

2026:PHHC:030311



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

CRR-2422-2018

Reserved On: 16.02.2026

Date of Decision: 25.02.2026

Uploaded On: 25.02.2026

ABDUL GAFFAR

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondent

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

Present: - None for the petitioner.

VINOD S. BHARDWAJ, J.

The instant criminal revision petition has been preferred against the judgment dated 01.04.2017 passed by the learned Sub Divisional Judicial Magistrate, Ferozepur Jhirka, whereby the private respondents were acquitted of the charges leveled against them as well as against the judgment dated 06.12.2017 passed by the learned Sessions Judge, Mewat vide which appeal filed by the petitioner has also been dismissed.

2. Learned Counsel for the revisionist-petitioner is not present. The situation was the same on the last date of hearing as well. Further wait is not justified. The revision pertains to 2018 and already a period of 8 years has elapsed since then. Counsel for the petitioner has been seeking date on all hearings. Therefore, the present case is being adjudicated on merits.

3. Briefly stated, the case of the prosecution was launched on the complaint of the petitioner, who averred therein that he had constructed a school near Bodi-Kothi and he was residing in the said school. On 17.08.2014 at about 4 o'clock, he along with his wife Jareena and children was present at his home when all of a sudden, accused Abdul Rashid, Abdul Wahid, Ummar Mohammad, Abdul Sattar, Amir Suhail and Isha Khan armed with weapons i.e., lathi, danda, balsam and farsa came in tractor bearing registration No. RJ-05-RB-3386. Abdul Wahid gave a lathi blow on the head of Jareena, accused Abdul Rashid gave a lathi blow on the leg of the petitioner and accused Isha Khan and Subedar gave kicks and fist blows to the children of the petitioner. Accused persons also dragged the petitioner and his family members, due to which they suffered injuries. The accused persons wanted to take possession over the property of the petitioner forcibly. Accused Umar Mohammad and Subedar strangled the petitioner upon which, the petitioner, his wife Jareena and children raised noise, and then Tahir Hussain, Rafiq, Jakir, Sohrab, Lukman and Jamshed came to the spot and rescued the petitioner and his family members.

4. On the basis of the aforesaid statement, FIR no. 198 dated 9.9.2014 under sections 147, 148, 323, 452, 506 IPC registered at Police Station Ferozepur Jhirka, District Mewat was registered and after completion of investigation, the final report under Section 173 Cr.P.C. was presented before the learned Trial Court. Finding a prima facie case, charges under Sections 147, 148, 323, 452 and 506 IPC were framed against the accused to which they pleaded not guilty and claimed trial.

5. Upon appreciation of the evidence on record, the learned

SDJM, Ferozepur Jhirka vide judgment dated 01.04.2017 acquitted the accused of the charges levelled against them. The petitioner being aggrieved by the said acquittal preferred an appeal against the said judgment, however, the said appeal was also dismissed by the learned Sessions Judge, Mewat vide judgment dated 06.12.2017. Hence, the present revision petition.

6. It is averred in the petition that impugned judgments passed by both the courts suffer from patent illegality inasmuch as the acquittal of accused has been based on the ground of delay of 23 days in lodging the FIR, without appreciating the fact that the said delay stood duly explained on account of compromise talks which were ongoing between the parties. It is also averred that the delay was specifically mentioned in the complaint itself and the same could not have been treated as fatal to the prosecution case, particularly when the occurrence and the injuries sustained by the victims stood corroborated by medical evidence brought on record.

7. It is further averred that both the Courts have erred in discarding the ocular testimony of the complainant and other eye-witnesses, including the injured witness Jareena, despite the same being consistent and duly supported by the medical evidence in the form of MLR proved on record.

8. I have perused the case file and gone through the impugned judgments.

9. The primary ground raised by the petitioner is that the delay of 23 days in registration of the complaint has been duly explained on account of compromise talks between the parties. However, a perusal of the record reveals that the alleged occurrence took place on 17.08.2014, whereas the

complaint was admittedly moved on 09.09.2014. Both the Courts have concurrently recorded a finding that despite the injured having been medico-legally examined on the date of occurrence itself, no prompt statement was made to the police and the delay in setting the criminal law into motion remained unexplained. The explanation sought to be furnished regarding compromise talks has been considered and rejected by the Courts, particularly in view of the admitted civil dispute pending between the parties, thereby raising a possibility of fabrication before lodging the complaint.

10. The relevant extract of the judgment of the Sub Divisional Judicial Magistrate reads thus:-

“9. I have given thoughtful consideration to the arguments raised by learned counsel for the parties and have gone through the case file carefully. In the present case, the alleged altercation took place on 17.08.2014. Undoubtedly, prompt MLR of injured Jareena was prepared at CHC, Ferozepur Jhirka. However, present complaint was given by complainant Abdul Gaffar on 9.9.2014 i.e. after expiry of approximately 23 days. As per prosecution version, police contacted complainant Abdul Gaffar on the next day of incident but he refused to get his statement recorded to the police. It is alleged in the complaint that talks of compromise were going on with the accused persons but same is not acceptable because injured or complainant is required to narrate the incident in question to police immediately after the occurrence. In this case, it is an admitted fact by injured Jareena in her cross-examination to the effect that civil litigation are pending between the complainant and accused party. The aforesaid delay of 23 days in giving information to the police is fatal to the case of prosecution because explanation given by

complainant on the ground of talks of compromise is not acceptable. Since the civil litigation is pending between the parties, therefore, afterthought and deliberate version of the complainant after 23 days of the incident in question cannot be ruled out and same creates doubt on the story of prosecution as alleged in the complaint Ex.PW2/A. In the given facts, this Court is of the view that complainant and injured were required to get their statement recorded immediately to the police after the alleged occurrence but they kept mum themselves for approximately 23 days, which creates doubt on their credibility.

10. *The testimony of alleged eye witnesses PW3 Tahir and PW6 Rafiq also appears to be doubtful because PW3 Tahir has admitted in his cross-examination that he reached at the spot after 15 minutes of the alleged occurrence. Meaning thereby, PW3 Tahir was not present at the spot at the time of alleged altercation. On the other hand PW6 Rafiq has stated in his evidence then he reached at the spot then he saw that accused person were inflicting injuries to complainant Abdul Gaffar with lathi and farsha whereas there is no MLR of complainant Abdul Gaffar to show any injury of lathi and farsha on his body. In these circumstances, testimony PW6 Rafiq does not appear to be trustworthy. Moreover, complainant Abdul Gaffar has also admitted in his cross-examination that alleged eye witnesses Tahir and Rafiq came at the spot after 10 minute of the alleged quarrel. This fact also shows that eye witnesses were not present at the spot at the time of alleged occurrence and that they reached at the spot when incident was over. Therefore, testimony of eye witnesses is not helpful for the successful of the case of prosecution. Rest of witnesses examined in this case are the official witnesses, who were not present at the spot. Mere their testimony is also not helpful for the success of the prosecution case.*

11. *In view of above discussion, this Court is of the opinion that prosecution has failed to prove its case against the*

accused beyond shadow of reasonable doubt. The benefit of doubt goes to accused. Hence, accused Umar Mohammad, Abdul Rashid, Abdul Wahid and Abdul Sattar are hereby acquitted from the charges levelled against them. Their bail bonds and surety bonds are discharged. File be consigned to the record-room after due compliance.”

11. Even during the first appeal, the Additional Sessions Judge, Mewat has considered the arguments and rejected the same. The extract of the judgment reads thus:-

“15. After giving dispassionate and thoughtful consideration to the arguments advanced by learned counsel for the parties and on perusal of the evidence brought on record, this Court does not find any illegality in the impugned judgment passed by the learned trial Court while acquitting the accused for the commission of offences punishable under sections 147, 148, 323, 452 and 506 of IPC. In this case, incident is alleged to have taken place at 4 p.m. on 17.8.2014 when accused Abdul Rashid, Abdul Wahid, Umar Mohammed, Abdul Sattar, Amir Suhail, Isha Khan and Subedar came to the house of Abdul Gaffar armed with lathis, dandas, ballam and farsas and Abdul Wahid inflicted lathi blow on the head of Jareena, Abdul Rashid inflicted lathi blow on the foot of Jareena, Abdul Sattar gave lathi blow on the hand of Jareena and Isha and Subedar gave kicks and fist blows to the children of Abdul Gaffar and they were abused.

