

CRR-735-2010 (O & M)

2025:PHHC:039390



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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
(203)

CRR-735-2010 (O&M)
Date of Decision: 24.03.2025

Kulwinder Singh

... .Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. G.L. Bajaj, Advocate, for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 20.10.2009 passed by the Additional Sessions Judge (Fast Track Court), Bathinda whereby the appeal filed against the judgment of conviction and order of sentence dated 29.11.2008 passed by the Judicial Magistrate Ist Class, Phul has been dismissed.

2. The FIR in the present came to be registered on 08.04.2005. The judgment of conviction and order of sentence was passed on 29.11.2008 by the Judicial Magistrate Ist Class, Phul. The Appeal filed against the judgment of conviction and order of sentence was dismissed on 20.10.2009 by the Additional Sessions Judge, Bathinda. The instant revision petition was filed on 05.03.2010 and has come up for final hearing now i.e. after a period of almost 25 years from the date of registration of the FIR.



3. The brief facts of the case are that on 08.04.2005 one wireless message was received from police station Rampura to the effect that Surjit Singh son of Bhan Singh was admitted in civil hospital Rampura in an injured condition. Thereafter, ASI Gurdial Singh alongwith other police officials visited civil hospital, Rampura and took the opinion of the doctor, who reported that Surjit Singh was fit to make the statement. Thereafter, Surjit Singh got recorded his statement, which is as under:-

That he was a resident of above said address and had two brothers and all were married. He was residing with his brother Ranjit Singh and another brother Malkit Singh. They were doing the work of agriculture. After taking the dinner, they had slept in their room and he alongwith his nephew Harjinder Singh was sleeping in the courtyard. At about 9:30 p.m. some one called out the name of Surjit Singh. Thereafter, he saw in the street that Darshan Singh son of Nand Singh and his son Kulwinder Singh were standing in the street. Darshan Singh son of Nand was armed with *Gandasa* and he stated that he wanted to talk with him. However, he told him that he would talk in the morning and thereafter, he went to bed. After some time, Darshan Singh and his son came in the courtyard after scaling the wall. Accused Darshan Singh was in a drunken condition. Thereafter, Kulwinder Singh (accused-petitioner) raised a *Lalkara* and stated that Surjit Singh had not opened the door. Thereafter, he (accused) gave a *Gandasa* blow and to save himself he raised his arm and in this way, the *Gandasa* hit his right thumb. Thereafter, he fell down on the bed and raised *raula Marta Marta*. Thereafter, his brother Ranjit Singh and



his wife Gurdev Kaur came there at the spot. Meanwhile, they gave a *Gandasa* blow which hit his left leg and that the accused ran away from the spot alongwith their weapons. Thereafter, they arranged the vehicle and admitted him in civil hospital Rampura. Motive behind the incident was that they had not opened the door and due to this reason, the accused caused injuries on him. During investigation, statements of witnesses were recorded. Site plan was also prepared. After completion of necessary investigation, challan was presented in the court against the accused.

4. Charges were framed against the accused u/s 452, 324, 323, 34 IPC to which they pleaded not guilty and claimed trial.

5. To prove the case, the prosecution examined PW-1 Surjit Singh, PW-2 Ranjit Singh, PW-3 Dr. Devinderpal Bansal and thereafter, the evidence of prosecution was closed.

6. After closure of the prosecution evidence, statements of accused were recorded u/s 313 Cr.P.C in which all the incriminating evidence was put to them but they denied the same and claimed innocence.

7. On conclusion of the Trial, the accused-petitioner alongwith a co-convict/Darshan Singh came to be convicted and sentenced vide a judgment of conviction and order of sentence dated 29.11.2008 passed by the Judicial Magistrate Ist Class, Phul, as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
452 IPC	RI 02 year each	Rs.200/- each	RI 01 month each
324 IPC	RI 01 year each	Rs.100/- each	RI 15 days each



323 IPC	RI 06 months each	Rs.100/- each	RI 15 days each
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8. The accused-petitioner/Kulwinder Singh alongwith co-convict/Darshan Singh preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge (Fast Track), Bathinda, vide judgment dated 20.10.2009.
9. The aforementioned judgments are under challenge in the present petition.
10. During the pendency of the instant revision petition, the sentence of the accused-petitioner was suspended vide order dated 21.07.2010.
11. The learned counsel for the petitioner contends that the judgments of conviction are based on conjectures and surmises. The medical evidence was contrary to the ocular account. So far as the accused-petitioner/Kulwinder Singh is concerned, he had only been attributed a *lalkara*. Therefore, the present petition be allowed and the accused-petitioner be acquitted of the charges framed against him. In the alternative, it is prayed that as the occurrence was of the year 2005 and the matter has now come up for final hearing after 20 years and the accused-petitioner having already undergone 09 months and 09 days of his substantive sentence, while upholding his conviction, he may either be released on probation or his sentence be reduced to the period already undergone by him.



12. The learned counsel for the State, on the other hand, has filed a custody certificate dated 24.03.2025 which is taken on record. As per custody certificate, the accused-petitioner has undergone 09 months and 09 days out of his substantive sentence of one year. He contends that the medical evidence is totally in consonance with the ocular account. Prosecution evidence is consistent in material particulars. In view of the nature of the allegations levelled, the present petition was liable to be dismissed.

13. I have heard the learned counsel for the parties.

14. So far as the receipt of injuries as covered under Section 324 and 323 of the IPC are concerned, it has been proved on record that Darshan Singh was armed with a *Gandasi*, and gave simple injuries to Surjit Singh-complainant, thereby committing an offence punishable under Section 324 IPC, whereas Kulwinder Singh (petitioner) has committed an offence punishable under Section 324/34 IPC as he was also present alongwith his father at the time of occurrence. Similarly, it has also been proved on record that with their common intention Darshan Singh had given a blow with the reverse side of a *Gandasi* to Surjit singh, thereby committing the offence under Section 324/34 of the IPC against Kulwinder Singh. The prime accused, namely, Darshan Singh, who has inflicted these injuries, has expired and the proceedings against him stood abated.

15. The ocular evidence is totally in consonance with the medical evidence. However, the accused-petitioner has only been attributed a *lalkara*.

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16. Be that as it may, the prosecution has established its case beyond reasonable doubt, therefore, finding no merit in this petition, the same stands dismissed.

17. As regards imposition of sentence, admittedly, the FIR was registered in the year 2005 and as many as 20 years have passed ever since then. The petitioner has suffered protracted judicial proceedings. Therefore, in the peculiar facts of the case, the sentence of the accused/petitioner is reduced to the period already undergone by him i.e. 09 months and 09 days. However, the sentence of fine and the sentence in default of payment of fine shall remain intact.

18. The present revision petition stands disposed of in the above terms alongwith the pending applications, if any.

March 24, 2025
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No