

CNR No: HRKHA10008162020

CIS No: CHI/256/2020

State of Haryana VS Lucky & anr

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HRKHA1000816-2020



**In the Court of Rajvinder Singh, Judicial Magistrate First Class, Guhla,
UID HR 0451**

Criminal Case No. 221 of 2021.

Date of Institution: 08.10.2020/02.07.2021

CIS No.CHI/256/2020.

CNR No. HRKHA100816-2020.

Date of Decision: **09.07.2026.**

State Versus

1. Lucky son of Nichhatar Lal,
resident of Cheeka, Kaithal.

2. Ram Kumar son of Dal Singh,
resident of Cheeka, Kaithal.

.....Accused.

FIR No.69 dated 15.04.2020

Under Section: 323, 506, 269, 271
read with Section 34 of IPC.

Police Station: Cheeka, Kaithal.

Present: Sh. Ravinder Singh, Ld. APP for the State.
Accused Lucky and Ram Kumar on bail with Sh. Mohit
Jindal, Advocate.

JUDGMENT:

The above-named accused have been sent up to face trial by
SHO, Police Station Cheeka, Kaithal for the commission of offence
punishable under Sections 323, 506, 269, 271 read with section 34 of
Indian Penal Code, 1860.

FACTS:

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2. The facts of the prosecution case are that on 13.04.2020, an information along with MLR No. 464/2020 was received at Police Station Cheeka from Durga Nursing Home, Cheeka through the ward servant to the effect that one *Sandeep @ Soni son of Bhira Ram, resident of Cheeka*, had been admitted in the hospital due to injuries sustained in a quarrel and that an Investigating Officer be deputed for necessary action. As it was late in the night, no action could be taken on that day. Thereafter, on 14.04.2020, SI Chandeshwar visited Durga Nursing Home, Cheeka and moved an application before the doctor for recording the statement of the injured, upon which the doctor declared the injured unfit to make a statement. Again on 15.04.2020, SI Chandeshwar along with EHC Sunder Singh appeared before the doctor, who declared the injured fit to make a statement. Thereafter, the statement of injured Sandeep @ Soni was recorded wherein he stated that he was working as a labourer at Durga Fruit Company, Shop No.3, owned by Vasudev Khattar. On 13.04.2020 at about 9.00/9.30 PM, when he returned to the shop after purchasing food articles from the market, he saw Lucky, Suresh and Ram Kumar taking out grapes from the crates kept in the shop. When he objected and stated that he would inform the owner, Suresh son of Dal Singh and Lucky forcibly took him outside on the road and Ram Kumar also joined them. Thereafter, all three persons along with 3-4 other associates started beating him. During the occurrence,

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Suresh allegedly attempted to assault him with a sharp-edged weapon and when he raised his right hand to save himself, he received an injury on the right hand. Lucky and Ram Kumar allegedly caught hold of him while the other persons gave him fist and kick blows. After causing injuries, they fled away while extending threats to kill him if he spoke against them in future. He further stated that Deepak Kalra, President of the Mandi, rescued him and got him admitted to Durga Nursing Home, Cheeka. On the basis of the aforesaid statement and MLR No. 464/2020, wherein only one sharp injury was noticed and X-ray was advised, the present case was registered under Sections 323, 324, 506, 34, 188, 269 and 271 IPC and Section 51(b) of the Disaster Management Act, 2005. During investigation, the place of occurrence was inspected at the instance of Vasudev son of Tek Chand and a site plan was prepared. Statements of witnesses were recorded. On 17.04.2020, CCTV footage pertaining to the date of occurrence was obtained from Durga Fruit Company and from the CCTV cameras installed at Vaishno Fruit Company situated opposite the shop. The footage was copied into a pen drive with the assistance of expert Vikas Nath son of Gulzar Nath. The pen drive was taken into police possession vide recovery memo and a certificate under Section 65-B(4) of the Indian Evidence Act was also obtained.

3. During investigation, the X-ray report of the injured was

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procured from Durga Nursing Home and medical opinion was sought. The doctor opined that the X-ray of the right hand suggested a possible chip fracture of the fifth metacarpal bone and further observed that the injury might be self-inflicted. On 14.07.2020, the named accused Suresh Kumar was joined in investigation. During investigation, on the basis of CCTV footage, statements of witnesses and medical opinion, it was found that the injury had not been caused by any sharp-edged weapon. Rather, the injury was found to have been caused by an iron strip attached to a rehri/cart. The owner of Durga Fruit Company, namely Vasudev son of Tek Chand, was shown the CCTV footage. As per the footage, neither Ram Kumar nor Suresh Kumar was found present inside Shop No. 3 on the date of occurrence and no act of theft or forcible removal of the complainant from the shop was seen. Consequently, offences under Sections 379, 380 and 452 IPC were found not to be made out and were not added in the case. Further, although the complainant had alleged that Suresh Kumar had attacked him with a sharp-edged weapon, the CCTV footage from both shops did not show Suresh Kumar participating in the quarrel, nor was any person seen carrying a weapon. Accordingly, Section 324 IPC was deleted from the case. The employees Rahul son of Captain and Mangal son of Suraj Bhan were also joined in investigation and shown the CCTV footage. The footage revealed that at about 9.30 PM on the date of occurrence, Rahul

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and Mangal were engaged in sorting tomatoes in the shop and neither Suresh Kumar nor Ram Kumar was seen entering the shop. The complainant was also shown the CCTV footage, wherein only the three employees of the shop were visible and Lucky was seen **checking** fruits in crates. During investigation, Suresh Kumar furnished an affidavit asserting that he had not participated in the occurrence. Independent witnesses namely Balinder Singh, Pritpal, Geeta and Suresh Kumar son of Miya Singh were examined, who also submitted affidavits stating that they were present at the spot and that neither Ram Kumar nor Lucky was carrying any sharp-edged weapon. They further stated that the CCTV footage did not show any person carrying a weapon and that Suresh Kumar had not visited Shop No. 3 on the date of occurrence. On the basis of verification and investigation, Suresh Kumar was found innocent and was accordingly kept out of the case. Likewise, Section 324 IPC was deleted. Further, as per the orders of superior officers, Section 188 IPC and Section 51(b) of the Disaster Management Act, 2005 were also deleted and a separate kalandra was proposed to be prepared in respect thereof. Thereafter, on 15.07.2020, accused Ram Kumar son of Dal Singh and Lucky son of Nichhattar Lal were formally joined in investigation. Their disclosure statements were recorded separately. Since the offences alleged were punishable with imprisonment of less than seven years, the directions issued by the Hon'ble Supreme Court of

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India in Arnesh Kumar versus State of Bihar & Another were complied with and both accused were released in accordance with law. After completion of the investigation of the present case, final report was prepared and submitted before the Trial Court.

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

5. On the basis of the material available on record Charges were framed against both the accused persons for offences punishable under Sections 323, 506, 269, 271 read with section 34 of the Indian Penal Code (IPC). The substance of accusation was read over and explained to both the accused persons, to which they pleaded not guilty and claimed trial.

6. The prosecution in order to prove its case has examined following witnesses:

a). **PW1** – Vikas Nath: He supported the prosecution version and proved recovery memo of Pen drive Ex.PW1/A, Certificate under Section 65-B of Indian Evidence Act Ex.PW1/B and Pen drive as Ex.MO/1.

b). **PW2** – Vasudev, who deposed that on 13.04.2020 at about 9:15 PM, Ram Kumar, Suresh and Lucky started taking out grapes from the crates kept in his shop. When his employee, Sandeep, tried to stop them, they started scuffling with him and dragged him outside while assaulting him. He further stated that outside the shop, Suresh inflicted a

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blow with some sharp-edged object, which hit Sandeep on his hand, and he also sustained other hidden injuries. He further identify the accused persons present in the court.

c) **PW3** is Sandeep (Complainant): He reiterated the contents of his complaint Ex. PW3/A and supported the prosecution version

d) **PW4** is SI Manoj Kumar: He testified regarding the FIR (Ex. PW4/A) and endorsement (Ex. PW4/B).

e). **PW5** – EHC Kuldeep Singh, who being one of the member of investigating agency has supported the case of prosecution in his examination-in-chief. He proved disclosure statements of accused Ram Kumar and Lucky as Ex.PW5/A and Ex.PW5/B.

f). **PW6** – Mahipal, Assistant, DC Office, Kaithal, who proved Order Ex.PW6/A.

g.) **PW7** – Dr. Purshottam Singla, who deposed that on 13.04.2020, he examined injured Sandeep and proved MLR Ex.PW7/A and he sent ruqqa ExPW7/B.

h). **PW8** – SI Chandeshwar, who being the Investigating Officer has proved the investigation whatsoever conducted by him in the present case. He proved applications for seeking doctor's opinion Ex.PW8/A and Ex.PW8/B, police proceedings Ex.PW8/C, site plan of the place of occurrence Ex.PW8/D, application Ex.PW8/E and also testified already exhibited documents i.e. statement of injured/complainant Ex.PW3/A

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certificate under section 65-B of Indian Evidence Act Ex.PW1/B, Pen drive Ex.MO/1, recovery memo Ex.PW1/A, disclosure statements of accused Ram Kumar and Lucky as Ex.PW5/A and Ex.PW5/B.

Learned APP has given up witnesses Balwinder Singh and Suresh Kumar being won over by the accused on 12.12.2022.

Learned APP has given up PWs Geeta on 07.08.2023, PW Preetpal on 25.10.2024, Nirmal Singh on 03.10.2025 being unnecessary witnesses.

After examining all the material witnesses, the learned APP for the State closed the prosecution evidence vide statement dated 22.04.2026.

7. Both accused were examined under Section 313 Cr.P.C.. They denied all incriminating circumstances put to them, pleaded innocence, and claimed false implication. They opted to lead defence evidence, but no witness was produced, and the defence evidence was accordingly closed on their joint statement.

8. This Court has heard the learned APP for the State and learned defence counsel and gone through the case file carefully.

9. Ld. APP for the State has vehemently argued that on the basis of the aforementioned evidence, the guilt of the accused had been proved beyond reasonable doubt and has, hence, prayed that the accused should be convicted under the offences, they were charged with. While the Ld.

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counsel for the accused has refuted the arguments put forth by the Ld. APP and has stated that the prosecution has miserably failed to bring any evidence on record to prove beyond reasonable doubt that the accused had committed any offence.

10. After hearing the arguments of Ld A.P.P, Ld. Counsel for the accused, appraising the matter on record and the relevant law, the court is of the opinion that in the present case, following point for determination arises:-

(A) Whether the prosecution has been able to prove beyond reasonable doubt that accused had committed an offence punishable under section 323 read with section 34 of IPC.

(B) Whether the prosecution has been able to prove beyond reasonable doubt that accused had committed an offence punishable under section 269 read with section 34 of IPC.

(C) Whether the prosecution has been able to prove beyond reasonable doubt that accused had committed an offence punishable under section 271 read with section 34 of IPC.

(D) Whether the prosecution has been able to prove beyond reasonable doubt that accused had committed an offence punishable under section 506 read with section 34 of IPC.

POINT FOR DETERMINATION (A to D):-

11. The investigation was set into motion upon moving of complaint by Sandeep @ Soni, who has been examined as PW3 by the prosecution. His testimony recorded before the court is reproduced as under.:

“Stated that on 18.04.2020, I was going to my house for taking

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meals and after having meals, I came for night duty at Durga Food Company, Shop No. 3. I was working at the shop of Vasudev. At about 9:30 PM, I saw that three persons had entered the shop and were committing theft of grapes etc. I asked them as to what they were doing inside the shop. In the meantime, Lucky, Ram Kumar and Suresh, whom I already knew, caught hold of me and dragged me outside while beating me. Suresh gave a blow with some sharp-edged weapon used on a rehri (cart), which hit my right hand when I tried to save myself. They also caused injuries all over my body. All the three persons inflicted injuries upon me with kicks and fists. Thereafter, they fled away from the spot. Deepak, Mandi Pradhan, came there and took me to Durga Nursing Home for treatment. The police came on the next day. On 15.04.2020, the police recorded my statement Ex.PW3/A in the hospital, bearing my thumb impression at point 'A'. Accused Ram Kumar and Lucky are present in court, however, accused Suresh is not present."

12. Another witness namely Vasudev son of Tek Chand is examined as PW2 by prosecution. His testimony recorded before the court is reproduced as under.

"Stated that on 13.04.2020 at about 9:15 PM, Ram Kumar, Suresh and Lucky started taking out grapes from the crates of

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grapes lying in my shop. When my servant Sandeep tried to stop them, they started scuffling with him and dragged him outside while beating him. Suresh came outside and gave a blow with a sharp-edged weapon, which hit the hand of my servant and caused hidden injuries to him. The accused are present in the Court today and I identify them”.

13. It is significant to note that the complainant as well as PW2 Vasudev have specifically alleged that it was accused Suresh Kumar who had inflicted the injury in question upon the complainant by means of a sharp-edged weapon. The only injury no. 1 reflected in MLR Ex.PW7/A is also attributed to the alleged act of accused Suresh Kumar. Thus, the entire prosecution case with regard to the actual infliction of injury revolves around accused Suresh Kumar. However, after investigation and examination of CCTV footage, the investigating agency itself reached the conclusion that accused Suresh Kumar was not involved in the occurrence and accordingly he was found innocent. Once the person against whom the specific role of causing injury was attributed has been found innocent during investigation, the very foundation of the prosecution story becomes doubtful. The prosecution has failed to explain as to how the principal assailant, against whom the specific allegations were levelled by the complainant and eye-witness, was found innocent whereas the present accused persons have been sent to face trial merely on the basis of general

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allegations. This material inconsistency goes to the root of the matter and creates a serious dent in the prosecution version.

14. It is further pertinent to mention here that specific allegation was levelled for inflicting the injury with sharp edged weapon, however no such weapon was recovered during the investigation. Same is admitted by Investigating Officer PW8 SI Chandeshwar in his cross-examination stated that no recovery was effected from the accused persons. PW8 has also admitted in his cross-examination that in the CCTV footage that no weapon is shown in the hands of accused persons. He also admitted that in the CCTV footage there is no such video clip showing inflicting of injuries by the accused persons. Further PW-7 Dr. Purshottam Singla has admitted in his cross-examination that police did not produce any weapon before him for comparison with the corresponding injury on the person of the injured. This is a material circumstance which creates a serious doubt regarding the prosecution version. Had the injury actually been caused by a sharp-edged weapon in the manner alleged by the complainant, the investigating agency ought to have recovered the said weapon or at least collected some corroborative evidence connecting the alleged weapon with the injury. Neither any weapon was recovered nor any scientific or medical evidence has been brought on record to establish that the injury found on the person of the complainant corresponded with any particular weapon. The absence of recovery of the alleged weapon,

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coupled with the absence of any visual evidence showing the use of such weapon, renders the prosecution case highly doubtful and entitles the accused to the benefit of doubt.

15. It is pertinent to mention here that in the statement Ex.PW3/A got recorded by complainant Sandeep @ Soni before Investigating Officer, he has specifically stated that on 13.4.2020 at about 9/9:30 PM that he returned to the shop after purchasing food articles from the market, he saw Lucky, Suresh Kumar and Ram Kumar **taking out grapes from the crates kept inside the shop**. But during investigation, the aforesaid allegations were not found truthful. It is also apposite to mention that in his statement the complainant had further alleged that the accused persons namely Suresh and Lucky had forcibly taken him outside the shop after committing theft of grapes. However, during investigation, after examining the CCTV footage and recording statements of witnesses, the investigating agency itself concluded that no act of theft had taken place and neither accused were seen inside the shop in the manner alleged by the complainant. The fact that substantial portions of the prosecution story were found to be incorrect materially affects the credibility of the complainant and casts a serious doubt upon the truthfulness of the entire occurrence as narrated by him.

16. It is further pertinent to mention here that complainant has not levelled the specific allegations against the accused persons namely

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Lucky and Ram Kumar facing the trial. The specific allegation has only levelled against the Suresh regarding whom it is already been discussed above that he was found innocent during investigation. Only the general and omnibus allegations that have been levelled against Lucky and Ram Kumar that they have given the fits and blows.

17. During his cross-examination, PW3 Sandeep @ Soni has stated that he has received other injuries including scratches etc., but as per the MLR Ex.PW7/A, no such other injury is found or mentioned by the treating doctor except the injury of incised wound. Even the MLR does not mention that patient/ complainant has told the doctor at the relevant time that he was feeling the pain in any other part of the body. Had there been some injuries, the injured could have complained of pain in his body to the doctor who should have noted the same and mentioned in the MLR Ex.PW7/A.

18. The prosecution has examined Vikas Nath as PW-1, who in his examination in chief tendered the pen drive Ex.MO/1, certificate under section 65-B of Indian Evidence Act as Ex.PW1/B. It is pertinent to mention here that in his cross-examination, PW1 has admitted that it is correct that he had seen the CCTV footage and the CCTV footage did not show the accused causing any injury to the complainant, nor were any weapons visible in the hands of the accused. He further stated that the accused appeared to be intervening only to separate the complainant

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from another person. Hence, his testimony completely demolishes the prosecution version regarding the active participation of the accused in the alleged assault.

