

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

418

2026.PHHC.044531



CRA-S-2929-SB-2011 (O&M)
Decided on: March 19, 2026.

SARABJIT SINGH

...Appellant

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

PRESENT Mr. Abhishek Sharma, Advocate, (Legal-aid-counsel)
for the appellant.

Mr. Aftab Singh Khara, Sr. DAG, Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

The instant appeal has been preferred against the judgment of conviction and order of sentence dated 05.08.2010 passed by the Additional Sessions Judge, Gurdaspur, in Sessions Case No.48 dated 16.11.2007 arising out of FIR No.109 dated 02.08.2007, under Section(s) 323, 325 and 395 of the Indian Penal Code, 1860 and under Section(s) 25 of the Arms Act, 1959, registered at Police Station Kahnuwan, whereby the appellant had been convicted for commission of offence under Section 395 of the Indian Penal Code, 1860 and vide order of even date, sentenced

to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.2,000/- and in default of payment of fine to further undergo rigorous imprisonment for one month.

2 Briefly summarised, the facts of the present case are that on 2.8.2007, the complainant Sukhjit Singh, recorded statement before the police to the effect that on the intervening night of 01/02.08.2007 at about 12:30 am, his father who used to sleep at their Petrol Pump, came and knocked at the door of the house, asking it to be opened. At that time, electricity bulb of his house was on. Upon opening the door, the complainant saw that both arms of his father were tied with a rope and his whole body was smeared with blood. He also noticed five persons standing near the door, out of whom three were armed with pistols . On seeing this, the complainant immediately shut the door and called his brother to wake up. In the meantime, the said five persons broke open the door and demanded that whatever valuables were available to be handed over. One of the assailants, namely Ranjit Singh son of Bachan Singh, resident of Kahnuwan, was identified by the complainant who was calling his associates as Sarabjit Singh, Baljit Singh and Baljinder Singh and exhorted them to kill the family members if they refused to hand over anything to the assailants. Thereupon, the complainant's brother handed over a sum of Rs.1,700/- to the appellant but the appellant again threatened to kill the nephew of complainant namely Akashdeep. Then, brother of complainant handed over the keys of Almirah to assailants. Then appellant took away pair of Pajabes silver and Rs.20,000/- cash and mobile phone. The assailants also forcibly removed the ear rings of the complainant's wife and Topas worn by her. Thereafter, appellant came out and fired from

their pistol in the air and called their companion Chanan Singh to start the scooter. The assailants then fled away on a scooter bearing registration no. PB-188-7095. On this statement of Sukhjit Singh case under sections 395/325/323 IPC and under sections 25-54-59 Arms Act was registered against the appellant. Appellant -Sarabjit Singh and his associates namely Baljit Singh, Ranjit Singh and Baljinder Singh were arrested on 5.8.2007. Appellant Chanan Singh was arrested on 13.9.2007. After completion of investigation and other formalities challan against the appellant was presented in the court.

3 On presentation of challan, copies of documents as required under section 207 Cr.P.C. were supplied to appellant free of costs. Finding a prima facie case triable by the Court of Sessions, learned Ilqa Magistrate committed the case to the Court of Sessions vide order dated 2.11.2007.

4. Finding prima facie case under Sections 395, 397 IPC against the appellant, he was chargesheeted vide order dated 23.2.2008. The contents of charge were read over and explained to appellant in simple language to which he pleaded not guilty and claimed trial.

5. In order to prove its case prosecution has examined complainant Sukhjit Singh (PW.1), Gurbachan Singh (PW.2), ASI Bachan Singh (PW.3), HC Jaswinder Singh (PW.4), SI Lakhbir Singh (PW.5), Kuldeep Singh (PW.7), Dr. Jagjiwan Lal (PW.8), Dr. Neeraj (PW.9), PHC Kulwant Singh (PW.10), Buta Singh (PW.11) and Paramjit Singh (PW.12). Thereafter learned Addl. P.P. closed evidence of prosecution.

6. On closure of evidence of prosecution, statement of appellant under section 313 Cr.P.C. was recorded wherein all the incriminating circumstances appearing against him in the prosecution evidence were put to him. The appellant denied all the incriminating circumstances and pleaded innocence.

7. In defence, appellant examined Manjit Singh Numberdar (DW.1) and Khazan Singh (DW.2).

8 Counsel for the parties were thereafter heard and on consideration of the respective arguments, the Additional Sessions Judge, Gurdaspur, recorded a finding of conviction for the commission of offence under Sections 395 IPC and vide order of even date sentenced the appellant for the sentence as aforesaid.

9 Since there had been no representation on behalf of the appellant on last many dates, Mr. Abhishek Sharma, Advocate, (PH-11272-2025; Mobile No.9988929310) is nominated as a legal-aid-counsel to assist this Court on behalf of the appellant. He has gone through the paper book as well as the record and has assisted this Court.

