

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No.4103 of 2013
Reserved on: 02.12.2025
Decided on: 01.01.2026

State of H.P.

..... Appellant

Versus

Manohar Singh & others

.... Respondents

Coram

The Hon'ble Mr Justice Rakesh Kainthla, Judge.

***Whether approved for reporting?*¹ No.**

For the Appellant : Mr. Lokender Kutlehra, Additional Advocate General.

For the Respondents : M/s Parav Sharma and Shekhar Badola, Advocates.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 20.03.2013, passed by learned Judicial Magistrate, First Class, Court No. II, Palampur, District Kangra, H.P. (learned Trial Court), vide which the respondents (accused before the learned Trial Court) were acquitted of the commission of offences punishable under Sections 147, 323, and 325, read with Section 149 of the Indian Penal Code (IPC). (*The parties shall*

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Whether the reporters of the local papers may be allowed to see the Judgment? Yes.

hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.)

2. Briefly stated, the facts giving rise to the present appeal are that the police presented a challan for the commission of offences punishable under Sections 147, 323 and 325 read with Section 149 of the IPC. It was asserted that the informant, Balwant Singh (PW-1), owned the land adjacent to the house of Manohar Singh (accused No. 1). A Seesham tree existed on his land, which fell on 08.07.2009 due to heavy rain. Balibhadar Singh (PW-2) and Krishan Singh (PW-4) went to cut it. Manohar Singh, his two sons, his wife and daughter came out of the house and got into a quarrel with Balwant Singh and other persons at about 4:45 a.m. They also gave beatings to Balibhadar Singh (PW-2). Accused Manohar Singh picked up a stick and inflicted a blow on the head of Balibhadar Singh (PW-2), who suffered a bleeding injury. The informant and Balibhadar Singh (PW-2) sustained injury in the incident. Krishan Chand (PW-4) rescued the informant from the accused. The matter was reported to the police, and the police registered the F.I.R. (Ext.PW-1/A). SI Baldev Singh (PW-12) investigated the matter. He filed an application (Ext.PW-12/A) for the medical examination of the injured. Dr Arun Gupta (PW-9)

medically examined Balibhadar(PW-2) and found he had sustained multiple injuries. He advised an X-ray and the opinion of the dental surgeon. No fracture was detected in the part x-rayed. Dr Arun Gupta advised C.T. Scan. Dr P.K. Soni (PW-11) conducted the CT scan of the injured. Dr Ankit Shukla (PW-10) went through C.T. scan of Balibhadar and issued a report (Ext.PW-10/A) describing a fracture of the right nasal bone. Dental Surgeon, Dr K.K. Bansal (PW-7), examined Balibhadar (PW-2) and found that he had not sustained any fracture or dislocation of the tooth. He issued his opinion (Ext.PW-7/B). Dr Arun issued his final opinion that the nature of the injury was grievous. He issued MLC (Ext.PW-9/C). Dr Arun Gupta (PW-9) also examined the informant Balwant Singh (PW-1) and found that he had sustained simple injuries. He issued MLC (Ext.PW-9/D). ASI Madan Mohan (PW-8) investigated the matter. He visited the spot and prepared the site plan (Ext.PW-8/A). Balwant Singh (PW-1) produced one Kurta (Ext.P1) and Pyjama (Ext.P2), which were torn during the incident. These were put in a cloth parcel, and the parcel was sealed with five seal impressions of seal 'A'. Balibhadar produced under vest (Ext.P4), and T-shirt (Ext.P5), which were put in a cloth parcel and the parcel was sealed with five seal

impressions of seal 'A'. The seal impression (Ext.PW-8/B was taken on a separate piece of cloth, and the seal was handed over to Hoshiar Singh after its use. Cloth parcels were seized vide memos (Ext.PW-1/A and Ext.PW-1/B). Manohar Singh produced the stick (Ext.P3), which was used for inflicting injury on the head of Balibhadar Singh (PW-2). The stick was seized vide memo (Ext.PW-1/C) The statements of prosecution witnesses were recorded as per their version, and after completion of the investigation, the challan was prepared and presented before the learned Trial Court.

3. Learned Trial Court charged the accused with the commission of offences punishable under Sections 147, 323, and 325, read with Section 149 of IPC, to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined twelve witnesses to prove its case. Balwant Singh (PW-1) is the informant/victim. Balibhadar (PW-2) sustained injuries in the incident. Hosiher Singh (PW-3), Krishan Singh (PW-4) and Savitri Devi (PW-5) are the eyewitnesses to the incident. Subhash Chand (PW-6) witnessed the recovery of the stick. Dr K.K. Bansal (PW-7), the dental surgeon, examined the victim, Balibhadar. ASI Madan

Mohan (PW8) and SI Baldev Singh (PW-12) investigated the matter. Dr Arun Gupta (PW-9) examined the victims. Dr Ankit Shukla (PW-10) went through the CT scan. Dr P.K. Soni conducted the CT scan of the injured.

5. The accused, in their statements recorded under Section 313 of Cr. P.C. admitted that a tree had fallen outside their home on the way to their house. They admitted that Balibhadar and Krishan Chand went to cut the tree. Accused Manohar Singh came to the spot and asked them not to cut the tree as it would cause damage to their path. They claimed that Balibhadar had slipped and his head hit the branch of the tree. He tried to get up but again fell, causing injuries to himself. Savitri Devi (PW-5), Hoshiar Singh (PW-3), Onkar and about fifty persons had attacked them. The relationship between the complainant and the accused was strained. Informant and Balibhadar had sustained injuries by way of a fall. They had beaten accused Manohar Singh, who was rescued by other persons. They examined HHC Vinod Kumar (DW-1) and Dr Arun Gupta (DW-2) to prove their defence.

6. Learned Trial Court held that the prosecution had suppressed the genesis of the incident. Accused Manohar Singh

had sustained injuries that were not explained by the prosecution's witnesses. The witnesses to the recovery made contradictory statements, which made their testimonies highly suspect. The relationship between the parties was strained, and the prosecution's case was required to be seen with due care and caution. The prosecution had failed to prove its case beyond a reasonable doubt. Hence, the learned Trial Court acquitted the accused of the charged offences.

7. Being aggrieved by the judgment passed by the learned Trial Court, the State has filed the present appeal asserting that the learned Trial Court failed to properly appreciate the material on record. Balwant Singh (PW-1) and Balibhadar (PW-2) supported the prosecution case; their testimonies were corroborated by Dr Arun Gupta (PW-9), Dr Ankit Shukla (PW-10) and Dr P.K. Soni (PW-11). There was nothing to doubt their testimonies. The enmity was wrongly used to discard the prosecution's case. The enmity was the cause of the incident. Subhash Chand (PW-6) proved the recovery of the stick. The defence version that the complainant party has sustained injuries by a fall was not supported by Dr Arun Gupta (PW-9). Therefore, it was prayed that the present

appeal be allowed and the judgment passed by the learned Trial Court be set aside.

8. I have heard Mr Lokender Kutlehria, learned Additional Advocate General, for the appellant/State and M/s Parav Sharma and Shekhar Badola, learned counsel for the respondents/accused.

9. Mr Lokender Kutlehria, learned Additional Advocate General, for the appellant/State, submitted that the learned Trial Court erred in discarding the testimonies of the informant and Balibhadar (PW-2). These testimonies were corroborated by the medical evidence. The relationship between the parties was strained, and the enmity was the cause of the incident. The defence version that the informant party had slipped and sustained injuries was falsified by Dr Arun Gupta (PW-9), who had categorically stated that the injuries noticed by him could not have been caused by a fall. Learned Trial Court erred in discarding the statements of the witnesses. Therefore, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

10. Mr Parav Sharma, learned counsel for the respondents/accused, submitted that the learned Trial Court

had rightly discarded the testimonies of eyewitnesses. The statements were full of contradictions on the material aspect. The prosecution had failed to explain the injuries sustained by the accused, and the learned Trial Court was justified in holding that the prosecution's version was not believable. Therefore, he prayed that the present appeal be dismissed.

11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

12. The present appeal has been filed against a judgment of acquittal. It was laid down by the Hon'ble Supreme Court in *Surendra Singh v. State of Uttarakhand, 2025 SCC OnLine SC 176: (2025) 5 SCC 433* that the Court can interfere with a judgment of acquittal if it is patently perverse, is based on misreading/omission to consider the material evidence and reached at a conclusion which no reasonable person could have reached. It was observed at page 440:

“12. It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt

of the accused is possible from the evidence available on record.”

13. This position was reiterated in *P. Somaraju v. State of A.P., 2025 SCC OnLine SC 2291*, wherein it was observed:

“ 12. To summarise, an Appellate Court undoubtedly has full power to review and reappreciate evidence in an appeal against acquittal under Sections 378 and 386 of the Criminal Procedure Code, 1973. However, due to the reinforced or ‘double’ presumption of innocence after acquittal, interference must be limited. If two reasonable views are possible on the basis of the record, the acquittal should not be disturbed. Judicial intervention is only warranted where the Trial Court’s view is perverse, based on misreading or ignoring material evidence, or results in a manifest miscarriage of justice. Moreover, the Appellate Court must address the reasons given by the Trial Court for acquittal before reversing it and assigning its own. A catena of the recent judgments of this Court has more firmly entrenched this position, including, *inter alia, Mallappa v. State of Karnataka 2024 INSC 104, Ballu @ Balram @ Balmukund v. The State of Madhya Pradesh 2024 INSC 258, Babu Sahebagouda Rudragoudar v. State of Karnataka 2024 INSC 320, and Constable 907 Surendra Singh v. State of Uttarakhand 2025 INSC 114.*”

14. The present appeal has to be decided as per the parameters laid down by the Hon’ble Supreme Court.

15. Dr Arun Gupta (DW-2) examined accused Manohar Singh, and found that he (Manohar Singh) had sustained multiple injuries, which could have been caused by a blunt weapon within six hours of the examination. He admitted in the cross-examination that injuries were possible in a scuffle.

16. The prosecution's witnesses did not explain the injuries sustained by accused Manohor Singh. Balwant Singh (PW-1) denied in his cross-examination that the informant party had given beatings to Manohar Singh and his family members. He also denied that accused Manohar Singh had sustained injuries, and he was medically examined at Bhawarna Hospital. Balibhadar (PW-2) also denied in his cross-examination that the informant party had given beatings to the accused. He was not aware that the accused Manohar Singh was examined at Bhawarna hospital. Krishan Singh (PW-4) denied in his cross-examination that Balwant Singh (PW-1) and Balibhadar (PW-2) had beaten accused Manohar Singh (PW-1). Therefore, all the witnesses failed to explain the injuries to accused Manohar Singh. It was laid down by the Hon'ble Supreme Court in *Parshuram v. State of M.P.*, 2023 SCC OnLine SC 1416, that the non-explanation of the injuries to the accused assumes significance when the evidence consists of interested or inimical witnesses and the defence version competes in probability with the prosecution case. It was observed:-

“31. We do not find the said observation of the trial court correct. The injuries sustained by Ramrup @ Roopa are from a sharp weapon. It will be trite to refer to the

following observations of this Court in the case of *Lakshmi Singh v. State of Bihar (1976) 4 SCC 394*:

12. It seems to us that in a murder case, the non-explanation of the injuries sustained by the accused at about the time of the occurrence or in the course of the altercation is a very important circumstance from which the court can draw the following inferences:

“(1) that the prosecution has suppressed the genesis and the origin of the occurrence and has thus not presented the true version;

(2) that the witnesses who have denied the presence of the injuries on the person of the accused are lying on the most material point, and therefore their evidence is unreliable;

(3) that in case there is a defence version which explains the injuries on the person of the accused, it is rendered probable so as to throw doubt on the prosecution's case.”

The omission on the part of the prosecution to explain the injuries to the person of the accused assumes much greater importance where the evidence consists of interested or inimical witnesses or where the defence gives a version which competes in probability with that of the prosecution. In the instant case, when it is held, as it must be, that the appellant Dasrath Singh received serious injuries which have not been explained by the prosecution, then it will be difficult for the court to rely on the evidence of PWs 1 to 4 and 6, more particularly, when some of these witnesses have lied by stating that they did not see any injuries on the person of the accused. Thus, neither the Sessions Judge nor the High Court appears to have given due consideration to this important lacuna or infirmity appearing in the prosecution's case. We must hasten to add that, as held by this Court in *State of Gujarat v. Bai Fatima (1975) 2 SCC 7: 1975 SCC (Cri) 384*, there may be

cases where the non-explanation of the injuries by the prosecution may not affect the prosecution's case. This principle would obviously apply to cases where the injuries sustained by the accused are minor and superficial or where the evidence is so clear and cogent, so independent and disinterested, so probable, consistent and creditworthy, that it far outweighs the effect of the omission on the part of the prosecution to explain the injuries. The present, however, is certainly not such a case, and the High Court was, therefore, in error in brushing aside this serious infirmity in the prosecution case on unconvincing premises."

32. A similar view with regard to non-explanation of injuries has been taken by this Court in the cases of *State of Rajasthan v. Madho 1991 Supp (2) SCC 396*, *State of M.P. v. Mishrilal (Dead) (2003) 9 SCC 426*, *Nagarathinam v. State Represented by Inspector of Police (2006) 9 SCC 57* and recently in the case of *Nand Lal v. State of Chhattisgarh 2023 SCC OnLine SC 262*

33. Undisputedly, in the present case also, the witnesses are interested witnesses. The injuries sustained by the three accused persons are not at all explained. The trial court and the High Court have not considered this aspect of the matter.

34. Non-explanation of injuries on the persons of the accused would create doubt as to whether the prosecution has brought on record the real genesis of the incident or not. Undisputedly, as observed hereinabove, a cross-case was also registered against the complainant party for the injuries sustained by the accused persons."

17. Therefore, the learned Trial Court had rightly held that failure to explain the injuries to the person accused Manohar Singh would be an important circumstance in the present case.

18. The accused have not disputed in their statements recorded under Section 313 Cr.P.C. that a tree had fallen on the way to their house. They have not disputed that Manohar Singh had objected to the cutting of the trees; therefore, a major part of the prosecution's case was admitted by the accused.

19. Balwant Singh (PW-1) stated that accused Manohar Singh came to the spot and asked them not to cut the tree on the spot, as it would damage the path. He replied that the tree would be cut into small pieces and removed from the spot. Manohar Singh abused him (Balwant Singh) and left the spot. He, his wife, his son, and his daughter returned at 4:45 p.m. and gave beatings to Balibhadar. Manohar Singh inflicted an injury by means of a stick on the head of Balibhadar.

20. The statement of this witness is contradictory to the initial version recorded in the F.I.R. (Ext.PW-1/A), wherein it was mentioned that the informant party had gone to cut the tree at 4:45 p.m. when the incident had occurred. The informant, Balwant Singh (PW-1), stated in the Court that earlier an objection was raised by the accused, and thereafter all the accused came to the spot, which version was never projected in the F.I.R.

21. Balibhadar (PW-2) stated that he and his brother, Balwant Singh (PW-1), started cutting the trees. Accused Manohar Lal came to the spot and requested them not to cut the tree as it would damage the path. Balwant Singh (PW-1) replied that the tree would be cut only into small pieces and would be removed thereafter. Manohar Singh started abusing the informant party and went to his house. All the accused came after some time. Accused Manohar Singh inflicted a blow by means of a stick lying on the spot on the head of Balibhadar (PW-2).

22. The statement of this witness is also contrary to the initial version projected in the F.I.R. He stated that he and his brother had gone to cut the tree at 4:45 p.m.; whereas, informant stated that accused Manohar Singh had requested them not to cut the tree earlier and all the accused came at 4:45 p.m. therefore, the statements of these two witnesses contradicted each other regarding the time of the incident.

23. Krishan Singh (PW-4) stated that the tree was being cut into small pieces. Accused Manohar Singh came to the spot and asked them to remove the tree from the spot and not to cut it down. Balwant Singh (PW-1) replied that the tree was huge

and could not be removed. This led to the argument. Accused Manohar Singh went inside the gate and thereafter came with his family members. They gave beatings to Balwant Singh (PW-1) and Balibhadar (PW-2). Accused Manohar Singh inflicted the blow by means of a stick.

24. Hoshiar Singh (PW-3) admitted in his cross-examination that the incident had not taken place in his presence and he had only taken the injured to the hospital; therefore, he is not an eyewitness and his testimony does not corroborate the testimonies of the informant and Balibhadar (PW-2).

25. Savitri Devi (PW-5) stated that she arrived on the spot at 4:45 p.m. and found that both parties were abusing each other. Balibhadar (PW-2) had sustained an injury to the head, which was bleeding. Balwant Singh (PW-1) had also sustained injuries, and the clothes were torn. She inquired into the matter and found that the accused had beaten Balwant Singh (PW-1) and Balibhadar (PW-2). She stated in her cross-examination that many people had gathered at the time of her arrival at the spot.

26. The testimony of this witness does not prove as to which party was the aggressor. Her statement shows that the accused and the informant party were abusing each other. Since in the present case, the genesis of the incident is suspect, hence her testimony will not help the prosecution.

27. All the witnesses admitted that the accused Manohar Singh had objected to the cutting of trees by saying that it would cause damage to the road. This versions was suppressed in F.I.R. (Ext.PW-1/A) This admission makes the defence version probable that the accused Manohar Singh had objected to the cutting of trees. The prosecution's witnesses failed to explain the injuries sustained by accused Manohar Singh, which can lead to an inference that the informant party was the aggressor, who had beaten accused Manohar Singh.

28. Hoshiar Singh (PW-3) and Savitri Devi (PW-5) admitted in their cross-examination that 50-70 people had gathered on the spot. However, no independent witness was examined, and the learned Trial Court was justified in doubting the prosecution's case because of the non-examination of the independent persons.

29. Dr Arun Gupta (PW-9) admitted in his cross-examination that injuries No. 2 to 5 caused to Balibhadar (PW-2) and all the injuries caused to complainant Balwant Singh (PW-1) could be caused by slipping while pulling the branches of the tree; therefore, the testimony of this witness corroborates the defence version that the informant and Balibhadar (PW-2) had fallen on the slippery surface while cutting the tree.

30. There is no other evidence corroborating the prosecution's version, and the learned Trial Court had taken a reasonable view that the genesis of the incident was not established. This Court will not interfere with the reasonable view of the learned Trial Court while deciding the appeal against the acquittal, even if another view is possible.

31. No other point was urged.

32. In view of the above, the present appeal fails and it is dismissed. Pending applications, if any, also stand disposed of.

33. In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha Sanhita, 2023) the respondents are directed to furnish bail bonds in the sum of ₹50,000/- each with one surety each of

the like amount to the satisfaction of the learned Registrar (Judicial) of this Court/learned Trial Court which shall be effective for six months with a stipulation that in the event of a Special Leave Petition being filed against this judgment or on grant of the leave, the respondents on receipt of notice thereof shall appear before the Hon'ble Supreme Court.

34. A copy of the judgment, along with the record of the learned Trial Court, be sent back forthwith.

(Rakesh Kainthla)
Judge

01st January, 2026
(ravinder)