



103 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2258-SB-2004
Reserved on: 13.10.2025
Pronounced on: 12.01.2026

BANWARI LAL ETC. Appellants

VERSUS

STATE OF UT CHANDIGARH Respondent

1.	The date when the judgment is reserved.	13.10.2025
2.	The date when the judgment is pronounced.	12.01.2026
3.	The date when the judgment is uploaded.	13.01.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced.	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	Not applicable

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Argued by : Mr. Subhash Ahuja, Advocate with
Mr. Karan Veer Ahuja, Advocate
for the appellants.

Mr. Adhiraj Toor, Advocate for
Mr. J.S. Toor, APP, U.T., Chandigarh.

YASHVIR SINGH RATHOR, J. (Oral)

1. This appeal is directed against the judgment dated 01.11.2004 passed by the Court of Additional Sessions Judge, Chandigarh in FIR No.77 dated 25.02.2000 under Sections 307/34 of IPC registered at Police Station Sector 39, Chandigarh vide which appellants Banwari Lal, Tinku @ Johan Lal and Bittoo @ Sohan Lal have been held guilty and convicted for the offence under Sections 323, 323/34 and 307/34 of IPC and sentenced to undergo imprisonment as under:-



Name of accused	Offence under Section	Sentence
Banwari Lal	323 IPC	To undergo rigorous imprisonment for one year
	323/34 IPC	To undergo rigorous imprisonment for one year
	307 IPC	To undergo rigorous imprisonment for seven years with payment of fine of Rs.1000/- and in default of payment of fine to further undergo rigorous imprisonment for one month.
Tinku	323/34 IPC	To undergo rigorous imprisonment for one year
	307/34 IPC	To undergo rigorous imprisonment for seven years with payment of fine of Rs.1000/- and in default of payment of fine to further undergo rigorous imprisonment for one month.
Bittoo	323 IPC	To undergo rigorous imprisonment for one year
	323/34 IPC	To undergo rigorous imprisonment for one year
	307/34 IPC	To undergo rigorous imprisonment for seven years with payment of fine of Rs.1000/- and in default of payment of fine to further undergo rigorous imprisonment for one month.

All the sentences have been ordered to run concurrently.

2. The present case was registered on the basis of statement Ex.PA given to the police by Rajinder Kumar son of Bali Ram, resident of House No.723/1, Sector 38-A, Chandigarh with the allegations that he alongwith his mother and brother is living at the aforesaid address. House of accused Banwari Lal exists in front of his house, who is rearing hens at his house. Common stairs exist for both the houses. On 23.02.2000 at about 08:00 AM, his brother Sunil Kumar was going to drop his son to the school when he found hen droppings in the staircase on which he asked the sons of Banwari Lal as to why they do not clean the hen droppings.



Thereafter, when he was starting the scooter, Banwari Lal and his three sons namely Bittoo, Sonu and Tinku started beating him. Banwari Lal was armed with a thapi (wooden instrument used for washing clothes) while Tinku was armed with a danda of the shape of hockey. Banwari Lal and Tinku caused injuries in his head with the thapi and hockey while Sonu caused injuries to him with fist and slap blows and Bittoo caused injuries to him with bricks. When his elder brother Pappu tried to rescue him, Banwari Lal and Tinku caused injuries to him on his head with thapi and danda, as a result of which, he fell on the ground. When he went to rescue his brothers, Bittoo hit a brickbat at him and Banwari Lal caused injury with the danda in his leg. His wife Renu and one neighbour Shiv Sahay Gupta came there and rescued them and thereafter, someone informed the police on which police arrived at the spot. Blood was oozing out from the head of his brother Sunil Kumar and he had fallen unconscious and police took Sunil Kumar as well as Pappu to PGI, Chandigarh for treatment and he sought action against the accused persons. After registration of the case, the investigation was handed over to SI Udey Pal Singh. MLRs of the injured were collected. Rough site plan of the place of occurrence was prepared. Statements of witnesses under Section 161 Cr.P.C. were recorded. Accused were arrested and after completion of investigation, challan was presented against accused Banwari Lal, Tinku @ Jogan Lal and Bittoo @ Sohan Lal. However, Mohan Lal @ Sonu was below 16 years of age and inquiry against him was separated.

3. After presentation of challan, the copies of challan and other documents were supplied to the accused free of cost as required under Section 207 of Cr.P.C. Thereafter, the case was committed to the Court of



Sessions for trial.

4. After hearing learned Public Prosecutor and learned Defence counsel, the accused were charge-sheeted for the commission of offences punishable under Sections 307/323 read with Section 34 of IPC vide order dated 21.09.2000 by the trial Court for causing injuries to the complainant to which accused pleaded not guilty and claimed trial.

5. In support of its case, the prosecution examined twelve witnesses namely Rajinder Kumar as PW1, Shiv Sahay Gupta as PW2, Pappu as PW3, Dr. Shivka Malhotra as PW4, Dr. Rajwinder Jit Singh as PW5, Sub Inspector Balkar Singh as PW6, Constable Yash Pal as PW7, H.C. Baldev Singh as PW8, Sunil Kumar as PW9, Sub Inspector Ved Parkash as PW10, Dr. Saroon Salaria as PW11 and Sub Inspector Udey Pal Singh as PW12.

6. Thereafter, statements of accused under Section 313 of Cr.P.C. were recorded and the entire incriminating material was put to them which was denied by them to be wrong. In their defence, accused have examined Bimla as DW1, Dharambir as DW2, Sanjiv Kumar as DW3 and Head Constable-Mohinder Singh as DW4.

7. After hearing learned Public Prosecutor and learned defence counsel and on going through the record, learned trial Court held appellants guilty and convicted them for the offences as mentioned in opening paragraphs of the judgment.

8. Feeling aggrieved, the appeal in hand has been preferred.

9. I have heard learned counsel for the parties and have gone through the record.

10. Learned counsel for the appellants argued that impugned



judgment is based on conjectures and surmises. The facts of the case and the evidence on file have not been appreciated in the correct perspective while convicting the appellants. The medical evidence has been misread and no offence under Section 307 of IPC is made out. Learned counsel further contended that one of the injured namely Sunil Kumar has suffered one grievous injury in his head and doctor has not given any opinion that the same was dangerous to life or sufficient to cause death in an ordinary course and at the most, offence under Section 325 of IPC is made out and the conviction under Section 307 of IPC is thus not sustainable.

11. Learned counsel for the appellants next contended that there is a delay of two days in lodging the FIR and the entire family has been roped in by taking advantage of delay in lodging the FIR. It was a sudden quarrel between two neighbours and there was no past enmity between the parties and the accused never shared any common intention to cause injuries to the victims. No cogent reasons have been recorded by learned trial Court while convicting the appellants with the aid of Section 34 of IPC. Learned counsel further contended that no fingerprints have been taken from the weapons allegedly recovered from the possession of accused and investigation too has not been conducted fairly, which has resulted in miscarriage of justice and the impugned judgment deserves to be set aside. Learned counsel further contended that even the injury, which has been declared as grievous in nature has not been attributed to a particular accused and it has not been specifically pointed out as to who had caused the said grievous injury and whether it was caused with a wooden stick or wooden thapi. Learned counsel next contended that learned trial Court has wrongly accepted the version of the complainant



who all are close relatives and defence version put forward by the appellants/accused has been rejected on the ground that they are closely related. Earlier also, a complaint was lodged against complainant Rajinder Kumar under Section 107/151 of Cr.P.C. at the instance of the accused party and possibility of false implication on account of previous enmity thus cannot be ruled out. The delay of two days in lodging the FIR too has not been cogently explained. Though, it has been alleged that the injured were unfit to make statement yet complainant Rajinder Kumar was fit for making the statement from the very beginning but the FIR was intentionally delayed to rope in the entire family and by putting forward twisted facts. Lastly, learned counsel contended that impugned judgment is not sustainable and he prayed that the same be set aside and accused/appellants be acquitted of the charge under Sections 323, 323/34 and 307/34 of IPC.

