

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

222

2026:PHHC:070537



CRR-263-2013 (O&M)
Date of decision: 30.04.2026.

KARNAIL SINGH AND ANOTHER

...Petitioner(s)

VERSUS

THE STATE OF HARYANA

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Vishal Taneja, Advocate,
for the petitioners.

Mr. Paras Talwar, DAG, Haryana.

VINOD S. BHARDWAJ, J. (Oral)

The instant criminal revision petition has been preferred against the judgment of conviction dated 01.02.2010 and order of sentence dated 02.02.2010 passed by the Sub Divisional Judicial Magistrate, Tohana, wherein the revisionist-petitioners, along with two others, have been convicted for the commission of offences under Section 323. 324 and 326 read with Section 34 of the Indian Penal Code, 1860.

A further challenge is raised to the judgment dated 13.12.2012 passed by the learned Additional Sessions Judge, Fatehabad, in Criminal Appeal bearing No.83 of 2010/2012 instituted on 18.02.2010/29.09.2012 to

the extent whereby the appeal was partly allowed only qua Lakhwinder Singh and Jarnail (appellants therein) and acquitted them whereas qua Karnail Singh and Tarsem Singh (petitioners herein), the said appeal was dismissed, thus, affirming the findings of the trial Court.

The petitioners have been sentenced as follows:-

S.No.	Offences/under Sections	Sentence
1.	Under Section 323 IPC read with Section 34 IPC	Rigorous imprisonment for one year.
2.	Under Section 324 IPC read with Section 34 IPC	Rigorous imprisonment for two years and fine of Rs.500/- each.
3.	Under Section 326 IPC read with Section 34 IPC	Rigorous imprisonment for three years and fine of Rs.1,000/- each.

In default of payment of the fine, the petitioners were directed to undergo simple imprisonment for 7 days.

Briefly stated, the case of the prosecution is that on 13.8.2004, on receiving medical ruqa regarding admission of injured Jarnail Singh son of Kapoor Singh and Kapoor Singh son of Kishan Singh, from Police Station City Tohana, Shri Rajbir Singh, Assistant Sub Inspector, along with fellow officials, reached at General Hospital, Tohana. The Doctor opined that both injured parties were fit to make statements. So, again on 14.8.2004, ASI Rajbir Singh reached the General Hospital, Tohana, and when the Doctor opined that the injured Jarnail Singh was fit to make a statement, the

same was recorded. Injured Jarnail Singh son of Kapoor Singh, resident of the village Girnu (hereinafter referred to as 'complainant'), narrated that on that date at about 7.30 a.m., he, along with his mother and father, left their village while riding on their motorcycle. From the opposite side, Tarsem Singh son of Santa Singh, Karnail Singh son of Tarsem, Jarnail Singh son of Tarsem and Lakhwinder son of Tarsem Singh, all residents of the village Girnu (hereinafter referred to as 'accused') came there and stopped them. First of all, the accused Karnail Singh gave a gandasi blow on his left hand. He gave two other blows on his right thigh and the right side of the waist. Accused Tarsem gave a gandasi blow on the head of Kapoor Singh and another gandasi blow on the thumb of the left hand. His brother Gurmeet also received simple injuries. On raising an alarm, Ranjeet Singh son of Santa Singh and Joga Singh son of Sardar Puran Singh, came there, and on seeing them, all the accused fled. A request was made to initiate criminal proceedings against the accused. Based on this statement, a formal first information report was registered. After the registration of the formal first information report, the police started investigation. During the investigation, the accused were formally arrested and later on released on bail. After completion of the investigation, the police presented a report under Section 173 of the Code of Criminal Procedure.

Copies of the challan were supplied to the accused free of costs, as envisaged under Section 207 of Cr.P.C. Thereafter, vide order dated 11.1.2005, the accused were charge sheeted for the offence punishable under Section 323, 324 and 326 read with Section 34 of the Indian Penal Code, to which accused pleaded not guilty and claimed trial.

Vide order dated 17.12.2008, amended charge sheet for the offence punishable under Section 323, 324 and 326 read with Section 34 of the Indian Penal Code, was served upon the accused, to which they pleaded not guilty and claimed trial.

