



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

I. CRA-D-356-DB-2004

SANJAY ... Appellant

VERSUS

STATE OF HARYANA ... Respondent

II. CRA-D-412-DB-2004

DAYA NAND AND OTHERS ... Appellants

VERSUS

STATE OF HARYANA ... Respondent

A N D

III. CRR-2390-2009

DINESH KUMAR SON OF RAN SINGH ... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS ... Respondents

Judgment reserved on: 23.02.2026
Judgment Pronounced on 20.03.2026

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT.
HON'BLE MR. JUSTICE H.S. GREWAL.

Present: Mr. Akashdeep Singh, Advocate
for the appellant in CRA-D-356-DB-2004.

Mr. Vinod Ghai, Sr. Advocate with
Ms. Kashish Sahni, Advocate for the
appellants in CRA-D-412-DB-2004.

Mr. R.S. Sheoran, Advocate for the
petitioner in CRR-2390-2009.

Mr. Parmod Kumar, AAG, Haryana.

CRA-D-412-DB-2004 already stands
abated qua appellant No.3-Dinesh son of
Om Singh

H.S. GREWAL, J.

All abovementioned three cases shall be decided by this Common order since they arise out of the same FIR.

2. There are two appeals preferred by the accused-appellants and one Criminal Revision filed by the complainant. Hence, for the sake of convenience, the parties are being referred to as they were before the trial Court.

3. The case of prosecution against accused persons is that on 08.12.2000, a wireless transmission message from In-charge Police Post, PGIMS, Rohtak was received regarding the death of Smt. Rajo Devi wife of Ran Singh, resident of Bigowa and admission of Viney Kumar injured at Police Station, Sadar Dadri and this message was immediately flashed to S.I. Amar Singh, the then SHO when he was present in Civil Courts at Charkhi Dadri. From there he alongwith ASI Hari Singh, Head Constable Jai Parkash, Constable Balwant Singh and constable Jagdish rushed to PGIMS, Rohtak in Govt. Jeep No. HR-16A/0458. After reaching PGIMS, Rohtak an opinion about the fitness state of health of Viney Kumar injured was obtained, upon which attending Medical Officer declared him unfit to make statement. However, Dinesh another injured, who was also referred to PGIMS, Rohtak from Government Hospital, Charkhi Dadri, was found fit to make a statement. Accordingly, statement of Dinesh, injured was recorded to the effect that he

was having two elder brothers namely Kuldeep and Viney. On 08.12.2000 at about 07:30 AM he and his brother Kuldeep were going to their fields on a tractor, Make Eicher. When they reached the road, the accused persons namely Daya Nand son of Ram Kumar, Sombir son of Jagdev Singh and Dinesh son of Om Singh came on a scooter and they parked it in front of their tractor. Accused Daya Nand asked them to remove tractor (by terming it 'PEEPA') from there. He caught hold of him (Dinesh son of Ran Singh- the complainant) from his neck and pushed him. At this, Kuldeep intervened. Thereupon, accused Dinesh son of Om Singh gave a straight KASSI blow on his head, due to which he fell down. Other accused persons raised a LALKARA towards the side of their house by saying 'LELO EN SABKO HATH GHAL KAR' which attracted Satish son of Ram Kumar armed with a sword, Sanjay son of Tara Chand holding a PHARSA, Anand son of Rameshwar armed with a PHARSA, Sombir son of Ram Phal armed with a Kulhari, Sandeep son of Jagdev having a Ballam, Ram Partap son of Ram Kumar having a Jelly and Ramesh alias Munda son of Om armed with Kulhari. They all in prosecution of their common object came there and all the accused persons after entering the house of Dinesh (complainant) caused injuries with the help of sword, Pharsa, Jelly, Kulhari and Ballam to his brothers Kuldeep and Viney, his mother Smt. Rajo and Tai (Aunt) Smt. Bhagwani wife of Dharam Singh. Accused Satish gave a sword blow on the head of Smt. Rajo and accused Sanjay gave a Pharsa blow to Smt. Rajo. Both of them inflicted injuries with an intention to kill her. Accused Daya Nand took out pistol from his DUB and fired shots at Viney which struck in the front. His mother fell unconscious on sustaining sword and Pharsa blows. Viney was also caused injuries with sword. They all made a rescue call which attracted his

father Ran Singh and Kulender son of Dharam Singh. On seeing them coming there, accused persons fled away from the spot alongwith their respective weapons. Afterwards he and his mother Smt. Rajo, brothers Viney, Kuldeep and Tai Smt. Bhagwani were taken by his father and brother Kulender to General Hospital, Charkhi Dadri. He as well as his brother Viney and mother Smt. Rajo were referred to PGIMS, Rohtak. Smt. Rajo succumbed to the injuries soon after her arrival in the hospital.

