

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

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2025:PHHC:142614



**CRR-2629-2013 (O&M)
Date of decision: 14.10.2025.**

HARCHET SINGH

...Petitioner(s)

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondent(s)

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

Present :- Mr. Dhanpat Rai Singla, Advocate,
for the petitioner.

Ms. Savi Nagpal, AAG, Punjab.

Mr. Ishmeet Singh, Advocate,
for respondents No.2 to 5 and 7.

VINOD S. BHARDWAJ, J. (Oral)

Aggrieved of the judgment dated 22.01.2010 passed by the Judicial Magistrate First Class, Talwandi Sabo in the complaint case bearing File No.20 of 23.04.2004, R.T. No.11 of 31.05.2005, filed under Sections 323, 324, 325, 341, 452, 455, 148 and 149 of the Indian Penal Code, 1860 wherein the respondents-accused had been acquitted of the charges framed against them as well as against the subsequent dismissal of Criminal Appeal bearing No.24A of 09.03.2011, R.T. No.166-A of 04.04.2011 by the Additional Sessions Judge, Bathinda vide judgment dated 04.04.2013, the



present revision petition has been filed.

2. Learned counsel appearing on behalf of the petitioner(s) contends that the complaint in question had been instituted by the petitioner alleging that on 06.09.2003, he was present in the house of Jasvir Kaur, his relative at village Kele Wander, along with other family members. At about 4:30 P.M., the accused persons entered the house of Jasvir Kaur and started abusing the complainant as they did not relish the complainant having warned them not to encroach upon the land of Sukhmander Singh and his father Piara Singh. When the complainant, along with family members of Jasvir Kaur, did not allow the respondents-accused in indulging into illegal acts, they opened an attack on the petitioner-complainant and caused injuries. After the medico-legal examination, a complaint was submitted to the police and a rapat No.10 dated 07.09.2003 was recorded at Police Station, Talwandi Sabo; however, since no further action was taken by the police, the complaint in question was filed by the petitioner-complainant.

3. The petitioner-complainant led pre-charge evidence and examined the following witnesses:-

Sr.No.	Name of witness	Witness No.
1	Jasvir Kaur	CW.1
2	Harchet Singh	CW.2
3	Dr. Charanjit Garg SMO	CW.3
4	PHG Jagdish Singh	CW.4
5	Dr. Anu Gupta	CW.5



4. After considering the same, the respondents-accused were summoned. The charges were framed to which the accused-respondents pleaded not guilty and claimed trial.

5. After recording the evidence, statements of the respondents-accused under Section 313 of Cr.P.C. were recorded and the entire incriminating material was put to them, to which they denied and claimed false implication.

6. On considering the entire evidence, the trial Court concluded that the petitioner-complainant failed to prove his case and that only interested witnesses had been examined. The doctor examined by the complainant specifically opined that the injuries could not be proved as the X-ray had not been exhibited on record and hence discharged the respondents-accused.

7. Aggrieved thereof, the present petitioner filed an appeal before the Addl. Sessions Judge, Bathinda, which was also dismissed vide judgment dated 04.04.2013. Hence, the present petition.

8. Learned counsel appearing on behalf of the petitioner contends that the Court has not considered the fact that the injury in question was specifically established. CW.5 Dr. Anu Gupta – Radiologist appeared in evidence and proved that there was a fracture on the person of the petitioner, yet, the said clinching evidence had been disregarded by both the Courts. He further contends that the Courts committed an error in disbelieving the version of the petitioner solely on the ground that the witnesses were not independent witnesses notwithstanding that the witnesses were only natural witnesses on the basis of the place of occurrence. He thus contends that the judgments passed by both the Courts deserve to be set aside.

9. Learned counsel for the private respondents on the other hand



submits that there was an inordinate delay in institution of the complaint and it was done after a lapse of nearly 7½ months of the incident and without satisfactorily explaining the reasons for the said delay. He further submits that both the Courts have taken into consideration the circumstances as well as the evidence led by the parties and have noticed that the incident in question could not have taken place in the mode and manner as alleged and even the injuries, as alleged to have been sustained by the petitioner and other injured persons, have not been proved as the X-ray file has not been brought on record. In the absence of the X-ray file, the testimony of CW.5 doctor cannot be given much credence.

10. I have heard the learned counsel appearing for the petitioner and have gone through the judgments passed by both the Courts.

