



CRA-D-426-DBA-2005 (O&M) &
CRR-879-2005 (O&M)

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

(1) CRA-D-426-DBA-2005 (O&M)

State of Haryana

... Appellant

Versus

Jaswinder and others

... Respondents

(2) CRR-879-2005 (O&M)

Chand Giri

... Petitioner

Versus

State of Haryana and others

... Respondents

Date of decision : 22.09.2025

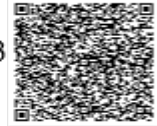
**CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
HON'BLE MR. JUSTICE H.S. GREWAL**

Present:- Mr. Shiva Khurmi, DAG, Haryana
for the appellant in CRA-D-426-DBA-2005 and
for respondent No.1-State in CRR-879-2005.

None for the petitioner in CRR-879-2005.

Mr. Vivek Dahiya, Advocate (*Amicus Curiae*)
for the respondents in CRA-D-426-DBA-2005.

Mr. Rohit Singh, Advocate
for respondents No.1, 3 to 6 in CRA-D-426-DBA-2005.



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H.S. Grewal, J.

1. Mr. Rohit Singh, Advocate has put in appearance on behalf of respondents No.1, 3 to 6 in CRA-D-426-DBA-2005 and has filed his power of attorney in the Court, which is taken on record.

2. Since there is no representation on behalf of the petitioner/complainant in CRR-879-2005, Mr. Amit Rana, Advocate (Enrolment No.P/765/2002), Mobile No.9417151117, is appointed as *Amicus Curiae* to assist this Court on behalf of the petitioner/complainant in CRR-879-2005.

3. This order shall dispose of CRA-D-426-DBA-2005 and CRR-879-2005 as these are arising out of the same FIR as well as against the same judgment of acquittal. For the sake of brevity, the facts are being taken from CRA-D-426-DBA-2005.

4. CRA-D-426-DBA-2005 has been preferred by the State of Haryana while CRR-879-2005 has been preferred by the eye-witness against the judgment passed by the learned Additional District and Sessions Judge, Fast Track Court, Ambala dated 09.09.2004 in case FIR No.87 dated 16.04.2001, under Sections 148/149/379/447/384/395/506/120-B IPC, at Police Station Mullana, whereby the respondents have been acquitted of the charges levelled against them by giving them the benefit of doubt.

5. The case of the prosecution is based upon a complaint (Ex.PEE) given by Mahaveer s/o Ram Saroop dated 12.04.2001, wherein he had stated that his aunt (chachi), namely, Leelawati wd/o Duli Chand was the owner of



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the land in dispute measuring 4½ acres situated in village Bihta. She was childless and therefore, she had transferred the land in his favour (Mahaveer) by way of an affidavit and left the village Bihta. Since then, he was in possession of the land in dispute but in the year 1998, Surjeet Singh s/o Shamsher Singh and two sons of Gurmail Singh, namely, Kulwinder and Sukhwinder, impersonated some other lady as Leelawati and got registered the fake sale deed of the land in dispute in their favour. Mahaveer(complainant) came to know about the said fictitious sale deed, then his aunt Leelawati got the case registered against Surjeet Singh and others under Section 420 IPC. In those proceedings, Kamal Singh, Har Chand and Chandgiri helped the complainant-Mahaveer.

6. Due to having grudges against Mahaveer, Surjeet Singh along with other co-accused (respondents) had given beatings and attacked the complainant as well as others upon which a case under Section 307 IPC was also lodged against them. The complainant also alleged that he had been cultivating the land in dispute since 1979. In the year 2000, the fake sale deed executed in favour of the respondents had been cancelled by the Deputy Commissioner, Ambala and a case under Section 420 IPC was registered against them which was pending before the trial Court. Thereafter, Leelawati got registered the sale deed in favour of the complainant. The mutation was also entered and sanctioned in the name of the complainant. Khasra girdawari of the disputed land has been continuously coming in the name of Leelawati. The complainant further alleged that on 12.04.2001 at about 05:00 p.m. he



