



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

288

CRR-257-2023 (O&M)

Date of decision: 23.09.2025

Pawan

...Petitioner(s)

VERSUS

Suraj and others

...Respondent(s)

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

Present :- Mr. Dinesh Arora, Advocate for the petitioner(s).

VINOD S. BHARDWAJ, J. (Oral)

CRM-3513-2023

Prayer in the instant application is for condonation of delay of 177 days in filing the accompanying criminal revision petition.

For the reasons mentioned therein, the instant application is allowed. Delay of 177 days in filing the accompanying criminal revision petition is hereby condoned.

Main case:

1. The instant criminal revision petition has been filed against the judgment of acquittal dated 04.02.2020 passed by the Judicial Magistrate 1st Class, Rohtak whereby the respondents have been acquitted of the charges leveled against them as well as the judgment dated 07.03.2022 passed by the learned Sessions Judge, Rohtak, dismissing the appeal arising from case bearing FIR No.40 dated 30.01.2015 registered under Sections 323/506/34 of the Indian Penal Code, 1860 at Police Station City, Rohtak.

2. The case in hand was registered on the complaint of the



revisionist-petitioner/Pawan Kumar alleging therein that on 27.01.2015, at around 6:15 p.m., when he alighted from an Auto Rickshaw at Old Bus Stand, Rohtak then all of a sudden, Suraj son of Premi, Vinay son of Pappu and two other persons accompanying them, opened an attack on him. The assailants were armed with iron rod and wooden '*bindas*' (Handles). While Suraj caused injuries on his head with iron rod, Vinay caused injuries on his left foot with the '*binda*'. He tried to rescue himself but Suraj gave a blow with the iron rod on his left hand and the two other persons, who were accompanying them, gave him kick and fist blows. While running away from the place of occurrence, they extended a threat to eliminate him. Information about the injuries caused to the petitioner was conveyed to his family members, whereupon, he was shifted to PGIMS Rohtak for treatment. He was medico legally examined by Dr. Mahem Mahla and was declared unfit to make a statement. His statement was eventually recorded on 30.01.2015 when Doctors declared him fit for his statement whereupon the FIR in question was registered. Investigation was conducted. The respondents were arrested and the weapons used in the commission of offence were seized. The final report under Section 173 Cr.P.C. was submitted against the respondents.

3. To prove the charges against the accused persons, the prosecution proposed to examine 11 witnesses but finally examined only 7 and failed to produce two witnesses namely, Dr. Amanpreet and Dr. Surender, despite having availed the assistance of the Court in securing their presence. The details of the witnesses examined and their testimony is

tabulated as under:-

Sr. No.	Name of Witness	Relevance
PW-1	Pawan	Injured/complainant/victim
PW-2	Jitender	He is uncle of the injured. He reached on the spot after receiving information.
PW-3	HC Sushil Kumar	He remained associated with IO HC Kuldeep. He proved seizure memo of danda and iron rod vide memo Ex. PW3/A and Ex. PW-3/B
PW-4	Raman	He is brother of the injured. He reached on the spot after receiving information through PW-2 Jitender
PW-5	Dr. Mahesh Mahla, PGIMS	He proved ruqqa Ex. PW-5/A, MLR of injured Pawan Ex. PW-5/B and opinion Ex. PW-5/C.
PW-6	Retd. Insp. Rattan Singh	He proved registration of FIR Ex. PW-6/A.
PW-7	Investigating Officer, ASI Kuldeep Singh	He proved the manner of investigation, statement of complainant Pawan Ex. PW1/A, written tehrir Ex. PW-7/A, site-plan Ex. PW-7/B, recovery of danda and wooden bita, arrest of accused and submission of final report

4. The respondents-accused raised a defence that they had been falsely implicated in the present case on account of previous enmity between them. It was also argued that no independent witness has been examined, even though the place of alleged occurrence was a busy market area. The photographs of the place of occurrence were also not taken and no blood stained clothes were seized to prove that the occurrence had actually taken place in the manner as alleged. Besides, the testimony of the witnesses who deposed was materially inconsistent. It is also alleged that the injury, on the basis whereof Section 326 of the Indian Penal Code, 1860 was attracted, was not proved from the X-ray report. The respondents also argued that there was an inordinate delay in registration of the FIR.



5. On consideration of the rival submissions as well as the testimony of the witnesses recorded, the trial Court came to a conclusion that the charges could not be proved by the prosecution and hence acquitted the respondent(s)-accused vide its judgment dated 04.02.2020.

6. Aggrieved thereof, the criminal appeal bearing No.39 of 2020 was filed before the Court of Sessions Judge, Rohtak. The said appeal was also dismissed vide judgment dated 07.03.2022 against which the instant criminal revision petition has been filed.

7. Counsel for the petitioner has vehemently argued that the case of the petitioner has been dismissed primarily for the reasons that there was unexplained delay in reporting the incident. He contends that there was no delay as even though the incident in question took place on 27.01.2015, however, the petitioner was declared medically unfit only on 30.01.2015 and immediately when he was declared medically fit, his statement was recorded on 30.01.2015 resulting into registration of the FIR. He thus contends that the delay in registration of the FIR thus stood explained satisfactorily. It is further argued that the reliance by the Courts on failure of the prosecution to examine any independent witness was improper in as much as it is a case of an injured eye witness. Hence a mere absence of an independent witness would not be sufficient unto itself to disbelieve the case of the prosecution and to extend benefit of doubt to the accused and acquit them of the charges leveled against them.

8. I have heard the learned counsel for the petitioner and have gone through the documents relied upon by him as well as the judgments



passed by the learned Judicial Magistrate 1st Class, Rohtak and learned Sessions Judge, Rohtak.

9. The Courts have undisputedly noticed that there is a delay in registration of the FIR in question, however, the explanation offered by the petitioner-complainant that he was not declared medically fit to get his statement recorded was not relied upon as satisfactory since his other family members were present and the FIR in question could have been duly registered on their statement. It was also noticed that the testimony of the Doctors had not been recorded which alone could establish the commission of offence under Section 326 of the Indian Penal Code, 1860.

10. Besides, neither the photographs of place of occurrence nor any blood-stained clothes had been taken into possession for corroboration of the prosecution version. In the absence thereof, it cannot be presumed that the incident in question actually took place in the manner as alleged or that the petitioner had sustained any injuries as are being claimed in the incident that took place on 27.01.2015.

11. It is further evident that all the contentions of the petitioner had been duly noted by the trial as well as the Appellate Court but they failed to convince the Courts. The position in law is well settled that if two views are possible, on scrutiny of evidence, the one which favours the accused is to be accepted as compared to the other. The High Court, in exercise of its revisional jurisdiction does not sit in re-appreciation of the entire evidence already recorded but only confines its examination to any illegality, perversity or impropriety in the judgments passed by the Courts. Once the

view adopted is a tenable view, on the consideration of the evidence recorded, the High Court would not ordinarily substitute its opinion and convert a finding of acquittal into that of a conviction. No such illegality, perversity or impropriety has been pointed out.

12. Consequently, the present criminal revision petition is **dismissed.**

23.09.2025

Mangal Singh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(VINOD S. BHARDWAJ)
JUDGE