

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 116 of 2014

Reserved on: 21.04.2026

Date of Decision: 20.05.2026

State of H.P.

...Appellants

Versus

Rajinder Singh & Ors.

...Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No

For the Appellant : Mr Ajit Sharma, Deputy Advocate General.

For the Respondent : Mr Shekhar Badola, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 18.12.2013 passed by the learned Additional Chief Judicial Magistrate, Dehra, District Kangra, H.P. (learned Trial Court) vide which the respondents (accused before learned Trial Court) were acquitted of the commission of offences punishable under Sections 451, 323 and 325 read with Section 34 of the Indian Penal Code

1 Whether reporters of Local Papers may be allowed to see the judgment? Yes.

(IPC). (*The parties shall 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 before the learned Trial Court against the accused for the commission of offences punishable under Sections 451, 323, and 325 read with Section 34 of the IPC. It was asserted that the informant Madan Singh (PW4) and the accused had gone to attend the marriage of Fuggan Singh's son on 28.02.2009. Accused Rajinder Singh was sitting on a seat ahead of the informant's seat. The accused abused the informant without any reason. Mehar Singh was sitting with the accused. He took out a bottle of liquor and poured it on the informant's head. The informant objected. Rajinder Singh told the people that he would show a *tamasha* to them. The barat returned to the village, and everybody went to their home. The informant heard a noise of the door opening on 01.03.2009 at about 4:30 a.m. The informant woke up. He enquired as to who had opened the door. 2-3 people came to the informant's room and started beating the informant. The informant identified Amrik Singh, Arun Singh and Rajinder Singh as the assailants. Amrik Singh inflicted a fist blow on the

informant's face, and the informant's tooth was broken. Arun Singh, Amrik Singh and Rajinder Singh also gave beatings to Asha Devi (PW6), the informant's wife. The informant shouted for help. Shakuntla Devi, Milap Singh (PW7) and Kanta Devi (PW8) reached the spot and rescued the informant and his wife. The matter was reported to the police. The police registered an FIR (Ext.PW4/A). ASI Krishan Kumar (PW9) investigated the matter. He visited the spot and prepared the site plan (Ext.PW9/A). He filed an application (Ext.PW2/A) for the medical examination of the informant Madan Singh. Dr Anuj Kumar (PW2) examined the informant and found injuries on his person. He advised the expert opinion from the Dental Surgeon. Dr Bharti Sood (PW1) examined the informant and found that he had sustained grievous injuries. She issued the MLC (Ext.PW1/B). Dr Anuj Kumar (PW2) issued a final opinion (Ext.PW2/B) stating that the nature of the injuries was grievous and that the injuries could have been caused within 12 hours of examination. The Medical Officer handed over the broken pieces of the teeth (Ext.P2 and Ext.P3) to the police official accompanying the victim. ASI Krishan Kumar (PW9) also filed an application (Ext.PW2/H) for the medical examination of Rajinder Singh, Amrik Singh and Arun Singh. Dr Anuj Kumar (PW2)

examined Arun Singh and found that he had sustained a simple injury which could have been caused within 12 hours of examination. He also examined Amrik Singh and found that he had sustained simple injuries which could have been caused within 12 hours of the examination. ASI Krishan Kumar (PW9) recorded the statements of the witnesses as per their version. After the completion of the investigation, the challan was prepared and presented before the learned Trial Court.

3. Learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, they were charged with the commission of offences punishable under Sections 451, 323 and 325 read with Section 34 of the IPC, to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined nine witnesses to prove its case. Dr Bharti Sood (PW1), Dental Surgeon, examined Rajinder Singh, the informant/victim. Dr Anuj Kumar (PW2) examined the victim and the accused. Rashpal (PW3) was posted as a Radiographer who took the X-rays. Madan Singh (PW4) is the informant/victim. Asha Devi (PW6) is an eyewitness/victim. Pankaj

Chambial (PW5), Milap Singh (PW7) and Kanta Devi (PW8) are the eyewitnesses. ASI Krishan Kumar (PW9) investigated the matter.

5. The accused, in their statements recorded under Section 313 of the Criminal Procedure Code (Cr.P.C.), denied the prosecution's case in its entirety. He claimed that he was innocent, and a false case was instituted against him due to the land dispute with the informant. They did not produce any evidence in their defence.

6. Learned Trial Court held that Milap Singh (PW7) and Kanta Devi (PW8) were examined as the eyewitnesses, but they did not support the prosecution's case. It was established on record that there was a land dispute between the accused and the informant. The altercation in the barat could not have been a motive for the incident. Statements of the informant and his wife contradicted each other on material aspects, which made the prosecution's case doubtful. The injuries to the accused were not explained. Hence, the learned Trial Court acquitted the accused.

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. The prosecution witnesses consistently stated that the accused had entered the informant's house and given beatings to him. The informant's version was duly corroborated by Dr Anuj Kumar (PW2) and Dr Bharti Sood (PW1), who stated that the injuries could have been caused by the fist blows. Broken teeth were also produced before the Court. The acquittal could not have been recorded because the independent witnesses had not supported the prosecution's case. Hence, 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 Ajit Sharma, learned Deputy Advocate General for the appellant/State and Mr Shekhar Badola, learned counsel for the respondents/accused.

9. Mr Ajit Sharma, learned Deputy Advocate General for the appellant/State, submitted that the learned Trial Court erred in acquitting the accused. Minor contradictions were blown out of proportion to record the acquittal. The prosecution witnesses consistently stated that the accused had entered the informant's house and given beatings to him and his wife. This was duly corroborated by the statements of Dr Anuj Kumar (PW2) and Dr

Bharti Sood (PW1). Enmity is a double-edged weapon and could not have been used to record the acquittal. Therefore, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

10. Mr Shekhar Badola, learned counsel for the respondents/accused, submitted that Milap Singh (PW7) and Kanta Devi (PW8) have not supported the prosecution's version. The Learned Trial Court had noticed various contradictions in the statements of the informant and his wife. The informant had materially improved upon his version and learned Trial Court was justified in acquitting the accused. This was a reasonable view that could have been taken based on the evidence led before the learned Trial Court, and should not be interfered with. Hence, he prayed that the present appeal be dismissed.

11. I have given a 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) 5 SCC 433: 2025 SCC OnLine SC 176 that the Court can interfere with a judgment of

acquittal if it is patently perverse, is based on misreading of evidence, omission to consider the material evidence and no reasonable person could have recorded the acquittal based on the evidence led before the learned Trial Court. It was observed at page 438:

“24. 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 *State of M.P. v. Ramveer Singh*, 2025 SCC OnLine SC 1743, wherein it was observed:

“21. We may note that the present appeal is one against acquittal. Law is well-settled by a plethora of judgments of this Court that, in an appeal against acquittal, unless the finding of acquittal is perverse on the face of the record and the only possible view based on the evidence is consistent with the guilt of the accused, only in such an event, should the appellate Court interfere with a judgment of acquittal. Where two views are possible, i.e., one consistent with the acquittal and the other holding the accused guilty, the appellate Court should refuse to interfere with the judgment of acquittal. Reference in this regard may be made to the judgments of this Court in the cases of *Babu Sahebagouda Rudragoudarv. State of Karnataka* (2024) 8 SCC 149; *H.D. Sundara v. State of Karnataka* (2023) 9 SCC 581, and *Rajesh Prasad v. State of Bihar* (2022) 3 SCC 471.”

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

15. The informant Madan Singh (PW4) asserted in the FIR (Ext.PW4/A) that he had heard the noise of opening the door on 01.03.2009 at about 4:30 a.m. and he enquired who was opening the door. 2-3 people came inside the room and started beating him. He and his wife woke up and saw that Amrik Singh, Arun Singh and Rajinder Singh had entered the room. They beat the informant and Asha Devi (PW6). When the informant appeared in the Court, he stated that the accused Rajender, Santosh Kumar, Arun and Amrik had entered his room. They picked him up and threw him on the floor. They gave him beatings with kicks and fist blows. His son also reached the spot. Amrik Singh tried to strangle him. The accused also gave beatings to his wife, his daughter and his mother. No person came to the room because the accused had locked the door. When he was going to the police station, he was pushed into the verandah, and he was beaten. Shakuntla Devi, Bhuri Singh and Milap Singh had rescued him.

16. Learned Trial Court had rightly pointed out that the informant had materially improved upon his version. He had not

named Santosh Kumar as the assailant in the FIR, but he mentioned Santosh Kumar as one of the assailants in his statement on oath. He claimed on oath that he was thrown off the bed onto the floor and that the accused had given beatings to his son, daughter and mother, which facts were not mentioned in the FIR. He stated that no person entered the room because the accused had bolted the door, which means that the door could be bolted. It is highly unlikely that the informant would have slept after keeping the door open, enabling the accused to walk into the room and give him beatings. He claimed in the Court that he was pushed in the Verandah and beaten when he was going to Haripur, a fact which was omitted from the FIR. Therefore, the learned Trial Court was justified in doubting the informant's statement because of the improvements made by him.

17. Pankaj Chambial (PW5) stated that he was sleeping in the room when the accused entered his parents' room and gave them beatings. He came out of the room and tried to rescue his father. The accused tried to strangulate him. His sister came to the spot, and she was also beaten. The accused sat on the informant's

chest and gave him beatings. His grandmother came to the spot, and she was also beaten.

18. The testimony of this witness is also not as per the initial version recorded in the FIR. The FIR never mentioned that he, his sister and his grandmother were beaten. Thus, this witness has exaggerated the initial version in the Court.

19. Even Smt. Asha Devi (PW6) has not supported the exaggerations made by the informant and his son. She only stated that she was sleeping. The accused knocked at the door and gave beatings to her husband. She had rescued her husband. Her daughter and son, Shakuntla Devi, Milap Singh (PW7) and Kanta Devi (PW8) came to the spot.

20. Asha Devi (PW6) did not state that the accused had given beatings to her, her son, daughter and mother-in-law. She stated that the accused had knocked at the door, which means that the door was not open, which is contrary to the prosecution's case that the door was opened by the accused, and the informant woke up after hearing the noise.

21. Milap Singh (PW7) did not support the prosecution's case. He stated that Madan Singh (PW4) and Rajender were arguing

with each other. Nothing else had happened in his presence. He was permitted to be cross-examined, but he denied that the accused had given beatings to the informant by entering his room. Similarly, Kanta Devi (PW8) stated that she heard the noise, but she had not gone to the spot. She was permitted to be cross-examined, but she did not support the prosecution's case that the accused had entered the informant's room and given him beatings.

22. Therefore, the independent witnesses have not supported the prosecution's case, and there was no corroboration of the informant's testimony, which was required because the informant had materially improved upon his initial version and had projected a case which was never projected by him in the FIR and which was not even supported by his wife, Asha Devi (PW6).

23. Dr Anuj Kumar (PW2) examined Arun Singh and Amrik Singh and found that they had sustained injuries. Learned Trial Court had rightly held that no explanation for the injuries was provided by the prosecution. No person deposed that the accused was beaten. 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. 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.”

24. Therefore, the learned Trial Court had rightly doubted the prosecution's version because of the non-explanation of the injuries of the accused.

25. Thus, the learned Trial Court had taken a reasonable view while acquitting the accused, and this Court will not interfere with the reasonable view of the learned Trial Court, even if another view is possible while deciding an appeal against the acquittal.

26. No other point was urged.

27. In view of the above, the present appeal fails, and it is dismissed, and so are the pending miscellaneous applications, if any.

28. 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/accused are directed to furnish bail bond in the sum of ₹25,000/- each with one surety each in the like amount to the satisfaction of the learned Trial Court within four weeks, which shall be effective for six months with stipulation that in the event of Special Leave Petition being filed against this judgment, or on grant of the leave, the respondents/accused on

receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

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

(Rakesh Kainthla)
Judge

20th May, 2026
(Nikita)