



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

01

CRA-S-1939-SB-2004

Reserved on : 08.01.2026

Pronounced on; 30.03.2026

LAKHBIR SINGH & OTHERS

.....APPELLANTS

Versus

STATE OF PUNJAB

..... RESPONDENT

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

**Present: Ms. Diya Bhagwan, Advocate
for the appellants.**

Mr. Eklavya Darshi, Deputy Advocate General, Punjab.

SURYA PARTAP SINGH, J.

1. Vide judgment of conviction and order of sentence, both dated 29.07.2004, the learned Additional Sessions Judge, Amritsar held three accused (appellants herein) guilty and convicted them. Aggrieved of the above-mentioned impugned judgment of conviction and order of sentence, the present appeal has been preferred.

2. In nut-shell, the facts emerging from record are that, that for the commission of offence punishable under Sections 307, 326, 324, 323, 34 of Indian Penal Code, FIR No.122 dated 10.09.1999 was lodged in Police Station Chheharta. With regard to above-mentioned FIR the investigation was conducted and all the three accused, hereinafter being referred to as appellants



only, named in the FIR were convicted as under;-

Name of the accused	Under Sections	Sentence to undergo
1. Lakhbir Singh	307 IPC	Rigorous Imprisonment for Seven years and to pay a fine of Rs.2,000/- and in default of payment of fine to undergo further R.I. for three months;
	326 IPC	Rigorous Imprisonment for Three years and to pay a fine of Rs.1000/- and in default of payment of fine to undergo further R.I. for two months;
	326 read with 34 IPC	Rigorous Imprisonment for Three years and to pay a fine of Rs.1000/- and in default of payment of fine to undergo further R.I. for two months;
	323 read with section 34 IPC	Rigorous imprisonment for Six months and no fine.
2. Laddi	307 read with section 34 IPC	Rigorous Imprisonment for Seven years and to pay a fine of Rs.2,000/- and in default of payment of fine to undergo further R.I. for three months;
	326 read with section 34 IPC	R.I. for three years and to pay a fine of Rs.1000/- and in default of payment of fine to undergo further R.I. for two months;
	326 IPC	R.I. for Three years and to pay a fine of Rs.1000/- and in default of payment of fine to undergo further R.I. for two months
	324 IPC	R.I. for one year. No fine.
	323 read with section 34 IPC	R.I. for Six months. No fine.
3. Sabba	307 read with section 34 IPC	R.I. for Seven years and to pay a fine of Rs.2000/- and in default thereof to undergo further R.I. for three months;
	326 read with section 34 IPC	R.I. for three years and to pay a fine of Rs.1000/- and in default thereof to undergo further R.I. for two months;
	326 read with section 34 IPC	R.I. for three years and to pay a fine of Rs.1000/- and in default thereof to undergo



		further R.I. for two months;
	324 read with section 34 IPC	R.I. for One year. No fine;
	323 IPC	R.I. for Six months. No fine.

3. Briefly stated the FIR of this case came into being at the instance of ‘Mangal Dass @ Manglu’, hereinafter being referred to as complainant/injured only. It was stated by the above-named complainant that on 07.09.1999 at about 8:30 P.M., he was sitting on the cot in front of the door of his room and his brother ‘Radhe Sham’ was taking bath. As per complainant there ‘Lakhbir Singh @ Lakha’ and ‘Laddi’, both armed with *kirpan* and ‘Sabba’ empty handed came. As per complainant ‘Lakhbir Singh @ Lakha’ exhorted to teach a lesson to the complainant as complainant’s brother ‘Radhe Sham’ had eloped with the daughter of ‘Lakhbir Singh @ Lakha’. According to complainant thereafter they all three launched an assault upon him and inflicted multiple injuries on his person. The description of injuries was given by the complainant as under;-

- a. Appellant ‘Sabba’ caught hold of him due to which he fell down in a pit in front of his house and suffered abrasion on his right knee.
- b. ‘Lakhbir Singh @ Lakha’ tried to inflict injury with the help of *kirpan* on his head and, in order to defend himself, when he raised his right arm *kirpan* hit his right arm.
- c. ‘Lakhbir Singh @ Lakh’ inflicted second blow on the right hand.
- d. ‘Laddi’ inflicted three blows with *kirpan* and injured left leg.



