



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

CRA-S-784-SB-2005

Date of Decision: 17.03.2026

Ram Phal and another

...Appellants

vs.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Karan Pathak, Advocate and
 Mr. Rehan Gupta, Advocate
 for the appellants.

Mr. Rajiv Sidhu, Sr. DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. At the very outset, learned counsel for the appellants as well as learned State counsel submit that appellant No.1-Ram Phal has expired and the appeal stands abated qua him.

2. The appellant No.2, namely, Ram Pal has filed the present appeal against the impugned judgment of conviction dated 06.04.2005 and order of sentence dated 15.04.2005 passed by the Court of Additional Sessions Judge, Fast Track Court, Gurgaon, whereby he was convicted for commission of offence punishable under Sections 325 read with Section 34 of IPC and was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default of the same, he shall further undergo RI for four months.



3. The prosecution case, as it emerges from the report under Section 173 Cr.P.C. is that on 11.10.2003, at about 11.45 am. Ram Pal, appellant No.2/accused lodged a report with the police to the effect that he was present at his house and he heard noise “Bachayo! Bachayo!” and when he came out of the house, he found that his brother Ramphal was being caused injuries by Inderjeet alias Kalu son of Om Parkash, Chander Bhan, Sukhbir, Om Parkash, Kamla, Ami Lal, Babli, Chander Kala and they were assaulting his brother with intent to commit his murder. Inderjeet was armed with a Kulhari. Chander Bhan was armed with an iron rod. Sukhbir was armed with a farsi, Om Parkash was armed with a Jaily, Kamla was armed with darati (sickle) and Ami Lal was armed with lathi. Babli was armed with sickle. Satbir was armed with lathi etc. It is, further, alleged that when he intervened, accused remarked that if he intervened, he would also be killed and asked him to go away. On hearing the alarm, Bugle etc. came. His brother Ramphal was removed to Civil Hospital, Haily Mandi and then he was referred to Civil Hospital, Gurgaon and then he was referred to Safdarjang Hospital. Accused also threatened to kill them. But at this juncture, it may be mentioned that cross case against Chander Bhan etc, has been put up by the police and in that case Rampal, appellant No.2 is the complainant and Ramphal is the injured. This case against Ramphal etc. has proceeded on the complaint of Om Parkash injured whose report in the daily dairy was recorded and thus, the Investigating Officer while putting up challan due to inadvertence has mentioned the facts of another cross case in the report u/s 173 Cr.P.C. In fact, as per version of Om Parkash, complainant, Ramphal had given sariya



blow on his right hand and he raised his hand to save himself. Rampal, appellant No.2/accused gave lathi blow on his back. Bugla hit him with a danda. Similarly, Daya accused injuries with a danda on his back. Thus, Om Parkash is injured in this case and challan has been put up by the police after seeking medical opinion against the four accused.

4. After the presentation of challan, the trial Court found that a *prima facie* case under Section 325 and 34 of IPC was made out against the appellants and they pleaded not guilty and claimed trial.

5. In order to substantiate the case of the prosecution, the prosecution examined seven witnesses, namely, Dr. B.B.Aggarwal, PW-1, Dr. Sandeep Kumar, PW-2, Mohd. Hussain SI/SHO PW-3, HC Rajesh Kumar, PW-4, Om Parkash PW-5, Kulbhushan Yadav, Record Keeper, PW-6 and Ved Pal, ASI, PW-7 and closed their prosecution evidence.

6. After closure of the prosecution evidence, the statements of the accused were recorded under Section 313 Cr.P.C. and they pleaded their false implication.

7. In defence evidence, the appellants produced Dr. Laxman Das as DW-1 and closed the defence evidence.

8. At the very outset, learned counsel for appellant No.2 submits that he does not wish to challenge the judgment of conviction passed against the appellants by the trial Court. Even though, learned counsel for appellant No.2 has not challenged the judgment of conviction, still this Court has considered the case on merits.



9. Learned State counsel contended that the appellant No.2 does not deserve any concession regarding sentence and the present appeal be dismissed.

10. I have heard learned counsel for the parties and perused the record carefully.

11. The prosecution examined PW-1, Dr. B.B. Aggarwal, who proved x-ray report (Ex.PA) of Om Parkash, injured. Similarly, the prosecution examined PW-2, Dr. Sandeep Kumar, who had medico legally examined of Om Prakash and found the following injuries:-

1. *Swelling deformity middle of right fore-arm present 5 x 8 cm, bone crepitus present, movements restricted. X-ray was advised.*
2. *C/o pain lower back. No external injury mark seen. Advised x-ray.*

Copy of the medico legal report Ex.PB is proved in his statement. It is also stated by him that patient was referred to Civil Hospital, Gurgaon for the opinion of radiologist Surgeon.

