

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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Date of decision: April 16, 2026

(1) CRA-S-73-SB-2006

PAWAN KUMAR

...Appellant

Versus

STATE OF HARYANA

...Respondent

(2) CRA-S-74-SB-2006

RAM SINGH AND OTHERS

...Appellants

Versus

STATE OF HARYANA

...Respondent

(3) CRR-1124-2006

SUNITA

...Petitioner

Versus

RAM SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. R.S. Bains, Senior Advocate with
Mr. Amarjeet, Advocate
for the appellant(s)
(in CRA-S-73-SB-2006 and CRA-S-74-SB-2006) and
for the respondents (in CRR-1124-2006).

Mr. Nikhil Sehrawat, Advocate
for the petitioner (in CRR-1124-2006).

Appeal *qua* appellants no.2 and 3 stood abated vide order dated
11.03.2026 passed in CRA-S-74-SB-2006.

Mr. Amit Sahni, Additional Advocate General, Haryana with
Mr. Harmanjit Singh Johal, Advocate.

TRIBHUVAN DAHIYA, J. (ORAL)

These cases are being decided together as the same have been filed against judgment, dated 16.12.2005, passed by learned Additional Sessions Judge, Narnaul, in case FIR no.91 dated 02.05.1999, under Sections 148, 149, 323, 325, 452 of the Indian Penal Code, 1860, registered at Police Station Kanina, whereby appellants/Pawan Kumar and Ram Singh in the aforementioned two appeals, CRA-S-73-SB-2006 and CRA-S-74-SB-2006, have been convicted and sentenced to undergo rigorous imprisonment for a period of three years, whereas appellants/Vidha Devi, Banti, Maya Devi and Mishro have been convicted and released on probation of good conduct. The revision petition, CRR-1124-2006, has been filed seeking enhancement of sentence awarded to the aforementioned appellants.

2. Brief facts of the prosecution case have been recorded in the impugned judgment, which are as under:

2. The facts of the prosecution case in brief are that complainant Prabhu Dayal got recorded his statement to Hans Raj ASI to the effect that he is resident of village Sihore and is an agriculturist. He has further stated that he has four sons namely Devender, Yashwant, Ram Chander and Hari Kishan. He has stated that he entered into an agreement for purchase of two plots with Ram Singh and Jhabar sons of Chet Ram Caste Ahir resident of village Sihore which are two separate plots and has paid Rs.80,000/- and Rs.70,000/- as earnest money. He has also stated that he has been living in those plots for the last two and a half years. He has stated that Ram Singh and Jhabar has filed a suit in the court regarding these plots in which no stay has been granted by the court. It is further stated that on 1.05.1999 at about 7.30/8.00 PM he and his sons namely

Yashwant and Ram Chander and wife of his son Ram Chander namely Sunita were putting the thatched material of Chhan of the plot which he had taken from Jhabar in the trolley, in the meanwhile, Jhabar and Ram Singh sons of Chet Ram caste Ahir resident of village Sihore and Rambir alias Pirthi, Ram Niwas alias Ramu sons of Jhabar and wives of Jhabar, Ram Singh, Pirthi and Ram Niwas came there with jaili, lathi, gandasi and iron rod entered inside his house and started saying that the thatched roof of the chappar be not put in the trolley and asked to keep the same back on the roof. On his saying that the chappar had broken a new one is to be constructed, on this Jhabar and Ram Singh started giving him abuses and Pirthi alias Rambir gave a gandasi blow which hit his left eye. Ram Singh gave a jaili blow on his left shoulder. Ram Niwas gave a blow with saria on his left rib and the families of Ram Singh and Jhabar started beating his sons Yashwant and Ram Chander. On raising their alarm, Chandgi son of Umrao resident of Sihore and Satbir son of Sohan Lal and Dharambir son of Ganeshi Lal rescued them from the clutches of the accused. He has further stated that later on, his son Devender came with a tractor upon which Ram Singh and Jhabar's families also beat him. He has stated that they have also caused injuries to the accused in their self-defence, the accused.