19. PW3, while deposing before the Court, has mentioned the date of occurrence as 18.04.2020. Even during his cross-examination, a specific question was put to him by the learned defence counsel regarding the said date of occurrence, to which he categorically replied that the date recorded in his examination-in-chief was the correct date of the incident. This assumes significance because the prosecution case, the FIR, the complaint Ex.PW3/A, the MLR Ex.PW7/A and the entire investigation proceeded on the basis that the alleged occurrence had taken place on 13.04.2020. So, when the testimony of the star witness itself suffers from such a material inconsistency regarding the date of very occurrence, it would be unsafe to base the conviction solely upon his version.

20. PW2 Vasudev has also not materially supported the prosecution case against the present accused. Though he alleged that the accused had scuffled with the complainant, but he did not attribute any specific role to accused Lucky and Ram Kumar in causing the injury. Rather, the specific allegation of inflicting the injury was levelled only against Suresh Kumar, who was subsequently found innocent during investigation. Thus, the testimony of PW2, being general in nature does

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not inspire confidence and fails to materially advance the case of the prosecution against the present accused.

21. Further Section 506 of the IPC cannot be sustained simply because of verbal threat without any overt act. In order to attract Section 506 of the IPC, the intention of accused must be to cause alarm to the victim. Mere expression of words without such intention is not relevant. It is necessary ingredient of Section 506 of IPC that complainant should have been alarmed by the threat administered to him. In case evidence indicates clear absence of any apprehension and/or fear so as to cause alarm to the complainant, or that because of threat, complainant was unable to attend to his duties at any point of time after he lodged the complaint, words uttered by accused can not be held to have caused any alarm to the complainant. In **Usha Bala v. State of Punjab, (P&H) : Law Finder Doc Id # 8978 2002(3) R.C.R.(Criminal) 445** it has been held that Empty threats do not make out a case under Section 506 of Indian Penal Code. In **Tej Singh v. State of Haryana (P&H) : Law Finder Doc Id # 424188 2013(1) Law Herald 924 : 2013(11) R.C.R.(Criminal) 378** it has been held that mere empty threat by words would not constitute offence of criminal intimidation.

22. Thus, even if the statement of complainant and PW3 is taken on its face value, it does not make out a case under Section 506 of the IPC, in view of the legal position as above.

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Finding regarding offence under Section 269 IPC

23. In order to attract the penal provisions of Section 269 IPC, the act of an accused must be one which was likely to spread infection of any disease dangerous to life. There is no prima facie evidence indicating that accused persons were suffering from any infectious disease or tested Corona positive at the relevant time. So it could not be assumed that the accused were either the carrier of infection or would have caused the spread thereof. Nothing is available on the record to show that the accused were carrying disease so as to attract offence punishable under Section 269 IPC. Hence, no offence is made out under Section 269 of IPC.

24. The accused have been charged under Section 271 IPC. A bare perusal of Section 271 IPC shows that it primarily deals with disobedience of rules made by the Government in relation to **quarantine of vessels** or regulation of their interaction with shore or other places during the prevalence of an infectious disease. The term “vessel” has been defined under Section 48 IPC to mean anything made for the conveyance by water of human beings or property.

25. In the present case, the prosecution has not brought on record any material to show that the alleged act of the accused had any connection with a “vessel” as defined under Section 48 IPC or that any rule pertaining to quarantine of vessels was applicable or violated. The

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entire case relates to an alleged incident at / near a shop in Sabji Mandi, Cheeka, which does not fall within the ambit of Section 271 IPC.

26. Therefore, the essential ingredients of Section 271 IPC are not attracted to the facts of the present case. Accordingly, **no offence under Section 271 IPC is made out.**

27. Hence, in view of the above discussion the Court is of the finding that the prosecution has failed to prove the guilt of accused beyond reasonable doubt therefore accused Lucky and Ram Kumar are hereby **acquitted** of the charge leveled against them. Bail bonds furnished on behalf of accused stands discharged. Original relevant documents, if any be returned after the expiry of period of appeal/revision. Concerned Revenue Authority is directed to delete the name of surety in the revenue record as per law. Superdignama, if any is also discharged. Case property, if any, be disposed of, as per the rules, after expiry of period of appeal/revision, if any. File be consigned to records, after due compliance.

Announced in open court:
09.07.2026

(Rajvinder Singh)
Judicial Magistrate Ist Class,
Guhla/UID HR 0451

All pages 18 checked and signed by me.

(Rajvinder Singh)
Judicial Magistrate Ist Class,
Guhla/UID HR 0451

Renu Rani, SG-II

(Rajvinder Singh)
JMFC, Guhla,
(UID No.HR0451)