



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

104

CRA-D-529-DB-2004 (O&M)
Date of decision: July 24th, 2025

Balbir Singh and others

.....Appellants

Versus

The State of Haryana

.....Respondents

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

Present: Mr. A.P.S. Deol, Senior Advocate
with Mr. V.R. Lamba, Advocate
for the appellants.

Mr. Karan Sharma, Deputy Advocate General, Haryana.

Proceedings qua appellant No.2-Gaje Singh abated
(vide order dated 25.04.2025).

MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by the appellants against the judgment of conviction dated 26.04.2004 and order of sentence dated 29.04.2004 passed by learned Additional Sessions Judge, Karnal, whereby they have been convicted and sentenced as follows:

Offence under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
302 r/w 34 of the IPC	RI for life	₹7,500/-	R.I. for six months
307 r/w 34 of the IPC	RI for five years	₹3,000/-	R.I. for four months
Convicts Joginder Singh and Balbir Singh			
25 of the Arms Act	RI for one year	₹1,000/-	R.I. for three months
Convict Gaje Singh			
30 of the Arms Act		₹2,000/-	S.I. for three months

2. The prosecution case pertains to an occurrence dated 10.09.2000 arising from a long-standing dispute regarding a parcel of land (*Khasra* No.148) located in Village Bibipur Jattan, District Karnal. The occurrence resulted in the death of Mohinder Singh (hereinafter referred to as deceased) and injuries to two others i.e. PW-9 Suresh Kumar and Rampal from the side of the complainant. After hearing the rival submissions, examining the material and evidence on record, and carefully considering the principles governing the right of private defence, we are of the considered view that the conviction recorded by the learned trial Court cannot be sustained, and, therefore, the appellants are entitled to acquittal.

CASE OF THE PROSECUTION:

3. As per the allegations contained in the FIR (Exhibit PC/1), on 10.09.2000 at about 12:30 pm, accused Gaje Singh, armed with a sword; his son accused Joginder Singh, armed with a gun; his second son Brij Kumar, armed with a *gandasi*; accused Balbir Singh, empty handed; Angrez, Tejpal, armed with a sword; Satbir Singh, armed with a *gandasi*; and Balbir (resident of Village Gagsina), all came to the street in furtherance of their common object.

4. At that time, accused Balbir Singh (son of accused Gaje Singh) started uprooting bricks from the street. On seeing this, complainant PW-6 Angrez Singh, his brother Mohinder Singh (deceased), injured PW-9 Suresh Kumar, injured PW Pala Ram and several others including some women of the village reached the spot and forbade the accused from uprooting the bricks.

5. This led to an altercation and manhandling of the complainant and others. Accused Gaje Singh exhorted that all of them were their

enemies and that none should be spared. At this instigation, accused Joginder Singh and Balbir Singh went to the roof of their house. Accused Joginder Singh fired a shot from his double barrel gun at deceased, hitting him on the head, causing him to fall down. Thereafter, accused Balbir Singh took the gun from his brother, accused Joginder Singh and fired at PW-9 Suresh Kumar hitting him on the thigh.

6. Subsequently, accused Gaje Singh also went to the roof and handed over two cartridges to his son Joginder Singh, came down and again exhorted that no one should be spared.

7. Meanwhile, accused Joginder Singh and Balbir Singh, climbed down from the roof, and Joginder Singh fired two shots into the air. In the melee, the complainant and Chandar Bhan snatched the gun from accused Joginder Singh and threw it towards the women standing nearby. Those women broke the gun by striking it against bricks, and the broken pieces were retained by Sumitra wife of Ram Bhaj. After this, all the accused fled the spot with their respective weapons.

8. The injured were shifted to the hospital, where the deceased was declared dead. On receipt of message, Exhibit PU, from Police Post at Civil Hospital, Karnal, and ruqa from the doctor, Exhibit PU/1, PW-16 ASI Satyavir reached the Police Post, Civil Hospital, Karnal, where Constable Balraj produced before him a sealed parcel containing the clothes of injured, Suresh Kumar, which were converted into parcel vide memo Exhibit PG.

9. Thereafter, ASI Satyavir Singh recorded the statement of complainant Angrej Singh (Exhibit PC), on the basis of which formal FIR Exhibit PC/1 was registered and the investigation commenced.

10. PW-16 Satyavir conducted the inquest and prepared inquest report (Exhibit PV) and, after photographing the dead, moved an application Exhibit PV-1 for postmortem examination of the deceased. He also moved an application Exhibit PW regarding the fitness of injured PW-9 Suresh Kumar and Rampal to record their statements; however, they were declared unfit.

11. The investigation was subsequently taken over by PW-18 Ram Kumar. On 11.09.2000, after obtaining medical opinions about their fitness, PW-18 Ram Kumar recorded the statements of injured PW-9 Suresh Kumar and Rampal, who were lying admitted at the Government Hospital, Karnal. The bloodstained clothes of PW Rampal were seized vide memo Exhibit PX.

12. On the same day, the Investigating Officer PW-18 Ram Kumar visited the place of occurrence, and inspected the spot. Photographs of the scene of crime were taken. Two empty cartridges were recovered from the roof of the house of the accused, sealed, and seized vide memo Exhibit PS. Later, Savitri produced a broken DBBL gun (broken into five pieces) along with two empty cartridges, which were also sealed and seized vide memo Exhibit P3. On 12.09.2000, Subhash and Jarnail Singh produced accused Brij Kumar, Tejpal, Angrez Singh and Gaje Singh before the Investigating Officer, who arrested and interrogated them. Accused Brij Kumar suffered a disclosure statement Exhibit PJ and got recovered a *gandasi*, which was sealed and seized vide memo Exhibit PJ/1.

13. Accused Tejpal made a disclosure statement (Exhibit PM-1) and led to the recovery of a sword, which was seized vide memo Exhibit PM. Accused Balbir Singh also suffered a disclosure statement (Exhibit

PN) and produced an iron grill rod, which was seized vide memo Exhibit PN/1. Accused Gaje Singh suffered a disclosure statement (Exhibit PO) and got a *lathi* recovered, which was sealed and seized vide memo Exhibit PO/1. Accused Angrej Singh made a disclosure statement (Exhibit PL) and led to the recovery of a sword, which was seized vide memo Exhibit PL/1. Accused Satbir made a disclosure statement (Exhibit PK) leading to the recovery of a *gandasi*, which was seized vide memo Exhibit PK/1. The site plans of the places of recovery Exhibits PY and PZ and the site plan of the place of occurrence Exhibit PAA were prepared by the Investigating Officer. On 13.09.2000, accused Joginder Singh was arrested. On 27.09.2000, the Investigating Officer took into possession a licensed DBBL gun along with its documents vide memo Exhibit PBB. Documents concerning the disputed street were also produced by the Sarpanch Rajbir Singh and were seized by the Investigating Officer vide Exhibit PBB.

14. The investigation was thereafter conducted by PW-17 Inspector Gulzar Singh, who recorded the statements of the formal witnesses. Bloodstained clothes, DBBL gun, empty cartridges, and the other recovered weapons of offence were sent to the Forensic Science Laboratory, Madhuban, for forensic examination. Upon completion of the investigation, a final report under Section 173 of the Cr.P.C. was prepared and presented before the Court.

