



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

CRM-12472-2016 in/and
CRM-A-763-MA-2016
Date of Decision: 22.01.2025

SUKHDEV SINGH

.....Applicant

Versus

KRISHAN DEEP AND ANR

.....Respondents

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Manbir Singh Basra, Advocate,
for the applicant-appellant.

Mr. Karan Choudhary, Advocate for
Mr. Inderjit Sharma, Advocate,
for respondent No.1.

Appeal against respondent No.2 dismissed
vide order dated 11.07.2018.

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ANUPINDER SINGH GREWAL, J. (Oral)

CRM-12472-2016

This is an application under Section 5 of the Limitation Act for
condonation of delay of 82 days in filing the instant application seeking
leave to appeal.

Heard.

For the reasons stated in the application seeking condonation of
delay, the same is allowed. Consequently, the delay of 82 days in filing the



application seeking leave to appeal is condoned.

CRM-A-763-MA-2016

The applicant, who is the son of the original complainant-Puran Singh, is seeking leave to appeal against the judgment of the trial Court dated 17.10.2015 whereby the respondents have been acquitted in a criminal complaint under Sections 326, 324, 323, 506, 34 IPC.

2. Vide order dated 11.07.2018, the Coordinate Bench of this Court had dismissed the instant application seeking leave to appeal qua respondent No.2. We shall now proceed to adjudicate the instant application seeking leave to appeal qua respondent No.1.

3. Learned counsel for the applicant submits that the trial Court has erroneously acquitted the respondent No.1, although, there was cogent evidence warranting his conviction. The original complainant-Puran Singh had specifically stated in the complaint that he had received a 'datar' blow on his right elbow, which had been duly corroborated by the medical evidence.

4. Heard.

5. The complainant-Puran Singh had two sons, namely, Sukhdev Singh and Satnam Singh. The case of the prosecution had been initiated by way of a complaint preferred by Puran Singh, who stated that about 9.30 AM on 09.10.2008, he was working at his iron furnace when a spat took place between him and Surinder Mohan/respondent No.2. The latter abused the complainant. Then, Krishandeep/respondent No.1 (son of respondent



No.2) also reached the spot and both threw the complainant on the ground. Surinder Mohan/respondent No.2 gave fist blows on his right upper arm, on back of right shoulder and also on the back of right hand. In the meantime, Satnam Singh reached there and on seeing him both the accused ran away. Later, around 12 noon while the complainant was narrating the earlier incident to his brother Hari Singh, both the accused came there. Surinder Mohan was empty handed while Krishandeep/respondent No.1 had a small 'datar' in his hand. Then, Surinder Mohan raised a lalkara that the complainant be taught a lesson for abusing them and he removed the turban of complainant and gave a kick blow to him. Thereafter, accused Krishandeep/respondent No.1 tried to give a 'datar' blow on the head of the complainant, but the complainant raised his right arm to ward off the blow and thus, the 'datar' hit him on his right arm near the elbow. Then, the complainant and his brother raised a hue and cry, and on hearing the same, Sukhdev Singh (present applicant/appellant) reached the spot and the respondents ran away with their weapons. The complainant was medically examined on 09.10.2008 at 2.00 PM at CHC, Dina Nagar. The complainant had examined Sukhdev Singh as CW-1. However, the complainant-Puran Singh himself could not be examined as he had unfortunately expired during the course of the trial. HC Sahib Kumar was examined as CW-2 and the two doctors who had prepared the MLR were examined as CW-3 and CW-4 respectively. As per the MLR report, the following injuries were found on the person of Puran Singh:



“1. An incised wounds 3.5 CM x 1 cm horizontally placed on the back of right forearm bone deep with fresh bleeding was present.

2. Diffused swelling on the front of middle of right arm with tenderness.

3. Small reddish scratch on the back of right shoulder with tenderness.

4. Small reddish abrasion 1 cm x ½ cm on the dorsom of base of right little finger.”

6. The trial Court while appreciating the evidence on record had acquitted the respondents of the charges under Sections 326, 324, 323, 506, 34 IPC in the criminal complaint dated 23.07.2009.

7. It is apparent that the FIR had been registered on 18.10.2008 regarding the incident which is stated to have occurred on 09.10.2008 i.e., after the delay of 9 days. There does not seem to be any reasonable explanation for the delay of 9 days in registering of the FIR. It was only when the police, after investigation had filed a cancellation report in the FIR No.213 dated 18.10.2008 that the complainant had preferred the instant private complaint on 23.07.2009, nine months after the incident. The complainant is stated to have suffered four injuries but a perusal of the MLR indicates that only injury No.1 on the right forearm was grievous in nature while the other injuries were mere bruises/abrasions. It is not the case of the complainant that he had suffered multiple serious injuries warranting his admission in hospital or had lost consciousness which prevented him from registering the FIR promptly.



8. The complainant had unfortunately expired during the course of the trial but the complainant had categorically stated in the complaint that at the time when the first incident occurred, his other son Satnam Singh was present and when the second incident occurred, his brother Hari Singh was also present with him and after they had raised hue and cry, the applicant/appellant-Sukhdev Singh had reached the spot. However, neither Hari Singh nor Satnam Singh were examined by the complainant. Although, they are stated to have witnessed the two incidents but no explanation has been put forth as to why the alleged eye-witnesses Satnam Singh and Hari Singh were not examined. The applicant-Sukhdev Singh had stepped into the witness box as CW-1 and had put forth his version that he was present at the place of occurrence when the second incident had taken place. However, his testimony would be contrary to the story put forth in the complaint by the complainant who had stated that only Hari Singh was present while the applicant-Sukhdev Singh had come later, on hearing their hue and cry. The complaint does not state that Sukhdev Singh had witnessed the alleged occurrence. Therefore, there are glaring inconsistencies in the case of the complainant.

9. Furthermore, the doctors CW-3 & CW-4, who are stated to have prepared the MLR of the complainant had stated that there is a possibility that the injuries suffered by the complainant could be self inflicted.

10. It is also significant to note that there is a history of previous



civil dispute between the parties and the complainant is stated to have lost the civil suit. It appears that as an afterthought the complainant had registered the FIR and also preferred the criminal complaint.

11. Consequently, we do not find any manifest illegality in the judgment of the trial Court acquitting the respondent No.1. It is trite that interference in an appeal against acquittal would be warranted where the judgment is perverse or manifestly illegal. By the judgment of acquittal, the presumption of innocence of the accused is reinforced. Even if, another view is possible from appreciation of evidence, the appellate Court should refrain from interfering in an order of acquittal. Reference may be made to the judgment of the Supreme Court in **Chandrappa & Ors vs State Of Karnataka**, 2007 (4) SCC 415. The relevant extract of the judgment is reproduced as under:

“xxx xxx the following general principles regarding powers of appellate Court while dealing with an appeal against an order of acquittal emerge;

(1) to (3) xxx xxxx xxx

(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of



the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.

xxx xxx”

(emphasis supplied)

12. The instant application seeking leave to appeal stands dismissed accordingly.

**(ANUPINDER SINGH GREWAL)
JUDGE**

**(DEEPAK MANCHANDA)
JUDGE**

22.01.2025

sandeep

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No