

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRR-382-2011 (O&M)
Reserved on : 20.01.2026
Pronounced on : 30.03.2026

Ram Sarup & Ors. Petitioners

VERSUS

State of Haryana Respondent

CORAM: HON’BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. S.S. Mor, Advocate for the petitioners.

Ms. Deepali Verma, AAG Haryana.

SURYA PARTAP SINGH, J.

A trial conducted by the Court of learned Sub-Divisional Judicial Magistrate Tohana, hereinafter being referred as ‘trial Court’ only, culminated into judgment of conviction dated 22.12.2007 and as a consequence thereof, vide order on quantum of sentence dated 24.12.2007, following sentences were awarded to the petitioners/convicts, hereinafter being referred to as ‘petitioners’ only:-

Name of the convict	Under Section	Sentence imposed	Fine	In default of payment of fine imprisonment
Ram Sarup	323/34 IPC	Rigorous imprisonment for six months	Rs.500/- each	Simple imprisonment for one month
Suresh @Shesha	326/34 IPC	Rigorous imprisonment for two years	Rs.500/- each	Simple imprisonment for two months
Subhash				
Both the sentences were ordered to run concurrently.				



2. Aggrieved of the abovementioned judgment of conviction and order of sentence, hereinafter being referred as impugned judgment/order, the petitioners preferred an appeal in the Court of Sessions. The abovementioned appeal was dealt with by the Court of learned Additional Sessions Judge Fatehabad, hereinafter being referred to as 'Appellate Court' only. However, the abovementioned appeal did not find favour in the Court of Sessions and by virtue of judgment dated 15.01.2011, the same was dismissed.

3. Briefly stating the facts emerging from record are that the abovementioned FIR came into being at the instance of 'Sadhu Ram' hereinafter being referred as 'complainant' only. It is the case of the prosecution that the complainant was admitted to the Government Hospital, Hisar for treatment of the injuries, suffered by him, and with regard to his admission, an information-memo was received in the Police Station. As per prosecution acting upon the abovesaid information Head Constable Manphool Singh visited the hospital and after obtaining the opinion of doctor with regard to fitness of injured/complainant, recorded the statement of complainant.

4. It is further case of the prosecution that in his abovementioned statement, it was stated by the complainant that about 15 years ago, an altercation had taken place between him (complainant) and 'Ram Sarup' (petitioner No.1 herein). According to complainant, although the matter was settled in a community meeting (Panchayat), but the petitioner No.1 was nursing a grudge against the complainant. As per complainant, on account of



abovementioned grudge, on 02.07.1997, at about 08:00 pm, when he along with his nephew 'Rajender' was going towards his fields, all the three petitioners, namely Ram Sarup, Suresh @Shesha and Subhash, launched an assault upon him. According to complainant, at that point of time, Ram Sarup was armed with a *gandasi* (pole axe) and Suresh @Sheshha with a *lathi* (bamboo stick). It was further stated by the complainant that in the abovementioned assault, he was caught hold by the petitioner No.3 and thereafter one *lathi* blow was inflicted by the petitioner No.2 on his left knee, followed by a blow with *gandasi*, by the petitioner No.1, on the elbow of his left hand, and then third blow by petitioner No.2 with *lathi* on his right hand. It was also stated by the complainant that the petitioner No.3 had thrashed him with the help of kicks and punches and thereafter, while extending threats to take revenge, all the assailants fled from the spot.

5. To discharge its burden with regard to charge framed against the appellants, the prosecution in the instant case had relied upon documentary as well as oral evidence. The documents relied upon, and marked with exhibits, by the prosecution were as under:-

- Ex.PW4/A - Information memo
- Ex.PW4/B - Endorsement recorded by the police officer on 03.07.1997
- Ex.PW4/C - Endorsement recorded by the police officer on 03.07.1997
- Ex.PW4/D - the FIR
- Ex.PW4/E - Copy of rapat dated 03.07.1997
- Ex.PW4/R - Application moved by the IO before the Medical Officer
- Ex.PW4/F - Site plan of the place of occurrence
- Ex.PW2/A - Medico-legal report of Sadhu Ram