12. On the other hand, learned counsel for U.T. Chandigarh has argued that impugned judgment is perfectly legal and valid. The evidence on file has been appreciated in the correct perspective while convicting the accused. Learned counsel further contended that from the evidence led on file, it is established that the injuries were caused on the head of PW9 Sunil Kumar with a thapi and hockey like stick with an intention to kill him. Merely because, he had suffered grievous injury will not give rise to the conclusion that the offence would fall under Section 325 of IPC and it is the intention of the accused which is to be seen and since, blows were caused on a vital part resulting in fracture of parietal bone with an intention to kill him, the offence will fall under Section 307 of IPC.

Moreover, all the accused in furtherance of their common intention had



assaulted the victims and they are thus liable for the acts committed by them and they have rightly been held guilty and convicted by the learned trial Court and impugned judgment does not call for any interference.

13. Before proceeding further, the medical evidence shall be discussed to determine the nature of injuries suffered by the victims. In order to prove the injuries suffered by the victims, the prosecution has examined PW4 Dr. Shivka Malhotra, PW5 Dr. Rajwinder Jit Singh, PW11 Dr. Saroon Salaria.

14. Dr. Shivka Malhotra while appearing as PW4 deposed that on 23.02.2000, she had medico-legally examined patient namely Pappu vide CR No.221481 and following injuries were found on his person:-

- (i) Small lacerated wound 2 inches x2 inches x0.5 inches on the left lateral side of forehead
- (ii) 1 inch x1 Inch lacerated wound on tip of nose.

She tendered the MLR Ex.PB and further deposed that S.I. Udey Pal had sought her opinion by moving application Ex.PC as to whether patient was fit to make statement or not and she had declared the patient fit to make statement vide opinion dated 23.2.2000 Ex.PC/1.

15. She further deposed that on the same day, she had medico legally examined patient namely Sunil Kumar vide CR No.221480 on the application Ex.PD moved by S.I. Udey Pal Singh and she found following injury on his person:-

- (i) 1cm x .5cm, laceration in scalp in the occipital region, crepitus Felt in occipital region.



She further deposed that the MLR of patient namely Sunil Kumar is Ex.PE which bears her signatures and is correct as per original record brought by her. Regarding nature of injuries, she stated that x-ray skull showed fracture of parietal bones B/L. CT Scan showed left parieto occipital contusion with no midline shift. She further stated that the injuries were declared as grievous in nature vide opinion dated 25.5.2000 Ex.PE/1. She further stated that S.I. Udey Pal Singh vide application Ex.PF had sought her opinion as to whether Sunil Kumar was fit to make statement or not and on 23.2.2000, she had given opinion Ex.PF/1 and declared the patient to be unfit to make statement which bears her signatures.

16. Dr. Rajwinder Jit Singh while appearing as PW5 deposed that on 23.2.2000 at about 1:30 PM on medical examination of Rajinder Kumar, he had found the following injuries on his person:-

- (i) Abrasion 1 cm x 1 cm over left zygomatic area reddish.
- (ii) Pain and tenderness right scapula & infra scapular region, no external injury. Advised X-ray chest AP view.
- (iii) Contusion 3 cm x 2 cm, over lateral aspect of right leg, upper 1/3rd region reddish.

He further stated that Injuries No.1 and 3 were simple and injury No.2 was kept under observation. The duration of injuries was within 12 hours and the weapon used was blunt. He further stated that he has brought the original MLR issued by him, which bears his signatures and its correct carbon copy Ex.PG. He stated that no fracture was found during X-ray examination and injury No.2 was declared simple vide his opinion



Ex.PG/1.

17. Dr. Saroon Salaria, Senior Resident, Department of Neurosurgery, PGI, Chandigarh while appearing as PW11 deposed that he had examined patient namely Sunil Kumar, who was admitted in PGI, Chandigarh on 23.2.2000 and discharged on 3.3.2000 and the following injuries were found on his person:-

- (i) A lacerated wound over the scalp 1 x 1.5 cm.
- (ii) Fracture parietal bone.