12. SI/SHO Mohd. Hussain was examined as PW-3, who stated that on 20.03.2004, after completion of investigation, he had prepared Challan. Rajesh Kumar, PW4, proved the report (Ex. PC), which was recorded in the Daily Diary Entry on 11.10.2003. Om Prakash, PW5 was the injured in the occurrence and he stated that on 11.10.2003, at about 10.30 am, he was present in his house. Ramphal accused was abusing outside his house. He told Ramphal as to why, he was abusing him. He was having a sariya blow in his hand. Rampal, Daya and Bugle came to the spot. It is, further, stated that Ramphal gave a sariya blow on his right hand. He raised his hand to save himself and in that process, sariya blow was given on his right hand, otherwise, sariya blow might have hit him on his head. Ramphal accused gave lathi blow on his back.



Bugle wife of Ramphal also hit him with a danda. Similarly, Daya wife of Rampal hit with a danda. He raised noise and then soon Inderjeet came out of house. When Ramphal again tried to hit him with the sariya, his son Inderjeet gave a danda blow on the head of Ramphal in defence. Ramphal after receiving danda blow fell down on the ground. In the meantime, Attar Singh and Hari Kishan also came to the spot. Ramphal then stood up and went away along with other accused. He then lodged report with the police and was medico legally examined. It is, further stated that accused were having grudge on account of dispute which took place in the year 1992 and accused persons wanted that the matter should be got compromised as he did not agree, so, the accused finding an opportunity, attacked him on 11.10.2003. It is also stated that the accused of that case were held guilty and were sentenced. The matter is pending before Hon'ble High Court.

13. The prosecution further examined PW-6, Kulbhushan, Record Keeper, stated that Om Prakash was admitted in Civil Hospital, Gurgaon, on 13.10.2003 and was discharged on 21.10.2003 and exhibited his discharge ticket as Ex.PD. Ved Pal, ASI was examined as PW-7, who had conducted the investigation in the present case. He proved on record the entire investigation and stated that after completion of investigation, challan was presented by Mohd. Hussain SI/SHO.

14. In the present case, the accused examined Dr. Laxman Dass as DW-1, who stated that Ram Phal was admitted on 11.10.2003 in Safdarjang Hospital and was discharged on 21.10.2003. He was also operated upon by him on 12.10.2003 and also proved on record his operation notes.



15. From the above referred evidence, it is apparent that even though, Om Parkash, injured had made improvements in his statement, however, his entire statement cannot be rejected on this ground alone. His statement was corroborated by the medical evidence and it was proved that the injuries suffered by him had been caused by Ram Phal and Ram Pal, both appellants. Still further, even the injuries suffered by Om Parkash was declared to be grievous and was caused with a blunt weapon, so the appellants were rightly convicted for the commission of offence punishable under Section 325 IPC. Even otherwise, I have carefully gone through the judgment passed by the trial Court and the trial Court has rightly convicted appellant No.2 under Section 325 of IPC and there is no illegality or perversity in the impugned judgment passed by the trial Court.

16. Now, advertng to the order of sentence, this Court has noticed that the appellant No.2 is facing the prosecution since 12.10.2003 i.e. for the last more than 22 years. Even in the cross-version, the opposite party has also been convicted and sentenced by the trial Court. Consequently, both the parties had suffered the injuries in the present case. Apart from that, appellant No.2 has already undergone about 10 days of actual custody, out of total sentence of two years. Even, at the time of registration of the FIR, he was shown to be aged about 40 years. Consequently, at present, the appellant No.2 is aged more than 60 years and is a senior citizen. Still further, even his sentence was suspended by this Court on 29.04.2005 and in the last about 21 years, he had maintained good character and was not involved in any other case. This Court is of the considered opinion that a lenient view can be taken while imposing sentence on



the appellant No.2. Thus, the sentence imposed on appellant No.2 is reduced to the period already undergone by him. However, the amount of fine imposed on him shall remain same.

17. With the above modifications, the present appeal is partly allowed and the judgment of conviction is upheld, whereas, the sentence imposed on the appellant No.2 is reduced to the period already undergone by him and the amount of fine imposed on him shall remain same.

18. Pending applications, if any, stand also disposed of, accordingly.

17.03.2026
hemlata

(N.S.SHEKHAWAT)
JUDGE

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