4. The apple of discord between the parties was that about one year back, Kuldeep had an altercation with accused Daya Nand, however at that point of time, the matter was compromised with the intervention of the Panchayat. Just because of that previous enmity, accused persons in furtherance of their common object had made the murderous attack upon them (the complainant party).

5. Based on the abovesaid statement of complainant Dinesh, an FIR under Sections 148, 302, 307, 449, 323 and 324 read with Section 149 of the Indian Penal Code was registered against all the accused persons and in addition, offence under Section 25 of the Arms Act was also added against accused Daya Nand.

6. Investigation swung into motion. All necessary proceedings including the inquest report of deceased Rajo were carried out. Rough as well as scaled site plans were prepared. Recoveries were effected vide separate memos. Statements of the witnesses and injured persons were recorded under Section 161 of Cr.P.C. After completion of investigation, challan/final report under Section 173 of Cr.P.C. was prepared and presented before the Court for commencement of trial.

7. Upon presentation of challan, the accused persons were charge sheeted under Sections 148, 449, 302, 307, 324 and 323 read with Section 149 of IPC and an additional charge under Section 25 of the Arms Act, 1959 was framed against accused Daya Nand. The accused persons pleaded not guilty and claimed trial. It is pertinent to mention here that two accused persons namely Ramesh and Sandeep were declared juveniles and separate challan was presented qua them before the Principal Magistrate, Juvenile Court, Bhiwani. Their trial ran separately.

8. In order to prove its case, the prosecution examined as many as 14 witnesses in all. PW1- ASI Jai Parkash deposed that on 15.12.2000, accused Sombir and Dinesh appeared before the Investigating Officer and produced before him one sword and kassi (spade) respectively, which were taken in possession by the I.O. vide different memos.

9. PW2- Dinesh Kumar (complainant) deposed that on 08.12.2000 at about 07:30 AM, he alongwith his brother Kuldeep was going on a tractor towards their fields. When they reached the road, accused Daya Nand, Sombir and Dinesh came on a scooter and they parked their scooter in front of his tractor. Accused Daya Nand asked him to remove his tractor by calling it a 'Peepa'. Daya Nand caught hold of him by his neck and dragged him down from the tractor. When Kuldeep Singh (his brother) asked what the matter was, accused Dinesh gave a kassi blow on his (complainant's) head, as a result of which, he fell down on the road. All the three accused persons raised a joint Lalkara, whereupon Satish son of Ram Kumar armed with sword, Ram Partap son of Ram Kumar armed with Jelly, Sandeep son of Jagdev armed with Ballam, Ramesh @ Munda son of Om armed with Kulhari, Sombir son of

Ramphal armed with Kulhari, Anand son of Rameshwar armed with pharsa, Sanjay son of Tara Chand armed with a pharsa came there. They entered into the out-house. Accused Satish gave a sword blow on the head of his mother Smt. Rajo. Accused Sanjay gave a pharsa blow on the head of Smt. Rajo. As a result of the two blows, she fell down. He further deposed that accused Daya Nand took out a pistol from his dub and fired a shot towards his brother Viney, which did not hit him. Then accused Daya Nand took sword from accused Satish and stabbed Viney in his abdomen. Accused Sombir had given a kulhari (axe) blow on the head of Viney. Accused Anand gave a pharsa blow to Viney from its reverse/blunt side, which hit his right wrist. As a result, Viney fell down on the ground. He further deposed that accused Sandeep gave a Ballam blow on the right thigh of his aunt Smt. Bhagwani. Accused Sombir son of Jagdev gave a sword blow on the right hand of Kuldip. Sandeep accused gave a Ballam blow on the head of Kuldip. He further deposed that accused persons had given blows from their respective weapons to the persons whosoever came before them besides the injuries described above. He further deposed that upon hearing rescue call of the injured persons, his father Ran Singh alongwith Kulender rushed to the spot. Upon seeing them coming, accused persons alongwith their respective weapons ran away from the spot. He further deposed that all the injured persons were brought to Dadri Hospital, where he was medico-legally examined. First aid was given to his mother Smt. Rajo. Viney and his mother were referred to PGIMS Rohtak. Later on, he was also referred to PGIMS Rohtak. He further deposed that they had previous enmity with accused persons on account of an altercation that took place between accused Daya Nand and his brother Kuldip. That matter was patched up by the