11. The operative part of the judgment dated 04.04.2013, passed by the Additional Sessions Judge, Bathinda, reads thus:-

“16. From Perusal of the judicial file, it came to my notice that CW1 Jasvir Kaur and CW.2 Harchet Singh stated that on 6.9.2003 all the accused entered into the house of Jasvir Kaur but when Jasvir Kaur was cross examined by the learned counsel for the accused at length, her veracity was shaken. She stated that at the time of occurrence it was dark, so she could not identified the person from the public. When she failed to identify the person from the public how she could indentify the accused persons. CW.1 Jasvir Kaur also stated that some one was knocked at the door. It means that she herself alongwith complainant came at the door. As per evidence of the complainant, the accused No.6 Gurpal Singh was armed with 12 bore gun but in the complaint as well as in the evidence of the complainant it was mentioned that he gave butt blows on the



person of Sukhmander Singh @ Mander Singh and Harchet Singh. Why all the accused did not give injuries to Jasvir Kaur, there is no injury on the person of Jasvir Kaur. If accused No.6 Gural Singh was armed with 12 bore gun he could have fired into the air and he could fire at the complainant party but there is no evidence in this regard. Moreover, Sukhmander Singh @ Mander Singh has not been examined by the complainant. He was withheld by the complainant for the reasons best known to the him. The non examination of injured. becomes fatal to the case because accused are deprived of opportunity to cross examine the witness Sukhminder Singh @ Mander Singh. The authorities referred by the learned counsel for the accused titled as Babloo alias Bhagat Singh & Anr. Vs State of Haryana 2008(3) Criminal Court Cases page 0301 and Vijay Shankar Shinde & Ors Versus State of Maharashtra 2008(2) RCR (Criminal) page 847 are not applicable here. These authorities are applicable where statement of injured witness is trustworthy but in the present case the statement of injured witness is not trustworthy. The x-ray films are not brought on the record. The Hon'ble High Court of Punjab and Haryana in case titled as State of Punjab Vs Harinder in case titled as State of Punjab Vs Harinder Singh @ Raju 2008(2) RCR (Criminal) page 294 has held that no x-ray brought on record-visual examination of the doctor to the effect that injury was grievous could not make the same grievous. In the case in hand no x-ray file is brought on record. This court is fully satisfied that there is no sufficient evidence of the complainant on the basis of which the accused can be convicted.

17) This Court is satisfied that non joining of independent witness is not fatal to the complainant story but in the case in hand the facts are such that joining of independent witness is must. In this case there is delay of 7^{1/2} months in filling the



complaint and there is difference between the ocular version of the complainant witnesses and medical version. So, in such type of cases joining of independent witness is must.

18) It is well settled law that delay is not fatal but delay of every day must be well explained. The complainant has proved the document Ex.PW5?A which reflects that a compromise has been effected between the accused party and complainant party on 7.9.2003 but the criminal complaint was filed on 11.6.2004. There is delay of about 7^{1/2} months in filling the complaint. If document Ex.CW5/A was procured with the help of police, the complainant was at liberty to file complainant against the higher police officers or the complainant could have filed a private complaint before Judicial Magistrate at the earliest stage.

19) The learned Trial Court has rightly held that there was no motive behind the commission of the offence. CW1 Jasvir Kaur herself admitted in her cross examination at page No.2 that there was no dispute between the accused party. She is not aware about the dispute. The learned Trial Court has rightly acquitted the accused. So, there is no ground to interfere with the findings of the learned Trial Court.

20) So, from the above said discussion and findings, there is no merits in this appeal and same is hereby dismissed. Lower court record along with copy of this Judgment be returned back. Appeal file be consigned to the record room.”

12. It is evident from a perusal of the above that both the Courts have specifically noticed the testimony of the witnesses examined by the petitioner and it was noticed that there was no evidence that could



conclusively establish the firing of gunshots. Further, it was also noticed that Sukhmander Singh @ Mander Singh had not been examined by the petitioner-complainant and the reasons for non-production of the said witness, who is stated to have received *butt* injuries, has not been given. Further, it is also noticed that the X-ray file was not brought on record. Hence, the testimony of CW.5 Dr. Anu Gupta could not be held to prove the injury. It was also noticed that no independent witness had been joined in the prosecution's story and only interested witnesses had been examined. Moreover, CW.1 Jasvir Kaur herself admitted that there was no dispute between the parties and that she was not aware of the dispute. It is thus apparent that all the arguments advanced and the witnesses examined have been duly considered by both the Courts and it cannot be held that the findings are perverse on the basis of the weak evidence.

13. The position in law is well established that in a case where two views are possible on a meaningful and harmonious appreciation of the evidence, the one which favours an accused has to be given precedence. Thus, the findings recorded by the Courts concurrently ought to be given precedence and the High Court would not, in exercise of its revisional jurisdiction, substitute the findings recorded by the Courts and supplant its opinion for that of the trial Court.

14. I find that there is no illegality, perversity or impropriety in the judgments or the gross misreading of the evidence brought on record by both the Courts. The finding of acquittal given by both the Courts concurrently would not be converted into a finding of conviction.

15. Finding no merit, the present revision petition is dismissed for



want of merit.

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

October 14, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No