

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

241

2026:PHHC:026951



CRR-913-2020 (O&M)
Date of decision: 17.02.2026.

AHMED

...Petitioner(s)

VERSUS

SAMSU AND OTHERS

...Respondent(s)

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

Present :- Mr. Arkash Mani Garg, Advocate, (Legal-aid-counsel)
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

CRM-12600-2020

Prayer in the present application is for condonation of delay of
120 days in filing the revision petition.

For the reasons mentioned in the application, the same is
allowed and delay of 120 days in filing the revision petition is condoned.

Main case

The present petition has been filed against the judgment dated 18.08.2018 passed by the Judicial Magistrate First Class, Ferozepur Jhirka whereby the respondents No.1 to 4 have been acquitted in Criminal Case bearing No.249 of 2012 titled as "State Versus Samsu and others" arising out of FIR No.392 dated 15.10.2011 registered under Sections 148, 149, 323, 324, 506 IPC at Police Station Punhana, District Nuh, as well as the judgment dated 02.07.2019 passed by the Sessions Judge, Mewat whereby the appeal preferred by the petitioner against the judgment of Trial Court has been dismissed while upholding the acquittal.

2 Since the filing of the present petition in 2020, counsel for the petitioner has never chosen to appear in the present petition. After noticing the repeated absence of the counsel for the petitioner, the following order was passed on 18.11.2025:-

It is evident from a perusal of the order sheets that since the institution of the instant case, counsel for the applicant(s)-petitioner(s) has not appeared even on a single occasion, the matter pertains to the year 2020 and a period of 05 years has already elapsed. Hence, it is deemed expedient to nominate a Legal Aid Counsel on behalf of the applicant(s)-petitioner(s). Mr. Arkash Mani Garg, Advocate (PH-6235/2023, Mob. No.70877-42773), who is present in the Court, is nominated as a Legal Aid Counsel to assist this Court on behalf of the applicant(s)-petitioner(s).

Registry is directed to supply a copy of the paper book to the nominated Legal Aid Counsel.

Adjourned to 17.02.2026.

A copy of this order be sent to the High Court Legal

Services Committee for information and necessary action.”

3 The matter was adjourned for today for hearing the arguments; however, an adjournment slip has now again been circulated by the counsel on the ground that he is not available. This Court finds no reason to accept the adjournment slip. The same is thus declined.

4 The legal aid counsel appointed by this Court is present in Court and submits that he is prepared with the case. This Court has thus proceeded to decide the case on merits without awaiting for the filing counsel, who, it appears is not interested in pursuing the matter.

5 It is submitted by the legal aid counsel that the prosecution case in brief is that the complainant, Ahmed Khan, is a resident of village Hajipur Gohta and a Head Constable in the Delhi Police. It is stated that the accused persons had no respect for the law and were involved in committing offences like robbery, theft and illegal mining. It is stated that the father of the complainant, who was also the Sarpanch of the village, had advised the accused persons not to indulge in illegal activities, but they remained adamant. Due to this reason, the accused persons kept a grudge against the complainant and his family members. It is stated that previously, the accused persons also threatened the father of the complainant to face dire consequences. It is stated that on 10/10/2011, the complainant was coming to his village from Delhi after his duty in the evening. He met his nephew Javed at Punhana. The complainant, along with his nephew, was going to their village Hajipur, on a motorcycle, and when they reached near the village, they were suddenly attacked by the accused persons, namely Hakmuddin, Khurshid, Sabbir, Shokat, Rukmuddin, Samsu, Islam, Mastan,

Dalip, Yusuf and Deen Mohd, who were also holding weapons in their hands. It is alleged that the accused Khurshid @ Kursi gave a lathi blow on the left arm of the complainant, and after suffering the blow, the motorcycle fell and the accused Sabbir removed the keys of the motorcycle. It is alleged that the accused Rukmuddin caught hold of the complainant, and accused Samsu, Shokat, and Hakmu tried to put their hands in the pocket of the complainant. It is stated that when the complainant and his nephew opposed the acts of accused persons, accused Hakmuddin gave a Farsa blow on the head of the complainant; accused Sabbir gave a lathi blow on the left leg of complainant; accused Shokat gave a lathi blow on the right leg of complainant; accused Rukmuddin gave iron rod blow on the waist of complainant and Samsu gave lathi blow on left hand finger of complainant. It is further alleged that the accused Islam gave an iron rod blow on the waist of the complainant; accused Mastan gave a lathi blow on the left leg of the complainant; accused Dalip gave an iron rod blow on the hand of the complainant; accused Yusuf, Samsu and Deen Mohd gave an iron rod and lathi blow on the foot of the complainant. It is stated that when Javed (the nephew of the complainant) tried to save him, he was given a lathi blow by the accused Sabbir on his right thigh. It is alleged that the accused Khurshid also gave a lathi blow on the shoulder of Javed, due to which Javed suffered a fracture. It is alleged that accused Rukmuddin gave an iron rod blow near the ears of Javed, and accused Shokat gave a lathi blow on the wrist of Javed. It is further alleged that the accused persons forcibly took out Rs. 13,200/—, Nokia 3500C mobile phone from the complainant and also threatened to kill him. It is further stated that after hearing the noise,

Naseem, Jafruddin and Mehboob came to the spot and the accused persons ran away from there and again threatened to kill the complainant and his family members. The injured were taken to the Civil Hospital Punhana, where they were given medical treatment. From the said hospital, the injured were referred to Mandikhera hospital. The complainant was further referred to Safdarjung Hospital, Delhi, where he was given medical treatment. With these allegations, the complainant prayed for taking legal action against the accused persons.

6 On this complaint, a formal FIR was registered. During the investigation, the accused were apprehended. Recovery was effected. Statements of witnesses were recorded. After completion of the necessary investigation, report under Section 173 Cr.P.C. was submitted in the court against the accused persons, namely Samsu, Mastan, Rahish, Khurshid and Sabbir.

7 Copies of the challan were supplied to the accused free of costs as envisaged under Section 207 Cr.P.C.

8 On finding a prima facie case, the accused, namely Samsu, Mastan, Rahish, Khurshid and Sabbir, were charge sheeted for committing the offence punishable under Sections 148, 323, 324, 506 read with section 149 of IPC on 13-9-2012, to which they pleaded not guilty and claimed trial. During the course of the trial, an application was filed under Section 319 Cr.P.C for summoning the accused persons, who were kept in column No. 2 of the challan. The said application was partly allowed qua accused Hakmuddin vide order dated 17/11/2016 and the said accused was charged for the commission of alleged offences vide order dated 04/02/2017.

Accordingly, the case was adjourned for prosecution evidence.

9 The prosecution examined the complainant, Ahmed Khan, as PW1 on 23/12/2015, both before and after summoning the accused Hakmuddin. He deposed on the same line as mentioned in the complaint Ex. PW1/A.

10 Javed was examined as PW2 on 09/03/2016 before the summoning of the accused Hakmuddin and after the same. He supported the case of prosecution.

11 ASI Vijay Pal was examined as PW3 on 16/07/2016 before the summoning of the accused Hakmuddin. This witness was again examined as PW8 on 04/04/2018, and he testified regarding the recovery memo of lathi from the accused Samsu Ex. PW3/A, recovery memo of lathi from accused Mastan Ex. PW3/B and recovery memo of lathi from accused Rahish Ex. PW3/C.

12 ASI Jagadish Chand was examined as PW4 on 22/02/2017 only once after summoning the accused Hakmuddin. He testified regarding tehrir Ex. PW1/A, FIR Ex. PW4/A, endorsement on tehrir Ex. PW4/B.

13 Mehboob was examined as PW5 on 05/08/2017 and again examined on 21/03/2018 as PW7. He supported the case of prosecution.

