

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. Appeal No. 4213 of 2013****Reserved on: 20.03.2026****Date of Decision: 08.5.2026.**

State of H.P. ..Appellant**Versus****Ravi Dogra ...Respondent**

Coram***Hon'ble Mr Justice Rakesh Kainthla, Judge.******Whether approved for reporting?¹ Yes.*****For the Appellant/State : Mr Ajit Sharma, Deputy Advocate General.****For the respondent : Mr Amit Sharma, Advocate.**

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 29.06.2013 passed by the learned Judicial Magistrate First Class, Court No.1, Amb, District Una, HP (learned Trial Court) vide which the respondent (accused before the learned Trial Court) was acquitted of the commission of offences punishable under Sections 323, 324 and 504 of the Indian Penal Code (IPC). (*The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience*).

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

2. Briefly stated, the facts giving rise to the present appeal are that the police presented a challan before the learned Trial Court against the accused for the commission of offences punishable under Sections 323, 324 and 504 of the IPC. It was asserted that the informant/victim Ranbir Singh (PW1) is the owner of the land located adjacent to the house of the accused Ravi Dogra. He had planted Chari crop in his field. The accused is running a factory. He had employed 20-25 people as labourers. The labour of the accused used to defecate in the informant's field. The informant objected to this fact, and the accused assured that a boundary would be erected to prevent open defecation. The accused did not erect any boundary. The informant again reminded the accused on 31.05.2009 about the construction of the boundary, and the accused assured the informant that he (the informant) would not have any cause for complaint. The informant and Chiranji Lal (PW2) were returning to their home at about 10:30 PM after attending the marriage of Kishori Lal's son, when they saw that 2-3 persons were defecating in his field. The informant called the accused and complained about the defecation. The accused came out of his house and abused the informant. The accused was armed with a sickle, and he inflicted a

blow on the informant's left hand. The informant sustained a bleeding injury on his left hand. The accused again tried to inflict an injury, and the informant averted the blow with his right hand, sustaining an injury on his right hand. The matter was reported to the police. An entry (Ext.PW6/A) was recorded in the Police Station and ASI Arjun Dev (PW6) went to the hospital for verification. He filed an application (Ext.PW6/B) for the informant's medical examination. Dr S.K Verma (PW7) examined the informant and found that he had sustained simple injuries which could have been caused by means of a sharp-edged weapon. He advised X-rays, but no fracture was detected in the X-ray. He issued the MLC (Ext.PW7/A). SI Arjun Dev recorded the informant's statement (Ext.PW1/A) and sent it to the Police Station, where FIR (Ext.PW6/B) was registered. ASI Arjun Dev visited the spot and prepared the site plan (Ext.PW6/F). The accused produced the sickle (Ext.P1), which was put in a cloth parcel, and the parcel was sealed with three impressions of seal 'S'. It was seized vide memo (Ext.PW1/B). Sample seal (Ext.PW6/F) was taken on a separate piece of cloth, and the seal was handed over to Rajnish after use. The statements of witnesses were recorded as per their version, and after the completion of the

investigation, the challan was prepared and presented before the learned Trial Court.

3. The learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, he was charged with the commission of offences punishable under Sections 323, 324 and 504 of the IPC, to which he pleaded not guilty and claimed to be tried.

4. The prosecution examined eight witnesses to prove its case. Ranbir Singh (PW1) is the informant/injured. Chiranji Lal (PW2) and Bali Ram (PW5) are the eyewitnesses. Sanjeev Kumar (PW3) and Rajneesh Kumar (PW4) witnessed the recovery. SI Arjun Dev (PW6) investigated the matter. Dr S.K. Verma (PW7) medically examined the injured/victim. HHC Sada Shiv (PW8) proved the entry in the daily diary.

5. The accused, in his statement recorded under Section 313 of the Code of Criminal Procedure (Cr.P.C.), denied the prosecution's case in its entirety. He could not say why the witnesses had deposed against him and why this case was made against him. He did not produce any evidence in his defence.

6. The learned Trial Court held that the initial version recorded in the entry in the Daily Diary was that the informant was being beaten by 2-3 persons, which was changed in the Court, and it was stated that the informant was beaten by the accused. The prosecution's evidence established that the informant had sold the land, and he had no reason to complain about the open defecation in it. The Investigating Officer had not found any evidence of open defecation, making the prosecution's case doubtful. No independent witness was examined, even though the incident had occurred in a heavily populated area. All these circumstances made the prosecution's case doubtful. Therefore, the learned Trial Court acquitted the accused.