15. The case was committed to the Court of Sessions vide order dated 05.12.2000 by the learned JMIC, Karnal.

16. The accused were charge sheeted for offences punishable under Sections 118, 302 read with 149, 324 read with 149, 323 read with

149, 506 of the IPC. Accused Balbir Singh and Joginder Singh were additionally charged under Section 25 of the Arms Act, while accused Gaje Singh was charged under Section 27 of the Arms Act. After the charges were framed vide order dated 19.01.2001, all the accused pleaded not guilty and claimed trial. In support of their case, the prosecution examined 19 witnesses in all, including PW-1 Constable Prem Kumar, PW-5 Dr. Sham Wadhwa, PW-6 complainant Angrej Singh and injured witness PW-9 Suresh Kumar, PW-11 Dr. Dinesh Sharma Investigating Officer PW-16 ASI Satyavir, PW-17 Inspector Gulzar Singh and PW-18 Inspector Ram Kumar.

17. The accused while getting their statement recorded under Section 313 of the Cr.P.C. denied all the incriminating evidence led against them by the prosecution during trial and asserted that they acted solely in exercise of their right of private defense of person and property. It was contended that the disputed land (*Khasra* No.148-20 *marlas*) was purchased by their father from the Gram Panchayat after obtaining sanction from the Director, Panchayats, Haryana. Mutation was duly entered in their favor and the land was in their peaceful possession. It was pleaded that they had constructed a boundary wall of 2-3 feet height over this land to demarcate their property. A civil suit for injunction was filed by them on 10.08.2000 (a month before the occurrence in question) to restrain the complainant party from interfering with their lawful possession. The complainant side had been served notice in the civil suit. It was further claimed that on 10.09.2000, a mob of 50-60 persons, including the deceased, armed with *lathis* and brickbats, trespassed upon their property with the intention of demolishing the boundary wall and dispossessing them. During this

aggressive trespass, the accused, including Joginder Singh and his father Gaje Singh, were brutally assaulted. Both sustained multiple injuries, including grievous head injuries on Joginder Singh. In order to protect life and property, two measured gunshots were fired, resulting in one injury to the deceased and one injury on the thigh of PW Suresh. In defence, DW-1 Sadu Ram (Panchayat Secretary) proved the sale of *Khasra* No.148 to the father of the accused, Gaje Singh, supported by official resolutions and records. DW-2 Gopi Chand produced the medical records pertaining to the injuries sustained by accused Joginder Singh and Gaje Singh; DW-3 Dr. Ashok Kumar, Medical Officer, CHC Indri, stepped into the witness box. He deposed that he had medically examined both accused Joginder Singh and Gaje Singh on 10.09.2000 and the injuries sustained by them were grievous in nature. DW-4 Baljinder Singh (Clerk, Directorate of Development and Panchayats) confirmed the sanction of sale by the competent authority and also proved all the relevant documents. It was, therefore, claimed by the accused while getting their statements recorded under Section 313 of the Cr.P.C. that the injuries sustained by accused Gaje Singh and Joginder Singh were contemporaneous with the occurrence and remained unexplained by the prosecution, which is a serious infirmity.

18. On the basis of the material and evidence led, the trial Court disbelieved the defence taken by the accused and convicted them as detailed in the earlier part of this judgment by holding that the accused had indulged in unprovoked and unjustified firing; the injuries found on the accused were either self-inflicted and had not, therefore, been satisfactorily explained.

SUBMISSIONS BY LEARNED SENIOR COUNSEL FOR THE APPELLANTS:

19. Learned senior counsel for the appellants vehemently argued that the accused had been in settled and lawful possession of *Khasra* No.148, adjoining their residential house bearing *Khasra* No.188. The land was not a public passage as had been projected by the prosecution but private property, purchased and duly mutated.

20. The filing of a civil suit prior to the occurrence in question clearly reflected the *bona fides* of the appellants and their intent to resolve the disputes, if any, legally. While drawing the attention of this Court to the site map (Exhibit PA), it was argued that the plot was enclosed and distinct from any adjoining *rasta* and the prosecution had miserably failed to bring on record any document to rebut this position.