14 Dr Vashisth Narayan was examined as PW-6 on 07/10/2017, after the summoning of the accused. He tendered his affidavit into evidence Ex. PW6/A and further testified ruqa Ex. PW6/B and Ex. PW6/C, and MLR Ex. PW6/D and Ex. PW6/E.

15 Retd. Inspector Janardhan, examined as PW7/A, submitted the challan in the present case.

16 ASI Yashpal was examined as PW9, who remained associated with the I.O in the present case.

17 Thereafter, Sh. Vinay Kamal, Id. APP for State closed the prosecution evidence on 13-6-2018 by making a separate statement.

18 Statements of the accused persons under Section 313 Cr.P.C. were recorded separately, wherein they denied all the allegations levelled against them by the prosecution and pleaded themselves to be innocent.

19 In defence evidence, Sh. Taslim Aarif Advocate tendered the following documents:

Ex. D1 Photocopy of the Aadhar Card of Mastan

Ex. D2 Photocopy of Ration Card of Mastan. Accused closed their evidence by making a separate statement.

20 Parties were heard at length, and the evidence was gone through. The Judicial Magistrate First Class, Ferozepur Jhirka vide his judgment dated 18.08.2018, held that the prosecution was not able to prove its case against the respondents-accused beyond a reasonable doubt. Accordingly, the respondents No.1 to 4 herein were acquitted of the charges framed against them.

21 Aggrieved thereof, a Criminal Appeal bearing No.CRA-84-2018 dated 18.09.2018 was preferred before the Court of Sessions. Vide judgment dated 02.07.2019, the said appeal was also dismissed. Hence, the present petition.

22 Learned counsel appearing on behalf of the petitioner contends that the Courts have wrongly acquitted the respondents No.1 to 4 of the charges that had been framed against them by placing undue reliance on the

delay in lodging of the FIR notwithstanding that the said delay in lodging of the FIR had been specifically explained as the petitioner herein was referred to a Hospital in Delhi and thus was not in a position to come back and inform about the incident. It is further submitted that the recovery of weapons had been effected from the respondents No.1 to 4, which thus went against the statements of the prosecution witnesses. He further argues that the Courts have failed to take into consideration that the MLR of the petitioner clearly proves the existence of injuries on his body. The Courts did not appreciate the opinion of the doctor wherein it was clearly mentioned that the injuries suffered by the petitioner were caused by sharp-edged weapons which were attributable to the respondents No.1 to 4-accused persons. It is contended that the judgments were passed on conjectures and surmises without taking into consideration the true import of the evidence that had been led by the parties.

23 I have heard learned legal aid counsel appearing on behalf of the petitioner and have gone through the judgments passed by the trial Court as well as the Appellate Court.

24 The trial Court, on considering the arguments advanced on behalf of the parties and taking into consideration the evidence brought on record, including the MLRs of all the persons who sustained injuries, recorded as under: -

22. Now the question arises whether the above evidence can be considered keeping in view of other lacunas in the prosecution story amongst which the first and foremost argument to dent the prosecution case was on the aspect of delay in the registration of FIR. It is submitted by ld. Defence counsel that as per the

prosecution case, the incident had taken place in the evening of 10-10-2011, whereas the FIR was lodged on 15-10-2011 i.e. after the delay of 5 days. Ld. Counsel contended that on this aspect itself above, prosecution evidence should be discarded.

23. No doubt in a criminal case, FIR is a valuable piece of evidence. However it has been held in catena of Hon'ble superior court that FIR though is valuable but is not a substantive piece of evidence. The object of prompt registration of FIR is to obtain early information, not only regarding the circumstance in which crime was committed but also regarding the name of actual culprits as well as part played by them.

24. No doubt, whenever there is delay in registration of FIR it looses the advantage of spontaneity thereby raising a potential chance of introduction of coloured version or concocted story, resulting from avoidable consultation and deliberation on the part of complainant/informer.

