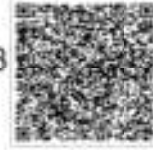


2026:PHHC:056628-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
SR. NO.102

CRA-D-897-DB-2004 (O&M)
RESERVED ON:25.02.2026
PRONOUNCED ON:16.04.2026
UPLOADED ON:-20.04.2026

RAVI KUMAR

...APPELLANT(S)

VERSUS

STATE OF HARYANA

...RESPONDENT(S)

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

Present: Ms. Gurneet Sagoo, Amicus Curiae, for the appellant.

Mr. Yashvir Hooda, Advocate and Mr. Sumit Rehal, Advocate
for the appellant.

Mr. Rajive Sidhu, Sr. DAG, Haryana.

N.S. SHEKHAWAT, J.

1. The appellant has preferred the present appeal against the impugned judgement of conviction dated 06.08.2004 and order of sentence dated 07.08.2004 passed by the Court of Additional Sessions Judge (I) Faridabad, whereby, the appellant was convicted under Section 302 of IPC and was sentenced to undergo imprisonment for life and to pay a fine of Rs.2000/- with default stipulation.

2. The FIR Ex.PA/1 was registered in the present case on the basis of the statement made by Suresh Chand son of Jeet Ram. As per him, on 01.06.2003, he was standing in front of his house with his sister Imarti. About 10/15 days ago, public health had constructed drains in the streets in their village and some residents of the village had laid down full bricks in front of their houses. Some broken bricks were left in the street in front of house of Ram Parsad, Dharambir and Ravi, who were sons of their uncle in relation. They asked Dharambir and Ram Parsad that bricks should be divided equally. However, Dharambir objected to this and started abusing. On this, he and his sister Imarti asked them not to abuse. On this Ram Parsad, Dharambir and Ravi lost their temper and brought *lathis* and axes from their homes and attacked them. Ram Parsad gave a *lathi* blow on his head, whereas Ravi inflicted a blow with handle of the axe on his right hand. Hearing the noise of the fight, their father Jeet Ram, his sister Imarti and brother Padam Singh came there. Ravi inflicted a blow with axe on the head of their father Jeet Ram. Dharambir also gave a blow on the forehead of his father. When his sister Imarti came to rescue, Ravi took a *lathi* from his father Ram Parsad and inflicted a blow on the head of sister of complainant and they also caused injuries to the accused in their defence. In this fight, Padam Singh also received injuries. They raised the noise to save them. On hearing their noise, Sant Ram and Asha Devi, wife of complainant, came there and saved them, otherwise, the accused would have beaten them more. While leaving, they extended a threat to kill them.

3. After necessary investigation, the *challan* was presented against the three accused. After the case was committed, the trial Court framed

charges under Sections 323, 325, 302, 506 and 34 IPC against the appellant and two other accused. However, they pleaded their false implication and claimed to be tried by the trial court.

4. To prove the charge, the prosecution examined fifteen witnesses in all. The prosecution examined PW1 ASI Rohtash Singh, who recorded the formal FIR Ex. PA/1 after receipt of *ruka* Ex. PA. PW2 Krishan Kumar, SI, prepared the report under Section 173 Cr.P.C. and forwarded the same to the Court. The prosecution further examined PW3, Dr. Gopal Parshad, who medico legally examined Imarti and found the following injuries on her person:-

“1.Lacerated wound on fore-head 3 x 1 cm.

2.Tenderness on pelvis bilateral hips-advised x-ray, skull, A.P. and LAT view”.

Patient was admitted under Dr. Joseph and injuries were kept under observation. The copy of MLR was Ex. PB, which was correct carbon copy.

On 01.06.2003, he also medico-legally examined Suresh son of Jeet Ram and found the following injuries on his person:-

“1.Lacerated wound on parietal region 6 x 2 x 1 cm.

2. Lacerated wound on the right temporal parietal region 3 x 2 cm.

3. Stab wound on the right hand.

4. Abrasion on chest - left side. I advised x-ray skull AP and LAT view and also x-ray right hand i.e. AP and LAT view”.

The Injuries were kept under observation by him and copy of MLR was Ex. PC.

On the same day also, he medico-legally examined Jeet Ram son of Budha and found that patient was unconscious, disoriented, with

history of bleeding from mouth and vomiting. The BP was 120/80 mm, pulse was 80 per minute, pupils right side was dilated and slightly reacting with light. Left side pupil was normal. Following injuries were found:-

“1. Cut wound on parietal region 2 x 1 cm. There was fresh bleeding.