16. It is interesting to note that information of this incident was given to the police on 9.9.2014 vide application Ex.PW2/A and investigation was carried out by HC Mani Ram and when HC Mani Ram appeared as PW1 has stated that on 17.8.2014 he received a rukka from CHC Ferozepur-Jhirka upon which he reached CHC Ferozepur-Jhirka and asked Abdul Gaffar the husband of injured Jareena to make statement upon which Abdul Gaffar stated that he would make statement later on after

consultation and application Ex.PW2/A was made only on 9.9.2014 i.e. after delay of 23 days and learned trial Court has rightly observed that this delay has taken place because of deliberation and consultation made by Abdul Gaffar for implicating the accused persons and for incorporation of witnesses of his choice otherwise from the testimony of PW3 Tahir the alleged eye witness and PW5 Rafik the other alleged eye witness who is also brother of Tahir would show that they were not present at the time of incident and they had appeared on the spot after the incident was over. PW2 Abdul Gaffar the complainant has stated that quarrel ensued for 10 minutes and in his cross-examination he has stated that Rafik, Jakir and Tahir witnesses had appeared after 10 minutes of the incident and thereafter, Sohrab, Rukman and Jamshed other eye witnesses had appeared on the spot and Tahir when appeared as PW3 has also admitted that he had reached the spot after 15 minutes of the dispute.

17. In the testimony of PW2 Abdul Gaffar, PW3 Tahir and PW4 Jareena, it has appeared that house of Rafik was situated at a distance of half killa from the school where incident had taken place and at that time, Rafiq and his brothers Tahir and Jakir were talking to each other when all accused came in tractor-trolley but PW5 has admitted that there was 7 feet tall boundary wall of his house, so when there was such a tall boundary wall, then how he can see the persons coming in tractor-trolley. Even otherwise also, if quarrel takes place at a distance of half killa in a school then possibility of hearing of cries of the injured by the eye witnesses situated at a distance of half killa in his house having boundary wall of 7 feet is remote. Even the eye witnesses had reached after the incident and they had no occasion to see the accused persons causing injuries to complainant party. PW5 has stated that when they reached spot, Jareena was lying unconscious in the courtyard of house and accused were causing injury to Abdul Gaffar with lathi and

farsa but no injury is shown to have been received by Abdul Gaffar and there is no MLR of Abdul Gaffar or of children of Abdul Gaffar.

18. *Even the presence of PW3 on the spot or even in the village Sakras is doubtful as according to him, he was a driver by profession and used to visit home after 10/15 days and stays there for 3 days but after incident, he stayed for a month in the village and his statement was recorded by police in the village and according to him, 70/80 persons had gathered on the spot whereas in view of overall evidence of all the witnesses, only 7/8 persons namely Tahir Hussain, Rafiq, Jakir, Sohrab, Lukman and Jamshed etc. reached the spot. Even possibility of appearance of 80/80 persons on the spot was not there because school where incident took place was situated at some distance from the road. So, PW3 cannot be held to be trustworthy and reliable witness.*