- e. 'Lakhbir Singh @ Lakha' inflicted four blows with *kirpan* on the head and when he raised his left hand to save himself he suffered injuries on his hand.
- f. 'Laddi' inflicted blow with the help of *kirpan* on his left knee then 'Laddi' gave another blow with *kirpan* and injured his left foot.
- g. 'Sabba' kicked him.
- h. 'Lakhbir Singh @ Lakha' inflicted blow on the left side of his hip.

4. It is the case of the prosecution that the above-mentioned statement of complainant was recorded on 10.09.1999, when the complainant was admitted in hospital. The above-mentioned statement was duly endorsed by ASI ,Mukhwinder Singh, and on the basis of above-mentioned statement formal FIR of this case was lodged and the investigation was conducted. On completion of investigation, the final report under Section 173 Cr.P.C. was filed against all the three appellants. Accordingly all the three appellants faced trial and they were charge-sheeted by the learned trial Court for the commission of punishable under Sections 307, 326, 324, 323, 34 of IPC. The above-mentioned trial ultimately culminated into conviction of all the three appellants.

5. Heard.

6. It has been contended by learned counsel for the appellants that an error of judgment has been committed by the learned trial Court while holding guilty and convicting all the three appellants for the commission of above-mentioned offences. According to learned counsel for the appellants if the facts



and circumstances pertaining to the present case would have been properly analyzed by the learned trial Court there was no possibility of recording a finding of conviction against the appellants. According to learned counsel for the appellants the evidence adduced by the prosecution was deficient, unreliable and full of contradictions, and therefore, the same was not good enough to meet the standard fixed for proving a charge in criminal case.

7. The learned counsel for the appellants has further contented that merely on the basis of presumptions and assumptions, the learned trial Court has observed that the prosecution was successful in discharging his burden. According to learned counsel for the appellants all the deficiencies, which were sufficient and grave enough to render the prosecution story unreliable and doubtful, have been ignored by the learned trial Court and, merely, on the basis of conjectures and surmises the finding of conviction has been recorded.

8. It has also been argued by learned counsel for the appellants that in the present case the learned trial Court has ignored the fact that there was a delay of three days in reporting the matter to the police and this delay was fatal, particularly in view of the fact that in the hospital the police officials had visited the complainant on 09.09.1999, who was declared to be fit for statement but refused to give statement. The learned counsel for the appellants has also pointed out that in addition to above, the learned trial Court has also failed to appreciate that there was no independent corroboration of the injuries suffered by the complainant, so much so even the brother and mother of the complainant, who were projected as eye-witness of the occurrence, did not come forward to support the prosecution case with regard to incident. With regard to above, the learned counsel for the appellants has contended that the



brother of complainant namely 'Radhe Sham' has not described the details of the incident, including the weapon of offence used by the assailants, and the mother did not turn up for deposition in the trial.

9. It has also been argued by learned counsel for the appellants that in addition to above, another lapse on the part of the prosecuting agency was that any independent witness, i.e. neighbour or passerby, was not examined and even the weapons of offence were not produced before the learned trial Court. As per learned counsel for the appellants the above discussed deficiencies in the prosecution evidence have been ignored by the learned trial Court, and therefore, the impugned judgment of conviction and order of sentence deserves to be set aside.

10. The learned State counsel has controverted the above-mentioned arguments. The learned State counsel has contended that in the present case on proper appreciation of evidence and the relevant law, a right conclusion has been drawn by the learned trial Court. As per learned State counsel the instant case is a full proof case, wherein the charges against the appellants have been proved beyond the shadow of all reasonable doubts. According to learned State counsel a very true and natural version of the story had been set-out by the prosecution before the learned trial Court, so much so even there was no effort to create an eye-witness account despite the fact that family members of the complainant, i.e. his brother and mother, were present there.

