

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

209+214

2026:PHHC:089538-DB



CRM-A-161-2021 and
CRA-AD-276-2026 (O&M)
Date of decision: 02.07.2026.

STATE OF HARYANA

... Appellant(s)

VERSUS

DHARAMPAL AND OTHERS

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present :- Mr. Paras Talwar, Sr. DAG, Haryana.

Mr. Hemant Bassi, Sr. Advocate, with
Ms. Gursimran Kaur, Advocate, and
Ms. Saloni Chhabra, Advocate,
for respondents No.1 to 3.

Mr. Sanjiv Kumar Yadav, Advocate,
for respondent No.4.

VINOD S. BHARDWAJ, J. (Oral)

CRM-A-161-2021

For the reasons set out in the application, the same is allowed.

Leave to appeal is granted.

CRA-AD-276-2026

The present appeal has been preferred against the judgment dated 23.09.2019 passed by the Sessions Judge, Kaithal, in case bearing CIS No.SC/170/2017, Sessions Case No.44 of 2019, dated 17.11.2017/04.09.2019, arising out of FIR bearing No.199 dated 25.08.2017, under Sections 124-A, 188, 427, 436, 450 and 120-B read with Section 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984, registered at Police Station Kalayat, District Kaithal.

2. **FACTS**

2.1 Briefly stated, the facts of the present case are that on 25.08.2017, Sandeep Bharat, Sub-Divisional Officer, UHBVN, Kalayat, submitted a complaint to the police alleging that at about 4:15 p.m., while he was present in his office along with Balraj Singh, Junior Engineer; Sukhdev, Head Cashier; Naresh Kumar, AFM; Rajesh, AFM; Nafe Singh, Junior Engineer and Raj Singh, ALM, they noticed a group of approximately 14–15 persons proceeding towards the office, raising slogans. It was alleged that the said persons were armed with lathis, dandas, Gandasis' and bottles containing petrol. Apprehending danger to their lives, the complainant and the other officials fled from the office premises. It was further alleged that the assailants entered the office premises and caused extensive damage to the office property, including computers, printers and furniture, besides setting the premises on fire. The fire was subsequently brought under control with the assistance of the Fire Brigade. As per the complainant, the accused persons were raising slogans in support of the head of Dera Sacha Sauda, namely Gurmeet Ram Rahim Singh and had indulged in acts of vandalism and arson

in protest against the judgment rendered against him. On the basis of the aforesaid allegations, the present FIR was registered.

2.2 During the course of investigation, the investigating officer inspected the place of occurrence and prepared the site plan (Ex. PAN). Four motorcycles, namely Hero Honda bearing registration No. HR08M-1193, TVS Suzuki Hayate bearing registration No. HR08P-5034, Hero Honda Splendor bearing chassis No. MBLHA10BWF90D2074 (the registration plate of which was found broken) and Hero HF Deluxe bearing registration No. HR83-0746, were taken into possession vide seizure memo (Ex. PC). Respondents-accused Jasbir and Dharam Pal were also arrested and their disclosure statements (Ex. PAO and Ex. PAP) were recorded. Pursuant to the said disclosure statements, they got recovered one bottle each containing petrol, along with a lathi and a danda. The investigating agency prepared the site plan (Ex. PAS) of the place of recovery and the recovered articles were sealed into separate parcels and taken into possession in accordance with law. A demarcation of the place of occurrence was also carried out and the demarcation memo (Ex. PAR) was prepared. Statements of the witnesses were recorded under Section 161 of the Code of Criminal Procedure, 1973. Upon completion of investigation, additional offences were added.

2.3 Subsequently, respondent No. 4—accused Shiv Kumar @ Babar was arrested on 29.08.2017 and in his disclosure statement (Ex. PAG) he confessed of his involvement in the occurrence and of raising anti-national slogans during the incident. Pursuant to the his disclosure statement, he also got recovered a gandasi. A sketch of the recovered weapon (Ex. PAH) was prepared, whereafter it was converted into a sealed parcel and taken into

police possession vide seizure memo (Ex. PAJ). The investigating officer also prepared the site plan (Ex. PAT) of the place of recovery. Thereafter, the said accused demarcated the place of occurrence, pursuant to which demarcation memo (Ex. PAK) was prepared.

2.4 Eventually, a compact disc of the photos (Ex.P5) was taken into police possession. Photographs Ex.P7 to Ex.P10 of the place of the occurrence were got developed and those were also taken into possession.

2.5 Later on, respondent-accused Balbir was arrested on 02.10.2017, and Sections 148 and 149 of the Indian Penal Code, 1860, were deleted and Section 34 of the Indian Penal Code, 1860, was added.

2.6 On completion of the investigation, the final report under Section 173 (2) of the Code of Criminal Procedure, 1973 was prepared and forwarded to the Illaqa Magistrate against all the accused. The statutory compliances were made and a copy of the final report was supplied to the respondent-accused in view of Section 207 of the Code of Criminal Procedure, 1973

2.7 The case was committed to the Court of Sessions where finding a prima facie case, and charges were framed for commission of offences punishable under Sections 188, 436, 427, 450 and 124-A read with section 34 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984, to which respondent-accused pleaded not guilty and claimed trial.

2.8 In support of its case, the prosecution examined the following witnesses: -

PW1	Nafe Singh, Junior Engineer, Sub Division (OP)', UHBVN, Kalayat, District Kaithal, eyewitness of the occurrence.
PW2	Complainant Sandeep Bharat
PW3	Rajesh Kumar, AFM, Sub Division (OP)', UHBVN, Kalayat, District Kaithal, eyewitness of the occurrence.
PW4	Naresh Kumar, AFM, Sub Division (OP)', UHBVN, Kalayat, District Kaithal, eyewitness of the occurrence.
PW5	Pritam son of Kurdiya, owner of motorcycle make Hero Honda Splendor bearing registration No.HR08M-1193.
PW6	Balraj son of Jalli Ram, owner of motorcycle make Suzuki bearing registration No.HR08P-5034
PW7	Gurjeet son of Balraj Singh, owner of motorcycle make Hero HF Deluxe bearing registration No.HR083-0761
PW8	Gurdas son of Dharam Pal, owner of motorcycle make Hero Splendor Plus bearing registration No.HR08T-3901.
PW9	Balraj Singh, Junior Engineer, Sub Division (OP)', UHBVN, Kalayat, District Kaithal, eyewitness of the occurrence.
PW10	Raj Singh, Lineman, Sub division (OP)', UHBVN, Kalayat, District Kaithal, eyewitness of the occurrence.
PW11	Sukhdev, Head Cashier, Sub Division (OP)', UHBVN, Kalayat, District Kaithal, eyewitness of the occurrence.
PW12	Jasmer Singh, Driver, Fire-brigade, Fire Station, Kaithal.
PW13	Assistant Sub-Inspector Ram Niwas, who had prepared scaled site plan Ex.PV of the place of the occurrence.
PW14	Praveen, Lower Division Clerk, Sub Division (OP)', UHBVN, Kalayat, District Kaithal, who handed over compact disk Ex.P5 and receipt of bill Ex.P6, to the Investigating Officer.
PW15	Rajesh son of Jai Narain, who had prepared compact disc Ex.P5 and photographs Ex.P7 to Ex.P10.
PW16	Kuldeep son of Mangal Singh, eyewitness of the occurrence.
PW17	Sub-Inspector Lalit Mohan, who had prepared report under Section 173(2) of the Code of Criminal Procedure, 1973 and also proved seizure memo Ex.PX.
PW18	Rajesh Sharma, Clerk Home-II, Branch Civil Secretariat, Chandigarh, who proved sanction orders Ex.PY, Ex.PZ, Ex.PAA, Ex.PAB and Ex.PAC.
PW19	Ravinder Singh, Reader to the District Magistrate, Kaithal, who proved order Ex.PAD, which was promulgated under Section 144 of the Code of Criminal Procedure, 1973.
PW20	Moharir Head Constable Shamsher Singh with whom the case property remained deposited in the 'Malkhana' of the Police Station
PW21	Constable Manjeet Singh, who deposited the parcels with F.S.L. Madhuban.

PW22	Head Constable Kuldeep, who remained associated in the investigation of this case with Assistant Sub-Inspector Kashmir Singh.
PW23	Constable Vijender Kumar, who also remained associated in the investigation of this case with Assistant Sub-Inspector Kashmir Singh.
PW24	Assistant Sub-Inspector Ramesh Kumar, who had recorded F.I.R. Ex.PAM and made endorsement Ex.PAM/1, about registration of the F.I.R.
PW25	Exemptee Sub-Inspector Satyawar, eyewitness of the occurrence.
PW26	Assistant Sub-Inspector Kashmir Singh, Investigating Officer.
PW27	Dr. Dalbir Singh, Senior Scientific Officer (Chemistry), F.S.L. Haryana, Madhuban, Karnal, who had prepared report Ex.PW27/A.
PW28	Constable Rajesh, who also remained associated in the investigation of this case with Assistant Sub-Inspector Kashmir Singh.
PW29	Constable Baljeet Singh, who also remained associated in the investigation of this case with Assistant Sub-Inspector Kashmir Singh.
PW30	Head Constable Shamsheer, with who the case property remained deposited in the 'Malkhana' of the Police Station.

2.9 The documentary evidence led by the State is tabulated as under:

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Ex.PA	Statement of PW1 Nafe Singh recorded under Section 161 of the Code of Criminal Procedure, 1973.
Ex.PB	Application of the complainant which led to the registration of the F.I.R.
Ex.PC	Seizure memo of motorcycle make Hero Honda Splendor bearing registration No.HR08M-1193, motorcycle make Suzuki bearing registration No.HR08P-5034, motorcycle make Hero HF Deluxe bearing registration No.HR083-0761 and motorcycle make Hero Splendor Plus bearing registration No.HR08T-3901.
Ex.PD	Seizure memo of samples of burnt articles and pieces of damaged articles.
Ex.PE	List of damaged/burnt items.
Ex.PF	Forwarding letter vide which Ex.PE was handed over to the Investigating Officer.
Ex.PG	Seizure memo of Ex.PE.
Ex.PH	Statement of PW3 Rajesh Kumar recorded under Section 161 of the Code of Criminal Procedure, 1973.
Ex.PJ	Statement of PW4 Naresh Kumar recorded under Section 161 of the Code of Criminal Procedure, 1973.

Ex.PK	Statement of PW5 Pritam recorded under Section 161 of the Code of Criminal Procedure, 1973.
Ex.PL	Seizure memo of registration certificate Ex.P1.
Ex.PM	Statement of PW6 Balraj Singh son of Jalli Ram recorded under Section 161 of the Code of Criminal Procedure, 1973.
Ex.PN	Seizure memo of registration certificate Ex.P2.
Ex.PO	Statement of PW7 Gurjeet recorded under Section 161 of the Code of Criminal Procedure, 1973.
Ex.PP	Seizure memo of registration certificate Ex.P3.
Ex.PQ	Statement of PW8 Gurdas recorded under Section 161 of the Code of Criminal Procedure, 1973.
Ex.PR	Seizure memo of registration certificate Ex.P4.
Ex.PS	Statement of PW9 Balraj Singh, Junior Engineer recorded under Section 161 of the Code of Criminal Procedure, 1973.
Ex.PT	Statement of PW10 Raj Singh recorded under Section 161 of the Code of Criminal Procedure, 1973.
Ex.PU	Statement of PW11 Sukhdev recorded under Section 161 of the Code of Criminal Procedure, 1973.
Ex.PV	Scaled site plan of the place of the occurrence.
Ex.PW	Seizure memo of Ex.P5 and P6.
Ex.PX	Seizure memo of photographs Ex.P7 to Ex.P10.
Ex.PY	Sanction order dated 24.10.2017, passed by Shri S.S. Prasad, Additional Chief Secretary to Government of Haryana, Home Department, Chandigarh, for the prosecution of accused Dharam Pal, under Section 124-A of the Indian Penal Code, 1860.
Ex.PZ	Sanction order dated 24.10.2017, passed by Shri S.S. Prasad, Additional Chief Secretary to Government of Haryana, Home Department, Chandigarh, for the prosecution of accused Jasbir, under Section 124-A of the Indian Penal Code, 1860.
Ex.PAA	Sanction order dated 24.10.2017, passed by Shri. S.S. Prasad, Additional Chief Secretary to Government of Haryana, Home Department, Chandigarh, for the prosecution of accused Shiv Kumar alias Babar, under section 124-A of the Indian Penal Code, 1860.
Ex.PAB	Sanction order dated 24.10.2017, passed by Shri S.S. Prasad, Additional Chief Secretary to Government of Haryana, Home Department, Chandigarh, for the prosecution of accused Balbir, under Section 124-A of the Indian Penal Code, 1860.
Ex.PAC	Memo No.06/77/2017-IHG-II dated 24.10.2017 vide which all the sanction orders were sent to the Director General of Police, Haryana, Panchkula.
Ex.PAD	Order dated 21.08.2018 promulgated by Smt. Sunita Verma, the then IAS, District Magistrate, Kaithal, under the provisions of section 144 of the Code of Criminal Procedure, 1973.
Ex.PAE	Affidavit of evidence of Head Constable Shamsher Singh.

Ex.PAF	Affidavit of evidence of Constable Manjeet.
Ex.PAG	Disclosure statement suffered by accused Shiv Kumar alias Babar.
Ex.PAH	Sketch of ' <i>gandasi</i> ' recovered at the instance of accused Shiv Kumar alias Babar.
Ex.PAJ	Seizure memo of ' <i>gandasi</i> ' recovered from accused Shiv Kumar alias Babar.
Ex.PAK	Demarcation memo of the place of the occurrence prepared at the instance of accused Shiv Kumar alias Babar.
Ex.PAL	Disclosure statement suffered by accused Balbir.
Ex.PAM	Copy of the F.I.R.
Ex.PAM/1	Endorsement made underneath application Ex.PB, about registration of the F.I.R.
Ex.PAN	Site plan of the place of the occurrence.
Ex.PAO	Disclosure statement suffered by accused Jasbir.
Ex.PAP	Disclosure statement suffered by accused Dharam Pal.
Ex.PAQ	Seizure memo of one bottle of petrol and one 'danda' recovered from accused Jasbir.
Ex.PAQ/1	Seizure memo of one bottle of petrol and one 'danda' recovered from accused Dharam Pal.
Ex.PAQ/2	Sketch of one bottle of petrol and one 'danda' recovered at the instance of accused Jasbir.
Ex.PAQ/3	Sketch of one bottle of petrol and one 'danda' recovered at the instance of accused Dharam Pal.
Ex.PAR	Joint demarcation memo of the place of the occurrence prepared at the instance of accused Jasbir and Dharam Pal.
Ex.PAS	Site plan of the place of recovery prepared at the instance of accused Shiv Kumar alias Babar.
Ex.PAT	Site plan of the place of recovery prepared at the instance of the accused Shiv Kumar alias Babar.
Ex.PAU	Affidavit of evidence of Head Constable Shamsher.
Ex.PW27/A	Report of F.S.L. Madhuban.
Ex.P1	Registration Certificate of motorcycle make Hero Honda Splendor bearing registration No.HR08M-1193.
Ex.P2	Registration Certificate of motorcycle make Suzuki bearing registration No.HR08P-5034.
Ex.P3	Registration Certificate of motorcycle make Hero HF Deluxe bearing registration No.HR083-0761.
Ex.P4	Registration Certificate of motorcycle make Hero Splendor Plus bearing registration No.HR08T-3901.
Ex.P5	Compact disc.
Ex.P6	Photocopy of receipt of bill.

Ex.P7 to P10	Photographs of the place of the occurrence.
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2.10 The entire incriminating evidence was put to the accused persons and their statements were recorded under Section 313 Cr.P.C. They denied the same and alleged false implication in the criminal case and also claimed to lead evidence.

