

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 1063/2006

Smt. Sarita W/o Sh. Arun Kumar, R/o Opposite Lal Kuan, Nai Sadak, Ward No.5, Churu.

-----Petitioner

Versus

1. State of Rajasthan.
 2. Anil Kumar S/o Sh. Omprakash
 3. Gheesa Ram S/o Sh. Ram Lal
 4. Suresh Kumar S/o Shri Shankar Lal
- All respondent Nos.2 to 4 R/o Subhash Chowk, Churu.
(All respondent Nos.2 to 4 are original accused)

-----Respondent

CONNECTED WITH

S.B. Criminal Revision Petition No. 799/2008

Ghisa Ram S/o Ram Lal, Aged About 57 Years, R/o Ward No.5, Subhash Chowk, Churu.

-----Petitioner

Versus

1. State of Rajasthan.
 2. Sarita W/o Arun Kumar
 3. Jagdish Prasad S/o Arun Kumar
 4. Yogendra Kumar S/o Bajran Lal
 5. Arun Kumar S/o Bajran Lal
 6. Om Prakash S/o Arun Kumar
- (Respondent Nos.2 to 6 all are R/o Sdubhash Chowk, Churu.)

-----Respondent

For Petitioner/Respondent
(Sarita/Sarita & Ors.)

: Mr. C.S. Rathore
Mr. Bajrang Singh

For Respondent/Petitioner
(Anil Kumar & Ors./Ghisa Ram)

: Mr. N.L. Joshi

For Respondent
(State)

: Mr. Hathi Singh Jodha, P.P.

HON'BLE MR. JUSTICE MUKESH RAJPUROHIT**Order****16/07/2025****GRIEVANCE :**

1. These criminal revision petitions have been filed on behalf of the respective petitioners against two separate judgments dated 20.09.2006 passed by the learned Sessions Judge, Churu (hereinafter to be referred as the 'trial court') in Sessions Case Nos.5/2003 and 14/2005 respectively, whereby the learned trial court acquitted the accused persons while giving benefit of doubt.

FACTS :

2. Bereft of elaborate details, the brief facts necessary for disposal of both the revision petitions are as under :-

FACTS OF SBCRLR NO.1063/2006 :

2.1. In this revision petition, the complainant/petitioner viz. *Sarita Devi* filed a report alleging therein that on 03.09.2002 at around 08:30 AM, when she and her husband *Arun Kumar* had gone to the rear side of their house to feed the cows, at that time, suddenly some accused persons including the accused/respondent Nos.2 to 4 viz. *Anil Kumar, Ghisa Ram* and *Suresh Kumar* allegedly came there armed with sticks, iron rods, swords and other weapons with the intention to kill them and started assaulting her husband. When her sons viz. *Jagdish* and *Omprakash* intervened to rescue their father, the accused persons also assaulted them. As a result of which, all three victims

sustained injuries, *Arun Kumar* fell unconscious and they were admitted to the hospital and in critical condition.

2.2. On the said report, the FIR No.283/2002 was registered at Police Station Kotwali, District Churu for the offences punishable under Sections 452, 307, 147, 148, 149, 341 and 323 of IPC and after conducting thorough investigation, the police filed charge-sheet against the accused/respondent Nos.2 to 4 viz. *Anil Kumar, Ghisa Ram* and *Suresh Kumar* for the offences punishable under Sections 307, 325, 323 and 34 of IPC before the competent court.

2.3. The learned trial court, after hearing learned counsel for the parties and carefully examining the evidence brought on record on behalf of the prosecution, recorded a finding of acquittal giving the benefit of doubt to the accused/respondent Nos.2 to 4 viz. *Anil Kumar, Ghisa Ram* and *Suresh Kumar* on the ground that there are material contradiction in the statements of prosecution witnesses vide impugned judgment dated 20.09.2006 passed in Sessions Case No.5/2003. Hence, this revision petition.

FACTS OF SBCRLR NO.799/2008 :

2.4. In this revision petition, the complainant/petitioner viz. *Ghisa Ram* filed a written report alleging therein that on 03.09.2002 at around 07:00 AM, when he complained to the accused *Arun Kumar* about throwing garbage on a vacant plot behind his house, the accused persons viz. *Arun Kumar*, his wife *Sarita*, his sons *Omprakash* and *Babulal* along with three other accused persons, allegedly came there armed with sticks and stones around 07:30 AM and attacked upon him, while he was going to the bathroom constructed on that vacant plot, causing

injury and bleeding. When his wife *Durga Devi*, his son *Yudhistar* and nephew *Suresh Kumar* intervened to rescue him, the accused persons also assaulted them, causing injuries.

