

205 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRR-1723-2008(O&M)  
Date of Decision: 19.03.2026

Gian Chand ...Petitioner

vs.

State of Punjab ...Respondent

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

Present : Mr. Vishal Sodhi, Legal Aid counsel  
for the petitioner.

Mr. Bhanu Pratap Singh, Addl. A.G. Punjab.

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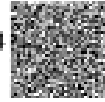
N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present revision petition against the impugned judgment dated 14.08.2008 passed by the Additional Sessions Judge, (Adhoc) Fast Track Court, Hoshiarpur, whereby the judgment of conviction dated 24.07.2002 passed by the Court of Judicial Magistrate 1<sup>st</sup> Class, Hoshiarpur was upheld, however, the order of sentence awarded to him was modified and the petitioner was sentenced as under:-

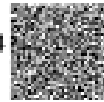
**Gian Chand**

| Under Section | RI         | Fine       | In default |
|---------------|------------|------------|------------|
| 365 IPC       | One year   | Rs.1000/-  | One month  |
| 368 IPC       | One year   | Rs.1,000/- | One month  |
| 323 IPC       | Six months | Rs.500/-   | 15 days    |

2. The brief facts of the present case are that the present case was registered on the basis of the statement made by Rajiv Kapila, who stated that his land was situated at Sham Chaurasi Road, near DAV High School at



Haryana. He has constructed one house in his land for keeping animals. He had kept a servant namely Degham son of Budhan Singh for the last 17/18 years. On 04.06.1997, at about 2.00 p.m., he went to his fields where his servant Karam Chand was present. He told the complainant that Degham was kidnapped by Arjinder Singh @ Raju and Gian Chand, petitioner in a Maruti van. In fact, both of them had been coming in the Dera to meet him earlier. Karam Chand had also told the complainant that he had parked the said Maruti van on the roadside and both of them came to the Dera. Sikh gentleman asked about Neetu from said Degham. Degham replied that he had no knowledge. Then they asked about Mr.Kapila and the latter pleaded ignorance about him as well. Both of them became angry and Raju caught hold him from his hairs and both of them started giving beating to him. They also slapped him. Raju accused asked Degham to go towards the Van. They put Degham into the said Van and fled away. The complainant made a thorough search of Degham, but could not find any clue. Thereafter, he got recorded his statement Ex. P-3 with ASI Tarlok Masih. Dr. Sushil Kumar also accompanied the complainant when the statement of Rajiv Kapila was recorded by the police. The statement was read over to them by the Investigating Officer and both Rajiv Kapila and Dr. Sushil had signed the same. ASI Tarlok Masih made his endorsement on the statement and sent it to the police station for the registration of a case, where formal FIR Ex.PW-7/D was recorded by ASI Balkar Singh. ASI Tarlok Singh went to the spot and prepared rough site plan (x.PW7/C) with correct marginal notes. He recorded the statements of the PWs, and Degham and victim was got medically examined and his medico-legal report (Ex.P1/A) was obtained.



3. After completion of the investigation, the challan was presented before the Court. Thus, the trial Court found that a *prima facie* case under Sections 365, 368, 323 of IPC was made out against the present petitioner and the charge was ordered to be framed against him, to which he pleaded not guilty and claimed trial.

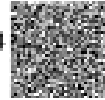
4. In support of its case, the prosecution examined seven witnesses, namely, PW-1 Dr. Sunil Ahir, PW-2 Inderjit Singh, PW-3 Inderjit Singh son of Santokh Singh, PW-4 Degham, PW-5 Rajiv Kapila, PW-6 Karam Chand and PW-7 Tarlok Masih and thereafter, the prosecution evidence was closed.

5. After the closure of the prosecution evidence, the statement of the petitioner under Section 313 Cr.P.C. was recorded by the trial Court, wherein he denied the prosecution allegations in toto and reiterated his innocence. However, the petitioner did not lead any evidence in defence.

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

7. In the present case, the prosecution case was primarily based on the testimonies of Inderjit Singh son of Santokh Singh, PW3 and PW4, Degham. Both the witnesses have reiterated the same facts, as mentioned in the FIR and had corroborated the statements of each other. Still further, PW1, Dr. Sunil Ahir, had medically examined Degham on 05.06.1997 and found four injuries on his person. However, the injuries were simple in nature and the weapon used was blunt for all the injuries. He proved the MLR (Ex. P1) and pictorial diagram (Ex.P1/A) of the injured. PW5, Rajiv Kapila also corroborated his statement (Ex.P3) and on the basis of Ex.P3, the FIR was registered in the present case.

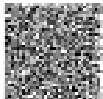
Karam Chand, PW6 also deposed that Raju and the petitioner came at the Dera



on the said day and they had enquired about Sanjiv Kapila from him. He started beating Degham. Raju caught hold him from his hair and caused injuries. He was forcibly put in a van and they went away. Karam Chand had also deposed that he narrated about the occurrence to Rajiv Kapila. ASI Tarlok Masih, Investigating Officer of the present case was examined as PW-7 and he also proved the case of the prosecution.

8. From the above referred evidence, it was apparent that the petitioner and Raju had kidnapped Degham after causing injuries to him and thereafter, they had confined him in a room, from where the police had recovered the said Degham. Apart from that, it was also apparent from the medico-legal examination that Degham had suffered five injuries and the MLR of Degham was proved by PW1, Dr. Sunil Ahir. Even both the Courts have rightly convicted the petitioner for commission of the offences punishable under Section 323, 365, 368 of IPC.

9. Now adverting to the order of quantum of sentence, this Court cannot overlook the fact that the petitioner is facing the prosecution since 05.06.1997 i.e. for the last more than 28 years. Even, at the time of disposal of his appeal by the trial Court, the petitioner was aged about 56 years. Consequently, at present, he is aged about 74 years. Moreover, the petitioner is not a previous convict and was never involved in any other criminal activity in his life. Apart from that, he has undergone 03 months and 07 days of actual custody, out of total sentence of one year. Thus, keeping in view the mitigating circumstances, this Court is of the considered opinion that a lenient view can be taken while imposing sentence on the petitioner. Thus, the sentence imposed on



the petitioner is reduced to the period already undergone by him. However, the amount of fine imposed on him shall remain same.

10. With the above modifications, the present revision petition is partly allowed and the judgment of conviction is upheld, whereas, the sentence imposed on the petitioner is reduced to the period already undergone by him and the amount of fine imposed on him shall remain same.

11. Pending applications, if any, stand disposed of, accordingly.

19.03.2026  
hemlata

(N.S.SHEKHAWAT)  
JUDGE

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