

2026:PHHC:008906-DB



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-D-618-DBA of 2004 (O&M)

Reserved on:-20.01.2026

Date of Decision:22.01.2026

Uploaded on:23.01.2026

State of Haryana ...Appellant
Vs.
Hakam Singh and others ...Respondents

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

Present: Mr. Parmod Kumar, AAG, Haryana for the appellant.

Mr. Balram Singh, Advocate for the respondent-accused.

Mr. Rakesh Sobti, Advocate
for respondents No. 1, 2, 3, 4 and 6.

Mr. Manoj Kaushik, Advocate
for the complainant.

N.S.SHEKHAWAT, J.

1. The State of Haryana has filed the present appeal against the impugned judgment dated 18.12.2003 passed by the Court of Additional Sessions Judge (I) Faridabad, whereby, the respondents were ordered to be acquitted of the charge.
2. The FIR Ex.PW2/B in the present case was registered on

the basis of the statement made by Dharam Dev son of Jhandu Singh and the same has been reproduced below:-

“Statement of Dharamdev S/o Jhandu Singh Caste Jaat, R/o Village Tajupur. Police Station Old Faridabad. Aged 30 years.

Stated that I am resident of Village Tajupur. On dated 28-10-93, I and Harpal S/o Raghubir Caste Jaat. R/o Village Badkhera District Gurgaon were going towards our tubewell to answer the call of nature. At about 6.30 a.m. in the morning reached near the fields of Mulayam Singh r/o Tajupur then Sukhbir s/o Bharat, Mehar Singh s/o Budhu, Umesh s/o Jhumka. Hakim s/o Raghubir, Karan Singh s/o Chunni, Albela s/o Budhu, Dhanbir s/o Shri Srichand, Bhim s/o Khajan, Adesh s/o Raghubir, Karambir s/o Harnaam, Lal Singh s/o Med Singh, Caste Jaat, residents of Tajupur, all armed with Kulhari (Axe), Pharsa, Ballam etc. came out of the fields of Arhar. On reaching, Sukhbir inflicted the axe blow on my thigh of right leg and Mehar Singh gave Pharsa blow on the left leg below the knee and Umesh inflicted Pharsa blow on the arm of left hand, Hakim gave Pharsa blow under the right arm elbow, Karan Singh inflicted Pharsa blow on the left leg under the knee, Albel gave Ballam blow on the left hand arm, Dhanbir gave Ballam blow on head, Bhim inflicted blow of lathi (Stick) having a nail in the head. Adesh gave blow of Ballam on right leg, Karambir gave Ballam blow on the right feet under the knee and Laal Singh inflicted injuries with Ballam on my right feet. I fell down. Then I raised alarm "Maar Diya Maar Diya". Upon which on hearing the noise my father

Jhandu Singh, my brother Ramdev and Vijaypal S/c Shri Ram Jaat residents of Tajupur reached at the spot to rescue me. Then Bhim Singh inflicted blow on the left hand arm and Laal Singh inflicted blow of Ballam stick on the back to my father. Ramdev, Vijay Pal and Harpal etc., rescued me and my father from Sukhbir Singh etc. All of them fled away from the spot alongwith their weapons. Cause of this quarrel in this case is that a Case No. 192/93 U/s 376 IPC was registered at Police Station Old Faridabad, when Budh Singh was posted as SI/SHO there. I have persuaded this case. Budh Singh had grudge against me. Any incident happened with me prior to this was informed by me to the SHO Sahab Police Station Old Faridabad and Police Department. Incident which occurred with me on 10-10-1993 was also reported in the police station Old Faridabad. I and my father have been given illegal injuries by aforesaid persons in collusion with each other. I am admitted in BKH Faridabad for treatment. Legal action should be taken. Statement heard and is correct. Till now I have not given the statement at my own will. Sd/- in English D D Arya 29/10/93 Attested Sd/- Dalbir Singh SI/SHO 29-X-93”.

3. After the registration of the FIR, the necessary investigation was conducted by the police and the *challan* was presented before the Court of trial.

3. The respondents and their co-accused were charge sheeted for commission of the offences under Sections 148, 149, 324 and 326 IPC by the Court of Judicial Magistrate 1st Class, Faridabad,

however, the respondents pleaded that they had been falsely involved and claimed to be tried by the Court. At this stage, it requires mention that after holding the trial, the trial Court convicted all the accused for the commission of offences under Sections 148, 149, 324 and 326 IPC and were sentenced to maximum sentence of three years. However, the accused filed an appeal before the Court of Sessions Judge, Faridabad and vide the impugned judgment, the Sessions Judge acquitted all the accused/respondents to the charge. Challenging the acquittal by the Sessions Court, the State of Haryana has preferred the present appeal before this Court.