To prove its case, the prosecution examined Jarnail Singh as PW1; Ranjeet Singh as PW2; Joga Singh as PW3; Kapur Singh as PW4; Gurmeet Singh as PW5; Dr. M. L. Gupta as PW6; ASI Rajbir Singh as PW7 and EHC Ramesh Kumar as PW8. Thereafter, the evidence of the prosecution was closed by the Assistant Public Prosecutor for the State on 10.7.2008. After the amended charge sheet was served upon the accused on 17.12.2008, all the prosecution witnesses were recalled for examination. Statements of the accused under Section 313 of the Code of Criminal Procedure were recorded, wherein they were confronted with the incriminating evidence led against them. They denied the allegations and pleaded innocence. However, no evidence was led in defence.

Upon consideration of the evidence led by parties as well as arguments before the Court, the learned Trial Court vide its judgment of conviction dated 01.02.2010 held the accused guilty for the commission of offences under Sections 323, 324 and 326 read with Section 34 IPC and sentenced them vide order dated 02.02.2010 as detailed above.

Aggrieved by the said judgment of conviction and order of sentence, the accused preferred a statutory appeal before the Additional Sessions Judge, Fatehabad. Vide judgment dated 13.12.2012, the said appeal was dismissed qua the petitioners.

Counsel appearing for the petitioners contends that the petitioners have been falsely implicated in the present case, as the incident in question took place on 13.08.2004 at about 7:30 A.M. However, the FIR was registered on 14.08.2004 at about 6:50 P.M., which shows that the delay was utilized in having consultations and deliberations to falsely implicate the petitioners as well as other family members. He contends that in the appeal preferred by the petitioners along with co-convicts, co-convicts Jarnail and Lakhwinder Singh were acquitted by the Appellate Court, which makes the case of the prosecution doubtful regarding the petitioners as well. He contends that the medical evidence is inconsistent with the ocular version as such the petitioners herein also deserve to be acquitted. He contends that the contradictions and discrepancies in the statements of prosecution witnesses have not been considered and have been brushed aside by the trial Court. He contends that PW2 Ranjeet Singh and PW3 Joga Singh were not present at the spot, but they were introduced as eyewitnesses to the incident. The evidence is hearsay, which is not admissible in evidence. He further contends that since the co-convicts of the petitioners have been acquitted based on the very same evidence, the petitioners also deserve to be acquitted.

The State counsel, on the other hand, contends that all the arguments have already been considered by both the Courts and finding lack of merit, the petitioners were rightly convicted. It is argued that the trial Court as well as the appellate court, considered the prosecution evidence and passed reasoned judgments. No fault can be found with the said judgments as no illegality, perversity or misappreciation of evidence either by the trial

Court or the appellate Court has been pointed out. Hence, the present revision petition deserves to be dismissed.

I have heard learned counsel appearing on behalf of the parties and have also gone through the documents appended along with the present petition, including the judgments of the trial Court as well as the appellate Court.

Before proceeding further into the matter, it is apposite to refer to the discussion and findings recorded by the first Appellate Court. The relevant part thereof reads thus:-

“15. The learned counsel for the appellants, while challenging the impugned judgment of conviction and order of sentence, contended that as per the complaint Ex.PA, the occurrence had taken place on 14.8.2004 at about 7.30 a.m., whereas, medico legal reports of all the three injured, namely, Kapur Singh, Jarnail Singh and Gurmeet Singh, pertain to 13.8.2004 and, thus, it follows that complaint Ex.PA does not pertain to the occurrence in question and on this count alone, the learned counsel submitted that appellants may be acquitted.

16. However, I do not find any merit in the contention. All the three medico legal reports Ex.PW6/A, Ex.PW6/B and Ex.PW6/C are of dated 13.8.2004. The time of medico legal examination is 9.35 a.m. and duration of injuries has been described as within six hours. On 13.8.2004 itself, the doctor had sent medical ruqqa Ex.PW6/D regarding admission of injured Kapur Singh and Jarnail Singh in the hospital. The police had also arrived and moved application Ex. PW6/E, on which, the doctor had declared both the said injured unfit for statement on 13.8.2004 and it was on 14.8.2004 that they were

declared fit and it was, thereafter, that statement of Jarnail Singh Ex. PA was recorded which had formed the basis of the FIR. Thus, mentioning of the date as 14.8.2004 in the complaint Ex. PA is only a clerical lapse due to oversight and, therefore, not of much consequence and the same has no adverse bearing on the case.

17. The learned counsel for the appellants, then, submitted that the ocular version is totally contrast to the medical evidence which renders the entire evidence led by the prosecution, as untrustworthy and unreliable. Elaborating his contention, he submitted that as per the complaint Ex. PA, appellant-accused-Tarsem Singh was armed with a gandasa and appellant-accused-Karnail Singh was armed with a gandasi and they had caused injuries to Kapur Singh and Jarnail Singh, respectively. He further submitted that, however, all injuries on the person of Kapur Singh are by blunt weapon which were not possible with gandasi or gandasa which are sharp edged weapons. He further submitted that two of the three injuries on the person of injured Jarnail Singh are by blunt weapon which were again not possible by gandasi. He further submitted that as far as appellants Jarnail Singh and Lakhwinder Singh are concerned, they are not assigned any role in the complaint Ex.PA nor are they alleged to be armed with any weapon. He further submitted that one of the said accused, at the evidence stage, is alleged to be armed with pipe and the other accused is alleged to be armed with a knife which is a clear improvement and the same has to be ignored. He further submitted that common intention can also not be attributed to all the appellants because two of the appellants, namely; Jarnail and Lakhwinder Singh are not assigned any role whatsoever in the complaint Ex. PA and they have been named just to implicate all the male members of the family in this case. The learned counsel further submitted that the

weapons of offence produced at trial did not have any FIR number or particulars of the case and, therefore, the same could not be connected to the present case. Hence, the learned counsel argued that on various counts, prosecution case is rendered highly doubtful and finding of guilt recorded by the learned trial court is illegal, erroneous and not based on proper appreciation of evidence. Therefore, he prayed that the present appeal may be allowed, the impugned judgment of conviction and order of sentence may be set aside and the appellants may be acquitted of the charge by giving them the benefit of doubt.

18. On the other hand, Shri I.P. Khod, learned PP, assisted by Shri R.S. Chatrath and Sachin Sethi, Advocates, resisted the said contentions and submitted that medical evidence is in consonance with the oral deposition and minor variation has to be ignored because the person at the receiving end may not exactly know as to how and by whom, injuries were caused to him because his primary concern at the given time would be to save himself rather than noticing as to what injury is being caused by which of the assailant. He further submitted that in this case, all the three injured and both the eye witnesses have been examined and their evidence has stood the test of cross-examination. He further submitted that evidence of the injured witnesses has greater evidentiary value and the same is not to be discarded lightly. Hence, he argued that finding of guilt of the appellants is well based on appreciation of evidence and the same is not liable to be interfered with.

19. After giving my thoughtful consideration to the rival contentions and appreciating the entire evidence adduced in this case, I am of the considered opinion that guilt of appellants Karnail Singh and Tarsem Singh only is proved for the commission of offence punishable under Sections 323, 324 and 326 read with Section 34 of the IPC and guilt of the remaining