11. The learned State counsel has further contended that before the learned trial Court not only there was a reliable eye-witness account, comprising of the testimony of injured/complainant, but also the supportive medical evidence, and that the above-mentioned evidence in itself was



sufficient and good enough to discharge the burden of the prosecution with regard to charge framed against the appellants. While claiming that there is no scope of indulgence and interference in the impugned judgment, it has been contended by learned State counsel that the present appeal is devoid of merits and deserves dismissal.

12. The record has been perused carefully.

13. A perusal of record shows that in the present case, in order to prove its case the prosecution had examined seven witnesses. The details of above-mentioned witnesses are as under:-

PW-1	Radhe Sham, the eye-witness
PW-2	Mangal Dass, the injured
PW-3	Rishi Ram
PW-4	SI Sarabjit Singh
PW-5	ASI Mukhwinder Singh
PW-6	Dr. R.B. Boparai.
PW-7	Dr. Jagdish Singh Gill

14. In the documentary evidence the prosecution had placed on record and proved the same, by marking with Exhibits, the FIR of the case, the site plan of place of occurrence and the medico-legal report.

15. In order to prove allegations against the appellants the first witness examined by the prosecution was 'Radhe Sham'. He was examined as PW-1. However, in the witness box, he had not given the details of the incident. The PW-1 simply deposed that on 07.09.1999 at about 08:30 P.M, when he was taking bath, the appellants 'Lakhbir Singh @ Lakha', armed with *kirpan*, 'Laddi', armed with *kirpan* and 'Sabba' empty handed came to their



house and on arrival 'Lakhbir Singh @ Lakha' exhorted to catch hold 'Mangal Dass' and kill him, because the brother of 'Mangal Dass' had eloped with his daughter. According to PW-1 in his presence no injury was inflicted by the appellants on the person of 'Mangal Dass'. As per PW-1 their mother 'Kamla Devi' had also arrived on the spot and witnessed the incident. When cross-examined the PW-1 had admitted that on the same day, i.e. on 07.09.1999, his brother 'Ghansham' had eloped with 'Paramjit Kaur' the daughter of 'Lakhbir Singh @ Lakha'. However, with regard to registration of case against 'Ghansham' the PW-1 had pleaded ignorance. According to PW-1 on 07.09.1999 any police official had not visited their home with regard to enquiry against 'Ghansham'.

16. The next witness examined by prosecution was 'Mangal Dass', the complainant/injured himself. The PW-2 had reproduced, by and large, the story almost identical to the statement made by him before the police (Ex.PA). However, the sequence of events which unfolded on the spot at the time of occurrence were narrated bit differently, in comparison to his statement before the police, such as after exhortion to teach a lesson the first assault was launched by 'Lakhbir Singh @ Lakha' with the help of *kirpan*, and when he started to run away he was pushed by 'Sahiba' due to which he fell down. The above-mentioned part of examination-in-chief of PW-2 was different from the story set-out by him before the police, wherein the above-mentioned events had taken place in reversed chronology. In his further examination-in-chief, the PW-2 deposed that he was injured by 'Sahiba' with kicks also, and that his brother 'Radhe Sham' and mother 'Kamla' had arrived at the spot, who screamed for help, and thereafter, the assailants fled from the spot. According



to PW-2 his statement was recorded in the hospital by the police on 10.09.1999. However, when cross-examined the PW-2 had deposed that he was not aware whether any criminal case was filed against his brother 'Ghansham' for kidnapping the daughter of appellant No.1-'Lakhbir Singh @ Lakha' or not. According to PW-2 he was not aware of the fact that an investigation was conducted, in that case, by the police, or not. However, it was admitted by the PW-2 that his house, where the incident had taken place, was situated in a thickly populated area, and that at time of occurrence, there was no street light, and that after the injuries, he was conscious.

17. In his further cross-examination, the PW-2 had admitted that his house was adjoining the house of the appellants, and that in the same vicinity, there were houses of 'Dasondhi Ram' and 'Kishori Lal' etc. According to PW-2 at the time of incident, there was quite dark as the incident had taken place at 8-8:30 P.M., and that all the appellants had entered his house through main gate, and at that point of time few persons had passed through the street. The PW-2 further stated that the distance between the place of occurrence and the bathroom, where his brother was taking bath was 6-7 feet. It was also stated by the complainant that he had not suffered any injury on his face, chest or abdomen, and that the weapon which was used for inflicting injuries, i.e. *kirpan*, was not shown to him, for identification, in the Court. According to PW-1, the police had visited him, in the hospital, on 07.09.1999, 08.09.1999 and 09.09.1999, but he did not get his statement recorded. However, he has denied this suggestion that he refused to give a statement to the police because he wanted to give statement after meeting with his SDO Sh. Vinod Anand.