2.1. Based upon the evidence brought on record, learned trial Court held that appellants/convicts were the aggressors and the complainant party had caused injuries to PW Prabhu Dayal etc. only in self-defence. The findings to that effect are as under:

25. However, under the facts and circumstances of the present case I do not concur with this plea raised by learned defence counsel. First of all, PW6 Hans Raj who is Investigating Officer, has deposed that during investigation it

was found that present accused Ram Singh etc. were the aggressors. Now as per site plan Ex. PP the occurrence is inside the house of Prabhu Dayal. Then PW5 Dharambir has deposed that as per investigation, Ram Singh etc. were the aggressors as they traveled two/two and a half kilometer to reach at the spot. Now coming of the accused from a distant place to the house of Prabhu Dayal where the occurrence took place coupled with the fact that on behalf of accused party there were injuries to Ram Chander, Prabhu Dayal, Yashwant, Devender, Sunita and Lali whereas on behalf of complainant party, there were injuries only on the person of Ram Singh and Ram Niwas establishes on the file that the accused party were the aggressor and Ram Singh and Ram Niwas were caused injuries in self-defence as stated by PW7 Prabhu Dayal also.

26. The learned defence counsel has then urged before me that there are serious contradictions in the testimony of the witnesses produced by the prosecution. In this regard his main force of argument is that prosecution witnesses have deposed about accused having sharp edged weapon but there was no sharp edged injury on the person of any of injured. He has also urged that there are discrepancies regarding the kind of weapons held by respective accused. He has also drawn my attention towards discrepancy in ocular and medical evidence.

27. Regarding the pleas raised on behalf of learned defence counsel, I am of the view that the weapons of offence which are stated to be sharp by defence counsel have also an attachment like danda etc. which is not sharp edged. Thus the injury being caused by that side could not be ruled out. Regarding discrepancy in medical and ocular evidence such type of discrepancies are bound to occur as in the process of fighting, none is likely to remember exactly as to in what sequence the injuries were caused and that by whom and upon whom they were caused. It may be mentioned here that a perusal of

statements of various witnesses reveal that a suggestion has been put to them that merely Ram Singh and Ram Niwas were present at the time of occurrence. However, the injuries on the person of Ram Niwas and Ram Singh have been explained by the complainant party.

2.2. Finally, learned trial Court concluded that the prosecution has successfully established charge against all the accused beyond any shadow of doubt, that they formed an unlawful assembly while being armed with deadly weapons with a common object, and by entering into the complainant's house, caused them injuries including grievous hurt. All of them were, accordingly, held guilty under Section 148 and Sections 323, 325, 452 read with Section 149 IPC. However, while awarding the sentence, learned trial Court ordered release of appellants/female convicts on probation of good conduct for a period of one year, and sentenced the appellants/male convicts herein for rigorous imprisonment. The relevant part of order of sentence reads as under:

2. I have considered the submissions of both sides. Under the facts and circumstances of the case, I deem it expedient to release the ladies accused/convicts namely Bhanwanti, Maya Devi, Vidhya Devi and Mishro on probation of good conduct. Therefore, instead of immediately sending the accused/convicts namely Bhanwanti, Maya Devi, Vidhya Devi and Mishor behind the bars, they are ordered to be released on probation of good conduct for a period of one year on their entering into a bond in the sum of Rs. 5,000/- each with one surety in the like amount to the satisfaction of this court and to appear and receive the sentence as and when called upon within a period of one year and in the meantime to keep peace and be of good behaviour. However, the remaining accused namely Ram Singh,

Ram Niwas, Jhabar Singh and Pawan Kumar are sentenced to undergo rigorous imprisonment for a period of three years for the offence punishable under Section 452 read with section 149 IPC and are also imposed with the fine of Rs.1500/- each. In default of payment of fine, these accused shall further undergo rigorous imprisonment for a period of six months. I also sentence these accused for the offence under Section 325 of Indian Penal Code to undergo rigorous imprisonment for two years and to pay a fine of Rs.1,000/ each. In default of payment of fine, these accused shall further undergo rigorous imprisonment for a period of four months. I also sentence these accused for the offence under Section 323 of Indian Penal Code to undergo rigorous imprisonment for one year and to pay a fine of Rs. 500/- each. In default of payment of fine, all the accused shall further undergo rigorous imprisonment for a period of two months. I also sentence these accused for the offence under section 148 IPC and to undergo rigorous imprisonment for a period of 6 months and to pay a fine of Rs. 300/- each. In default of payment of fine, these accused shall further undergo rigorous imprisonment for a period of one month. All the substantive sentences shall run concurrently Out of the fine, if realized a sum of Rs.1000/- each be paid to each of the injured as compensation. File be consigned to the record room.

3. In this factual background, learned senior counsel for the appellants contended that all the four appellants-convicts are first-time offenders and it was mandatory for the trial Court to consider releasing them on probation as had been done in the case of other four female appellants-convicts of the same family. The order of sentence has been passed without giving any consideration to this right of the appellants. Besides, appellant-

appellants, namely, Ram Niwas and Jhabar Singh, have already expired, and appeal *qua* them has already been ordered to be abated. Still further, it has been contended that the scuffle was on account of a heated exchange of words at the spur of the moment, and was not premeditated. It essentially originated from a civil dispute between the parties who were neighbours. There has been no complaint against the appellants' conduct after conviction, which was about twenty-one years ago. They have suffered the agony of trial for so long.

4. *Per contra*, learned State counsel contends that the judgment has been rightly passed in the light of evidence brought on record and the appellants deserve no leniency. They have only undergone a few days of the sentence awarded. Learned counsel for the petitioner in the revision petition also contended that keeping in view the evidence brought on record, the appellants' sentence need to be enhanced as they committed a serious offence causing grievous injuries to the complainant party without provocation.

5. Submissions made by learned counsel for the parties have been considered.

6. It is apparent on record that on the basis of same evidence, learned trial Court found that the charges against all the accused, male as well as female, who were members of one family had been proved beyond reasonable doubt, and they were held guilty of the alleged offences. However, at the time of sentencing, only the female convicts were released on probation without assigning any reason as to why the male convicts were

imprisonment. Their cases for release on probation were not at all considered which defeated their indefeasible right to that effect. It is well settled that in case the accused are first-time offenders and have not been convicted of an offence punishable with death or imprisonment for life, the Court is required to consider their case for grant of probation keeping in view the circumstances of the case, character of the accused and seriousness of the offences. In this regard, a reference can be made to the law laid down by Supreme Court in *Chellammal and another v. State represented by the Inspector of Police*, 2025 INSC 540. The relevant part of the judgment reads as under:

28. Summing up the legal position, it can be said that while an offender cannot seek an order for grant of probation as a matter of right but having noticed the object that the statutory provisions seek to achieve by grant of probation and the several decisions of this Court on the point of applicability of Section 4 of the Probation Act, we hold that, unless applicability is excluded, in a case where the circumstances stated in subsection (1) of Section 4 of the Probation Act are attracted, the court has no discretion to omit from its consideration release of the offender on probation; on the contrary, a mandatory duty is cast upon the court to consider whether the case before it warrants releasing the offender upon fulfilment of the stated circumstances. The question of grant of probation could be decided either way. In the event, the court in its discretion decides to extend the benefit of probation, it may upon considering the report of the probation officer impose such conditions as deemed just and proper. However, if the answer be in the negative, it would only be just and proper for the court to record the reasons therefor.

The appellants/male convicts herein are undisputedly first-time offenders; it has also been established that the instant incident occurred over a civil dispute concerning a residential plot at the heat of the moment. The appellants have suffered the trauma of trial for decades and one of them is in advanced age. There is nothing objectionable about their character or conduct either. Accordingly, this Court is of the view that they are also entitled to the benefit of probation.

7. In view thereof, the appeals, CRA-S-73-SB-2006 and CRA-S-74-SB-2006, are partly allowed and the appellants/male convicts, namely, Pawan Kumar and Ram Singh, are ordered to be released on probation of good conduct for a period of one year on their entering into a bond of ₹50,000 each with one surety in the like amount to the satisfaction of the trial Court, and they will appear and receive the sentence as and when called upon to do so within that period. They shall maintain peace and show good behaviour.

8. For the reasons aforementioned, the revision petition, CRR-1124-2006, stands dismissed.

9. A photocopy of this order be placed on the file of the connected case.

April 16, 2026

Jaspreet Kaur

(TRIBHUVAN DAHIYA)

JUDGE

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*