He further stated that injury No.1 was simple while injury No.2 was grievous. He proved the medico-legal case summary of Sunil Kumar as Ex.PL. He further deposed that he had also examined patient namely Pappu, who was admitted in PGI on 23.2.2000 and discharged on 24.2.2000 and had found the following injuries on his person:-

- (i) Lacerated wound over left side of Forehead 2 cm x 2 x .5cm.
- (ii) Wound over tip of the nose 1"x1".

Both the injuries were simple in nature. He proved the medico legal case summary of Pappu as Ex.PM.

18. Nothing to shatter the veracity of PW4, PW5 and PW11 could be elicited during their cross-examination so as to impeach their testimony. Only suggestion given to PW4 Dr. Shivka Malhotra is that injuries on the person of Pappu could be caused due to fall which has been denied by her to be wrong and she also denied the suggestion that injuries on the person of Pappu could be caused due to fall from stairs. No cross-examination has been effected upon PW5 Dr. Rajwinder Jit Singh, who had medico legally examined Rajinder Kumar and as per his opinion, all



the injuries on the person of Rajinder Kumar were simple in nature. PW11 Dr. Saroon Salaria during cross-examination has admitted that injuries on the person of Sunil Kumar and Pappu can be sustained due to fall from the stairs. However, simplicitor opinion in this regard cannot brush aside the ocular version of the witnesses as it is merely an opinion given by the doctor. Accordingly, from the testimony of PW4 and PW11, medico-legal report of Sunil Kumar, Radiology examination report and CT Scan report, it is established that he had suffered one injury on his head which was a fracture of parietal bones B/L while CT Scan showed left parieto occipital contusion with no midline shift. Both PW4 and PW11 have declared the said injury to be grievous in nature while injuries on the person of Pappu and Rajinder Kumar have been found to be simple in nature as deposed by PW4 and PW5 respectively. However, no opinion has been given by the doctors that the injury on the person of the injured namely Sunil Kumar was dangerous to life or sufficient to cause death in the ordinary course of nature and the injury has been declared as grievous only. The occurrence too had taken place at the spur of the moment and one blow with a thapi was given in the head by accused Banwari Lal and one blow with a hockey like stick was given by accused Tinku. No blow was repeated by Banwari Lal and Tinku and as such, it cannot be inferred that accused had caused the injury with an intention to kill him. The quarrel started over cleaning of hen droppings in the staircase and there was no prior meeting of minds and the assault was thus not preplanned. In these circumstances, it cannot be inferred that the injury was caused on the person of Sunil Kumar with an intention to kill him and the offence in question will thus fall under Section 325 of IPC only and not under Section 307 of IPC for which the



appellants have been held guilty and convicted. In holding so, I have relied upon 2019 (3) RCR Criminal 724, **Prince Kumar Vs. State of Punjab**, cited by the learned counsel for the appellants. Besides the grievous injury suffered by injured namely Sunil Kumar, the other two injured namely Rajinder Kumar and Pappu have also suffered simple injuries which would fall under Section 323 of IPC.

19. In order to prove its case, the prosecution has examined complainant namely Rajinder Kumar as PW1. He deposed that on 23.02.2000 at about 08:00 AM, his younger brother Sunil Kumar was going to drop his son at the school but he saw hen droppings in the staircase and on his scooter seat, on which he asked the son of accused Banwari Lal to clean the droppings. Said accused Banwari Lal and his sons are residing in House No.710/1, Sector 38-A, Chandigarh in their neighbourhood and they are rearing hens. His brother told them that if they are interested in keeping hens, they should take care of them and clean the droppings, on which, Banwari Lal and his sons got enraged and started beating Sunil Kumar. Banwari Lal was armed with danda like bat, Tinku was armed with a hockey kind of danda, Bittoo was having bricks/stone in his hand and Sonu was beating Sunil Kumar with slap and fist blows. One of the window of their house opens towards that side and he saw accused beating his brother from the window pane and immediately rushed to the spot. When he tried to rescue Sunil Kumar, Banwari Lal gave a danda blow on his leg while Bittoo hit on the right side of wrist with a brick and he fell down. His brother also fell down and became unconscious but accused kept on causing injuries to him even when he was lying unconscious. Thereafter, his brother Pappu reached there and Bittoo hit a