- Ex.PW2/B - Diagram, showing the seat of injuries
- Ex.PW2/D - Opinion given by the doctor
- Ex.PW3/A - Recovery memo of *gandasi*
- Ex.PW3/B - Recovery memo of *lathi*
- Ex.PW5/A - Statement of Balbir Singh
- Ex.PW6/A - Prescription slip for X-ray
- Ex.P1& P2 - X-ray films and x-ray report of Sadhu Ram

6. To provide support and corroboration to the above-mentioned documentary evidence, as many as six witnesses have been examined by the prosecution. Those witnesses are:-

- PW-1 - Rajender Singh
- PW-2 - Dr. B.L. Bagri
- PW-3 - Constable Om Parkash
- PW-4 - ASI Manphool Singh
- PW-5 - Balbir Singh
- PW-6 - Dr. Arun Gupta

7. Once the prosecution evidence was complete, the learned trial Court completed the essential formalities as enshrined under Section 313 CrPC. Thereafter, opportunity of defence evidence was afforded to the petitioners. However, no evidence was led by the petitioners in their defence.

8. Heard.

9. It has been contended by learned counsel for the petitioners that the learned trial Court as well as the learned Appellate Court committed the error of judgment when they failed to appreciate the evidence adduced by



the prosecution and could not observe that the same was deficient, inconsistent and full of contradictions. According to learned counsel for the petitioners, the story set-out by the prosecution in itself was improbable and unnatural to the extent that it was unable to convince a prudent mind. As per learned counsel for the petitioners, merely on the basis of conjectures and surmises the abovementioned evidence has been believed, and that finding of conviction has been returned by the learned trial Court, duly upheld by the learned Appellate Court, merely on the basis of conjectures and surmises. While claiming that the findings of conviction recorded by the learned trial Court viz-a-viz Appellate Court, are not sustainable, the learned counsel for the petitioners has sought the intervention of this Court, by exercising its revisional jurisdiction.

10. The learned State Counsel has controverted the abovementioned arguments. It has been contended by learned State Counsel that on proper appreciation of facts as well as evidence, a right conclusion has been drawn by the learned trial Court, and that there is no scope for indulgence or interference in the verdict of the learned trial Court, which has been duly affirmed by the learned Appellate Court. According to learned State Counsel, in the present case on account of unfortunate demise of the injured/complainant, he could not be examined, but an eye-witness of the occurrence, who was examined as PW-1, duly supported and corroborated the prosecution case and the abovementioned evidence was duly supported by the medical evidence, as well as the testimonies of official witnesses. While defending the impugned judgment, it has been contended by learned



State Counsel that there is no scope for indulgence in the impugned verdicts.

According to learned State Counsel, the present revision petition is devoid of merits and deserves dismissal.

11. The record has been perused carefully.

12. In the present case, at the very outset it is pertinent to mention here that due to unavoidable circumstance, i.e. the death of, the complainant, he could not be examined during the course of trial. In the absence of examination of complainant/injured, the entire responsibility to prove the allegations, with regard to commission of offence was on the shoulders of eye-witness of the occurrence, namely Rajender Singh, who was examined as PW-1. The PW-1 in his examination-in-chief had supported the prosecution case with regard to the manner, in which incident had taken place and his testimony was in consonance with the prosecution case with regard to identity of the assailants, the weapon of offence used by each of them and also the injury inflicted by them on the person of complainant.

13. In the instant case the cross-examination of PW-1 was very important. The PW-1 in his cross-examination had deposed that on 02.07.1997, when the incident had taken place, he was following his uncle, i.e. the complainant/injured, and that the distance between them was about half a *kila*. The abovementioned distance, by no means could have been less than 100 feet. It was further stated by the PW-1 that on the day when the incident had taken place it was a dark night. However as per PW-1 from the abovementioned distance, he was able to identify the assailants. It was also stated by the PW-1 that when his uncle was being assaulted, he did not go to



the spot. As per PW-1 he identified the assailants from the spot itself, where he was standing. In his further cross-examination, it was deposed by the PW-1 that from the spot, first he went to the village and reached there at about 08:30 P.M. and thereafter about 12:00-01:00 A.M. at night his father had shifted the injured to hospital. The PW-1 had also deposed that complainant, Sadhu Ram, remained unconscious for 3-4 days and that the length of pole-axe used by the assailants was about 5 feet and its blade was apporximately 1 feet long. It was also stated by the complainant that his statement was recorded by the police on 10.07.1997 in the fields. With regard to recovery of weapon of offence, the PW-1 had pleaded ignorance and testified that those weapons were never shown to him.