panchayat. He further deposed that his statement was recorded by the police at Rohtak PGIMS which is Ex.PB on the record and bears his thumb impression at point A. In his cross-examination, he deposed that he made statement Ex.PB to the police at about 6:30 p.m. He did not remember whether he mentioned in his statement Ex.PB that the shot fired by accused Daya Nand did not hit Viney. He admitted it to be correct that he had mentioned in his statement EX.PB that Daya Nand fired shots at Viney which hit in the front. He had told police that accused Daya Nand after taking sword from accused Satish had stabbed Viney in the abdomen. His deposition was confronted with his statement Ex.PB where it was not so recorded. He further deposed that he told the police in his statement Ex.PB that accused Sombir had given a Kulhari blow on the head of Viney. This piece of evidence was again confronted with statement Ex.PB where it was not so recorded. He further admitted that he did not state before the police that accused Anand gave a Pharsa blow on the right wrist of Viney from the reverse side. He admitted that he did not mention to the police that accused Sandeep had given a ballam blow on the right thigh of Smt. Bhagwani. This witness was cross-examined at length and was also confronted at various points. This witness (PW2) further stated that he did not notice whether the walls of the room were stained with blood or not. He further stated that the pellets of the bullet had hit in the wall of the room and Viney was at a distance of 10-15 feet from accused Daya Nand, when he had fired at Viney. He further admitted that he did not notice whether the pellets of the shot stuck any object in the house or not. He also showed his inability to depose whether blood had oozed out of the injuries sustained by Viney and fallen on the ground or not. He

specifically deposed that none from their side had inflicted any injury to any of the accused persons.

10. PW3- Viney Kumar, who is injured and brother of the complainant deposed on the similar lines of PW2, Dinesh Kumar, the complainant. He deposed that accused Daya Nand had fired a shot at him from his pistol, which did not hit him. Thereafter, Daya Nand took sword from accused Satish and stabbed the same in his abdomen. He further deposed that accused Sombir son of Ramphal gave a kulhari (axe) blow on his head. While reiterating the entire incidence in his words, he deposed that the police had recorded his statement on 11.12.2000 and on 24.12.2000, the police had recovered a Kulhari from Sombir son of Ramphal in his presence. He was also cross-examined extensively at length. He also confronted with his statement Ex.DA on certain material counts.

11. PW4- Dr. P.P. Lamoria, S.M.O. General Hospital, Rohtak deposed that on 09.12.2000 at 11.00 A.M., he conducted the postmortem examination on the dead body of Rajo wife of Ran Singh. He found the following injuries:

There was stitched wound present on the left side of midline of the scalp. The wound was located 11 cm above left eyebrow on its middle aspect and it was 1 cm lateral to midline on left side. There were present five barber stitches and length of the wound was 7 cm. The wound was bone deep.

On further exploration there was massive sub-scalp hymotoma more so on left side. There was fracture of a scalp bone extending from left temporal bone along the side of coronal suture and fracture lying margin with coronal suture at right end of it. On opening the skull bone there was massive subdural hymotoma

more on right side and fracture line was wider on the left side. No clotted blood was present in between scalp and bone. There was no sharp impression on the bone. All the organs were healthy.

He further deposed that in his opinion, the cause of death was due to crania cerebral injuries (head injury) due to heavy impact. The injury was ante mortem in nature and was sufficient to cause death in ordinary course of nature. In his cross-examination, he deposed that the death has taken place more than 12 hours before the autopsy. Further, he admitted it to be correct that there was only one injury on the head.

