

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

245

2025:PHHC:150541



CRR-3666-2012 (O&M)
Date of decision: 30.10.2025.

BALWINDER KAUR

...Petitioner(s)

VERSUS

SANJEEV KUMAR AND OTHERS

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Arnav Sood, Advocate,
for the petitioner.

Mr. Vivek Chauhan, Addl. A.G. Haryana.

VINOD S. BHARDWAJ, J. (Oral)

CRM-69097-2012

Prayer in the present application is for condonation of delay of
25 days in filing the revision petition.

For the reasons set out in the application, the same is allowed
and delay of 25 days in filing of the present revision petition is condoned.

CRM-69098-2012

Application is allowed as prayed for subject to all just
exceptions.

Main case

Aggrieved of the judgment dated 22.09.2011 passed by the Chief Judicial Magistrate, Panchkula in criminal case bearing No.RBT 214/1 of 2010 arising out of FIR No.152 dated 26.12.2004, under Sections 323, 325, 34 and 452 of the Indian Penal Code, 1860, registered at Police Station Kalka, District Panchkula whereby the respondents No.1 to 3-accused had been acquitted of the charges framed against them as well as against the subsequent dismissal of Criminal Appeal bearing No.32 dated 19.10.2011, by the Sessions Judge, Panchkula vide judgment dated 04.07.2012, the present revision petition has been filed.

2 Succinctly, the facts of the present case are that on 25.12.2004, a telephonic message was received in the Police Station with regard to admission of the complainant Balwinder Kaur in the Civil Hospital, Kalka upon which HC Rajpal went there and sought the opinion of the doctor for recording of the statement, however, complainant was declared unfit to make a statement. Thereafter, on 26.12.2004, a telephonic message was received from the PGI, Chandigarh regarding admission of Balwinder Kaur, upon which HC Shamsher Singh along with other police officials went to the PGI, Chandigarh and recorded the statement of Balwinder Kaur after taking opinion of the doctor. Accordingly, statement of complainant-injured Balwinder Kaur Ex. PW2/A was recorded to the effect that she is resident of Upper Mohalla, Kalka. On 25.12.2004, at about 7.00 p.m., when she was present in her house, the accused Sanjeev, Ashu and Vishal, with whom certain litigation had been pending in the Court, entered her house, armed with Knife and Dandas and caused injuries to her. She raised hue and cry

upon which sister of the complainant-injured namely Rajinder Kaur came there. She saved the complainant from the clutches of the accused persons who thereafter fled from the spot. Thereafter, investigation was conducted; site plan was prepared, statements of witnesses were recorded and final report under Section 173 Cr.P.C. was thereafter filed against the respondents No.1 to 3-accused persons.

3 On appearance of the accused, documents as envisaged under Section 207 Cr.P.C. were supplied and charge was framed to which the accused pleaded not guilty and claimed trial.

4 After framing of charge, prosecution evidence was led. After completion of evidence, statements of accused under Section 313 Cr.P.C. were recorded. The accused denied the prosecution allegations and pleaded false implication.

5 In defence evidence, documents Ex.D1 to Ex.D7 and Mark-A to Mark-C were tendered and defence evidence was closed.

6 On considering the submissions advanced by the respective counsel and going through the documents and evidence brought on record, the trial Court recorded its finding that the prosecution had failed to prove its case against the accused beyond shadow of reasonable doubt and acquitted the respondents No.1 to 3-accused of the charges framed against them. The relevant extract of the judgment passed by the trial Court reads thus:-

“10. After hearing learned PP for the State, learned defence counsel and going through the evidence which has come on record, it is observed that complainant Balwinder Kaur while appearing as PW2 has stated that at about 08.00-09.00 p.m., accused entered into her house after breaking open the door and Kundi (lock) of her house. The MLR Ex. PW1/A of Balwinder

