IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 44 of 2014
Reserved on: 29.10.2026
Date of Decision: 16.11.2026.

State of H.P. ...Appellant

Versus

Ram Prasad & Ors. ...Respondent

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] *No*

For the Petitioner : Mr Pawan Kumar Nadda, Additional Advocate General.

For the Respondent : Mr Vijay Bir Singh, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 31.08.2013 passed by learned Judicial Magistrate First Class, Indora, District Kangra, H.P. (learned Trial Court) vide which the respondent (accused before the learned Trial Court) was acquitted of the commission of offences punishable under Sections 148, 341, and 324 read with Section 149 of the Indian Penal Code (in short "IPC"). *(The parties shall hereinafter be*

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

referred to in the same manner as they were arrayed before the learned Trial Court for convenience).

2. Briefly stated, the facts giving rise to the present appeal are that the police presented a challan before the learned Trial Court against the accused for the commission of offences punishable under Sections 341, 147, 148, 149, and 323 of the IPC. It was asserted that the informant, Raj Kumar (PW2), was returning to his home on 04.09.2007 at about 09:00 p.m. Neeraj Sharma, Ram Prasad, Sunil, Ashish Sharma, and Rimpu stopped him on the way and started beating him with sticks, a baseball bat, a darat, and a glass bottle. The accused also abused the informant and threatened to kill him. The informant sustained injuries. Onkar Singh (PW3), Sohan Lal (PW4), and Pushottam Singh (since deceased) rescued the informant from the accused. The informant was taken to the hospital and intimation was given to the police. An entry (Ext.PW7/A) was recorded in the daily diary. HC Govind Singh (PW9) went to the hospital for verification. He filed an application (Ext.PW9/A) seeking the opinion as to whether the informant was fit to make the statement and to issue the medico-legal certificate. Doctor Tina Gupta (PW1) examined the informant and found that he had

sustained multiple injuries. She advised an X-ray. No fracture was seen in the X-ray. Hence, the nature of the injury was stated to be simple which could have been caused by means of sticks. She issued the MLC (Ext.PW1/C). She also certified that the informant was fit to make the statement. HC Govind Singh (PW9) recorded the informant's statement (Ext.PW2/A) and sent it to the Police Station, where FIR (Ext.PW8/A) was registered. HC Govind Singh (PW9) went to the spot and prepared the site plan (Ext.PW9/B). Rimpu, Sunil Kumar, and Ram Prasad produced the sticks which were seized vide memos (Ext.PW9/C to Ext.PW9/E). Statements of witnesses were recorded as per their version, and after the completion of investigation, the challan was prepared and presented before the learned Trial Court.

3. The learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, they were charged with the commission of offences punishable under Sections 148, 341 and 324 read with Section 149 of the IPC, to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined nine witnesses to prove its case. Doctor Tina Gupta (PW1) conducted the informant's

medical examination. Raj Kumar (PW2) is the informant/victim. Onkar Singh (PW3) is an eyewitness. Sohan Lal (PW4), Rishi Pal (PW5) and Tilak Raj (PW6) did not support the prosecution case. HHC Dev Raj (PW7) proved the entry in the daily diary. Shakti Prasad (PW8) signed the FIR and prepared the challan. HC Govind Singh (PW9) investigated the matter.

5. The accused, in their statements recorded under Section 313 of the Code of Criminal Procedure (CrPC), denied the prosecution case in its entirety. They claimed that witnesses had deposed falsely against them and a false case was made against them.

6. Learned Trial Court held that informant Raj Kumar (PW2) did not state on oath that Onkar Singh (PW3), Sohan Lal (PW4) and Purshottam had rescued him. Sohan Lal (PW4) denied the prosecution version. Accused Ram Prasad had contested the election against Sohan Lal, and Sohan Lal had no reason to support the accused. The informant stated that the incident was witnessed by the neighbours. However, no person was examined. The informant had materially improved upon his initial version. Onkar Singh (PW3) is the informant’s uncle. The recovery of the

sticks was also not proved. The accused had also lodged an FIR against the informant. The Investigating Officer had not determined as to who was the aggressor. The prosecution version was not proved beyond reasonable doubt. Hence, the learned Trial Court acquitted the accused.

7. Being aggrieved by the judgment passed by the learned Trial Court, the State has filed the present appeal asserting that the learned Trial Court erred in acquitting the accused. The informant's statement was duly corroborated by the testimonies of Onkar Singh (PW3) and Doctor Tina Gupta (PW1). The enmity is not sufficient to record the acquittal, as it can furnish a motive for the commission of the crime. Therefore, it was prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

8. I have heard Mr Pawan Kumar Nadda, learned Additional Advocate General for the appellant/State and Mr Vijay Bir Singh, learned counsel for the respondent/accused.

9. Mr Pawan Kumar Nadda, learned Additional Advocate General for the appellant/State, submitted that the learned Trial Court erred in acquitting the accused. The informant's statement

was duly corroborated by the testimony of Onkar Singh (PW3) and the medical evidence. The mere fact that Sohan Lal has not supported the prosecution case was not sufficient to discard the prosecution case. The enmity is a double-edged weapon, and it can furnish a motive for the commission of the crime. Therefore, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

10. Mr Vijay Bir Singh, learned counsel for the respondent/accused, submitted that the informant had materially improved upon his version. The accused had also lodged an FIR regarding the same incident. The learned Trial Court had rightly pointed out that the Investigating Officer had not determined who the aggressor was. The learned Trial Court had taken a reasonable view while acquitting the accused, and this Court should not interfere with the reasonable view of the learned Trial Court, even if another view is possible. Therefore, he prayed that the present appeal be dismissed.

11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

12. The present appeal has been filed against a judgment of acquittal. It was laid down by the Hon'ble Supreme Court in ***Sanjay Kumar v. State of Bihar, 2026 SCC OnLine SC 1373,*** that the Court can interfere with a judgment of acquittal only if it is impossible, perverse, wholly unsustainable, or manifestly illegal. It was observed:

> **Scope of interference with an acquittal:**
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> **26.** At the outset, it is necessary to remind ourselves of the settled principles governing interference with an order of acquittal. An accused is presumed innocent until proven guilty. When a court of competent jurisdiction acquits the accused, the presumption of innocence is not weakened but reinforced. Where such acquittal is affirmed by the High Court, the caution to be exercised by this Court under Article 136 is even greater.
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> **27.** In ***Kali Ram v. State of Himachal Pradesh (1973) 2 SCC 808: 1973 SCC (Cri) 1048***, this Court explained the golden thread running through criminal jurisprudence in the following words:
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> > *"25. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence. A rule has accordingly been laid down that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the Court should refrain from recording a finding of guilt of the accused. It is also an accepted rule*

that in case the Court entertains reasonable doubt regarding the guilt of the accused, the accused must have the benefit of that doubt. Of course, the doubt regarding the guilt of the accused should be reasonable; it is not the doubt of a mind which is either so vacillating that it is incapable of reaching a firm conclusion or so timid that it is hesitant and afraid to take things to their natural consequences. The rule regarding the benefit of doubt also does not warrant acquittal of the accused by resort to surmises, conjectures or fanciful considerations. As mentioned by us recently in the case of State of Punjab *v.* Jagir Singh, *a criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and fantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the offence with which he is charged. Crime is an event in real life and is the product of the interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the Court has to judge the evidence by the yardstick of probabilities, intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the Courts should not at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures."*

28. The decision in ***Kali Ram*** (supra) further cautions that wrongful acquittal and wrongful conviction do not stand on the same footing, for conviction of an innocent person causes grave injustice and shakes public confidence in the administration of criminal justice. The rule of benefit of doubt, therefore, is not a technical rule; it is a substantive safeguard flowing from the presumption of innocence.

29. In ***Ghurey Lal v. State of Uttar Pradesh (2008) 10 SCC 450: (2009) 1 SCC (Cri) 60***, this Court reiterated the limited scope of interference with acquittals. This Court observed:

> "75. The Trial Court has the advantage of watching the demeanour of the witnesses who have given evidence; therefore, the appellate court should be slow to interfere with the decisions of the Trial Court. An acquittal by the Trial Court should not be interfered with unless it is totally perverse or wholly unsustainable."

30. The decision in ***Ghurey Lal*** (supra) also crystallised certain propositions: first, there is a double presumption of innocence in favour of an acquitted accused; secondly, if two views are possible, the view favourable to the accused must prevail; thirdly, though the appellate court has the power to reappreciate evidence, it should interfere only when the acquittal is manifestly illegal, perverse or results in miscarriage of justice; and fourthly, due weight must be given to the Trial Court's findings, particularly because the trial judge had the advantage of observing the demeanour of witnesses.

31. In ***Chandrappa v. State of Karnataka (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325***, this Court held that though the appellate court has full power to review and re-appreciate the evidence, the presumption of innocence is strengthened by an order of acquittal. It was held that when two reasonable conclusions are possible on the basis of evidence on record, the appellate court should not disturb the finding of acquittal.

32. The same principle was restated in ***Mrinal Das v. State of Tripura (2011) 9 SCC 479***, wherein this Court held that an order of acquittal is to be interfered with only when there are compelling and substantial reasons for doing so. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal.