18. The next witness examined by the prosecution 'Rishi Ram'



Draftsman was only a formal witness, who had proved the scaled site plan of the place of occurrence, as Ex. PB.

19. PW-4 Sub Inspector 'Sarabjit Singh', too, was a formal witness, who had deposed that in his presence the appellants were arrested on 26.11.1999, and that during the course of investigation the accused 'Laddi' had told that he had thrown the *kirpan* in the road side bushes. However, as per PW-4 the recovery of above-mentioned *kirpan* had never taken place.

20. The Investigating Officer of this case was examined by the prosecution as PW-5, who, obviously, supported the prosecution case by reproducing each event, which had taken place during the course of investigation. However, the PW-5 deposed that he had met the injured/complainant in the hospital on 08.09.1999 and 09.09.1999, but on those two occasions, the injured/complainant did not get his statement recorded, and stated that he would give the statement after meeting his SDO 'Vinod Anand'.

21. The medical officer, who conducted the medico-legal examination of injured was examined as PW-7. It was deposed by the PW-7 that at the time of medico-legal examination 19 injuries were found on the person of injured, and most of the injuries were incised wounds caused by sharp edged weapon. The PW-7 had proved the medico-legal report of the complainant as Ex.P1. However in his cross-examination, the PW-7 deposed that there was no injury on any vital part of the body and that injury No.4, which was caused by blunt weapon, could have been an out come of sudden fall on the ground.



22. As far as the above-mentioned evidence adduced by prosecution is concerned a bare perusal of the above-mentioned evidence shows that following are the relevant aspects, which needs consideration in the present case:-

i. **Delay in FIR:-**

If the factual matrix of the present case as available on record is taken into consideration, it transpires that the incident had allegedly taken place at 08:30 P.M. on 07.09.1999, but for the registration of FIR the first statement was given by the complainant/injured on 10.09.1999 at about 08:30 P.M. Although the Investigating Officer has tried to give an explanation with regard to above-mentioned delay, but no explanation is coming forward from the side of complainant/injured and thus, the above-mentioned delay is fatal for the prosecution. With regard to above the principles of law laid down in the case of Thulia Kali v. State of Tamil Nadu AIR 1973 SC 501, wherein it has been observed “that delay in lodging the first information report quite often results in embellishment which is a creature of afterthought. On account of delay the report not only gets bereft of the advantage of spontaneity danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of deliberation and consultation. It is, therefore, essential that the delay in the lodging of the first information report should be satisfactorily explained”.

ii. **Non-examination of eye-witness:-**



In the present case, it was stated by the PW-1 that at the time of incident his mother namely 'Kamla Devi' was also present, but she was not examined during the course of trial. The above-mentioned failure shatters the credibility of prosecution case as the cross-examination of above-named vital witness could have been instrumental in unearthing the truth.

iii. **Failure of PW-1 to give details of the incident:-**

It is the case of the prosecution that at the time of incident 'Radhe Sham' the brother of complainant was present in the same house and was taking bath. The distance between the place of occurrence and the bathroom, as stated by the PW-2, was 6-7 feet. However, the brother of complainant 'Radhe Sham' when appeared in the witness-box, as PW-1, maintained a complete silence about the details in which injuries were inflicted. It has been done despite the fact that as per PW-1 when he came out of the bathroom, the accused were present at the spot. In fact the PW-1 specifically deposed that no injury was caused on the person of PW-1 in his presence. Thus, the prosecution can't drive any benefit from the testimony of PW-1.

iv. **No independent Corroboration:-**

In the present case during the course of examination the PW-1 had admitted that his house was situated in a thickly populated area, and that at the time of incident number of persons had been passing through the street in front of the house of complainant. Since the incident had taken place in a thickly



populated area, it is far from believable that any of the neighbour, staying in the neighbouring houses, or any passerby would not have noticed the incident, wherein 19 injuries were suffered by the complainant. The above-mentioned failure is vital in the present case.

v. **Weapon of offence is not proved:-**

In the present case one of the crucial aspect to be taken into consideration is that the weapon of offence which was allegedly used by the assailants 'Lakhbir Singh @ Lakha' and 'Laddi' (appellants herein) was not recovered by the Investigating Officer during the course of trial nor the same was proved. With regard to above, the PW-1 had specifically deposed that the weapon of offence was not present in the Court. The failure of Investigating Agency to recover and prove the weapon of offence without, explanation is a factor which creates doubt about the credibility of the investigation.

vi. **Lapses in investigation:-**

In the present case another relevant aspect to be taken into consideration is that the Investigating Officer neither collected the bloodstain earth from the spot nor collected the clothes of the injured which could have supported the medical evidence by showing cuts in the clothes corresponding to the injuries recorded in the MLRs. The above-mentioned lapse on the part of the Investigating Officer is also relevant, particularly in view of other deficiencies in the present case.



vii. **Doubt about medical evidence:-**

In the present case it is relevant to note that as per medico-legal report Ex.P1, proved by PW-7, and the testimony of treating doctor, examined as PW-06, the fracture was found on the hand of the complainant and for that purpose surgery was performed, but the doctor who had conducted radiological examination was not examined, and the radiological report or the x-ray report were not proved in accordance with law.

viii. **Defence version:-**

Two neighbours of the complainant have been examined as DW-1 and DW-2, namely Joginder Kaur and Bir Singh. Both of them have deposed that they had not heard of any such incident in their neighbourhood on 07.09.1999.

ix. **Conduct of the complainant:-**

There are very specific allegations and otherwise also proved by the defence witnesses that there was allegations against the complainant's family that complainant's brother had eloped with the daughter of one of the accused, but in a very strange manner the PW-2 (complainant) during the course of his cross-examination has kept silent about the above-mentioned allegation. Rather he tried to plead ignorance when encountered with related questions.

x. **Role of Investigating Agency while invoking Section 307 IPC:-**

In the present case, one of the relevant aspect to be taken into consideration is that one of the charge framed against the



appellants was, for the commission of offence under Section 307 IPC. However the testimony of PW-7 shows that none of the injuries suffered by the complainant was on vital part of his body. Since as per prosecution version three assailants, two of whom were armed with sharp edged weapons had inflicted injuries on the person of complainant but did not cause any injury on any vital part of the body, such as abdomen, chest or head, creates a very strong doubt with regard to stand of the prosecution that there was an intention to kill the complainant.

23. The cumulative effect of all the above-mentioned factors, cojointly, leads to a conclusion that in the present case, there is a doubt with regard to the credibility of the story set-out by the prosecution. Firstly, there is a doubt with regard to the number of accused, who were involved in the commission of offence which is substantiated by delay in FIR, secondly, there is doubt with regard to the weapon which was used in the commission of crime, thirdly, there are deficiencies in the investigation conducted by the Investigating Officer, and fourthly, there is lack of independent corroboration.

24. In view of above, a reasonable doubt cropped up against the prosecution story and it was the duty of the prosecution to dispel the above-mentioned suspicious circumstances, which were surrounding its story, but the prosecution miserably failed to do so.

25. In view of above-mentioned observations, it is hereby observed that the prosecution was not successful to prove its charges against the appellants beyond the shadow of all reasonable doubts, and that the appellants are entitled for the benefit of doubt.



26. As a sequel to above-mentioned observations, it is hereby observed that an error of judgment has been committed by learned trial Court while holding the appellants guilty for the commission of offence punishable under Sections 307, 326, 324, 323, 34 of Indian Penal Code. In fact in the given fact situation, by giving the benefit of doubt a judgment of acquittal should have been returned by the learned trial Court. Thus, by accepting the present appeal the impugned judgment of conviction and order of sentence are hereby **set aside** and appellants are hereby **acquitted**.

(SURYA PARTAP SINGH)
JUDGE

30.03.2026
vipin

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