

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

267

2025:PHHC:144919



CRR-3594-2016 (O&M)
Date of decision: 14.10.2025.

TINKU RAM

...Petitioner(s)

VERSUS

STATE OF PUNJAB

...Respondent(s)

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

Present :- Ms. Rashi Verma, Advocate, (Legal-aid-counsel)
for the petitioner.

Ms. Savi Nagpal, AAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

The instant criminal revision petition has been preferred against the judgment and order of sentence dated 05.10.2015 passed by the learned Judicial Magistrate First Class, Abohar wherein the revisionist- petitioner has been convicted under Section 325 of Indian Penal Code and against the judgment dated 04.05.2016 passed by the learned Additional Sessions Judge, Fazilka vide which appeal filed by the petitioner has been dismissed. The petitioner has been sentenced as under:-

S no.	Sections	Punishment
1.	Section 325 IPC	Rigorous imprisonment for a

		period of one year with fine of Rs1000/- and in default of payment of fine the convict will undergo further rigorous imprisonment for 1 month.
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2 Brief facts of the present case are that on 29.05.2013, at about 11:00 pm, complainant Lal Chand was returning home after visiting his fields. When he reached near the house of Gurdeep Singh, Ex- Sarpanch, he noticed Gurdeep Singh and Tinku Ram standing there, the latter being armed with Kulhari (axe). On seeing the complainant, the accused-petitioner Tinku Ram allegedly attacked him with the kulhari, which struck the complainant on the upper side of his left knee, causing him to fall on the ground.

3 The alleged motive behind the incident was that the complainant had not cast his vote in favour of Gurdeep Singh and Tinku Ram was employed as a home peon by Gurdeep Singh. During the course of investigation, Gurdeep Singh was found to be innocent and a challan was accordingly presented against petitioner under Section 207, CrPC.

4 Upon consideration of the evidence led by parties as well as arguments before the Court, the learned Trial Court vide its judgment and order of sentence dated 05.10.2015 held the petitioner guilty of the offence punishable under Section 325, IPC. Aggrieved by the said judgment and order of sentence, the petitioner preferred the statutory appeal before the Court of Additional Sessions Judge, Fazilka. Vide judgment dated 04.05.2016, the said appeal was dismissed.

5 It is noticed that no one has entered appearance on behalf of petitioner since last 5 hearings. Even today, there is no representation on behalf of petitioner. The revision petition pertains to the year 2016; further wait will not be justified. Therefore, Adv Rashi Verma, Enrollment number: PH/9316/2022, Mobile number: 8221879123 who is present in the court is appointed as a Legal Aid Counsel to represent the petitioner and assist this Court.

6 The newly appointed Legal Aid Counsel has gone through the case file and she contends that there is an unreasonable delay of 20 days in lodging FIR as the alleged occurrence took place on 29.05.2013 and FIR was registered on 18.06.2013 which has given reasonable time to the complainant to concoct a false story against the petitioner. She further contends that sole testimony of the complainant is not sufficient in proving the guilt of the accused and that recovery of alleged weapon of offence is doubtful.

7 It is further submitted that the Courts have failed to properly appreciate the testimony and deposition of witnesses including that of the Investigating Officer. There is no independent evidence to establish that recovery had been effected from the petitioner and no independent witness had been joined during investigation. The same renders the case of the prosecution suspect.

8 The State counsel on the other hand contends that all the arguments have already been considered by both the Courts and finding lack of merit, the petitioner was rightly convicted. The arguments were countered by referring to the judgment under challenge and to contend that

the arguments stand rebutted concurrently by a reasoned order.

9 I have heard learned counsel appearing on behalf of the parties and have also gone through the documents appended along with the present petition.

10 Before proceeding further into the matter, it is apposite to make a reference to the discussion and finding recorded on the aforesaid argument by the first Appellate Court. The relevant part thereof reads thus:-

“The contention of the ld. Counsel for the appellant/accused that there is an unexplained delay in the registration of FIR is fatal to the prosecution case is devoid of merits because in this case the alleged incident occurred on 29.05.2013 and DDR has been recorded in this case on 30.5.2013 and medical examination complainant was conducted on 30.05.2013. Therefore, the registration of FIR in this case on 18.06.2013 is not attributable to the complainant. The complainant by recording his DDR has informed the matter to the police and afterwards, it was the duty of the police to get FIR registered in this case.