7. Being aggrieved by the judgment passed by the learned Trial Court, the State has filed the present appeal asserting that the learned Trial Court erred in appreciating the evidence on record. The learned Trial Court had heavily relied upon the statement of the Investigating Officer, but the Investigating Officer was not present on the spot, and his testimony could not have been used to discard the statements of the eyewitnesses. Bali Ram (PW5) had recanted his previous statement, and his testimony could not have been used to discard the prosecution's

case. Minor contradictions in the statements of the witnesses were not material because the contradictions are bound to come with time and could not have been used to discard the prosecution's version. Hence, it was prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

8. I have heard Mr Ajit Sharma, learned Deputy Advocate General for the appellant/State and Mr Amit Sharma, learned counsel for the respondent/accused.

9. Mr Ajit Sharma, learned Deputy Advocate General, for the appellant/State, submitted that the learned Trial Court erred in appreciating the evidence on record. The statements of the prosecution witnesses proved that the accused had caused injuries to the informant with a sickle. Minor contradictions in the statements of the witnesses were not sufficient to discard the prosecution's case, as the minor contradictions are bound to come with time due to lapse of memory. Learned Trial Court had taken an unreasonable view while appreciating the material on record. Hence, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

10. Mr Amit Sharma, learned counsel for the respondent/accused, submitted that the prosecution witnesses had materially contradicted each other. The place of the incident was shifted, and the genesis of the prosecution case was made doubtful because the informant had sold his land, and he had no reason to object to the open defecation. There was no sign of open defecation. All these circumstances made the prosecution's version doubtful, and the learned Trial Court had taken a reasonable view while acquitting the accused. Therefore, he prayed that the appeal be dismissed.

11. I have given a considerable thought to the submissions made at the bar and have gone through the records carefully.

12. The present appeal has been filed against a judgment of acquittal. It was laid down by the Hon'ble Supreme Court in *Surendra Singh v. State of Uttarakhand*, (2025) 5 SCC 433: 2025 SCC OnLine SC 176 that the Court can interfere with a judgment of acquittal if it is patently perverse, is based on misreading of evidence, omission to consider the material evidence and no reasonable person could have recorded the acquittal based on the

evidence led before the learned Trial Court. It was observed on page 438:

“24. It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial Judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

13. This position was reiterated in *State of M.P. v. Ramveer Singh*, 2025 SCC OnLine SC 1743, wherein it was observed:

21. We may note that the present appeal is one against acquittal. Law is well-settled by a plethora of judgments of this Court that, in an appeal against acquittal, unless the finding of acquittal is perverse on the face of the record and the only possible view based on the evidence is consistent with the guilt of the accused, only in such an event, should the appellate Court interfere with a judgment of acquittal. Where two views are possible, i.e., one consistent with the acquittal and the other holding the accused guilty, the appellate Court should refuse to interfere with the judgment of acquittal. Reference in this regard may be made to the judgments of this Court in the cases of *Babu Sahebagouda Rudragoudar v. State of Karnataka* (2024) 8 SCC 149; *H.D. Sundara v. State of Karnataka* (2023) 9 SCC 581 and *Rajesh Prasad v. State of Bihar* (2022) 3 SCC 471.

14. The present appeal has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

15. HHC Sada Shiv (PW8) stated that Ranbir Singh @ Ranu had telephoned the police on 31.05.2009 at 11:05 PM and told that some people were beating him at Kalruhi, outside Vickka, Motor Shop. He recorded an entry (Ext.PW6/A), which contains a similar version. The accused was known to the informant, and no reason has been assigned as to why his name was not mentioned in the initial report made to the police. The initial version told to the police was regarding the beatings of the informant by some persons outside the workshop of Vickka. This version was changed in the Court, and Ranbir Singh (PW1) stated that the accused came out of his house armed with a sickle and gave him beatings. Arjun Dev (PW6) stated in his cross-examination that the workshop of Vickka was located at a distance of 100 meters from the house of the accused. Therefore, it is apparent that the prosecution has changed the number of assailants and the place of the incident. It was laid down by the Hon'ble Supreme Court in *Badri v. State of Rajasthan, (1976) 1 SCC 442: 1976 SCC (Cri) 60: 1975 SCC OnLine SC 417* that where a witness can 'modulate his evidence to suit a particular prosecution theory for the deliberate purpose of securing a conviction, such a witness cannot be considered as a reliable person and no conviction can be based on his testimony'.

It was held in *Ram Kumar Pandey v. State of M.P.* [(1975) 3 SCC 815: 1975 SCC (Cri) 225: AIR 1975 SC 1026] that if there be a material departure in the prosecution case as unfolded in the FIR, it would cause a dent to the edifice on which the prosecution case is built, as the prosecution cannot project two entirely different versions of a case.

