

2026:PHHC:024984-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA D-493-DBA-2004
Reserved on:-05.02.2026
Date of Decision: 17.02. 2026
Uploaded on:-07.03.2026

State of Haryana		...Petitioner(s)
	Vs.	
Bala Devi and others		...Respondent(s)
		CRA S-60-SB-2004
Dalbir		...Petitioner(s)
	Vs.	
The State of Haryana		...Respondent(s)

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

Present : Mr. Parmod Kumar, AAG, Haryana.

Mr. Nayandeep Rana, Advocate as
Amicus Curiae for respondent No.3.

Mr. Ram Darshan Yadav, Advocate
For the respondents.

N.S.SHEKHAWAT, J. (Oral)

1. By way of the instant judgment, we shall dispose off two criminal appeals, i.e., **CRA-D-493-DBA of 2004** titled as “**State of Haryana Vs. Bala Devi and others**” and **CRA S-60-SB-2004** titled as “**Dalbir Vs. State of Haryana**”.
2. Vide the impugned judgment and order dated 08.12.2003, Dalbir (appellant in CRA S-60-SB-2004) was convicted for committing the offence punishable under Section 304-II and was sentenced to undergo rigorous imprisonment for a period of 05 years and to pay a fine of Rs.10,000/-, alongwith default stipulation, whereas, three accused, namely,

Bala Devi, Anoop and Om Prakash were ordered to be acquitted. Dalbir

filed CRA S-60-SB-2004 and prayed for his acquittal whereas the State of Haryana has filed the present appeal with a prayer to convict all the four accused/respondents under Sections 302/34 IPC. Since, both the appeals arise out of the common impugned judgment and order, the same are being disposed off simultaneously.

3. The FIR Ex.PD/2 in the present case was registered on the basis of the statement made by Vinod Kumar, son of Amar Singh, and the relevant extract of the FIR has been reproduced below:-

“Stated that I am a resident of afore mentioned address and do the work of agriculture. We are two brothers. The older one is Jai Bhagwan. My brother Jai Bhagwan also works as an agriculturist. We had been on visiting terms with Om Parkash and Anoop sons of Tek Chand Jat residents of our village. Due to this, my brother Jai Bhagwan had given Rs. 40,000/- to Om Parkash and Anoop for purchasing the tractor about three years ago. They did not return the amount till now. Today, dated 07.11.2001 my brother Jai Bhagwan went to the house of Om Parkash son of Tek Chand, for obtaining the borrowed money. But Om Parkash and Anoop refused to return the said amount. Due to this transaction, a scuffle between my brother Jai Bhagwan and the borrowers arose. My brother had then returned to our house. Today at about 1.30 P.M., Dalbir, Anoop and Om Parkash sons of Tek Chand and Bala Devi wife of Dalbir, residents of our village came to the chowk in front of our house and started abusing due to the above mentioned grudge against my brother Jai Bhagwan. As soon as my brother Jai Bhagwan came to the chowk from his house then Dalbir gave a blow of rod on the head of Jai Bhagwan. Om Parkash gave a blow of jeli on the chest of Jai Bhagwan. Anoop gave a blow of Jeli on the finger of his left hand and Bala Devi gave a blow of Lathi on left knee. On this we rushed to save my brother. Bala Devi assaulted me on the central part of my head and also gave a blow on the right side of my head.

Om Parkash and Anoop assaulted me on my right hand and on the right knee respectively. On receipt of the injuries, we both fell down on the earth and we were rescued by my father, Rakesh son of Manphool Jat resident of the village and other villagers, otherwise they would have killed us. After this, the assailants returned to their home with their respective weapons. They warned us with dire consequences. The people had rescued us otherwise they would have eliminated us. Thereafter, Rakesh and my brother shifted us to the Civil Hospital Jhajjar for treatment. The doctor referred Jai Bhagwan to PGIMS, Rohtak due to seriousness of the injuries. We brought him to PGIMS, Rohtak. I have given my MLR to you. I have got recorded my statement. Heard it, which is correct. Legal action be taken. Sd/- Vinod Kumar attested Telu Ran HC P.S. Jhajjar”.

4. After the registration of the FIR, both the injured were admitted to Civil Hospital, Jhajjar. However, Jai Bhagwan was critically injured and was referred to P.G.I.M.S., Rohtak. Telu Ram HC visited the spot and prepared the rough site plan. On 12.11.2001, Jai Bhagwan expired in the hospital and the offence under Section 302 IPC was added. The postmortem on the dead body of Jai Bhagwan was got conducted and the report was handed over to the police. On 22.11.2001, Dalbir, Anoop and Om Parkash, respondents, were arrested in the present case and taken into custody by the police. In pursuance of his disclosure statement, Dalbir got recovered an iron rod, whereas Anoop got recovered a *jeli* in pursuance of his disclosure statement. Om Parkash accused also made his disclosure statement and got a *jeli* recovered from his house. Apart from that, on 13.11.2001 Bala Devi respondent/accused was also arrested and got recovered a *lathi*. After completion of necessary investigation, the *challan* was presented against all the four respondents in the Court of Area Magistrate. After the committal proceedings, the case was taken up by the trial Court and vide order and

charge sheet dated 24.04.2002, the charge under Section 302/332/506/34 IPC was framed against the respondents/accused and they pleaded not guilty and claimed to be tried.

5. During the course of trial, the prosecution examined PW1 Dr. Surinder Rathi, who had medico-legally examined Vinod Kumar son of Amar Singh, complainant and found the following injuries:-

1. *A red contusion of size 1.5 x 5 cm. was present on lateral side of right knee and X-ray was advised.*
2. *A red contusion of size 4.5 x 1cm. was present on lateral aspect of upper part of right arm, obliquely placed.*
3. *A lacerated wound of size 5.5 x 5x.5 was present in right parietal region of skull, just on right side of midline. Clotted blood was present and X-ray was advised.*
4. *A lacerated wound of size 3.5 x.5 x.5 cm, was present obliquely in right parietal region clotted blood was present, at level of pinna.*

As per him, the injury No.2 was declared simple and injuries No. 1, 3 and 4 were kept under observation.

On the same day, he medico legally examined Jai Bhagwan son of Amar Singh and found the following injuries:-

1. *A diffuse swelling was present in left parietal region and X-ray was advised.*
2. *An abrasion of size 3.5x.35cm. was obliquely placed on anterior side of upper part of left leg. Clotted blood was present. X-ray was advised.*
3. *An abrasion of size 2 x 5 cm. was present on lateral side of left hand, at base of index finger. Clotted blood was present and X Ray was advised.*

As per him, all the injuries were kept under observation and the patient was referred to P.G.I.M.S., Rohtak for further treatment.

On 07.01.2001 itself, he had medico legally examined Raj Bala wife of Dalbir, accused and following injuries were found on her person:-

1. *A lacerated wound of size 1.0 x 0.5 cm. obliquely present on the medial side of upper part of forearm. Clotted blood was*

present. X-ray was advised and X-ray left forearm with elbow was advised.

2. A lacerated wound of size 1.5 x 0.5 vertically was present in midline over occipital region. Clotted blood was present and X-ray skull was advised.

3 An abrasion of size 6.5 x 0.5 cm, over left palm at the base of little finger. Clotted blood was present.

The injuries no.1 and 2 were kept under observation whereas the injury No. 3 was declared simple in nature.

On the same day, he also medico legally examined Dalbir son of Tek Chand and found the following injuries:-

1. A lacerated wound of size 1 x. 5 x.5 cm. on scalp over vertex at left side of midline. Clotted blood was present and X-ray skull was advised.

2. An abrasion of size 5 x.5 cm. was present on dorsum of distal pharynx of left thumb. Clotted blood was present and X-ray left hand was advised.