The next contention of the ld. Counsel for the appellant/accused that there are contradictions in the statements of PWs and sole testimony of complainant is not sufficient for proving the guilt of the accused is also without any force. In this case PW1 Lal Chand has given detailed account of the incident dated 29.05.2013 and in cross examination nothing could be elicited favourable to the accused it could discredit his testimony and his testimony inspires confidence. It is well settled principle of law of the Hon’ble Apex Court in Bhajan Singh v State of Haryana AIR 2011 SC 2552, Deepak Kumar Mandal v State of West Bengal AIR 2010 SC 3638, State of UP v Naresh (2011) 4 SCC 324 that the testimony of injured witness is on a higher pedestal and is accorded a special status,

therefore the sole testimony of complainant/ injured is sufficient for proving the guilt of the accused. However, it has been observed that the sole testimony of injured should be scanned with due care and caution. The minor contradictions regarding time and admission of the injured in the hospital are not material contradictions as it goes to the root of the case

Moreover, in this case PW-2 Banwari Lal has given the account about the incident on the basis of heavy evidence and in cross-examination PW-2 Banwari Lal has also proved the alleged incident. PW-3 Dr. Sudhir Pathak and PW-4 Dr. Neerja Gupta have deposed about the medical evidence are consistent with each other, therefore, the accused has failed to point out any motive for falsely implicating the accused in the present case.

The next contention of the ld. counsel for the appellant/accused that the weapon has not been produced in the present case and the accused is deserved to be acquitted on this ground is also devoid of merits because non-production of weapon in the court is not fatal to the prosecution case. Since, the prosecution has requested for an adjournment but the request of prosecution was declined which is evident from the testimony of PW-7 ASI Bhola Singh and he has proved the recovery memo of Kulhari Ex.P6/B and sketch of the Kulhari Ex.P6/A, meaning thereby the weapon was recovered. The request of appellant for probation is also not sustainable because the accused was armed with kulhari which is a dangerous weapon and cause death of a person.”

11 It is thus evident that the Trial court as well as the Appellate court have duly considered all the submissions advanced on behalf of the petitioner before coming to the conclusion that prosecution had proved its case against petitioner beyond reasonable doubt.

12 The argument that there is a delay in lodging FIR is hence misconceived since DDR pertaining to the incident was registered on the very next day i.e. 30.05.2013. Since prima facie offence under Section 323/34 of IPC only was found to be made out, hence, FIR was not immediately registered. Subsequently, on receiving the X- ray report, offence under section 325 IPC was found to be made out whereupon the present FIR was registered against the petitioner-accused on 18.06.2013. Therefore, there is sufficient explanation as to why FIR was registered on later date.

13 The argument that no independent witness has been examined is also liable to be rejected since the injured-complainant has stepped into the witness box and has given a detailed account of the incident. No material discrepancy in the testimony has been pointed out as may render the testimony liable to be discredited. A mere allegation or argument about the testimony being discrepant would not be sufficient to upset the judgments passed concurrently unless any material discrepancy, having a bearing on the final outcome, is pointed out. Not every discrepancy is material or impacts the conclusions drawn from reading of the evidence. Counsel has failed to refer to any evidence or conclusion that may be held as giving rise to miscarriage of justice.

14 The Courts have also specifically recorded that mere non-production of weapon would not be fatal to the case since the recovery memo and the sketch have already been proved. Besides, the non-production of the weapon was due to the Court declining the request of the prosecution to be granted an adjournment to produce the weapon.

15 All the aspects have thus been already considered by both the Courts and would not require re-appreciation of the evidence.

16 Besides, in a revision petition, this Court does not undertake reappreciation of the evidence already adduced, its jurisdiction being circumscribed to examining whether there exists any illegality, perversity, or impropriety in the judgments under challenge. From a perusal of the orders under challenge, I find that there is no illegality, perversity or impropriety in the same and the findings can't be held as bad in law. Consequently, finding no merits, the present revision petition is accordingly dismissed.

17. At this stage the learned counsel for the petitioner prays that the sentence imposed upon the petitioner may be reduced to the one already undergone by him in view of the mitigating circumstances. She contends that the petitioner is a first time offender with no criminal antecedents and has already undergone an actual sentence of 9 months 19 days out of a total year of 1 year imprisonment. Additionally, the petitioner is 57 years old and continued criminal incarceration would hamper his social obligations. The financial hardship for the family shall be greatly enhanced in case the petitioner is subjected to undergo the remaining imprisonment. Additionally, there were no adverse reports against him from any quarter during the trial or when he was on bail, post the conviction.

18 I find that the prayer made by the counsel for the petitioner regarding reduction of sentence to the one already undergone to be fair. Therefore, in my opinion, ends of justice will be met in case sentence of the petitioner is reduced to already undergone.

19 The present revision petition is partly allowed in terms as
aforesaid.

20 Copy of this order be sent to High Court Legal Services
Committee.

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

October 14, 2025.

(VINOD S. BHARDWAJ)

raj arora

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No