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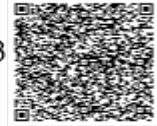
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learnt that the wheat crop standing in his field was being harvested with the help of the combine belonging to Kala Singh resident of Jainpur. Thereupon, he went to the spot and found that the respondents were present in the field with sticks and gandasis in their hands. The wheat crop was being loaded on the tractor bearing No.HR01C-6037. The complainant resisted the respondents and tried to stop them but they came to beat him. While leaving the place, the respondents also threatened to kill him and committed the theft of the wheat crop weighing about 60 quintal worth about Rs.35,000/-. He also stated that the incident was witnessed by Chand Giri, Kapoor Singh and Har Chand.

7. On receiving the aforesaid complaint, ASI Mange Ram took up the investigation and arrested the respondent-Jaswinder Singh. In pursuance to the disclosure statement of Jaswinder Singh, one gandasi and tractor bearing registration no.HR01C-6037 were recovered. He had also recorded the statements of the witnesses, arrested the respondents, interrogated them and got recovered the weapons from them.

8. After completion of investigation, challan was presented in the trial Court and charges under Sections 148/149/379/447/384/506/395/120-B IPC were framed against the respondents to which they pleaded not guilty and claimed trial.

9. Learned State counsel along with learned *Amicus Curiae* in CRR-879-2005 collectively submits that the trial Court had erred in acquitting the respondents inasmuch as the prosecution has successfully established its case. Learned counsel(s) submit that there is no doubt that the complainant

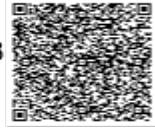


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Mahaveer was in cultivating possession of the land on the date of occurrence. The prosecution has specifically placed reliance on the revenue entries, khasra girdawari and mutation orders, which reflected the complainant's possession. They further submit that the accused-respondents, in furtherance of their common object, entered upon the disputed land and forcibly harvested about 60 quintals of wheat, thereby committing the offences under Sections 379/148/149 IPC. The presence of several accused/respondents armed with lathis, gandasas and firearms made it a case of criminal trespass coupled with theft. They further submit that the trial court has erred in discarding the evidence of PW-3 Shri Pal Singh, PW-5 Shiv Ram, PW-7 Avtar Singh and PW-8 Chandgiri. These witnesses had no reason to falsely implicate the respondents and had consistently supported the prosecution version about the harvesting of the crop and pressure put up by the respondents. Learned counsel(s) also submit that the absence of recovery of wheat should not be treated as fatal since the crop had already been removed by the respondents and was liable to perish in the ordinary course. Moreover, the enquiry report (Ex.DC) was not substantive evidence and ought not to have been given undue weight. Learned State counsel, thus, submits that the prosecution has proved its case beyond reasonable doubt and the judgment of acquittal be set aside. Learned *Amicus Curiae* in CRR-879-2005 also prays for allowing the revision petition and for convicting the respondents.

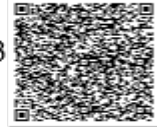
10. On the other hand, learned counsel(s) for the respondents submit that the prosecution has failed to establish its case beyond the shadow of