4. In the present case, to prove the charge, the prosecution examined 11 witnesses. The prosecution examined PW1 HC Raj Pal, in whose presence, SI Dalbir Singh took into possession *Ballam*, *Farsa* and *Kassi* from Adesh, Dharambir Singh and Umesh, all accused, vide memos Ex.PA, Ex.PB and Ex.PC. However, in his cross-examination, he stated that no blood stains were there on any weapon, but each weapon was sealed in a separate parcel. He further admitted that *Farsa* and *Ballam* were easily available in the market. The prosecution further examined PW2 Dr. Dharam Dev Arya, who supported the version of prosecution and reiterated the version of the FIR. The prosecution further examined PW3 Krishan Kumar ASI. He stated that in his presence SI Dalbir took *Ballam*, *Farsa* and *Kassi* in possession vide memos Ex.PA, Ex.PB and Ex.PC in pursuance of the

disclosure statements suffered by the accused, namely, Dharam Singh and Umesh. Further, he had interrogated accused, Karam Bir, Hakim, Lal Singh and Dharambir. *Lathi*, *Farsa* and *Ballam* were recovered by the police from them. The prosecution further examined PW4 Harpal Singh, who stated that on 28.10.1993, he was going to the tubewell of Dharam Dev Arya and it was 06.30 a.m. There from the fields of Mulayam, all the accused came out. Sukhbir attacked on the left thigh of Dharam Dev Arya with a spade and other accused had *Ballam* and *Farsa* in their hands. Bhim attacked on the head of Dharam Dev Arya and, thereafter, all the accused attacked on him together. Karan Singh gave a blow with *Farsa* to Dharam Dev Arya. Bhim attacked Jhandu with a *Ballam*. He claimed himself to be an eye witness of the occurrence. Similarly, Jhandu appeared as PW5 and he stated that near the fields of Mulayam, Sukhbir caused injury with spade to Dharam Dev and Bhim attacked on the head of Dharam Dev with a *Ballam*. When he went to save them, he got two blows of *lathi*, which were caused by Bhim and Lal. Even Dharam Dev fell down and they all started beating them. He was hit by a *lathi* and he moved back. Ram Dev, Doctor and Vijay were with him and he did not remember the others.

5. The prosecution further examined PW6 Krishan, another police official from Police Post Sector 8 Faridabad. He remained associated with SI Dalbir during investigation. The prosecution

further examined Ama Bajaj, who had medico legally examined Jhandu and found two injuries on his person. However, he admitted that the original MLR was not available with him on that day. The prosecution further examined PW8 Dara Singh, who medico legally examined Dr. Dharam Dev Arya and found the injuries on his person. He also proved MLR Ex. PW8/A regarding the injured. He had sent *Rukka* to the Police Post B.K.H. Hospital, Faridabad.

6. The prosecution further examined PW9 Dalbir, Inspector, who was posted as SHO in Police Station Mujessar on the date of occurrence and had conducted investigation in the present case. The prosecution further examined PW10 Vijay Pal, who stated that at about 6.30 a.m., on 28.10.1993, he and Dharam Dev were going to ease themselves and on the way all the accused, who were having *Farsa* and *Ballam* in their hands attacked Dharam Dev and him. Jhandu, Ram Dev and Karam Dev also came there and they had also attacked. The prosecution further examined PW11 Dr. Subhash Dua from Astha Hospital, Palwal. He examined Dr. Dharm Dev Arya and found two injuries on his person.

7. After the closure of the prosecution evidence, the trial Court recorded the statements of all the accused under Section 313 Cr.P.C. However, they stated that they had been falsely involved in the present case.

8. Learned State counsel vehemently argued that in the

present case, the appellate Court has given undue weightage to the delay in registration of the FIR. In fact, PW2 Dr. Dharam Dev Arya, injured, had fully explained the delay in registration of the FIR. The SHO of Police Station Old Faridabad had a grudge against the complainant party and earlier also they had reported the matter to the police of Old Faridabad, but no action was taken against the accused and even this time, no investigation was conducted. He further submitted that PW9 Inspector Dalbir had stated that the investigation of the case was transferred with the intervention of S.P., Faridabad and not only the delay in the registration of the FIR but the fact regarding territorial jurisdiction of Police Station Mujessar was duly explained. Learned counsel further submitted that even the motive to cause injuries was also duly explained by PW2 Dr. Dharam Dev Arya, complainant. Earlier, one FIR under Section 376 IPC was registered against the accused but no action was taken against them. Apart from that, PW2 Dr. Dharam Dev Arya, PW4 Harpal Singh, PW5 Jhandu and PW10 Vijay Pal had duly supported the case of the prosecution. Even, these witnesses were appearing after several years before the trial Court and minor contradictions in their statements should have been ignored by the appellate Court. Thus, the impugned judgment is liable to be set aside by this Court.

