



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

**CRA-D-204-DB-2004  
Date of Decision: 11.07.2025**

**RAMBIR**

**.. Appellant**

**Versus**

**STATE OF HARYANA**

**...Respondent**

**CRA-S-460-SB-2004**

**KULDIP**

**.. Appellant**

**Versus**

**STATE OF HARYANA**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

**HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Sanjeev Kadian, Advocate  
for the appellants.

Mr. R.S. Arya, Addl. A.G., Haryana.

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**JASJIT SINGH BEDI, J.**

This judgment shall dispose of two criminal appeals i.e. CRA-D-204-DB-2004 titled as Rambir Vs. State of Haryana and CRA-S-460-SB-2004 titled as Kuldip Versus State of Haryana as the same are arising out of the same FIR. However, for the sake of convenience the facts have been taken from CRA-D-204-DB-2004.

2. The present appeals have been filed against the judgment of conviction and order of sentence dated 30.01.2004 passed by the Addl. Sessions Judge, Rohtak.

3. The FIR was registered on 10.07.2003, the judgment of conviction and order of sentence passed by the Addl. Sessions Judge, Rohtak is dated 30.01.2004, the appeal was filed on 25.02.2004 and the matter is being taken up for hearing now i.e. after a period of more than 21 years from the date of registration of the FIR.

4. The brief facts of the case are that on 10.07.2003 at about 05:10 PM, Dr. Pawan Kumar, was sitting in his clinic with his brother-in-law Shri Rajbir Kashyap, Advocate (PW10) and another relative Tokh Raj (PW17). His Multi Purpose Health Worker Shamsher Singh (PW8) was also present. Meanwhile accused Rambir, armed with a pistol Ex.P15 and accused Kuldip armed with a county made pistol Ex.P2, came into the clinic. One of them asked the doctor as to why he had dared not to give the demanded ransom amount of Rs.50,000/- and on saying so, accused Rambir fired a shot at the doctor. Shamsher Singh PW8, intervened to save the doctor and the shot pierced through the right hand of Shamsher Singh. All the four persons tried to over-power the two accused persons. A scuffle took place, in which, Dr.Pawan Kumar and Tokh Raj also received some minor injuries on their persons. Meanwhile other staff members of the hospital gathered there. The accused persons fired another shot, which hit the glass pane of the outer gate after which the accused persons ran away towards Nigana road on a motor cycle No.HR-14/8665, which was parked outside the clinic. Injured Shamsher Singh was taken to CHC Kalanaur by Subhash, another employee of the clinic, where Shamsher Singh was medico-legally examined by Dr. Sube Singh PW3, who in MLR Ex.PD, noted the following injuries on his person:-

*1. A lacerated wound of size 0.75 cm x 0.75 cm present over the palmer aspect of right hand, margins were irregular, inverted and blackish in colour. Blackish deposits present on the margins with fresh bleedings.*

*2. A lacerated wound present on the dorsal aspect of right hand of size 1 x 1 cm, margins were irregular and outward, with fresh bleeding.*

*Injuries were caused by firearm.*

5. The doctor sent the 'ruqa' Ex.PE and copy of the MLR to the police. Thereafter, ASI Om Parkash PW14, reached CHC Kalanaur and met Shamsher Singh at the outer gate of the hospital. He recorded his statement Ex.PL, narrating the said occurrence. ASI Om Parkash, sent this writing to the Police Station, through C.Satbir Singh, with his endorsement Ex.PL/1 thereon, and on its basis, formal FIR Ex.PL/2 was registered by HC Mahabir Singh, for offences punishable under Sections 307, 323, 427, 452 read with Section 34 of IPC and also under Section 25 of Arms Act. Special report thereof reached the Illaqa Magistrate on the next morning at 8.30 a.m.

