

CRR-1649-2008 (O & M)

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

(204)

**CRR-1649-2008 (O&M)
Date of Decision: 17.03.2025**

Gabdu Ram

... .Petitioner

Versus

Ramphal and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Kul Bhushan Sharma, Advocate, for the petitioner.

Mr. Dharam Pal, AAG, Haryana.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 04.02.2008 passed by the Judicial Magistrate II Class, Rewari whereby the accused-respondents No.1 to 4 have been acquitted.

2. The criminal complaint in the present came to be instituted on 22.10.2007/01.11.2007. The judgment of acquittal was passed on 04.02.2008 by the Judicial Magistrate II Class, Rewari. The instant revision petition was filed on 09.05.2008 and has come up for final hearing now i.e. after a period of almost 18 years from the date of institution of the complaint.



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3. The prosecution version is that on 20.09.1997, complainant Gabdu Ram s/o Nanak Ram his wife Ami Kaur and son Ramesh, got lodged rapat no.10 in Police Station Bawal wherein it was alleged that he was a resident of village Momhad Pur and a labourer. At 8.00 a.m. on the same date his son Ramesh was leaving for his daily labour work when his neighbour Ramphal son of Shree Ram, Caste Harijan started abusing him. On hearing these abuses, he (complainant) reached the spot and soon a quarrel ensued between the parties. Meanwhile, family members of Ramphal, Lok Ram s/o of Sish Pal, Rishal and Sher Singh s/o Lok Ram came armed with *lathies* and Lok Ram gave a blow of a *lathi* on the head of the complainant. Rishal also gave a *lathi* blow on the stomach of complainant. Sher Singh gave a *lathi* blow on his chest. On hearing the commotion Ami Kaur wife of complainant also rushed to the spot. Ram Phal allegedly gave her slaps and fist blows. Meanwhile, he (complainant's) son Ramesh also was hurt on his hand. He shouted for help hearing which Jai Deep s/o Jai Om and Sanjay s/o Hajari rescued them from the clutches of the accused persons. The whole incident flared up because of abuses hurled. An X-ray was got done from CHC, Bawal in which as per the report of date 24.09.1997, a fracture was found on his left hand. The case was registered thereafter and investigation began. Statements of witnesses etc. were recorded. Site plan Ex.PW4/B of the place of occurrence was prepared. The final report under Section 173 Cr.P.C. was presented in the Court.



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4. From the perusal of documents on record, a prima facie case under Sections 323, 325, 34 IPC was made out against the accused persons. Charge-sheet was served accordingly, to which accused persons pleaded not guilty and claimed trial. Accused Ram Phal was declared as a proclaimed offender.

5. In order to prove its case, the following witnesses were examined by prosecution:

Sr. No.	Prosecution Witnesses	Name of the witnesses
1.	PW-1	Complainant Gabdu Ram
2.	PW-2	Ramesh s/o Gabdu Ram
3.	PW-3	Dr.J.K.Saini, Medical Officer
4.	PW-4	Ram Kishan ASI
5.	PW-5	Constable Dayanand No.509
6.	PW-6	Sanjay s/o Hazari
7.	PW-7	Ami Kaur
8.	PW-8	Ashok Kumar Medical Officer

The following documents were exhibited:

Sr. No.	Exhibits	Nature of Document(s)
1.	PW-3/A	X-ray report
2.	PW-3/B	X-ray film
3.	PW-4/A	Endorsement on DDR
4.	PW-4/B	Spot memo
5.	PW-6/A	Statement of Sanjay
6.	PW-8/A	MLR of Ami Kaur
7.	PW-8/B	L MLR of Gabdu Ram
8.	PW-8/C	MLR of Ramesh
9.	Mark-A	DDR



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6. Statement of accused persons was recorded under Section 313 Cr.P.C. in which all incriminating evidence was put to them. They denied the allegations of the prosecution and stated that they had been falsely impleaded.

7. On culmination of the Trial, the accused came to be acquitted vide judgment of acquittal dated 04.02.2008 passed by the Judicial Magistrate II Class, Rewari.

8. The aforementioned judgment is under challenge in the present petition.

9. The learned counsel for the complainant-petitioner contends that the judgment of acquittal has been recorded on the basis of conjectures and surmises. The medical evidence is totally in consonance with the ocular account. The evidence of the material prosecution witnesses has not been considered in their proper perspective. He, therefore, contends that the impugned judgment was liable to be set aside.

10. The learned counsel for the State-respondent No.5 has supported the arguments of the complainant-petitioner.

11. I have heard the learned counsel for the parties.

12. The persons were charged with Sections 323 along with 34 and 325 along with 34 IPC. Accused Ramphal had been declared a proclaimed offender vide order dated 19.02.2000. As per the complaint lodged in PS on 20.09.1997, Ramphal had abused complainant Gabdu Ram, Lok Ram had hit him in his head with a *lathi*, Rishal had hit him in his stomach and Sher



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Singh had hit a *lathi* in his chest. As per the complaint when Ami Kaur intervened then accused Ramphal gave her fists blows. In the complaint itself it has been mentioned that during the incident, Ramesh s/o complainant Gabdu Ram was also hurt on his hand. In the complaint it has not been mentioned as to who had inflicted what kind of injury on the person of Ramesh. In his testimony as PW2 himself, Ramesh has not named the person who had caused injury to him neither did he mention that any injury was caused to him. Thus, it cannot be concluded with authenticity that either one of the accused persons had caused an injury to Ramesh.

As far as Ami Kaur is concerned as per the complaint Ramphal had given her fists blows. However, PW7-Ami Kaur herself while narrating the entire incident; has not mentioned that she was given any blows, fists etc. by the accused persons. As per MLR also no injury has been found on the person of Ami Kaur. Her only complaint was that of pain in her body. There is no independent eye witness in order to corroborate the infliction of alleged injury etc. on the person of Ami Kaur. Further, accused-Ramphal had already been declared a PO.

Coming to the injuries inflicted allegedly on the person of complainant Gabdu Ram himself, there are four injuries alleged by complainant to have been inflicted on him. Three injuries have been shown as simple in nature and one injury has been shown as grievous in nature. Ex.PW3/A & B are the X-ray report of Gabdu Ram. In order to draw any inference with respect of these injuries, it is relevant to go through the

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sequence of facts as alleged. The said incident occurred on 20.09.1997 at about 8.00 a.m. The incident occurred on a public *rasta*. In the complaint/DDR lodged by complainant Gabdu Ram, no mention has been made of any injury inflicted on his left forearm. The complaint was lodged at about 11.00 a.m. on the same date. As per the X-ray film and report it is clear that the injury which was inflicted on the forearm of complainant Gabdu Ram was grievous in nature, being multiple fracture. It is very surprising to note that multiple fracture had allegedly occurred at 8.00 a.m. and the DDR which was recorded at 11.00 a.m. i.e. after 3 hours, has no mention at all whatsoever of this alleged injury and there the complainant has alleged injuries with *lathies* only on his head, stomach and chest. From the X-ray report itself it is apparent that the forearm bone was broken into two pieces. It is unusual for the complainant to not have felt any pain even after 3 hours of the alleged Incident i.e. at the time of his making a complaint with the police. No other grievous injury has been alleged by any other member of the family of Gabdu Ram. It is only when the medico legal examination was conducted that the said injury has surfaced and X-ray had been advised. Further as per the prosecution report, the X-ray was conducted on 20.09.1997 itself, after around 6 hours of the alleged incident. However, complainant Gabdu Ram in his testimony deposed that x-ray was conducted after 15 days of the alleged incident, and to the contrary is the testimony of Ramesh as PW2 who deposed that said X-ray was conducted after two days of the alleged incident. In the complaint itself it has not been

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mentioned as to who allegedly caused this grievous injury on the person of complainant Gabdu Ram. In these circumstances, the grievous injury on the forearm of complainant Gabdu Ram cannot be attributed to the incident that had occurred on 20.10.1997 and there is no evidence to show that the accused persons had caused this injury on the person of Gabdu ram. Importantly, DDR No.10 dated 20.09.1997 has not been exhibited by the prosecution. The original DDR has not been placed on file.

Moving further, this incident had allegedly occurred on a public *rasta*. However, no independent witness has been produced by the prosecution to support the alleged incident. The alleged incident had occurred in a village and it must have raised lot of commotion. However, no eye witness has supported the prosecution version. In these circumstances, it is hard to believe that the alleged incident had indeed taken place.

13. In view of the above discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

14. The pending applications, if any, stand disposed of accordingly.

March 17, 2025
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No