

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

CRR-1266-2023 (O&M)

Date of reserved: 04.05.2026.

Date of Pronouncement: 11.05.2026

Kulbhushan Kumar

...Petitioner.

Versus

Akhilesh Kumar @ Kehry and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Argued by: Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner is seeking setting aside the judgment of acquittal dated 16.10.2019 passed by learned trial Court as well as judgment dated 03.02.2023 passed by learned Appellate Court, vide which the appeal filed by the petitioner was dismissed and respondents were acquitted in case FIR No.134 dated 10.07.2013, under Sections 452, 324, 323, 148 and 149 IPC, registered at Police Station Sadar, Bathinda.

2. The brief facts of the present case are that the present case was registered on the statement of the complainant Kulbhushan Kumar. He alleged that on 10.07.2012, he was having a contract of Cycle Stand, Bus Stand, Bathinda. At about 2.00 P.M. when he was sitting inside room of

Cycle Stand, Kunal Kumar, Kaushal Kumar, Mulkhraj @ Billa, Akhilesh Kumar @ Kehru, Ranga @ Jeet Singh, Ram Kumar @ Ramu, Sita Ram, Rohit, Mauji, Sarabjit Singh, Ajit Singh, Malkit Singh @ Kali, Manish Kumar @ Rinku, Jaswinder Sharma and Harwinder Sharma, who were armed with sword and sticks and started beating the complainant due to which the complainant received multiple injuries on his body parts. Thereafter, complainant raised alarm and the accused persons fled away from the spot. As per the complainant, the motive behind the occurrence was that he had taken the Cycle Stand of Bus Stand, Bathinda on contract basis and the PRTC had given the said Cycle Stand to Ramu, who was employee of Mulkhraj @ Billa by allotting him tender and the complainant had not vacated the Cycle Stand and the PRTC had filed a case in the SDM Court and the said Court had decided the case in favour of PRTC. Thereafter, the complainant had filed appeal against the same before Deputy Commissioner, Bathinda. On the basis of the aforesaid statement, FIR was registered. Rough site plan was prepared. The accused persons were arrested. Statements of witnesses were recorded. After completion of investigation, challan was presented against accused, namely, Akhilesh Kumar @ Kehru, Jaswinder Sharma, Malkeet Singh, Harwinder Singh @ Jalandhari, Manish Kumar under Sections 452, 324, 323, 148 and 149 IPC.

3. During trial, an application was filed under Section 319 Cr.P.C. and accused Mulakh Raj @ Billa, Kaushal Kumar, Kunal Kumar, Ranga, Jit Singh, Ram Kumar @ Ramu, Sita Ram, Rohit, Mauji and Sarabjit Singh were ordered to be summoned as additional accused vide order dated 07.05.2014.

3. After finding a prima facie case against the accused, they were charge-sheeted for the offences punishable under Sections 452, 324, 323, 148 and 149 of IPC, to which they pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined **PW1-complainant Kulbhushan Kumar**, who repeated the entire averments of his statement Ex.PA. **PW2-Dr. Shekhar Mangal**, Medical Officer, proved on record the various documents Ex.PW2/A to Ex.PW2/I. As per his opinion, injuries No.4 to 7 were caused with sharp edged weapon and injuries No.1 to 3 & 8 were caused with blunt weapon. **PW3-SI Gurmail Singh**, proved application Ex.PW3/A, endorsement of doctor Ex.PW2/G and another application Ex.PW3/B. Thereafter, after completion of investigation the file was handed over to SHO and challan was filed. **PW4-SI Narinder Kumar** (Investigating Officer), investigated the case and proved on record the police proceedings Ex.PW4/A to PW4/G. **PW5-Vishaldeep**, supported the entire allegations of the complainant. **PW6-Daler Singh**, deposed on the similar lines as PW5 and **PW7-SI Jaspal Singh**, proved on record Ex.PW4/A, Ex.PW4/D, Ex.PW4/E, Ex.PW4/F, Ex.PW4/H and Ex.PW4/J.

5. Statement of accused under Section 313 Cr.P.C. were recorded, wherein all the incriminating evidence against them was put to them to which they denied being incorrect.

6. Aggrieved of the said decisions of the Courts below, the petitioner has approached this Court by way of present Revision Petition.

7. Learned counsel for the petitioner contended that the complainant/ victim was assaulted by almost 15 persons, so the complainant

was not in the position to notice that which injury was caused by whom and with which specific weapon each of the accused were armed at the time of the occurrence. He further contended that there were about 13 injuries on the person of the complainant and as such the same could not be self suffered. He urged that accused were also having motive as they were nursing grudge against the complainant for not vacating the Cycle Stand. He submitted that the prosecution had proved the case against the accused persons beyond the shadow of the reasonable doubt and as the impugned judgments suffer from material irregularities and illegalities, so the same are liable to be set aside and accused persons be convicted as per law.