2.Lacerated wound on frontal and parietal region.

3.Swelling right eye-brow-advised x-ray skull AP/Lateral.”

All the Injuries were kept under observation by him. The chest bilateral clear. Per Abdomen soft A positive, CS normal, Correct copy of the MLR was Ex. PD. Injured Imarti, Suresh and Jeet Ram were declared unfit to make statements. Later Dr. Kartar Singh declared Imarti and Suresh to be fit for making the statements. Injured Jeet Ram was unfit to make the statement. On 02.06.2003, Dr. Kartar Singh, referred Jeet Ram to All India Institute of Medical Sciences. The prosecution further examined PW4 Suresh, complainant, who initially supported the case of the prosecution as mentioned in the FIR Ex. PA/1. He assigned roles to all the accused in the present case. However, in the later part of his testimony, he stated that neither any accused was arrested in his presence nor anything was recovered from any of the accused. Then he was cross-examined by the public prosecutor. He admitted that the police had lifted the blood-stained earth from the spot. However, he denied his signatures on the recovery memos. Even he had submitted that he had not signed at point A in his statement Ex.PA in the present case. He was cross-examined by the defence counsel and he did not support the case of the prosecution. He stated that none of the accused had inflicted any injuries on them, i.e., he, his father and sister. Even the accused persons were not present at the time of the incident. The

prosecution further examined Dr. R. Joseph, who stated that Jeet Ram remained admitted in his unit till 02.06.2003. The prosecution further examined PW6, Ms. Asha, who also supported the case of the prosecution. In her examination-in-chief, she had also stated that the present appellant was armed with an axe and gave a blow with it on the head of her father-in-law, Jeet Ram. Even Ram Parsad was armed with a *lathi* and gave a blow on the head of Jeet Ram. However, when he was cross-examined on the next day, she also turned hostile. She stated that accused present in the Court did not inflict any injury to them. The prosecution further examined PW7, Satpal Singh, Constable, who had delivered the special report in the present case. ASI Ramesh Chand was examined as PW8, who had conducted the investigation initially in the present case and had recovered the incriminating evidence from the spot. He stated that the appellant got recovered a *lathi* from a mandir situated near the village Allapur and the *lathi* was converted into a sealed parcel and was taken into possession vide memo Ex. PN. The prosecution further examined PW9 HC Himmat Singh, PW10 Constable Virender Kumar, PW11 Anoj Kumar Draftsman and their testimonies are formal in nature.

5. The prosecution further examined Imarti, injured as PW12, but she did not support the case of the prosecution at all and stated that the accused did not cause any injuries to them. The prosecution further examined PW13 Sant Ram, however, he was also declared as hostile in the present case. PW14 Dr. Ashok Kapoor proved the X-ray report of Suresh and no bony injury was seen. There was fracture of second metacarpal bone of Suresh. The prosecution further examined PW15 Dr. Millo Tabin, who

conducted the postmortem examination on the dead body of Jeet Ram and found the following injuries:-

“1.Stitched wound in the vault 6 cm in length, 9 cm from left eye brow and 1 cm from midline.

2.Stitched wound in the left parietal region 8 cm from left eye brow and 6 cm from centre. It was 2 cm in length.

3.Multiple small contused abrasion on the left fore-arm region on posterior aspect.

4.Multiple contused abrasions in left knee anteriorly 1 x 1 cm size”.

On internal examination, there was diffused scalp haematoma on both parietal regions. There was multiple linear depressed fracture of skull on both parietal bone. There was Subdural and subarachnoid haemorrhage on both parietal lobe. The stomach contained digested food about 100 ml. Mucosa-NAD. The following things were preserved, sealed and handed over to the IO:-

“1.Sample of blood in gauge piece.

2.Underwear.”

Time since death was about 1-1/2 days. In his opinion the cause of death to the best of his knowledge and belief was head injury which was sufficient to cause death in ordinary course of nature and was possible by sharp heavy weapon. All injuries were antemortem in nature. There were nine inquest papers countersigned by him. The true carbon copy of the PMR prepared by him in this regard was Ex. PW. Inquest report was Ex. PW/1 consisting of nine pages.

6. After conclusion of the prosecution evidence, the statement of the appellant was recorded separately under section 313 Cr.P.C. and he

stated that complainant concocted a false story and he was falsely involved in a criminal trial. In defence, the appellant did not lead any evidence.

