



CRA-S-1888-SB-2005 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) CRA-S-1888-SB-2005 (O&M)
Reserved on : 17.07.2026
Date of Pronouncement : 31.07.2026
Uploaded on 05.08.2026
Pronounced in Full

Pardeep Kumar and others
Versus
... Appellants

State of Punjab
... Respondent

CORAM : HON'BLE MR. JUSTICE H.S. GREWAL

Present:- Mr. Nikhil Ghai, Advocate for the appellants.
Mr. P.S. Pandher, AAG, Punjab.
Mr. Mohit Garg, Advocate for the complainant.

H.S. Grewal, J.

1. This appeal has been preferred by the appellants against the judgment of conviction and order of sentence dated 15.10.2005 passed by the learned Additional Sessions Judge (Adhoc) Jalandhar, in case FIR No.148 dated 21.05.2000, registered at Police Station Nakodar, whereby the appellants had been convicted and sentenced to undergo in the following terms:-

Name of the appellant(s)	Section(s)	Sentence	Fine	In default of payment of fine
Bhupinder Singh	304 IPC	10 years RI	Rs.1,000/-	03 months RI
	148 IPC	01 year RI	-	-
	323/149 IPC	06 months RI	-	-
Pardeep Kumar, Ashok Kumar, Yog	304/149 IPC	10 years RI	Rs.1,000/-	03 months RI
	148 IPC	01 year RI	-	-



Raj and Sunil Kumar	323 IPC	06 months RI	-	-
It was ordered that all the sentences shall run concurrently.				

2. During the pendency of this appeal, appellant No.5-Yog Raj is stated to have expired, therefore, the proceedings qua him stand abated.

3. The case of the prosecution is that on 21.05.2000 at about 12:30 p.m., the complainant, along with his brother Balram Kapila and his nephew Sudhir Kapila, was proceeding in a Maruti car to the house of his brother Balraj Kapila situated in Mohalla Jain. When they reached near the house, they allegedly found appellant-Ashok Kumar and Ashish Kumar, Yog Raj, Pardeep Kumar and Bhupinder Singh @ Bhindi, armed with deadly weapons including a *kirpan*. It is alleged that Ashok Kumar raised a *lalkara* exhorting the other appellants to teach the complainant party a lesson over the dispute relating to the construction of a ventilator towards the house of Pardeep Kumar. Thereafter, Sunil Kumar and Pardeep Kumar allegedly caught hold of Balram Kapila, while Bhupinder Singh @ Bhindi inflicted a kirpan blow on the head of Balram Kapila, causing a bleeding injury. It is further alleged that after Balram Kapila was released, appellant-Pardeep Kumar gave a datar blow from its reverse side on the head of Sudhir Kapila. Yog Raj and Sunil Kumar are also alleged to have inflicted wooden-stick blows upon Sudhir Kapila on different parts of his body. Due to the injuries sustained, Balram Kapila fell on the ground, whereupon he and Sudhir Kapila raised an alarm, attracting Sandeep Kapila to the spot. Thereafter, all the accused allegedly fled from the place of occurrence along with their respective weapons.



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4. After completion of the investigation, the challan was presented and charges under Sections 148, 304, 149 and 323 IPC were framed against the appellants to which they pleaded not guilty and claimed trial.

5. In order to substantiate the charge against the appellant(s), the prosecution had examined following witnesses:-

(i) PW1 Dr. Varinder Jagat deposed that on 21.05.2000 at 03.45 P.M., he medically examined Sudhir Kapila and found the following injuries on his person:-

1. *Lacerated wound measuring 4 cm × 1 cm on the left occipito-parietal region of the scalp. The wound was bone deep. Clotted blood was present. X-ray was advised.*
2. *Diffuse swelling measuring 5 cm × 3 cm on the left parietal region of the scalp, 2 cm away from the midline and 10 cm above the pinna of the left ear. X-ray was advised.*
3. *Patient complained of pain over the whole of the back of the abdomen, but there was no mark of any external injury. Tenderness was present. X-ray was advised.*
4. *Diffused swelling measuring 5 cm × 2 cm on the back of the right forearm in its lower 1/3rd. X-ray was advised.*
5. *Red contusion measuring 10 cm × 3 cm on the back of the left forearm.*
6. *Patient complained of pain in the middle of the front of the left lower leg, but there was no mark of any external injury. X-ray was advised.”*

He proved on record the copy of the MLR as Ex.PA and deposed that all the injuries were caused by blunt weapons and were simple in nature.

