



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRA-D-649-DBA-2004

STATE OF HARYANA

... Appellant

VERSUS

PREM AND OTHERS

... Respondents

A N D

CRA-S-578-SB-2004

Judgment reserved on: 16.02.2026
Judgment Pronounced on 09.03.2026

PREM AND ANOTHER

... Appellants

VERSUS

STATE OF HARYANA

... Respondent

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

Present: Mr. Parmod Kumar, AAG, Haryana for the appellant
in CRA-D-649-DBA-2004 and for the respondent in
CRA-S-578-SB-2004.

Mr. Rahul Vats, Advocate for respondent No.2 in
CRA-D-649-DBA-2004.

Mr. Dinesh Arora, Advocate for respondent No.1 in
CRA-D-649-DBA-2004 and appellant No.1 in
CRA-S-578-SB-2004.

CRA-D-649-DBA-2004 already stands abated qua
Respondents No.3 (Hira) and 4 (Shree Ram) vide
orders dated 20.09.2017 and 27.10.2025 respectively.

CRA-S-578-SB-2004 already stands abated qua appellant
No.2- Shree Ram vide order dated 27.10.2025.

CRA-D-649-DBA-2004 already stands dismissed qua
Respondents No.5 to 9 vide order dated 23.07.2004.

H.S. GREWAL, J.

Both abovementioned appeals are being disposed of by this common judgment since the same arise out of same judgment passed by the trial Court.

2. CRA-D-649-DBA-2004 has been preferred by the State against the judgment dated 28.01.2004 passed by the then Addl. Sessions Judge (*Ad hoc*), Shri D.D. Yadav, Jhajjar whereby respondents namely Prem and Shree Ram have been convicted to undergo RI for 5 years and RI for 4 years respectively for the commission of offence punishable under Section 304 part II of IPC and respondents namely Manoj @ Kala, Hira, Asharfi, Asha, Shyama, Goja and Pawan have been acquitted of the charges framed against them. The prayer of the State is that all the respondents be convicted under Section 302 of IPC instead of Section 304 part II of IPC.

3. On the other hand, CRA-S-578-SB-2004 has been preferred by appellants Prem and Shree Ram against the abovesaid judgment dated 28.01.2004 seeking their acquittal.

4. Vide orders dated 20.09.2017 and 27.10.2025, both the appeals stood abated qua accused Hira and Shree Ram respectively since they had expired during the pendency of the appeals; whereas Appeal No.CRA-D-649-DBA-2004 stood dismissed qua respondents No.5 to 9 vide order dated 23.07.2004.

5. Briefly stated the facts of the case are that there was Gram Panchayat Election in village Dubaldhan in March 2000 which was being contested by Asharfi wife of Shree Ram son of Matu Ram. Umed Singh, complainant (deceased) resident of Dubaldhan did not support Asharfi Devi in the election consequently she and other members of her family became inimical towards Umed Singh for supporting her opponent in that election. On 01.06.2000 at about 8:00 p.m. when complainant

Umed Singh alongwith his son Mahipal and others was present in his house, the accused Prem, Manoj @ Kala, Shree Ram and Hira came to his house and started abusing him in filthy language and as he came out of his house the accused Prem who was having an iron patti (chhuri) in his hand, Manoj @ Kala, Shree Ram and Hira who were armed with lathis (wooden sticks) attacked him and caused injuries to him. Prem gave a thrust-wise chhuri blow at the right side of his back and he fell down. Thereafter, Shree Ram, Hira and Manoj @ Kala gave him lathi blows which hit his hands. He raised alarm on which his son Mahipal and his wife Angoori Devi came and rescued him. They saw the entire occurrence. The accused then fled away from the spot with their respective weapons. The injured was taken to Civil Hospital, Jhajjar, wherefrom the doctor referred him to PGIMS Rohtak and so he was taken there. Initially, an FIR under Section 323, 324 and 34 of IPC was registered as Ex.PE/2 but the injured complainant Umed Singh died during the treatment, due to which, Sections 302 of IPC were added therein. Thereafter, the challan was presented before the Court. Since the offence punishable under Section 302 of IPC is exclusively triable by the Court of Sessions, the case was committed to the Court of Sessions. On presentation of challan, the accused persons were, however, charge-sheeted under Sections 148, 149, 302, 323 and 325 of IPC.

6. In order to prove its case, the prosecution examined 11 witnesses. PW-1, Dr. Raman Shukla deposed that on 03.06.2000, he had conducted the postmortem examination on the dead body of deceased Umed Singh. He deposed that there was an incised wound of 1x.5cm. on right lumbar region 9 cm. from midline going downward cutting various structures which were stitched surgically. It was ending in the muscles of anterior abdominal wall about 12 cm. from the wound. The posterior part of the inferior surface of liver was found stitched and there were

multiple stitches over ilium, mesentery and small intestines. There was small collection of 10 x 1.5cm blood in per-itonium. There was a contusion of 10 x 1.5 cm. on right hip 5cm. below the right iliac crest, a contusion 6cm x 3cm. at right lumbar region of abdomen and two stitched wounds with five stitches over first web of left hand and one abrasion 4 x 1 cm. over the dorsal aspect of the left forearm 6cm. below the left elbow. The cause of death in the opinion of the doctor was shock as a result of injury No.1 which was ante-mortem in nature and sufficient to cause death. The rigor mortis and postmortem staining were present. He proved the postmortem report as Ex.PA.

7. PW2- ASI Satbir deposed that on 10.07.2000, on the instructions of SHO Maha Singh, he had obtained the opinion of Dr. Ashok Rathi with regard to the chhuri vide Ex.PB.

8. PW3- Jai Chand, Draftsman deposed that on 17.06.2000, he had visited the spot and prepared the scaled site plan at the instance of Mahipal as Ex.PC

9. PW4- ASI Kartar Singh deposed that on 02.06.2000, he received a VT message from Police Post PGIMS Rohtak to the effect that Umed Singh has been admitted in the hospital in injured condition. On receipt of the said message he alongwith Constable Shamsher Singh visited the hospital, obtained Ruqa and MLR of the injured and after seeking opinion of the doctor, he recorded the statement of injured Umed Singh. He sent the said statement under his endorsement and signatures to the police station, whereupon form FIR Ex.PE/2 was registered. Thereafter, he completed other formalities, visited the spot, prepared rough site plan as Ex.PE and recorded the statement of witnesses under Section 161 of the Cr.P.C. In his cross-examination, he deposed that some relatives of the injured were present in the hospital, but Angoori Devi and Mahipal were not present there. He further

deposed that he did not obtain opinion of the doctor regarding fitness of the injured after recording his statement. He deposed that at the time of recording the statement of injured, the doctor was not present there. He further deposed that the statements of Angoori Devi and Mahipal were recorded at about 06:00 PM or earlier thereof, however, he did not notice any injury on their person.

10. PW5- Angoori Devi, wife of the deceased, deposed on the lines of the FIR and narrated the entire episode in toto. She deposed that the main cause behind the occurrence was that her husband Umed Singh had not supported the accused in the panchayat elections. In her cross-examination, she deposed that the police had recorded the statement of her husband Umed Singh in her presence as well as that of Mahipal. She further deposed that the police had visited the spot on the next date of occurrence. She further deposed that she had told the police that Pawan had caused a knife blow to Mahipal at his shoulder, but when she was confronted with her statement under Section 161 of Cr.P.C., it was not so mentioned therein. She admitted in her cross-examination that Shree Ram used to run a parchoon shop in the village and besides that he used to purchase kabari items. She further stated in her cross-examination that both her husband and son used to collect kabari items from the surrounding villages and used to sell the same at the shop of Shree Ram. She also admitted that there was an account of Rs.1000/- to Rs.1500/- between her husband and Shree Ram. She denied the suggestion that accused Shree Ram used to demand his money from her husband but he refused to pay the same.

11. PW6- Mahipal deposed that as they did not support Shree Ram in Panchayat Election, he got annoyed with them and was nursing a grudge against them. On 01.06.2000 at about 08:00 p.m. they were present in their house when accused Hira, Shree Ram, Kalu and Prem came in front of their house. Prem was

having a 'chhuri' while others were having lathies in their hands. They started abusing them. So he, his mother and his father Umed Singh came out of the house and as soon as they came out, Prem gave chhuri blow at the back of his father, who fell down. Hira gave a lathi blow which fell at his hand. Manoj @ Kala and Shree Ram also gave a lathi blow at his head. Then Manoj @ Kala gave a lathi blow on his (Mahipal's) head and Pawan gave knife blows at his (Mahipal's) shoulder. Shyama and Asharfi gave lathi blows to her father and Goja and Asha gave brick bats to his mother. Thereafter, the accused ran away. All the injured were taken to Civil Hospital, Jhajjar and from there, his father Umed Singh was referred to PGIMS Rohtak. The Police arrived at the hospital and recorded Umed Singh's statement. After the cremation of his father, he and his mother got themselves medically examined. In his cross-examination he deposed that the police had recorded his statement. He further deposed that the police had arrived at the village after the cremation of his father. He further deposed that he had told the name of the woman had given injuries to his mother, however, when he was confronted with his statement under Section 161 of Cr.P.C., it was not found mentioned there. He further deposed that he had named accused Pawan before the police, who had given injury on his shoulder, however, once again, the said fact did not find mention in his statement under Section 161 of Cr.P.C. Ex.DB

12. PW7- Jai Bhagwan son of deceased Umed Singh deposed that on 04.06.2000, accused Prem, Hira and Manoj @ Kala were interrogated by the police in his presence and that of their relative Ashok. He proved the disclosure statements allegedly made by the accused persons in his presence. In his cross-examination, he deposed that police party had come to the house of Shree Ram, where he was also called by the police.

13. PW8- Hardei Singh UGC is a formal witness, who had delivered the copies of special report to the Illaqa Magistrate as well as other higher police officials.

14. PW9- ASI Kartar Singh deposed that he was present with SI Maha Singh during the investigation and was well conversant with his handwriting and signatures. He deposed about the formal investigation conducted by SI Maha Singh in his presence. He, however, admitted in his cross-examination that neither the disclosure statements of the accused persons were recorded nor had any recovery been effected from them in his presence. He also showed his inability to tell that whether the disclosure statements were recorded before SI Maha Singh or not.

15. PW10- Dr. Gulshan Arora deposed that he had medically examined Mahipal aged about 25 years on 03.06.2000 after constituting a Board of doctor (because he failed to get him medically examined on 01.06.2000). He found a stitched wound on right upper arm and swelling on right shoulder, a lacerated wound 3 x 1 cm. on left hypochondrium with brown scab and a stitched wound on right parietal region. The patient also complained of pain in the left hip. He opined that all the injuries were by blunt weapon. He proved the MLR of Mahi Pal as Ex.PI. He further deposed that on the same day, he had medically examined Angoori Devi also, and she complained of pain in the right hip and on left shoulder without any external mark of injury. There was mild swelling at the back of head and diffused swelling on right hand fingers and a brown abrasion with scab on right knee. He proved the MLR of Angoori Devi as Ex.PBB.

16. PW11- Dr. Ashok Rathi deposed that he had medically examined Umed aged about 60 years on 02.06.2000 at 05:55 a.m. in PGIMS Rohtak and found the following injuries on his person: -

1. Incised wound 1cmx5cm. (depth could not be assessed) on right posterior lateral flank region below the right costal rib with a contusion measuring 2.5x.5cm. over the lateral aspect of flank region. 4cm.
2. Contusion 10cmx1.5cm. on posterior aspect of hip/below the posterior iliac crest.
3. Contusion 6.5 cm. x 3 cm. on right lumbar region of abdomen.
4. Abrasion (dressed wound) 4 cm x 1 cm. on dorsal aspect of left forearm 6 cm. below the left elbow.
5. Two adjacent stitched dressed wounds of the length of 20 cm. x 1 cm. on palmer aspect of left 1st web of left hand.

17. He further deposed that the injury No.1 was caused with sharp edged weapon while the rest were with blunt weapon. The duration of injuries was within 12 hours. He proved the MLR of Umed Singh as Ex.PCC. In his cross-examination, he deposed that the possibility cannot be ruled out regarding the sustaining of injury No.1 on the person of Umed Singh in case he had fallen on the heap of iron scrabs or some iron object.

18. Thereafter, the learned Public Prosecutor closed the evidence and statements of accused persons under Section 313 of Cr.P.C. were recorded wherein the entire evidence and material produced during the trial were put to them, to which they pleaded their innocence and false implication.

19. After hearing both sides, the learned trial Court, vide its judgment dated 28.01.2004, acquitted the accused persons except the accused persons namely Prem and Shree Ram. They were, however, convicted under Section 304 part II of the IPC and were sentenced to undergo SI for 05 years and 04 years respectively.