12. PW5- Dr. Giri Raj M.O., Civil Hospital, Rohtak deposed that on 08.12.2000, he medico legally examined Dinesh son of Ran Singh, aged 24 years, male, caste Jat, resident of Bhigowa and found the following injuries:

1. A lacerated wound of the size 5 x 1 cm was present in the midline of skull between parietal bones. Fresh bleeding was present. X-ray skull was advised.

Nature of injury was kept under observation. Kind of weapon was blunt. Duration was within 24 hours. Ex.PE is the correct carbon copy of MLR which bears his signatures. Injury No.1 was caused by blunt part of any weapon shown to him.

On the same day, he medico legally examined Kuldeep son of Ran Singh also and found the following injuries:

1. A lacerated wound of the size 5 cm x 1 cm horizontally placed 6 cm behind the forehead. Fresh bleeding was present. X-ray skull was advised.

2. A lacerated wound of the size 4 cm x 1 was present just behind the forehead. Fresh bleeding was present. X-ray skull was advised.
3. An incised wound of the size 5 cm x 1 cm on the posterior part of left forearm. Muscle was cut. Fresh bleeding was present. X-ray left forearm was advised.

All injuries were kept under observation. Injury No.1 and 2 were caused by blunt weapon while injury No.3 was caused by a sharp edged weapon. He proved the copy of MLR as Ex.PF.

On the same day, he medico-legally examined Bhagwani wife of Dharam Singh and found the following injuries:

1. A lacerated wound of the size 1 x 5 cm. on the left side of forehead. Fresh bleeding was present.
2. An incised wound of size 1 x 5 cm on the medial aspect of middle of right thigh. It was skin deep.

Both injuries were simple in nature. Injury No.1 was caused by a blunt weapon and injury No.2 was caused by a sharp edged weapon. He proved the copy of MLR as Ex.PG. In his cross-examination he deposed that on the same day i.e. 08.12.2000, he had also examined Ajit son of Ram Kumar, Daya Nand son of Ram Kumar and Dinesh son of Om Pakrash. He proved their MLRs as Ex.DB, Ex.DC and Ex.DD respectively. He further deposed that the information with regard to arrival of the abovesaid injured was also sent to the police station.

13. PW6- Anil Kumar Jain, Draftsman is a formal witness, who had statedly visited the spot and prepared the scaled site plan Ex.PK.

14. PW7- Bhoodev, MHC is also a formal witness, who had delivered the case property to the FSL without tampering.

15. PW8- SI Ajaib Singh, deposed that on 08.02.2001, he had arrested accused Ram Partap and had interrogated him. Accused Ram Partap suffered his disclosure statement before him which is Ex.PM. He further deposed that pursuant to the disclosure statement, accused Ram Partap had got recovered a jelly, which was taken into police possession vide memo Ex.PM/1 and the sketch thereof is Ex.PM/2. He further deposed that on 28.02.2001, he arrested accused Sanjay and recorded his disclosure statement as Ex.PN, pursuant whereto, the accused got recovered one Pharsa which was taken into police possession vide recovery memo Ex.PN/1. He proved the sketch of Pharsa as Ex.PN/2 and rough site plan regarding place of recovery as Ex.PN/3. He further deposed that on 04.03.2001, he moved an application Ex.PH to the Medical Officer for obtaining opinion regarding the injuries received by Kuldeep and Bhagwani. The doctor gave his opinion as Ex.PH/1. Thereafter, he recorded the statements of witnesses namely MHC Bhoodev, EHC Navrattan and Draftsman under Section 161 of Cr.P.C. and after completion of investigation, he prepared the report under Section 173 Cr.P.C. on 04.03.2001. He was cross-examined at length by the respective defence counsel.

16. PW9- Dr. Ashok Rathi deposed that on 08.12.2000 at 12.20 p.m. he medico-legally examined patient Viney Kumar son of Ran Singh, 18 years male, resident of VPO Bigowa Tehsil Charkhi Dadri, District Bhiwani. He was brought by his cousin brother Kulvinder son of Dharam Singh, VPO Bigowa in causality with alleged history of assault on 08.12.2000 at 7.00 a.m. at his residence. Patient was taken to Civil Hospital, Charkhi Dadri where PI was

done and was referred to PGIMS Rohtak. He further deposed that the patient was conscious. Pulse was 84 per minute. B.P. was 140/80 mm.Hg. Pupil was normal shape size reacting to light bilateral. He was responding to verbal command. On examination, he found the following medico legal injuries:

1. Sharp penetrating incised wound of size 1.5 cm X 1.5 c.m. with gut omentum protruding through the wound was present on the epigastric region. It was 6 cm below the sternal angle in the midline. Fresh oozing of blood on touching was present.
2. An incised wound of size 5 cm x 1 cm was present on the right parietal region of the scalp. It was 15 cm. from the right pinna. Fresh bleeding was present.
3. A diffuse swelling of size 4 cm x 3 cm was present over the right dorsal aspect of the hand. No external mark of injury seen.