14. In order to provide support and corroboration to the testimony of PW-1, two medical officers were examined by the prosecution. They were Dr. B.L. Bagri examined as PW-2, who proved the medico-legal report of the injured. The PW-2 had testified that at the time of medico-legal examination, four injuries were found on the person of complainant-Sadhu Ram.

15. The another Medical Officer examined as PW-6 Dr. Arun Gupta had proved the radiological examination report, as Ex.PW6/A, and X-Ray films, as Ex.P1 and Ex.P2, respectively. According to PW-6, on radiological examination it was found that there was fracture on both bones of left forearm.

16. The prosecution had projected before the Court that the investigation of this case was conducted by ASI Manphool Singh, he was



examined as PW-4, the PW4 in his examination-in-chief had proved various steps taken by him during the course of investigation. However in his cross-examination, the PW-4 had deposed that the statement of injured was recorded by him on 03.07.1997, but information memo to the Police Station for registration of FIR was sent on 10.07.1997. The PW-4 had also deposed that he had not recorded the statement of any witness at the spot, and that no blood-stained marks were found on the spot. According to PW-4, he did not collect the blood-stained clothes of the injured, despite the fact that he had found that clothes of complainant were smeared with blood. It was also stated by the PW-4 that the pole-axe, which was recovered by him, was not having any blood-stains, and that the weapon of offence was not present in the Court at the time of his examination. The most remarkable fact testified by PW-4 was that he was unable to identify the petitioner No.3 in the Court despite the claim that he had arrested him.

17. In the present case one independent witness in whose presence, the petitioners were arrested, was also examined by the prosecution as PW-5, but he had not supported the prosecution case, and therefore, he was declared hostile. The PW-5 was duly cross-examined by learned Public Prosecutor, but nothing significant could be extracted from him.

18. One police official, who was joined in the investigation, was examined by the prosecution as PW-3. He was Constable Om Prakash. The PW-3 had deposed that in his presence, the weapon of offence was recovered at the instance of petitioner No.1 and petitioner No.2 and that with regard to that Memos Ex.PW3/A and Ex.PW3/B were prepared. However, in



his cross-examination, the PW-3 had deposed that weapons recovered in his presence were not present in the Court at the time of his examination. According to PW-3, he was not aware of the location, i.e. boundaries, of the house of petitioner No.2. It was also stated by the PW-3 that at the time of recovery of weapons, several persons were present, but they were not joined in the investigation as independent witnesses.

19. As far as the abovementioned evidence adduced by the prosecution was concerned, a careful perusal of the same revealed that:-

a) **the credibility of sole eye-witness of the occurrence:-** the cross-examination of PW-1 revealed that at the time of incident he was at a distance of about 100 feet away from the place of occurrence. As per PW-1, the place of occurrence was surrounded by agricultural fields which means that there was no source of light and as per testimony of PW-1 on 02.07.1997 when the incident had taken place it was a dark night. The abovementioned facts and circumstances in itself speaks in volumes that there could not have been any possibility of identification of assailants by the PW-1 from such a long distance. The abovementioned fact shatters the credibility of the testimony of PW-1, the sole eye-witness of the occurrence examined in this case;

b) **post-incident conduct of PW-1:-** the conduct of PW-1 after the incident, too, was not natural. Once the assailants without noticing the presence of PW-1 had fled from the spot, the first natural reaction of the PW-1 would have been to take care of his uncle, i.e. the complainant and to see the extent of injuries suffered by heirs but as per PW-1 instead of going to the spot, where the complainant was lying, he



went to village to call his father and thereafter also did not even accompany his father when the complainant/injured was being taken to the hospital;