25. The opportunity has to be given to the prosecution to explain the delay, if any, in registration of FIR. The said explanation can be inferred from the deposition of prosecution witnesses examined by the prosecution during the course of trial. It has to be find out as to whether there was delay in registration of FIR and if so, whether the same is fatal for the case of prosecution, further whether the delay if any, has been properly explained or not.

26. It is apparent from the deposition of PW1 namely Ahmed Khan and PW2 Javed that alleged incident had taken place on 10-10-2011. The endorsement regarding the registration of FIR after police proceeding is Ex. PW4/B and same has been proved through the testimony of ASI Jagdish Chand examined as PW4. Further the FIR has been proved as Ex. PW4/A through the

testimony of PW4. Perusal of FIR Ex. PW4/A shows that same was registered on 15-10-2011 i.e. after five days of the alleged incidents.

27. It is apparent from the deposition of PW1 and PW2 that immediately after the incidence and on receiving the injuries, they were firstly taken to Punhana hospital. The ruka sent by concerned doctor pertaining to both injured has been proved on record as Ex. PW6/B and Ex. PW6/C through the testimony of doctor Vashishth Narayan. Perusal of same shows that it find mentioning of date as 10-10-2011 and time as 9.40 PM. It is also proved on record through the testimony of doctor Vashishth Narayan that both the injured were referred to G.H.Mandikhera for further treatment. There is one application in the case file moved to M.O G.H.Mandikhera by SI Bheem Singh on 11-10-2011 on which report is made by doctor at 12.30 PM dated 11-10-2011 that the patient Ahmed has been referred to Safdarjang Hospital Delhi. It is hence clear that only Ahmed Khan was referred to Safdarjang Hospital Delhi not injured Javed. There is no explanation on the record that why the FIR was not registered promptly on the statement of Javed who was present and available at G.H.Mandikhera. It is not the case of the prosecution that the Javed remained unconscious or was incapable to give any statement to police. Moreover, in his cross examination the said Javed has admitted that they reached Punhana Hospital at about 10/10.30 PM and remained there only for 10 minutes. He further admitted that he remained present at Mandikhera Hospital and on the next date his x ray was done and then he came back to his house and his statement was recorded after 3-4 days by police in village. If the complainant was not available and is stated to have been admitted at Safdarjang Hospital Delhi, the FIR could have been registered immediately on the statement of Javed. Another unexplained thing which goes against the prosecution case is

that no medical record including the admission slip, indoor patient card, bed head ticket, discharge summary of complainant/author of FIR from Safdarjang Hospital, Delhi has been collected by the investigating agency and nor any attempt has been made by the prosecution during the course of the trial to prove the said record by calling the concerned person from Safdarjang Hospital, Delhi by availing the remedy under Section 311 Cr.P.C. Even in his cross examination, the complainant had admitted that he remained in Safdarjang Hospital for 2/3 days and he cannot tell the date of his discharge from the hospital. Even if this is believed that he remained in hospital for two/three days then his discharge date would fall either on 12-10-2011 or 13-10-2011 from the hospital (including the date i.e. 11-10-2011 on which he was referred to Safdarjang Hospital, Delhi. Further assuming that he was discharged on 14-10-2011, he could have moved application on 14-10-2011 itself. However perusal of police proceeding below the complaint Ex. PW1/A shows that the complaint has been moved on 15-10-2011 at 6 PM. Even assuming that the complainant was discharged on 14-10-2011, the complaint could have been moved on 15-10-2011 during the day time but it has been moved at 6 PM after consuming the whole of the day. This delay in registration of FIR leads to the conclusion that the complainant side was waiting to arrange/introduce the version suitable to them and wanted to induct the accused persons in the manner portrayed by them.

28. In view thereof, I find substance in the contention advanced by ld. Defence counsel that on aspect of delay in registration of FIR, prosecution evidence cannot be considered.