7. Learned counsel for the appellant vehemently submitted that in the present case, the prosecution case rests primarily on three witnesses i.e. PW4 Suresh, PW6 Asha and PW12 Imarti injured. However PW4 Suresh and PW6 Asha supported the case of the prosecution in examination-in-chief. However, in their cross-examination, they completely refused to support the case of the prosecution and were declared hostile. Even they were cross-examined by the learned public prosecutor, but the involvement of the appellant could not be proved in the present case. It has also been alleged that the present appellant was carrying an axe and gave a blow with it on the head of the deceased, however, from the testimony of PW8 ASI Ramesh Chand, it was found that a *lathi* was recovered from the appellant. Even from the evidence led by the prosecution, the innocence of the appellant stood established and the present appeal is liable to be dismissed.

8. On the other hand, learned State counsel has opposed the submissions made by learned counsel for the appellant on the ground that even though PW4 Suresh, PW6 Asha and PW12 Imarti had partly turned hostile, yet, PW4 Suresh and PW6 Asha had supported the case of the prosecution in their examination-in-chief and this part of the testimonies could always be read against the appellant and he has been rightly convicted by the trial Court.

9. We have heard learned counsel for the appellant, learned *amicus curiae* appearing on behalf of the appellant as well as the learned State counsel and perused the record very carefully.

10. The Hon'ble Supreme Court in the matter of *Paramjeet Singh @ Pamma Vs. State of Uttarakhand*, 2011 AIR Supreme Court 200 : 2011 CriLJ 663 : 2010 AIR (SCW) 6616 had laid down the law with regard to the admissibility of the testimony of hostile witnesses. The Hon'ble Supreme Court categorically stated that the evidence of a witness does not become effaced from the record only on the ground that he had turned hostile and his evidence has to be read and considered as a whole to find out as to whether any weight could be attached to it. The Hon'ble Supreme Court had observed as under:-

“15. A similar view has been reiterated by this Court in State of Uttar Pradesh v. Satish, 2005(1) Apex Criminal 437 : (2005) 3 SCC 114; Krishnan v. State represented by Inspector of Police, (2008) 15 SCC 430; Ramesh Bhai & Anr. v. State of Rajasthan, (2009) 12 SCC 603; Subramaniam v. State of Tamil Nadu & Anr., (2009) 14 SCC 415; and Babu v. State of Kerala, JT 2010 (8) SC 560, observing that the evidence produced by the prosecution should be of such a nature that it makes the of the accused sustainable.

Hostile Witness :

16. In State of Gujarat v. Anirudhsing, 1997(4) RCR (Criminal) 513 : (1997) 6 SCC 514, this Court observed as under :

"Every criminal trial is a voyage in quest of truth for public justice to punish the guilty and restore peace, stability and order in the society. Every citizen who has knowledge of the commission of cognizable offence has a duty to lay information before the police and cooperate with the investigating officer who is enjoined to collect the evidence and if necessary summon the witnesses to give evidence. He is further enjoined to adopt scientific and all fair means to unearth the real offender, lay the charge sheet before the court competent to take cognizance of the offence. The charge-sheet needs to

contain the facts constituting the offences charged. The accused is entitled to a fair trial. Every citizen who assists the investigation is further duty-bound to appear before the Court of Session or competent criminal court, tender his ocular evidence as a dutiful and truthful citizen to unfold the prosecution case as given in his statement. Any betrayal in that behalf is a step to destabilise social peace, order and progress."

*17. The fact that the witness was declared hostile at the instance of the public prosecutor and he was allowed to cross examine the witness furnishes no justification for rejecting en bloc the evidence of the witness. However, the court has to be very careful, as prima facie, a witness who makes different statements at different times, has no regard for the truth. His evidence has to be read and considered as a whole with a view to find out whether any weight should be attached to it. The court should be slow to act on the testimony of such a witness; normally, it should look for corroboration to his testimony. (Vide : **State of Rajasthan v. Bhawani & Anr.**, 2003(3) RCR (Criminal) 875 : 2004(1) Apex Criminal 391 : (2003) 7 SCC 291).*

*18. This Court while deciding with the issue in **Radha Mohan Singh @ Lal Saheb & Ors. v. State of U.P.**, 2006(1) RCR (Criminal) 692 : 2006(1) Apex Criminal 229 : (2006) 2 SCC 450, observed as under :*

".....It is well settled that the evidence of a prosecution witness cannot be rejected in toto merely because the prosecution chose to treat him as hostile and crossexamined him. The evidence of such witness cannot be treated as effaced or washed off the record altogether but the same can be accepted to the extent his version is found to be dependable on a careful scrutiny thereof..."