3. Bleeding from the left nostril was present and E.N.T. opinion was advised.

The nature of injury No.3 was kept under observation. The injuries No. 1 to 3 on the person of Jai Bhagwan were present on the left side of his body and such type of injury of Jai Bhagwan could be possible due to fall on a hard irregular surface and the injuries on the person of Vinod were on right side of his body. Injuries No. 1, 2 and 4 could be possible by a single fall.

6. The prosecution further examined PW2 Chhatar Singh, whose testimony was formal in nature. The prosecution further examined PW3 Vinod Kumar, complainant, who supported the case of the prosecution. In his cross-examination, he stated that he did not remember the date, when the money was advanced by Jai Bhagwan to Anoop. He could not mention even the month or year. The money was advanced from the cash lying as he had

sold his land. The prosecution further examined Suraj Bhan, HC, in whose presence *lathi* was recovered from Bala Devi, accused in pursuance of her disclosure statement. The prosecution further examined PW5 Dr. S.P. Sharma, who had conducted the postmortem examination on the dead body of Jai Bhagwan son of Amar Singh. He found as follows:-

The length of the body is 176 cm. There is no ligature mark around the neck. Rigormortis was present in all the four limbs. He had white payjama wearing.

Injuries –

- 1. Stitch U shape interved wound with 34 stitches over left parietal area. On dissection, there was a craniotomy surgery done of about 10 x 8 cm. area on parietal bone of left side of skull. There was a fracture of left parietal bone extending interiorly. There was intra cerebral hematoma on the left side of brain.*
- 2. 2 cm.x ½ cm, bruise of brown colour over the left index finger metacarpophalangeal joint.*
- 3. 3 cm x. 3 cm, brown bruise with scap on left leg below knee anterior lateral.”*

In my opinion the deceased died of syncope followed by head injury. Injuries were antemortem in nature and sufficient to cause death during natural course of events.

7. The prosecution further examined PW6 ASI Hanif Mohammad, ASI, who delivered the special report to the Area Magistrate, SP and DSP. The testimony of PW7 Jai Chand, Constable, was formal in nature. He had sent the prepared scaled site plan Ex.PN. The prosecution further examined PW8 ASI Om Parkash ASI, who had recorded the formal FIR Ex.PD/2. In his presence, a *lathi* was recovered from Bala Devi. The prosecution further examined HC Telu Ram as PW9, who was the IO in the present case. He had got the MLR of Jai Bhagwan and Vinod prepared. He also got recorded

the statement of the complainant. He also arrested the accused in the present

case and made recoveries and conducted the investigation at the spot. In his cross-examination, he admitted that Dalbir and Bala Devi accused were having injuries on their bodies. They obtained their medical examination and also reported the matter to the police. The report was lodged by Dalbir in the police station, which was recorded by him. He further stated that no cognizable offence was made out from the MLR so he took no action on those proceedings. The prosecution further examined PW10 Amar Singh, father of the deceased. He supported the testimony of PW3 Vinod Kumar . In his cross-examination, he stated that the money was advanced three years prior to the occurrence. However, he did not remember the month or year of the transaction. The money was given to Om Parkash and Anoop by his son at their house but he was not present there. He further admitted that plot of Bala Devi was adjacent to their vacant plot. Bala Devi is the wife of his brother's son. The plot of Bala Devi and Dalbir is situated after some plots. The occurrence had taken place after 4/5 months. It was in *Abadi Deh* but no one had turned up during the occurrence except Rakesh. Jai Bhagwan, injured, had become unconscious and remained unconscious throughout and then he died. The prosecution further examined PW11 Sat Narain, ASI, who was also part of the initial investigation.