29. In the complaint Ex. PW1/A it has been stated that Naseem, Jafruddin and Mehboob came on the spot after hearing the noise. That during the course of the trial, the ld. Counsel of the

complainant Sh. Haroon Khan had given a statement dated 21-3-2018 not to record the witnesses Jafruddin and Naseem being won over by accused party and consequently Id. APP for State had given up these two witnesses. If these witnesses had been won over by accused party then it was incumbent upon the prosecution to produce them and to cross examine and elucidate the true version. Reliance is also placed upon “State of Haryana Vs. Mahabir, 1998(2) CLJ (Criminal)1” in which it has been held that public witness joined but given up being won over-nothing on record to show as to how the prosecution felt that said witness has been won over-Held, even though he was won over, he must have been examined to elicit truth from his cross examination.”

25 Further, the said issues were again considered by the Sessions Court in its judgment dated 02.07.2019. The relevant part of the judgment reads thus: -

“20. Learned counsel for appellant preferred the present appeal on following three grounds:

I. There is delay of five days in registering the FIR but the delay is properly explained.

II. The documents of Safdarjang Hospital, Delhi has not been produced before the learned trial Court but there is cogent medical evidence to support the prosecution case.

III. Independent witness were not produced and they have been given up by the prosecution being won over but it is not necessary to examine all the witnesses and conviction can be based on the single witness if there is cogent and reliable evidence.

21. So far as the plea of learned counsel for appellant that there is delay of 5 days in lodging the FIR but the same is

properly explained, is concerned, this Court is not in agreement with the contention of learned counsel for appellant because as per complaint Ex.PW1/A, the alleged incident took place on 10.10.2011 whereas matter was reported to the police on 15.10.2011. As per case of prosecution, both injured i.e. Javed and Ahmed Khan were taken to Punhana hospital from where they were referred to Mandikhera Hospital and rukka Ex.PW6/B and Ex.PW6/C were sent by the doctor Vashishth Narayan. Thereafter, S.I. Bheem Singh moved an application to M.O., G.H. Mandikhera on 11.10.2011 upon which doctor reported that injured Ahmed Khan has been referred to Safdarjang Hospital, Delhi. It is not the case of the prosecution that other injured Javed also referred to Safdarjang Hospital, Delhi on 11.10.2011. Also according to PW2 injured Javed, he remained admitted in Mandikhera Hospital during night hours and on the next day, after X-ray examination, he returned to his house. So, it is clear that only one injured namely Ahmed Khan was referred to Safdarjang Hospital, Delhi on 11.10.2011 whereas other injured Javed returned to his house on 11.10.2011 after X-ray examination but surprisingly, said Javed has not reported the matter to the police. So the version of appellant that delay in lodging FIR is properly explained, is not correct. Learned trial Court has rightly held that there is no explanation on record that why the FIR was not registered promptly on the statement of Javed who was present and available at G.H. Mandikhera especially when it is not the case of prosecution that Javed remained unconscious or he was incapable to make his statement to the police. Delay in lodging the FIR cannot be used as a ritualistic formula for doubting the prosecution case and discarding the same solely on the ground of delay in lodging the first information report. Delay has the effect of putting the court on its guard to search if any explanation has been offered for the delay, and if offered, whether it is satisfactory or not. If the prosecution fails to

satisfactorily explain the delay and there is a possibility of embellishment in the prosecution version on account of such delay, the delay would be fatal to the prosecution. However, if the delay is explained to the satisfaction of the court, the delay cannot by itself be a ground for disbelieving and discarding the entire prosecution case.

22. Delay in lodging FIR more often than not, results in embellishment and exaggeration, which is a creature of an afterthought. A delayed report not only gets bereft of the advantage of spontaneity, the danger of the introduction of a coloured version, an exaggerated account of the incident or a concocted story as a result of deliberations and consultations, also creeps in, casting a serious doubt on its veracity. Thus, FIR is to be filed more promptly and if there is any delay, the prosecution must furnish a satisfactory explanation for the same for the reason that in case the substratum of the evidence given by the complainant/informant is found to be unreliable, the prosecution case has to be rejected in its entirety.