19. *Furthermore, Abdul Gaffar and Jareena have admitted that civil litigation between Abdul Gaffar and Abdul Sattar was going on and there was dispute regarding land between both the brothers. PW2 has admitted that two cases regarding land were going on between him and accused Abdul Sattar. Even he has admitted that school did not belong to him nor land on which school exists belonged to him and if this is the position then how he can reside in the school premises. Even eye witness Jamshed is of village Nawli and not of village Sakras. Even Lukman and Sohrab were living in Bodi-Kothi situated at a distance of 2 killa from the school. Jareena when appeared as PW4 has categorically stated that her statement was recorded by the police on the same day in the hospital and thereafter, police never met her whereas application Ex.PW2/A has been made by her husband Abdul Gaffar on 9.9.2014 i.e. after delay of 23 days. Had statement of Jareena been recorded on the day of incident, then FIR/DDR would have been lodged on the same day but FIR was lodged only when application Ex.PW2/A was*

made by Abdul Gaffar to the police. Also, version of Abdul Gaffar is not consistent with the version given by his wife Jareena as according to PW2 Abdul Gaffar, he and his wife only had gone to the hospital whereas according to PW4 Jareena, they were taken to hospital by Tahir and Sohrab.

20. Even in this case, three injuries are shown to have been caused by accused persons as per version given in application Ex. PW2/A but in the MLR, 5 injuries have been shown and out of them, 3 injuries are complaint of pain and Dr. B.S. Singhal when appeared as PW7 has stated that injury No.4 was complaint of pain over right shoulder of Jareena whereas Jareena has not attributed any injury to her right shoulder to any of accused rather according to her, Isha Khan gave a ballam blow on her left shoulder. Even PW4 Jareena has attributed one injury to Abdul Wahid by lathi on her head and Abdul Sattar is stated to have given lathi blow on her hand and Isha Khan gave a ballam blow on her left shoulder and Aamir gave lathi blow on her foot and no injury over lumbar region of back as shown at Sr. No.3 of MLR has been attributed to any of the accused. There are two injuries on parietal region of sclap and if version of PW2 and PW4 is believed then there should be one injury as injury on head with lathi is attributed to Abdul Wahid whereas there is diffused swelling over right side parietal region of sclap and lacerated wound over left side parietal region of sclap.

21. PW3 has stated that when they reached the spot, a threat was extended by accused that on that day, they were saved but on getting chance, the complainant party would be done to death but no such threat is mentioned in application Ex.PW2/A made by PW2 or by PW4 in her testimony. The plea of PW2 Abdul Gaffar that the delay in lodging FIR took place as negotiations for compromise were going which ultimately failed is an afterthought because litigation was pending between the parties and there is nothing on record which could show that

any application was moved by any of the party in any of the civil Court for compromise. It is quite possible that injuries on the body of Jareena may be self-suffered or may have taken place in some other manner, otherwise, there is no reason to differ with the findings of acquittal recorded by learned trial Court which is based on deep appreciation of evidence placed on record. Learned trial Court has rightly acquitted the accused by extending benefit of doubt.

22. *In the case of **Wakkar and another versus State of U.P. AIR 2011 (SC) (Cri) 518**, it has been held by the Hon'ble Apex Court that the Courts have to be watchful and avoid the danger of allowing the suspicion to take the place of legal proof for sometimes, unconsciously it may happen to be a short step between moral certainty and legal proof. There is a long mental distance between 'may be true' and 'must be true' and the same divides conjectures from sure conclusions.*

23. *In the case of **Ganga Bhavani vs. Rayapati Vehkant Reddy, 2013 Criminal Law Journal (SC) 4618**, it has been held by the Hon'ble Apex Court that the Court interference in routine manner where other view is possible in appeal against acquittal should be avoided.*

24. *In the case of **S. Govinda Raju vs. State of Karnataka, 2013 Criminal Law Journal (SC), 4710**, it has been held by the Hon'ble Apex Court that the appellate Court in exceptional circumstances and for compelling reasons can reverse a judgment of acquittal if finding of trial Court are found to be perverse.*

25. *In the case of **State of Haryana versus Surender and others 2007(3) AICLR (SC) 6**, it has been held by the Hon'ble Apex Court that the order of acquittal shall not be interfered with because the presumption of innocence of the accused is further strengthened by acquittal. Appellate Court considering the appeal against the judgment of acquittal is to interfere only when there are compelling and substantial reasons for doing so.*

If the impugned judgment is clearly unreasonable and relevant and convincing materials have been unjustifiably eliminated in the process, it is a compelling reason for interference. The golden thread which runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted.