8. After the closure of the prosecution evidence, the incriminating evidence was put forward to all the respondents/accused and they pleaded their false implication. It was stated that they had never obtained any loan from Jai Bhagwan and rather loan was taken from the Haryana Gramin Bank for purchasing a tractor on 31.03.1998 and on 05th December 2001, they sold away their land for making payment of the bank. They earlier agreed to sell the land to Jai Bhagwan, but he was not ready to pay the full price so they sold the land to Ashish and Naveen, resident of Dhakla and

due to this Jai Bhagwan was annoyed. He was suspecting that it was Dalbir, who got their land sold to others and due to that enmity, he and his brother Vinod attacked Dalbir and his wife Bala Devi and caused them injuries. Even, Anoop and Om Parkash pleaded that they were not present at the place of the occurrence.

9. In defence, respondents/accused had examined Sheetal Kumar as DW1, who stated that on 07.11.2001, he was going towards his fields from his house at about 1/1.30 pm. As he was passing across the *phirni* of the village, he saw that the tractor trolley of Dalbir was parked on *phirni* and he and his wife Bala Devi were unloading crop of *Jwar*. When he was hardly at a distance of 10 paces from *phirni* he heard that Vinod and Jai Bhagwan were exhorting and were abusing Dalbir as to why he had sold the land to some other persons and not to them. Then Jai Bhagwan came near the trolley, while Dalbir was unloading the crops from the trolley and Bala Devi was standing on the ground. Jai Bhagwan slapped Bala Devi and he gave a blow with *lathi* on the head of Bala Devi and also at her arm. Bala Devi pushed Jai Bhagwan and Dalbir also jumped from the trolley. Vinod gave a blow with a *lathi* on his head and on his arm when Bala Devi pushed Jai Bhagwan. He fell on a tubewell engine which was lying there. Bala Devi snatched the *lathi* of Jai Bhagwan and gave some *lathi* blows to Vinod in self defence of herself and her husband. Dalbir gave no blows to anybody in that occurrence. Anoop and Om Parkash, both the accused were not present there nor they turned up throughout the occurrence. The occurrence lasted for 1^{1/2}/02 minutes and one person Randhir Singh was also present there. The accused also examined Sombir, Registration Clerk of Tehsil Office, Jhajjar as DW2, who brought the record pertaining to sale deed No. 2715 dated 11.05.2001, whereby, Anoop Singh etc., had sold the land in favour of

Ashish and Naveen Kumar. The sale deed was exhibited as Ex.DC. Rati Ram, Clerk, Gramin Bank, Chhuchakwas, was examined as DW3, who had brought the record pertaining to the account of Tek Chand, son of Chandgi Ram, Anoop Singh and Om Parkash. The bank had advanced a loan of Rs. 2,50,000/- in favour of Tek Chand and his two sons Anoop Singh and Om Parkash for the purchase of a tractor trolley on 31.05.1998. The first repayment against the loan was made by the accused in the bank on 31.05.1999 and they again paid Rs.20,000/- on 20th July 2000 and the remaining amount with interest, as full and final payment was made on 5th November 2001. He proved on record the correct and certified copy of all the entries of the ledger as Ex.DD.

10. Learned State counsel vehemently argued that in the present case, there was sufficient evidence on record to prove the complicity of all the respondents in the crime. In fact, the matter was promptly registered with the police and there was fresh evidence to show that all the four respondents had caused injuries to Vinod Kumar, injured and Jai Bhagwan, since deceased. Even, in pursuance of their respective disclosure statements, the weapons of offence were recovered from them and they had caused injuries to both the injured. Apart from that, the presence of Bala Devi, respondent No. 1 was admitted by the defence itself at the place of the occurrence and she has been wrongly exonerated by the trial Court.

11. On the other hand, learned counsel appearing on behalf of Dalbir (appellant in CRA S-60-SB-2004), submitted that the trial Court fell in error while convicting him. In fact, the prosecution had concealed the offence of the occurrence and failed to explain the injuries suffered by Dalbir as well as Smt. Bala Devi. Even, the trial Court had recorded a finding that the genesis of the occurrence was not clear and the appellant

was convicted only on the basis of whims and also the fact that Jai Bhagwan had expired in the present case. Still further, the prosecution could not explain the delay in registration of the FIR and the trial Court had not appreciated the evidence in the correct perspective.