23. So far as the plea of learned counsel for appellant is concerned that there is medical evidence to support the version of prosecution and documents of Safdarjang Hospital, Delhi are not required to place on record, this Court is of the view that learned trial Court has rightly held that no medical record including the admission slip, indoor patient card, bed head ticket, discharge summary of complainant has been collected by Safdarjang Hospital, Delhi by the Investigating Agency and also during the course of trial, no attempt was made to summon the concerned person from Safdarjang Hospital, Delhi by availing the remedy under section 311 of Cr.P.C. The version of learned counsel for appellant that there is medical evidence to support the version of prosecution, is not correct because except the MLR of injured Ahmed Khan, there is no other

document regarding the admission of Ahmed in Safdarjang Hospital, Delhi especially when he suffered head injury due to which he remained unable to speak as is evident from his complaint Ex.PW1/A. Thus, the prosecution should have make attempt to collect the medical documents of injured Ahmed Khan from Safdarjang Hospital, Delhi.

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25. The delay in lodging the report raises a considerable doubt regarding the veracity of the evidence of the prosecution and points towards the infirmity in the evidence and renders it unsafe to base any conviction. Delay in lodging of the FIR quite often results in embellishment which is a creature of after thought. It is, therefore, that the delay in lodging the FIR be satisfactorily explained. The purpose and object of insisting upon prompt lodging of the FIR to the police in respect of commission of an offence is to obtain early information regarding the circumstances in which the crime was committed, the names of actual culprits and the part played by them as well the names of eye witnesses present at the scene of occurrence. The prosecution in the instant case has been failed to explain the delay in lodging FIR. Learned trial Court has rightly held that burden heavily lies on the prosecution to prove the case beyond reasonable doubt and in the criminal case mere suspicion, however, strong cannot take the place of proof. Between may be true and must be true, there is inevitably a long distance to travel and whole of this distance must be covered by the prosecution by legal, reliable and unimpeachable evidence before an accused can be convicted. The prosecution has not covered the same in the present case.”

26 It is thus evident that the contentions advanced on behalf of the petitioner have been duly considered by both the Courts. It was specifically noticed that the delay in registration of the case and reporting the incident, in

the facts and circumstances of the case, became crucial since the witnesses were sent to Delhi i.e. out of the local area, after the incident took place on 10.10.2011. Besides, the aspect of the petitioner having been taken to the Safdarjang Hospital is not corroborated from the evidence on record, as neither such evidence was collected nor were the witnesses summoned by the prosecution to prove its case.

27 Hence, in the absence of establishing that the petitioner's nephew Javed had gone to Delhi for treatment, no presumption can be drawn that he was not available for reporting the matter to the police. The absence of the medical record pertaining to injuries inflicted proving of the allegations of any injury having been caused. The same renders the prosecution version suspect and unworthy of acceptance on its face value.

28 It is a settled position in law that while exercising the revisional jurisdiction, the High Court does not sit in re-appreciation of the evidence. It is only required to examine whether the contentions advanced by the petitioner have been dealt with by the Courts and whether the conclusions drawn on the basis of evidence are probable and flow from a meaningful reading of the evidence or not. In case, the conclusions are permissible conclusions, from a reading of the entire evidence brought on record, merely because a higher court may hold a different view, the same would not be a ground to interfere with the findings recorded concurrently by both the Courts.

29 Finding no illegality, perversity, impropriety or misreading of the evidence, the judgments under challenge passed by both the Courts are accordingly upheld. The present petition is dismissed.

30 A copy of this order be sent to the High Court Legal Services Committee for information and necessary action.

February 17, 2026.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*