to run concurrently.

7. The accused-petitioners No.1 and 2 alongwith their co-convicts preferred an appeal which came to be partly allowed by the Court of Additional Sessions Judge, Sangrur, vide judgment dated 13.12.2008 whereby the accused-Baljit Singh was acquitted of the charges framed against him and the sentence of the accused-Mehar Singh was modified and he was ordered to be released on probation. However, the sentence awarded to the accused-petitioners No.1 and 2, namely, Palwinder Singh and Harpreet Singh was upheld.
8. The aforementioned judgments are under challenge in the present petition at the instance of the accused-petitioners.
9. During the pendency of the instant revision petition, the sentence of the accused-petitioners No.1 and 2 was suspended by this Court vide order dated 02.02.2009.



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10. The learned counsel for the accused-petitioners contends that the dispute is between the close family members. There is a delay of 42 days in the registration of the FIR which is fatal to the prosecution case. The medical evidence is contrary to the ocular account. No independent witness was examined. Therefore, the accused-petitioners were liable to be acquitted. In the alternative, it is prayed that as the occurrence was of the year 2001, they be released on probation or their sentence be reduced to the period already undergone by them.

11. The Counsel for the State, on the other hand, has filed separate custody certificates dated 21.01.2025 of the accused-petitioners, which are taken on record. As per the said custody certificates, the accused-petitioners have undergone 02 months and 21 days and 02 months 23 days respectively out of their substantive sentences. He contends that the complainant-injured Ujaggar Singh had received grievous injuries in the occurrence. There was no unexplained delay in the registration of the FIR. The motive was also established inasmuch as a civil dispute was pending between the parties. He, therefore, contends that the present revision petition was liable to be dismissed. Further, the nature of the allegations levelled against the accused-petitioners did not entitle them to the concession of either probation or reduction of their sentences.

12. I have heard the learned counsel for the parties and gone through the record.



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13. PW-2/Dr. R.S.Thind, Medical Officer, Civil Hospital Malerkotla deposed that on 22-01-2001, he was posted as Medical Officer in Civil Hospital, Malerkotla. The injured-Ujaggar Singh was brought by Chotta Singh, Sarpanch at 9.30 P.M. He found the following injuries on the person of Ujaggar Singh.

- 1) $\frac{1}{2}$ cm x $\frac{1}{2}$ cm wound on the anterior aspect of right knee above upper pole of patella. Bleeding was present from it and X-ray was advised.
- 2) 2 x $\frac{1}{2}$ cm abrasion on the shin of right tibia middle $\frac{1}{3}$ rd advised X-ray.
- 3) $\frac{1}{2}$ cm x 4 cm wound over the anterior aspect of left knee.
- 4) 1 x $\frac{1}{2}$ cm lacerated wound over the anterior aspect of left leg 10 cm below knee joint advised X-ray.
- 5) 1 cm x $\frac{1}{2}$ cm lacerated wound on the medial aspect of left leg 15 cm above medial below ankle joint. Advised X-ray.
- 6) 2 cm x 2 cm abrasion over anterior lateral aspect of left thigh 8 cm above the knee joint. Advised x-ray.
- 7) Bruise 8 cm x $\frac{1}{2}$ cm over anterior aspect of right thigh at distal $\frac{1}{3}$ rd advised X-ray.
- 8) 1 cm x $\frac{1}{2}$ cm wound on posteral aspect of right elbow advised X-ray.

He further deposed that all the injuries were with blunt weapons. Injuries No. 1,3 and 6 were simple in nature and injuries No. 2,4,5,7 and 8 were grievous in nature. He proved copy of MLR Ex. P3 and



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copy of pictorial skiagram showing the seats of injuries Ex. P4. He further proved his report regarding nature of injuries Ex. P5.

PW5 Dr.Harpreet Singh, Medical Officer deposed that on 23.01.2001, he declared Ujaggar Singh son of Bakhur Singh unfit to make statement at 3.10 P.M. He proved his report Ex. P6. On 24-01-2001, he declared Ujaggar Singh fit for statement at 12-30 P.M and proved his report Ex. P7. He further deposed that on 24-01-1001, he conducted X-ray examination of Ujaggar Singh and found following injuries:-

- 1) *X-ray right knee AP and lateral. No bony injury*
- 2) *X-ray right leg AP lateral. Fracture back fibula commanded without callus.*
- 3) & 5 *X-ray left leg AP and lateral. Fracture of tibia without callus.*
- 6) *X-ray right thigh AP and lateral. No bony injury.*
- 7) *X-ray right thigh AP and lateral. Fracture supra condylair area of femur without callus.*
- 8) *X-ray right elbow AP and lateral. Chip fracture of hummers.*

He proved X-ray report Ex. P-8 and X- ray films Ex. P-g to Ex. P15.

14. From the medical evidence, it stands established that the complainant-injured/Ujaggar Singh received grievous injuries at the hands of the accused-petitioners. Therefore, the medical evidence is totally in consonance with the ocular account.



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15. There is no unexplained delay in the registration of the FIR. The motive for the occurrence is on account of a Civil dispute regarding a Will pending between the parties. This motive further strengthens the case of the prosecution. Therefore, the commission of the offences by the accused-petitioners stands established beyond reasonable doubt.

16. In view of the above discussion, no fault can be found with the well-reasoned judgments of the Trial Court dated 19.07.2004 and the Lower Appellate Court dated 13.12.2008. Thus, the present petition stands dismissed.

17. As regards imposition of sentence, admittedly, the FIR was registered in the year 2001 and as many as 23 years have passed ever since then. Therefore, the sentence of the accused-petitioners are reduced to the period already undergone by them i.e. 02 months and 21 days (Palwinder Singh-accused/petitioner No.1) and 02 months 23 days (Harpreet Singh-accused/petitioner No.2) subject to their paying a sum of Rs.25,000/- each (a total sum of Rs.50,000/-) as compensation to the complainant -injured/Ujaggar Singh.

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

(JASJIT SINGH BEDI)
JUDGE

January 22, 2025
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No