



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

**CRM-3703-2015 in/and
CRA-S-520-SB-2015
Date of decision: 27.02.2025**

HAKAM SINGH

...APPELLANT

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manpreet Singh, Advocate (*amicus curiae*)
for the appellant.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

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1. Present application has been filed for condonation of delay of 13 days in filing the main appeal.
2. For the reasons mentioned in the application, the same is allowed.
3. Delay of 13 days in filing the appeal is condoned.

MAIN CASE

1. The present appeal is preferred against the order of sentence dated 04.09.2014 passed by learned Sub-Divisional Judicial Magistrate, Moonak, in a case bearing FIR No.39 dated 12.03.2010 registered under Sections 323/341/506/120-B/34 of IPC at Police Station Lehra, whereby private respondents have been acquitted.
2. Briefly stated, the facts of the prosecution case are that on receipt of complaint of physical assault from Jujhar Singh and Hakam Singh, Area



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Manager visited HG-Lehragaga to investigate the incident. He recorded statements of Karnail Singh, Hari Ram Meena, Jugal M. Kishore, Ramesh Kumar (all Managers) and Som Nath Chairman. Brij Lal Garg was also present there. They met Chamela Ram and Som Nath and other millers, where they discussed about the quality of gunnies. When the discussion going on between the members of State Consultative Committee and its staff, it turned into hostile arguments and heated exchanges. On which, the workers of millers and labour entered the depot office and physically assaulted State Committee Members. Later on, they were rescued and escorted by the staff to the car. Hence, the FIR (*supra*) was registered.

3. Learned *amicus curiae* for the appellant *inter alia* contends that the prosecution has been able to establish its case against the private respondents beyond the reasonable shadow of doubt. It has been duly established on record that the accused/private respondents have committed the offence of wrongfully restraining and also inflicted injuries to them. Further, the criminal intimidation by the accused persons has also been duly proved. The learned trial Court has unnecessarily gave more weightage to some of the witnesses turning hostile, whereas two of the prosecution witnesses have duly supported and proved the case set up by the prosecution. Further PW-10 Hakam Singh has duly proved on record that he along with Didar Singh were beaten up by the private respondents. Furthermore, PW-3, namely, Jugal Kishore proved on record the presence of the appellant as well as the private respondents at the relevant time on the date of incident.



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4. *Per contra*, learned State counsel opposes the prayer made by the petitioner on the ground that learned Court below has passed a well reasoned judgment based on correct appreciation of material available on record.

5. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that PWs-1 to 4 were not eye witnesses to the occurrence, therefore, their testimonies are of not much help to the prosecution. Further, PW-7 is the material witness in the present case, who has not supported the case of the prosecution and was declared hostile and his testimony is not in consonance with the testimonies of PWs-3 and 4. Furthermore, PWs-8 and 9 also did not support the case of the prosecution and nothing could not be gathered from their testimonies, which could show that they were deposing falsely. From the testimonies of the witnesses, it is clear that no such witness has been examined by the prosecution, who could support the claims of PW-10. Furthermore, no medical record has been brought on record by the prosecution to prove that the injuries ever occurred to Hakam Singh and Jujhar Singh and there are material contradictions and discrepancies in the testimonies of witnesses. As a result, the evidence led by the appellant do not inspire confidence of this Court and the prosecution has failed to prove its case beyond the shadow of reasonable doubt.

6. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court



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has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (See *H.D. Sundara and others vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram vs. State of H.P., 1973 (2) SCC 808 and Chandrappa and others vs. State of Karnataka, (2007) 4 SCC 415*). A Division bench of this Court in the judgment passed in *State of Haryana vs. Ankit and others* passed in *CRM-A No.3 of 2022* decided on 06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

7. In view of the facts and circumstances of the case, this Court finds that learned counsel for the appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present appeal and hence, the present appeal stands dismissed.

8. Legal services authority of this Court is directed to pay the honorarium to the *amicus curiae* as per rules.

February 27, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |