

202 (02 CASES)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-735-SB-2007
Date of Decision:19.03.2026

Subhash

...

Petitioner

Vs.

State of Haryana

...

Respondent

(ii)

CRA-S-916-SB-2006

Balraj

...

Petitioner

Vs.

State of Haryana

...

Respondent

Coram : **Hon’ble Mr. Justice N.S.Shekhawat**

Present: Mr. Arjun Lakhanpal, Advocate
 for the appellant in CRA-S-735-SB-2007.

 Mr. Manvinder Sidhu, Advocate
 for the appellant in CRA-S-916-SB-2006.

 Mr. Parmod Kumar, AAG, Haryana.

 Mr. Jagjit Singh Gill, Advocate
 for the complainant.

N.S.Shekhawat J.

1. This judgment shall dispose off two criminal appeals i.e **CRA-S-735-SB-2007** titled as **“Subhash Vs. State of Haryana”** and **CRA-S-916-SB-2006** titled as **“Balraj. Vs. State of Haryana”**, whereby, appellants have been convicted for the commission of offences punishable under Sections 452,307,325,323,506 r/w Section 34 of IPC and were sentenced to undego as under:-

Under Section 307 r/w 34 IPC	R.I for a period of three years and to
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	pay a fine of Rs.1000, in default of payment of fine, to further undergo SI for a period of 03 months.
Under Section 452 r/w 34 IPC	R.I for a period of one year.
Under Section 325 r/w 34 IPC	R.I for a period of one year.
Under Section 323 r/w 34 IPC	R.I for a period of six months.
Under Section 506 r/w 34 IPC	R.I for a period of three months.

2. The FIR in the present case was registered on the basis of the statement made by Surjeet son of Ram Sarup and the relevant part of the same has been reproduced below:-

“On 7.6.2002, at about 12.15 p.m., Surjeet son of Ram Sarup, caste Saini, resident of near Ratia Octroi post (Chungi), Fatehabad, at present mechanic, Kumar Electronics, Ding, made statement before Dharam Pal ASI P.S. Ding that he is a resident of the aforesaid address and working as mechanic at the shop of Kumar Electronics, Ding. On 5.6.2002, at about 8.30 p.m., he along with Gurpreet son of Harbhajan, resident of Ding was present at his shop, when Raj Pal Sarpanch, resident of ding and his brother Subhash, Balraj son of Nathu Ram, Ajit son of Tek Chand, residents of ding arrived at his shop. Balraj was armed with a weapon of wood fitted with an iron pipe. Raj Pal Sarpanch gave a slap to him as a result of which his head hit a wall and the Sarpanch remarked that they would teach him a lesson for beating Manoj Kumar son of Hari Singh, resident of Ding. Thereafter, the Sarpanch gave a fist blow on his mouth. Then Balraj gave a blow with the weapon of wood fitted with a pipe on the pinna of his left ear. When Gurpreet tried to rescue him, Subhash gave a lathi blow on the left shoulder of Gurpreet. Thereafter, Raj Pal Sarpanch gave a lathi blow on the left foot of Gurpreet. Then, Raj Pal Sarpanch gave a kick blow on the private part of Gurpreet. At that time, Ajit son of Tek Chand caught hold of Gurpreet. Gurpreet then



fell down on the ground. Thereafter, 6/7 more boys arrived there, who were not know to him. Thereafter, Ajit Singh, Subhash, Raj Pal and Hari Singh Marbuja took her towards the street while beating him and the remaining persons went towards the shop of Harbhajan. Those persons gave beatings to him and left him at the shop of Balbir Singh in unconscious state. Lateron, he came to know that those persons also gave beatings to Harbhajan Singh and his son Ajit Singh and they also administered a threat to kill them”.