20. Hence, the appeals in hand have been preferred by the respective parties.

21. It would be apposite to mention herein that now the surviving respondents are Prem, who has been convicted and Manoj @ Kala, who has been acquitted by the trial Court. Learned State Counsel assails the impugned judgment on the ground that despite leading convincing and cogent evidence, the trial Court acquitted the accused-respondent Manoj @ Kala and imposed lesser punishment upon accused-respondent Prem by converting the offence from 302 IPC to Section 304 Part II of the IPC. He further submits that the trial Court has erred in its opinion while modifying the section qua the convict Prem and further while acquitting Manoj @ Kala because the prosecution had proved its case beyond shadow of all reasonable doubts. All the prosecution witnesses had fully supported the case of the prosecution and their testimonies remained unshaken throughout. Hence, the learned State Counsel prayed that the sentence of respondent-accused Prem be converted to that of under Section 302 of IPC and similarly, accused Manoj @ Kala be also convicted and sentenced accordingly.

22. On the other hand, Mr. Rahul Vats, Advocate for accused Manoj @ Kala argued that so far as the acquittal of Manoj @ Kala is concerned, the impugned judgment is well reasoned and suffers from no illegality. The trial Court has applied its judicial mind appropriately and in accordance with law. The prosecution had miserably failed to prove its case against accused Manoj @ Kala since there were numerous discrepancies and lacunae in the statements of prosecution witnesses. Hence, he prayed for upholding the impugned judgment qua accused Manoj @ Kala and for dismissing the appeal No. CRA-D-649-DBA-2004.

23. Further, Mr. Dinesh Arora, Advocate for convict Prem submitted that the impugned judgment qua convict Prem is bad in the eyes of law and not sustainable at all. He further submitted that the depositions of the prosecution

witnesses do not match with each other with regard to recording of their statements by the police as well as the date, time and place of the occurrence. There is difference in their statements, which gives a serious blow to the case of prosecution. The conviction of Prem is based upon misappreciation of evidence, since the prosecution could not bring home the guilt of convict Prem beyond shadow of all reasonable doubts. Hence, he prays that the appeal No. CRA-D-649-DBA-2004 may kindly be dismissed and the appeal No. CRA-S-578-SB-2004 may kindly be allowed in the interest of law, justice and equity. He further submits that in case the Court does not come to a conclusion favouring the convict Prem, in that eventuality his prayer for reducing the sentence of Prem to that of already undergone by him may kindly be considered since the convict has already undergone a period of more than 03 year and 07 months of the actual sentence.

24. We have heard the rival submissions made by learned counsel for the respective parties and gone through the material available on record meticulously.

25. Firstly, so far as accused Manoj @ Kala is concerned, we are of the opinion that the trial Court had acquitted all the accused persons except Prem and Shree Ram (since died) and vide order dated 23.07.2004, the appeal No.CRA-D-649-DBA-2004 has already been dismissed qua respondents No.5 to 9 who had been acquitted by the trial Court. Meaning thereby, the State has not assailed the impugned judgment qua abovementioned respondents No.5 to 9 and has pressed for conviction of Manoj @ Kala. However, we are of the opinion that the allegations levelled against Manoj @ Kala have not been proved by the prosecution beyond shadow of all reasonable doubts. A careful perusal of the deposition of PW6-Mahipal shows that during his testimony, he had been confronted with his statement recorded under Section 161 of Cr.P.C. because there were differences in his

statement under Section 161 Cr.P.C. and what he deposed before the Court during his evidence. Meaning thereby, PW Mahipal had tried to improvise his version before the Court, which is not admissible in the eyes of law. Similar was the case of his mother Angoori Devi. Her deposition was also found discrepant and variant at certain places, for instance, the I.O. of the case has deposed in his testimony that when he had recorded the statement of Umed Singh in the hospital, Angoori Devi and Mahipal were not present there and that he recorded their statements later on at the village when he visited the place of occurrence in the evening; whereas, PW Angoori Devi has specifically deposed that the statement of her husband Umed Singh was recorded in her presence. This is a very serious discrepancy in her statement. There are other similar lacunae in the case of prosecution which undoubtedly disabled the prosecution to prove its case beyond shadow of all reasonable doubts against Manoj @ Kala. Hence, so far as the acquittal of Manoj @ Kala is concerned, we do not find any illegality, perversity or impropriety in the impugned judgment. Accordingly, the same is upheld qua acquittal of Manoj @ Kala.

26. Now coming to the point of conviction of Prem, we find sufficient material on record which support the decision given by the trial Court in its impugned judgment for convicting him. Recovery of weapon of offence, presence of convict at the place of occurrence and injuries on the person of deceased which are duly correlated and corroborated with the medical evidence are certain factor which are duly proved on record and are sufficient to hold the accused Prem guilty of the offence committed. Hence, we do not find any illegality or perversity in the impugned judgment to extent whereby Prem has been convicted. However, at the same time, we are oblivious of the fact that at the time of occurrence, Prem was of

tender age of 22 year and his entire future was at stake. Besides, he has already undergone a period of more than 03 years and 07 months of actual sentence of 05 years. Hence, we are of the opinion that convict Prem can be considered for reduction of his sentence to the period already undergone by him.

27. The convict Prem has been convicted for committing culpable homicide not amounting to murder by causing death of the deceased namely Umed, punishable under Section 304 Part II of the IPC, for which no minimum punishment has been prescribed. Furthermore, the FIR in the present case pertains to the year 2004 and the appellant has already faced the rigors of the prosecution for more than two decades.

28. Hon'ble the Supreme Court in "***Deo Narain Mandal Vs. State of UP***", (2004) 7 SCC 257, has held that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, the manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure that the sentence is neither excessively harsh nor does it come across as lenient.

29. Further, a two-Judge Bench of the Hon'ble Supreme Court in ***Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166***, has held that the imposition of sentence also serves a social purpose, as it acts as a deterrent by making the accused realize the damage caused not only to the victim, but also to the society at large. The law in this regard is well settled that opportunities of reformation must be

granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner, in which the crime was committed and conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

30. A perusal of the impugned judgment of conviction passed by the learned trial Court indicates no perversity in its findings qua convict Prem and the same is based on correct appreciation of evidence available on record. However, learned counsel for convict Prem has made an alternative prayer for reducing the sentence of the convict Prem to that already undergone by him.

31. As far as the question of quantum of sentence is concerned, it is worthwhile to note that the occurrence in this case pertains to the year 2004. Right to speedy and expeditious trial is one of the most valuable and cherished rights of an accused guaranteed under the Constitution of India. The convict Prem has already suffered the agony of protracted trial/prosecution, spanning over a period of more than two decades and has been in the corridors of the Court for this prolonged period. He remained incarcerated for more than 03 years and 07 months including remissions. He has been living peacefully for the last approximately 22 years as no report contrary to that has been received. In view of the facts noted above as well as the period of custody undergone by him, his case deserves to be dealt with leniency. The convict Prem also deserves the benefit of the consistent view taken by this Court in this regard. Thus, guided by the judicial pronouncements made by the Hon'ble Supreme Court in the cases of **Haripada Das Vs. State of West Bengal** reported in (1998) 9 SCC 678 and **Alister Anthony Pareira Vs. State of Maharashtra** reported in (2012) 2 SCC 648 and considering the facts and circumstances of the case, his status in the society and the fact that he faced financial

hardship and had to go through mental agony, this Court is of the view that ends of justice would sufficiently be met, if sentence imposed upon convict Prem is reduced to the period already undergone by him.

32. Accordingly, the judgment of conviction dated 28.01.2004 passed by the trial Court towards convict Prem is further affirmed by this Bench, however, the order on sentence of even date is modified and the sentence of convict Prem is reduced to the period of sentence already undergone by him till date which would be sufficient and justifiable to serve the interest of justice. Convict Prem is on bail. He does not need to surrender. His bail/surety bonds are discharged

33. With these modifications qua conviction of Prem, the appeals are disposed of.

34. At the costs of repetition, it is reiterated that Appeal No.CRA-D-649-DBA-2004 has already been abated qua respondents No.3 and 4 i.e. Hira and Shree Ram and has been dismissed qua respondent No.2- Manoj @ Kala and respondents No.5 to 9 namely Asharfi, Asha, Shyama, Goja and Pawan respectively; whereas Appeal No.CRA-S-578-SB-2004 already stands abated qua respondent No.2 - Shree Ram.

35. All other misc. application(s), if any, also stand(s) disposed of accordingly.

(H.S. GREWAL)
JUDGE

(N.S. SHEKHAWAT)
JUDGE

MARCH 09, 2026.

Rajender

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No