6. ASI Om Parkash, reached the place of occurrence. He got the site photographed from the official photographer C.Pawan Kumar PW12. Ex P7 to Ex. P10 are the photographs of the site, with negatives Ex.P11 to Ex.P14. ASI Om Parkash, also prepared the visual site plan Ex.PS and picked up two fired cartridge cases and one bullet from the place of occurrence and seized them in a sealed parcel, with seal "OP" vide recovery memo Ex.PN. He also picked up bloodstained earth by means of cotton swabs and broken glass pieces vide another recovery memo Ex.PO. Both the recovery memos, were attested by PW Dr.Pawan Kumar PW9 and Tokh Raj PW17.

7. After the medico-legal examination of Shamsheer Singh, Dr. Sube Singh PW3 handed over to police, his bloodstained shirt, in a sealed packet, which was seized by the police, vide recovery memo Ex.PO.

8. Tokh Raj PW17 had also received some injuries on his person in the occurrence, ASI Om Parkash, prepared his injury report Ex.PB and sent him for medical examination. Dr. Sube Singh PW3, also medico-legally examined him and in MLR Ex.PC, noted the following injuries on his person:-

*1. A contusion and swelling present on the right hand on dorsal aspect of size 2 x 2 cm, tender to touch. Advised X-ray right hand and AP and lateral view.*

*3. A contusion present on the left forearm on the medical aspect of size 1 x 1 cm, tender to touch, reddish in colour.*

*3. Complaint of generalized body ache.*

9. Dr. Rajesh Jain PW4, Radiologist examined Shamsheer Singh on the same day i.e. 10.07.2003 and gave his report Ex.PH, finding a fracture of the 2<sup>nd</sup> metacarpal bone of his right hand. On its basis, on police application Ex.PG dated 03.09.2003, Dr. Sube Singh, opined that said injury on the person of Shamsheer Singh, was grievous in nature vide his endorsement Ex.PG/1.

10. SI/SHO Narinder Singh PW15 visited the site on 10.07.2003 and conducted further investigation. On 14.7.2003, on the basis of prior secret information, SI/SHO Narinder Singh PW15, alongwith ASI Om Parkash PW14, ASI Ajit Singh and constable Jaibir, apprehended the two accused persons, near a minor culvert while they were on a motorcycle which was being driven by accused Kuldip, whereas, accused Rambir was sitting on its

pillion seat. The motorcycle was taken into police possession, vide memo Ex.PU, attested by ASI Om Parkash and ASI Ajit Singh.

11. On interrogation, both the accused persons disclosed about their involvement in a number of criminal cases, including the instant case. It was disclosed by them that accused Sumer had arranged a pistol, which was given to accused Rambir and accused Omkar had arranged a country made pistol, which was given to accused Kuldip. To execute their plan, they were sent to the clinic of Dr.Pawan Kumar, as he did not pay the demanded ransom amount. On the basis of these statements, offence punishable under Section 120-B of IPC was added.

12. On the same day i.e. 14.07.2003, accused Rambir and Kuldip also got their disclosure statements recorded offering to get the said two weapons recorded from a place near Raigarh in State of Uttar Pradesh. On the next day, dated 15.07.2003, when, in pursuance to their disclosure statements, the police was taking them to that place, on the way, near Railway Station of Raigarh, they disclosed that in fact their said disclosure statements were false. Rambir then got his 2<sup>nd</sup> disclosure statement Ex.PV, recorded to the effect that he had kept concealed the said pistol in the back of the old Dharamshala, near Devi Temple, Kalanaur, within his exclusive knowledge and could get the same recovered. Accused Kuldeep also got his 2<sup>nd</sup> disclosure statement Ex.PX, recorded to the effect that he had kept concealed a country made pistol, along with cartridges, in the back of the uninhabited 'kotha' of Ishwar Singh, near the cremation ground of village Gudhan and could get the same recovered.