3. During the course of investigation, on the basis of dental surgeon opinion, injury No.4 on the person of Surjeet Singh, injured was declared as grievous, whereas, as per the opinion of the attending doctor, the possibility of injury No.3 on the person of Gurpreet Singh being dangerous to life, could not be ruled out. Due to this, the offence under Sections 307 and 325 of IPC were added in the present case. The accused were arrested in the present case and the necessary investigation was conducted. Ultimately, the appellants along with others were challaned and the final report under Section 173 Cr.P.C were presented before the Area Magistrate. After the case was committed to the Court of Sessions, the Trial Court found a prima facie case under Sections 452,307,323,325,506 r/w Section 34 of IPC against the appellants and they were charge-sheeted accordingly. However, the appellants pleaded not guilty and claimed trial.

4. In order to prove the charge against the accused, the prosecution examined ten witnesses. Dr.G.S Somani as PW-1, Dr.Rajender Singh Tada as PW-2, Surjeet Singh son of Ram Sarup as PW-3, Dr.Dharmender as PW-4, Gurpreet Singh as PW-5, Harbhajan Singh as PW-6, Radhey Shyam Draftsman as PW-7, Dharam Pal ASI as PW-8, Dr. Joginder Singh as PW-9 and Punjab



Singh, Inspector as PW-10 and thereafter, the evidence was closed.

5. After the closure of the prosecution evidence, the statement of all the appellants under Section 313 Cr.P.C were recorded, wherein, they alleged that they had been falsely implicated in the present case due to political enmity. Even, Gurpreet Singh and Harbhajan Singh had attacked their house and injuries were caused to them, whereas, the appellants and others were falsely involved by the complainant side. In their defence, the accused have tendered Ex.DD certified copy of report under Section 173 Cr.P.C in case titled as State Vs. Harbhajan Singh, Ex.DE, certified copy of statement of Raj Pal, Ex.DF certified copy of statement of Raj Kumar and Ex.DG certified copy of statement of Manoj Kumar of case State Vs. Harbhajan Singh etc.

6. The prosecution has examined Dr.G.S Somani as PW-1, who medico-legally examined Surjeet son of Ram Sarup on 06.06.2002 and found the following injuries:-

- “1. An abrasion 1 cm x 3 cm on the left side of fore-head 5.5. cm lateral to mid line. Clotting was present.*
- 2. An abrasion 2 cms x cm lateral to left eye, clotting was present. Reddish in colour.*
- 3. Reddish contusion on the left side of face, just below the lower lid and laterally 4 cms x 2 cm in size. Painful and tender.*
- 4. Abraded defuse swelling over the lower lip and there was history of blow on the lips. Right upper lateral incisor tooth was broken due to injuries. Dental Surgeon opinion was sought.*
- 5. An abrasion 5 cms x 1.5 cm on the back of right fore-arm on its proximal 1/3 rd.*



Injuries no.1, 2 and 3 were subjected to radiological examination, whereas, injury no.4 was subjected to Dental Surgeon opinion. Injury no.5 declared simple in nature. Ex.PA is the correct carbon copy of the M.L.R. and Ex PA/1 is the diagram showing the seat of injuries.

7. Dr. G.S Somani, PW-1 further medico-legally examined Gurpreet son of Harbhajan and found the following injuries on his person:-

- 1.Defuse painful tender swelling over the middle of occipital bone area of the skull. X-Ray was advised.*
- 2.History of blow on the left shoulder joint. Thereafter patient was unable to move the joint. Movements were painful, tender and restricted. X-ray was advised.*
- 3. History of blow on the scrotum. Complaining of pain, tenderness was present.*
- 4. An abraded swelling over the let on its middle. Red clotting was present over the abrasion. It was tender. X-ray was advised.*

All the injuries were kept under observation and were caused by blunt weapon within a probable duration of 24 hours. Ex.PB is the copy of the M.L.R. and Ex.PB/1 is the diagram showing the seat of injuries. This witness had stated that on 11.6.2002, on police request Ex.PC, he opined vide his opinion Ex.PC/1 that the possibility of this type of injury being dangerous to life could not be ruled out. He has further deposed that on 20.6.2002, he declared injury no.4 on the person of Surjeet as grievous vide his opinion Ex. PD after going through the Dental Surgeon opinion”.



