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CHI-1883-2023
State Vs. Ashish etc.

HRRH030246682023



Presented on : 27-10-2023
Registered on : 27-10-2023
Decided on : 27-07-2026
Duration : 2 years, 9 months, 0 days

IN THE COURT OF
Judicial Magistrate - Ist Class
AT ,Rohtak
(Presided Over by Sh. Karandeep)
CHI/1883/2023

State	Versus	1. Ashish @ Anshu son of Ramroop, resident of Village Chamaria, Sadar, Rohtak. 2. Anil Kumar son of Jai Bhagwan, resident of Village Chamaria, Sadar, Rohtak.
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.....Accused persons.

FIR No. 114 dated 09.04.2023
Under Sections: 323 & 506 IPC read with Section 34 of IPC
Police Station: Sadar, Rohtak

Present: Sh. Mahesh Lohat, APP for the State.
Accused Ashish and Anil on bail represented by Sh. Prateek Singh Kinha, Advocate.

JUDGMENT:

The above named accused persons have been sent by SHO Police Station Sadar, Rohtak to face trial for commission of offence punishable under Sections 323 & 506 IPC read with Section 34 of the Indian Penal Code, 1860.

2. **Tersely**, the relevant facts of the case of prosecution moved by

Karandeep
Judicial Magistrate First Class
Rohtak, UID No. HR0604
27.07.2026

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complainant Swaraj son of Bhim Singh are that on 08.04.2023 at around 09:00 p.m., that he was having dinner at his house when Seth's son from the neighborhood came to call me, saying that the police were calling me. Upon receiving this information, the complainant followed him out of my house into the street and when he started walking, then a Holland tractor (Model 3630) arrived from the direction of the village bus stand at high speed and playing a woofer DJ/music at full volume. It is further averred that the complainant gestured with folded hands to stop it and asked, "Brother, what is the matter? Why are you driving the tractor at such high speed and playing music so loudly?" It is further averred that the tractor was being driven by Sunil and he told the complainant that, "Get out of the way, or else I will run the tractor over you." and he shouted loudly, "Come out, now he is trapped!" It is further averred that as soon as he said this, about 15–20 boys came out from the side street carrying wooden sticks (lathis and dandas) and among them were Ashu, S/o Ram Nai, Amit, S/o Bijendra Jheemar, Dharmbir Nai, and his nephews, along with other individuals came and they attacked the complainant and his son Sanjal, and his nephew Sargeen with sticks (lathis and dandas). With these allegations, the complainant has prayed for taking legal action against the accused persons.

3. On the basis of these allegations, the formal FIR was registered. Investigation started. Statements of the witnesses were recorded. Above named accused persons were arrested. Site plan was prepared. After completion of all necessary investigation, challan was presented before the Court for trial of the

case.

4. Copies of challan and other documents were supplied to accused persons free of costs as envisaged under Section 207 Cr.P.C.

5. On finding a prima facie case against accused persons, they were accordingly charge-sheeted under Sections 323 and 506 of IPC read with Section 34 of IPC vide order dated 27.03.2024 passed by the Court of Sh. Sandeep Kumar, the then Ld. JMIC, Rohtak, to which accused persons pleaded not guilty and claimed trial.

6. In order to bring home the guilt of the accused persons, the prosecution has examined PW1 Sawraj (complainant/injured/eyewitness) and PW2 Sanjal (injured/eyewitness as well as son of the complainant). At this stage, a perusal of the case file reveals that complainant/eyewitness/injured PW1 Sawraj has turned hostile. He did not support the case of the prosecution. Moreover, PW2 Sanjal (eyewitness/injured as well as son of complainant) also did not say anything incriminating against the accused persons. There is no other witness in the list of witnesses who has witnessed the incident in question or is an injured. Accordingly, keeping in view, the hostility of the aforementioned prosecution witnesses, no purpose would be served by examining the remaining witnesses of the prosecution rather it would be an unnecessary burden on public exchequer. That Ld. APP for the State has closed evidence of the prosecution after given up remaining witnesses as there are no chance of improvement in the case of prosecution by examining the remaining witnesses in this case, vide separate statement of even date.

7. Since, there is no incriminating evidence available on the file, so the statement of the accused persons under section 313 of Cr.P.C was dispensed with.

8. I have heard the Ld. APP for the State and Ld. Defence counsel and have gone through the record carefully.

9. **Before proceeding further, let us have a look on evidence led by the prosecution:-**

PW1 Sawraj (complainant/injured/eyewitness), stepped into the witness box and stated that on 08.04.2023, some unknown persons attacked him and further deposed that he has seen the accused persons present in the court and they are not the same persons who had attacked/physically assaulted him. On his this statement and on request of learned APP for the State, the said witness was declared hostile and was thus allowed to be cross examined by him. In his cross-examination by learned APP for the State, he has resiled from his previous statements got recorded before the police which are Ex. PW1/A & Ex. PW1/B and stated that he did not give the same to police rather police has taken his signatures on some/blank papers. Even the cross-examination by learned Public Prosecutor of this witness has failed to impeach the credit of this witness and he denied the suggestion of deposing falsely being won over by the accused person.

Thereafter **PW2 Sanjal (eyewitness/injured/son of complainant)** stepped into witness box and stated that on 08.04.2023, some unknown persons attacked him and further deposed that he has seen the accused persons

present in the court and they are not the same persons who had attacked/physically assaulted him. On his this statement and on request of learned APP for the State, the said witness was declared hostile and was thus allowed to be cross examined by him. In his cross-examination by learned APP for the State, he has resiled from his previous statement got recorded before the police which is Ex. PW2/A and stated that he did not give the same to police rather police has taken his signatures on some/blank papers. Even the cross-examination by learned Public Prosecutor of this witness has failed to impeach the credit of this witness and he denied the suggestion of deposing falsely being won over by the accused persons.

This is the entire evidence led by the prosecution.

10. PW1/complainant Sawraj was the star witness of the prosecution case being the complainant/injured as well as eyewitness, however, he was declared hostile. He did not support the case of prosecution at all. His hostility towards the case of prosecution has left the prosecution in dilemma. At this stage, perusal of the case file reveals that sanjal (injured/ son of the complainant) who was also eyewitness and examined as PW2 has turned hostile and did not support the case of the prosecution. There is no other witness mentioned in the list of the witness who has witnessed the incident in question or is an injured. Accordingly, keeping in view the hostility of the complainant (PW1) and PW2 Sanjal in the present case, this court is of the view that no purpose would be served by examining the remaining witnesses of prosecution rather, it would be an unnecessary burden on state exchequer.

That Ld. APP for the State has closed evidence of the prosecution after given up remaining witnesses as there are no chance of improvement in the case of prosecution by examining the remaining witnesses in this case, vide separate statement of even date. The identity of the accused persons have not been proved by the prosecution as the complainant (PW1) and the another eyewitness (PW2) in the case have turned hostile. In this way, the prosecution has failed to prove that it was the accused persons who committed the said offences. There is nothing on the case file which can connect the accused persons present in the court with the alleged offences.

11. At this juncture, this court is of the view that the civil cases are decided upon preponderances of probabilities but the criminal cases are decided only on absolute proof i.e. prosecution/complainant must prove its case beyond reasonable doubt. It is basic principle of criminal jurisprudence that prosecution has to prove its case beyond shadow of reasonable doubts and if any doubt creeps in the story of the prosecution then benefit of doubt must be given to the accused persons.

12. Resultantly, by extending the benefit of doubt, accused persons are hereby **acquitted** of all the offences alleged against them. Their bail bonds and surety bonds also stand discharged. Fresh personal bond in sum of ₹ 40,000/- each as per the amended provision of Section 437-A of Cr.P.C is obtained from accused person which would remain in force for six months to secure their presence before the learned Appellate Court if need be, if any appeal against this judgment is preferred by the prosecution-complainant. Case

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property, if any, be disposed of as per rules. Superdarginama, if any, stands discharged. File after needful be consigned to the record room.

Pronounced in Open Court
27.07.2026

(Karandeep)
Judicial Magistrate First Class,
Rohtak. UID No. HR 0604

Note: All the pages of this judgment have been checked and signed by me.

Vinay

(Karandeep)
Judicial Magistrate First Class,
Rohtak. UID No. HR 0604
27.07.2026

Karandeep
Judicial Magistrate First Class
Rohtak, UID No. HR0604
27.07.2026