33. Therefore, the question before us is not whether another view on the evidence is possible. The question is whether the view taken by the Trial Court and affirmed by the High Court is impossible,

perverse, wholly unsustainable, or manifestly illegal. Having examined the record, we are unable to hold so.

13. The present appeal is to be decided as per the parameters laid down by the Hon'ble Supreme Court.

14. Raj Kumar (PW2) stated that he was returning to his home on 04.09.2007 at about 08:00-8:15 p.m. Neeraj Sharma came and started abusing him in the name of the caste. He returned with his family members and some persons. The accused dragged him inside the shop. The accused were armed with a stick, a baseball bat and glass. The accused started beating him, and he was rescued by the villagers. He was taken to the hospital, and he reported the matter to the police. He admitted in his cross-examination that a criminal case was pending against him regarding the same incident. Many persons were watching the incident from their homes. He denied that he and his friends had given beatings to Ashish and Neeraj and that they had sustained injuries during the incident.

15. Learned Trial Court had rightly pointed out that the version narrated by this witness before the Court was contrary to the version projected in the initial statement (Ext.PW2/A). It was stated in the initial statement that all the accused came and

started beating him without any reason, whereas it was stated in the Court that he was initially attacked by Neeraj, who abused him (the informant) and went away. The informant claimed in the Court that the accused was dragged outside the shop, a fact missing from his previous statement (Ext.PW2/A). The informant stated in the Court that the accused had given him beatings with sticks, a baseball bat and glass, whereas it was stated in the initial statement (Ext.PW2/A) that the accused had given beatings with the stick, baseball bat, darat and the glass bottle. Thus, there were material discrepancies in the statements of the informant as recorded before the Court and the police.

16. The informant admitted in the cross-examination that a criminal case was pending against him regarding the same incident, which means that he has a motive to shift the blame to the accused to save himself from the punishment. Therefore, the informant's testimony was required to be seen with due care and caution.

17. Dr Tina Gupta (PW1) examined the informant and found two abrasions, two superficial lacerations, and multiple abrasions. She had not found any incised wound that could have

been caused by means of a darat or the glass bottle. The absence of injuries sustained by the informant from the darat or the glass bottle makes his version doubtful that the accused were armed with the darat or the glass bottle.

18. Onkar Singh (PW3) heard some noise. He and Sohan Singh went to the spot. Purshottam was already present at the spot. Neeraj, Rimpu, etc. were giving beatings to Raj Kumar with a glass bottle and sticks. He rescued Raj Kumar from the accused. He admitted in his cross-examination that he is the informant's real uncle. He admitted that the accused belonged to a different caste. He was not aware that Raj Kumar and his friends had given beatings to Ashish and Neeraj. He admitted that a criminal case was registered against Raj Kumar regarding the same incident.

19. The informant had not mentioned the name of Onkar Singh in his testimony on oath, and his presence is suspect. Onkar Singh denied, for want of knowledge, that the informant and his friends had given beatings to accused Ashish and Neeraj. He was an eyewitness and would have known whether the informant and his friends had given any beating to the accused or

not. The fact that he had denied it for want of knowledge will make his presence on the spot highly suspect.

20. Sohan Lal (PW4) did not support the prosecution case. He stated that the people had brought the injured to him and told him that the injured were to be taken to the hospital. He was permitted to be cross-examined, and he denied the previous statement recorded by the police that the accused had given beatings to the informant, and he had rescued the informant from the accused. Thus, the testimony of this witness does not support the prosecution version.

21. Thus, the informant's version was not believable as it was contrary to the initial version projected before the police, the medical evidence did not support the prosecution's version that darat or glass bottles were used, and the presence of Onkar Singh (PW3) on the spot was doubtful. Therefore, the learned Trial Court had taken a reasonable view while holding that the prosecution version was not proved beyond reasonable doubt, and this Court will not interfere with the reasonable view of the learned Trial Court, even if another view is possible.

22. No other point was urged.

23. In view of the above, the present appeal fails and is dismissed. Pending applications, if any, also stand disposed of.

24. In view of the provisions of Section 437 A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha Sanhita, 2023) the respondent is directed to furnish bail bond in the sum of ₹50,000/- with one surety of the like amount to the satisfaction of the learned Registrar (Judicial) of this Court/learned Trial Court, which shall be effective for six months with a stipulation that in the event of a Special Leave Petition being filed against this judgment or on grant of the leave, the respondent on receipt of notice thereof shall appear before the Hon'ble Supreme Court.

25. A copy of the judgment, along with the record of the learned Trial Court, be sent back forthwith.

(Rakesh Kainthla)
Judge

16th November, 2026
(Nikita)