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

13. In the present case, the prosecution as well as defence had tried to set up their own case and also led evidence with regard to the manner, in which the occurrence had taken place. The prosecution alleged that all the four accused came to the house of Jai Bhagwan and Vinod and caused injuries to them whereas on the other hand, the accused alleged that no loan was taken by the accused from Jai Bhagwan rather the accused earlier wanted to sell their land in favour of Jai Bhagwan. Since, he did not offer proper price, they sold the land in favour of a different person on 11.05.2001. Since, Jai Bhagwan was suspecting that Dalbir was instrumental in getting the land sold in favour of other persons, he was inimical towards them and on 07.11.2001, he alongwith his brother had attacked Dalbir and his wife Bala Devi. Jai Bhagwan had slapped Bala Devi and also gave blows with a *lathi* at her head and hand and in their self defence, Dalbir caused injuries to him and Vinod.

14. In the present case, we also agree with the findings recorded by the trial Court that there was a possibility that the accused had obtained loan from the deceased. In fact, they had obtained loan of Rs.2,50,000/- from the bank for the purchase of a tractor trolley on 31.03.1998. However, it was apparent from the record that an entry of Rs.34,000/- was separately made and it was possible that the said amount might have been paid by Jai Bhagwan to the accused in the present case. Still further, we have also

reasons to believe that two accused, namely, Anoop and Om Parkash were not at all present at the place of occurrence. In fact, it has been alleged by the prosecution that both of them were duly armed with *jelies*, however, did not cause any injury to any of the injured in the present case. Consequently, it is unbelievable that both of them were present at the place of occurrence and they had been rightly acquitted by the trial Court.

15. So far as the case of Dalbir and Smt. Bala Devi is concerned, they were admittedly present at the place of occurrence. In the present case, both of them had suffered simple injuries on their person and the injuries were not subjected to X ray examination. The accused have tried to set up a case that they had caused injuries in their self defence. It was further submitted that since the complainant/injured had slapped and caused injuries to Bala Devi, it provoked Dalbir and he had caused injuries in self defence. However, it is also apparent that in case Jai Bhagwan and Vinod had caused simple injuries to Bala Devi, Dalbir could have caused simple hurt at the most in the self defence. However, he gave a blow with iron rod on the head of Jai Bhagwan and he was well aware of the fact that he exceeded his right of self defence and also had the knowledge that by causing such an injury, he could cause the death of Jai Bhagwan. Consequently, the trial Court was justified in convicting Dalbir under Section 304 II IPC as he had the knowledge that the injuries caused by him were likely to cause the death of Jai Bhagwan. Even otherwise, we have carefully perused the judgment of conviction and order of sentence recorded by the trial Court and find that the trial Court had correctly appreciated the evidence in the light of the settled cannons of law. Even, the learned counsel for the parties could not point out any illegality or infirmity or perversity in the impugned judgment and order passed by the trial Court and we find no reasons to deviate from the same.

16. As an upshot of above discussion, we find no merits in both the appeals and the same are ordered to be dismissed. As a consequence, the impugned judgment and order dated 08.12.2003 passed by the Court of Additional District and Sessions Judge (Adhoc), Jhajjar are upheld.
17. Dalbir, the appellant/accused in CRA-S-60-SB of 2004 is directed to surrender within 15 days from today, failing which, the CJM concerned shall issue non bailable warrants against the present appellant/accused and shall commit him to custody to serve the remaining sentence of imprisonment.
18. All pending applications, if any, are disposed off, accordingly.
19. The case property, if any, may be dealt with as per the rules.
20. Records of the Court below be sent back.
21. A photocopy of this judgment be also placed on the file of connected case.

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(N.S.SHEKHAWAT)
JUDGE

(H.S.GREWAL)
JUDGE

17.02.2026
amit rana

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