

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

- (1) CRM-A-753-MA-2007 (O&M)
- Ishwar Singh ... Applicant/appellant
- Versus
- Ragbir and others ... Respondents
- (2) CRA-S-2037-SB-2007 (O&M)
- Ragbir and another ... Appellants
- Versus
- The State of Haryana ... Respondent
- (3) CRA-S-2118-SB-2007 (O&M)
- Bimla and others ... Appellants
- Versus
- State of Haryana ... Respondent
- (4) CRA-S-2143-SB-2007 (O&M)
- Surender ... Appellant
- Versus
- State of Haryana ... Respondent

Reserved on : 13.10.2025
Date of Pronouncement : 28.10.2025

CORAM : HON'BLE MR. JUSTICE ANOOP CHITKARA
HON'BLE MR. JUSTICE H.S. GREWAL

Present:- Mr. Aditya Sanghi, Advocate
for the applicant in CRM-A-753-MA-2007 and
for the appellants in CRA-S-2118-SB-2007.

Mr. Ajay Vijarana, Advocate for the appellant(s)
in CRA-S-2037-SB-2007 & CRA-S-2143-SB-2007.

Mr. Karan Sharma, DAG, Haryana.

H.S. Grewal, J.

1. Since appellant No.1 in CRA-S-2037-SB-2007 and respondent No.1 in CRM-A-753-MA-2007, namely, Raghbir s/o Ram Singh has died during the pendency of the appeal, the proceedings qua him stood abated vide order dated 03.09.2025.

2. This order shall dispose of CRM-A-753-MA-2007, CRA-S-2037-SB-2007, CRA-S-2118-SB-2007 and CRA-S-2143-SB-2007 as these are arising out of the same FIR as well as the judgment of conviction and order of sentence. For the sake of brevity, the facts are being taken from CRM-A-753-MA-2007.

3. CRM-A-753-MA-2007 has been preferred by the injured-Ishwar for enhancement of sentence and compensation under Section 378(4) Cr.P.C. seeking grant of leave to appeal against the judgment dated 24.09.2007 passed by the learned Additional Judge, (Fast Track Court), Bhiwani in case FIR No.87 dated 09.06.1999, registered under Sections 148/323/325/506 IPC read with Section 149 IPC, at Police Station Loharu whereby respondent No.1-Raghbir (since deceased) had been convicted under Section 307 IPC and respondents No.4 & 10, namely, Pawan and Surender had been convicted under Section 323 IPC while other respondents had been acquitted of the charges.

4. CRA-S-2037-SB-2007 and CRA-S-2143-SB-2007 have been preferred by the appellants/accused against the judgment of conviction and order of sentence dated 24.09.2007 and 27.09.2007 respectively passed by the learned Additional Sessions Judge (Fast Track Court), Bhiwani in the aforesaid FIR, whereby the appellants had been convicted and sentenced to undergo imprisonment along with fine as under:-

Name of the appellant	Section	Sentenced to undergo	Fine	In default of payment of fine
Raghibir (since deceased)	307 IPC	05 years	Rs.5,000/-	03 months RI
Pawan and Surender	325 IPC	02 years	Rs.500/- (each)	01 month RI

5. CRA-S-2118-SB-2007 has been preferred by the appellants (in cross-version case) against the judgment of conviction and order of sentence dated 24.09.2007 & 27.09.2007 respectively passed by the learned Additional Sessions Judge (Fast Track Court), Bhiwani in the aforesaid FIR, whereby the appellants had been convicted and sentenced to undergo imprisonment along with fine as under:-

Name of the appellant	Section	Sentenced to undergo	Fine	In default of payment of fine
Ishwar	325 IPC	02 years	Rs.500/-	01 month RI
Bimla and Krishna	323 IPC	03 months	-	-