Kaur (PW2) shows that she reached the hospital at 07.15 p.m. and she told doctor that occurrence took place at about 06.15 p.m. This fact clearly shows that present case has been falsely implanted upon the accused. PW3 Rajinder Kaur has also stated the time of occurrence as documentary evidence. Even in the MLR Ex. PW1/A duration of injuries has been mentioned within 24 hours and weapon is stated to be blunt and this shows that complainant has made false statement in the court and has made false complaint against the accused. She was not caused injuries by the accused, as alleged by her that accused caused injuries to her by entering into her house after breaking open the door and keeping in view the discrepancies in the testimony of complaint and her oral testimony not being supported by testimony of other witnesses and documentary evidence and that no recovery of any weapon from the possession of accused was made, this court is of the considered opinion that accused are entitled for benefit of doubt as story of the prosecution seems to be doubtful. Hence, by giving benefit of doubt, all the accused are acquitted of the charge framed against them. Their bail bonds stand discharged. Case property, if any; be disposed of, as per rules. File be consigned to the record room, after due compliance.”

7 Aggrieved thereof, the present petitioner filed an appeal before the Sessions Judge, Panchkula. After hearing the arguments advanced on behalf of the respective parties and considering the evidence as well as documents on record, the Sessions Judge, Panchkula dismissed the appeal vide judgment dated 04.07.2012. The findings recorded by the Appellate Court are extracted as under: -

9. On the other hand, it was contended that the complainant has been making false complaints and has been dragging them to the courts and they have placed on record number of judgments Ex. D1 to Ex.D7 to show that Balwinder Kaur has been filing

complaints and FIRs against them and all the cases had ended in acquittal. It was urged that proceedings under section 182 IPC were initiated against her and she was in the habit of making false complaints. It was urged that the MLR does not refer to any injury with sharp edged weapon and the medical officer had stated that the injuries could be caused by a fall. It was urged that in the complaint, the version given by Balwinder Kaur is that the incident took place at 7 PM, whereas before the Medical Officer the time of incident was narrated as 6.15 PM, whereas, before the court the complainant and her sister had given the time as .8/9 PM. It was urged that there was a delay in lodging the FIR and the matter was reported the next day. It was contended that the complainant has indulged in exaggerations when she has stated that the door was forcibly broken. It was urged that such incident was not even probable and the complainant had stated that she remained admitted in the hospital for three months in Sector 32, Chandigarh and then In PGI for 5 days but there is no record. It was urged that the parties have been litigating for the last 14 years and this has false case and they had rightly been acquitted.

10. The prosecution is under an obligation to prove the case beyond a reasonable doubt. Conviction can only be recorded if the evidence is corroborated by medical evidence and by eye witnesses. According to the complaint Ex.PW2/A, the incident took place at 7 PM on 25.12.2004. The incident was reported the next day at 4 PM. The complainant had arrived in the hospital at 7.15 PM and she was examined at 7.45 PM. In the notes given by the Medical Officer the injured was beaten with iron rod and PM. The given leg blows at 6.15 P.M. The complainant was brought to the hospital by Rajinder Kaur sister of the complainant. In all, 7 injuries were noted by the Medical Officer. Three of them were multiple contusions and rest of them were lacerated wounds. When the complainant stepped into the witness box, she had stated that the accused came armed with knife and dandas. In the MLR, there is no reference to the dandas or knife, it only refers to the

iron rod.