(ii) PW2 Dr. Subash Agnihotri deposed that on 22.05.2000, while posted as Senior Medical Officer, Civil Hospital, Nakodar, he conducted



the post-mortem examination on the dead body of Balram Kapila and found the following injury on the person of the deceased:-

1. *A lacerated wound measuring 8 cm × 2 cm was present in the left temporo region, 8.5 cm above the upper margin of the left pinna. Wound is running posteriorly, laterally and inferiorly on the left side, and on its lower part the wound is 4 cm wide. Adjoining the above wound, there is another lacerated wound measuring 3 cm × 1.5 cm, present supero-posteriorly to the above wound. Dark-coloured blood was present in the wound and, on dissection, the underlying bone was found fractured. Blood was present in the subdural space and the whole of the cranial cavity was full of blood.*
2. *Abrasion measuring 2 cm × 1 cm was present on the superior surface of the left shoulder joint and there was a bluish contusion measuring 5 cm × 4 cm around the abrasion.*
3. *Abrasion measuring 2 cm × 1.5 cm was present on the forehead, 2 cm above the medial part of the left eyebrow, and there was also a bluish contusion measuring 8 cm × 5 cm on the forehead surrounding the abrasion.*
4. *Abraded contusion measuring 4 cm × 1.5 cm was present on the bridge of the nose.*
5. *Abrasion measuring 1.5 cm × 2 cm was present on the posterior part of the right elbow joint.*

He proved the post-mortem report as Ex.PC and the inquest report as Ex.PD. He deposed that all the injuries were ante-mortem in nature and the death was caused due to neurogenic and haemorrhagic shock resulting from the aforesaid injuries. He also deposed that injury No. 1 was sufficient to cause death in the ordinary course of nature.

(iii) PW-3 Sudhir Kumar deposed that on 21.05.2000 at about 12:30 PM, he, his father Balram Kapila, and his uncle Krishan Chander Kapila reached their house at Jain Mohalla, Nakodar, in their Maruti Van No. PCH-24. As they got out of the van, they saw Ashok Kumar, Sunil Kumar, Pardip Kumar, Yog Raj, and Bhupinder Singh @ Bhindi standing there. Bhupinder Singh was carrying a kirpan, Ashok Kumar



had a wooden log, Pardip Kumar was carrying a datar, while Sunil Kumar and Yog Raj were also armed with wooden logs. He further deposed that the appellant-Ashok Kumar raised a lalkara saying that they should be caught and taught a lesson for opening a ventilator towards the house of Pardip Kumar. Thereafter, Sunil Kumar and Pardip Kumar caught hold of his father, Balram Kapila. Bhupinder Singh @ Bhindi then struck his father on the head with the blunt side of the kirpan. After that, Ashok Kumar hit his father on the head with a wooden log, causing bleeding from his head. Sunil Kumar and Pardip Kumar then released his father, who fell to the ground. PW3 also deposed that when he tried to save his father, Pardip Kumar struck him on the back of his head with the reverse side of the datar. Thereafter, Sunil Kumar and Pardip Kumar assaulted him with wooden logs, and Yog Raj also hit him with a wooden log on his legs and arms. In the meantime, Krishan Chander and Sanjiv Kumar reached the spot, upon which all the accused ran away with their respective weapons. He also deposed that he and his father were taken towards Civil Hospital, Jalandhar, but his father died on the way due to the injuries. It is also deposed that the motive behind the occurrence was the opening of a ventilator in his house towards the house of Pardip Kumar as well as towards the property of the Municipal Committee, which was being opposed by the appellants.

(iv) PW4 Sandip Kumar corroborated the prosecution version.

(v) PW5 Dalip Singh, Draftsman, proved the scaled site plan prepared by him on 10.08.2000 at the instance of Krishan Chander, which was exhibited as Ex. PF.



(vi) PW6 Kirandeep Dhira deposed that Balram Kapila had purchased a house in Mohalla Jain, Nakodar, and had a dispute with Ramesh Kumar regarding the opening of a ventilator. A Panchayat was convened at the house of Yog Raj, where he was taken by Sukhdev Sharma, Councillor, and other respectable persons were also present. During the Panchayat, it was stated that prior to the purchase of the disputed house by Balram Kapila, the ventilator and parnala were already in existence, and the same was conveyed to Ramesh Kumar and others. He further deposed that the Panchayat decided that if Ramesh Kumar was willing to take an oath before the Panchayat that the ventilator and parnala were not in existence before the purchase of the house by Balram Kapila, then the Panchayat would persuade Balram Kapila not to open the ventilator and parnala. However, Ramesh Kumar and the others refused to take such an oath. Bhupinder Singh @ Bhindi had also come there along with Yog Raj in support of Ramesh Kumar. They further stated and threatened that they would neither take the oath nor allow the opening of the ventilator and parnala.

(vii) PW7 Arjun Singh, MHC, PW8 Constable Sohan Lal and PW9 Jalbir Singh are the formal witnesses and they had deposed about the link evidence.

(ix) PW10 SI Sucha Singh deposed that on 19.07.2000, while posted as SHO, Police Station Nakodar, he took over the investigation of the present case and searched for the accused. On 25.07.2000, Krishan Chander Kapila met him and got his statement recorded. He recorded the supplementary statement under Section 161 Cr.P.C. and the statements



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of other PW(s) including Sudhir Kumar and Sandeep Kumar. He further took into possession a copy of the sale deed of the house belonging to Sudhir Kumar vide recovery memo Ex. PW9/A. He deposed that he arrested accused-Yog Raj on 17.08.2000 and Ashok Kumar and Sunil Kumar were arrested on 26.07.2000 vide their arrest memo Ex.PW9/D. He also moved an application for seeking the opinion of the doctor regarding the injuries on the person of Balram Kapila.

(x) PW11 ASI Harjit Singh deposed that on 21.05.2000, while posted as Head Constable at Police Station City Nakodar, he, along with Constable Sukhdev Raj and other police officials, was part of the police party headed by SI Sucha Singh, the City Incharge. They were present in connection with the investigation of a case under Sections 324/323 IPC at Civil Hospital, Nakodar, where Krishan Chander Kapila got his statement recorded before SI Sucha Singh in his presence. The statement was read over and explained to Krishan Chander, who admitted it to be correct and signed the same in his presence. The statement was proved as Ex. PW10/A. SI Sucha Singh made his endorsement Ex.PW10/B, on the basis of which FIR Ex.PW10/C was registered. He further deposed that the police party went to the place of occurrence and took into possession the blood-stained earth, which was converted into a sealed parcel by SI Sucha Singh with his seal bearing impression "SS". The same was taken into possession vide memo Ex. PW10/D. A rough site plan (Ex. PW10/E) was also prepared. The blood-stained clothes of Sudhir Kapila were also taken into possession by SHO Sucha Singh vide memo Ex.PE.



6. After closing the prosecution evidence, the statements of the appellants under Section 313 Cr.P.C. were recorded wherein they had denied all the allegations and pleaded innocence. In defence, they examined following witnesses:-

(i) DW1 Dr. Jasbir Singh deposed that on 21.05.2000, while posted as Medical Officer, Civil Hospital, Nakodar, he conducted the medico-legal examination of Ashok s/o Yog Raj and found the following injuries on his person:-

1. *Lacerated wound over the left parietal bone, measuring 3 cm in length and situated 8 cm above the left pinna. The wound was confined to the scalp only; the underlying wound was not visible. It was oozing.*
2. *An irregular abrasion over the lateral aspect of the right knee, measuring 4 cm × 2.5 cm. Movements of the knee were painful and limited.*
3. *Multiple red abrasions over the right forearm.*

He deposed that all the injuries were caused by blunt weapons and their duration was within six hours. All the injuries were simple in nature. He proved the aforesaid MLR as Ex.DW1/A.

He further deposed that on the same day, he also medically examined Yog Raj s/o Mukand Lal, aged about 67 years, and found the following injuries on his person:-

1. *Incised wound over the lower one-third of the right ulna on the lateral side. It measured 5 cm in length. The underlying tendon and muscles were cut, and unnatural movement and deformity were present. The wound was bleeding. X-ray was advised.*
2. *Incised wound over the blade of the left scapula. It was confined to the skin and was oozing. The underlying bone was normal.*



3. *Incised wound over the lateral end of the right eyebrow. It was confined to the skin and was oozing.*

It is deposed that all the injuries were caused by a sharp-edged weapon, and their probable duration was within six hours. Injuries Nos. 2 and 3 were declared simple in nature, whereas Injury No. 1 was declared grievous after receipt of the X-ray report. He proved the aforesaid MLR as Ex.DW1/B.

He also deposed that on the same day, he also examined Bhupinder Singh and found the following injuries on his person:-

1. *Lacerated wound over the lateral aspect of the left eyebrow. It measured 5 cm in length and was vertical in nature. The wound was bone deep, the underlying bone was visible, and it was bleeding. X-ray was advised.*
2. *Lacerated wound over the right side of the scalp, over the right parietal bone, situated 10 cm above the right eyebrow. It measured 6 cm in length and was transverse in nature. The wound was bleeding. X-ray was advised.*
3. *Swelling over the left hand on the right metacarpal bone. No crepitus was present. X-ray was advised.*

He deposed that all the injuries were caused by a blunt weapon, and the duration of the injuries was within six hours. All the injuries were declared simple in nature after receipt of the X-ray reports. He proved the aforesaid MLR as Ex.DW1/C.

It is also deposed that he examined Sunil Kumar on the same day and found the following injuries on his person:-

1. *Lacerated wound, transverse in nature, over the left parietal bone of the scalp. It measured 6 cm in length and was situated 8 cm above the pinna of the left ear. It was bone deep and bleeding. X-ray was advised.*



2. *Complaint of pain in the lumbar region of the spine. No external injury was present.*

He deposed that all the injuries were caused by a blunt weapon.

All the injuries were simple in nature. He proved the aforesaid MLR as Ex.DW1/D.

(ii) DW2 Amit Prasad, IPS, at present S.S.P. Mansa, deposed that in the month of May, 2000, he was posted as S.P. (Operations), Jalandhar. He had conducted an inquiry in the present case on the application moved by the accused party. During the enquiry, he had recorded the statements of several witnesses including neighbours and other inhabitants. He had also visited the spot and inspected. He deposed that after enquiry, he had come to the conclusion that Balram Kapila was the aggressor party.

7. After considering the statements of all the witnesses and taking into account the evidence led by both the sides, the trial Court had convicted the appellants in the aforementioned terms.

8. Learned counsel for the appellants submitted that the trial Court had erred in convicting the appellants as the prosecution has not supported the case and deliberately concealed the injuries suffered by the appellants. It is submitted that four of the appellants had sustained injuries, including grievous injuries and injuries on vital parts of their bodies, but the prosecution has failed to explain how those injuries were caused. It is further submitted that the complainant party had demolished the wall raised by the appellants and was, in fact, the aggressor party. Learned counsel further submitted that the FIR was initially registered at the instance of the appellants, whereas the complainant



did not lodge any report immediately. The statements of the prosecution witnesses were recorded after about two months, giving them enough time to discuss the matter and prepare a false story against the appellants. It is also submitted that the prosecution witnesses are closely related to each other and have made material improvements in their statements during the trial. Learned counsel further submitted that the findings recorded by the trial Court itself show that it was a case of a free fight between both sides. He, therefore, prayed for setting aside the judgment of conviction and order of sentence imposed upon the appellants by giving them the benefit of doubt.

10. On the other hand, learned State counsel as well as counsel for the complainant submitted that the prosecution had proved its case beyond reasonable doubt and there is no illegality or perversity in the judgment of the trial Court warranting interference by this Court. They submitted that the prosecution had proved its case through the consistent and reliable testimony of the injured eye-witness PW-3 Sudhir Kumar, whose presence at the place of occurrence cannot be doubted as he himself sustained injuries in the incident. They further submitted that the medical evidence clearly establishes that Balram Kapila died due to the head injury suffered during the occurrence, and the post-mortem report fully supports the prosecution version. It is also submitted that the statements of the prosecution witnesses are natural, trustworthy and consistent on all material aspects. Therefore, they prayed for dismissal of this appeal being devoid of any merit.

12. I have heard learned counsel for the parties and have perused the material available on record.



13. First of all, while taking into consideration the genesis of the occurrence, it appears that the prosecution has not presented the true and complete facts before the trial Court. The entire prosecution case based on the premise that the appellants had formed an unlawful assembly and without any provocation, attacked the complainant party. However, the evidence on record suggests a completely different version.

14. It is an admitted fact that the occurrence arose out of a long-standing dispute regarding the opening of a ventilator facing towards the house of appellant No.1-Pardeep Kumar. The testimony of PW-6 Kirandeep Dhira clearly shows that the parties had earlier approached the Panchayat to settle the dispute and there was already bitterness between them. It has further come on record that the appellants had consistently opposed the opening of the ventilator and had even warned the complainant party not to proceed with the same. Thus, the incident was not a sudden occurrence but was the result of an existing property dispute which had remained unresolved despite intervention by respectable persons of the locality.

15. Furthermore, the prosecution has also admitted that the complainant party had gone to the disputed site where the alleged occurrence took place. However, it has failed to explain what exactly happened immediately before the incident. The defence has consistently maintained that the complainant party had reached the spot to demolish the wall raised by the appellants and to forcibly assert its claim over the ventilator. Significantly, DW-2 Vinod Kumar, an independent witness, deposed that the ventilators had existed for many years and opened towards the Municipal Committee *Thara*. According to him, the complainant party had raised a wall to block the



ventilators. His testimony supports the defence version that the dispute was over the ventilator and the wall.

16. The appellants have successfully proved their defence by leading medical evidence. DW-1 Dr. Jasbir Singh proved that four accused persons sustained injuries in the same occurrence. Appellant No.5-Yog Raj, aged about 67 years, suffered a grievous incised injury on his forearm along with two other sharp-edged injuries. Appellant-Yog Raj since expired during the pendency of this appeal. Appellant No.3-Bhupinder Singh sustained two lacerated injuries on his scalp and another injury on his hand. Appellant No.4-Ashok Kumar received injuries on his head, knee and forearm, while appellant No.2-Sunil Kumar also suffered a bone-deep injury on his scalp. All these injuries were fresh and were caused during the same occurrence.

17. The presence of multiple injuries on four accused persons, particularly grievous and sharp-edged injuries on Yog Raj, completely demolishes the prosecution story that only the complainant party was assaulted. If the appellants alone had been the aggressors, there was no plausible reason for four of them to sustain such injuries, including grievous injuries on vital parts of their bodies. The prosecution has not even attempted to explain these injuries either through the ocular witnesses or through the Investigating Officer. The complete silence of the prosecution on this crucial aspect is not a mere omission but a deliberate suppression of material facts which strikes at the root of its case.

