

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

228

2026:PHHC:022660



CRM-A-836-2019 (O&M)
Date of decision: 12.02.2026.

STATE OF HARYANA

... Appellant(s)

VERSUS

AMIT AND OTHERS

...Respondent(s)

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

Present :- Mr. Armaan Dahiya, AAG, Haryana, for appellant.

VINOD S. BHARDWAJ, J. (Oral)

The instant appeal has been preferred by the State against the judgment dated 26.07.2017, passed by the Additional Sessions Judge, Gurugram, in Sessions Case No. 53 of 2015 dated 31.03.2015/22.04.2016, CIS No.SC/147/2015 arising out of FIR bearing No.647 dated 21.09.2013, under Sections 148, 149, 325 and 506 of the Indian Penal Code, 1860, registered at Police Station Sadar Gurugram, whereby the respondents had been acquitted of the charges framed against them under Section 148, 149, 325 and 506 of the IPC.

2 The facts of the prosecution case are that on 14.09.2013, a ruqa was received from Paras Hospital regarding the admission of Parveen in an injured condition. The SI reached the hospital and obtained a copy of the MLR. He also moved an application for an opinion as to whether the injured Parveen was fit to make a statement. The doctor opined that the injured was unfit to make a statement. Rajender Singh, uncle of Parveen, met the investigation officer and said that he did not want to take any action until his injured nephew Parveen gained consciousness and was fit to make a statement. A second application was moved on 16.09.2013 for seeking the opinion of the doctor regarding the fitness of the injured Parveen to make the statement. On being declared fit by the doctor to make a statement, Parveen's statement was recorded. The SI conducted a spot inspection on 21.09.2013 by visiting the house of Bijender, where Parveen met him with an application and alleged that on the date of the incident, i.e. on 13.09.2013, at about 10:30/11:00 P.M., when he was present in his house, somebody knocked at his door. As soon as he opened the door, the persons standing there started abusing him. On hearing the noise, his mother, Shakuntla Devi and sister Neha Thakran came out from their room. Naveen @ Lada and Gajender @ Gajje pushed the door and forcibly entered their house. They were wielding lathis, beer bottles and baseball bats. Naveen gave bottle blows to him, due to which his upper lip sustained a cut, and a tooth was broken. Thereafter, Jailal, Lalit, Hari Singh, Neeraj, Vinay, along with 4-5 other persons, started pelting stones and brick bats in his house, due to which his mother sustained injuries, and they also threatened to kill them. It is further stated that even on 12.09.2013, Naveen @ Lada and Gajender had

assaulted his father and Tau, and the matter was reported to the police on 13.09.2013 at 2:00 P.M. After the above incident of 13.09.2013, his tau reported the matter to the police around 11:22 P.M. The FIR was thus registered. The site plan was prepared, and statements of witnesses were recorded. The final report was prepared and presented to the Court.

3 The matter was committed to the Court of Sessions as a cross-case bearing FIR No.634 dated 16.09.2013 titled 'Bijender and others Vs. State, under Sections 323, 506 and 307 read with Section 34 of the IPC had already been committed to the Court of Sessions vide order dated 12.12.2013 passed by the Additional Chief Judicial Magistrate, Gurugram.

4 The accused in FIR No.634 dated 16.09.2013 happened to be the complainant in the present FIR No.647 dated 21.09.2013.

5 After hearing the parties, charges were framed against the accused persons for the commission of offences under Sections 148, 149, 325 and 506 IPC, and they were chargesheeted thereunder on 28.04.2015. During the trial, the accused Gajender expired; hence, proceedings against him were dropped.

6 To prove the charges, the prosecution examined as many as 08 witnesses.

7 The prosecution evidence was closed by court order.

8 On conclusion of the evidence, the statements of the accused were recorded under Section 313 Cr.P.C. The incriminating material and the allegations were put to the accused, who denied them. They stated that they had been falsely implicated in the case. In their defence, they examined Dr. Amit Kumar as DW 1.

9 On consideration of the arguments raised and the evidence adduced on record, the trial Court acquitted the respondents-accused of the offences vide judgment dated 26.07.2017, against which the present appeal had been filed after a delay of 522 days.

10 The reasons assigned for the delay are general, and there is no specific explanation of the circumstances behind it. The sole reason assigned is that, on account of administrative decision-making, there was a delay of nearly two years in filing the instant appeal. The reasons assigned by the appellant in an application under Section 5 of the Limitation Act for seeking condonation of delay in filing the appeal are not satisfactory. Nonetheless, the case is being examined on merits, hence the application for condonation of delay is not being adverted to.