2.5. On the said report, the FIR No.281/2002 was registered at Police Station Kotwali, District Churu for the offences punishable under Sections 147, 148, 149, 341, 323 and 447 of IPC and after conducting thorough investigation, the police filed charge-sheet against the accused/respondent Nos.2 to 6 viz. *Sarita, Jagdish Prasad, Yogendra Kumar, Arun Kumar* and *Omprakash* for the offences punishable under Sections 147, 447, 149, 341, 323 and 325 of IPC before the competent court.

2.6. The learned trial court, after hearing learned counsel for the parties and carefully examining the evidence brought on record on behalf of the prosecution, recorded a finding of acquittal giving the benefit of doubt to the accused/respondent Nos.2 to 6 viz. *Sarita, Jagdish Prasad, Yogendra Kumar, Arun Kumar* and *Omprakash* on the ground that there are material contradiction in the statements of prosecution witnesses vide impugned judgment dated 20.09.2006 passed in Sessions Case No.14/2005. Hence, this revision petition.

CONTENTIONS :

3. Learned counsel Mr. C.S. Rathore and Mr. Bajrang Singh appearing on behalf of petitioner/respondents viz. ***Sarita, Jagdish Prasad, Yogendra Kumar, Arun Kumar*** and ***Omprakash*** has contended as under : -

3.1. It is contended that in the Sessions Case No.5/2003, there was adequate evidence on record to substantiate the fact that

accused viz. *Anil Kumar, Ghisa Ram* and *Suresh Kumar* committed the crime, for which they were charged, in furtherance of their common intention on the relevant date and time. There are five injured persons, who sustained multiple injuries across their bodies but among them, one injured suffered a grievous injury on the occipital region, which after undergoing surgery, was found to be dangerous to life; however, the learned trial court discarded the testimonies of all five injured witnesses holding that all they were interested witnesses due to being close relatives.

3.2. It is further contended that the testimonies of interested witnesses cannot be discarded in toto; however, it was incumbent upon the learned trial court to carefully scrutinized the testimonies of interested witnesses, especially since there is hardly any element of discrepancy or contradiction on material issues in their testimonies. The learned trial court observed certain minor contradictions in the statements of the prosecution witnesses; however, these inconsistencies are trivial and to be expected due to the lapse of time and the inherent limitations of human memory, which cannot be likened to the precision of a computer. Far from discrediting the witnesses, such minor discrepancies often enhance the credibility of their testimony, as they reflect natural, unrehearsed recollection. These variations, therefore, serve to strengthen, rather than undermine the prosecution's case.

3.3. Moreover, it was both surprising and improper that the learned trial court failed to give due consideration to the medical officer's report, which unequivocally stated that the injury

sustained was dangerous to life. The fact that the report was submitted in photocopy form ought not to have been the sole ground for its rejection. The probative value of the report, particularly when it pertains to the nature and seriousness of the injuries, warranted careful judicial scrutiny, which appears to have been overlooked in the present case.

3.4. It is submitted that the learned trial court has grossly erred in recording the acquittal of the accused viz. *Anil Kumar, Ghisa Ram* and *Suresh Kumar* while wrongly extended them the benefit of doubt; thus, it is prayed that the impugned order dated 20.09.2006 passed by the learned trial court in Sessions Case No.5/2003 may kindly be set aside and accused viz. *Anil Kumar, Ghisa Ram* and *Suresh Kumar* may kindly be convicted for the alleged offence.

4. Learned counsel Mr. N.L. Joshi appearing on behalf of respondent/petitioners viz. **Anil Kumar, Ghisa Ram** and **Suresh Kumar** has contended as under : -

4.1. It is contended that in the Sessions Case No.14/2005, the learned trial court wrongly extended the benefit of doubt to the accused viz. *Sarita, Jagdish Prasad, Yogendra Kumar, Arun Kumar* and *Omprakash* merely on the ground that the prosecution failed to produce documentary evidence regarding the title and possession of the place of occurrence. In this regard, it is submitted that the prosecution successfully proved its case beyond reasonable doubt by presenting cogent and convincing evidence. The witnesses consistently and clearly narrated the facts of the case. Minor contradictions in their statements, arising after

a considerable passage of time, are natural and insignificant. Such discrepancies are to be expected and do not justify acquitting the accused, especially when there is strong evidence regarding the injuries sustained.