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reasonable doubts. The entire dispute was rooted in civil litigation between Mahaveer and the respondents regarding title and possession. Several suits and proceedings under Sections 145/146 Cr.P.C. were pending. This Court had also stayed the cancellation of the respondents' sale deed. In this background, the complainant tried to misuse criminal law to settle a civil score. They also submit that the complainant had failed to prove actual cultivating possession. The Patwari (PW-1 Gulshan Kumar), the best witness on the point, did not depose clearly in favour of the complainant. In fact, revenue entries continued to show Leelawati as the owner/possessor and she had sold the land to the respondents. Hence, no exclusive possession of Mahaveer was established. Learned counsel(s) further submit that all the eyewitnesses were close associates(relatives) of the complainant and belonged to the opposite faction in the village. No independent or neutral villager was examined. There were material contradictions and improvements in their testimonies. Moreover, PW-7 turned partially hostile. Learned counsel(s) further submit that the alleged theft of 60 quintals of wheat remained wholly unsubstantiated as not a single grain was recovered from the respondents. Even the alleged weapons recovered were never proved to have been used. This omission strikes at the root of the prosecution story. They further submit that the then ASP, Ambala, in her enquiry report (Ex.DC) had categorically held the possession of the respondents on the disputed land, the ownership of the wheat crop in favour of the respondents and recommended the cancellation of the FIR in question. Therefore, the entire allegations of the complainant of commission of the



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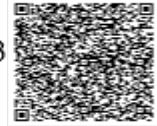
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offences have been found false. Learned counsel(s) also submit that the trial court's findings were based on sound appreciation of evidence and there is no ground for setting aside the judgment of acquittal.

11. We have heard learned counsel for the parties and have perused the material available on record.

12. In order to substantiate the charge against the appellant(s), the prosecution had examined 09 prosecution witnesses i.e. PW1 Gulshan Kumar, PW2 Jiya Lal, PW3 Shri Pal Singh, PW4 Rameshwar Prasad SHO, PW5 Shiv Ram, PW6 EHC Baldev Singh, PW7 Avtar Singh, PW8 Chandgiri and PW9 ASI Mange Ram (Investigating Officer).

13. PW1 Gulshan Kumar, Patwari, village Bitta had prepared the site plan Ex.PA as per the order of the Naib Tehsildar, Saha (Ex.PA/1). He had also prepared the Kisan passbook of the land of Leelawati which is Ex.PB. He had proved on record the mutation bearing no. 2626 in favour of Mahavir on the basis of the sale deed dated 29.6.2000 (Ex.PC) and the mutation bearing no. 2470 in favour of Surjit and others (accused) on the basis of disputed sale deed dated 30.04.1998 (Ex.PD). He also deposed about the cancellation of the mutation bearing no. 2470 made by the order of Naib Tehsildar dated 29.06.2000 passed on the basis of the order of D.C. Ambala dated 15.6.2000. He also deposed that he prepared khasra girdawari of the land in dispute (Ex.DE) for the period 26.10.1999 to 24.3.1999 and khasra girdawari Ex.PE/1 and Ex.PE/2 for the period 25.10.2000 to 30.3.2001 and jamabandi Ex.PF and Ex.PF/1 for the year 1994-95 of the land pertaining to Leelawati. He also



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proved his report Ex.PG dated 29.08.2001 which he prepared on the basis of the revenue record as per the orders of Naib Tehsildar, Saha Ex.PG/1.

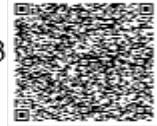
14. PW2 ASI Jiya Lal had deposed that on 16.04.2001, on receipt of ruqa (Ex.PH), he had recorded the formal FIR (Ex.PH/1) and made his endorsement Ex.PH/2.

15. PW3 Shri Pal Singh, Ex-Sarpanch of village Bihta had deposed that Leelawati was not residing in the village for the last 30-40 years and the land was being cultivated by Mahaveer. Chandgiri is brother-in-law of Mahaveer and has joint possession over the suit land. He deposed that he did not know on whose name the *girdawri* of the land in dispute had been recorded. He also deposed that accused/respondent Gurmail Singh had contested election before him in the election of Sarpanch of village Bihta.

16. PW4 SI Rameshwar Prasad had deposed that he was posted as SHO at Police Station Mulana. After the completion of investigation, he had prepared the report under Section 173 Cr.P.C.