2.11 In defence, the accused examined the following witnesses: -

DW1	Krishan son of Shri Panjaba.
DW2	Khalid Saifullah, NCHRO Member, 4 Majid Lane, Hospital Road, Jangpura Bhogal, New Delhi, who proved report Ex.DW2/A.
DW3	Sandeep Sharma, Nodal Officer, who proved call detail record Ex.DW3/A.
DW4	Govind, Nodal Officer, who proved Customer Application Form pertaining to mobile phone No. 98960-30782 as Ex.DW4/A.

2.12 The documentary evidence examined by the accused in their support and defence is as under:

Ex.DA	Photocopy of statement of Exemptee Assistant Sub-Inspector Satyawan Sagar recorded under section 161 of the Code of Criminal Procedure, 1973.
Ex.DB	Photocopy of news item of Dainik Bhaskar Newspaper, Kaithal.
Ex.DW2/A	Photocopy of report of NCHRO, Delhi regarding incident of Dalit atrocity dated 1.5.2017, at village Balu.
Ex.DW3/A	Customer Application Form pertaining to mobile phone No. 87087-61268, which was issued in the name of accused Shiv Kumar alias Babar.
Ex.DW4/A	Customer Application Form pertaining to mobile phone No. 98960-30782, which was issued in the name of accused Shiv Kumar alias Babar.
Ex.D1	Certified copy of show cause notice dated 16.11.2017, issued by Smt. Sunita, the then Deputy Commissioner, Kaithal, to Ramesh, Sarpanch of Gadra-Patti, Balu.
Ex.D2	Certified copy of inquiry report dated 2.11.2017, conducted by DDPO, Kaithal.

Ex.D3	Certified copy of order dated 26.9.2017, passed by the Hon'ble High Court in CRM No. M-26187 of 2017.
Ex.D4	Certified copy of order dated 30.11.2017, passed by the Hon'ble High Court in CRM No. M-38524 of 2017.
Ex.DS	Certified copy of report under section 173 (2) of the Code of Criminal Procedure, 1973, in the arising out of F.I.R. No. 94 dated 2.5.2017, for the commission of offences punishable under sections 148 and 323, 325 and 506 read with section 149 of the Indian Penal Code, 1860 and section 3 (2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment 2015) of Police Station, Kalayat.
Ex.D6	Notice dated 7.7.2017, issued by State Information Commission, Haryana.
Ex.D7	Copy of show cause notice No. 408 of 2017, issued by State Information Commission, Haryana.
Ex.D8	Application dated 28.2.2017, under R.T.I. Act, 2005, moved by accused Shiv Kumar alias Babar.
Ex.D9	Copy of letter dated 19.1.2017 of State Information Commission, Haryana.
Ex.D10	Copy of letter dated 16.8.2016 of State Information Commission, Haryana.
Ex.D11	Copy of letter dated 1.9.2015 of State Information

2.13 Upon hearing the arguments advanced on behalf of the respective parties and appreciation of the oral as well as documentary evidence, the trial Court recorded its finding that the respondent-State failed to prove its case against the respondents-accused. They were hence acquitted of the charges framed against them. Hence, the present case.

3. **ARGUMENTS BY APPELLANT-STATE OF HARYANA**

3.1 Learned State counsel vehemently contends that the Trial Court erred in appreciating and interpreting the evidence led by the prosecution and has thus erred in recording its conclusion in favour of the respondent-accused. It is submitted that the prosecution had adduced cogent and convincing oral as well as documentary evidence establishing the involvement of the respondents-accused in the commission of the offences charged against them and that the essential ingredients constituting the offences stood proved in

accordance with law. It is submitted that the findings recorded by the Trial Court are disregarding the evidence available on record and thus suffer from misappreciation.

3.2 It is further argued that the trial Court is not expected to adopt a hyper-technical approach or undertake a microscopic examination of every minor discrepancy solely to discard an otherwise credible prosecution case. Learned State counsel submits that once the prosecution succeeds in establishing the foundational facts and the statutory ingredients of the offences alleged, insignificant inconsistencies or omissions should not be permitted to overshadow the substantive evidence establishing the guilt of the accused.