Any other finding might have included in the MLR during specialist examination.

17. PW10- Bisham Chander, Reader to D.M., Bhiwani deposed that on 13.03.2001, Shri Sant Kumar, IAS, the then District Magistrate Bhiwani accorded the sanction for prosecution against accused Daya Nand, which is Ex.PU. He identified the signatures of Shri Sant Kumar, IAS on Ex.PU and stated the same was signed in his presence.

18. PW11- Rohtash Singh ASI is a formal witness and he deposed that on 08.12.2000 he had recorded the formal FIR in the present case, which has been proved on record Ex.PB/2.

19. PW12- Inspector Amar Singh, who is I.O. of the case deposed in verbatim about the investigation conducted by him and proved all relevant

documents available on record. He took photographs, got prepared rough site plan as Ex.PV and also took in possession the bloodstained earth from the spot. He further deposed that he had taken in possession the sealed parcel of clothes of injured Viney Kumar and recorded the statement of said Viney Kumar on 11.12.2000. He arrested the accused persons and interrogated them. Accused Sombir had produced one sword before him, accused Dinesh Kumar had produced one Kassi (spade) before him and accused Daya Nand had produced one pistol and a sword too. All the necessary formalities were carried out by him alongwith effecting recoveries also. Accused Anand produced a Pharsa before him on 25.12.2000. All the weapons produced by respective accused persons were taken into police possession vide separate recovery memos. He was extensively cross-examined at length.

20. PW13- Navrattan EHC appeared before the Court and deposed regarding the special report of the case Ex.PB/2, which was statedly handed over to him by ASI Rohtash Singh. He delivered the same to the Illaqa Magistrate without any delay. In his cross-examination, he deposed that the residence of the Illaqa Magistrate was at a distance of 150 yards from the police station. He denied the suggestion that the FIR was ante dated and ante time.

21. PW14 -Ran Singh, husband of deceased Smt. Rajo also appeared before the Court and narrated the entire prosecution version in toto. He deposed that he saw his wife Rajo, sons Dinesh, Kuldeep and Viney, his Bhabhi Bhagwani Devi in injured condition. Injured Dinesh was lying on cot whereas all other injured persons were lying on the ground. On seeing them coming, the accused persons had fled away from the spot alongwith their respective weapons. He further deposed that the I.O. had recorded the disclosure statement

of accused Daya Nand in his presence on 16.12.2000, which is Ex.PAA. Similarly, he proved the disclosure statement of accused Satish as Ex.PBB. He further deposed that on the next date, accused Daya Nand got recovered one pistol, which is Ex.P5. He proved the sketch of pistol as Ex.PAA/1 and recovery memo thereof as Ex.PAA/2. Similarly, he proved the sword Ex.PBB/1 which was got recovered by accused Satish. Sketch of the sword is Ex.PBB/2 and recovery memo is Ex.PBB/3. He deposed that all the abovementioned documents were signed by him. From a perusal of evidence of PW14-Ran Singh, it is evident that he had come at the spot after the incident and he has not seen any accused persons causing injuries to any of the injured persons.

22. Thereafter, the evidence of prosecution was closed by the learned Public Prosecutor. Statements of accused persons under Section 313 of Cr.P.C. were recorded, wherein all incriminating material and evidence were produced before them, to which they denied all the allegations levelled against them and pleaded their innocence. It has also been stated by accused Dinesh in his statement that the police did not take any action against the complainant party, who were actually the aggressors.

23. In their defence, the accused persons examined HC Om Parkash as DW1, who proved the FIR No.323 dated 30.04.2002 under Section 399 and 402 of IPC registered at Police Station City Panipat. In the said FIR, Kuldeep son of Ran Singh was shown as 'proclaimed offender'. In his cross-examination, he deposed that the said FIR has culminated into acquittal on 02.01.2003.

24. DW2- Om Parkash son of Ram Mehar deposed that a panchayat was convened in the village and about hundred persons had assembled in the said Panchayat. He further deposed that there was a talk going on amongst the

villagers that accused Sanjay has been implicated falsely in the present case. On this, Ran Singh, the husband of deceased Smt. Rajo stated in the Panchayat that Sanjay had got a penalty of Rs.10,000/- imposed upon him from the Electricity Department on account of tampering with the electricity meter and due to this reason, Sanjay has been implicated in this Case. In his cross-examination, he admitted that he is neither Panch nor Sarpanch, Numberdar or Chowkidar of the village nor did he hold any such office in the past also. He further deposed that besides him, Gulab Namberdar, Ex-Panch Ude Sigh, Subedar Rameheswar, Panch Baljeet, Sarpanch Kashmir, Ex-Sarpanches Surat Sigh and Sube Singh had assembled.

25. DW3- Kapoor Singh deposed that accused Sanjay was known to him as Sanjay Kumar was his tenant from January 2000 to December 2000.

26. DW4- Jai Bhagwan deposed that he is posted as Rifleman in 18th Assam Rifles. He further deposed that accused Sombir is his real brother and he stayed with him from 25.11.2000 to 22.12.2000 in Lunglei in Mizoram for getting recruitment in Army. In his cross-examination, he failed to produce any document regarding the advertisement for filling up the special vacancy or general vacancy.

27. Thereafter, the defence evidence was closed vide separate statement made by the learned counsel representing the accused persons before the trial Court and after hearing both sides, the learned trial Court passed the impugned judgment and order dated 27.03.2004 convicting and sentencing the accused persons. On the other hand, the learned Principal Magistrate, Juvenile Justice Board, Bhiwani acquitted the Juvenile Sandeep and convicted the

Juvenile Ramesh, however, while passing order of sentence, convict Ramesh was released on probation.

28. Aggrieved of the same, the appellants preferred the appeals No.CRA-D-356-DB-2004 and CRA-D-412-DB-2004; whereas the complainant Dinesh Kumar son of Ran Singh preferred the Criminal Revision No.2390 of 2009 challenging the judgment passed by the Principal Magistrate, Juvenile Justice Board, Bhiwani.

29. Learned counsel appearing on behalf of the appellants contend that the findings recorded by the trial Court are erroneous, illegal, perverse and suffer from grave misappreciation of evidence led before it. The trial Court failed to notice that there were certain material discrepancies in the depositions of the prosecution witnesses. They further submit that the trial Court has given undue weightage to the evidence of prosecution witnesses and totally ignored the testimonies of the defence witnesses. It is further submitted that trial Court failed to ascertain that the prosecution had not been able to prove the guilt of the appellants beyond shadow of all reasonable doubts and as such, the appellants deserved to be acquitted by giving them the benefit of doubt. However, the trial Court passed the impugned judgment without applying its judicious mind. Learned Counsel for the appellants, therefore, prayed that the impugned judgment may be set aside and the appellants may be acquitted of the charges framed against them.

30. On the other hand, learned State Counsel vehemently opposed the submissions made by the learned counsel for the appellants on the grounds that the trial Court has passed a well-reasoned judgment which is based upon correct and appropriate appreciation of evidence led and material produced before it.

There is no impropriety, perversity or illegality in the said judgment. The presence of the accused persons at the place of occurrence is very well established on record and the injuries inflicted by them to the complainant party including deceased Rajo have also been duly proved on record by way of leading cogent and convincing medical evidence. The weapons used in the commission of the offence have also been duly recovered from the accused persons and later on produced and proved before the trial Court during the trial. Hence, it cannot be said that the impugned judgment passed by the trial Court is illegal, perverse and based on incorrect appreciation of evidence. Learned State Counsel thus prayed for dismissing the appeals and upholding the impugned judgment.

31. On the other hand, learned Counsel for the complainant-Revisionist in CRR-2390-2009 argued that the learned Principal Magistrate, J.J. Board, Bhiwani has passed the impugned judgment dated 02.04.2009 without taking into account the well-knitted chain of evidence which was sufficient to bring home the guilt of the respondents namely Ramesh and Sandeep. However, the Juvenile Justice Board acquitted the Juvenile Sandeep and released the Juvenile Ramesh @ Mandu on probation. He further argued that even at the time of releasing Juvenile Ramesh @ Mandu on probation, no compensation has been awarded for the complainant or the injured persons. He further submitted that where heinous offence like Sections 302 and 307 of IPC are involved, no probation can be granted and the learned Principal Magistrate, J.J. Board, Bhiwani failed to take into consideration the said settled proposition of law. Hence, he prayed for setting aside the impugned judgment dated

02.04.2009 and for convicting and sentencing the respondents-Juveniles accused in the same manner as the appellants in the appeals.

32. We have heard the learned counsel for the respective parties and have gone through the documents and other material available on record with their able assistance.

33. Upon a perusal of the record and the evidence placed on record, it becomes evident that some of the accused persons namely Daya Nand and Dinesh as well as one Ajit had also sustained injuries, which have not been explained by the prosecution. The said injuries are detailed as under:-

Injuries on the person of Ajit:

A lacerated wound of the size 2 x 1 cm on the temporal region. Fresh bleeding was present. X-ray skull was advised.

Opinion

Injury was kept under observation, caused by blunt weapon and probable duration was within 24 hours.

Injuries on the person of accused Daya Nand

- 1 An incised wound of the size of 3 x .5 cm spindle Shape on the anteromedial aspect of lower part of left forearm. Fresh bleeding was present. X-ray left forearm was advised.
2. A contusion 3 x 2 cm was present on the middle of posterior part of left forearm. Reddish coloured and tender. X-ray left forearm was advised.
3. An abrasion 2 x 2 cm was present on the posterior part of left axilla. Reddish in colour. of left axilla.

Opinion

Injury No.1 & 2 were kept under observation and injury No.3 was simple. Injuries No.2 and 3 were caused by blunt weapon and injury No.1 was caused by a sharpened edged weapon. All the injuries were within 24 hours of duration.

Injuries on the person of Dinesh son of Om Parkash

1. Circular contused abrasions on the tip of nose involving both alae nasi one side piercing. Fresh bleeding was present. X-ray nasal was advised.
2. A contusion 3 x 2 cm present on the left arm. Reddish in colour and tender.

Opinion

Injury No.1 was kept under observation and injury No.2 was simple in nature. Injury No.1 was caused by teeth bite and injury No.2 was caused by some blunt weapon. Duration of both injuries was within 24 hours.”

34. Apparently, the injuries suffered by the abovesaid accused persons are not serious in nature, rather most of them are contusions and abrasions, which are simple in nature. Whereas on the other hand, the complainant party have suffered serious injuries which resulted in the death of Rajo wife of Ran Singh. If there would have been a free fight or if the complainant party would have been the aggressors, then there was slight possibility of suffering major injuries by the complainant side. But a careful perusal of the injuries sustained by accused Daya Nand and Dinesh shows that the same are simple in nature and the possibility of their being self-inflicted can also not be ruled out. It would also be apt to mention herein that the weapons used in the offence have been

recovered from the accused persons and the same were deadly weapons like, kulhari, pharsa, kassi and country-made pistol. Whereas on the other hand, no weapon has ever been reported to be recovered from the persons of complainant side. Hence, in this view of the matter, it cannot be presumed that the accused were not the aggressors and the attack opened by them on the complainant was not preplanned.

35. Accused Dinesh is stated to have carried a kassi and delivered a blow on the head of the complainant with the same. Accused Daya Nand is stated to have caught hold of the complainant by the neck and thrown him to the ground. Thereafter, he took out his pistol and fired at Viney, which hit him on his front. Later on, this version has been modified in the deposition before the trial Court assigning a new role to accused Daya Nand. It is stated that when the gunshot fired by Daya Nand at Viney missed, he took sword from co-accused Satish and stabbed Viney in the abdomen. Later, a country-made pistol was recovered from Daya Nand which he allegedly used to fire at Viney, however, Viney did not suffer any firearm injury.