17. PW5 Shiv Ram, Lambardar had corroborated the version as reiterated by PW3 Shri Pal Singh, Ex-Sarpanch.

18. PW6 EHC Baldev Singh had deposed about the recovery memo Ex.PJ vide which the revenue record of the land in dispute was taken in possession by the police from the Patwari Gulshan Kumar. He also proved the recovery memo Ex.PK vide which the complainant Mahavir handed over the record of the land in dispute to the police. He also deposed that the accused/respondent Jaswinder Singh had suffered the disclosure statement

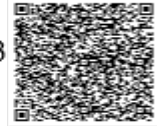


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(Ex.PL) in his presence on being interrogated by the Investigating Officer Mange Ram and offered to get recovered the gandasi and tractor/trolley. He proved the recovery memo Ex.PM vide which gandasi Ex.P1 was taken into police possession. He also identified his signatures on the sketch of the gandasi Ex.PN. He also stated that accused/respondent Avtar Singh had suffered the disclosure statement Ex.PO in his presence.

19. PW7 Avtar Singh s/o Jagir Singh had reiterated the version as given in the FIR. He also deposed that the land in dispute measuring about 4 ½ acres was inherited by Leelawati on the death of her husband Duni Chand. Ram Saroop (father of the complainant) had been cultivating the land. After his death, Mahavir started cultivating the land. He also deposed that the accused-respondents got registered a fictitious sale deed of the land in dispute by impersonating some lady Leelawati and as a result thereof, a case under Section 420 IPC was registered by Leelawati against Surjit Singh & others. Another criminal case under Section 307 IPC was also registered against the accused/respondents. He further deposed that Mahavir had sown the crop of wheat in the year 2001. The accused/respondents had armed themselves with weapons, forcibly cut and removed the crop weighing about 60 quintals from the land and also threatened to kill the complainant. He also deposed that the accused/respondents had suffered their disclosure statements in his presence & a gandasi Ex.P1 got recovered on the disclosure statement of Jaswinder. He proved the recovery memo Ex.PM & sketch Ex.PN of gandasi by identifying his signatures on it. He also deposed that accused/respondent Baljinder got

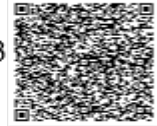


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recovered one gandasi which was taken into police possession vide recovery memo Ex.PS. This witness was later turned hostile. In his cross examination, he admitted his signatures at the recovery memo Ex.PZ & Ex.PAA, sketch of sword Ex.PBB but denied the recovery of weapons from the respondents in his presence.

20. PW8 Chandgiri had deposed that Leelawati widow of Duni Chand was the owner of disputed land. She left the land in favour of Ram Saroop and left village Bihta. She got settled at U.P. and performed another marriage there. He stated that Ram Saroop was his father-in-law. He also stated that Leelawati appointed him as her G.P.A. He further deposed that in the year 1998, the respondents got executed a false sale deed of the land of Leelawati in their favour by impersonating some other lady as Leelawati, regarding which a case under Section 420 IPC was registered against them. He further deposed that the D.C. Ambala cancelled the said sale deed and thereafter, the sale deed of 03 acres of the disputed land was executed in favour of Mahaveer. He stated that he and Mahaveer had been cultivating the land jointly. He also stated that in the year 1999, they had sown the crop of paddy and had harvested it. He also stated that the accused/respondents faced trial under Section 307 IPC for causing injuries to Karnail Singh and others and has been sentenced to imprisonment. He also deposed that on 12.04.2001, the accused/respondents were armed with sword, lathi, gandasi, kirpan etc. and had forcibly harvested the crop of paddy and loaded about 60 quintal of wheat worth Rs. 35,000/- on their tractor/trolley. Mahavir when tried to stop them was given threat of life by



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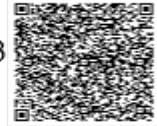
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the accused/respondents. He also reached at the spot but the accused/respondents went away with the wheat crop harvested by them.

21. PW9 ASI Mange Ram, who had investigated the matter, had deposed that on 12.04.2001, Mahavir handed him written complaint Ex.PEE on the basis of which he recorded the DDR no. 21 dated 12.4.2001 at about 08:45 P.M. He verified the facts of the complaint till 16.4.2001 and sent the ruqa for registration of the case. The FIR was registered by ASI Jiya Lal. He also stated that he moved an application Ex.PA/1 on 16.04.2001 before Patwari Halqua Bihta and collected the revenue record vide recovery memo Ex.PJ and also took into possession the documents pertaining to the land from complainant Mahavir vide memo Ex.PK. he also deposed about the disclosure statements of the accused/respondents and the recovery of weapon effected from them.

22. Since, the complainant-Mahaveer died during trial, his name was deleted from the array of the list of witnesses. However, PW Leelawati and Randhir Singh commission agent along-with other PWs were given up being unnecessary and Gurmail was given up being won over by the accused/respondents.

23. After closing the prosecution evidence, the statements of the respondents under Section 313 Cr.P.C. were recorded wherein they had denied all the allegations and pleaded innocence. They pleaded that the land in dispute was in their possession at the relevant time and they had sown the wheat crop and had harvested the same being owner of the crop. They also pleaded that they had been falsely implicated in this case.



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24. In their defence, they had examined DW1 Constable Rohtas who had brought summoned file i.e. complaint file no. 263 SPL, enquiry report and cancellation report to FIR No.87 dated 18.04.2001, registered under Sections 148/149/447/384/395 IPC.

25. DW2 Mamta Singh, Superintendent of Police, Panchkula, had deposed that she had initially conducted the enquiry in this case and had found the respondents innocent. She deposed that she had found the possession of the respondents on the disputed land and found the version of the complainant as false and recommended the cancellation of the FIR. She had proved her report Ex.DC.

26. In addition thereto, the respondents had also tendered various documents including the following :-

- “1. The statement of Avtar Singh s/o Jagir Singh recorded u/s 161 Cr.P.C. as Ex.DA.
2. The statements of Chandgiri recorded under Section 161 Cr.P.C. as Ex.DB & Ex.DB/1
3. Copy of the cancellation report dated 15.06.2001 as Ex.DC
4. The statement of Harchand Singh s/o Achaar as Ex.DD.
5. The statement of Avtar Singh s/o Jagir Singh as Ex.DE.
6. A copy of order passed on the application under Order 39 Rules 1 & 2 CPC in a case bearing no. 574 dated 22.5.2001 titled ‘Surjit Singh and others vs. Chandgiri & others’ as Ex.DE.
7. Certified copy of the statement of Gulshan Kumar the revenue Patwari Halqua Bihta Tehsil & Distt. Ambala recorded in a case titled ‘State vs. Avtar Singh’, FIR no.96 dated 27.10.1999, registered under Sections 148/149/323/324/325/307 IPC at Police Station Mullana as Mark A.



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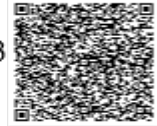
8. Certified copies of the orders dated 05.07.2000 and 24.04.2001 passed by this Court in Civil Writ Petition No.8165 of 2000 titled 'Surjit Singh & others vs. State of Haryana through Commissioner-cum-Secretary revenue department Civil Secretariat Haryana' as Ex.DF and Ex.DG.

9. A Certified copy of the order passed by the DDPO-cum-Executive Magistrate, Ambala, dated 20.04.2000 on the proceedings under Sections 145/146 Cr.P.C. as Ex.DH.”

27. After considering the statements of all the witnesses and taking into account the evidence led by both the sides, the trial Court had acquitted the respondents by giving them the benefit of doubt.

28. Having heard learned counsel for the parties and having carefully reappraised the entire evidence on record, this Court is of the considered view that the judgment of acquittal passed by the learned trial Court does not suffer from any infirmity warranting interference in an appeal.