19. In Mahesh v. State of Maharashtra, (2008) 13 SCC 271, this Court considered the value of the deposition of a hostile witness and held as under :

".....If PW 1, the maker of the complaint has chosen not to corroborate his earlier statement made in the complaint and recorded during investigation, the conduct of such a witness for no plausible and tenable reasons pointed out on record, will give rise to doubt the testimony of the investigating officer who had sincerely and honestly conducted the entire investigation of the case. In these circumstances, we are of the view that PW.1 has tried to conceal the material truth from the Court with the sole purpose of shielding and protecting the appellant for reasons best known to the witness and therefore, no benefit could be given to the appellant for unfavourable conduct of this witness to the prosecution".

11. Now adverting to the facts of the present case, from a perusal of the statements of PW4 Suresh and PW6 Asha, it is apparent that both the witnesses had categorically stated that the present appellant was armed with an axe and he gave a blow with it on the head of Jeet Ram, since deceased. The testimonies of both the witnesses have been duly corroborated by the medical evidence in the present case. PW3 Dr. Gopal Parshad, Medical Officer, Diamond Hospital, Palwal, had examined Jeet Ram and had found the following three injuries:-

“1. Cut wound on parietal region 2 x 1 cm. There was fresh bleeding.

2.Lacerated wound on frontal and parietal region.

3.Swelling right eye-brow-advised x-ray skull AP/Lateral.”

Even the prosecution had further examined PW15 Dr. Millo Tabin, who had found the following injuries which were ante-mortem in nature:-

“1.Stitched wound in the vault 6 cm in length, 9 cm from left eye brow and 1 cm from midline.

2.Stitched wound in the left parietal region 8 cm from left eye brow and 6 cm from centre. It was 2 cm in length.

3.Multiple small contused abrasion on the left fore-arm region on posterior aspect.

4.Multiple contused abrasions in left knee anteriorly 1 x 1 cm size”.

He stated that in his opinion, the cause of death, as per his knowledge and belief, was the head injury which was sufficient to cause death in ordinary course of nature. Thus, the ocular account is duly corroborated by the medical evidence in the present case. Still further, we find no force in the submissions made by learned counsel for the appellant that as per the prosecution version, the appellant had caused injury with an axe, whereas a *lathi* was recovered from the appellant as per the testimony of PW8 ASI Ramesh Chand. However, we find no substance in the submission raised by learned counsel for the appellant. In fact, PW4 Suresh and PW6 Asha had clearly and categorically deposed that the injuries were caused by the appellant with an axe on the head of Jeet Ram, since deceased. Even non-recovery of axe or any sharp and heavy weapon from the appellant would not advance the case of the appellant in any manner as it may be omission on the part of the investigating officer of the case or may be the investigating officer of the case had colluded with the accused in the present case. Still further, the law is well settled that the testimony of a witness cannot be rejected only on the ground that he had been declared hostile by the prosecution in the later part of his testimony. The part of statement which had supported the prosecution case can always be made the basis of

conviction of an accused in a criminal trial. Thus, we find no illegality, infirmity or perversity in the impugned judgement of conviction dated 06.08.2004 and order of sentence dated 07.08.2004 passed by the Court of Additional Sessions Judge (I) Faridabad and the same is ordered to be upheld. Consequently, the present appeal is dismissed.

12. The appellant/accused is directed to surrender within 15 days from today, failing which, the CJM concerned shall issue non bailable warrants against the present appellant/accused and shall commit him to custody to serve the remaining sentence of imprisonment.

13. This Court records its appreciation for Ms. Gurneet Sagoo, *Amicus Curiae*, who has rendered able assistance to the Court on behalf of the appellant. Her fee is assessed Rs. 20,000/-, which shall be paid by the Secretary, High Court Legal Services Committee.

14. The case property, if any, may be dealt with as per the rules.

15. Trial Court record be sent back to the trial Court.

16. All pending applications, if any, are disposed of, accordingly.

(N.S.SHEKHAWAT)
JUDGE

(H.S.GREWAL)
JUDGE

16.04.2026
amit rana

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO