



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

202

CRR-515-2008

Date of decision: 15.09.2025

Sarupa and others

.....Petitioners

Versus

The State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Bisman Maan Brar, Advocate (Amicus Curiae) and
Ms. Nischal Chetanya Manchanda, Advocate
for the petitioners.

Mr. Gagandeep Singh Chhina, Sr. DAG, Haryana.

Mr. Shivam Chauhan, Advocate
for the complainant.

MANJARI NEHRU KAUL, J.

1. The instant Criminal Revision arises from the judgement of conviction dated 04.09.2006 and order of sentence dated 06.09.2006 passed by the learned Chief Judicial Magistrate, Kaithal, as affirmed by the learned Additional Session Judge, Kaithal vide the judgement dated 05.03.2008, whereby petitioners No.1 and 4-Sarupa and Ramesh were convicted and sentenced as follows :

Offence(s) under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
324 of the IPC	SI for 06 months	-	-
452 of the IPC	SI for 01 year	Rs.500/- each	SI for 03 months
326 of the IPC	SI for 02 years	Rs.500 each	SI for 03 months

1A. However, the learned Appellate Court acquitted petitioners No.1 and 4-Sarupa and Ramesh under Section 324 of the IPC.

2. Aggrieved thereby, the petitioners have preferred the instant revision petition.

3. The case of the prosecution, in brief, is that on 27.01.1997 at about 8-9 p.m., complainant Ram Karan (PW-2) was present in his house when four accused persons Jasmer Singh (since expired) armed with the spear; Bittu son of Mehru armed with an iron strip; Sarupa (petitioner No.1 herein) son of Bikhu, armed with a *lathi*; and Ramesh (appellant No.4 herein) son of Amra, also armed with a *lathi*—allegedly entered his house and attacked him.

4. Allegedly, Jasmer Singh inflicted spear blows on the left arm of the complainant and on the right side of his head; accused Bittu dealt a blow with an iron strip on his head; petitioner Sarupa struck *lathi* blows on his head and shoulder; and petitioner Ramesh inflicted *lathi* blow on his arm.

5. On hearing the alarm, the wife of the complainant Melo Devi (PW-3), and his son Virender rushed to the spot. With the help of neighbours, they claim to have rescued the complainant, whereafter the assailants fled.

6. The injured was first taken to Kurukshetra, but not admitted there, and was later shifted to CHC Kaul. On receipt of *ruqa* from the doctor, ASI Hardev Kumar reached the hospital, obtained fitness certificate, and recorded the statement of the complainant (Ex.PB), on the basis of which FIR No.26 dated 28.01.1997 was registered under Sections 452, 324, 326 and 34 IPC at Police Station Dhand.

7. After investigation, challan was presented. The learned Trial Court convicted all the four accused including the present petitioners.

8. During the pendency of the instant revision, petitioners No.2 Mewa Singh and petitioner No.3 Suresh expired and proceedings qua them stand abated. The present revision survives only on behalf of petitioner No.1 Sarupa and petitioner No.4 Ramesh.

9. Learned Amicus Curiae appearing on behalf of petitioners No.1 and 4, while assailing the conviction, has vehemently argued that the most material witness, Dr. K.G. Chaudhury, who conducted the medico legal examination and prepared the MLR of the injured, was not examined. The MLR itself has not been proved in accordance with law. In absence of the testimony of its author, it has been urged that no sanctity can be attached to the said document. She has further argued that reliance on the X-ray report proved by PW-1, Dr. R.S. Ahlawat, is insufficient to sustain conviction under Section 326 of the IPC.

10. It has been further argued that the incident allegedly occurred on 27.01.1997 between 8 to 9 pm, but the FIR was registered only on 28.01.1997 after 3.30 pm, with no cogent explanation. Such unexplained delay casts a serious doubt on the genesis of the case of the prosecution.

11. It has also been strenuously asserted that the grievous injuries upon the injured were specifically attributed to co-accused Jasmer Singh. The surviving accused i.e. the petitioners, even as per the case of the prosecution, are alleged only to have given *lathi* blows

resulting in simple injuries. Even accepting prosecution case at face value, Section 326 of the IPC is, therefore, not attracted.

12. Learned Amicus Curiae has still further submitted that there is no evidence of premeditation or prior concert; the petitioners cannot be saddled with vicarious liability for grievous injuries allegedly caused by prime accused Jasmer Singh.

13. Furthermore, learned Amicus Curiae has asserted that since no investigating officer or police officials were examined during trial, the investigation stood not proved. Consequently, site plan, recovery memos and other steps in investigation remain unproved.

14. It has lastly been submitted that in support six defence witnesses were examined including the doctors; the defence witnesses proved that the complainant party were aggressors whereas the doctors proved that co-accused Jasmer Singh also suffered injuries in the occurrence in question. The prosecution failed to explain the injuries on Jasmer Singh. Non-explanation, therefore, constitutes a serious infirmity which was erroneously brushed aside without proper reasoning by both the Courts below.

15. Learned state counsel, assisted by learned counsel for the complainant, on the other hand, submitted that the testimonies of complainant PW-2 Ram Karan and his wife PW-3 Melo Devi so are natural, cogent and trustworthy. They have consistently attributed roles to each of the accused including both the petitioners.

16. It has been further submitted that medical evidence stands corroborated through PW-1 Dr. R.S. Ahlawat, who proved X-ray report

(Ex.PA) showing fracture of scapula and clavicle. The non-examination of Dr. K.G. Chaudhury, who conducted the MLR does not dilute the evidentiary value, as this doctor had subsequently expired.

17. It has also been argued that the delay in the registration of the FIR has been satisfactorily explained as the complainant was first taken to Kurukshetra and thereafter admitted in CHC Kaul.

18. While controverting the submissions made by the learned Amicus Curiae about the injuries sustained by co-accused Jasmer Singh, it has been argued by the learned State counsel that they were simple injuries and need not be explained. The counter complaint filed by Jasmer Singh was dismissed for want of prosecution, showing the defence plea was an afterthought.

19. Lastly, learned counsel for the State argued that common intention under Section 34 of the IPC stands proved, as the accused jointly entered the house of the complainant armed with weapons and attacked him. Merely because the petitioners had been attributed only *lalkaras* and *lathi* blows did not absolve them of their participation in the occurrence in question.

20. I have heard learned counsel for the parties and perused the relevant material on record.

21. Upon careful appraisal of the evidence, the following conclusions emerge :

(i) **Non-examination of doctor who conducted the medico legal examination** : The prosecution did not examine Dr. K.G. Chaudhary, the author of MLR. The document, being a medico legal

record, required proof through its author or another competent witness conversant with the handwriting and contents. the X-ray report proved by PW-1 Dr. R.S. Ahlawat cannot substitute the MLR. In absence of valid proof of grievous injuries, conviction under Section 326 of the IPC is unsustainable.

(ii) Nature of injuries attributed to both the petitioners :

The complainant himself attributed grievous injuries to co-accused Jasmer Singh. The petitioners are only alleged to have inflicted stick blows on non-vital parts. Even as per ocular testimony, the injuries so attributed were opined simple in nature. Hence, the ingredients of Section 326 of the IPC are absent qua them.

(iii) Unexplained delay in FIR : The occurrence in question took place on 27.01.1997 at about 8/9.00 pm and culminated in registration of FIR only on only at 3.30 pm on 28.01.1997. No cogent explanation is forthcoming for the gap. This unexplained delay creates doubt regarding the true genesis and spontaneity of prosecution case.

(iv) Non-examination of investigating officer : The entire investigation remains unproved. Neither site plan, recovery, nor other proceedings have been proved through competent witnesses. This omission deprives the defence of opportunity to test veracity of crucial steps, and substantially weakens the case of the prosecution.

(v) Injuries on accused side unexplained : It stands proved that co-accused Jasmer Singh also sustained injuries, for which he was medically examined. The prosecution has offered no explanation. This omission is a material infirmity, especially where defence plea is that

complainant party were aggressors.

22. The role attributed to the petitioners is qualitatively distinct from that of co-accused Jasmer Singh, who alone was alleged to have inflicted grievous spear blows. No evidence shows meeting of minds to cause grievous hurt.

23. Mere presence or participation with simple *lathi* blows does not establish common intention to commit offence under Section 326 of the IPC.

24. The prosecution has, therefore, failed to establish beyond reasonable doubt that petitioners Sarupa and Ramesh shared a common intention with co-accused Jasmeer Singh and Bittu or that they inflicted any grievous injuries. Their role, even if accepted in entirety, is confined to causing simple *lathi* blows, which are unsupported by any medical evidence on record. The unexplained delay in FIR, non-examination of crucial witnesses, unexplained injuries on the accused, and suppression of investigation collectively cast grave doubt on the prosecution story.

25. Petitioners No.1 and 4 are, thus, entitled to benefit of doubt. Accordingly, the instant Criminal Revision Petition is allowed qua petitioners No.1 and 4. The conviction and sentence of petitioners No.1 and 4 under Sections 326 and 452 of the IPC are set aside. They are acquitted of all the charges.

15.09.2025

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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