IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 4245 of 2013
Reserved on: 18.3.2026
Date of Decision: 27.4.2026.

State of H.P. ...Appellant

Versus

Chaman Lal ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] *No.*

For the Appellant : Mr Prashant Sen, Deputy Advocate General.

For the respondent : M/s Vishali Lakhanpal and Vishal Thakur, Advocates.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 25.6.2013, passed by the learned Special Judge, Una, Himachal Pradesh (learned Trial Court) vide which the respondent (accused before the learned Trial Court) was acquitted of the charges framed against him. *(The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience).*

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

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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 Section 3(i)(x) of the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act (hereinafter referred to as SC & ST Act). It was asserted that the informant Surjeet Singh (PW7) is a member of the Scheduled Caste. He was residing in Village Jasana for 18 years. He used to visit the temple of Baba Asri Augarnath. He reached the stairs of the temple on 11.12.2008, when accused Chaman Lal told him not to enter the temple as it was not meant for the Scheduled Caste. The informant replied that he had been visiting the temple for many years. The accused caught hold of the informant's neck and abused him in the name of his caste. Pawan Kumar (PW1) and Lekh Raj (PW2) also reached the spot and rescued the informant from the accused. The accused threatened to kill the informant if he visited the temple again. The informant filed an application (Ex.PA) before the police. The police recorded FIR (Ex.PW6/A). Madhusudan (PW9) investigated the matter. He prepared the spot map (Ex.PW9/A) and recorded the statements of witnesses as per their version. Vijay Kumar (PW3) issued the copy of

Jamabandi (Ex.PW3/A), a copy of Aks Shajra (Ex.PW3/B), and a report (Ex.PW3/C). Shashi Pal issued the pedigree table (Ex.PW4/A) showing that the informant was a member of the Scheduled Caste. Hari Dass (PW5) issued a pedigree table (Ex.PW5/A) and Jamabandi (Ex.PW5/B) showing that the accused did not belong to a scheduled caste. Statements of witnesses were recorded as per their version, and after the completion of the investigation, the challan was prepared and presented before the Court.

3. The learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, he was charged with the commission of an offence punishable under Section 3(1)(x) of the SC & ST Act, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined nine witnesses to prove its case. Pawan Kumar (PW1) and Lekh Raj (PW2) are the eyewitnesses. Vijay Kumar (PW3), Shashi Pal (PW4) and Hari Dass (PW5) were posted as Patwaris who produced the record. Khushal Chand (PW6) signed the FIR. Surjeet Singh (PW7) is the informant. Suram Singh (PW8) is the Pradhan to whom the

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informant narrated the incident. Madhusudan (PW9) investigated the matter.

5. The accused in his statement recorded under Section 313 Cr.PC denied the prosecution's case in its entirety. He stated that witnesses made false statements against him, and he was falsely implicated. He produced the document in his defence.

6. The learned Trial Court held that the accused and Pawan Kumar (PW1) had contested elections for the post of Up-Pradhan. Pawan Kumar had fined the accused ₹21/-. Suram Singh, Madan Lal and other persons were tried and convicted by learned Chief Judicial Magistrate, Una, on a complaint of the accused. This showed the inimical relations between the accused and the informant party. The accused was visiting the temple for a pretty long time, and there was no reason why the informant should have taken an exception to his visit on the date of the incident. Many independent persons were present at the place of the incident, but they were not examined. All these circumstances make the prosecution's case doubtful. 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 failed to properly appreciate the material on record. The statements of prosecution witnesses corroborated each other, and the learned Trial Court erred in rejecting these testimonies. The matter was reported to Pradhan on the same day, and there was no delay in reporting the matter to the police. Hence, 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 Prashant Sen, learned Deputy Advocate General, for the appellant/State and M/s Vishali Lakhanpal and Vishal Thakur, learned counsel for the respondent/accused.