21. It was further argued that on the fateful day i.e. 10.09.2000 at about 12:30 pm, a large mob comprising of approximately 60 persons, armed with brickbats and *lathis* attempted forcible demolition of the boundary wall, leaving no option but to defend. The mob hurled projectiles towards the accused persons; the Sarpanch also arrived at the spot and in fact, the manner in which the complainant party arrived at the spot and thereafter tried to demolish the wall and also attack the accused party, it left no manner of doubt that it was a pre-planned occurrence. Furthermore, the very fact that both accused Jogindar Singh and Gaje Singh sustained nine injuries and four injuries respectively, including injuries on vital parts of their body i.e. head and the shoulder demolished the case of the prosecution of unprovoked firing. Learned senior counsel vehemently asserted that

even as per the case of the prosecution, only two shots were fired towards the complainant party, one hitting the deceased fatally and the other on the thigh of PW-9 Suresh Kumar, coupled with two shots being fired in the air, clearly indicated that they had been left with no other option but to act in defence within the scope of Sections 96-100 of the IPC. Therefore, the trial Court, while passing the impugned judgment of conviction clearly misread the evidence and ignored the credible evidence of the defence witnesses

SUBMISSIONS BY LEARNED COUNSEL FOR THE STATE:

22. Learned State counsel, while supporting the impugned judgment, contended that the disputed land being a public *rasta*, the accused party had no right to cause any obstruction thereto. It was argued that even assuming, for the sake of argument, that the complainant side, comprising local villagers, was armed with brickbats, the act of the accused party in resorting to firing upon an unarmed mob was wholly unjustified.

23. Learned State counsel, although was not able to refute that two of the accused, Joginder Singh and Gaje Singh did sustain injuries in the occurrence and were also medico-legally examined by DW-3 Dr. Ashok Kumar on the same day, however, he argued that the injuries could also have been with a friendly hand and deliberately exaggerated. He further argued that while the accused party had instituted a civil suit a month prior to the occurrence and notice had also been issued, no injunction order had been granted in their favour by any Court of law. This, according to learned State counsel, demonstrated that the accused had projected a wholly fabricated and distorted version of events.

24. Lastly, it was urged that all the prosecution witnesses

consistently supported the case of the prosecution in its entirety. Further, the presence of PW-9 Suresh Kumar and Rampal at the scene of occurrence stood established, as both had sustained injuries during the incident.

25. We have heard learned counsel for the parties and perused the relevant material on record.

26. Right of private defence under the Indian Penal Code is a statutory recognition of the natural instinct of self-preservation. A person faced with imminent danger to body or property is not required to retreat but can defend himself, even to the extent of causing death, if the situation so warrants.

27. It is a well-settled principle of criminal jurisprudence that even a reasonable apprehension of danger is sufficient to invoke the right of private defence. The law does not require the accused to prove this plea beyond a shadow of doubt; it is enough if the circumstances, as brought on record, raise a preponderance of probability in favour of such a defence. The right of private defence, however, is subject to the limitation that the force used must not be wholly disproportionate to the nature of the threat faced. It is equally well recognized that even if the right of private defence is not specifically pleaded, the Court may extend its benefit if it emerges from the material on record. When a person is suddenly confronted with imminent peril to life or property, he cannot be expected to act with measured detachment or to weigh the quantum of force used in the “golden scales” of exact proportion.

28. The Hon’ble Supreme Court in *Puran Singh Versus State of Punjab*, AIR 1975 SC 1674 has authoritatively held that even a person in settled possession, though not the true owner, can defend his property

against aggression, and that failure of the prosecution to explain injuries on the accused casts doubt on its version.

29. The evidence of DW-1 Sadhu Ram and DW4 Baljinder Singh, coupled with the documentary evidence on record, demonstrates that *Khasra* No.148 was admittedly purchased by the father of the appellants from the Gram Panchayat with the sanction of the competent authority. The pending civil suit (filed one month before the occurrence in question) substantiates their *bona fide* claim of possession. Significantly, the prosecution produced no contrary documentary evidence to prove that it was a public *rasta*.