16. The informant specifically stated that the accused inflicted a blow by means of a sickle. The accused again tried to inflict a blow with a sickle, but he (the informant) averted the blow with his right hand, and he sustained injuries on his right hand. Therefore, as per the informant, he had sustained two injuries by means of a sickle: one on the left hand and the other on the right hand. Dr SK Verma (PW7) examined the injured, and he found one clean incised wound on the left ring finger and a bright red abrasion over the right little finger. The injury on the left ring finger could have been caused by means of a sharp-edged weapon, whereas the injury on the right little finger could have been caused by means of a blunt-edged weapon. Thus, the medical evidence does not corroborate the informant's version that the injuries on both hands were caused by means of a sharp-edged weapon.

17. It was submitted that the blunt side of the sickle could have been used to cause injury to the right hand, and there is no discrepancy in the medical and ocular evidence. This submission cannot be accepted. It was laid down by the Hon'ble Supreme Court in *Hallu vs. State of M.P.*, (1974) 4 SCC 300, that in the case of a sharp-edged weapon, the presumption is that its sharp side was used. If the prosecution wants the Court to believe that the blunt side was used, the burden is upon it to say so. It was observed: -

11. The post-mortem report prepared by Dr N. Jain shows that on the body of Jagdeo were found three bruises and a haematoma. On the body of Padum were found four lacerated wounds and two bruises. According to the eyewitnesses, the two men were attacked with lathis, spears and axes, but that clearly stands falsified by the medical evidence. Not one of the injuries found on the person of Jagdeo and Padum could be caused by a spear or an axe. The High Court, however, refused to attach any importance to this aspect of the matter by saying that the witnesses had not stated that "the miscreants dealt axe blows from the sharp side or used the spear as a piercing weapon". According to the High Court, axes and spears may have been used from the blunt side, and therefore, the evidence of the eyewitnesses could safely be accepted. *We should have thought that normally, when the witness says that an axe or a spear is used, there is no warrant for supposing that what the witness means is that the blunt side of the weapon was used. If that be the implication, it is the duty of the prosecution to obtain a clarification from the witness as to whether a sharp-edged or a piercing instrument was used as a blunt weapon.*" (Emphasis supplied)

18. In the present case, no witness has deposed that the blunt side of the sickle was used. Therefore, the submission that the injury on the right-hand could have been caused by means of a blunt side of the sickle cannot be accepted.

19. The informant, Ranbir Singh, and Chiranji Lal (PW2) consistently stated that the accused had caused injuries to the informant by means of a sickle. Only one injury was found to be caused by a sharp-edged weapon, and the other injury could have been caused by means of a blunt weapon. It was laid by the Hon'ble Supreme Court in *Amar Singh v. State of Punjab, (1987) 1 SCC 679:1987 SCC OnLine SC 117*, that where the witnesses deposed that the injury was caused by a sharp-edged weapon, but no incised wound was found, the prosecution's case becomes suspect. It was observed at page 682:

“10. It is next contended on behalf of the appellants that the learned Additional Sessions Judge and the High Court were not justified in placing any reliance upon the evidence of PW 5 Smt Veero, which is totally inconsistent with the medical evidence. It has already been noticed that all the accused persons were armed with sharp weapons. It is the evidence of PW 5 that Amar Singh, son of Bachan Singh, and Rattan Singh were each armed with a *sua*, Lakha Singh was armed with a *barchi*, Harbhajan Singh was armed with a *kulhari*, and Amar Singh, son of Isher Das, was armed with a *kirpan*. She said: “Then all the accused except Bachan Singh accused surrounded my son Piara Singh (deceased).

Then Lakha Singh accused gave a *barchi*-blow on the left knee of my son. Then Piara Singh (deceased) fell down, and all the accused then gave injuries to him with their respective weapons.” In her cross-examination, she said that the accused persons gave quite a number of blows with their respective weapons after they had overpowered him, and that many of the blows fell on the ribs and abdomen of deceased Piara Singh. But, not a single incised wound was found on the body of the deceased by PW 2, Dr Verma. Moreover, the medical report shows that there was no injury to the ribs and abdomen of the deceased. We are unable to accept the evidence of PW 5 that although a number of blows were given by the accused with their weapons on the ribs and abdomen of the deceased, yet such blows did not produce any mark of injury. The medical report submitted by PW 2 shows that there were only contusions, abrasions and fractures, but there was no incised wound on the left knee of the deceased as alleged by PW 5. If her evidence that all the accused inflicted injuries on the deceased with their respective weapons has to be accepted, then there would be incised wounds all over the body of the deceased, but the medical report shows that not a single incised wound was found on the body of the deceased. Thus, the evidence of PW 5 is totally inconsistent with the medical evidence. This Court in *Ram Narain Singh v. State of Punjab [(1975) 4 SCC 497: 1975 SCC (Cri) 571: AIR 1975 SC 1727]* has laid down that if the evidence of the witnesses for the prosecution is totally inconsistent with the medical evidence, this is a most fundamental defect in the prosecution case and unless reasonably explained, it is sufficient to discredit the entire case. There is no explanation for the apparent total inconsistency between the evidence of PW 5 and the medical evidence.

20. This position was reiterated in *Raj Pal v. State of Haryana, (2007) 13 SCC 554: 2007 SCC OnLine SC 600*, wherein it was observed at page 557:

12. In this connection, it may be mentioned that in the FIR dated 5-8-1990, it has been stated that the accused Jai Pal gave a pharsi-blow on the head of Sohan Lal while Raj Pal gave a lathi-blow on his head. The same is the statements in court of the alleged eyewitnesses, PW 9 Hira Lal and PW 10 Zile Singh. A pharsi is a weapon which causes an incised wound like an axe. However, there is no incised wound on the body of Sohan Lal, as is evident from the post-mortem report. There are four injuries on the dead body of Sohan Lal as found by Dr Sushil Goyal's post-mortem report conducted on 5-8-1990 at 6.05 p.m. One of these wounds was a lacerated wound on the head, while the other wounds are contusions on the shoulder. There is no incised wound. Thus, there is a clear inconsistency between the ocular version and the medical version.

21. Therefore, the medical evidence made the prosecution's case highly suspect, and the learned Trial Court was justified in doubting it.

22. Bali Ram (PW5) stated in his cross-examination that the informant had sold the land located adjacent to the house of Ravi Dogra to Golden General Store, who have constructed a house on the land. Ranbir Singh (PW1) also admitted in his cross-examination that he had sold the land 1¹/₂ years ago to Golden General Store. He stated that the construction work had started 15 days before the date of deposition. According to the prosecution, the incident had started because the labourer of the accused used to defecate in the land of the informant. If the informant had sold his land, he had no reason to complain, and the whole of the case of the prosecution would become suspect.

23. The incident started because 2-3 persons were defecating in the field of the informant. The Investigating Officer had not mentioned any signs of defecation in the site plan (Ext.PW6/F). He stated in his cross-examination that he did not remember whether he had seen any signs of defecation on the spot. Since the incident started because of the defecation in the informant's field, the investigation officer would not have missed the signs of defecation had he seen it. Hence, there is no corroboration of the informant's testimony that the incident started because 2-3 persons were defecating in his land.

24. Arjun Dev (PW6) stated in his cross-examination that he had not seen any path adjacent to the house of Ravi Dogra from which the labourers could go to the informant's field. He also stated that in case of open defecation, an action could be taken under Section 133 of the Cr.P.C. The fact that no path was visible adjacent to the house of the accused to the informant's field and no action was taken against the accused or any other person for open defecation makes the prosecution suspect that the labourers of the accused used to defecate in the informant's house.

25. The prosecution had relied upon the statement of the informant and Chiranji Lal (PW2). Bali Ram (PW5) did not support the prosecution's case. The incident had occurred in Kalruhi bazaar. Bali Ram (PW5) admitted in his cross-examination that the houses of Hardeep, Papu, Puran Chand, Kishori, Pritam Chand and Ramesh Kumar are located adjacent to the house of the accused. Ranbir Singh stated that the village had 15 houses. Chiranji Lal (PW2) stated in his cross-examination that 20-25 labourers and ward panches were present. The abadies were located at a distance of 30-40 yards. He admitted that the village had a population of 35-40 houses. These admissions show that the incident had taken place in a heavily populated area at night. The prosecution did not examine any witness, even though the labourers were present on the spot as per the statement of Chiranji Lal. Therefore, the learned Trial Court was justified in drawing an adverse inference against the prosecution.

26. Therefore, there were various infirmities in the prosecution's case due to which the same could not be relied upon. Learned Trial Court had taken a reasonable view while acquitting the accused and no interference is required with the reasonable view of the learned Trial Court, even if another view is possible.

27. No other point was urged.

28. Consequently, the present appeal fails, and it is dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

29. In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha Sanhita, 2023) the respondent/accused is directed to furnish bail bonds in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of the learned Trial Court within four weeks, which shall be effective for six months with stipulation that in the event of Special Leave Petition being filed against this judgment, or on grant of the leave, the respondent/accused on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

30. Records be sent back to the learned Trial Court forthwith, along with a copy of the judgment.

(Rakesh Kainthla)
Judge

8th May, 2026
(Nikita)