9. On the other hand, learned counsel for the respondents has referred to the detailed findings recorded by the appellate Court in

paragraph 13 of the impugned judgment and submitted that in view of the serious infirmities in the prosecution case, the respondents have been rightly acquitted by the appellate Court.

10. We have heard the learned counsel for the parties and perused the record carefully with their able assistance.

11. 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 reappraisal, 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 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."

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

13. 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.”

14. In the present case, admittedly, the occurrence had taken place in the morning of 28.10.1993. PW2 Dr. Dharam Dev Arya and PW4 Harpal Singh clearly stated that the occurrence had taken place at about 06.30 a.m. on 28.10.1993. Even some of the eye witnesses had not even suffered injuries. Still the complainant got the FIR registered after a delay of 36 hours, i.e., at 03.00 p.m., on 29.10.2003. Apart from that, admittedly, PW8 Dr. Dara Singh had sent *Rukka*, when the patient arrived in the hospital, yet, the FIR could not be registered for almost 36 hours and this raises serious question mark with regard to the correctness of the statement of the complainant. Still further, it is an admitted fact that *Rukka* was sent to Police Station Old Faridabad and even Police Station Old Faridabad was the jurisdictional police station. However, the statement of the complainant was recorded by the SHO, Police Station Mujessar, who had no concern with the place of occurrence. Even while appearing as PW9 Dalbir, the then SHO tried to explain the facts by stating that on

the directions of the Superintendent of Police, he alongwith other fellow officials had gone to the B.K.H. Hospital, Faridabad and recorded the statement of Dr. Dharam Dev Arya, after getting a medical opinion from the doctor. However, he admits that the *Rukka* was sent to Police Station Old Faridabad and he could not produce any evidence to prove that there was any directions by the Superintendent of Police, concerned. Thus, it is apparent that the complainant side had some close relation with the SP and on his earlier directions, police of Police Station Mujessar launched the criminal prosecution, even though, it admittedly did not have the jurisdiction over the place of occurrence.

15. Apart from that, we also agree with the findings recorded by the appellate Court that there were serious contradictions in the statements of PW2 Dr. Dharam Dev Arya, complainant, PW4 Harpal Singh, PW5 Jhandu and PW10 Vijay Pal. Even all these witnesses have narrated different version of the occurrence, even though, all of them claimed to be the eye witnesses of the occurrence. Even, from the statement of PW5 Jhandu, it is apparent that the presence of Harpal Singh was not even mentioned at the place of occurrence. Still further, all the witnesses were closely related and it was not safe to base a judgement of conviction on the basis of such interested witnesses.

16. Apart from that, there was an old enmity between the

complainant party and the accused. Even, both the parties have mentioned different reasons for the enmity between the parties. Not only that, even a land dispute regarding the lease of an area measuring 57 Kanals was pending between the parties. Consequently, it is apparent that the complainant has mentioned a wrong list of accused in the FIR, apparently, in collusion with the local police. Still further, we also agree with the appellate Court that the police had shown recovery of various weapons, i.e., *Farsa*, *Ballam* and *Lathi etc.*, from the accused in the present case. However, it is an admitted case of the prosecution that such simple weapons are easily available in the market. Consequently, when there was an old enmity between the parties, the police should have associated independent witnesses, while effecting the recovery from the accused in the present case. However, neither any effort was made to associate the public witnesses nor anyone was joined as such by the police.

17. Apart from that, we have carefully perused the findings recorded by the appellate Court and we have noticed that in paragraph No. 13 of the impugned judgment, the appellate Court has recorded detailed findings while acquitting the respondents from the charge. We have carefully perused the findings recorded by the appellate Court and find no reasons to differ with the appellate Court. The appellate Court has correctly appreciated the evidence in the light of the settled canons of law and the findings recorded by the appellate

Court are liable to be upheld by this Court.

18. As a necessary consequence, the appeal is ordered to be dismissed and the impugned judgment dated 18.12.2003 passed by the Additional Sessions Judge, Faridabad, is ordered to be upheld.

19. All pending applications, if any, are disposed off, accordingly.

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

21. Records of the Court below be sent back.

(N.S.SHEKHAWAT)
JUDGE

(H. S. GREWAL)
JUDGE

22.01.2026
amit rana

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