13. On the next day, dated 16.07.2003, in pursuant to their said subsequent disclosure statements, accused Rambir got recovered pistol

Ex.P15 of .32 bore, with four cartridges Ex.P16 to Ex.P19. Sketch Ex.PV/1 of the recovered pistol was prepared and the weapon was taken into police possession vide recovery memo Ex.PV/2, showing the place in rough site plan Ex.PV/3. Similarly, accused Kuldeep in pursuance to his subsequent disclosure statement, got recovered country made pistol Ex.P2, with four cartridges Ex.P3 to Ex.P6, of the same bore, from that place. Sketch of the recovered pistol was prepared and the weapon taken into police possession, vide recovery memo Ex.PX/2, showing the place in rough site plan Ex.PX/3. Both the disclosure statements, recovery memos and sketches, were duly attested by ASI Om Parkash and C. Udham Singh.

14. Initially, accused Sumer and Omkar, could not be arrested. On 06.08.2003 on getting information that accused Sumer was produced by the police of Police Station Jhajjar, at Bahadurgarh, in some other case, SHO Narinder Singh PW15, reached there and then duly arrested him in the instant case. Accused Sumer Singh, then gave his statement to the police disclosing his involvement in the present case and showed the place of occurrence which was already in the knowledge of the police. He admitted that accused Rambir and Kuldeep were sent by him on the said motorcycle to the clinic of the doctor to commit the offence. Pistol Ex.P15 had been stolen and pistol Ex.P2, was procured by him from the area of Aligarh.

15. On 02.09.2003, the aforesaid sealed parcel of country made pistol Ex.P2, was produced by ASI Om Parkash, before the Armourer ASI Sat Narain PW7, with police application Ex.PK. After opening the sealed parcel and preparing rough sketch Ex.PK/2 of the weapon, the armourer examined it and the cartridges. He gave his report Ex.PK/1 that the pistol was in working condition and the cartridges Ex.P3 to Ex.P6, were live cartridges. Thereafter,

he returned the same to ASI Om Parkash, in another sealed parcel, with his own seal.

16. All the aforesaid sealed parcels remained in safe custody of HC Mahabir Singh PW16, and were duly sent to FSL, Madhuban, through C.Ramdhari PW13. FSL report Ex.PY, was received, to the effect that pistol Ex. P15, recovered from accused Rambir, was a firearm, within the meaning of the Arms Act, 1954 and its firing mechanism was in working order. Two fired cartridge cases and one bullet lifted from the spot and sent to FSL, were also found to have been fired from this pistol. Human blood was also found on the shirt of Shamsher Singh and also in the bloodstained earth picked up from the spot.

17. On obtaining sanctions Ex.PA and Ex.PA/1, of the District Magistrate, for the trial of accused Rambir and Kuldeep, under Section 25 of Arms Act; getting the scaled site plan Ex.PJ dated 29.08.2003 prepared from official draftsman C.Samit Kumar PW6 and also after completion of other necessary investigations, accused Rambir, Kuldeep and Sumer were duly challaned by SHO Narinder Singh, as by that time accused Omkar could not be arrested. Accused Omkar was arrested later on 21.08.2003. During interrogation, he disclosed to the police regarding his involvement in a number of criminal cases including the present case and subsequently, supplementary challan against him was also sent by SHO Narinder Singh PW15.

18. Both police challans were committed and duly consolidated. Accused Rambir and Kuldip were charged for offences punishable under Sections 323 read with Section 34, 427, 452, 307 and 120-B of IPC and also under Section 25 of Arms Act. Accused Sumer and Omkar were charged for

offences punishable under Sections 307, read with Section 120-B of IPC and under Section 323 read with Section 34 of IPC. All the accused persons did not plead guilty to the charges and claimed trial.

19. In order to prove the charges, the prosecution examined as many as 17 witnesses, namely Ram Bhagat PW1 Reader to District Magistrate, Rohtak; Sumer Singh Record Keeper PGIMS PW2; Dr. Sube Singh PW3; Dr. Rajesh Jain PW4; Dr. Gulshan Gulyani PW5; official draftsman C. Sumit Kumar PW6; Armourer ASI Sat Narain PW7; complainant and injured Shamsher Singh PW8; Dr. Pawan Kumar PW9; Rajbir Kashyap PW10; C. Ram Niwas PW11; official photographer C. Pawan Kumar PW12; C. Ramdhari PW13; ASI Om Parkash PW14; SI/SHO Narender Singh PW15; HC Mahabir Singh PW16 and Tokh Raj PW17.

20. Ram Bhagat PW1, Reader to District Magistrate, Rohtak brought on record sanctions Ex.PA and Ex.PA/1 of the District Magistrate for the trial of accused Rambir and Kuldip, for the offences punishable under Section 25 of Arms Act.

21. Sumer Singh, Record Keeper PGIMS, Rohtak PW2 placed on record the medical treatment file of PW8-Shamsher Singh as per which he had received bullet injuries and consequential fracture of the right hand.

22. Dr. Sube Singh PW3 proved MLR Ex.PD, for the injuries upon the person of complainant Shamsher Singh PW8, sending 'ruqa' Ex.PE to the police informing about his medical examination in the hospital and his subsequent medical opinion Ex.PG/1, given to the police that injury on the person of Shamsher Singh, was grievous in nature, because of fracture of the second metacarpal bone of his right hand and that the said injury was caused by a firearm fired from close range. The doctor also proved the injuries on

the person of Tokh Raj PW17, examined on police application Ex.PB.

23. Dr. Rajesh Jain PW4 proved his report Ex.PH, regarding fracture in the second metacarpal bone of the right hand of Shamsheer Singh.

24. Dr. Gulshan Gulyani PW5 stated about the medical treatment of PW8-Shamsheer Singh in the hospital.

25. C. Sumit Kumar PW6 deposed about the scaled site plan Ex.PJ, on the pointing out of Dr.Pawan Kumar.

26. ASI Sat Narain PW7 Armourer proved the mechanical examination report Ex.PK/1 of country made pistol Ex.P2 and three live cartridges produced before him in sealed parcel by ASI Om Parkash. The said weapon was found in working order and the cartridges were also live cartridges.

27. Shamsheer Singh PW8 the injured first informant proved his first information report Ex.PL, given to the police. He testified as per the case of the prosecution. However, he did not identify accused Rambir and Kuldip in Court, stating that at the time of occurrence it was dark.

28. Subsequently Dr. Pawan Kumar PW9, Rajbir Kashyap, Advocate PW10 and Tokh Raj PW17 testified as per the case of the prosecution, as far as the occurrence is concerned and as regards the motive i.e. demand of ransom. Dr.Pawan PW9 proved his attestation upon recovery memos Ex.PO and Ex.PO/1, vide which two fired cartridge cases and one bullet, in one sealed parcel; bloodstained earth and pieces of broken glass, in another sealed parcel, were lifted from the spot, by the police. Tokh Raj PW17 also admitted his signatures on these recovery memos but also stated that at that time these were blank papers.

29. Ram Niwas PW11 stated that he had handed over a sealed parcel on 10.7.2003 to ASI Om Parkash, which was given to him, by the doctor after medical examination of Shamsher Singh. The same was taken into police possession vide recovery memo Ex.PO.

30. Photographer Pawan Kumar PW12 testified with regard to the photographs Ex.P7 to Ex.P10.

31. Evidence of C. Ramdhari PW13 and MHC Mahabir Singh PW16 was also formal in nature.

32. ASI Om Parkash PW14 and SI/SHO Narender Singh PW15 testified about the different facts of investigations.

33. All the accused persons in their respective statements under Section 313 of Cr.P.C. denied the incriminating circumstances appearing against them in evidence and pleaded innocence.

34. Based on the evidence led, while accused Sumer and Omkar were acquitted Rambir and Kuldip came to be convicted and sentenced by the Court of Addl. Sessions Judge, Rohtak vide judgment and order of sentence dated 30.01.2004 as under:-

<b>Convicts</b>	<b>Offence under Section</b>	<b>Sentence RI/SI</b>	<b>Fine</b>	<b>RI/SI in default of payment of fine</b>
Rambir	307/34 IPC	Imprisonment for life	Rs.20,000/-	RI for 03 years
	427/34 IPC	RI for 01 year	Rs.1000/-	RI for 03 months
	452 IPC	RI for 03 years	Rs.3000/-	RI for 09 months
	323/34 IPC	RI for 06 months	Rs.500/-	RI for 01 month
	25 of Arms Act	RI for 03 years	Rs.3000/-	RI for 09 months
All the sentences were ordered to run concurrently				
Kuldip	25 of Arms Act	RI for 03 years	Rs.3000/-	RI for 09 months

35. It is the aforementioned judgment, which is under challenge, in the present appeals.

36. The learned counsel for the appellants contends that the four material witnesses namely, PW8-Shamsher Singh, PW9-Dr. Pawan Kumar, PW10-Rajbir Kashyap and PW17-Tokh Raj have not identified the accused in Court and have thus not supported the prosecution case. The FSL report regarding the weapon purportedly recovered from Rambir matching with the fired pistol cartridges cases and fired bullet would not further the case of the prosecution in the absence of the accused being identified by the witnesses. Reliance is placed on the judgment of the Hon'ble Supreme Court in the case of **Prem Singh Versus State of (N.C.T.) Delhi, 2010(1) RCR (Criminal) 608.**

He further contends that as per the prosecution case, the accused had earlier demanded ransom from PW9-Dr. Pawan Kumar and as he had not paid the same the present occurrence took place. For the demand of ransom, FIR No.85 dated 14.06.2003 U/s 385, 506 IPC P.S. Kalanaur had been registered against the accused persons. In the said case, the accused had been acquitted vide judgment dated 05.03.2005 passed by the CJM, Rohtak. He thus contends that the very basis of the instant FIR was the alleged demand of ransom leading to the registration of FIR No.85 dated 14.06.2003 U/s 385, 506 IPC P.S. Kalanaur in which the accused stand acquitted. He therefore, contends that the impugned judgment was liable to be set aside and the accused/appellants be acquitted of the charges framed against them.

37. On the other hand, the learned State counsel contends that the accused were habitual offenders with multiple other cases registered against them. In this scenario it was but natural for the witnesses not to have identified the assailants as the accused present in Court. There was no reason

for the Investigating Agency to have falsely implicate the accused. He, therefore, contends that no fault could be found with the well-reasoned judgment of conviction passed by the Addl. Sessions Judge, Rohtak and the present appeals were liable to be dismissed.

38. We have heard the learned counsel for the parties and gone through the record.

39. As per the prosecution case, a few days prior to the occurrence the accused had demanded a ransom amount from Dr. Pawan Kumar leading to the registration of FIR No.85 dated 14.06.2003 U/s 385, 506 IPC P.S. Kalanaur. Later, the instant occurrence took place wherein the accused are stated to have fired upon the complainant party. During the course of the trial all the material witnesses while admitting the factum of occurrence having taken place did not identify any of the accused persons. It would be relevant to mention here that in FIR No.85 dated 14.06.2003 U/s 385, 506 IPC P.S. Kalanaur the accused stand acquitted vide judgment dated 05.03.2005 passed by the CJM, Rohtak. Therefore, the very basis for the commission of the instant offence becomes doubtful.

40. Further, the accused have not been identified as the assailants by any of the eyewitnesses in Court.

41. As regards the FSL report as per which the weapon recovered from accused Rambir matched with the fired pistol cartridges and fired bullet, the said matching would not further the case of the prosecution in the absence of the accused identified by the eye-witnesses. In similar circumstances the Hon'ble Supreme Court In **Prem Singh** (supra) held as under:-