36. Accused Sombir is stated to have given a Kulhari blow on the head of Viney and a sword blow on the hand of Kuldeep. A sword (talwar) is stated to have been recovered from Sombir. The injuries sustained by Kuldeep are two lacerated wounds behind his forehead and one incised wound on the posterior aspect of the back, which was muscle deep. Injury No.3 on the person of Kuldeep was caused by a sharp-edged weapon.

37. Accused Sandeep is stated to have given a ballam blow on the right thigh of Bhagwani and on the head of Kuldeep. Accused Satish is stated to have

given a sword blow on the head of deceased Rajo and accused Sanjay is stated to have inflicted a pharsa blow on the head of deceased Rajo.

38 At the same time, this Bench has also taken note of the fact that accused Ram Partap and Juvenile Ramesh have not been attributed any injury although they are stated to have been armed with a jelly and an axe respectively.

39. Firstly, in the alleged occurrence, it stands well proved on record that nobody has suffered any firearm injury. However, the FIR mentions the use of firearm by accused Daya Nanad, which version was later on improvised while leading evidence before the trial Court.

40. It has also come on record that the occurrence in question took place outside the house of the complainant when the accused persons parked their scooter in front of the complainant's tractor and thereafter started inflicting injuries to the complainant party. It is further evident from the record that all the accused persons were armed with deadly weapons at the time of attack. Thus, it cannot be presumed that the complainant party was the aggressor nor can it be termed as a free fight. From the genesis of the matter, it is clear that accused Sanjay and Satish had given injuries on the head of deceased Rajo with sharp edged weapons. Accused Sanjay was armed with a pharsa whereas accused Satish was armed with a sword. Both are lethal weapons and as such, it cannot be presumed that the said accused persons were unprepared for this confrontation. Moreover, the injuries which have allegedly been suffered by deceased Rajo and attributed to accused Sanjay and Satish stand duly proved and corroborated by the medical evidence led on record. Furthermore, the other

accused persons have also been attributed specific injuries which have also been duly proved and corroborated by medical evidence. The aim and object of the accused persons were thus very clear and have been duly proved on record by the prosecution by leading cogent and convincing evidence. Furthermore, the discrepancies as noticed by the learned counsel for the appellants are of no help to the appellants since the same are minor in nature and as per the settled principles of law minor discrepancies are bound to occur with the passage of time. Further the injuries allegedly suffered by accused persons are also of no help to them since by virtue of these injuries, their presence is fixed at the spot. However, with regard to accused Rampartap and Ramesh, it has duly come on record that no injury has been attributed to either of them. However, they have been sentenced alongwith the other accused persons by the trial Court with the aid of Section 149 of the IPC. However, since no specific injury has been attributed to accused Ram Partap and Ramesh, their conviction seems to be erroneous and cannot be sustained in the eyes of law. Hence, while upholding the conviction and sentence of all other accused-appellants, we set aside the impugned judgment qua conviction and sentence of accused Rampartap and he is acquitted of the charges framed against him. His surety/bail bonds also stand discharged. It is further noticeable that accused-convict Dinesh has since been died, hence, the appeal CRA-D-412-DB-2004 stands abated qua him.

41. So far as Juvenile Ramesh is concerned, he has already been released on probation and Juvenile Sandeep has been acquitted by the Principal Magistrate, Juvenile Justice Board, Bhiwani. The judgment passed by the Principal Magistrate, Juvenile Justice Board, Bhiwani is well reasoned and is

based on appreciation of the entire evidence in its correct perspective. Hence, we do not find any ground to interfere with the judgment dated 02.04.2009 passed by the Principal Magistrate, Juvenile Justice Board, Bhiwani and the same is upheld.

42. As a final conclusion, the appeal No.CRA-D-356-DB-2004 and CRR-2390-2009 stand dismissed and appeal No.CRA-D-412-DB-2004 stands partly allowed.

43. The accused-appellant except Ram Partap are directed to surrender themselves before the trial Court/CJM concerned who shall prepare their jail warrants in order to make them undergo the remaining part of their respective sentence.

44. In case, the convicted appellants do not surrender themselves before the trial Court/CJM concerned within a period of six weeks of pronouncement of this judgment, in that eventuality, the concerned CJM shall initiate proper proceedings to secure the presence of convicted appellants.

(N.S. SHEKHAWAT)
JUDGE

(H.S. GREWAL)
JUDGE

MARCH 20, 2026.

Rajender

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No