18. The appellants have also examined DW-2 Amit Prasad, IPS, who was posted as Superintendent of Police (Operations), Jalandhar at the relevant



time. He conducted an independent departmental enquiry by recording the statements of several local residents and inspecting the place of occurrence. After completing the enquiry, he concluded that Balram Kapila and his companions were the aggressors. Although such an enquiry is not substantive evidence but it is a corroborative circumstance which supports the defence version, particularly when considered along with the unexplained injuries on the appellants and the admitted dispute between the parties.

19. The evidence on record further creates serious doubt regarding the place of occurrence. The prosecution alleged that the occurrence took place in the *Deorhi* of Yog Raj. However, the blood-stained earth was recovered from the main lane and not from the *Deorhi*. The site plan (Ex.D-4), proved by PW-7 and not challenged by the prosecution, shows that Point 'A', where Balram Kapila sustained injuries, was located in the main lane near his house and away from the house of Yog Raj. Even the trial Court observed that the occurrence had taken place in the main lane and not in the *Deorhi*. The evidence further shows that the disputed wall had been raised by the complainant party on Government land (*Municipal Committee Thara*) and was allegedly demolished by Sandeep Kumar. The site plan also indicates that the complainant party had easier access to the disputed spot and was in possession thereof, though such possession may not have been lawful.

20. Furthermore, the prosecution has examined only interested witnesses especially the son and close relatives of the deceased. No independent witness of the locality has been examined despite the occurrence having taken place in broad daylight in a thickly populated residential area. It is



also significant consideration that there is an unexplained delay in recording the statement of material witnesses under Section 161 Cr.P.C. which afforded sufficient opportunity for deliberation, consultation and embellishment, which cast a serious doubt on the credibility of the prosecution version.

21. Another important circumstance is that no sword or any other sharp-edged weapon allegedly used by the appellants was ever recovered during the investigation from the appellants. This omission assumes significance in view of the prosecution allegation regarding the use of such weapons and further weakens its case.

22. The evidence on record also indicates that it was a case of a free fight in which both sides participated and sustained injuries. The trial Court itself accepted the testimony of DW-2 Vinod Kumar to the extent that the appellants were not the aggressors. The surrounding circumstances suggest that the complainant party had first reached the disputed spot to assert its claim over the ventilator and the wall, which led to the confrontation. The appellants appear to have acted during the course of the quarrel rather than launching a pre-planned and unprovoked attack. It is also significant that FIR No.148 had already been registered at 03:30 p.m. on 21.05.2000 on the statement of the appellant-Yog Raj (since deceased) regarding the same occurrence. The present FIR, therefore, appears to have been lodged as a counterblast. In these circumstances, the defence version appears to be more probable, and the prosecution has failed to establish beyond reasonable doubt that the appellants were the sole aggressors. However, the learned trial Court has failed to appreciate these vital circumstances. Instead of considering the unexplained



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injuries on the appellants and the suppression of the true genesis of the occurrence, it accepted the prosecution version in its entirety merely because one member of the complainant party had unfortunately succumbed to the injuries.

23. In view of the foregoing discussion and overall facts and circumstances of the case, this Court is of the considered opinion that the prosecution has failed to establish beyond reasonable doubt. The evidence on record creates a strong probability that the complainant party initiated the confrontation and suppressed material facts regarding its own participation in the occurrence. The appellants are, therefore, entitled to the benefit of doubt and deserve to be acquitted of the charges framed against them.

24. Consequently, the appeal is allowed. The judgment of conviction and order of sentence dated 15.10.2005 passed by the learned Additional Sessions Judge (Adhoc), Jalandhar are hereby set aside and the appellants are acquitted of all the charges by giving them the benefit of doubt. Their bail bonds and surety bonds stand discharged.

25. Pending application(s), if any, shall stand disposed of accordingly.

31.07.2026
A.Kaundal

(H.S.GREWAL)
JUDGE

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