*“3. Background facts in a nutshell are as follows :*

*Preetam Pyare had agreed to purchase a plot from Prem Singh and Sunder Lal and had paid Rs. 2000/- as earnest money to them. They, after accepting this earnest money, did not sell the plot to Preetam Pyare and had sold it to someone else and when Preetam Pyare demanded back his earnest money, they refused to return it. On 25.12.1992 at about 10.30 p.m. Prem Singh, Sunder Lal and Kakoo, came to the house of Preetam Pyare and took him away saying that they will return his earnest money. Preetam Pyare and his two sons Bhusan Lal and Kamal Kishore came along with them for having talks on the return of money and they reached in front of H.No. 407-D, while talking. The wife of Preetam Pyare, Smt. Shanti Devi also followed them and while they were talking, the talks became uncordial and abuses were hurled. Sunder Lal and Kakoo were having lathis in their hands and Sunder Lal exhorted them to beat them. On this Prem Singh took out a revolver and shot him in his chest. He also shot at Bhushan Lal S/o Preetam Pyare, in his chest saying that, this is the way to return the money. Kakoo and Sunder Lal had beaten Kamal Kishore, the younger son of Preetam Pyare as a result of which he received injuries on his head. When Smt. Shanti Devi complainant, W/o Sh. Preetam Pyare raised an alarm, the accused persons ran away from the spot. The Mohalla people took the injured to the hospital. She then lodged a complaint with the police on the basis of which, rukka was sent and on the basis of which case under section 307/34 Indian Penal Code read with of Arms Act 1959 was registered against the accused persons. The MLC for the injured was obtained and the accused persons were arrested. The revolver and the recovered bullet was seized and was sent for analysis to the CFSL and after completion of the formalities, the challan was filed in the court.*

*As accused abjured guilt, trial was held, accused was convicted and sentence was imposed.*

*Questioning correctness of the conviction and sentence as imposed the appellant filed an appeal. The primary stand of the appellant was that there was no evidence worth a name and even the so called injured witnesses refused to identify the assailant. The only evidence against the appellant was the alleged recovery of the pistol which was tested by the CFSL. It was found by CFSL that the bullet*

*recovered from the body of the injured matched those test fired through the same pistol. The caliber also was the same. The High Court held that since pistol has been recovered from the appellant, he can be convicted under Section 307 Indian Penal Code. The High Court found that the appellant who was a non-political leader belonging to a National Political Party was a man of great means and he appeared to have terrorised witnesses. The High Court held but he could not tamper with scientific evidence. The scientific evidence connects his weapon with the crime. That being so the High Court held that the conviction was in order.*

*4. In support of the appeal learned counsel for the appellant submitted that the conclusions of the High Court had clearly unsustainable. Merely because the appellant was the owner of the weapon that did not bring out a case under Section 307 Indian Penal Code so far as he is concerned, and in any event Section 27 has no application.*

*5. Learned counsel for the respondent-State on the other hand supported the judgment.*

*6. We find that this is a case where even the injured did not identify the appellant to be the person who had fired the shot. Merely because he is the owner of the weapon that cannot be a ground to convict him in terms of Section 307 Indian Penal Code. Further, no question was put to the appellant in his examination under Section 313 of the Code of Criminal Procedure, 1973 (in short the 'Code') regarding his purported role. The judgment of the High Court is clearly unsustainable and is set aside. The appellant is acquitted of the charges. The bail bonds executed to give effect to the order of bail passed by this Court on 15.2.2002 shall stand discharged. The appeal is allowed.*

*Appeal allowed.*

(Emphasis supplied)

42. The upshot of the aforementioned discussion is that the prosecution has not been able to establish its case beyond reasonable doubt. Therefore, we find considerable merit in the present appeals. The same are accepted. The impugned judgment dated 30.01.2004 passed by the Addl.

Sessions Judge, Rohtak. is set aside and the accused/appellants are acquitted of the charges framed against them.

**(JASJIT SINGH BEDI)**  
**JUDGE**

**(GURVINDER SINGH GILL)**  
**JUDGE**

**11.07.2025**

JITESH

**Whether speaking/reasoned:- Yes/No**

**Whether reportable:- Yes/No**