



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

235 (02 cases)

**CRR-167-2016 (O&M) &
CRR-302-2016 (O&M)
Date of decision: 23.04.2026**

1. CRR-167-2016

Surjit Singh and others

...Petitioner(s)

VERSUS

State of Punjab

...Respondent(s)

2. CRR-302-2016

Happy Singh @ Harpinder Singh

...Petitioner(s)

VERSUS

State of Punjab

...Respondent(s)

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

Present :- Ms. Mehak Sawhney, Legal aid counsel for the petitioner(s)
in both the petitions.

Dr. (Ms.) Savi Nagpal, AAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

Both the present revision petitions arise out of the same incident and have been separately preferred by the accused–convicts, hence, they are being decided by a common judgment.

2. Brief reference to the facts are however being made from **CRR-167-2016** titled as ***“Surjit Singh and others Vs. State of Punjab”***.

3. These cases arise out of FIR No. 197 dated 30.08.2005, registered under Sections 452, 325, 323, 427 and 34 of the Indian Penal Code at Police Station Sadar Jalalabad (West), on the statement of the complainant, Kartaro Bai. As per the allegations set out in the complaint, on

28.08.2005 at about 05:00 PM, the accused persons, in furtherance of their common intention, committed criminal trespass by forcibly entering the house of the complainant and inflicted injuries upon her. It was further alleged that damage to property was also caused during the said occurrence.

4. Pursuant to the registration of the FIR, the matter was investigated by the police authorities. Upon completion of investigation, a final report under Section 173 Cr.P.C. was presented before the Court.

5. On finding a prima facie case, charges for commission of offences under Section 452, 325, 323, 427 & 34 IPC were framed against the accused persons. The prosecution examined as many as 06 witnesses in support of its case and thereafter closed the prosecution evidence.

6. Statements of accused, under Section 313 Cr.P.C., were recorded and the entire incriminating evidence was put to the petitioners which they denied and pleaded false implication on the ground that the case is a counterblast to FIR No. 144 dated 09.06.2008, which had been earlier registered at the instance of Surjit Singh, against Balkar Singh, who is the grandson of the complainant. It was contended that the instant FIR was lodged with an ulterior motive to exert pressure upon the appellant-accused Surjit Singh to withdraw and not pursue the earlier case. In defence, the petitioners examined Head Constable Gurmej Singh as DW-1 in support of their version.

7. Parties were heard at length and upon consideration of respective arguments, the Trial Court recorded a finding that the prosecution successfully proved its case for commission of offences for which the petitioners had been charged, they were accordingly held guilty and

convicted for the same. They were sentenced as under:-

U/s	Imprisonment	Fine	In default of payment of fine
452 IPC	Rigorous imprisonment for 3 years each	1000-00 each	To undergo R.I. for one month each.
325 IPC	Rigorous imprisonment for 2 years to Surjeet Singh and Kanta Singh each	1000-00 each	To undergo R.I. for one month each.
323 IPC	Rigorous imprisonment for 1 year each	1000-00 each	To undergo R.I. for one month each.
325/34 IPC	Rigorous imprisonment for 2 years to Happy Singh and Desa Singh each	1000-00 each	To undergo R.I. for one month each.

8. Aggrieved thereof, the petitioners preferred Criminal Appeal No.130 of 2014 before the Sessions Judge, Fazilka. The said appeal was dismissed vide judgment dated 07.11.2015. Hence, the present revision petitions.

9. Counsel for the petitioner(s) has chosen not to appear, hence, legal aid counsel was appointed to assist this Court on behalf of the petitioners.

10. Learned legal aid counsel contends that both the Courts failed to appreciate the material discrepancies in the case of the prosecution. She raises the following arguments:-

- I. The FIR in the present case was registered after an unexplained delay of more than two days. The alleged occurrence took place on 28.08.2008, whereas the FIR was registered on 30.08.2008. It is further pointed out that the complainant-injured, Kartaro Bai, who appeared as PW-1 specifically admitted in the cross-

examination that she had consulted her grandson Balkar Singh prior to the registration of the FIR. It is contended that the said Balkar Singh himself is an accused in FIR No. 144 dated 09.06.2008, that had been registered at the instance of the brother of Surjit Singh, the present petitioner. Thus, a truthful account of the incident has not been given and FIR has been got registered after consultation and deliberations by leveling allegations against the petitioners to falsely implicate them.

- II. She further contends that the complainant initially nominated 08 persons as accused, however, 04 persons were found innocent during the investigation and a final report was filed only against 04 persons. No application was however moved by the prosecution or the complainant at any point in time for summoning of the left out accused persons either under Section 193 of Cr.P.C. or eventually under Section 319 Cr.P.C. The same reflects that there was an element of false implication as well as over implication on the part of the complainant.
- III. It is argued with vehemence that even though the incident in question took place on 28.08.2008 at about 05:00 PM at the house of the complainant, no independent witness has however been associated or examined by the prosecution. It is submitted that the house of the complainant is situated in an inhabited locality, and therefore, it is highly improbable that no other resident of the village would have witnessed the incident. It is further contended that the prosecution itself cited two eye-

witnesses, namely Ram Singh and Jaswinder Singh, who were present at the spot and had allegedly intervened to save the complainant from the clutches of the accused. However, for reasons best known to the prosecution, the said witnesses were not examined during trial.