10 Learned legal aid counsel, appearing on behalf of the appellant, contends that the trial court has erred in appreciating the evidence on record. He contends that the appellant was not identified by the complainant in any Test Identification Parade and that identification in the Court, for the first time, cannot be perceived as a reliable piece of evidence. Benefit hence ought to have been extended in favour of the appellant. It is further contended that the conviction in the present case is based on the testimony of official witnesses only who are the interested

witnesses and as such their testimony should have been carefully scrutinized. He further submits that the prosecution story is per se improbable inasmuch as it is difficult to comprehend that in order to commit dacoity, the accused would first wake up the owner of the property and then take him to his house where other members would also be present thereby only enhancing the risk of further exposure. He contends that the appellant is a poor person and deserves the leniency of this Court.

11 To the contrary, learned counsel appearing for the State contends that the submissions advanced herein have already been considered by the trial Court. He submits that a perusal of the record clearly reveals that the aspect regarding the failure of the prosecution to conduct Test Identification Parade was specifically taken into account. He submits that the trial Court referred to the judgment of Supreme Court in the matter of '**Malkhan Singh and others versus State of M.P. 2003 Supreme Court Cases (Crl) 1247**' wherein it was held that a mere failure to hold a Test Identification Parade would not make identification of a suspect, in Court, inadmissible in the evidence. The Test Identification Parade is only a corroborative piece of evidence and once participation of an accused/suspect is otherwise established, the trial Court can proceed further and final outcome can be recorded. Similarly, reliance was also placed on judgment of the Supreme Court of India in the matter of '**Ronny @ Ronald James Alwaris etc. Vs. State of Maharashtra, 1998 Crl.L.R.(SC) 372**' which upheld that the Test Identification Parade directly before the trial Court is proper. Reference was also made to the judgment of the Supreme Court in the matter of '**Dastgir Sab and another Vs. State of Karnataka, 2004 Supreme Court Cases (Crl) 678**' to the same

effect. He contends that the prosecution witnesses namely Sukhjit Singh (PW.1) and Gurbachan Singh (PW.2) specifically identified the appellant herein while in the Court, hence, the said corroborative piece of evidence, in the form of identification in the court by two witnesses, should not be ignored. He contends that participation of the appellant in the commission of the offence stands fully established. It is further contended by the State counsel that since the sole argument advanced by the counsel for the appellant is with respect to the test identification parade, the said argument having been dealt with by the trial Court by referring to the judgments of the Supreme Court, no merit would survive in favour of the appellant. He contends that it has also come forth in the evidence that appellant Sarabjeet Singh was arrested vide arrest memo Ex. PW-3/A and his disclosure statement Ex. PW-3/B was also recorded. He submits that on the basis of said disclosure statement, the appellant led the police party to the petrol pump of Balraj Singh and got recovered Rs.1,700/- and one pair of gold topas were taken into possession vide memo EX.PW.3/F. He submits that the pair of gold topas has been proved as EX-P.1 and currency notes have been proved as EX.P-2. The said gold ornaments were identified by the victims to be belonging to them. The appellant did not dispute or challenge the aforesaid recovery, pursuant to his disclosure statement. The identification of gold ornaments remain unchallenged. Hence, even if certain doubts may be raised with respect to the recovery of currency notes, the identification of gold ornaments by the victims constitutes cogent and reliable evidence against the appellant, establishing his involvement in the commission of offence.

12 State counsel further contends that the appellant herein had been sentenced to undergo rigorous imprisonment for a period of three years and a fine of Rs.2,000/-. He submits that as per the custody certificate dated 16.03.2026 of the Superintendent, Central Jail, Gurdaspur, the appellant has already completed his sentence and was released on 09.08.2010.

13 Having heard the learned counsel for the parties and taking into consideration the arguments noticed above and the fact that counsel for the appellant has not been able to refer to any discrepancy in the testimony of the prosecution witnesses and has also not been able to materially shake the testimony and evidence adduced by the prosecution to prove its case. The evidence also reflects and establishes participation of the appellant in the commission of the offence. The recovery of the articles i.e. gold tops, on the basis of disclosure statement made by the appellant, which is not disputed or shrouded with or brought under cloud, thus is a sufficient proof. A mere identification in Court would not discredit the identification and the said identification is a corroborative piece of evidence and all other evidence has also been looked into. Hence, the argument of the appellant to assail the judgment on the ground of identification having been carried out in the Court falls short of convincing this Court into raising any suspicion that the final conclusion drawn by the Trial Court was liable to be set aside.

14 Consequently, the present appeal is dismissed. The judgment of conviction and order of sentence dated 05.08.2010 passed by the Additional Sessions Judge, Gurdaspur, are affirmed. The fee of the legal aid counsel is assessed at Rs.11,000/-.

15 A copy of this order be sent to the High Court Legal Services Committee for information and necessary action.

March 19, 2026.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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