- c) **delay in admission of complainant in hospital:-** as per contents of FIR and the testimony of PW-1, the incident had taken place at about 07:30 pm, but the deposition of PW-2 shows that the injured was taken to the hospital around midnight, i.e. after the gap of more than four hours. The abovementioned delay was not explained either by the prosecution or by the PWs. The abovementioned delay in admission of the injured in the hospital further impacts adversely, the claim of PW-1 that he was present on the spot at the time of occurrence;
- d) **false claim by PW-1:-** the PW-1 in his cross-examination had deposed that the complainant remained unconscious for three-four days in the hospital, but as per the testimony of PW-2 and PW-4, at the time of admission in the hospital, the petitioner was conscious and even his statement was recorded by the police officer on 03.07.1997. This false deposition of PW-1 destroys the very credibility of his testimony;
- e) **delay in FIR:-** as per facts projected by the prosecution in the FIR, the incident had taken place on 02.07.1997 and on the same day in late hours, the complainant was admitted in the hospital and intimation was given to the Police and on very next day, i.e. 03.07.1997 the statement of complainant/injured was recorded by the police official, but the FIR was lodged after a delay of more than seven days, i.e. on 10.07.1997. The abovementioned delay in lodging of FIR is fatal for the prosecution case because in the given fact situation, this possibility cannot be ruled out that the



statement of complainant recorded by the Investigating Officer may be antedated;

- f) **weapon of offence not produced in the Court:-** one of the serious lapses committed by the prosecution during the course of trial was that the weapons of offence were never produced before the Court and proved in accordance with law.
- g) **no evidence to connect the weapon of offence with the commission of crime:-** it is relevant to note here that as per PW-1, the sole eye-witness of the occurrence, the weapons of offence were never shown to him, either during the course of investigation or during the course of trial. On the other hand, as per PW-4 the Investigating Officer of the case, the weapons of offence which were not recovered were not carrying any blood-stain mark.

If the abovementioned factors are taken into consideration, it transpires that there was no reliable evidence to show that that the weapons of offence were actually recovered during the course of investigation. There was no evidence to prove that the weapons recovered during course the investigation were actually used in the commission of crime.

- h) **doubt about the recovery of weapons:-** in order to prove the recovery of weapons of offence from the possession of petitioners No.1 and 2, the prosecution had relied upon the testimony of two official witnesses, i.e. PW-3 and PW-4 only. However, the testimony of PW-4 was rendered unreliable in view of the fact that he was not able to give details of the whereabouts of the house of petitioner No.2 from where recovery had taken place.



Otherwise also as per PW-3, numerous public witnesses were available on the spot, but they were not joined.

The abovementioned lapse on the part of investigating agency renders the prosecution case with regard to recovery of weapon of offence, doubtful;

- i) **doubt with regard to involvement of the PW-3 in the incident:-** as per facts projected by the prosecution, the Investigating Officer had arrested the petitioner No.3, but he was not able to identify the petitioner No.3 in the Court during the course of examination. Moreover, even the independent witness, who had allegedly facilitated the surrender of assailants before the police, i.e. PW-5, too, had not supported the prosecution case.

20. In addition to abovementioned deficiencies, discussed in the foregoing paragraphs, it is also relevant to mention here that the testimonies of PW-1 and PW-4 were contradictory with regard to the place where the statement of PW-1 was recorded by the Investigating Officer. Qua abovementioned aspect, the PW-1 had claimed that his statement was recorded on the spot situated in the fields, but as per PW-4, the statement of PW-1 was not recorded on the spot.

21. If the cumulative fact of all the abovementioned factors is taken into consideration, conjointly, it transpires that the evidence adduced by the prosecution was so deficient, inconsistent and contradictory on material points that by any standard, it could not have been sufficient to discharge the burden of the prosecution.



22. In addition to abovementioned deficiencies, the story set out by the prosecution, wherein one eye-witness was falsely introduced, further adversely impacts the credibility of the prosecution case.

23. Thus, it is hereby observed that the cumulative effect of all the abovementioned factors leads to a conclusion that this observation of learned trial Court viz-a-viz Appellate Court was wrong that the prosecution had been successful in discharging its burden with regard to proving of charge. In fact, the abovementioned evidence was inadequate and insufficient to prove charge against the petitioners, and therefore, it is hereby held that there is need for interference in the judgment of conviction recorded by the learned trial Court, by exercising the revisional jurisdiction.

24. As a sequel to abovementioned observations, the present petition is hereby *allowed* and the judgment of conviction and order of sentence passed by the learned trial Court, affirmed by the learned Appellate Court, are hereby set aside. Resultantly, all the petitioners are hereby acquitted of the charges framed against them. Their bail bonds shall stand discharged.

25. Pending miscellaneous application(s), if any, too, shall stand disposed of.

(SURYA PARTAP SINGH)
JUDGE

30.03.2026
Vinod

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