two appellants, namely; Jarnail Singh and Lakhwinder Singh, is not proved beyond reasonable doubt. At the outset, it may be mentioned that all the four appellants are father and sons. While Tarsem Singh is the father, the remaining three appellants are his sons. The first version regarding the occurrence is in the shape of complaint Ex. PA made to the police on 14.8.2004 by injured- complainant- Jarnail Singh. Though, as per the medical opinion, injured- complainant- Jarnail Singh and injured- Kapur Singh were unfit for statement on 13.8.2004 but there is nothing coming forward as to why statement of Gurmeet Singh, the other injured person, was not recorded by the police more so when, he was also medico legally examined at the same General Hospital, Tohana, along with the other two injured persons by the same doctor- Dr. M.L. Gupta. In fact, statement Ex. PA was recorded on 14.8.2004 at 6.50 p.m. which formed the basis of the FIR. Thus, there was delay of about 35 hours in lodging the FIR and possibility of some exaggeration, manipulation and implication of more persons in the occurrence, could not be ruled out. Nevertheless, in the complaint Ex.PA, no injury whatsoever is attributed to appellants- Jarnail Singh and Lakhwinder Singh and they are also not alleged to be armed with any weapon. It is simply stated in the complaint Ex. PA qua these persons that they were present with their co-accused Karnail Singh and Tarsem Singh and they had all restrained the injured persons from going further. Therefore, by very nature of the complaint Ex. PA, which being the first version to the police, is of immense importance, appellants Jarnail Singh and Lakhwinder Singh had no role and their implication by virtue of Section 34 of the IPC cannot be inferred or made out. Though, in the depositions of all the injured and eyewitnesses, it has come that said appellants Jarnail Singh and Lakhwinder Singh had also caused injuries but this is a clear improvement upon the earlier version given to the police and, thus, the same has to be

ignored. Mere presence of appellants Jarnail Singh and Lakhwinder Singh at the time of occurrence with their two co-accused Karnail Singh and Tarsem Singh would not be sufficient to sustain their conviction by applying Section 34 of the IPC. Thus, as far as appellants-Jarnail Singh and Lakhwinder Singh are concerned, their guilt or their active or passive involvement in the occurrence is not proved beyond reasonable doubt and finding of their guilt recorded by the learned trial Magistrate is liable to be reversed and the case qua them is held as not proved beyond reasonable doubt.

20. As regards appellants Karnail Singh and Tarsem Singh, there is cogent and convincing evidence and their finding of guilt recorded by the learned magistrate is well reasoned and well based on appreciation of evidence. In the complaint Ex. PA, Karnail Singh has been assigned specific role of causing injuries on the person of Jarnail Singh complainant by gandasi. Similarly, appellant Tarsem has been attributed specific injuries by gandasa on the person of Kapur Singh. Simply because, some injuries on the persons of injured Kapur Singh and Jarnail Singh are blunt, it cannot be held that the same were not possible by gandasi or gandasa because, it has come in the deposition of the prosecution witnesses that when the blows were being given, the same were taken on hands. Thus, in the face of this evidence, blunt injuries were also possible with gandasi etc. The medico legal examination was prompt. The occurrence had taken place at 7.30 a.m. and the three injured were medico legally examined at 9.35 a.m. and they had arrived at General Hospital, Tohana, 9.15 a.m. The injuries on the persons of the injured coincide with the ocular version. Minor discrepancies in the depositions of the prosecution witnesses add to the truthfulness of their version rather than shattering the same. It is so far well settled that evidence of injured witnesses has greater evidentiary value and their statements are

not to be discarded lightly unless compelling reasons exist. My these observations are fortified by a decision of the Hon'ble Supreme Court rendered in State of Madhya Pradesh Vs. Mansingh & Ors. reported as 2003 (2) Apex Court Judgments, 277. In the present case, Dr. M. L. Gupta has appeared as PW6 and he has not only proved the medico legal reports of three injured persons but he has also proved the grievous nature of injury No.1 on the person of Jarnail Singh which had been caused by sharp weapon and there was fracture both bones left forearm. Thus, the present case, which is based on eye version, is proved beyond reasonable doubt qua appellants Karnail Singh and Tarsem Singh and all the three injured persons, besides two eye witnesses, have duly deposed on oath and their testimony qua them has stood the test of cross-examination. The doctor and the Investigating Officer have also given their depositions. The learned Magistrate has appreciated the evidence and recorded firm finding of fact qua appellants Karnail Singh and Tarsem Singh and finding of their guilt does not suffer from any misreading of evidence or illegality. Therefore, finding of guilt of appellants Karnail Singh and Tarsem Singh is sustained and affirmed.”