3.3 Learned State counsel further contends that the evidence on record established that the respondents-accused had formed part of an unlawful assembly, indulged in acts of vandalism and violence, caused extensive damage to public property and set ablaze the office of the Uttar Haryana Bijli Vitran Nigam Limited in the aftermath of the judgment rendered against the head of Dera Sacha Sauda. It is submitted that the prosecution has been able to prove the recoveries effected. Pursuant to the disclosure, during investigation, the presence and participation of the respondents-accused, as well as the consequential damage caused to the public property. Learned State counsel thus submits that the judgment of acquittal recorded by the Trial Court deserves to be set aside and the respondents-accused be convicted and sentenced for the offences committed by them.

4 **ARGUMENTS BY RESPONDENTS-ACCUSED**

4.1 Per Contra, learned Senior Counsel appearing on behalf of the

respondents opposes the present appeal and contends that the submissions advanced by the learned State counsel are vague and generic in nature and do not identify any specific infirmity, perversity or legal error in the impugned judgment passed by the Trial Court. It is submitted that the State has merely reiterated the prosecution case without demonstrating how the appreciation of evidence undertaken by the Trial Court suffers from any manifest illegality or misapplication of settled principles of law.

4.2 Learned Senior Counsel further contends that the State has failed to point out any material piece of evidence which has either been ignored or misread by the Trial Court. There is nothing on record on the basis whereof any finding may be said to be contrary to the evidence available on record. It is submitted that the conclusions arrived at by the Trial Court are based upon an objective consideration of the oral and documentary evidence led by the parties and the findings arrived at, constitute a plausible and legally sustainable view of the matter.

4.3 It is further argued that even assuming that any other view, on the evidence, may also be plausible, however, such a circumstance, by itself, would not furnish a valid ground for interference with a judgment of acquittal. Learned Senior Counsel submits that it is a settled principle of criminal jurisprudence that a judgment of acquittal carries with it a reinforced presumption of innocence in favour of the accused and that merely because any other view may also be probable, the High Court would not supplant its opinion and view for that of the trial Court.

4.4 It is contended that the scope of interference by the High Court, while exercising appellate jurisdiction against an order of acquittal, is well

circumscribed. Unless the findings recorded by the Trial Court are shown to be patently illegal, perverse, manifestly unreasonable or such that no prudent person could have arrived at on the basis of the evidence on record, or unless the impugned judgment results in a clear miscarriage of justice, the appellate Court would not ordinarily substitute its own view.

4.5 Learned Senior Counsel, thus, submits that the impugned judgment neither suffers from any patent illegality nor reflects any perversity or misreading of the evidence available on record and do not warrant any interference by this Court in exercise of its appellate jurisdiction. Consequently, it is prayed that the present appeal be dismissed.

5 CONSIDERATION AND DECISION

5.1 We have heard the counsel appearing for the respective parties and have considered the arguments advanced by them and gone through the documents relied upon by them.

5.2 Even though the State counsel had been asked to refer to the specific documents and excerpts of the testimonies of the witnesses, on the strength whereof, the findings recorded by the trial Court could be faulted, however, no such specific reference has been made.

5.3 State counsel is also not in a position to dispute that the prosecution witnesses could not prove the presence of the respondent-accused, at the place of occurrence. Undisputedly, none of the PW's named the respondent-accused in the FIR. It is further noticed by this Court that insofar as respondent-accused Balbir Singh is concerned, neither of the prosecution witnesses had named him at an earliest point of time nor was he identified by any prosecution witness at any stage of the investigation or

during trial. The State has also been unable to point out any independent incriminating material against him in the report submitted under Section 173(2) Cr.P.C. or in the documents accompanying the challan. His implication rests solely upon the disclosure statement made by a co-accused. The Trial Court rightly noticed that the said disclosure did not result in the discovery of any new fact or incriminating article attributable to Balbir Singh. Consequently, the disclosure statement remained nothing more than a confession made while in police custody and was inadmissible in evidence in the absence of any discovery flowing therefrom. The same thus could not legally be used as a substantive evidence against Balbir Singh.