6. The case of the prosecution is that the complainant-Jaibir s/o Norang Ram got recorded his statement on 09.06.1999 to the effect that on 08.06.1999, Raghbir s/o Ram Singh had inflicted jelli blow upon his brother-Ishwar Singh, who was ploughing his fields with tractor at about 06:30 P.M. The motive was that he was aggrieved by demolition of Doula. Thereafter, Ishwar(injured) returned to his house and disclosed the incident to the complainant and other family members, upon which the complainant along with Bimla w/o Ishwar, Krishna w/o Balbir and Ishwar Singh went to confront Raghbir regarding the above said incident. They found that Raghbir s/o Ram Singh, Ram Singh s/o Gorkha Ram, Surender s/o Deep Chand, Pawan s/o Ram Singh, Leela Ram s/o Ram Singh, Krishna w/o Ranbir, Satnarain s/o Deep Chand, Dalbir, Rajesh and Ashwani sons of Ram Singh were present there carrying lathis, jellis and axe. The complainant asked Raghbir about reason of inflicting jelli blow to his brother-Ishwar whereupon the assailants attacked them. Raghbir inflicted axe blow on the person of Ishwar, Pawan and Surender gave jelli blows on the left hand of Ishwar. Both these persons also gave jelli blows on his (complainant) person. Leela Ram and Krishana inflicted injuries to Bimla. Satnarain and Dalbir inflicted injuries to Krishana w/o Balbir while Rajesh, Ashwani and Ram Singh gave them fists and slaps. Thereafter, all the assailants went away towards their houses and threatened that they would kill them.

7. Thereafter, the complainant and Bimla took Ishwar to General Hospital, Loharu from where he was referred to General Hospital, Bhiwani and later referred to PGIMS Rohtak. The complainant Jaibir made his statement (Ex.PD) to the police at PGIMS Rohtak and the investigation was started. The

police got recovered an axe from Raghbir and a jelli from Satnarain. After completion of investigation report under Section 173 Cr.P.C. was submitted against all the accused persons for the commission of an offence punishable under Sections 148, 323, 325, 506 IPC read with Section 149 IPC. During investigation, accused Dalbir and Pawan were found innocent.

8. Besides Dalbir and Pawan, charges were framed against eight of the accused persons, namely, Wazir Singh @ Leela Ram, Ram Singh, Raghbir Singh, Ashwani Kumar, Rajesh, Sat Narain, Surender and Krishna for the offence punishable under Sections 148, 323, 325, 506 IPC read with Section 149 IPC to which they pleaded not guilty and claimed trial.

9. Meanwhile, Ishwar Singh (injured) filed criminal complaint against all the ten accused persons stating that the injury inflicted on his person was dangerous to life and an offence under Section 307 IPC ought to be added against them. He led preliminary evidence, whereupon vide order dated 18.11.2003, offence under Section 307 IPC was added against Raghbir. Thereafter, the complainant filed revision against that order before the learned Sessions Court and all the accused persons were ordered to be summoned under Section 307 IPC and the direction was made to learned Sub Divisional Judicial Magistrate, Loharu to pass fresh summoning order and thereafter, commit the case.

10. Similarly, on receipt of medical rukka of injured-Ishwar and Ram Singh, a cross-case bearing DDR No.17 dated 09.06.1999 was registered in the aforesaid FIR against Jaibir, Bimla, Krishna and Ishwar wherein police proceedings were carried out. Since cross criminal complaint case titled as 'Ishwar versus Raghbir and others' had been committed to the Court of

Sessions, therefore, this case was also committed to the Court of Sessions and both were clubbed and heard together.

11. Thereafter, all the accused persons in CRA-S-2037-SB-2007 and CRA-S-2143-SB-2007 were charge-sheeted for the offence punishable under Sections 148, 323, 325, 506, 307 IPC read with Section 149 IPC to which they pleaded not guilty and claimed trial. However, accused Ram Singh expired during the trial and proceedings against him were dropped vide order dated 20.01.2007.

12. Similarly, Jaibir, Bimla, Krishna and Ishwar in CRA-S-2118-SB-2007 were charge-sheeted for the offence punishable under Sections 323 & 325 IPC read with Section 34 IPC to which they pleaded not guilty and claimed trial.

13. In order to substantiate the charge against the accused/appellant(s), the prosecution had examined as many as nine witnesses, namely, PW1 Dr. Kamal Verma, PW2 Inspector Krishan Kumar, PW3 Dr. Sukhbir Singh, PW4 Ishwar Singh, PW5 Inspector Japan Singh, PW6 Jaibir Singh s/o Naurang, PW7 HC Ram Niwas, PW8 Dr. Hemanshu Kochhar and PW9 Yogesh Gupta Technician, DRA (Dhark Room Assistant) PGIMS Rohtak.

14. PW1 Dr. Kamal Verma, who operated upon injured Ishwar on 10.06.1999 at PGIMS, Rohtak for *extra-dural haematoma left temporo parietal bone*, deposed that craniotomy and evacuation had been done on the parietal region and operation of the patient was imminent. He also deposed that if operation was not done in time, the patient could die in ordinary course of nature. The operation note was proved as Ex.PA.

15. PW3 Dr. Sukhbir Singh, who medico-legally examined Ishwar Singh on 08.06.1999, had found following injuries on his person vide MLR Ex.PB:

“1. A lacerated wound of 4 x 0.8 cm over mid of top of scalp, depth upto 0.8 cm. Fresh bleeding, pain and tenderness present. Patient was referred to G.H. Bhiwani for X-ray skull, general surgeon opinion and proper management.
2. Movable deformity present over lower end of left arm. Patient unable to move left upper limb, patient was referred to G.H. Bhiwani for X-ray left arm with left elbow, orthopaedic surgeon's opinion and proper management.”

16. PW2 Inspector Krishan Kumar, PW4 Ishwar Singh & PW5 ASI Japan Singh had reiterated the investigation, recovery proceedings and link evidence.

17. PW6 Jaibir (complainant) and PW4 Ishwar Singh(injured-witness) had supported the case of the prosecution while attributing specific role as mentioned in the FIR.

18. PW7 Head Constable Ram Niwas deposed that accused Raghbir had produced one axe which was taken into possession vide recovery memo Ex.PE and accused Surender and Satnarain had produced one jelli each, which were taken into possession vide recovery memo Ex.PF. The axe is Ex.P1 and the jellies are Ex.P2 and Ex.P3 respectively.

19. PW8 Dr. Hemanshu Kochhar and PW9 Dr. Yogesh Gupta, Technician PGIMS, Rohtak deposed about hospitalisation of the injured and the injuries sustained by him.

20. After closing the prosecution evidence, the statements of the appellants under Section 313 Cr.P.C. were recorded wherein they had denied all

the allegations and pleaded innocence. They submitted that the complainant party had concealed the true origin and commencement of the incident. It was stated that on 08.06.1999, at about 05:30 P.M., Ishwar demolished the *doul* of their field, upon which Raghbir went to protest, leading to a quarrel between Ishwar and Raghbir. Upon hearing the noise, Krishna, Jaibir and Bimla arrived at the spot armed with lathis and jellies. During the altercation, Ishwar struck Ram Singh on the hand with a lathi, Jaibir hit Raghbir on the hand and Krishna also inflicted injuries on both Raghbir and Ram Singh. When other family members reached at the spot, Wazir Singh also sustained injuries. It was further alleged that the complainant later lodged a false complaint after a delay and though members of the complainant party were injured in the same occurrence, those injuries were caused in self-defence.

21. In their defence, the accused/appellants had examined DW1 Dr. N.C. Gauba, DW2 Dr. P.K. Charaya and DW3 Dr. M.D. Sharma.

22. DW1 Dr. N.C. Gauba, who had radio logically examined Ram Singh on 09.06.1999 at General Hospital, Bhiwani, deposed that he found fracture of both bones of his left forearm.

23. DW2 Dr. P.K. Charaya deposed that Ram Singh was admitted in General Hospital, Bhiwani on 09.06.1999 at about 12:20 AM in the night with fracture on both bones of left forearm upon which plaster of paris cast was applied and the patient was discharged on 15.06.1999.

24. DW3 Dr. M.D. Sharma, who medico legally examined Wazir Singh on 09.06.1999 at 11:50 A.M. at General Hospital, Bhiwani, had found the following injuries on his person vide MLR Ex.DB :-

- “1. A lacerated wound on the root of the nose measuring 1 cm × ½ cm. Fresh bleeding was present.
2. Another lacerated wound on occipital region of scalp. Fresh bleeding was present.
3. A contusion of 1 inch × ½ inch in back of the person. It was red in colour.”

He further deposed that vide MLR Ex.DC, he had found following injuries on the person of Raghbir s/o Ram Singh:-

- “1. A swelling of red colour measuring 3 inch x 3 inch on left forearm with an abrasion on it measuring 1 ½ inch x 1 ½ inch. Fresh blood was oozing.
2. A lacerated wound of 1 inch × ½ inch into muscle deep on the right parietal region of scalp. Fresh bleeding was present.
3. Complaint of pain on right shoulder but no external mark of injury was present.”

25. After considering the statements of all the witnesses and taking into account the evidence led by both the sides, the trial Court had convicted the appellants as enumerated above.

26. Learned counsel for the applicant in CRM-A-753-MA-2007 submitted that the trial Court erred in granting undue benefit of doubt to some of the accused despite there being consistent ocular and medical evidence. It was submitted that the injury on the head of Ishwar Singh was declared *dangerous to life* by the doctors and thus clearly attracted the offence under Section 307 IPC against all the accused persons, who participated in the assault with a common intention. Learned counsel further submitted that the trial court had failed to appreciate that multiple accused were armed with deadly weapons such as axe and jellies, indicating their pre-determined intention to cause serious harm. It was, therefore, urged that the accused who were acquitted

deserved conviction under the relevant Sections of IPC and that the compensation awarded to the injured was inadequate considering the gravity of injuries and the long period of suffering. The complainant's counsel, therefore, prayed for allowing the application under Section 378(4) Cr.P.C., for reversal of the acquittal of other accused and enhancement of compensation.

27. Learned counsel for the appellants in CRA-S-2037-SB-2007, CRA-S-2118-SB-2007 & CRA-S-2143-SB-2007 submitted that it is a case of version and cross-version and the appellants are the residents of the same village. Learned counsel(s) submitted that the trial court had misread and misappreciated the evidence. It was pointed out that the dispute had arisen due to the demolition of a Doul (boundary) by the complainant party, and that the first act of aggression was committed by them. They further submitted that a cross-case was also registered against the complainant side in respect of the same incident, in which Ram Singh, Wazir and Raghbir sustained injuries, including a fracture of the forearm of Ram Singh. These injuries were medically proved through the testimonies of defence witnesses i.e. DW-1, DW-2 and DW-3, namely, Dr. N.C. Gauba, Dr. P.K. Charaya and Dr. M.D. Sharma, which the trial court allegedly failed to consider properly. It was further submitted that the prosecution had concealed the true genesis of the occurrence and there was no clear evidence to show who inflicted the specific injuries on Ishwar Singh. The complainant party had also not produced medical evidence for the alleged injuries of Jaibir, Bimla and Krishna, which raised serious doubts about the truthfulness of the prosecution version. It was also submitted that the case was essentially a free fight between two groups, and in

such a situation, the prosecution must prove individual overt acts beyond reasonable doubt, which it had failed to do. The appellants were peace-loving persons and have suffered prolonged harassment since 1999. It was, therefore, prayed that the appeals be allowed, the convictions and sentences be set aside and the appellants be acquitted of all charges.

28. On the other hand, Learned State counsel supported the judgment of the trial court and submitted that the conviction was based on proper appreciation of evidence. It was argued that the medical evidence clearly established that the injured Ishwar Singh had sustained a life-threatening injury on the head which could not have been caused accidentally or in self-defence. He further submitted that the recovery of weapons i.e. the axe from Raghbir and jellies from Satnarain and Surender, stood duly proved and corroborated the prosecution version. The presence of eye-witnesses, including the injured himself, made the prosecution case credible and consistent. The State counsel also submitted that the defence of self-defence was not substantiated by any reliable evidence and was merely an afterthought to escape liability. It was further argued that the trial court had already taken a lenient view by convicting only those against whom evidence was clear and by acquitting others. Hence, there was no illegality or perversity in the findings of the trial court warranting interference by this Court.

29. We have perused the rival submissions of all the parties and material available on record.

30. The prosecution version is that on 08.06.1999, an altercation took place between Ishwar Singh and Raghbir Singh over the demolition of a boundary (Doul). Around 06:30 p.m., Raghbir attacked Ishwar with a *jelli* while he was ploughing his field. When Ishwar informed his family, he, along with Jaibir, Bimla, and Krishna, went to question Raghbir, where Raghbir and his associates, armed with sticks, jellies, and an axe, attacked them. Ishwar suffered a serious head injury from an axe blow and was later operated upon at PGIMS, Rohtak for a life-threatening head injury. On the other hand, the defence claimed that Ishwar had first demolished their boundary, leading to a fight when Raghbir objected. They alleged that Ishwar's side attacked first, causing injuries to Raghbir, Ram Singh, and Wazir. The accused stated they acted in self-defence and that the complainant side lodged a false FIR to hide the true facts.

31. Admittedly, both the sides reiterated that the incident started after the demolition of the Doul by Ishwar. Thus, the quarrel was mutual and both parties reached the spot armed with weapons. From the evidence, it appears to be a free fight and not a one-sided attack. However, the medical evidence clearly shows that Ishwar received the most serious injuries, including one that is dangerous to life.

32. The accused pleaded that they acted in self-defence. However, they did not produce any clear evidence showing how they were attacked first or who among the complainant party caused injuries. Mere existence of some injuries on the accused side does not prove self-defence, especially when the

injuries are minor compared to the grievous injuries caused in the occurrence. Therefore, the Court holds that the plea of self-defence is not proved.

33. Moreover, the testimonies of Ishwar and Jaibir are consistent and trustworthy. Their version is supported by medical evidence and recovery of weapons. The absence of medical evidence for minor injuries to Bimla and Krishna does not seriously affect the core prosecution case, which stands established regarding the injuries caused to Ishwar.

34. Ishwar's head injury was dangerous to life, as confirmed by doctors. Hence, the offence of attempt to murder (Section 307 IPC) was rightly made out against Raghbir (now deceased). The other accused, whose specific acts were limited to causing hurt and fracture, were correctly convicted under Sections 325 and 323 IPC. The trial court's appreciation of evidence is proper and requires no interference.

35. It is pertinent to state that appellant No.1 in CRA-S-2037-SB-2007 and respondent No.1 in CRM-A-753-MA-2007, namely, Raghbir s/o Ram Singh, who is stated to have attributed axe blow to Ishwar, died during pendency of the appeal and the proceedings qua him stood already abated by order dated 03.09.2025.

36. It is very much clear from the overall evidence that both the parties participated voluntarily in the free fight. It was not a premeditated attack but a sudden quarrel arising out of a boundary dispute. Such cases of "free fight" do not permit conviction of one side for a serious offence like murder attempt unless specific and grave evidence exists. The trial court's

approach to convict only those against whom clear evidence existed and acquitted the rest is, therefore, sound.

37. The application by the injured (CRM-A-753-MA-2007) for leave to appeal for enhancement of compensation and challenge to acquittal/conviction issues is considered on merits wherein no substantial question of law or grave miscarriage of justice has been made out that would justify grant of leave to disturb the findings of the trial court which are legally sustainable on record. The application for enhancement of compensation is also considered in light of sentence modification below and is denied for want of compelling material to justify enhancement beyond what the trial court awarded.

38. Considering the fact that the FIR relates to a mutual fight and the convicts/appellants have faced the agony of trial since 1999, this Court is of the considered view that their punishment should be reduced, though their guilt remains proved. The trial court's findings of conviction are legally sound and need no interference. However, considering the long passage of time and the suffering already faced by the appellants, it is fair and just to reduce their sentence to the period they have already spent in custody. This approach strikes a balance between justice and compassion, ensuring that the accused are not subjected to further punishment after enduring decades of trial, uncertainty and hardship.

39. In view of the above, CRM-A-753-MA-2007 seeking leave to appeal is, hereby, dismissed.

40. On the other hand, CRA-S-2037-SB-2007, CRA-S-2118-SB-2007 and CRA-S-2143-SB-2007 are disposed of in the following terms:-

(i) The judgment dated 24.09.2007 and 27.09.2007 respectively passed by the learned Additional Sessions Judge (Fast Track Court), Bhiwani is upheld. However, the order of sentence is modified to the extent that the sentence imposed upon the appellants is reduced to the period of sentence already undergone by them.

(ii) However, the amount of fine imposed upon the appellants shall remain the same.

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

(ANOOP CHITKARA)
JUDGE

28.10.2025
A.Kaundal

(H.S.GREWAL)
JUDGE

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