11 Learned State counsel has vehemently argued that the Trial Court has miserably failed to appreciate the statement of complainant PW3 with respect to the participation of the accused persons in the commission of the offence. It was specifically alleged that a blow with a beer bottle was given to his face by Naveen, as a result of which he lost one tooth and received cuts in his gums. The other accused persons who had been accompanying the above assailants also gave beatings and threw brick bats and stones in the house. PW5 Dr. Ashit Gupta, Director, Delight Clinic, DLF-IV Gurugram, also testified that on 24.09.2014, on a police application, he gave an opinion that the injuries sustained by injured PW3 (Parveen) were grievous in nature. PW8 Dr. Sujeet Kumar also opined that there was a loss of two teeth, and a lacerated wound was also present. He thus contends that the offence under Section 325 IPC was fully established. The trial Court

thus committed an error in not considering the evidence led by the petitioner. He contends that the trial Court has given undue weightage to the delay in lodging of the FIR. The said delay was due to the injured victim (PW3) being declared unfit for recording the statement, and it was only after he was declared fit to make a statement that his statement was recorded, action was taken, and consequently, the FIR was registered.

12 Adverting to the same, counsel contends that the entire facts and circumstances have not been holistically examined by the Trial Court and the above judgment of acquittal has been passed in a misreading of the evidence.

13 I have heard the learned State counsel and have also gone through the judgments passed by both the Courts as well as the evidence referred to by the State counsel, and also the findings recorded by the Trial Court.

14 The relevant part of the findings recorded by the Trial Court is extracted as under:-

“21. Admittedly, in this case, there is delay in registration of FIR. The incident was of 13.9.2013 and the FIR was got registered on 21.9.2013 i.e. after seven days of the occurrence. The delay has not been explained with convincing reason. The reason given by the prosecution side is not convincing that the injured was admitted in the hospital and all the other family members were booked in another case and only ladies were remained in the house and they were busy in taking care of the injured, so the delay has occurred. Rather, the ruqa has clearly shown that on 14.9.2013 when the investigating officer Inspector Anand Kumar (PW4) reached Paras Hospital for taking the statement of the injured, he found the injured unfit to

make statement. His uncle Rajender was present there, who had stated that they do not want to take any action against them now and will report only when the injured had been discharged. So, when a family member was there, the delay has not sufficiently been explained. The version deposed by the injured had come up after due deliberation and that too after one week. More so, when both, the complainant and the accused party, are facing cross-cases with each other and giving statement after consultation with the family members, it can safely be concluded that true version has not been put forwarded by the complainant before the court. So, the witnesses cannot be said to be the reliable witnesses. Therefore, when the delay has not properly been explained, it has become fatal to the case of the prosecution. In this regard reliance can be placed upon Ganesh Bhavan Patel Vs.State of Maharashtra 1978 (4) SCC 371, Vajresh V.Antekar VS.State of Karnataka 2013(2) SCC 462 and State of Punjab Vs.Avtar Singh 2009 (10) SCC 800.

22. It is also an admitted fact that there was only one injury shown on the person of complainant/injured Parveen, but seven persons were named as accused, who were all family members. The version deposed by the complainant itself improbable. Had one injury been attributed to one of the accused at least there may be more than one injury have been there. It was also not possible that seven accused were present to beat a person on finding him alone in the house and only single injury was found on the person of injured. Moreover, investigating officer PW4 Inspector Anand clearly admits that when he reached at the spot on receipt of information, he did not find any blood etc. at the spot. He did not get the spot photographed and he also did not find broken bottles on the spot. There was also no sign of throwing brick-bats or baseball bat at the gate of house of the injured Parveen, so the place of occurrence has also not duly been proved. Whereas, the injured has stated that the

investigating officer had taken the photographs of the spot. So, there is material contradiction on this point with the investigating officer with the witnesses. The witnesses have also claimed that the cloths of injured were also smeared with blood, but no such clothe were brought on record either by the injured himself or by the doctor or by the investigating officer.

23. Further more, the complainant has deposed that his mother Smt.Shakuntla and his sister Neha were also injured, but no medico-legal examination reports were brought on record by the prosecution. The investigating officer in his cross-examination has clarified that when he asked both, Smt.Shakuntla and Smt.Neha, to give their statements, they refused to give their statements at the time, when the injured was admitted in the hospital.

24. Moreover, the complainant and eye witnesses have claimed that no injury was caused to the accused party or to any of the family member of the accused party, but on the other hand, FIR No.634 dated 16.9.2013, which is a cross-case under Sections 307 of Indian Penal Code, has clearly established that there was serious injuries on the person of accused Hari Singh. Even otherwise, in this case also DW1 Dr.Amit Kumar, who had issued MLR, opined that the injury on the person of Hari Singh was dangerous to life. So, the witnesses have also concealed the material facts and the injuries on the person of accused Hari Singh have not been explained by the prosecution which warrants that accused are entitled to be acquittal solely on this ground. In this regard reliance can be placed upon Balwan Singh Vs.State of Haryana 2005(11) SCC 245, Chetan Singh Vs.State of Punjab 1979 (4) SCC 399 and Saida Vs.State of Rajasthan 1993 SCC (Cri) 1028.

25. Further more, PW4 Inspector Anand, investigation officer

of this case has not clarified as to whether the spot of occurrence was at the house of injured Parveen because no brick-bats or smeared clothes or blood stained earth was lifted. The site was not photographed. So, it cannot be said with certainty that the place of occurrence was at the house of injured Parveen. More so, Dr.Sujeet Kumar (PW8) has admitted that the possibility of receipt of injury by injured Parveen by falling on hard surface cannot be ruled out, which fact has also casted a serious doubt in the version of the complainant. So, it cannot be safe to convict the accused when there are material contradictions in the statements of the witnesses. Who are the aggressor has also not been proved with certainty. So, the delay in the FIR, concealment of material fact and the genesis of the occurrence has not duly been established, in such a situation, serious doubt has been arisen in the story of the prosecution and as a rule benefit of doubt should always have to be given to the accused. Accordingly the same has been given and the accused are entitled to be acquitted in this case. In this regard reliance can be placed upon Jarnail Singh Vs.State of Punjab 2009(3) SC 391 and Padam Singh Vs.State of U.P. 2000(1) SCC 621.

26. Resultantly, all the accused are hereby acquitted of the charges framed against them. Their bail bonds stand discharged. Case property be disposed of after expiry of period of appeal/revision if any. File be consigned to the records.”

15 The following salient features reflecting the decision-making process of the Trial Court emerge from the above:

- (i) The prosecution failed to explain the delay in registration of the FIR satisfactorily.
- (ii) The sole explanation given by the appellant is to the effect that

the injured Parveen was found unfit to get his statement recorded whereas the case of the prosecution affirmatively was to the extent that his mother and sister had also come to the spot, when the injuries were sustained and they also sustained injuries due to the pelting of stones and brick bats by the respondents.

- (iii) The mother and the sister themselves became eye-witnesses to the occurrence, and there was no occasion why the FIR could not have been registered on the testimony of said eye-witnesses who came to the spot.
- (iv) The prosecution had also set up a case that the mother and sister of the injured Praveen had sustained injuries; however, no MLRs pertaining to any injury having been sustained by them were produced before the Court, nor was there any proof that they sustained any injury in the alleged incident.
- (v) Even though the prosecution had relied upon the testimony of PW1 to contend that Gajender and Naveen were accompanied by 4-5 other persons, all armed with baseball bats, rods and beer bottles, there was only one injury on the person of Parveen. It was thus highly improbable for so many persons to have opened an attack in the manner as being projected by the prosecution, since only one injury had been sustained.
- (vi) The prosecution has failed to offer any explanation as to the circumstances in which the respondents-accused party sustained injuries. There was no whisper about the cross-case being

registered against the injured and his family, and that an offence under Section 307 IPC had also been registered against them.

- (vii) It was also noticed by the Trial Court that the Investigating Officer had not clarified as to whether the spot of occurrence was at the house of the injured because no brick bats or smeared clothes or blood-stained earth was collected from the spot. The Site was also not photographed. Thus, the adopted version of the incident had been portrayed by the prosecution.
- (viii) In the event the incident in question had taken place within the house of the injured, as stated by him in his testimony, some evidence with respect to the occurrence of the event could have been collected from the premises. Moreover, no offence under Section 452 IPC was made out. Thus, the testimony of PW-3 seems to be an adopted version, as it cannot be corroborated with material particulars with respect to the place of occurrence, the manner in which the incident took place, or the presence of the persons who were witnesses to the incident.
- (ix) It is also noticed that PW-8 Dr. Sujeet Kumar, during his cross-examination, stated that the possibility of the injury having been sustained on account of a fall against a hard surface cannot be ruled out, which creates a serious dent with respect to the version put forth by the prosecution.
- (x) It is also noticed that a cross-case under Section 307 IPC, having already been registered against the injured Parveen and other members of his family, the possibility of the complainant

being an aggressive party cannot be ruled out. Hence, the benefit of doubt was extended to respondents No.1 to 6.

16 Having gone through the reasons assigned by the Trial Court for extending the benefit of doubt to the respondents No.1 to 6/accused, I am of the opinion that the said reasons cannot be said to be faulty or not based on a correct or meaningful reading of the evidence.

17 Finding no illegality, perversity or error in the reading of the material, the present appeal is dismissed.

18 Since the main appeal has been considered on merits and dismissed, CRM-13841-2019, seeking condonation of delay in filing of the appeal is also dismissed accordingly.

February 12, 2026.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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