8. The prosecution further examined PW-2 Dr. Rajinder Singh Tada, who stated that on on 7.6.2004, he examined injured Surjeet Singh son of Ram Sarup for injury No.4 on his person and found that the upper right central incisor hanging from jinjiva. As per his report Ex.PE, the X- Ray showed that upper right lateral incisor crown was broken. Pupils were exposed, hence, class-III was fractured.

9. The prosecution further examined PW-3 Surjeet Singh, injured/complainant and he completely refused to support the case of the prosecution. He stated that the appellants had not caused him injuries and was declared as hostile in the present case. PW-4 Dr. Dharmender had medico-legally examined Harbhajan Singh and found one injury on his person and the MLR in this regard was exhibited as Ex.PG and the diagram showing the injuries as Ex.PG/1. PW-5 Gurpreet Singh supported the case of the prosecution, as mentioned in the F.I.R and had assigned specific roles to them. Similarly, PW-6 Harbhajan Singh had also supported the case of the prosecution and explained the role of each of the accused. PW-7 Radhey Shyam, Draftsman prepared the scaled site plan Ex.PL. P-8 Dharampal, ASI was the I.O of the present case and proved on record the entire investigation in the present case. Dr.Joginder Singh was examined as PW-9, who had declared Harbhajan Singh fit to make statement on 07.06.2002 vide Ex.PD-2. PW-10 Punjab Singh, S.I prepared the final report under Section 173 Cr.P.C and presented before the competent Court of law.

10. I have heard the learned counsel for the parties and with their able assistance, I have gone through the trial Court record carefully.



11. In the present case, the occurrence had taken place at about 08:30 P.M. on 05.06.2002 and Surjeet Singh, injured made a statement at 12:15 P.M. on 07.06.2002. In fact, the delay in the present case stood properly explained. In fact, Gurpreet Singh had narrated the incident to his brother Ajit Singh, who shifted him and Surjeet Singh to the hospital, however, on the way, they were stopped by ASI Nihal Singh, a relative of Raj Pal, accused and they were forced to go inside the Police Station, Ding. After 15/20 minutes, the accused also came to the police station and at their instigation, A.S.I Nihal Singh detained them. On the next day, they went to the police station and got the F.I.R registered. Thus, the Trial Court has rightly observed that the delay in lodging the FIR in the present case was properly explained by the prosecution witnesses and it was not fatal to the case of the prosecution. In the present case, no doubt, PW-3 Surjeet Singh had refused to support the case of the prosecution, but PW-5 Gurpreet Singh and PW-6 Harbhajan Singh had supported the case of the prosecution and their testimonies could not be impeached in any manner.

12. The ocular account of the prosecution in the present case was duly corroborated by the medical evidence. PW-1 Dr. G.S Somani had medico legally examined Surjeet Singh & Gurpreet and proved on record the MLRs of both the injured. He stated that he had declared injury No.4 on the person of Surjeet Singh as grievous vide his opinion Ex.PD, after going through the dental surgeon opinion. Even, PW-2 Dr.Rajinder Singh Tada had proved on record the X-Ray reports in the present case. However, it is apparent that PW-1 Dr. G.S Somani had declared that the possibility of injury No.3 on the person of Gurpreet Singh, being dangerous to life could not be ruled out and due to this,



the offence under Section 307 IPC was added. However, the appellants, could not have been convicted under Section 307 IPC, only on the basis of such an opinion. It is apparent from the MLR of Gurpreet Singh, PW-1 Dr.G.S Somani stated that he had suffered a defused painful tender swelling over the middle of occipital bone area of the skull. The second injury was history of blow on the left shoulder joint and the movements were painful, tender and restricted. Further, there was history of blow on the scrotum and he was complaining of pain and tenderness. Still further, as per injury No.4, he had suffered an abraded swelling over on his person. Thus, it is apparent that Gurpreet Singh had not suffered any injury and with regard to injury No.3, it was declared that there was a possibility of injury being declared dangerous to life. However, it would be inappropriate to convict the appellants under Section 307 I.P.C on the basis of such an opinion.

13. In fact, this Court in the matter of “**Tej Ram Vs.State of Punjab, 1978 (6) CLR 76** observed that the injury described by the doctor as “dangerous to life” and if not treated i.e.to say that but for timely and medical aid, the injured was likely to die. Such type of injury/opinion are not the type of injury as would attract the provisions of Section 307 IPC, which envisages an injury sufficient in the ordinary course of nature to cause death and such injury would fall within the ambit of clause 8 of Section 320 IPC and would be punishable under Section 326 IPC.

14. Similarly, this Court in a case reported as “**State of Punjab Vs.Tara Singh, 1987(1) RCR (Criminal) 184** held as follows:-

“3.So, far as the other petition (Crl. Rev. 1138 of 1986) on behalf of the complainant is concerned, all that



has been said by Mr. P.S. Hundal, his learned Counsel, is that the learned Additional Sessions Judge was not justified in dropping the charge under Section 307 Indian Penal Code solely on the basis of the statement of PW1, i.e. Dr. Harsh Kumar Mahajan and he should have, as a matter of fact, looked into the other evidence, such as the bed head ticket. X-ray report, etc. I again see no merit in this submission of the learned Counsel. This witness has expressed his opinion that "possibility of injury No. 1 on the person of Sucha Singh being dangerous to life could not be ruled out", in the light of the evidence to which a reference is made by the learned Counsel, i.e, the X-ray report and examination of the injured by him. It is not disputed before me that in the absence of categorical opinion by the doctor that the injury on the basis of which the charge under Section 307 Indian Penal Code, was framed against the accused, was dangerous to life, the charge cannot be sustained".

15. Consequently, in view of the above discussion, the appellants are acquitted of the charge under Section 307 IPC, in the present case.

16. Still further, in the present case as per PW-1 Dr. G.S Somani, who had medico legally examined Surjeet Singh, who had suffered five injuries.

Injury No.4 suffered by Surjeet Singh was as follows:-

"Abraded defuse swelling over the lower lip and there was history of blow on the lips. Right upper lateral incisor tooth was broken due to injuries. Dental Surgeon opinion was sought".

17. As per the opinion of the doctor, injury No.4 was declared to be grievous in nature, however, Surjeet Singh, injured/complainant appeared as PW-3 in the present case and refused to support the case of the prosecution.



18. Consequently, the conviction of the appellants under Section 325 IPC could not sustained.

19. As an upshot of above discussion, the appellants are ordered to be convicted for the commission of offences punishable under Sections 323,452,506 r/w Section 34 of IPC and are acquitted of the charge under Sections 325 & 307 of IPC.

20. Now, advertng to the order of quantum of sentence, this Court cannot lose sight of the fact that the appellants are facing the prosecution since 05.06.2002 i.e. for the last more than 23 years. Still further, it is a case of cross version, in which both the sides had suffered injuries. Further, Subhash, appellant in CRA-S-735-SB-2007 has already undergone more than 03 months and 21 days of actual custody, whereas, Balraj, appellant in CRA-S-916-SB-2007 has undergone more than 09 days of actual custody. Even, Balraj Singh is a first offender and is working as a teacher in a Government school. Consequently, the sentence imposed on Subhash in CRA-S-735-SB-2007 is reduced to period already undergone by him, whereas, amount of fine will remain the same.

21. On the other hand, Balraj, appellant in CRA-S-916-SB-2006 is ordered to be released on probation for a period of one year and he will not suffer any disqualification, due to his conviction by the Court. He shall also furnish the requisite bonds in that regard within a period of four weeks of receipt of certified copy of this order, to the satisfaction of the trial Court. During the period of probation, Balraj, appellant in CRA-S-916-SB-2006 shall not commit any offence and be of good behaviour. He would also furnish an

undertaking before the trial Court that he would undergo the remaining part of the sentence, if called for, to do so by a court of Competent jurisdiction during the period of his probation. The amount of fine imposed by the trial Court shall be converted into the litigation expenses.

22. Pending application(s), if any, stand(s), disposed of, accordingly.
23. The petition(s) stands disposed of.

19.03.2026
hitesh

(N.S.SHEKHAWAT)
JUDGE

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