It has been specifically observed by the appellate Court that the doctor had declared both the injured unfit for statement on 13.8.2004, and it was only on 14.8.2004 that they were declared fit, whereafter, the statement of Jarnail Singh (Ex. PA) was recorded, which had formed the basis of the FIR. It was thus observed that mentioning of the date as 14.08.2004 in the complaint (Ex.PA), as pointed out by the counsel for the petitioners, is only a clerical lapse due to oversight and cannot be of any help to the petitioners.

Further, inconsistencies in the medical evidence as well as ocular version as suggested by the counsel for the petitioners, have been

considered by specifically referring to the evidence of the doctor examined by the prosecution. It has been noticed by the appellate Court that in the complaint (Ex.PA), Karnail Singh (petitioner herein) had been assigned a specific role of causing injuries on the person of Jarnail Singh, the complainant, by gandasi whereas Tarsem Singh (petitioner herein) had been attributed specific injuries by gandasa on the person of Kapur Singh. Merely because some injuries to the injured have been declared blunt, it cannot be held that injuries were not possible by gandasi or gandasa. It has come in the evidence that the blows were inflicted on hands, making blunt injuries possible with gandasi etc. The medico-legal examination was prompt, and minor discrepancies in the depositions of the prosecution witnesses have not shattered the case of the prosecution when weighed with the medical evidence brought on record.

So far as the argument regarding the acquittal of co-convicts by the appellate Court is concerned, it has been noticed by the Appellate Court that mere presence of those co-convicts at the place of occurrence with their two co-accused Karnail Singh and Tarsem Singh (petitioners herein) would not be sufficient to sustain their conviction by applying Section 34 of the IPC. Thus, their guilt or their active or passive involvement in the occurrence was held to be not proved beyond reasonable doubt, resulting in a finding of their acquittal by the Appellate Court. It is further noticed by the appellate Court that in the complaint Ex.PA, no injury whatsoever was attributed to the co-convicts of the appellants, namely, Jarnail Singh and Lakhwinder Singh, and it was also stated in Ex.PA that they were not armed with any weapon. Thus, it is evident that ocular version as well as medical

evidence has been duly considered by the trial Court and appreciated by the Appellate Court.

Counsel for the petitioners has failed to point to the evidence of any witness from where it can be established that the independent witnesses PW2 Ranjeet Singh and PW3 Joga Singh were not present at the spot; hence, their evidence cannot be termed as hearsay evidence, rather, the same proved the case of the prosecution, which stands corroborated by other evidence.

Thus, from the appreciation of the impugned judgments as well as the medical and ocular evidence on record, it is clear that all the aspects have already been considered by both the Courts, and the same does not require any further re-appreciation of the evidence.

Besides, in a revision petition, this Court does not undertake reappreciation of the evidence already adduced, its jurisdiction being circumscribed to examining whether there exists any illegality, perversity, or impropriety in the judgments under challenge. From a perusal of the judgments under challenge, I find that there is no illegality, perversity or impropriety in the same, and the findings cannot be held as bad in law. Consequently, finding no merits, the present revision petition is accordingly dismissed as regards the aspect of conviction.

At this stage, learned counsel for the petitioners prays that the sentence imposed upon the petitioners may be reduced to the one already undergone by them in view of the mitigating circumstances. He contends that the petitioners are first-time offenders with no criminal antecedents and they have already undergone an actual sentence of more than 01 month, as is evident from the custody certificates placed on record. Additionally,

petitioner No.1 Karnail Singh was aged 24 years, and petitioner No.2 Tarsem Singh was aged 52 years at the time of the incident in the year 2004. Since the incident pertains to the year 2004, a period of nearly 22 years has elapsed since then. The petitioners would be in the age bracket of 46 and 74 years, respectively, and their incarceration at this stage would hamper their social obligations. Further, there were no adverse reports against them from any quarter during the trial, appeal or present revision.

I find that the prayer made by the counsel for the petitioners regarding the reduction of sentence to the one already undergone to be fair. Therefore, in my opinion, ends of justice would be met in case the sentence of the petitioners is reduced to that already undergone.

Accordingly, the present revision petition is partly allowed in terms as aforesaid.

April 30, 2026.

raj arora

(VINOD S. BHARDWAJ)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No