11. The house of the complainant is in a busy locality and the police had examined two witnesses out of whom Mani Ram failed to support the prosecution version and was turned hostile, whereas Manoj was given up having been won over by the accused. We are thus left with the statement of the complainant and her sister Rajinder Kaur. Balwinder Kaur in her complaint had stated that she was given more than one injury on the left arm by Sanjeev but perusal of the MLR shows that there is no injury which could be caused by a sharp edged weapon. The Medical Officer had stated that the complainant had disclosed that she was beaten with an iron rod and had given fist and leg blows. Medical Officer had also stated that the possibility of the injuries by fall on hard surface could not be ruled out. There is a material contradiction with respect to the weapon used in the occurrence. There is a reference to the use of iron rod, whereas in the complaint the complainant had referred to the use of knife and dandas. The complainant had also suited in the court that she was given knife injuries and danda blows and she had sustained fractures but the x-ray report was not produced in 'evidence nor any medical officer has been examined. She had stated that she remained admitted in the hospital for two months but no doctor from Sector 32 Chandigarh was summoned nor there is any material from which it could be seen that the complainant remained in the hospital for two months.

12. When the complainant stepped into the witness box, she had disclosed that the accused came to her house and had broken the door of her house but this fact is not disclosed in the complaint and it appears to be an exaggeration on the part of the complainant. The police had visited the spot but there is no evidence to show that the police had found the locks / bolts on the door broken or that there was forced entry into the house. It is difficult to accept that the accused who are living in the

neighbourhood would barge into the house after breaking the lock as it would have alerted the neighbours and the passer by the complainant had stated that the incident took place at about 8 or 9 PM which contradicts the recitals in the MLR. There the time of incident is disclosed to be 6.15 PM by the complainant. It is not a small contradiction and goes to the root of the matter. It appears that the genesis of the occurrence has not been correctly stated. The complainant could not have forgotten the time of incident. She has been reporting incidents to the police and litigation is going on between the parties since 1997. The earliest complaint was filed-by her on 29.8.1997. That incident took place on 20.6.1997, it is referred to in Ex.D4.

13. The only witness, who has supported the complainant is her sister. She is related to her and was bound to support her. There Is no support from independent witness the only independent witness examined by the prosecution failed to support the complainant.

14. The relation between the parties are strained. There are cases going on continuously between the parties. The concept of falsus in Uno in omnibus, is not in general followed by the Indian courts in case where the truth and falsity are parably mixed with each other that is to say or to put it otherwise, where the grains and chaff cannot be separated, the court has no option except to disbelieve the version given in toto and to give benefit of doubt in favour of the accused. The Hon'ble Supreme Court in the case reported as Lakhwinder Singh Vs. State of Punjab, 2003 Criminal Law journal 3508 held that where the witnesses are partly believable and partly unbelievable and in absence of corroboration, as a rule of prudence, it is not safe to base conviction on the uncorroborated testimonies of witnesses.

15. The medical evidence does not support the prosecution. There is no evidence to show any knife injury. The complainant had

stated that the accused Sanjeev had inflicted 2-3 knife injuries but there is no injury which could be caused by a sharp edged weapon. The Medical Officer had stated that the injuries could be caused by a fall. The independent witness failed to support the prosecution version. Thus having regard to the entirety of the matter, I am of the view that the view adopted by the Trial Magistrate was correctly recorded. Standards and guidelines have been laid down for the appellate court in dealing with appeals against acquittal. An overriding theme emanates from the law on appeals against acquittal. Though the appellate court is given wide powers to review the evidence and come to its own conclusion but the power is to be exercised with great care and caution in order to ensure that the innocents are not punished. The appellate court has to give due weight to the lower court acquittal of because the presumption of innocence is further strengthened by the acquittal. 1, The Hon'ble Apex Court has held on various occasions that the appellate court should reverse an acquittal only when it has very substantial and compelling reason".

16. The burden of proving the charges to the appeals lies upon the prosecution. In this case, there are contradictions galore. The complainant does not get support from the independent witness. The time of Incident has been changed by the complainant for reasons only known to her. It is not a contradiction which can be ignored, facts falsify her case and the benefit has to go to the accused. The accused were entitled to the benefit of doubt. There is no reason to differ with the findings. I do not find any compelling reason to reverse the Judgment of the trial court. The appeal is dismissed. Lower court record be sent back with a copy of the judgment. File be consigned to the record room."

8 Learned counsel appearing on behalf of the petitioner(s) has argued that the judgment of acquittal passed by the trial Court suffers from

misappreciation of evidence that had been led by the petitioner in support of her case. Counsel for the petitioner contends that minor contradictions have unnecessarily been blown out of proportion so as to extend the benefit of doubt to the respondents No.1 to 3-accused. He submits that minor inconsequential lapses could not have been held material for recording a finding of acquittal against the respondents-accused. He contends that such minor discrepancies are only natural and would not impeach the credibility of the evidence led by the petitioner. The nature of injury being grievous and having been supported by the MLR along with the corroborative evidence including the blood stained clothes of the petitioner, established the commission of the offence. He submits that the appellate Court failed to appreciate the submissions of the petitioner. Hence, the judgments passed by both the Courts ought to be set aside.

9 State counsel, on the other hand, merely reiterates the findings recorded by the Court of Sessions which need not be reiterated to avoid repetition.

10 I have heard the learned counsel appearing for the respective parties and have gone through the documents appended along with the present revision petition.

11 It is evident from a perusal of the judgments passed by both the Courts that the contentions advanced on behalf of the petitioner have been duly considered by the Court of Sessions. It was noticed by the Sessions Judge that in so far as the MLR is concerned, the same does not establish any injury having been caused with a sharp edged weapon. The medical officer had opined that the injuries could have been sustained on account of a fall. The Sessions Judge also noticed that ocular version of the incident is not corroborated by the medical evidence or by any other record. As per the

complainant, the incident in question had taken place at 7:00 P.M. on 25.12.2004, however, the incident was reported on the next day at 4:00 P.M. The delay in question is not satisfactorily explained. It is also noticed that even though the medical officer had recorded the history of the injured having been beaten with an iron rod, the complainant herself, in her testimony before the Court, deposed that respondent-accused were armed with knife and dandas but there is no reference of injuries having been caused with but danda or knife in the MLR. Further, it was also noticed that the house of the complainant-injured was in a busy locality and it was claimed that police had also examined certain independent witnesses and neighbourer but they did not support the prosecution case and turned hostile. The other prosecution witnesses were given up as having been won over by the respondents-accused. The case of the prosecution hinged only on the self-serving testimony of the complainant and her sister Rajinder Kaur. Even the said testimony was found to be having suffering from numerous contradictions with respect to the mode and manner of the commission of the offence and also the weapons allegedly used in the commission of the offence. It is also recorded that even though there is an allegation that the respondents-accused broke open the door and entered the house, however, the said allegation is not corroborated from the evidence collected or led on record that any forcible entry had been made in the house. Moreover, x-ray report of the injury or the alleged fracture having been suffered, had also not been produced and even the medical officer had also not been examined. Hence, the charge of attracting Section 325 of the IPC had also not been established.

12 Having gone through the judgments as well as the reasons assigned by both the Courts, I am of the opinion that that there is no illegality,

perversity or misappreciation of the evidence by the Courts. The High Court does not evaluate the merits of the judgment under challenge on the ground whether any other view is probable or not, rather, the same is on a parameter as to whether the findings recorded by Courts are plausible, reasonable and based upon an objective assessment and evaluation of the evidence or not. Once the said test is satisfied, the conclusions drawn by both Courts would not ordinarily be upset merely because another view is also possible. Such an approach would tantamount to substituting own opinion for that of both the Courts. For establishing the offence under Section 325 of the IPC, the medical record, X-ray report and evidence of the opining doctor would have been crucial, but the said evidence has not been produced on record. Besides, the High Court while sitting in revisional jurisdiction does not sit as a Court of appeal. The finding of acquittal given by both the Courts concurrently would not be converted into a finding of conviction, on a mere difference of opinion.

13 Finding no merit, the present revision petition is dismissed.

14 Pending misc. application(s), if any, shall also stand(s) disposed of accordingly.

October 30, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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