26. *In view of aforesaid discussion, this Court does not find any illegality in the impugned judgment passed by the learned trial Court. There is hardly any merit in this appeal and accordingly the appeal is hereby dismissed being devoid of merit. Record of learned trial Court be sent back with a copy of this judgment. Appeal file be consigned to record room after compliance.*

12. The aspect of delay as well as injuries have already been considered. Even the testimony of witnesses was disbelieved.

13. The reasons assigned concurrently by both the Courts cannot be said to be based on misreading of the evidence. The conclusions thus cannot be faulted with. There is no reference to any evidence which demolishes the conclusions drawn by Courts and renders them unsustainable on a meaningful reading of the evidence.

14. A mere possibility of another view is not a valid ground for substituting the findings recorded by the Courts. High Court, in its revisional jurisdiction, would interfere only in an event of perversity, illegality or impropriety.

15. The Hon'ble Supreme Court in the case of Dilawar Singh v State of Delhi, 2007(4) RCR (Criminal)115 has stated that where there is a delay either by the informant or by the police then the court would always

view the allegations with suspicion and in case a satisfactory explanation is not offered then it would be fatal to the prosecution case. The relevant paragraphs are extracted as below:

9. In criminal trial one of the cardinal principles for the court is to look for plausible explanation for the delay in lodging the report. Delay sometimes affords opportunity to the complainant to make deliberation upon the complaint and to make embellishment or even make fabrications. Delay defeats the chance of the unsoiled and untarnished version of the case to be presented before the court at the earliest instance. That is why if there is delay in either coming before the police or before the court, the courts always view the allegations with suspicion and look for satisfactory explanation. If no such satisfaction is formed, the delay is treated as fatal to the prosecution case.

10. In Thulia Kali v. State of T.N. [(1972) 3 SCC 393 : 1972 SCC (Cri) 543 : AIR 1973 SC 501] it was held that the delay in lodging the first information report quite often results in embellishment as a result of afterthought. On account of delay, the report not only gets bereft of the advantage of spontaneity, but also danger creeps in of the introduction of coloured version, exaggerated account or concocted story as a result of deliberation and consultation.

11. In Ram Jag v. State of U.P. [(1974) 4 SCC 201 : 1974 SCC (Cri) 370 : AIR 1974 SC 606] the position was explained that whether the delay is so long as to throw a cloud of suspicion on the seeds of the prosecution case must depend upon a variety of factors which would vary from case to case. Even a long delay can be condoned if the witnesses have no motive for implicating the accused and/or when plausible explanation is offered for the same. On the other hand, prompt filing of the report is not an unmistakable guarantee of the truthfulness or authenticity of the version of the prosecution.

16. Insofar as the averment regarding improper appreciation of ocular and medical evidence is concerned, the trial Court has noticed material inconsistencies in the testimonies of the alleged eye-witnesses and has doubted their presence at the spot at the time of occurrence. It has also been observed that no medico-legal report of the complainant was produced to substantiate the injuries allegedly caused to him, thereby rendering the version of the prosecution witnesses doubtful. The appellate Court, upon re-appreciation of the evidence, has affirmed the said findings and has concluded that the prosecution has failed to prove its case beyond reasonable doubt.

17. It is well settled that the scope of interference in revisional jurisdiction against an order of acquittal is limited and this Court would not re-appreciate the evidence unless the findings recorded by the Courts below are shown to be perverse, arbitrary or suffering from gross illegality. In the present case, the petitioner has failed to demonstrate any such perversity or misreading of evidence in the concurrent findings recorded by the Courts below so as to warrant interference by this Court in exercise of its revisional jurisdiction.

18. The present revision petition is accordingly dismissed.

19. All pending miscellaneous applications, if any, pending are also disposed of.

(VINOD S. BHARDWAJ)
JUDGE

FEBRUARY 25, 2026
Vishal Sharma

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