

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-AD-203-2024 (O&M)

Date of Reserved: 07.04.2026

Date of Pronouncement: 21.04.2026

Naresh

....Appellant.

Versus

Sombir and another

...Respondents.

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

.....

Present: Mr. Ram Kumar Saini, Advocate
for the appellant.

Sukhvinder Kaur, J.

1. Appellant has preferred the instant appeal against judgment dated 16.04.2024, passed by learned Sessions Judge, Narnaul, vide which respondent No.1-accused Sombir has been acquitted.

2. Factual scenario, as unfolded by prosecution is that on 21.08.2022, police received information regarding admission of complainant Naresh at Civil Hospital, Mohindergarh in injured condition. When police reached the hospital, it was found that injured had been referred to higher centre. When the police contacted complainant/ injured Naresh on his mobile phone for recording his statement, injured disclosed that he was unfit to get his statement recorded. On 15.11.2022, when SI Sushil Kumar along with constable Charan Singh was present at bus stand of village Pali, complainant Naresh moved an application Ex.PW8/A to the effect that on 20.08.2022, at about 7:00 P.M., he along with Hanuman and his another friend took meals at the well of Hanuman. Thereafter, his friend from

Village Khatod went away. He asked Hanuman to leave him after covering some distance. When they had covered 2-3 acres distance, Bikram and Sombir were seen consuming liquor on the way, who intercepted him, caught him, abused him and inflicted injuries to him. Due to fear, Hanuman fled way from there. Thereafter, the assailants took the complainant in the fields, torn his shirt and demanded Rs.2,00,000/- and snatched from him cash of Rs.2000/-, Aadhar card, phone etc. The assailants claimed that they were dacoits and when the complainant asked them to call Sarpanch of his village, they refused to do so. When he again asked them to make a call to Jitender, the owner of ambulance, they called him and disclosed their names as Bikram driver and Sombir. Jitender told them that he (Naresh) was a social worker and requested them to make him free. Bikram put the knife on his nose and asked him to suck private part of Sombir. Due to fear, he sucked the private part of Sombir for one hour. Thereafter, at about 1:30 A.M. they left him at Kurahwata T-point in unconscious condition. Thereafter, he was got admitted at hospital. He was medico legally examined on 21.08.2022 and he was referred to Civil Hospital, Narnaul. On 14.11.2022, complainant Naresh moved the written complaint before the police. On the basis of the aforesaid complaint, FIR was registered. Rough site plan Ex.PW9/B of place of occurrence was prepared. Accused Sombir was arrested. Demarcation of the place of occurrence was conducted vide memo Ex.PW2/B and a danda used in the commission of crime was recovered. After completion of investigation and necessary formalities the challan against the accused Sombir was presented before the Court for commencement of trial.

3. After finding a prima facie case against the accused, he was charge-sheeted for the offence punishable under Sections 323, 325, 341,

379B, 377 read with Section 34 IPC, to which he pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined as many as eleven witnesses.

PW1-Vijay Yadav, Halka Patwari, Office of Tehsildar. Mohindergarh, prepared the scaled site plan Ex.P1.

PW2 Constable Amit, remained associated with Investigating Officer SI Sushil Kumar, during the investigation in this case.

PW3 Jitender, deposed that he was the driver of the Ambulance and accused Sombir and Vikram had called him telephonically about complainant Naresh, who was in their custody.

PW4 Dr. Vicky Punia, Medical Officer, Civil Hospital, Mohindergarh, medico legally examined the complainant Naresh and proved that injury No.2 mentioned in MLR Ex.PW4/A was greivous in nature.

PW5 SI Ramanand, was a formal witness. He registered the FIR Ex.PW5/A on receipt of tehrir and made his endorsement Ex.PW5/B on it.

PW6 Constable Charan Singh, deposed that complainant Naresh moved an application before Investigating Officer, upon which he made his proceedings and sent the tehrir through him for registration of FIR.

PW7 Constable Rakesh, remained associated with Investigating Officer SI Sushil Kumar, during the investigation in this case.

PW8 complainant Naresh, reiterated his version got recorded by him in his statement before the police.

PW9 SI Sushil Kumar, the investigating officer, deposed regarding various investigation proceedings conducted by him in the present case.

PW10 Dr. Amit Kumar, Medical Officer, Civil Hospital, Narnaul, prepared the X-ray report Ex.PW10/A on the basis of X-ray film Ex.PW10/A1 to Ex.PW10/A14 of injured Naresh.

PW11 Dr. Pardeep, Medical Officer, CHC, Ateli, deposed that on 22.08.2022 injured Naresh was admitted in their hospital with alleged history of physical assault. He stated that the injured remained under his treatment and he advised investigations and opinions as per MLR. He proved the attested copy of BHT Ex.PW11/A.

5. Statement of accused under Section 313 Cr.P.C. was recorded in which, all incriminating evidence was put to him, which he denied and pleaded innocence and false implication. However, no defence evidence was led by the accused.

6. After considering the evidence on record, learned trial Court found the same to be woefully insufficient to convict the accused who was accordingly acquitted of the offences for which he had been charge-sheeted, vide impugned judgment dated 16.04.2024.

7. Aggrieved of the said decision, present appeal has been filed by the appellant challenging acquittal of the accused/ respondent No.1.

8. Learned counsel for the appellant vehemently contended that the trial Court has erred in not relying upon the testimony of PW3 Jitender, who specifically stated that on 20.08.2022, accused Sombir and Vikram talked with him on phone and at that time appellant was in their custody and he requested them to make the appellant free as he was a social worker. He further contended that the appellant had no enmity with the accused and there was no reason for him to falsely implicate respondent No.1 in the present case. He argued that the delay in registration of the present FIR has been satisfactorily explained as appellant was admitted in Government

Hospital, Mohindergarh, where he was medico legally examined. On 21.08.2022, he was referred to Government Hospital, Narnaul and on 24.08.2022, he was referred to PGIMS, Rohtak, but due to lack of money his CT scan could not be conducted. On 26.08.2022, the appellant moved an application before police station City, Mohindergarh, but no action was taken by the police. Thereafter, the appellant moved 2-3 applications and finally the FIR was registered on 15.11.2022 and as such there was no delay on the part of the appellant in getting registered the FIR, rather the lapse, if any, was on the part of the police officials. He urged that if prosecution had not examined Hanuman, it is not detrimental and prejudicial to the prosecution case as PW8 complainant himself proved the occurrence beyond the shadow of reasonable doubt. He thus prayed that this appeal be accepted, judgment dated 16.04.2024 be set aside and accused be convicted for the offence as charged with and be punished accordingly.

9. After having heard learned counsel for the appellant at length and having perused the impugned judgment as well as other relevant record, we are of the considered opinion that prosecution in the instant matter was unable to prove its case against the accused beyond the reasonable doubt.

10. Complainant Naresh himself stepped into the witness box as PW8 and deposed that the alleged occurrence had taken place on 20.08.2022, when his friend Hanuman was with him. When he, along with Hanuman, was on the way then accused Sombir and Vikram met them, who were consuming liquor. They gave beatings to him and snatched from him Rs.2000/-, Aadhar Card and mobile phone. Accused Vikram forced him to suck penis of Sombir. On making a call to help line No.112, they were brought to the Government Hospital. Thus, as per complainant the alleged occurrence had taken place on 20.08.2022. Admittedly, the complaint was

submitted by the complainant on 14.11.2022, on the basis of which FIR Ex.PW5/A on dated 15.11.2022 was registered in the present case. Thus, there is a long delay in the registration of the FIR in the present case and no plausible explanation regarding the same has been given by the prosecution. As per PW4 Dr.Vicky Punia, complainant was medico-legally examined by him vide MLR Ex.PW4/A on 21.08.2022 at about 02:20 hours. It is specifically mentioned in the MLR that earlier injured refused for his medico legal examination and only after some time he came back for the same. PW9 SI Sushil Kumar, Investigating Officer, stated that he received information about admission of the complainant/ injured on 21.08.2022 in the Government Hospital, Mohindergarh. In his cross-examination, he categorically stated that he contacted the complainant between 20.08.2022 to 15.11.2022 but he did not opt to meet him and submitted the complaint. He also denied that any complaint dated 26.08.2022 and 03.09.2022 was received by him and no complaint was received on 16.09.2022 through CM Window. PW8 complainant stated that the police came to him on 20.08.2022 for recording his statement but he was unconscious at that time and as such his statement was not recorded on 20.08.2022. He testified that there was Panchayat Samiti election and he was busy in election from 16.09.2022 to 15.11.2022 and after 15.11.2022 police did not visit him.

11. Thus, it emerges from the evidence on record that the present FIR was registered in the present case after delay of 85 days. Complainant did not submit any complaint or make statement before the police. He even opt to get himself medico-legally examined after some time and not on the first move. Thus, the possibility cannot be ruled out that the FIR was registered at delayed stage after due deliberation and consultation, which has caused a dent in the prosecution case.