brick on his face and he also fell down. His wife also came downstairs and accused caught hold of her and they proclaimed that she should not be spared and should be beaten. Their neighbour namely Shiv Sahay Gupta also came there on hearing the cries. Someone from the neighbourhood made a call to the police. Shiv Sahay Gupta also tried to rescue them but in the meantime, police reached. He further deposed that had the police not reached at the spot, accused would have killed his brother Sunil Kumar. He further deposed that he was unable to get up after he fell down as he had suffered fracture in his right side lung and he was unable to move. The police then brought them to PGIMER, Chandigarh where his statement Ex.PA was recorded and he was medico legally examined on the next day.

20. Pappu while appearing as PW3 deposed that they are three brothers and they reside together with their mother. Accused Banwari Lal resides in their neighbourhood along with his three sons. On 23.02.2000, an altercation had taken place between Sunil Kumar and Banwari Lal and his sons and they gave severe beatings to his brother Sunil Kumar. The quarrel started on account of hen droppings and when Sunil Kumar was going to drop his son to the school, he asked the accused to clean the hen dropping as they were rearing hens in their house. Accused started beating him and when he went to save Sunil, Bittoo gave a brick blow on his face. Banwari Lal hit on his head with a bat while Tinku gave him fist and kick blows and he fell down and became unconscious. His brother Rajinder Kumar also reached at the spot and he too was given brick blow on the right side of his waist. He further stated that accused are present in the Court.

21. Sunil Kumar is the injured, who has been examined as PW9



and he deposed that on 23.02.2000 in the morning, he told accused Sonu that if they are interested in keeping hens, they should take care of their droppings, on which, Banwari Lal and Tinku, who are father and brother of Sonu also came there and they gave a danda blow on his head from backside. Tinku was armed with a danda of a special kind and he too gave a danda blow on his head. He fell down and tried to stand up using his hands. Banwari Lal instigated his sons that he should be done to death today. His brother Pappu also reached there and he too was given a danda blow by accused Sonu on his face. He further deposed that he fell unconscious and as such, he cannot tell as to how and when he was taken to the hospital but when he regained consciousness, he found himself in PGI, Chandigarh.

22. Shiv Sahay Gupta is a neighbour, who has been examined as PW2 and he too deposed that on 23.02.2000, when he was present at his home, he heard noise from outside and came out of his house. He saw that Sunil Kumar was lying on the ground and accused and their entire family were shouting 'Mar do Mar do'. He tried to stop the accused from beating Sunil Kumar but they did not listen to him. He further deposed that Tinku was armed with a hockey shape danda, Banwari Lal was armed with a danda and Bittoo was armed with brick in his hand. Bittoo gave a brick blow on the face of Pappu. Tinku gave a danda blow on the leg of Rajinder Kumar, as a result of which the danda broke. He moved aside fearing that he may not hit on his left leg. In the meantime, somebody rang up the police and police party reached at the spot. Pappu and Sunil Kumar were taken to hospital by the police while Rajinder Kumar was taken to the police station.



23. Stand of accused is that it is the complainant party namely Rajinder Kumar and Sunil Kumar, who were the assailants and they had attacked them and their family members for no fault of theirs. It is also their case that victims have suffered injuries due to fall from the stairs and they never caused any injury to them. To prove their defence, they have examined Bimla as DW1, Dharambir as DW2, Sanjiv Kumar as DW3 and H.C. Mohinder Singh as DW4.

