



**238 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH**

**CRM-A-2421-2019 (O&M)
Date of Decision: 03.03.2025**

JASBIR

...Applicant

V/S

MAHABIR AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Tarun Deep Kumar, Advocate
for the applicant.

HARPREET SINGH BRAR J. (Oral)

1. The present application is preferred under Section 378(4) of the Cr.P.C. against the judgment of acquittal dated 31.07.2019 passed by learned Judicial Magistrate Ist Class, Narwana in complaint bearing No. 18 RBT dated 02.01.2015, filed under Sections 148, 149, 323, 324 and 506 of Indian Penal Code.

2. The facts of the complaint, as stated by the complainant-petitioner are that on 08.04.2013, at about 08:00 PM, petitioner was going from Narwana to his village Dhakal after completing his work. When he reached in a street near house of Sadhu son of Kheru, the accused persons/respondents were present in house of accused-respondent Pappu @ Suresh. On seeing the complainant, accused-respondent no.1 raised *lalkara*. Respondent No. 1 was armed with *gandasa* and the remaining respondents were armed with *lathis*. Respondent no.1 gave *gandasa* blow on left hand of the petitioner and on hearing his noise, complainant's brother Pardeep came and tried to intervene. Then respondent no.2 gave *lathi* blow on the head of Pardeep and respondent no.3 also gave *lathi* blow on his back and respondents No.4 to 6 also gave *lathi* blow to Pardeep. On hearing their noise

Sandeep and Naresh also came at the spot and rescued them from the clutches of the accused-respondents. Thereafter petitioner and his brother Pardeep went to Civil Hospital, Narwana for treatment and Pardeep was discharged on 09.04.2013. The doctor sent ruka to the police. The police came and recorded statement of Pardeep. But no action was taken against the accused. Rather police challaned the respondents No. 1 to 5 under Sections 107/151 Cr.P.C. on 16.04.2013. The police in connivance with the accused also registered a case under Sections 323/325/34 of IPC against the petitioner and his brothers Pardeep and Sandeep.

3. Having heard the learned counsel for the applicant and after perusing the record of the case with his able assistance, it transpires that in order to prove the charges against the respondents, the petitioner had to prove that all the respondents formed an unlawful assembly and in prosecution of common object of that assembly committed rioting being armed with deadly weapons, voluntarily caused simple injuries with blunt/sharp edged weapon to petitioner and Pardeep. To prove the story put forth by the petitioner, he examined himself along with Pardeep, Naresh and Dr. Himanshu. However, both Jasbir and Pardeep categorically admitted in their cross-examination that they have been convicted by the Court and sentenced to imprisonment for a period of one year in a case relating to same incident. Petitioner also admitted that the incident in which he has been convicted by the Court, pertains to the same date and time. Further, a perusal of MLR of Jasbir reveals that he suffered only one injury i.e incised wound on his palmar aspect of left hand and perusal of MLR of Pardeep also reveals that he suffered only four minor injuries and it seemed improbable that if a person is given beatings by six

persons with deadly weapons at one point of time, he will suffer only one injury on his hand. Even CW-4-Dr. Himanshu, admitted in his cross-examination that the injuries suffered by the petitioner may be self suffered and also stated that injury on the person of Pardeep can be caused by friendly hand. Police also filed calandra under Sections 107/151 Cr.P.C., wherein it was found that Pardeep etc. was aggressor party and this documents also negates the story put forth by the petitioner. The self serving statements of complainant and his family members are not sufficient to prove this case.

4. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (See **H.D. Sundara and others Vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023**; **Kali Ram v. State of H.P., 1973 (2) SCC 808** and **Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415**). A Division bench of this Court in the judgment passed in **State of Haryana Vs. Ankit and others** passed CRM-A No.3 of 2022 decided on 06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

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5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant-appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

6. Pending miscellaneous application(s), if any, shall also stand disposed of.

03.03.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>