9. Mr Prashant Sen, learned Deputy Advocate General for the appellant/State, submitted that the learned Trial Court erred in acquitting the accused. The statements of prosecution witnesses corroborated each other on material particulars, and the learned Trial Court erred in rejecting these testimonies. The enmity is a double-edged weapon and should not have been used

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to reject the prosecution's case. The learned Trial Court acquitted the accused without any cogent reasons. Hence, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

10. Ms Vishali Lakhanpal, learned counsel for the respondent/accused, submitted that the relationship between the parties was strained. Independent witnesses were not examined, and there was a delay in reporting the matter to the police, which was not properly explained. Learned Trial Court had taken a reasonable view, and this Court should not interfere with the reasonable view of the Trial Court, even if another view is possible. She 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 ***Surendra Singh v. State of Uttarakhand, (2025) 5 SCC 433: 2025 SCC OnLine SC 176*** that the Court can interfere with a judgment of acquittal if it is patently perverse, is based on misreading of evidence, omission to consider the material evidence and no

reasonable person could have recorded the acquittal based on the evidence led before the learned Trial Court. It was observed on page 438:

> "24. It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial Judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

13. This position was reiterated in ***State of M.P. v. Ramveer Singh, 2025 SCC OnLine SC 1743,*** wherein it was observed:

> 21. We may note that the present appeal is one against acquittal. Law is well-settled by a plethora of judgments of this Court that, in an appeal against acquittal, unless the finding of acquittal is perverse on the face of the record and the only possible view based on the evidence is consistent with the guilt of the accused, only in such an event, should the appellate Court interfere with a judgment of acquittal. Where two views are possible, i.e., one consistent with the acquittal and the other holding the accused guilty, the appellate Court should refuse to interfere with the judgment of acquittal. Reference in this regard may be made to the judgments of this Court in the cases of ***Babu Sahebagouda Rudragoudar*** **v.** ***State of Karnataka (2024) 8 SCC 149***; ***H.D. Sundara*** **v.** ***State of Karnataka (2023) 9 SCC 581*** and ***Rajesh Prasad*** **v.** ***State of Bihar (2022) 3 SCC 471***.

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

15. The informant Surjeet Singh (PW7) stated that he used to visit the Augharnath Temple in the jungle near Jasana village. He had reached Baudi on 11.12.2008 at about 7/7:30 AM, from where the stairs lead to the temple. The accused reached the spot and abused him in the name of the caste. He prevented the accused from entering the temple. Pawan Kumar and Lekh Raj tried to pacify the accused. He informed the Pradhan and filed an application (Ex.PA) before the police. He stated in his cross-examination that he had good relations with Baba Chetna Nand, and he had resided with him for three months. He admitted that he was also known as Baba Surjeet in the village. The application was written by Karam Chand. He admitted that he was facing a complaint of beating Kishan Chand. He denied that a false case was made at the instance of Madan Lal, Suram Singh, Pawan Kumar and Lekh Raj.

16. Learned Trial Court had rightly held that the testimony of this witness was inherently improbable. He admitted that he was a regular visitor to the temple and had also

resided with Baba Chetnanand for about three months. No reason was assigned as to why the accused should have prevented him from entering the temple on the date of the incident.

17. The complainant asserted that the incident had occurred on 11.12.2008. He filed the application (Ex.PA) with the police on 13.12.2008. He has not provided any explanation for the delay. It was laid down in ***Mehraj Singh v. State of U.P. (1994) 5 SCC 188*** that the delay in lodging FIR leads to embellishments, concoction and fabrication and the court should see the prosecution case with utmost care and caution in case of delay. It was observed:

> "FIR in a criminal case and particularly in a murder case is a vital and valuable piece of evidence to appreciate the evidence led at the trial. The object of insisting upon prompt lodging of the FIR is to obtain the earliest information regarding the circumstances in which the crime was committed, including the names of the actual culprits and the parts played by them, the weapons, if any, used, as also the names of the eyewitnesses, if any. Delay in lodging the FIR often results in embellishment, which is a creature of an afterthought. On account of the delay, the FIR not only gets bereft of the advantage of spontaneity, but danger also creeps in with the introduction of a coloured version or exaggerated story. With a view to determining whether the FIR was lodged at the time it is alleged to have been recorded, the courts

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> generally look for certain external checks. One of the checks is the receipt of a copy of the FIR, called a special report in a murder case, by the local Magistrate. If this report is received by the Magistrate late, it can give rise to an inference that the FIR was not lodged at the time it is alleged to have been recorded, unless, of course, the prosecution can offer a satisfactory explanation for the delay in dispatching or receipt of the copy of the FIR by the local Magistrate. The prosecution has presented no evidence at all in this case. The second external check, equally important, is the sending of a copy of the FIR along with the dead body and its reference in the inquest report. Even though the inquest, prepared under Section 174 CrPC, is aimed at serving a statutory function, to lend credence to the prosecution's case, the details of the FIR and the gist of statements recorded during inquest proceedings get reflected in the report. The absence of those details is indicative of the fact that the prosecution's story was still in an embryonic state and had not been given any shape, and that the FIR came to be recorded later on, after due deliberations and consultations and was then ante-timed to give it the colour of a promptly lodged FIR. In our opinion, on account of the infirmities as noticed above, the FIR has lost its value and authenticity, and it appears to us that the same has been ante-dated and had not been recorded till the inquest proceedings were over at the spot by PW 8."