24. DWI Bimla deposed that on the date of alleged incident, the complainant party namely Rajinder and Sunil had got down from first floor of the house in the locality and attacked her and her children for no fault of theirs. She had informed about the incident to the concerned police on 23.2.2000 and the police took the cognizance of offence and took Rajinder Singh into custody under Sections 107/151 Cr.P.C. with regard to same very incident. She was not got properly medico-legally examined by the police. She had sustained injuries on upper part of her body, whereas she was examined on the lower part of the body by the concerned doctors and her medical record has not been brought on record by prosecution. Other family members of Rajinder namely Pappu, Sunil and Babu had infact attacked them on the date of alleged incident, but they were not proceeded against by concerned police intentionally and wilfully and her family members have been falsely implicated in the present case. She further deposed that after four days of alleged occurrence, her family members were summoned to the police station and then charged wrongly in the attempt to murder case. The hens have infact been kept by Mahabir Shansa and other persons of locality. They are not having any hens as alleged by the prosecution. She further deposed that even on the date of



her evidence i.e. 20.12.2002, complainant party had kicked at her door and threatened to kill her and her family members. Banwari Lal was not present at the spot on the date of incident and was present in PGI where he was working. Her other family members are not involved in the present incident. Her sons have also been wrongly named in the present FIR. Infact, Rajinder, Pappu and Sunil were the aggressors. Rajinder's wife had a clash with Sunil which occasionally takes place in their family and when the fight was going on between family members of complainant party, Rajinder's wife gave a danda blow to Sunil and she also saw Rajinder falling from stairs, who infact might have suffered the injuries then. She and her family have been falsely implicated. Her husband Banwari Lal, Tinku, Mintu and Sonu are innocent and defective investigation has been conducted.

25. Dharambir, while appearing as DW2 deposed that he had gone to the house of Banwari Lal on 23.2.2000 to bring his grand children. On that day, accused Mohan son of Banwari Lal had gone to the house of his in-laws and Banwari Lal was also not present on the date of incident. On that day, the complainant party was seen by him attacking the wife of Banwari Lal. Out of them, two were neighbours of Banwari Lal and three others were also there but he does not know their names. However, the other three were also members of Banwari's neighbourhood. Rajinder was also with them alongwith his son. The police party reached at the spot and took away the wife of Banwari Lal to the police station, but were not referred to the hospital with regard to injuries suffered by them. Infact, the sons of Banwari Lal had reached at the scene to save their mother. Later on, the police called Banwari Lal and joined him in the investigation.



Similarly, the children were also joined in the investigation as accused for no fault of theirs. Infact, the complainant was not on good terms with the family of Banwari Lal because of which they have been falsely implicated in the present case.

26. Sanjiv Kumar, while appearing as DW3 deposed that on 23.2.2000 at about 8 P.M., he was to leave for his factory but he saw Rajinder Kumar and his accomplices attacking Bimla, wife of Banwari Lal near the stairs of her house. The complainant party is in the habit of abusing the neighbourers. At about 8 A.M., Bimla after purchasing household products was about to climb stairs, when she was attacked by Rajinder and others. Infact, Bimla was given injuries on the head and hand by pieces of brick. Due to this attack, he got late for his factory where he works. Banwari Lal and his children have been falsely implicated in the present case and have nothing to do with the commission of offence. Banwari Lal and Mohan were not present at the spot on the date of incident. The family members of Banwari Lal were wrongly taken into custody by police and wife of Banwari Lal was also medically examined in the hospital by the police. He further stated that Mahabira and others are keeping fowls in the locality while Banwari Lal and his family do not rear any fowls.

27. H.C. Mohinder Singh, while appearing as DW4 proved DDR No.40, dated 23.2.2002, recorded at 2:45 PM Ex.DX/2. He stated that the police was called at 8:25 AM by Bimla Devi with regard to the same incident. D.D.R. No.5 Ex.DX was the information received.