5.4 Similarly, with respect to respondent Shiv Kumar @ Babar, even his name did not find mention in the earliest version of the prosecution as contained in complaint Ex.PB. Even the statement of Exemptee Assistant Sub-Inspector Satyawar Sagar recorded under Section 161 Cr.P.C., which formed part of the defence evidence as Ex.DA, did not contain his name.

5.5 Further, the testimony of PW-25, who was projected as the principal identifying witness, although identified Jasbir Singh, Dharam Pal and Shiv Kumar @ Babar before the Court, but he himself admitted that he was unable to specify as to which accused was carrying which particular weapon. More importantly, immediately upon being declared hostile, he introduced a materially different version by attributing bottles of petrol to Jasbir Singh and Dharam Pal and a danda to Shiv Kumar @ Babar. This version stood in direct conflict to his statement recorded under Section 161 Cr.P.C., wherein Shiv Kumar @ Babar was alleged to have been carrying a gandasi. The inconsistency did not end there. While the earlier version alleged

that Shiv Kumar had broken the glass panes of the UHBVN office with a gandasi, his deposition before the Court introduced a completely new allegation that he had broken the glasses of both the Rest House and the UHBVN office. Significantly, the prosecution failed to establish any damage whatsoever to the Rest House, rendering the improved version wholly unsupported from the record.

5.6 It is worthwhile to notice that no Test Identification Parade was ever conducted, despite the claimed position that none of the witnesses had any prior acquaintance with the accused persons. The accused were identified for the first time during their appearance in Court. In criminal jurisprudence, where the identity of an accused constitutes the foundation of the prosecution case and the witnesses are strangers to the accused, holding of a Test Identification Parade assumes considerable importance. In the present case, there is absolutely no material to indicate that any of the respondents were previously known either to the complainant or to the witnesses examined by the prosecution. The omission on the part of the investigating agency to conduct a Test Identification Parade, therefore, assumes considerable significance and materially weakens the evidentiary value of the subsequent dock identification.

5.7 Further, while the prosecution case suggested that Jasbir Singh and Dharam Pal had been apprehended from the place of occurrence itself, the investigating officer deposed that both the accused were actually arrested several hours later from the Community Health Centre, Kalayat. The prosecution offered no satisfactory explanation regarding the circumstances in which the accused reached CHC or the reason for not effecting their arrest

at the place of occurrence if they had indeed been apprehended there. Equally unexplained is the fact that although the accused were allegedly carrying petrol bottles and weapons in their hands during the occurrence, no such recoveries were effected at the spot. The explanation furnished by the prosecution that the accused had thrown away the weapons near the place of occurrence, before being apprehended appears inherently improbable and does not inspire confidence.

5.8 The forensic evidence also fails to lend support to the prosecution version. Despite the allegation that petrol bottles had been used for setting the UHBVN office on fire, the report of the Forensic Science Laboratory, Madhuban (Ex.PW27/A), did not detect any traces of kerosene, petrol, diesel or their residues on the burnt articles. This circumstance assumes considerable significance since the prosecution sought to establish the offence of mischief by fire primarily on the allegation that inflammable substances were used during the occurrence. The absence of any such forensic corroboration materially dents the prosecution case.

5.9 Still further, although PW-25 claimed to have chased the assailants for nearly one kilometre and repeatedly informed his superior officers over telephone, he neither photographed the assailants nor recorded any video despite admittedly possessing a mobile phone. No explanation has been furnished by the prosecution as to why no attempt was made to preserve such valuable evidence, particularly when the witness himself was a police official. Two mutually inconsistent statements under Section 161 Cr.P.C., attributed to the same witness, were brought on record, thereby seriously impairing the credibility of the prosecution version and prejudicing the right

of the accused to effectively cross-examine the witness.

5.10 Even PW-2 Sandeep Bharat, the complainant himself did not support the prosecution insofar as the identity of the accused was concerned notwithstanding that his knowledge regarding the identity of the assailants was hearsay in nature. Likewise, none of the employees of UHBVN examined by the prosecution identified Jasbir Singh or Dharam Pal during trial.

