



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

1. CRA-D-195-DBA-2005

The State of Punjab

... Appellant

Versus

Maninder Singh & others

... Respondents

2. CRA-S-1995-SB-2004

Harjinder Singh

... Appellant

Versus

State of Punjab

... Respondent

3. CRA-S-1998-SB-2004

Maninder Singh & others

... Appellants

Versus

State of Punjab

... Respondent

Date of decision: 25th July, 2025

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
HON'BLE MR. JUSTICE H. S. GREWAL**

Present: Mr. H.S. Deol, Sr. Dy. Advocate General, Punjab
for the State/appellant in CRA-D-195-DBA-2005.

Mr. H.S. Randhawa, Advocate for the appellant
in CRA-S-1995-SB-2004.

Mr. Vishal Sharma, Advocate for the appellants
in CRA-S-1998-SB-2004.

MANJARI NEHRU KAUL, J.

1. These cross appeals arise out of the common judgement dated 27.09.1994 pass by the Court of learned Additional Sessions Judge (Adhoc), Fast Track Court, Ludhiana. Vide impugned judgment:

- (i) all the accused were acquitted of the charges under Sections 307 and 325 IPC; and
- (ii) they were convicted under Section 324 read with Section 34 IPC and sentenced as follows:

Accused Maninder Singh

u/s 324 IPC : Rigorous imprisonment for two years

Accused Nirmal Singh

u/s 324 IPC : Rigorous imprisonment for two years

Accused Harvinder Singh

u/s 324 IPC : Rigorous imprisonment for two years

Accused Harjinder Singh

u/s 324/34 IPC : Rigorous imprisonment for two years

2. The State has challenged the acquittal of the accused under sections 307 and 325 IPC, and sought the conviction of all the accused thereunder. The accused – appellants, in turn, have assailed their conviction under Section 324/34 IPC and prayed for their acquittal.

3. Having heard learned counsel for the parties and having meticulously reappraised the entire evidence, we are persuaded to affirm the view taken by the learned trial Court. Consequently, both appeals fail for the reasons recorded hereinafter.

4. As per the case of the prosecution, on 24.10.1998 complainant Balwinder Singh (PW-1) along with his wife Manjeet Kaur and nephew Gurpreet Singh, attended a Jagrata at the residence of his brother-in-law, Bharat Bhushan. The accused – Nirmal Singh and Harjinder Singh, brothers of the complainant, and Maninder Singh and Harvinder Singh, nephews of the complainant, were also present.

5. As per allegations, at about 10:00 PM, while the complainant was descending the stairs after dinner and reached the main passage, the accused allegedly waylaid him. Accused Harjinder Singh raised a Lalkara exhorting that the complainant be killed. Accused Nirmal Singh dealt a Kirch blow which struck the nose of the complainant. Accused Harvinder Singh gave Datter blows, which the complainant claimed to have warded off with his hands, sustaining injuries thereon. Accused Maninder Singh stabbed him twice on the abdomen with a sharp-edged weapon. Upon the alarm raised by the complainant, his wife, nephew and Jaimal Singh (PW-2), the accused are stated to have fled with their respective weapons.

6. The complainant was first taken to Civil Hospital, Ludhiana, and thereafter to CMC Hospital, Ludhiana. On 25.10.1998, his statement was recorded and the FIR (Ex.PA/2) was registered.

7. PW-1 Balwinder Singh, and PW-2 Jaimal Singh (eyewitness) supported the occurrence and attributed specific roles to each accused, asserting that the accused had acted with the intention to kill, while raising Lalkaras.

8. PW-3 Dr. Gurcharan Singh of Civil Hospital Ludhiana, examined the complainant at 11:30 PM on 24.10.1998 and noted 9 incised wounds, declared injuries Nos.1, 2 and 7 under observation and the remaining as simple, all caused by a sharp-edged weapon; he proved the MLR (Ex.PB) and pictorial diagram (Ex.PB/1). On 25.10.1998 at 3:00 PM, he declared the injured unfit to make a statement (Ex.PC/1).

9. PW-3/A Dr. Jagdeep Singh (Radiology) CMC, conducted X-rays on 25.10.1998 and found no fracture (Ex.PD).

10. PW-4 Dr. Sharad Ramdas, CMC, Ludhiana, examined the complainant on 25.10.1998 and recorded multiple lacerations (Ex.PE).

He opined that injuries No.4 and 7 were grievous, others simple, all caused by sharp-edged weapon. During cross-examination, he conceded that he did not measure the depth of injuries, did not consult the report of the radiologist and that injury No.7 was not subjected to X-ray.

11. The prosecution also examined PW-5 ASI Surinderjit Singh, PW-6 Head Constable Varinder Singh, PW-7 Head Constable Rajpal Singh and PW-8 Dr.Rohit Garg; FSL report (Ex.PX) was tendered into evidence.

12. In their statements recorded under Section 313 Cr.P.C., the accused denied all incriminating circumstances and claimed false implication due to a property dispute arising out of a collusive decree allegedly procured by the complainant. They examined DW-1 Jeevan Kumar to prove Ex.DW-1/A (plaint in civil suit No.740 of 1996 titled as Nirmal Singh vs. Manjeet Kaur), DW-2 Stephen M, Assistant Medical Record Officer, CMC and tendered Ex.DX and Ex.DX/1, certified copies of judgment and decree in Civil Suit No.962 of 17.10.1992.

13. The learned trial Court on the basis of the evidence adduced, acquitted all the accused under Section 307 and 325 IPC and convicted them under Section 324 IPC read with Section 34 IPC.

SUBMISSIONS BY THE LEARNED STATE COUNSEL

14. The learned State counsel in CRA-D-195-DBA-2005 contended that the acquittal under Sections 307 and 325 IPC is against the weight of evidence; the trial Court relied upon conjectures.

15. It was further argued that PW-4 Dr. Sharad Ramdas clearly opined that injuries Nos. 4 and 7 were grievous, which was strangely ignored by the learned trial Court. Learned State counsel still further argued that for Section 307 IPC, the intention or knowledge is

determinative; whether the injury actually proved grievous is not decisive.

16. PW-1 Balwinder Singh and PW-2 Jaimal Singh consistently deposed that the accused, armed with dangerous weapons, attacked the complainant on vital parts, while raising Lalkaras to kill, evincing the requisite *mens rea*.

SUBMISSIONS BY LEARNED COUNSEL FOR THE ACCUSED

17. The learned counsel for the accused-appellants in CRA-S-1995-SB-2004 and CRA-S-1998-SB-2004 argued as follows:

18. That the conviction under Section 324/34 IPC is unsustainable; the entire prosecution is an offshoot of the property dispute. Further, the presence of 400 - 500 persons at the Jagrata renders the version of the prosecution of an unprovoked assault improbable. Learned counsel also argued that PW-2 Jaimal Singh is a stock witness of the complainant and therefore his testimony is unreliable. While further referring to the medical evidence on record and in particular to the deposition of PW-3 Dr. Gurcharan Singh, learned counsel argued that the injuries sustained by the complainant were only skin-deep injuries, there was no fracture, and a possibility of accidental/self-inflicted injuries was apparent. It was also submitted that PW-4 Dr Sharad Ramdas's opinion on grievousness was unsupported by radiological evidence or even measurement of the depth of the injuries. Further, the bed-head ticket carried alterations regarding the place of occurrence; even the recovery of weapons was dubious. Therefore, it was urged that the conviction under Section 324 of the IPC deserves to be set aside.

19. On the aforesaid rival submissions, the following issues arise for our consideration:

- (i) whether the acquittal of the accused under Sections 307, 325 IPC warrants interference by this Court?
- (ii) whether the conviction of the accused under Sections 324/34 IPC is sustainable on facts and in law?

20. Appellate interference with an acquittal is circumscribed. The presumption of innocence is fortified by the acquittal, and unless the view taken by the trial Court is perverse, manifestly illegal or grossly unreasonable, the appellate Court would not substitute its own view merely because another possible view exists.

21. For Section 307 IPC, the intention or knowledge to cause death is the *sine-qua-non*; the nature of injury, weapon used, seat of the injury, and circumstances are relevant indicators, but the mere fact that injuries did not result in death or were not grievous is not conclusive.

22. For Section 325 IPC, proof of grievous hurt as defined under Section 320 IPC is essential. In the present case, in the absence of radiological confirmation and measured depth, the question is whether the refusal of the trial Court to treat the injuries as grievous is a plausible view.

23. Section 324 IPC is attracted where hurt is caused by dangerous weapons or means. The presence of multiple incised wounds proved by the doctors is a material circumstance supportive of the conviction under Section 324 IPC.

24. Coming to the issue No.(i) as to whether interference with the acquittal under Sections 307, 325 IPC is warranted, our answer is in the negative.

25. The learned trial Court has minutely analyzed the medical evidence on record, including the testimonies of the doctors who treated the injured. PW-3 Dr. Gurcharan Singh kept injuries No.1, 2 and 7 under

observation yet no X-ray or surgical opinion was obtained at Civil Hospital. The radiological report (Ex.PD) did not detect any fracture. PW-4 Dr. Sharad Ramdas, while branding injuries No. 4 and 7 as grievous, admittedly did not measure the depth of the wounds, nor did he consult the report of radiology, and pertinently injury No.7 was not subjected to X-ray.

26. In these circumstances, the skepticism of the trial Court about the grievous nature of the injuries is fully justified. The absence of radiological corroboration and the concession by the attending doctors render the opinion on grievousness unsafe to act upon. The charge under Section 325 IPC – which compulsorily requires proof of grievous hurt as catalogued under Section 320 IPC – was, therefore, rightly negated.

27. Coming to essential ingredients of the intention and knowledge under Section 307 IPC, the prosecution stressed upon the Lalkaras and the attribution of abdominal blows as indicative of the intent to kill. However, a conviction under Section 307 IPC cannot rest on utterances or form of assault alone; the Court must draw an inference from the totality of circumstances – nature of weapons, seat and depth of injuries, their gravity, medical opinion, and conduct of parties. In the present case, the doctors who appeared as prosecution witnesses, could not prove the depth or life-threatening character of the abdominal injuries. None of the injuries is shown to have endangered life, nor is there evidence of damage to any internal organ. The radiologist found no fracture or other grievous injury on the person of the injured.

28. The prosecution itself did not bring on record any surgical expert opinion to show that the injuries were sufficient in the ordinary course of nature to cause death or were dangerous to life.

29. In view of these objective lacunae, the conclusion drawn by the learned trial Court that the *mens rea* requisite for Section 307 IPC was not proved beyond reasonable doubt is a possible – indeed, a sound view. Once such a view is reasonably possible, it does not warrant any interference by this Court.

30. The trial Court's reasoning is neither perverse nor based on inadmissible considerations. It is anchored in the shortcomings of the medical evidence and the failure of the prosecution to satisfactorily link the proven injuries with the intention or knowledge contemplated by Section 307 of IPC.

31. Coming to the next issue No.(ii) as to whether the conviction under Section 324 IPC merits interference, the answer is yet again in the negative.

32. The complainant suffered multiple incised wounds with sharp-edged weapons, an aspect corroborated by PW-3 Dr. Gurcharan Singh and PW-4 Dr. Sharad Ramdas. The nature of the injuries and the admission of all doctors who appeared as prosecution witnesses that they were caused by sharp-edged weapon, sufficiently bring the case within Section 324 IPC.

33. The plea of the accused of the injuries being with a friendly hand is a bald suggestion, unsupported by persuasive evidence. It is contradicted by the number, distribution and location of injuries and the consistent ocular account of PW-1 Balwinder Singh and PW-2 Jaimal Singh. The so-called alterations in the bedhead ticket and the alleged dubious recovery were comprehensively considered by the trial Court; they do not erode the core of the prosecution case regarding the occurrence of assault and the use of sharp weapons.

34. The argument that an assault of the kind alleged is improbable amidst 400 odd persons at a Jagrata is speculative. Mere presence of persons, without evidence of actual independent witnesses willing to depose, is not exculpatory.

35. The property dispute between the parties does not furnish a motive for false implication, but it equally supplies a motive for the attack. In the balance of probabilities, the ocular testimony supported by the medical evidence tips the scale in favour of the prosecution, at least to the extent of Section 324 IPC. The assessment by the learned trial Court that the common intention (Section 34 IPC) stood proved, in the backdrop of a concerted assault with sharp weapons preceded by a Lalkara, is unexceptionable.

36. We, therefore, see no perversity or legal infirmity in the conviction under Section 324 IPC, which is affirmed.

37. At this stage, learned counsel for the accused in CRA-S-1998-SB-2004 submits that the FIR in question dates back 25.10.1998 and the accused have already suffered the agony of protracted trial, therefore, a lenient view may be taken. Accused – Harjinder Singh has prayed that he may be released on probation since he has exhibited good conduct throughout his incarceration and has not been involved in any other criminal case.

38. In view of the specific prayer made by learned counsel representing the accused – Harjinder Singh, the ends of justice would be served if instead of sending the appellant – Harjinder Singh – behind bars at this stage to serve the remaining part of sentence, he is released on probation. The Hon'ble Supreme Court in 'Ved Prakash vs. State of Haryana' 1981(1) SCC 447 has also observed that "*it is the duty of the sentencing Court to be activist enough to collect such facts as have a*

bearing on punishment with a rehabilitative slant". It was further observed by the Hon'ble Apex Court "*even if the Bar does not help, the Bench must fulfil the reformatory approach of sentencing implicit in such enactments as the Probation of Offenders Act*". Accordingly, while upholding the conviction of the accused Harjinder Singh, he is ordered to be released on probation for a period of two years on his entering into a bond in the sum of ₹ 25,000/- with one surety of like amount, to the satisfaction of CJM, Ludhiana with an undertaking that he shall keep peace and maintain good conduct. Furthermore, this Court does not deem it appropriate to send the appellants behind the bars at this juncture of life. More so, when they have not been involved in any criminal offence. While maintaining the conviction of appellants Maninder Singh and Nirmal Singh, their substantive sentence of 2 years is reduced to period of sentence already undergone by him in the present case.

39. With these observations, the appeal filed on behalf of the State, i.e. CRA-D-195-DBA-2005, stands dismissed; whereas, the appeals filed by the accused, i.e. CRA-S-1995-SB-2004 and CRA-S-1998-SB-2004 are disposed of.

(MANJARI NEHRU KAUL)
JUDGE

(H. S. GREWAL)
JUDGE

July 25, 2025

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable | Yes/No |