30. The grievous injuries on accused Joginder Singh-particularly three injuries on his head-stand proved by DW-3 Dr. Ashok Kumar. The failure of the prosecution to explain these injuries seriously weakens, its case.

31. The evidence on record suggests that a large mob descended upon the disputed land purportedly to demolish the boundary wall, hurling brickbats. The accused, who also reside at the place of occurrence, were surrounded and provoked. Only two shots were fired towards the mob, resulting in a single firearm injury on the deceased and on PW-9 Suresh Kumar hitting him on the thigh. This, therefore, demonstrates that the appellants exercised restraint and fired only to repel imminent danger. The trial Court ignored the pending civil suit, misread the medical evidence, and placed undue reliance on partisan witnesses (PW-6 Angrej Singh PW-9 Suresh Kumar and PW-11 Rajbir) without any independent corroboration.

32. It also needs to be pointed out that even assuming and taking the case of the prosecution at its face value that the accused had illegally constructed a boundary wall and, therefore, obstructed the *rasta*, which as per the prosecution was a public passage, the complainant party had enough and ample time to approach the authorities concerned to remove the said obstruction rather than march in a mob of about 50 to 60 persons to the place of occurrence with brick bats etc. and try to remove the obstruction on their own. It deserves to be emphatically stated that possession of property irrespective of whether the possessor holds perfect title-confers the right to protect such possession against unlawful dispossession. This principle assumes even greater significance in the present case, where the prosecution has failed to dispute the fact that the land in question stood mutated in the name of the accused party as per relevant entries in the revenue records. Furthermore, a civil suit was already pending concerning the same land before a Civil Court, in which the opposite party had been duly put on notice.

33. In the present case, the prosecution has also miserably failed to furnish any explanation for the serious and undeniable injuries sustained by accused Joginder Singh and Gaje Singh, which, by no stretch of imagination, can be considered self-inflicted or fabricated, as was argued by the learned State counsel. The injuries sustained by accused Joginder Singh are as under:

1. Lacerated wound of size 5x-8x bone deep on linear obliquely placed on the scalp at the level of occipital protubance. Advised X ray skull.
2. Lacerated wound of size 3 x 1 x 1 cm linear on the scalp middle of temple.
3. Lacerated wound of size 4x. 4x 1 cm linear on the

- forehead.
4. Swelling with slight abrasion grape type over left forearm, posterior aspect. Advised x-ray left fore arm.
 5. Abrasion of size of 5x2 cm bluish in colour imprint type over left arm.
 6. Abrasion of 4x4cm grape type over right shoulder.
 7. Abrasion 5x2cm, linear bluish in colour vertically placed over right arm.
 8. Abrasion 4x3cm for left side of chest.
 9. Multiple imprint abrasion over upper back.

The injuries sustained by accused Gaje Singh are as under:

1. Lacerated wound of size 5cm x2 cm linear with abrasion margin obliquely placed on the scalp at the level occipital.
2. Abrasion 4x4 oval over left clavicle.
3. Swelling 3x3m over left elbow.

34. This omission strikes at the root of the prosecution case and renders its version questionable and unreliable. These unexplained injuries are, therefore, a significant circumstance pointing to the possibility that the accused were themselves under attack from the mob comprising of 50–60 villagers and acted in self-defence.

35. The cumulative effect of the evidence on record is that the accused were in possession of the disputed land on the date of occurrence, were attacked by a large mob, and sustained serious injuries, which compelled them to exercise their right of private defence of person and property. The measured shots fired towards the mob and limited firing of two shots in the air clearly indicate that the accused were not the aggressors. The prosecution has, therefore, failed to prove its case beyond reasonable doubt.

36. As a sequel to the above, the impugned judgement of conviction dated 26.04.2004 and order of sentence dated 29.04.2004 passed by the learned trial Court are hereby set aside and the accused-appellants are acquitted of the charges framed against them.

(MANJARI NEHRU KAUL)
JUDGE

July 24th, 2025
Puneet

(H.S. GREWAL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes