

State versus Rambhaj
(SC-239-2024)
1

HRRH010056672024



Presented on : 22-07-2024
Registered on : 22-07-2024
Decided on : 28.07.2026

IN THE COURT OF
District and Sessions Judge
AT Rohtak,Rohtak
(Presided Over by Sh. Ajay Tewatia)

SC/239/2024

COMPLAINANT	Anju wife of Rambhaj resident of Ward No.2, Kalanaur.
REPRESENTED BY	Mr. Surender Pahwa, Public Prosecutor
ACCUSED	Rambhaj son of Prem Singh resident of Ward No.2, Kalanaur.
REPRESENTED BY	Mr. Rajender Bagri, counsel for the accused.
Date of Offence	28.04.2024
Date of FIR	FIR No.161 dated 29.04.2024
Date of Chargesheet/challan	14.06.2024
Date of Framing of Charges	22.07.2024
Date of commencement of evidence	11.11.2024
Date on which judgment is reserved	28.07.2026
Date of the Judgment	28.07.2026

(Ajay Tewatia)
Sessions Judge, Rohtak
UID No.HR-0074

State versus Rambhaj
(SC-239-2024)
2

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr.P.C.
	Rambhaj son of Prem Singh resident of Ward No.2, Kalanaur.	30.04.2024	29.07.2024	435, 436, 201 IPC	Acquitted		

Case committed by Sh. Himanshu Arya,
Judicial Magistrate Ist Class, Rohtak Vide order
dated 08.07.2024.

Present: Mr. Surender Pahwa, Public Prosecutor.
Accused Rambhaj on bail represented by Mr.
Rajender Bagri, Advocate.

Judgment

Station House Officer (in short SHO) Police Station,
Kalanaur has sent up accused (Rambhaj) to face trial in case FIR
No.161 dated 29.04.2024 for the commission of offence punishable
under Sections 435 & 436 of Indian Penal Code.

2. Brief facts of the case, as unfolded during the trial, are
that on 29.04.2024, while ASI Deenbandhu alongwith EHC Pawan

**State versus Rambhaj
(SC-239-2024)**

3

Kumar was on patrol duty, complainant Anju, wife of accused Rambhaj, submitted a written complaint alleging that the accused had intentionally set fire to their residential house on two occasions. It was alleged that on 28.04.2024 at about 2:00 PM, when she had gone out for some work, the accused first set fire to the wood and other articles lying in the verandah, which was extinguished by the Fire Brigade. Thereafter, at about 10:00 PM on the same day, the accused again entered the house and set fire to the household articles kept inside, resulting in the entire house being engulfed in flames. The roof of the house collapsed and various household articles including divans, sofa set, dressing tables, beds, plastic chairs, quilts, ceiling fans, cooler, television, cupboard, cash of ₹15,000, clothes, children's school uniforms, books and a water tank were completely destroyed.

3. On the basis of the complaint, present case was registered. During investigation, the investigating officer inspected the place of occurrence, prepared the site plan, recorded the statements of witnesses under Section 161 Cr.P.C., and arrested the accused Rambhaj on 30.04.2024 after sufficient evidence was found against him. On 01.05.2024, the FSL team visited the spot, collected ash and other burnt material, which were sealed and taken into

**State versus Rambhaj
(SC-239-2024)**

4

possession through proper recovery proceedings. On the same day, the accused got the place of occurrence demarcated. The sealed exhibits were deposited in the Forensic Science Laboratory, Madhuban on 07.06.2024 for scientific examination. After completion of investigation and finding sufficient material against the accused, the police prepared and presented the challan against the accused.

4. Copy of report under Section 173 of the Code of Criminal Procedure, 1973, as required under section 207 of the Code of Criminal Procedure, 1973, was supplied to the accused, free of cost.

5. Thereafter, the case was committed to the Court of Session and after hearing arguments, the accused was charge-sheeted for the commission of offence punishable under Section 436, 435 & 201 of Indian Penal Code, in terms of provisions of Section 228 (1) (b) of the Code of Criminal Procedure, 1973. Accused pleaded not guilty to the charges and claimed trial.

6. Prosecution in support of its case examined the following witnesses:-

PW1	EASI Samit Kumar	Ex.P1
PW2	ESI Jai Parkash	Ex.P2

**State versus Rambhaj
(SC-239-2024)**

5

PW3	L/ASI Pinki	Ex.P3 & Ex.P4
PW4	Anju	Ex.P5 to Ex.P9
PW5	Pooja	
PW6	Dr.Saroj Dahiya	Ex.P11
PW7	Deshraj (Retired Inspector)	
PW8	Inspector Sulender Singh	
PW9	ASI Deen Bandhu	Ex.P12 to Ex.P20 Ex.MO-1
PW10	HC Parvesh	
PW11	ASI Sunil Kumar	

7. Thereafter, learned Public Prosecutor gave up witnesses Director FSL Madhuban and EHC Pawan and closed the prosecution evidence vide statements recorded separately. The FSL Report Ex.P10 was tendered into evidence.

8. After closure of the prosecution evidence, all the incriminating evidence/ material appearing on record was put to the accused in order to afford him an opportunity to render the explanation thereof by recording his statement, as envisaged under Section 313 of Cr.P.C, in which accused claimed that he was innocent and has been involved falsely. The accused did not opt to lead evidence in defence.

**State versus Rambhaj
(SC-239-2024)**

6

9. I have heard Public Prosecutor for the State and the learned counsel for the accused and have also gone through the case file very carefully.

10. **PW-1 EASI Samit Kumar (Draftsman)** deposed that on 03.05.2024, on the request of the Investigating Officer, he visited the place of occurrence and prepared the scaled site plan Ex.P1 on the pointing out of the complainant.

11 **PW-2 ESI Jai Parkash (MHC)** proved his affidavit Ex.P2 regarding the custody and handling of the case property and produced Register No.19 before the Court.

12 **PW-3 L/ASI Pinki** proved the formal registration of FIR Ex.P3 and endorsement Ex.P4 on the basis of the rukka received from the Investigating Officer. She further stated that special reports were sent to the Illaqa Magistrate and superior police officers.

13 **PW-4 Anju, the complainant and wife of the accused,** deposed that on 28.04.2024 she had gone for labour work and was informed by her son that the accused had set fire to timber lying in the house during the afternoon. She further stated that at about 10:00 p.m., she was sleeping on the roof adjoining house belonging to her brother-in-law (devar), the accused again came and

**State versus Rambhaj
(SC-239-2024)**

7

set the house on fire, causing extensive damage to household articles. The fire was controlled by fire brigade. She further deposed that she later on got the matter compromised with her husband and residing happily. She proved her complaint Ex.P5 and identified the photographs Ex.P6 to Ex.P9. However, during cross-examination, she admitted that she had not witnessed the occurrence herself, that the matter had since been compromised with her husband, that they were living together happily, that she did not wish to pursue legal action against him, and that the complaint had been lodged in anger.

14 **PW-5 Pooja, sister-in-law of the accused**, stated that she had seen the accused setting fire to the household articles in the afternoon as well as during the night and attributed the occurrence to the strained matrimonial relations between the accused and the complainant.

15 **PW-6 Dr. Saroj Dahiya, Incharge, FSL Team**, deposed that on receipt of information from the SHO, she visited the place of occurrence, inspected the scene and prepared the FSL inspection report Ex.P11.

16 **PW-7 Inspector Deshraj** deposed that after completion of investigation he prepared the final report under Section 173 Cr.P.C. against the accused.

17 **PW-8 Inspector Sulender Singh** proved the supplementary challan filed under Section 173(8) Cr.P.C. on the basis of the FSL report.

18 **PW-9 ASI Deen Bandhu (Investigating Officer)** deposed that on 29.04.2024, while he was on patrol duty with EHC Pawan Kumar, complainant Anju submitted application Ex.P5, on the basis of which he prepared tehrir Ex.P12 and sent the same to the police station for registration of the FIR. Thereafter, he visited the place of occurrence, prepared the rough site plan Ex.P13, and clicked photographs Ex.P6 to Ex.P9. On 30.04.2024, he, alongwith the FSL team, lifted ash from the spot and took it into possession vide recovery memo Ex.P14 after sealing it with seal "DB". He arrested the accused and on 01.05.2024 recorded his disclosure statement Ex.P15, pursuant to which the accused demarcated the places of occurrence vide memos Ex.P16 and Ex.P17. Photographs Ex.P18 and Ex.P19 were taken at the time of demarcation, and a certificate under Section 65-B of the Indian Evidence Act was proved as Ex.P20. He further deposed that the scaled site plan Ex.P1 was later prepared through the Draftsman and identified the sealed parcel containing ash as Ex.MO-1.

19 **PW-10 Head Constable Parvesh, the Computer Operator**, deposed that on 29.04.2024 he received tehrir Ex.P12 through EHC Pawan Kumar, entered the contents into the computer system, registered the FIR, and sent the special reports to the Illaqa Magistrate and superior police officers through e-mail.

20 **PW-11 ASI Sunil Kumar** deposed that he joined the investigation with ASI Deen Bandhu on 30.04.2024. He attested the recovery memo Ex.P14 relating to the seizure of ash from the place of occurrence. He further stated that on 01.05.2024 he remained present when the accused suffered disclosure statement Ex.P15 and, in pursuance thereof, demarcated the places of occurrence vide demarcation memos Ex.P16 and Ex.P17.

21. This is the entire evidence on the file.

22. Learned Public Prosecutor argued that the prosecution has successfully proved the guilt of the accused beyond reasonable doubt. It was submitted that the complainant Anju promptly lodged complaint Ex.P5, on the basis of which tehrir Ex.P12 was prepared and FIR Ex.P3 was registered without delay, thereby ruling out any possibility of false implication. The prosecution further relied upon the testimony of PW-5 Pooja, who categorically stated that she had witnessed the accused setting fire to the house during the afternoon

**State versus Rambhaj
(SC-239-2024)**

10

as well as at night. Her testimony remained consistent despite lengthy cross-examination. PW5 Pooja also supported the prosecution version and deposed that accused Rambhaj had set his own house on fire and she witnessed the same. The investigating officer and other official witnesses have consistently supported the prosecution case, and no material contradiction has emerged during their cross-examination. It was further contended that although the complainant subsequently stated that the matter had been compromised, such compromise cannot wipe out criminal liability in respect of offences under Sections 435, 436 and 201 IPC, which are non-compoundable. It was, therefore, prayed that the accused be convicted.

23 Learned counsel for the accused argued that the prosecution has miserably failed to prove its case beyond reasonable doubt. It was submitted that there is delay of 24 hours in lodging the FIR as incident occurred on 28.04.2024 but the police was not informed on the same day and the FIR lodged on 29.04.2024. It was further submitted that as per the complaint, fire brigade was called on 28.04.2024 two times, who controlled the fire. However, no witness from the fire brigade has been examined by the prosecution. It was further submitted that the complainant PW-4 Anju, who is the

**State versus Rambhaj
(SC-239-2024)**

11

star witness of the prosecution, has substantially resiled from her earlier version. She admitted that she had not witnessed the first incident herself, that she had lodged complaint Ex.P5 in anger, that she had compromised the matter with the accused, that they were now residing together happily and that she did not want any legal action against him. Therefore, her testimony does not inspire confidence and cannot form the basis of conviction. It was further argued that no independent witness from the locality was associated with the investigation despite the occurrence taking place in a residential area. The prosecution has relied only upon official witnesses and PW-5, who is closely related to both the complainant and the accused. Her testimony, being that of an interested witness, requires independent corroboration, which is absent in the present case. Learned defence counsel further submitted that the FSL Report Ex.P10 and FSL inspection report Ex.P11 merely establish that a fire had occurred but do not connect the accused with the commission of the offence. Likewise, the site plans Ex.P1 and Ex.P13, photographs and other documentary evidence only prove the place of occurrence and not the identity of the offender. It was also argued that the alleged disclosure statement Ex.P15 is inadmissible and of no evidentiary value as no recovery whatsoever

**State versus Rambhaj
(SC-239-2024)**

12

was effected pursuant thereto. Both PW-9 and PW-11 admitted that nothing was recovered on the basis of the disclosure statement and that the place of occurrence was already within the knowledge of the police before the alleged demarcation. It was further contended that the prosecution has failed to establish any convincing motive or produce any direct evidence conclusively proving that the accused intentionally set the house on fire. The entire prosecution case suffers from material omissions and contradictions, creating serious doubt regarding the involvement of the accused. It was, therefore, prayed that the accused be acquitted by extending him the benefit of doubt.

24. Having due regards to the contentions raised by learned Public Prosecutor as well as learned defence counsel, in my considered opinion, the points to be determined are:-

1) Whether on 28.04.2024, accused committed mischief by putting the house of complainant on fire causing damage to the property and disappeared the evidence to screen himself from legal punishment?

REASONS FOR DETERMINATION

25. The accused has been charged for the offences punishable under Sections 435, 436 and 201 IPC. It is settled law

**State versus Rambhaj
(SC-239-2024)**

13

that the burden lies upon the prosecution to prove its case beyond all reasonable doubt and that the accused is entitled to the benefit of every reasonable doubt arising from the evidence.

26 The prosecution case originates from complaint Ex.P5 submitted by complainant Anju, on the basis of which tehrir Ex.P12 was prepared and formal FIR Ex.P3 was registered with endorsement Ex.P4. The registration of the FIR has been duly proved by PW-3 L/ASI Pinki and PW-10 HC Parvesh. However, mere registration of the FIR cannot be treated as proof of the guilt of the accused unless the allegations contained therein are established by reliable and convincing evidence.

27. The learned counsel for the accused has argued that there was an unexplained delay of about 24 hours in lodging the FIR, although the alleged occurrence had taken place on 28.04.2024. The Court has considered this submission. It is settled law that delay in lodging the FIR is not by itself fatal to the prosecution case if it is satisfactorily explained. However, in the present case, the incident occurred at 2.00 PM and again at 10.00 PM on 28.04.2026 but the police was not informed on the same day and the FIR was got lodged on 29.04.2024 after delay of about 24 hours. The prosecution has not furnished any convincing explanation for such delay. The complainant had sufficient

**State versus Rambhaj
(SC-239-2024)**

14

opportunity to approach the police immediately after the occurrence, yet the FIR came to be registered only on the following day. The unexplained delay assumes significance in the peculiar facts of the case, particularly when the prosecution evidence itself suffers from material inconsistencies and does not inspire confidence. The delay, therefore, creates a reasonable possibility of embellishment and consultation before setting the criminal law into motion.

28. Another important circumstance is that, according to the prosecution case itself, the fire brigade was called to the spot on both occasions on 28.04.2024 and the fire was extinguished by its officials. As per the complaint, fire brigade was called on 28.04.2024 and the fire was extinguished by the fire brigade. However, the prosecution has failed to produce any evidence as to who informed the fire brigade. Neither the complainant nor any other prosecution witness has deposed that he or she made the call to the fire brigade. No call record, fire brigade log book, incident report or any other documentary evidence has been brought on record to establish who intimated the fire brigade or at what time such information was received. The prosecution has also failed to examine any official from the fire brigade to prove its version regarding the occurrence. In the absence of such material evidence,

**State versus Rambhaj
(SC-239-2024)**

15

the prosecution story remains uncorroborated on a vital aspect. This creates doubt on the credibility of the prosecution version.

29 The prosecution case primarily rests upon the testimony of PW-4 Anju, the complainant, and PW-5 Pooja, the alleged eye witness. Therefore, their evidence requires careful scrutiny. PW-4 Anju deposed that on 28.04.2024 she had gone out of her house for labour work and was informed by her son that the accused had set fire to the wood and other articles lying in the verandah. She further stated that at about 10.00 p.m. the accused again came to the house and set fire to the articles lying inside the house, due to which the entire household articles were burnt and the roof of the house collapsed. She proved her written complaint Ex.P5 and also identified the photographs Ex.P6 to Ex.P9 depicting the burnt house and articles. Thus, in her examination-in-chief, she supported the prosecution version. However, during cross-examination, PW-4 made several admissions which materially affect the prosecution case. She admitted that she had not personally witnessed the first incident which took place at about 2.00 p.m. and had learnt about the same from her son. Thus, her testimony regarding the first occurrence is admittedly hearsay and cannot be treated as direct evidence. She further admitted that after the registration of the case she had compromised the dispute with the accused, who is her

**State versus Rambhaj
(SC-239-2024)**

16

husband, and both of them were now residing together peacefully. She also categorically stated that she did not wish to take any legal action against the accused and admitted that the complaint had been lodged in anger. These admissions substantially dilute the evidentiary value of her testimony and make it unsafe to rely upon her statement without strong independent corroboration.

30 The prosecution has attempted to corroborate its case through PW-5 Pooja, who claimed herself to be an eye witness. PW-5 stated that she had seen the accused setting fire to the house during the afternoon and again during the night. She attributed the occurrence to disputes between the husband and wife. Although she supported the prosecution version, her testimony also requires cautious appreciation. She is closely related to the parties and is not an independent witness. No independent resident of the locality, despite the occurrence having taken place in a thickly populated residential area and despite the intervention of the Fire Brigade, has been examined by the prosecution to support her version. It is also noteworthy that the complainant herself did not support the prosecution in its entirety and admitted that she had compromised the matter with the accused. In these circumstances, the testimony of PW-5, being the sole witness implicating the accused, requires strong corroboration from independent evidence. The evidence of

**State versus Rambhaj
(SC-239-2024)**

17

PW-4 and PW-5, when read together, does not inspire such confidence as would justify recording a conviction. The complainant has materially weakened the prosecution case by admitting that she had not witnessed the first incident herself, had compromised the matter, and no longer supported the prosecution. The testimony of PW-5, in the absence of reliable and independent corroboration, is insufficient to prove the guilt of the accused beyond reasonable doubt.

31 The scientific evidence also does not conclusively establish the guilt of the accused. PW-6 Dr. Saroj Dahiya proved the FSL inspection report Ex.P11, while Ex.P10 is the FSL report. These reports merely establish that a fire had occurred at the place of occurrence. They do not connect the accused with the commission of the offence nor do they establish that the fire was intentionally caused by him. Thus, the scientific evidence is corroborative only regarding the occurrence of fire and not regarding the identity of the perpetrator.

32 The site plans Ex.P1 and Ex.P13, photographs Ex.P6 to Ex.P9, recovery memo Ex.P14, disclosure statement Ex.P15, demarcation memos Ex.P16 and Ex.P17, photographs Ex.P18 and Ex.P19, certificate under Section 65-B of the Indian Evidence Act Ex.P20, and production of case property Ex.MO-1 have all been

duly proved through the investigating officer and other official witnesses. However, these documents only establish the steps taken during investigation. They do not by themselves prove that it was the accused who intentionally set the house on fire.

33 A significant circumstance which goes against the prosecution is that the alleged disclosure statement Ex.P15 did not result in the recovery of any incriminating article. PW-9 ASI Deen Bandhu as well as PW-11 ASI Sunil Kumar admitted during cross-examination that nothing was recovered pursuant to the disclosure statement. It has also come in evidence that the place of occurrence was already within the knowledge of the police before the demarcation by the accused. Therefore, the disclosure statement and demarcation memos lose much of their evidentiary value. Further, PW-9 and PW-11 admitted that no independent public witness was joined during the investigation, although the occurrence had taken place in a residential locality. They also admitted that no videography of the demarcation proceedings was conducted. These omissions assume significance in the facts and circumstances of the present case. The testimony of the official witnesses regarding registration of the FIR, preparation of site plans, seizure of ash, deposit of exhibits in the FSL and filing of the challan establishes only that the investigation was carried out. Their evidence cannot

**State versus Rambhaj
(SC-239-2024)**

19

substitute proof regarding the actual commission of the offence by the accused.

34 It is well settled that where the star witness herself has substantially resiled from the prosecution case and admits that the complaint was lodged in anger and that she does not want legal action against the accused, the Court is required to seek independent corroboration before recording a conviction. In the present case, such independent corroboration is lacking. The testimony of PW-5 alone, in the absence of reliable corroborative evidence and in view of the material deficiencies in the investigation, does not inspire such confidence as would justify conviction.

35 In the case of **Wakkar and another versus State of U.P. AIR 2011 SC (Cri) 518**, it was held by the Hon'ble Apex Court that the Courts have to be watchful and avoid the danger of allowing the suspicion to take the place of legal proof for sometimes, unconsciously it may happen to be a short step between moral certainty and legal proof. There is a long mental distance between 'may be true' and 'must be true' and the same divides conjectures from sure conclusions.

36. It was held in the case of **State of Gujrat Vs. Jayraj Bhai Punjab Waru 2016 (3) R.C.R. (Criminal) 918 (SC)**, that it is the rule of justice in criminal law that if two views are possible on

**State versus Rambhaj
(SC-239-2024)**

20

the evidence adduced in the case, one pointing to the guilt of the accused and the other of his innocence, the view which is favourable to the accused should be adopted.

37. It is cardinal principle of criminal jurisprudence that none is guilty until and unless his guilt is established by the prosecution beyond the shadow of all reasonable doubts. Prosecution in the instant case has failed to discharge this burden. The facts and circumstances of the case when those are put together especially the nature of evidence adduced by the prosecution and the several dents caused to the story of the prosecution as set up by the defence and argued by the learned defence counsel go to the roots of the case and shake the story of the prosecution. Upon such a shaky story, the accused cannot be saddled with criminal liability.

38. Overall, at the cost of repetition, it is added here that to convict the accused, the circumstances from which the conclusion is drawn should be fully proved against the accused and all the facts should be so established, consistent only with the hypothesis of guilt and inconsistent with the innocence of accused. In lieu of the observations made above, I remain unsatisfied with the veracity of the contentions raised by the prosecution. As per the mandate of the Hon'ble Supreme Court of India, upheld in **State of U.P. Versus Parkash Mittal, AIR 1992 SC 2045**, the guilt of accused has not

**State versus Rambhaj
(SC-239-2024)**

21

been proved. Thus, this plea is decided in favour of the accused and against the prosecution.

FINAL ORDER

39. The prosecution is required to prove its case beyond reasonable doubt and cannot derive any benefit from the weakness of the defence. In the present case, the evidence on record leaves reasonable doubt regarding the involvement of the accused. The benefit of such doubt must necessarily go to the accused. Accordingly, this Court holds that the prosecution has failed to establish beyond reasonable doubt that accused Rambhaj committed the offences punishable under Sections 435, 436 and 201 IPC. The accused is, therefore, acquitted of all the charges by extending him the benefit of doubt. Case property be disposed of as per law/rules after the expiry of the period of appeal. File be consigned to the record room, after due compliance.

Pronounced in open Court
28.07.2026
(Asha)
SG-I

(Ajay Tewatia)
Sessions Judge, Rohtak
UID No.HR-0074

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State versus Rambhaj
(SC-239-2024)

22

Argued by: Mr. Surender Pahwa, Public Prosecutor.
Accused Rambhaj on bail represented by Mr.
Rajender Bagri, Advocate.

No evidence in defence is present. Defence
evidence closed by accused. Arguments heard.

Vide separate judgment of even date, accused
Rambhaj is acquitted of the charges levelled against him.

The accused is directed to furnish bonds in the
sum of Rs.50,000/- with one surety in the like amount as per
provisions of Section 481 of BNSS for a period of six months.
Accused requested to treat his already furnished bonds as bonds
under Section 481 of BNSS. Request allowed. Case property be
disposed of as per law/rules after the expiry of the period of appeal.
File be consigned to the record room.

Pronounced in open Court
28.07.2026
(Asha)
SG-I

(Ajay Tewatia)
Sessions Judge, Rohtak
UID No.HR-0074

(Ajay Tewatia)
Sessions Judge, Rohtak
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