



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRR-2540-2016 (O&M)

Kesho Parshad Sudhir and others

.....Petitioners

Versus

Sohan Singh

.....Respondent

<i>Sr. No.</i>	<i>Particular</i>	<i>Details</i>
1	The date when the judgment is reserved	16.04.2026
2	The date when the judgment is pronounced	21.04.2026
3	The date when the judgment is uploaded on the website	22.04.2026
4	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not applicable

CORAM: HON'BLE MS. JUSTICE NEERJA K. KALSON

Present : Mr. A.P.S. Deol, Sr. Advocate with
Mr. Vishal R. Lamba, Advocate
for the petitioners.

Mr. G.S. Bhatia, Advocate
for the respondent.

NEERJA K. KALSON, J.(Oral)

1. This revision petition is directed against the judgment dated 11.04.2016 passed by the learned Additional Sessions Judge, Gurdaspur. By way of the said judgment, while acquitting the petitioners of the charge under Section 326 IPC, the learned Appellate Court has maintained their conviction for the offences under Sections 324 and 323 IPC read with



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Section 149 IPC. The petitioners have, however, been extended the benefit of probation under Section 4(1) of the Probation of Offenders Act, subject to furnishing bonds, maintaining good conduct, and making payment of costs and compensation. It is this part of the judgment which is under challenge before this Court.

2. The case has its origin in a private complaint filed by respondent No.1-Sohan Singh on 11.09.2004, alleging that on 03.08.2004 he was caused injuries by the accused persons. The learned Trial Court, after recording evidence, returned a finding of guilt against the accused. The learned Appellate Court, while partly modifying the findings and extending benefit in respect of the graver charge, maintained the conviction for lesser offences, which has led to the present revision.

3. Learned counsel appearing for the petitioners has taken the Court through the entire sequence of events and has argued that the complaint cannot be appreciated as a standalone incident. According to him, the background in which the complaint has been filed assumes significance. It is submitted that petitioner No.1 was involved in matrimonial litigation with the daughter of one Naresh Kumar Dhani and that the present complainant has been set up as a tool in that dispute. In this regard, reliance has been placed upon the order dated 05.09.2011 passed by this Court in proceedings under Section 407 Cr.P.C., whereby the complaint case was transferred out of District Amritsar. It is pointed out that while passing the said order, this Court had recorded a *prima facie* observation regarding a nexus between the complainant and the said Naresh Kumar Dhani. Learned counsel submits that once such a circumstance is available on record, the



entire evidence required a more cautious and guarded evaluation.

4. It has also been argued that the defence evidence led by the petitioners has not been given due weight. The statements of DW-1 and DW-2 were specifically intended to bring out the surrounding circumstances and the motive behind the institution of the complaint. However, according to learned counsel, the Courts below have only made a passing reference to the same without undertaking any real analysis.

5. On the merits of the case, learned counsel has submitted that the medical evidence itself suffers from certain infirmities which cannot be overlooked. The medico-legal examination of the complainant was conducted after a considerable gap of time, though the medical facility was available nearby. No pictorial diagram indicating the seat and nature of injuries was prepared, which the doctor himself admitted ought to have been done. It has further been pointed out that the doctor, during cross-examination, conceded that some of the injuries could be caused by a shaving blade and that certain injuries could even be the result of a "friendly hand". The fact that the complainant did not seek any follow-up treatment has been highlighted.

6. It is further submitted that the delay in filing the complaint has not been explained. The occurrence is alleged to have taken place on 03.08.2004 whereas the complaint was filed on 11.09.2004. No immediate approach to the police was made. Learned counsel submitted that such delay, in the facts of the present case, assumes significance and casts a doubt on the prosecution version.

7. With regard to the ocular evidence, it is argued that one of the



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witnesses is not an eye-witness to the occurrence, while the other is a co-villager of the complainant and cannot be said to be wholly independent. Their testimony, therefore, required independent reliable corroboration, which is lacking.

8. On the other hand, learned counsel for the respondent has supported the impugned judgment and has submitted that the findings recorded by the Courts below are based on appreciation of evidence and do not call for interference.

9. After hearing learned counsel for the parties and upon going through the record, this Court is of the considered view that the present case does not present a situation where the conviction can be safely sustained.

10. At the outset, the significance of the order passed by this Court under Section 407 Cr.P.C. cannot be brushed aside. The transfer of a criminal case is not ordered in a routine manner. Such an order is passed when the Court finds that circumstances exist which may affect the fairness of trial or give rise to a reasonable apprehension in that regard. The observations made therein regarding the connection between the complainant and a person having a direct stake in the matrimonial dispute were, therefore, not without basis. While those observations may not conclude the issue in the present case, they certainly form part of the background and was required to be kept in mind while appreciating the evidence. In order to properly appreciate this aspect, it would be appropriate to reproduce the relevant observations made by this Court in the aforesaid order, which reads as under :

“When confronted with the aforementioned situation, learned



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counsel representing respondent No. 1 stated that the counsel representing Naresh Kumar-respondent No.2 in the Court at Amritsar had first instructed her to appear on his behalf in Criminal Misc. No. M-14442 of 2009 and, thereafter, instructed her to appear on behalf of Sohan Singh-respondent No.1 in the present petition. Be that as it may, a nexus is prima facie established between Sohan Singh-respondent No.1 and Naresh Kumar-respondent No.2 of at least being on the same side though against the petitioners. If that be so, the allegation that the petitioners are being threatened by respondent No.2 and his men as and when they appear before the trial Court in the complaint instituted by respondent No.1, cannot be taken lightly. Therefore, ends of justice would be amply met if the trial of the case is transferred out of the district of Amritsar.

xx xx xx xx xx

11. It is equally noticeable that the defence evidence has not been examined in the manner it ought to have been. The law does not require the defence to establish its case beyond reasonable doubt. If the version put forward by the defence creates a doubt in the prosecution's case, the accused is entitled to benefit of that doubt. The approach of the Courts below in this regard does not appear to be in consonance with this settled principle.

12. The medical evidence, when securitized carefully, does not inspire confidence. The record reflects an unexplained delay of approximately 09 hours in conducting the medico-legal examination, despite the hospital being situated in close proximity to the place of occurrence. Further, the MLR does not contain any pictorial diagram indicating the exact seat and nature of the injuries, a requirement which the doctor himself admitted during cross-examination he was obligated to



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fulfill. He also conceded that the alleged weapon was not specifically identified, and that no cut on the bone was actually observed despite the injury being described as “bone deep”. Additionally, a copy of the MLR was not forwarded to the concerned Police Station for registration of FIR. The doctor further admitted that some injuries could be a result of a “friendly hand”. These material inconsistencies and procedural lapses are not trivial; rather, they touch upon the manner in which the injuries were sustained, and therefore, go to the root of the matter.

13. The delay of more than one month in instituting the complaint, coupled with the absence of any immediate recourse to the police, also creates a doubt. While delay in itself may not always be fatal, in cases of this nature, where the prosecution is otherwise not very strong, such delay assumes significance.

14. The evidence of the witnesses also does not appear to be of quality which would inspire complete confidence. One witness is not an eye-witness to the occurrence, and the other is an interested witness. In the absence of reliable corroboration, it would not be safe to base conviction on such testimony.

15. The background of matrimonial litigation between the parties also cannot be ignored. The findings recorded in those proceedings, including the decree of divorce affirmed by this Court, show that there was considerable bitterness between the parties. While those findings are not determinative of the present case, they do provide a context in which the complaint has to be examined.

16. In criminal law, the prosecution must stand on its own legs and



prove its case beyond reasonable doubt. If the evidence on record gives rise to a reasonable doubt, the benefit must go to the accused. It is equally well settled that suspicion, however strong, cannot take the place of proof. The Hon'ble Supreme Court in *Sharad Birdichand Sarda vs. State of Maharashtra, 1984 4 SCC 116* clarified that suspicion, however, strong, cannot substitute proof. Prosecution must establish a complete chain of circumstances leading only to the guilt of the accused. Further reliance is placed on Supreme Court's decision in *Raja Naykar Vs. State of Chattisgarh 2024 INSC 56* wherein it was held that a conviction cannot be sustained on mere suspicion. The prosecution must establish beyond reasonable doubt that the offence was committed solely by the accused.

17. Keeping in view the totality of the circumstances, this Court is of the opinion that the prosecution has not been able to establish its case to the standard required in law. The conviction recorded by the learned Appellate Court, therefore, cannot be sustained.

18. Even otherwise, the directions issued with regard to payment of costs and compensation do not appear to strictly conform to the statutory scheme and cannot be upheld.

19. Accordingly, the present revision petition is allowed. The judgment dated 11.04.2016 passed by the learned Additional Sessions Judge, Gurdaspur, is set aside and the petitioners are acquitted of all the charges.

20. Before parting, it may only be observed that in cases arising out of private complaints, particularly where there exists a background of personal or matrimonial dispute, the Courts are required to exercise a



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greater degree of caution. The process of criminal law should not be permitted to be used as a means of exerting pressure, and the evidence must always be tested with care and objectivity.

21. The petitioners are on bail. Their bail bonds shall stand discharged.

22. Pending applications, if any, shall also stand disposed of.

(NEERJA K. KALSON)
JUDGE

21.04.2026

Satyawan

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>