5.11 Besides, the testimony of PW.16 was examined with caution considering the Shiv Kumar @ Babar was resident of village Godra Patti, Boher, and Sarpanch of the above village was cousin of the PW. It was also on record that accused Shiv Kumar @ Babar had sought information against his cousin-Sarpanch, under the RTI Act. PW.16 also admitted that he was not on visiting terms with the respondent-accused, hence, there were no other specific circumstances as to how he knew about accused Shiv Kumar @ Babar. There was further undisputed evidence in EX.DA and EX.DB pertaining to a protest to arrest Sarpanch Ramesh- who was son of sister of the mother of PW.16. Hence, the witness became an interested witness and there were various other inter- se disputes brought forth. Additionally, the case property allegedly recovered at the instance of Dharampal was signed by Jasbir. Prosecution failed to offer any explanation for the same as well. The same gives rise to a suspicion about the manner in which documentation was prepared. Significantly, the said case property was also not produced before the Court and hence it could not be linked to co-accused Jasbir Singh as well.

5.12 The aforesaid factual lapses are few amongst the various lapses that have been pointed out. It is submitted that all these lapses are material since they relate to the identity and/or arrest of the accused as well as pertain

to the recovery of evidence and its link with the accused or the crime. The same cannot thus be perceived as trivial.

5.13 Adverting further to the charge, for making an offence under Section 188 IPC, the prosecution was required to establish that any competent public servant had promulgated doing of any thing and the same has yet been done by the accused. The prosecution brought on record EX.PAD which is an order dated 21.08.2018 promulgated under Section 144 Cr.P.C., by the District Magistrate, Kaithal, however, the same is of no help to the prosecution since the incident is of October 2017. Hence, the order is more than 10 months after the incident.

5.14 Still further, even the ingredients of Section 124-A IPC are not satisfied. A violent protest may amount to rioting but such action of violence would not be perceived as an act of bringing in hatred or contempt against Government. A sloganeering against the Government or wings of governance, in an elected democracy, would not be sufficient to slap charges of sedition against its citizens. A frustration or dis-satisfaction or even outrage is not a disaffection or hatred. Court is hence required to ensure that when the charge becomes grave and the punishment harsh, the ingredients and their existence is strict. The evidence on record is merely suggestive of slogan against Government, which is only a means of expressing dissent and not hatred/contempt or dis-affection.

6 We have given our thoughtful consideration to the rival submissions advanced by learned counsel for the parties and have meticulously examined the impugned judgment in the light of the evidence available on record. We are unable to persuade ourselves to accept the

contention advanced on behalf of the appellant-State that the Trial Court has either ignored material evidence or committed any error in appreciation of the evidence warranting interference in an appeal against acquittal.

6.1 It is thus evident that the Trial Court has not acquitted the respondents merely on account of minor discrepancies but the acquittal is founded upon substantial contradictions, material omissions, doubtful recoveries, lack of reliable identification, inconsistent investigation, absence of forensic corroboration and failure of the prosecution to establish the statutory ingredients of several offences alleged against the respondents.

6.2 In the present case, the appellant-State has been unable to demonstrate that any material evidence has been ignored by the Trial Court or that any finding recorded therein is either perverse or contrary to the record. The conclusions recorded by the Trial Court are fully borne out from the material available on record and represent a possible, reasonable and legally sustainable view.

6.3 The burden lay squarely upon the prosecution to establish the guilt of the respondents beyond all reasonable doubt but it has failed to cross over from a broad suspicion of the accused “may have been” involved to the legal requirement of an accused “must be involved” in the offences. Suspicion and suppositions are probabilities and not proof.

6.4 Accordingly, we find no illegality, perversity, impropriety, misreading of evidence or miscarriage of justice in the judgment of acquittal recorded by the Trial Court warranting interference by this Court in exercise of its appellate jurisdiction. The present appeal is, therefore, devoid of merit and is hereby dismissed. The judgment of acquittal passed by the Trial Court

is affirmed.

(VINOD S. BHARDWAJ)
JUDGE

July 02, 2026.
raj arora

(SUKHVINDER KAUR)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*