29. The very foundation of the prosecution case was that the complainant Mahaveer was in cultivating possession of the land and the respondents, forming an unlawful assembly, committed theft of the wheat crop. However, the revenue record, which is the best evidence to establish possession, did not support the complainant's version. The entries in Jamabandi and Khasra Girdawari continued to be in the name of Leelawati, who had admittedly left the village more than four decades earlier. No khasra entry ever reflected Mahaveer's cultivating possession upto the relevant period. Even PW1 Gulshan Kumar Patwari, a neutral Government witness, did not specifically affirm Mahaveer's possession. As per the version of Gulshan



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Kumar PW1, he remained posted as Patwari of village Bihta (where the disputed land is situated) during the period 1997 to 2003. He is a government official, who is associated with the work of updating record of land holdings of the village. Patwari of the village remains engaged in the preparation of the revenue record i.e. khasra girdawari etc. As such he is the best person who has knowledge about the possession of the persons on the land holdings in the village. On the point of possession of complainant on the disputed land, evidence of the prosecution is not convincing and reliable.

30. The credibility of the prosecution witnesses is also doubtful. The complainant himself expired during the trial and crucial witnesses such as Leelawati and Randhir Singh (commission agent) were withheld without justification. The witnesses examined, namely Shri Pal (PW3), Shiv Ram (PW5), Avtar Singh (PW7) and Chandgiri (PW8), were all interested or partisan witnesses having admitted factional enmity in the village. Their testimonies suffered from material improvements and contradictions, particularly in respect of whether respondents were armed with weapons and threats were extended or not. The delayed recording of the statement of PW8 Chandgiri, despite his alleged presence at the scene, further weakens the credibility of the prosecution's version.

31. Moreover, the recovery of crop and weapons is not supportive to prove the prosecution case. Despite specific allegations that 60 quintals of wheat were forcibly removed, no recovery of the crop was ever effected from the respondents. This strikes at the root of the allegation of theft/dacoity. The

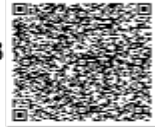


alleged recovery of weapons pursuant to disclosure statements is also highly doubtful as no independent witness was joined. Moreover, the complainant never stated that the weapons were actually used in the occurrence, making the recovery insignificant.

32. The respondents, in their defence, had examined DW2 SP Mamta Singh, who had conducted an independent inquiry and had prepared report Ex.DC. In this report, she clearly recorded that the wheat crop had been sown and harvested by the respondents and the complainant's version was found to be false. Since the report was prepared by a senior police officer in the regular discharge of her official duties, it carries a presumption of fairness and authenticity. Such an independent and unbiased inquiry not only fortifies the defence version but also casts serious doubt on the prosecution story.

33. Furthermore, the dispute regarding title and possession over the land was already *sub judice* in civil proceedings. The Civil court had directed the parties to maintain *status quo*. This Court had also stayed the cancellation of sale deed and the orders under Sections 145/146 Cr.P.C. Thus, rival claims of possession were yet to be adjudicated in civil jurisdiction. In such circumstances, criminal liability could not be fastened when even the civil rights over the property were unsettled.

34. It is well settled that in a criminal trial the burden lies entirely upon the prosecution to prove its case beyond reasonable doubt. In the present case, serious doubts have arisen about the very origin of the prosecution story,



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i.e. the possession of the complainant. The Trial Court, therefore, rightly extended the benefit of doubt to the respondents.

35. In view of the above, we do not find any illegality or perversity in the well-reasoned judgment dated 09.09.2004 passed by the learned Additional Sessions Judge, Fast Track Court, Ambala acquitting the respondents by giving them the benefit of doubt.

36. Consequently, the appeal i.e. CRA-D-426-DBA-2005 and the revision petition i.e. CRR-879-2005 are, hereby, dismissed.

37. Pending application(s), if any, shall stand disposed of accordingly.

(MANJARI NEHRU KAUL)
JUDGE

22.09.2025
A.Kaundal

(H.S.GREWAL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No