12. As per the complainant, the alleged occurrence took place on the night of 20.08.2022. PW9 Investigating Officer stated that accused Sombir was arrested on 05.02.2023 and his disclosure statement Ex.PW2/A was recorded. As per the said disclosure statement the alleged occurrence took place on 22.08.2022, whereas as per the complainant and the Investigating Officer, the alleged occurrence took place on 20.08.2022. As per MLR Ex.PW4/A the complainant was medico-legally examined on 21.08.2022. Trial Court has rightly observed that the prosecution cannot travel beyond the documents relied upon by it and even the inadmissible documents relied upon by the prosecution can be looked into in evidence against it. When the prosecution relied upon the disclosure statement Ex.PW2/A of the accused suffered in the present case that the alleged occurrence took place on 22.08.2022, then it makes the entire case of the prosecution doubtful, as per which the alleged occurrence took place on 20.08.2022.

13. Trial Court has rightly observed that the perusal of statement of PW8 complainant reveals that it is inconsistent about time, place and action. He stated that he was admitted in the hospital on 20.08.2022, the medical officer demanded Rs.250/- or Rs.300/- for preparing MLR. Then he made telephonic call to Mahesh, who was his co-villager. He brought the money in the hospital. He introduced the new version that money for his medical examination was arranged by Mahesh but the said Mahesh had not been examined by the prosecution. Otherwise also, when the complainant claimed that police was with him then question of demanding Rs.250/- or Rs.300/- for medico legal examination did not arise. As per the medical record the complainant himself left the hospital without getting himself medico legally examined. Complainant also claimed that accused persons made call to

Jitender, who told that the complainant was a good person and to make him free. Though Jitender had been examined by the prosecution as PW3, but admittedly he was not a witness of the alleged occurrence. His call details were not collected by the police. Even he himself did not disclose the mobile from which he had received the calls from the accused person. So, statement of PW3 Jitender also did not advance the case of the prosecution.

14. Complainant also claimed that at the time of the alleged occurrence he was with his friend Hanuman but said Hanuman has not been examined by the prosecution to lend support to the statement of PW8 for the reasons best known to it. As per PW4 Dr. Vicky Punia, who medico legally examined the complainant on 21.08.2022, the injuries on the person of complainant could be result of any accident. PW9 SI Sushil Kumar, Investigating Officer in his cross examination admitted that he did not produce danda allegedly recovered from the accused for getting opinion of the doctor concerned. Thus, the prosecution failed to prove that injuries on the person of the complainant could be caused by use of danda Ex.MO-1. The Investigating Officer in his testimony admitted that such type of danda is available in the houses and no blood stains were noticed on the alleged danda. Thus, the weapon of offence is not connected with the offence in the present case.

15. Testimony of complainant PW8 is inconsistent and unreliable. As per complainant the accused persons snatched his mobile phone, Aadhar Card and Rs.2,000/-. The Investigating Officer, however admitted that no amount of Rs.2,000/- was recovered from the accused. The prosecution has not proved recovery of even mobile phone, Aadhar Card etc. of the complainant allegedly snatched from him by the accused person.

16. Thus, when statement of PW8 complainant is not worthy of credence and lacks any corroboration, then the prosecution has not been successful in proving its case against the accused beyond the shadow of reasonable doubt.

17. Thus, the case set up by the prosecution is unreliable and unbelievable. Case of prosecution is full of inherent weaknesses. Owing to aforesaid chinks in the prosecution armour, the evidence on record is not sufficient to prove the allegations against the accused.

18. After analyzing the evidence on record the learned trial Court has rightly held that the prosecution has failed to prove its case against the accused beyond shadow of reasonable doubt.

19. It is a settled law that an order of acquittal is not to be interfered with lightly because presumption of innocence of the accused is further strengthened by acquittal. Gainful reference in this regard can be made to a judgment of Hon'ble the Supreme Court in **Pudhu Raja and another vs. State, Rep. By Inspector of Police** reported as **2013 (1) SCC (Cri) 430**, wherein it has been held as under :-

“7. The law on the issue of interference with an order of acquittal is to the effect that only in exceptional cases where there are compelling circumstances and the judgment in appeal is found to be perverse, the appellate court can interfere with the order of the acquittal. The appellate court should bear in mind the presumption of innocence of the accused and further that the trial courts acquittal bolsters the presumption of innocence. Interference in a routine manner where the other view is possible should be avoided, unless there are good reasons for interference.”

20. Learned counsel for the appellant was unable to point out any
illegality, infirmity or perversity in the impugned decision dated 16.04.2024
which calls for interference.
21. In view of the above, the appeal being bereft of any merit is
dismissed with impugned judgment dated 16.04.2024 passed by learned trial
Court being upheld.
22. Pending applications, if any, also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

(ANOOP CHITKARA)
JUDGE

21.04.2026
Komal

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