2026:PHHC:056618-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

101 **CRA D-207-DBA-2004**
Date of Decision:16.04.2026
Reserved on:-23.01.2026
Uploaded on: 22.04.2026

State of Haryana **…Appellant**

Vs.

Raj Kumar and others **…Respondents**

CORAM: HON'BLE MR. JUSTICE N.S.SHEKHAWAT
HON'BLE MR. JUSTICE H.S.GREWAL

Present: Mr. M.S. Bajwa, DAG, Punjab.

Mr. Kuldeep Kumar Sarthi, Advocate
for the respondents.

N.S.SHEKHAWAT, J.

1. The State of Haryana has preferred the present appeal against the impugned judgment dated 15.11.2002 passed by the Court of Additional Sessions Judge (Adhoc) Fast Track Court-II, Faridabad, whereby the respondents were ordered to be acquitted of the charge.

2. The FIR Ex. PB/1 in the present case was registered on the basis of the statement Ex.PB made by Kanhi Ram son of Gyasi and the relevant extract of the FIR has been reproduced below:

> *"To The SHO Sahib, Police Station Hodal, Sir it is submitted that I Kanhi Ram s/o Gyasi, am residant of Gadia Mohalla, Hodal, Tehsil Hodal, District Faridabad.*

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utencils, bricks, chhappar, window etc. of the house of Kanhi Ram have been taken away. Many injuries have also been caused by utensils. Wearing ornaments and cloths have been removed and bag of cash has been snatched. I, Kanhi Ram won the case of land twice. Firstly, won from Palwal and now case has been won from Hodal. These persons namely Lala Ram, Ganpat, Girdhari, Nandu, Mangal, Sewa, Dhanu, Bharat Lal, Noona, Munna, Munshi, Deva Nand, Nanak, Birju, Raj Kumar, Devi Ram, Khiloni, Lal Singh, Kamal Arjun, Maha Sukh and Ram Singh (constable) have committed dacoity in my house and they have taken away 50,000 bricks, house hold articles and iron tin sheets etc. They have taken away all articles including utencils etc. Sir, they are standing armed with bamboo and Ballam. Kindly legal action be taken. I will be thankful to you. I am a poor man. Applicant L.T.I. Kanhi Ram s/o Gyasi, Godia Mohalla, Hodal dated 27.12.95.

Police Proceedings:- *From the contents of the application an offence under Sections 148/149/323/447/506 IPC are found out upon which after registration the case under the above said offences. Copies of FIR have been prepared which shall be sant to the concerned officers. Upon that, I ASI alongwith C. Pritam 1227 and complainant, copy of police file alongwith original writting proceeds to the place of occurrance for investigation.*

Sd/- in English
Anshi Lal ASI
601/H ASI
P.S.Hodal
27.12.1995."

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3. After the registration of the FIR, the necessary investigation was conducted in the present case and the *challan* was presented before the trial Court. Since, the offence was triable by the court of Sessions, the case was committed to the court of Sessions Judge, Faridabad. Ultimately, the trial Court found that a *prima facie* case under Sections 148, 452/149, 506/149, 427/149, 395/149 of IPC was made out against the respondents and they were ordered to be charge-sheeted accordingly. However, the respondents pleaded not guilty and claimed to be tried in the present case.

4. In order to prove the prosecution case, 11 witnesses were examined. SI Ram Niwas was examined as PW1, who prepared the report under Section 173 Cr.P.C. on 30.01.1996. PW2 Bhagwan Dass, Clerk in the Court of S.D.M. Hodal, placed on record Ex.PA, a copy of the judgment dated 28.11.1995. PW3 complainant Kanhi Ram, PW4 Hari Chand, PW5 Chatar Singh and PW6 ASI Amsi Lal were also examined. PW7 Puran Singh, Record Keeper, placed on record Ex.PD, a copy of the judgment dated 06.09.1985 in Civil Suit No.443 titled ***'Gyasi Vs. Khiloni'.*** PW8 Puran Singh, Assistant Registration Clerk, Tehsil Office, Palwal, placed on record Mark ‘X-1’, a photocopy of registry record bearing Serial No.523 dated 31.05.1977. PW9 DSP Baljit Singh and PW10 SI Ram Bhagat were also examined. PW11 Ranbir Singh placed on record Ex.PW11/1, a copy of FIR No.203 dated 09.06.2000, and also produced the supplementary *challan* of the present case in Court on 27.04.2001.

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5. After recording the statements of the prosecution witnesses, the statements of all the respondents were recorded under Section 313 Cr.P.C. and the incriminating evidence was put to them. However, they pleaded false implication and stated that the witnesses had deposed falsely against them. In their defence, the respondents tendered a local commissioner report Ex.DA, copy of the plan and site plan as Mark 'A' and Mark 'B'.

6. Learned State counsel vehemently argued that Raj Kumar and 22 other accused in the present case had formed an unlawful assembly and were duly armed with deadly weapons. They caused hurt to the complainant and criminally intimidated him by putting him under the fear of death. Even the prosecution case was fully supported by Kanhi Ram, complainant, who was examined as PW3 and his statement was corroborated by PW4 Hari Chand and PW-5 Chatar Singh. However, the trial Court acquitted all the respondents on the ground of minor discrepancies in the statements of various prosecution witnesses. In fact, the prosecution witnesses had appeared after several years and such minor contradictions are bound to appear in the statements of rustic witnesses.

7. On the other hand, learned counsel appearing on behalf of the respondents submitted that the statements of PW3 Kanhi Ram, PW4 Hari Chand and PW5 Chatar Singh were not only contradictory, but they also did not appear to be truthful witnesses. Even, it is apparent that they

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had levelled allegations due to the ongoing dispute between both the parties.

8. We have heard learned counsel for the parties and perused the record very carefully.

9. In the present case, admittedly there was a dispute between the complainant side and the accused over a passage. The prosecution filed a copy of the order dated 28.11.1995 passed by the SDM Court in a case titled as ***"Ganpati versus Kanhi Ram"***, as Ex. PA, which is the basis of the dispute between the parties. However, from the order, it is apparent that there was no mention of a passage in the revenue record or in the record of the Municipal Committee. Apart from that, even Kanhi Ram admitted that houses of the accused were in the same locality and there was a passage over which there was a dispute and he had won that case. However, Hari Chand PW4 denied the existence of a passage in front of the house of the complainant, whereas on the other hand, PW5 Chatar Singh admitted that there was a 10-feet-wide passage between the houses of the complainant and the accused. Thus apparently, there was a dispute between the complainant side and the respondent over a passage which the complainant wanted to close whereas the accused were opposing the said move. Thus, the statements of all the prosecution witnesses have to be scrutinized carefully and with circumspection.

10. To prove the case, the prosecution examined PW3 Kanhi Ram, complainant, who admitted that there was no room and only a hut was constructed at the site, whereas, he also stated that the respondents

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had removed fifty thousand bricks, boxes, doors, wooden frame, utensils, clothes, windows, etc. However, it is a matter of common knowledge that fifty thousand bricks may not be required for construction of a big hut also. Normally, fifty thousand bricks can never be loaded even in a big truck and may be more than ten trucks would be required for fifty thousand bricks. Still further, it is highly improbable that so many doors were affixed in a small hut. Apart from that, even the complainant was not present at the time when the goods were removed, then how he could attribute such specific roles to the respondents. Consequently, the version of the prosecution was not only improbable, but even the presence of PW3 Kanhi Ram at the place of occurrence was highly doubtful.

11. Apart from that, PW3 Kanhi Ram had mentioned different versions at different times regarding the manner in which the occurrence had taken place. His version as mentioned in the complaint Ex. PB was completely at variance with the allegations levelled in the complaint Mark A. Still further, while appearing as PW3, Kanhi Ram had clearly changed his version. Thus, at three different stages, he had mentioned three different versions. Apart from that, the trial Court had discussed in detail in paragraph Nos. 11 and 12 that the statements of PW3 Kanhi Ram was contradictory to the statements made by PW4 Hari Chand and PW5 Chatar Singh. Even, the trial Court had recorded detailed reasons for disbelieving the statements of all the three witnesses and we completely agree with the findings recorded by the trial Court in this

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regard. Even otherwise, we have gone through the impugned judgment dated 15.11.2002 passed by the Court of Additional Sessions Judge (Adhoc) Fast Track Court-II, Faridabad and found no illegality, irregularity and perversity in the same.

12. It has been held by the Hon'ble Supreme Court in the matter of **"Bhaskarrao and others Vs. State of Maharashtra", 2018 AIR (Supreme Court) 2222; 2018 (5) RCR (Criminal) 228** as follows:-

> *"14. As the trial court and High Court, having appreciated the evidence on record, has come to diametrically opposite conclusions, mandating herein to observe certain witness statements which may have an important bearing in this case. In the processes of appreciating the evidence at the appellate stage, we need to keep in mind the views of this court as expressed in* ***Tota Singh and Anr. v. State of Punjab, 1987(2) RCR (Criminal) 35 : 1987 CriLJ 974*** *-*
>
> *"The High Court has not found in its judgment that the reasons given by the learned Sessions Judge for discarding the testimony of PW2 and PW6 were either unreasonable or perverse. What the High Court has done is to make an independent reappraisal of the evidence on its own and to set aside the acquittal merely on the ground that as a result of such reappreciation, the High Court was inclined to reach a conclusion different from the one recorded by the learned Sessions Judge. This Court has repeatedly pointed out that the mere fact that the Appellate Court is inclined on a reappreciation of the evidence to reach a conclusion which is at variance with the one recorded in the order of acquittal passed by the Court below will not constitute a*

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valid and sufficient ground for setting aside the acquittal. The jurisdiction of the Appellate Court in dealing with an appeal against an order of acquittal is circumscribed by the limitation that no interference is to be made with the order of acquittal unless the approach made by the lower Court to the consideration of the evidence in the case is vitiated by some manifest illegality or the conclusion recorded by the Court below is such which could not have been possibly arrived at by any court acting reasonably and judiciously and is, therefore, liable to be characterized as perverse. Where two views are possible on an appraisal of the evidence adduced in the case and the court below has taken a view which is plausible one, the Appellate Court cannot legally interfere with an order of acquittal even if it is of the opinion that the view taken by the Court below on its consideration of the evidence is erroneous."

13. *In* ***Ramesh Babulal Doshi v. State of Gujarat, 1997(3) RCR (Criminal) 62 : 1996 CriLJ 2867****, this Court observed:*

"This Court has repeatedly laid down that the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably

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unsustainable. If the appellate court answers the above question in the negative the order of acquittal is not to be disturbed."

14. Still further in **Criminal Appeal No(s.) 410-411/2015 [Ravi Sharma Vs State (Government of N.C.T. of Delhi) and another]**, decided on 11.07.2022, Hon'ble the Supreme Court has held as under:-

"Before venturing into the merits of the case, we would like to reiterate the scope of Section 378 of the Code of Criminal Procedure (for short 'Cr.P.C.') while deciding an appeal by the High Court, as the position of law is rather settled. We would like to quote the relevant portion of a recent judgment of this Court in ***Jafarudheen and Others v. State of Kerala (2022 SCC Online SC 495)*** *as follows:*

"25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC, the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused.

Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal.

Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."

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15. In view of the above discussion and the law laid down by the Hon'ble Supreme Court, we find no merit in the present appeal and the same is ordered to be dismissed.

16. As a consequence of above discussion, the impugned judgment dated 15.11.2002 passed by the Court of Additional Sessions Judge (Adhoc) Fast Track Court-II, Faridabad, is ordered to be upheld.

17. All pending applications, if any, are disposed of, accordingly.

18. The case property, if any, may be dealt with as per the rules.

19. Records of the Court below be sent back.

(N.S.SHEKHAWAT)
JUDGE

(H.S.GREWAL)
JUDGE

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Whether reasoned/speaking : Yes/No
Whether reportable : Yes/No

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