28. However, once the evidence led by the prosecution and the defence is glanced through, the version put forward by the prosecution



inspires confidence. The prosecution witnesses namely PW1 Rajinder Kumar, PW2 Shiv Sahay Gupta, who is an independent witness, PW3 Pappu and PW9 Sunil Kumar have deposed in chorus about the manner in which occurrence started and the manner of assault by the accused persons. When PW9 Sunil Kumar, who is the injured and with whom the quarrel started was cross-examined, a suggestion has been given to him during cross-examination that it is he who had himself started the altercation and that they were the aggressors. Another suggestion had been given to him that he had himself fallen from the stairs and suffered injuries in the head or that he has falsely implicated the accused persons but the suggestion have been denied by him to be wrong. During cross-examination of PW-1 Rajinder Kumar also, a suggestion has been given that it is they who were the assailants or that he suffered injuries due to fall from the stairs. However, no such suggestion has been given to PW3 Pappu when he was cross-examined. PW2 Shiv Sahay Gupta is a neighbour, who is an independent witness and he has corroborated the version of the injured witnesses and no suggestion has been given to him also during his cross-examination that the victims were either the aggressors or that they had suffered injuries due to fall from the stairs. It is well settled that if a witness is not cross-examined on a particular part of his testimony to prove to the contrary, it shall be deemed that the opposite party has accepted that part of the statement to be correct. Moreover, except the self serving statement of the witnesses examined in defence and vague suggestions given to PW1 and PW9, no cogent and convincing evidence has been led to establish that the complainant party was the aggressor and had caused injuries to the family of the accused including



DW1 Bimla. Merely, because one of the witness namely PW1 Rajinder Kumar was also arrested under Section 107 and 151 of Cr.P.C. on the same day cannot lead to the conclusion that opposite party was the aggressor as the proceedings under Sections 107 and 151 of Cr.P.C. are meant only for the prevention of breach of peace. Learned trial Court has also thus rightly disbelieved the evidence led by the accused in their defence and has relied upon the version set up by the prosecution witnesses namely PW1, PW3 and PW9, which is corroborated by medical evidence. As such, the evidence on file has been appreciated in the correct perspective and there is no reason to disbelieve the same.

29. There is also no force in the plea raised by learned counsel for the appellants that there is a delay of two days in lodging the FIR. Admittedly, the occurrence had taken place on 23.02.2000 at about 08:00 AM. The complainant namely Rajinder Kumar who is one of the injured had got recorded his statement Ex.PK recorded before the Investigating Officer on the same day on the basis of which DDR No.28 dated 23.02.2000 was registered at 11:00 AM. The FIR was not registered on the same day as opinion regarding nature of injuries had not been received. On 25.02.2000, opinion of the doctor was received to the effect that one of the victim namely Sunil Kumar had suffered grievous injuries and thereafter, endorsement Ex.PI was made on the DDR and formal FIR was registered. As such, there is no delay in lodging the FIR.

30. The Investigating Officer namely PW9 S.I. Udey Pal Singh also conducted fair investigation and had taken the various steps while conducting investigation. He deposed that on 23.2.2000, at about 8:25 A.M, he received a wireless message regarding a quarrel having taken



place at House No.723/1. Sector 38, Chandigarh and he went to the spot alongwith two constables. He recorded the statement of Rajinder Kumar, which was sent to the police station for entry in the D.D.R. Then he reached PGI Chandigarh and took the opinion of the doctor regarding the condition of the injured namely Sunil Kumar and Pappu. He proved the applications moved by him in this regard as Ex.PF and Ex.PC respectively. He deposed that the doctor had declared Sunil Kumar unfit for making statements. Thereafter, he submitted application Ex.PD to the doctor seeking a copy of the MLR, which was issued to him on 23.02.2000. On 25.02.2000, on the same application, he obtained the doctor's opinion Ex.PD/1 regarding the nature of the injuries, wherein it was mentioned that the injuries were grievous in nature. On the basis of said report, he made his endorsement Ex.PI on the statement recorded in the DDR Ex.PK and sent the same to police station through Constable Dalbir Singh for registration of case on the basis of which the FIR was registered. Thereafter, he came to the place of occurrence and prepared rough site plan of the spot Ex.PN. He also recorded the statement of Renu and supplementary statement of Rajinder Kumar. On 26.2.2000, he recorded the statements of Pappu and Shiv Sahay Gupta and arrested all the three accused namely Banwari Lal, Tinku and Sonu. On 9.3.2000, he got prepared scaled site plan of the spot Ex.PJ from Constable Yash Pal Singh. On 20.4.2000, case summaries of injured Sunil Kumar and Pappu were obtained from PGI Chandigarh. However, the statement of Sunil Kumar could not be recorded as he was not in a position to make a statement. He had taken the opinion of the doctor on application Ex.PM regarding the condition of the injured on 06.04.2000. However, the injured was declared



unfit to make a statement by the doctor as per report Ex.PM/1. On 22.04.2000, the report under Section 173 Cr.P.C. was prepared by Inspector Dhan Raj/SHO and he identified his signatures on the challan.

31. Testimony of remaining witnesses is formal in nature. S.I. Balkar Singh while appearing as PW6 has proved ruqa Ex.PI and FIR Ex.P1/2. Constable Yash Pal while appearing as PW7 has proved the scaled site plan Ex.PJ of the place of occurrence which was prepared by him on the asking of S.I. Udey Pal Singh and de bvposed that the scale used was 1cm= 1m. H.C. Baldev Singh while appearing as PW8 proved copy of DDR No.28, dated 23.2.2000 as Ex.PK and DDR No.28. dated 25.2.2000 as Ex.PK/1. Sub Inspector Ved Parkash, while appearing as PW10 deposed that on 22.5.2000, he had recorded the statement of injured Sunil Kumar at his residence. After completion of investigation, the report under Section 173 Cr.P.C. was prepared by Inspector Dhan Raj.

32. As a result of aforesaid discussion, I am of the considered opinion that from the evidence led on file, it is established that on 23.02.2000 at about 08:00 AM, injured namely Sunil Kumar was going to drop his children when a verbal duel started over hen droppings between him and accused namely Bittoo @ Sohal Lal, Tinku and Sonu and thereafter, all the accused started beating him. Accused Banwari Lal hit one thapi in his head while accused Tinku hit him in his head with a hockey like stick while accused Bittoo hit him with a brick and Mohan Lal @ Sonu, who has since been declared juvenile, caused injuries to him with fist and slap blows. When his brothers namely Rajinder Kumar and Pappu arrived at the spot, accused Banwari Lal gave a thapi blow on the head of Pappu and one blow on the leg of Rajinder Kumar while Bittoo gave one



brick blow on the waist of Rajinder Kumar and face of Pappu and accused Tinku also gave hockey blow to Pappu. As such, intention to cause injuries developed at the spur of the moment and in furtherance of their common intention, all the accused caused injuries to Sunil Kumar, Pappu and Rajinder Kumar. Injured Sunil Kumar suffered grievous and simple injuries while Pappu and Rajinder Kumar suffered simple injuries and prosecution has thus successfully proved its case against the accused for the offences under Sections 323, 325/34 of IPC. However, charge under Section 307 of IPC is not proved as it is not established that injured namely Sunil Kumar had suffered any injury which could be declared as dangerous to life and sufficient to cause death in ordinary course of nature or that blow in the head was given by accused Banwari Lal and Tinku with an intention to kill him as no blow were repeated by them. As such, accused have been wrongly held guilty and convicted for the offence under Section 307 of IPC and same is thus not sustainable.

33. Resultantly, the appeal in hand is partly accepted and the appellants are acquitted of the charge under Section 307 of IPC. However, the accused are held guilty and convicted for the offences under Sections 323, 325 read with Section 34 of IPC and they are sentenced to undergo imprisonment for a period of three years and fine of Rs.1000/- each for the offence under Section 325/34 of IPC. In default of payment of fine, they shall undergo simple imprisonment for a period of two months. However, the sentence imposed upon the appellants for the offence under Section 323/34 of IPC by the trial Court is maintained along with the default sentence already ordered. All the sentences shall run concurrently.



Appellants be taken into custody to carry out the sentence and a copy of this judgment be sent to the trial Court for compliance.

12.01.2026
Priyanka Thakur

(YASHVIR SINGH RATHOR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No