



(2025:HHC:34590)

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IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr. Appeal No. 326 of 2015

Reserved on: 07.10.2025

Decided on: 14.10.2025

State of Himachal Pradesh

...Appellant

Versus

Jeewan Kumar & Ors.

...Respondents

Coram

The Hon'ble Mr. Justice Sushil Kukreja, Judge

¹ *Whether approved for reporting?*

For the appellant:

Mr. Manoj Chuhan, Mr. Amandeep Sharma, Additional Advocates General with Mr. Ankush Thakur & Ms. Archana Negi, Deputy Advocates General.

For the respondents:

Mr. Naresh Kaul, Advocate.

Sushil Kukreja, Judge

The present appeal has been preferred by the appellant/State (hereinafter referred to as “the appellant”) laying challenge to judgment, dated 29.12.2014, passed by learned Judicial Magistrate First Class, Indora, District Kangra, H.P., whereby the respondents (hereinafter referred to as “the accused persons”) were acquitted for the offences punishable under Sections 451, 323, 324, 506 read with Section 34 of the Indian Penal Code (hereinafter referred to as ‘IPC’).

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



2. The prosecution story, in brief, is that on 14.10.2009, at about 10:00 P.M., when Rajiya Begam (complainant) was sleeping in her house at Village Rey, accused Jeewan came there and called her brother-in-law, Salim Ali, outside the house. Upon which, Salim Ali came outside the house, however, accused Jeewan started abusing him and gave beatings to him. When Rajiya Begam asked accused Jeewan not to abuse, accused Uttam Chand caused injuries to her left leg by an iron *darat*. While Rajiya Begam was crying for help, in the meantime, accused Jeewan and Sudhir gave beatings to Salim Ali. Subsequently, Feroz Khan (brother of Salim Ali) came to the spot and tried to rescue Salim Ali from the accused persons. However, accused persons also gave beatings to him. On hearing cries of Rajiya Begam, the persons namely Gamla Devi and Bittu came to the spot and rescued them from the accused persons. Thereafter, the accused persons fled away from the spot. After the aforesaid incident, Salim Ali disclosed to the complainant that he was *Munshi* of Contractor Shiv Kant Prashar and accused Jeewan Kumar was working at Shah Nehar under aforesaid Contractor. Salim Ali further disclosed to the complainant that Contractor had not paid the wages to Jeewan Kumar and as such, he was



demanding wages from Salim Ali being *Munshi* of the Contractor and on account of aforesaid grudge, all the accused persons gave beatings to Salim Ali. Thereafter, complainant Rajiya Begam reported the matter to the police, upon which, *rapat* was entered. Medical examination of the complainant and Feroz Khan was conducted and their MLCs were procured. Consequently, FIR came to be registered against the accused persons. Spot map was prepared and Axe produced by Salim Ali was taken into possession vide separate seizure memo in presence of the witnesses. The *darat* produced by accused Uttam Chand during investigation was also taken into possession vide separate memo in presence of the witnesses. After completion of all the codal formalities, *challan* was presented against the accused persons in the learned trial Court.

3. On finding *prima facie* case against the accused persons, notice of accusation was put to them under Sections 451, 323, 324 read with Section 34 of IPC, to which, they pleaded not guilty and claimed trial.

4. In order to prove its case, during trial, the prosecution examined as many as 09 witnesses. After the close of prosecution evidence, the accused persons were examined



under Section 313 of the Code of Criminal Procedure, wherein they stated that they were innocent and had been falsely implicated in the case. However, they did not examine any witness in their defence.

5. The learned trial Court, vide judgment dated 29.12.2014, acquitted the accused persons for the offences under Sections 451, 323, 324 read with Section 34 of IPC, hence, the present appeal by the State.

6. I have heard learned Deputy Advocate General as well as learned counsel for the respondents/accused and have also gone through the record carefully.

7. The learned Deputy Advocate General contended that the learned trial Court has discarded the well reasoned and consistent testimonies of prosecution witnesses on material points and has not properly valued the evidence on record qua the charge. He further contended that the learned trial Court has wrongly held that there were contradictions, infirmities and improvements in the statements of PW-1, PW-2, PW-3 and PW-6, whereas, there were only minor contradictions and improvements in the statements of these witnesses. He also contended that the learned trial Court has erred in coming to the conclusion that PW-



1, PW-2, PW-3 and PW-6 were the interested witnesses. With these submissions, he prayed for setting-aside the impugned judgment of the trial Court and acceptance of the instant appeal.

8. Per contra, learned counsel for the respondents/accused persons contended that the prosecution has failed to prove its case against the accused persons beyond all reasonable doubts, therefore, the learned trial Court has rightly acquitted the accused persons of the charges framed against them.

9. At the very outset, it needs to be observed that the Appellate Court has to be relatively slow in reversing the order of the trial Court rendering acquittal as an order of acquittal adds up to the presumption of innocence in favour of the accused. In ***Dhanapal vs. State By Public Prosecutor, Madras, (2009) 10 SCC 401***, the Hon'ble Apex Court has held that the presumption of innocence of the accused is strengthened by the judgment of acquittal passed by the trial Court. The relevant portion of the aforesaid judgment reads as under:-

“25. The same principle has been followed in [Atley v. State of U.P.](#) AIR 1955 SC 807 (at pp. 809-10 para 5), wherein the Court said:

“5. ...It has been laid down by this Court that it is open to the High Court on an appeal against an order of acquittal to review the entire evidence and to come to its



own conclusion, of course, keeping in view the well-established rule that the presumption of innocence of the accused is not weakened but strengthened by the judgment of acquittal passed by the trial court. Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal. Which had the advantage of observing the demeanor of witnesses whose evidence have been recorded in its presence.

It is also well settled that the court of appeal has as wide powers of appreciation of evidence in an appeal against an order of acquittal as in the case of an appeal against an order of conviction, subject to the riders that the presumption of innocence with which the accused person starts in the trial court continues even up to the appellate stage and that the appellate court should attach due weight to the opinion of the trial court which recorded the order of acquittal."

10. In ***N. Vijaykumar vs. State of Tamil Nadu, (2021) 3***

Supreme Court Cases 687, the Hon'ble Apex Court has held that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him and secondly, the presumption of his innocence is further strengthened by the judgment of his acquittal passed by the trial Court. The relevant portion of the judgment reads as follows:-

"20. By considering the long line of earlier cases this Court in the judgment in the case of [Chandrappa & Ors. v. State of Karnataka](#) (2007) 4 SCC 415 has laid down the general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal. Para 42 of the judgment which is relevant reads as under:

"42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) to (3) xxx xxx xxx

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless



he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial Court.”

11. In **Jafarudheen & Ors. Vs. State of Kerala, 2022 LiveLaw (SC) 403**, the Hon'ble Apex Court has held that an order of acquittal adds up to the presumption of innocence in favour of the accused and such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters. The relevant portion of the aforesaid judgment reads as under:-

“25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC, the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

12. Equally settled is the proposition that it is not the duty of the Appellate Court, when it agrees with the view of the trial Court on the evidence, to repeat the narration of the evidence or to reiterate the reasons given by the trial Court and the expression of general agreement with reasons given by the Court, the decision of which is under appeal, would ordinarily suffice (**Refer: Girijanandini Devi and Others Vs. Bijendra**



Narain Choudhary, AIR 1967 SC 1124).

13. Therefore, the instant appeal has to be decided in view of the aforesaid settled legal proposition. In the case in hand, the prosecution has examined as many as 09 witnesses. However, the prosecution case mainly rests upon the statements of PW-1 Rajiya Begam, PW-2 Salim Ali, PW-3 Feroz Khan and PW-6 Inayat Bibi.

14. I have closely scrutinized the entire evidence on record led by the prosecution and from the closure scrutiny thereof, it has become clear that the prosecution has failed to prove its case against the accused persons beyond doubt. From the perusal of the statements of PW-1, PW-2, PW-3, PW-5 and PW-6, it is revealed that there are various contradictions and improvements in the statements of these witnesses, which has been taken note of by learned trial Court and which go to the root of the prosecution story. The further case of the prosecution is that Gamla Devi and Bittu came on the spot and rescued the complainant and Salim Ali from the accused persons. However, Bittu who was examined by the prosecution as PW-5 did not support the case of the prosecution and turned hostile. He was cross-examined at length, but nothing favourable could be



elicited from his cross-examination. Moreover, the complainant never disclosed in her deposition before the learned trial Court that Gamla Devi and Bittu had rescued them from the accused persons. She only deposed that some people from surrounding area reached the spot and rescued them from the clutches of the accused persons.

15. Hence, in view of material contradictions in the statements of the prosecutions witnesses, no reliance can be placed upon their testimonies, as the same create doubt upon the story of the prosecution. The further case of the prosecution is that the accused persons caused beatings to the complainant and her brother-in-law Salim Ali, however, Salim Ali was not medically examined. There is nothing on record that Feroz Khan was also given beatings by the accused persons on the spot. PW-1 and PW-6 have not deposed that Feroz Khan was also present on the spot and accused persons caused beatings to him. PW-6 categorically deposed that only she and complaint were present on the spot when accused caused beatings to Salim Ali. She further deposed that 15-20 people came thereafter on the spot, but she had not disclosed that Feroz Khan also came to the spot and accused persons caused beatings to him.



The presence of PW-6 Inayat Bibi, mother-in-law of the complainant is doubtful on the spot, as neither according to PW-1, PW-2 and PW-3 nor as per the prosecution case, she was present on the spot at the time of alleged incident. As such, her statement is not trustworthy in view of the statements of PW-1, PW-2 and PW-3.

16. PW-4, Inder Dev, who was witness to seizure memo, Ext. PW-2/A , had also turned hostile and had not supported the case of the prosecution in any manner. According to the complainant, 10-12 houses were situated near her house and PW-2, PW-3 and PW-6 also deposed that many people from surrounding area came to the spot, however, the prosecution has not examined any independent and impartial witness to corroborate its case, rather, the witnesses examined by the prosecution are the family members of the complainant and in view of the contradictions in their statements, the same cannot be relied upon.

17. Therefore, in view of the material discrepancies and inconsistencies in the evidence, the prosecution has failed to prove its case against the accused persons beyond all reasonable doubt. The appellant-State has failed to point out any



irregularity or illegality, much less, perversity in the judgment of the acquittal passed by the learned trial Court, as such, there is no merit in the instant appeal and the same is dismissed accordingly. The bail bonds, if any, furnished by the accused are discharged. Record of the learned trial Court be sent back.

(Sushil Kukreja)
Judge

October 14, 2025
(raman)