18. This position was reiterated in ***P Rajagopal vs State of Tamil Nadu 2019 (5) SCC 40***, wherein it was observed: -

> "12. Normally, the Court may reject the case of the prosecution in case of inordinate delay in lodging the first information report because of the possibility of a concoction of evidence by the prosecution. However, if the delay is satisfactorily explained, the Court will decide the matter on the merits without giving much importance

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> to such delay. The Court is duty-bound to determine whether the explanation afforded is plausible enough given the facts and circumstances of the case. The delay may be condoned if the complainant appears to be reliable and without any motive for implicating the accused falsely. [See ***Apren Joseph v. State of Kerala, (1973) 3 SCC 114; Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1***]."

19. A similar view was taken in ***Sekaran v. State of T.N.*, *(2024) 2 SCC 176: (2024) 1 SCC (Cri) 548: 2023 SCC OnLine SC 1653,*** wherein it was observed on page 182:

> "**14.** We start with the FIR, to which exception has been taken by the appellant, urging that there has been no satisfactory explanation for its belated registration. It is trite that merely because there is some delay in lodging an FIR, the same by itself and without anything more ought not to weigh in the mind of the courts in all cases as fatal for the prosecution. A realistic and pragmatic approach has to be adopted, keeping in mind the peculiarities of each particular case, to assess whether the unexplained delay in lodging the FIR is an afterthought to give a coloured version of the incident, which is sufficient to corrode the credibility of the prosecution's version.
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> **15.** In cases where delay occurs, it has to be tested on the anvil of other attending circumstances. If on an overall consideration of all relevant circumstances it appears to the court that the delay in lodging the FIR has been explained, mere delay cannot be sufficient to disbelieve the prosecution case; however, if the delay is not satisfactorily explained and it appears to the court that cause for the delay had been necessitated to frame anyone as an accused, there is no reason as to why the delay should not be considered as fatal forming part of several factors to vitiate the conviction."

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20. Therefore, the learned Trial Court was justified in doubting the prosecution's case because of the delay.

21. Pawan Kumar (PW1) admitted that he and the accused had contested the election for the post of Up-Pradhan. He admitted that the wife of the accused had contested the election for the post of Ward Member against Nirmla Devi, the wife of his brother Hari Krishan. He admitted that Satish Kumar had filed the complaint against the accused, and he had fined the accused ₹21/-.These admissions showed that his relationship with the accused was strained, and the learned Trial Court was justified in seeking corroboration of his testimony.

22. Lekh Raj (PW2) admitted that the accused had complained against him before the Gram Panchayat, Jasana and the matter was compromised. He admitted that he was not on speaking terms with the accused. These admissions also show the strained relationship with the accused, and the learned Trial Court was justified in seeking corroboration of his testimony.

23. Suram Singh (PW8) was Pradhan. He was not present on the spot and was told about the incident by the informant. He also admitted that the accused had filed the case against him,

Madan Lal, Virender, and Manjeet Singh. He admitted that the learned Trial Court convicted him. He volunteered to say that the learned Appellate Court acquitted him. This also shows that the relationship between him and the accused is not cordial.

24. Therefore, the prosecution had relied upon the statements of the inimical witnesses. The informant admitted in his cross-examination that three to four persons were present on the spot. However, they were not examined, and an adverse inference has to be drawn for withholding them.

25. learned Trial Court was justified in doubting the prosecution's case because of all these infirmities. Learned Trial Court had taken a reasonable view, and this Court will not interfere with a reasonable view of the learned Trial Court, even if another view is possible.

26. No other point was urged.

27. Consequently, the present appeal fails, and it is dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

28. In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha

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Sanhita, 2023) the respondent/accused is directed to furnish bail bonds in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of the learned Trial Court within four weeks, which shall be effective for six months with stipulation that in the event of Special Leave Petition being filed against this judgment, or on grant of the leave, the respondent/accused on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

29. Records be sent back to the learned Trial Court forthwith, along with a copy of the judgment.

(Rakesh Kainthla)
Judge

27th April, 2026
(Chander)