8. I have heard learned counsel for the petitioner and have gone through the relevant record.

9. The most material witness of the prosecution in the present case is Kulbhushan Kumar, who is also the complainant in the present case. In his original statement Ex.PA dated 10.07.2012 given to the police, complainant had deposed that on the said date at about 2:00 P.M. when he was sitting in Cycle Stand room, then at that time Kunal Kumar, Kaushal Kumar, Mulkh Raj @ Billa, Akhilesh Kumar @ Kehru, Ranga @ Jeet Singh, Ram Kumar @ Ramu, Sita Ram, Rohit, Mauji, Sarabjit Singh, Ajit Singh, Malkit Singh @ Kali, Manish Kumar @ Rinku, Jawinder Sharma and Harwinder Sharma, came there armed with sticks and other weapons and gave blow with the same and caused two injuries on his head, two injuries on his waist, two injuries on his left hand and two injuries on left arm and one injury on his back. Thereafter, the accused persons fled away from the spot along with weapons after he raised the alarm.

10. While appearing as PW1, he reiterated the averments as made in his statement Ex.PA, but perusal of his testimony reveals that he made certain improvements and added names of some other persons i.e. Malkit Singh, Manish Kumar, Jaswinder Sharma and Harwinder Singh, while deposing that these persons had also caused injuries and had given beating to him.

11. Perusal of statement Ex.PA and his examination-in-chief, reveals that he had not specified that which of the injuries were specifically caused by each of the accused persons. Only general accusations were made by him against all the accused as having caused injuries on various body parts of the complainant.

12. PW1 further stated in his cross-examination that "I cannot tell whether all the accused present in Court today were present at the place of occurrence or not. The witness voluntarily adds that at the time of fight/quarrel who can tell as to who was present at the spot or not". Thus, when he went to the extent of stating that he could not tell whether all the accused persons present in the Court on that day were present at the place of occurrence or not, it certainly creates a dent in the case of the prosecution and presence of all the accused persons at the time of the alleged occurrence comes under cloud of doubt.

13. The Appellate Court has rightly observed that the identity of the accused is also to be established by the prosecution and not merely the seat of injuries is to be proved. The identity is one factor, which needs to be established in such a manner which rules out any possibility of a doubt being created.

14. It has also been further rightly observed by learned Appellate Court that the aforesaid part of the cross-examination is to be read with a pinch of salt in as much as the other two eyewitnesses of the occurrence i.e. PW5 and PW6 did not support the case of the prosecution and stated that some unknown assailants had caused injuries to the complainant.

15. The doubt regarding identity of the assailants being accused has assumed even more importance in the present case as admittedly the civil dispute was pending between the parties pertaining to the contract of Cycle Stand at the Bus Stand. Appellate Court has rightly observed that motive is a doubt edged weapon, which not only supports the case of the prosecution but it can also be used to falsely implicate the accused at the hands of the complainant.

16. DW1 Rohit Bansal, Clerk PRTC, Bathinda, proved on record documents Ex.D1 to Ex.D4, as per which the real dispute between the complainant and accused party was pertaining to contract of Cycle Stand of Bus Stand, Bathinda regarding which the litigation was going on between them. SDM, Bathinda, vide order dated 14.06.2012 (Ex.D1) held that possession of respondent (complainant in the present case) was illegal and ordered for his eviction. Ex.D2 had also been proved on record vide which the warrant of possession was issued. Thus, the possibility cannot be ruled out that the present case registered against the accused was a counter blast to the above said litigation.

17. Thus, as already observed when complainant was not sure that whether all the accused were present at the place of occurrence or not, when PW5 and PW6 and two other alleged eyewitnesses did not support the case

of the prosecution while stating that injuries had been caused by some unknown assailants and when the parties were already running into civil litigation, then identity of the accused being the assailants is not established beyond the cloud of doubt.

18. As per medical evidence on the record all the injuries on the person of the complainant were found to be simple in nature. PW2 Dr. Shekhar Mangal, deposed that the injuries were simple in nature and also deposed that patient had left against the medical advise on 11.07.2012, whereas PW1 in his cross-examination stated that he was discharged from the hospital after 3-4 days which is quite contrary to the deposition of PW2 Dr. Shekhar Mangal. It also raises doubt regarding the veracity of the case of the prosecution.

19. PW1 further stated in his cross-examination that when he received injuries his clothes were stained with blood which were given to the police. PW4 SI Narinder Kumar, however stated that he did not take into police possession blood stained clothes of the complainant and the same were not produced before the Court, which had also adversely effected the case of the prosecution. As such, both the Courts below have rightly reached at the conclusion that the evidence on record was not sufficient for proving guilt of the accused beyond the shadow of reasonable doubt.

20. It is a settled position that an order of acquittal is not to be interfered with lightly because presumption of innocence of the accused is further strengthened by acquittal. Interference is called for only under compelling circumstances, where impugned findings are perverse, unreasonable and convincing material on record is ignored unjustifiably by

the trial Court. Reference in this regard can be made to judgment of Hon'ble the Supreme Court in 'Mahamadkhan Nathekhan vs. State of Gujarat' **2014 (14) SCC 589.**

21. Keeping in view the above, there being no illegality or infirmity in the impugned judgments no interference therewith is called for while exercising the revisional jurisdiction by this Court. The present revision petition being bereft of any merits stands dismissed.

22. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

11.05.2026.

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Whether speaking/ reasoned	:	Yes/ No
Whether Reportable	:	Yes/ No