4.2. It is also submitted that in similar cases, the statements of injured persons and corroborating medical testimony from doctors have been held sufficient to convict the accused. In the present case, all injured witnesses specifically named the accused as the persons who inflicted the injuries upon them, and the medical evidence fully corroborates their claims.

4.3. It is further submitted that despite the presence of such material evidence on record, the learned trial court failed to appreciate the same in its proper perspective and erroneously acquitted the accused of all charges. The victim sustained grievous injuries to his hand and had to undergo surgery on three separate occasions, this fact alone is sufficient to warrant conviction. It is a settled principle of law that the number of witnesses is not decisive; rather, the quality and reliability of the evidence must be given due consideration.

4.4. Furthermore, it is contended that on the basis of minor contradiction in the statements of the prosecution witnesses, whole of the prosecution case cannot be thrown out. It is pertinent to mention here that a cross-case was registered by the accused party.

4.5. It is submitted that the learned trial court has grossly erred in recording the acquittal of the accused viz. *Sarita, Jagdish Prasad, Yogendra Kumar, Arun Kumar and Omprakash* while

wrongly extended them the benefit of doubt; thus, it is prayed that the impugned order dated 20.09.2006 passed by the learned trial court in Sessions Case No.14/2005 may kindly be set aside and accused viz. *Sarita, Jagdish Prasad, Yogendra Kumar, Arun Kumar* and *Omprakash* may kindly be convicted for the alleged offence.

5. All the learned counsel appearing on behalf of their respective parties as well as learned Public Prosecutor have opposed the prayer made on behalf of the victim parties and prayed that the impugned orders may kindly be set aside while convicting the accused party for the alleged offences.

OPINION :

6. Heard learned counsel for the parties and perused the material available on record.

OPINION IN SBCRLR NO.1063/2006 :

7. This Court is of the opinion that the learned trial court has rightly acquitted the accused persons viz. *Anil Kumar, Ghisa Ram* and *Suresh Kumar* vide order dated 20.09.2006 passed in Sessions Case No.5/2003, as the prosecution failed to establish the guilt of the accused beyond a reasonable doubt. The failure of the prosecution to discharge its burden arose primarily from several material shortcomings in the evidence presented. Notably, the injured parties were interested witnesses, being close relatives of the complainant, which calls into question the impartiality of their testimony. Additionally, there were significant contradictions and inconsistencies in the statements of witnesses, which further undermined the reliability of the prosecution's case. The absence

of independent corroborative evidence compounded these weaknesses. Moreover, the prosecution failed to provide a satisfactory explanation for the considerable delay in filing the FIR, thereby casting further doubt on the veracity of the allegations. Medical evidence also revealed discrepancies, indicating that some injuries were old or consistent with accidental falls rather than inflicted by assault, thereby weakening the prosecution's narrative. Finally, the lack of any physical evidence at the alleged crime scene, such as signs of a struggle or bloodstains, substantially diminished the credibility of the prosecution's case.

7.1. In view of these factors, this Court is of the opinion that the accused persons viz. *Anil Kumar, Ghisa Ram and Suresh Kumar* are entitled to the benefit of doubt, and their acquittal was, therefore, just and proper.

OPINION IN SBCRLR NO.799/2008 :

8. This Court is of the further opinion that the learned trial court has rightly acquitted the accused persons viz. *Sarita, Jagdish Prasad, Yogendra Kumar, Arun Kumar and Omprakash* vide order dated 20.09.2006 passed in Sessions Case No.14/2005, as the prosecution failed to prove the case beyond a reasonable doubt. This failure was primarily stemmed from the fact that the injured parties were interested witnesses being closely related to the complainant, thereby raising questions about their impartiality. Furthermore, the witness testimonies exhibited significant contradictions and inconsistencies, particularly with regard to the circumstances under which the incident allegedly occurred and the nature and extent of the injuries sustained.

8.1. It is the opinion of this Court that these discrepancies significantly undermine the reliability and credibility of the prosecution's evidence, leading to the conclusion that the accused persons viz. *Sarita, Jagdish Prasad, Yogendra Kumar, Arun Kumar* and *Omprakash* are entitled to the benefit of doubt, and their acquittal was, therefore, just and proper.

VERDICT :

9. In light of the above discussions, this Court finds no merit in both the criminal revision petitions, hence, the same are hereby dismissed. Consequently, both the judgments of acquittal dated 20.09.2006 passed by the learned Sessions Judge, Churu in Sessions Case Nos.5/2003 and 14/2005 are hereby affirmed.

(MUKESH RAJPUROHIT),J

Abhishek Kumar
S.Nos.2 & 3