- IV. Learned counsel further contends that the testimony of PW-2, Dr. Rajesh Kumar Sharma, does not fully support the prosecution case. It is pointed out that in his cross-examination, the doctor has admitted that the possibility of all the injuries, except injury Nos. 2 and 3, being caused by a fall on a hard surface cannot be ruled out. It is further stated that injury Nos. 2 and 3 could have been caused by a single blow of some weapon. She further contends that the respondent-State had not proved recovery of the weapon and there is no exhibit to the said effect. It is further contended that no weapon was ever shown to the doctor or to the witnesses so as to establish that the same could have caused injury Nos. 2 and 3, thereby failing to corroborate the ocular version with the medical evidence. In the absence of any proven recovery of the weapon and lack of corroboration between medical and ocular evidence, learned counsel submits that the role and participation of the petitioners in the occurrence becomes suspect.
- V. Learned counsel further submits that DW-1 has specifically proved the FIR earlier registered against Balkar Singh, the grandson of the complainant Kartaro Bai. It is contended that

the existence of the said prior FIR lends credence to the defence version that the complainant had engaged in deliberation and consultation before lodging the present FIR.

VI. It is argued with vehemence that the complainant has failed to attribute any motive against the petitioners for having caused the injuries. She contends that while being conscious of the fact that motive is a double-edged weapon, it is noticeable that a defence had specifically been set up behind false implication, arising out of prior enmity between the parties. However, the prosecution has not put forth any corresponding motive explaining what precipitated the alleged incident or why the petitioners would commit the alleged offence. It is further contended that the mere denial, by the complainant, of the plea of false implication would be treated as a substitute for proving motive on the part of the prosecution.

11. Referring to the above, it is contended that the allegations in question are not proved against the petitioners and the benefit ought to be extended to them.

12. Learned State Counsel on the other hand contends that the complainant stepped in as a witness and corroborated her statement, as set out in the FIR and medico legal report was also proved by the doctor. It was stated by the said doctor that injuries No.2 & 3 were caused by a weapon, hence, the involvement of the petitioners gets established. It is submitted that merely because the complainant consulted her grandson prior to registration of FIR should not be construed as deliberation or false implication. Rather,

such conduct is natural and consistent with ordinary human behaviour, especially in familial settings where members often seek advice before approaching the police. She further argues that concurrent findings had been recorded by both the Courts below against the petitioners herein and that there is no material irregularity which is brought to the fore by the counsel. Hence, the judgments passed concurrently need not be interfered with.

13. No other argument has been raised nor any judgment has been cited.

14. I have heard counsel for the respective parties and have gone through the documents appended alongwith the present petitions.

15. It is evident from the perusal of the entire version that Kartaro Bai-injured/complainant alleged that petitioner-Surjit Singh gave a 'dang' blow which hit her on the left arm, while petitioner-Kanta Singh gave a 'dang' blow which hit on elbow of her right arm. It is further stated that as a result of the said assault, she fell to the ground, whereupon Ram Singh and Jaswinder Singh reached the spot and intervened to save her, following which the accused-petitioners fled from the scene along with their respective weapons. However, in her deposition, the complainant has not attributed any specific role or overt act to petitioners Happy Singh @ Harpinder Singh and Desa Singh. The allegations, as emerging from her testimony, were confined only to petitioners Surjit Singh and Kanta Singh.

16. It is further not disputed by the respondent-State that although as many as 08 persons were initially arrayed as accused, on the basis of statements recorded during investigation, however, 04 of them were subsequently found to be innocent during investigation. Consequently, the

challan was presented only against the remaining 04 persons, namely Surjit Singh, Kanta Singh, Happy Singh @ Harpinder Singh and Desa Singh (the present petitioners). However, even qua these 04 accused, the prosecution version attributes specific overt acts only to Surjit Singh and Kanta Singh. Surprisingly, while the prosecution has sought to corroborate its case by examining PW-2, Dr. Rajesh Kumar Sharma, who proved the medico-legal report but no weapon was shown to him. The testimony of PW-3 HC Harmit Lal also does not inspire confidence. In his cross-examination, he has categorically admitted that he had not seen the case property in Court and that no independent witness was associated during the investigation and that no effort was made to join any such independent witness.

17. It is also noteworthy that PW-5 Jeet Singh, son of the complainant, has deposed that petitioner–Surjit Singh inflicted an iron rod blow on the left arm of the complainant, however, such deposition is in conflict with the deposition given by PW-1 Kartaro Bai who alleged that a ‘dang’ blow was given to her. Above all, there is no reference to any recovery of the weapon at the instance of the accused–petitioners pursuant to any disclosure statement.

18. It further remains uncontroverted that two material witnesses, namely Ram Singh and Jaswinder Singh, who were cited by complainant–Kartaro Bai to have come to the spot and rescued her, have not been examined by the prosecution. It is also an admitted position that the complainant Kartaro Bai, in her cross-examination, has conceded that she had deliberated with her grandson Balkar Singh prior to making the statement on the basis of which the FIR came to be registered. The said

aspect however attains significance in light of the fact that said Balkar Singh is already an accused in FIR that had been registered at the instance of brother of Surjit Singh-petitioner herein.

19. Both the Courts recorded concurrent findings of conviction primarily on the premise that the complainant-injured, Kartaro Bai, had indeed sustained injuries. However, the mere factum of injuries having been suffered would not by itself, be determinative of the guilt of the accused. It is incumbent upon the prosecution not only to establish the occurrence of injuries but also to prove, by cogent evidence, the identity of the assailants and their role in causing such injuries. The act of sustaining injuries must necessarily be correlated and established with the attribution against the accused persons. In the absence of such linkage, the foundational requirement of proving guilt beyond reasonable doubt remains unfulfilled. In the present case, the prosecution has failed to establish through an unbroken chain of evidence connecting the petitioners with the infliction of the alleged injuries. There are material inconsistencies in the ocular testimony, absence of corroborative evidence such as recovery of weapons and non-examination of material witnesses, all of which cumulatively create a reasonable doubt regarding the participation of the petitioners in the commission of the offence. Thus, the conviction based merely on the existence of injuries, without adequately establishing the authorship of those injuries, cannot be sustained in law.

20. In my aforesaid finding, I am corroborated by the following circumstances:-

I. While the complainant-Kartaro Bai has specifically alleged that

petitioner–Surjit Singh and petitioner–Kanta Singh inflicted ‘dang’ blows upon her, PW-5 Jeet Singh, in his testimony, has attributed the injury to an iron rod. The said discrepancy becomes material in view of the fact that the effect and impact of both the injuries may be different.

- II. It is further evident that neither any ‘dang’ nor any iron rod has been recovered or proved on record. In fact, neither such weapon has been produced before the Court nor has its recovery been established by the prosecution through any cogent evidence.
- III. It is further apparent that the alleged weapon of offence was neither seen nor identified by the Head Constable who appeared as PW-3. Moreover, no such weapon was ever produced before the Court during the course of trial. Significantly, the prosecution also failed to put any alleged weapon to the doctor who conducted the medico-legal examination, so as to elicit whether injuries No. 2 and 3 could have been caused by such weapon.
- IV. The respondent-prosecution has failed to establish any motive which lay with the petitioners for inflicting such injuries. The fact that the petitioners, in their defence, have pointed out that an earlier FIR No. 144 dated 09.06.2008 had been registered at the instance of the brother of petitioner–Surjit Singh against Balkar Singh, the grandson of the complainant, should be construed as establishing a motive on the part of the

petitioners, rather, the same may equally be a defence for the petitioners.

- V. Complainant-Kartaro Bai, in her cross-examination, herself admitted that she nominated the accused persons after consultation with her grandson Balkar Singh, who is admittedly an accused in the earlier FIR referred to hereinabove. This admission assumes significance in assessing the spontaneity and credibility of the prosecution version. There is no plausible explanation forthcoming as to why there was an inordinate delay of two days in lodging the FIR. The medical evidence on record does not indicate that the complainant was in such a condition as would have rendered her incapable of making a statement earlier.
- VI. The eye-witnesses namely Ram Singh and Jaswinder Singh have not been examined in the present case. They would have been necessary witnesses given the background and the circumstances as well as bad blood between the parties.
- VII. It is also not in dispute that 08 persons were sought to be nominated as accused persons by the respondents out of whom 04 were found innocent during the course of investigation. The prosecution offered no explanation and the complainant moved no application for summoning of the additional 04 accused who had been found innocent during the course of investigation. Further, even of the 04 persons who were being tried, there is no injury attributed to two of them i.e. Happy Singh @

235 CRR-167-2016 (O&M) &
CRR-302-2016 (O&M)

Harpinder Singh and Desa Singh.

21. In light of the facts as aforesaid, I am of the opinion that there could have been no assumption against the accused persons for having caused the injuries merely on account of existence of an injury. The burden lay upon the prosecution to establish that the injury sustained in an alleged incident were caused by the accused themselves and not by any other person. It is not on the basis of pre-ponderance of probabilities of the circumstances inter se between the parties that a culpable liability can be fastened upon the person suspected of having committed an offence. I am of the opinion that the aforesaid discrepancies were material and sufficient to discredit the testimony of the prosecution witness i.e. the injured witness-Kartaro Bai and to dent the prosecution case so as to extend a benefit of doubt in favour of the petitioners herein.

22. Consequently, the judgment dated 14.03.2014 passed in Case No.215-21 by the Judicial Magistrate First Class, Jalalabad as well as judgment dated 07.11.2015 passed in Criminal Appeal No.130 of 2014 by the Additional Sessions Judge, Fazilka are set aside. The petitioners are accordingly acquitted by extending the benefit of doubt.

23. Petitions are **allowed** in the above terms.

24. Pending application(s), if any, shall stand disposed of.

(VINOD S. BHARDWAJ)
JUDGE

23.04.2026

Sumit Gusain

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No