



101 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D-362-DBA-2004
Date of Reserve:09.02.2026
Date of Decision: 16.04.2026
Uploaded on:- 17.04.2026

Banarsi Devi

...Appellant

Vs.

Amar Singh and Ors.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat
Hon'ble Mr. Justice H.S Grewal

Present: Mr. R.S Chahal, Advocate
for the appellant.

Mr. Parmod Kumar, AAG, Haryana.

Mr. Kulvir Narwal, Advocate
for the respondent No.2.

Mr. Rahul Vats, Advocate
for the respondent No.3.

Mr. Rajesh Lamba, Advocate
for the respondent No.4.

N.S.Shekhawat J.

1. The appellant has preferred the present appeal against the impugned judgment dated 07.01.1998, passed by the Court of Additional Sessions Judge, Hisar, whereby, the respondents No.2 to 4 were ordered to be acquitted.

2. In the present case, the judgment of acquittal was passed by the Trial Court on 07.01.1998 i.e more than 28 years ago. Even, the appeal was admitted for hearing by this Court on 06.04.2004.

3. In the present case, the Lower Court Record was called for the final disposal of the matter, however, as per letter No.1011, dated 06.11.2025,



District and Sessions Judge, Hisar has informed that the judicial record of the present case was lost. Even, an enquiry was conducted in this regard as per High Court Rules and Orders. The Enquiry Officer had intimated that it was not feasible to construct the file of the present case. Even, a departmental enquiry under Rule 7 of the Punishment and Appeal Rules,1987 was conducted and the punishment was also imposed on the *Ahlmad* of the concerned Court also. Since, the Enquiry Officer has intimated that the file of the session case cannot be constructed, this Court is left with no other option but to decide the appeal on the basis of the judgment passed by the Trial Court. Even, this appeal is pending before this Court since 1998 i.e for the last about 28 years and such an old matter cannot be allowed to remain pending before the Court.

4. In the present case, a criminal complaint was filed by the appellant/complainant under Sections 302,342,109,34 of IPC against respondents No.2 to 4 in the Court of Area Magistrate, Fatehabad. It was pleaded therein that Mainpal Singh, brother of the appellant was working as electrician with Gulab Singh, respondent No.4 in the month of April,1990. A dispute arose between Gulab Singh, respondent No.4 and Mainpal Singh over wages. Gulab Singh, respondent No.4, in connivance with Amar Singh, respondent No.2, who was a Sub-Inspector in Police Station Bhattu Kalan falsely involved Mainpal Singh in a theft case. In order to arrest Mainpal Singh, Gulab Singh, respondent No.4 and Amar Singh, respondent No.2 came to house on number of occasions. When Mainpal Singh did not meet them, they took away the complainant and her husband in the Police station and detained them illegally. However, due to the intervention of the respectables of the area, they were got freed. Again, son of the complainant was detained by the police saying



that he would only be let off in case Mainpal Singh was produced. Accordingly, the complainant alongwith Suresh and Bhup Singh produced Mainpal Singh in the month of July, 1990 before Amar Singh, respondent No.2 and got freed their son Suresh. It was further pleaded in the complaint by the complainant that after sometime she alongwith her brother Gopi Ram had gone to the police station to get Mainpal released. There, she noticed Mainpal Singh tied with a rope and Amar Singh, respondent No.2 was giving beatings to him by a *Danda*.

5. Thereafter, she had visited the police station on number of times to know about the whereabouts of Mainpal Singh but Amar Singh, respondent No.2 did not correctly inform about his whereabouts, rather, he stated that he was taken to C.I.A. staff and sometime stated that he had been taken by Rajasthan police. That on 09.08.1990, she came to know that her brother Mainpal Singh had been admitted in the private clinic of Dr. Balbir Singh Beniwal, respondent No.3 as his condition was serious due to the injuries caused to him by Amar Singh, respondent No.2. On having learnt about this fact, she and her son-in-law Rajender Kumar went to the clinic of Dr. Beniwal, but Amar Singh, respondent No.2 and Balbir Singh Beniwal, respondent No.3 pushed them out from the clinic and threatened that in case they again come to the clinic, they would also be given the same treatment as was given to Mainpal Singh. It was further the case of the complainant that on 10.08.1990, when she was passing through the Nursing Home of Dr. Beniwal, she noticed police and the crowd. She stopped and enquired as to what had happened. She was told by Ajit Singh, who had a chemist shop nearby the clinic of Dr. Beniwal that Mainpal Singh had died in the clinic of Dr. Beniwal.



6. After the preliminary evidence, respondent No.2 Amar Singh was summoned under Section 302 IPC, whereas, respondent No.3, Dr. Balbir Singh Beniwal was summoned under Sections 342,109,34 of IPC and respondent No.4 Gulab Singh was summoned under Section 109/34 of IPC. After the case was committed to the Sessions Court, charge under Sections 304,342,323, 506 of IPC was framed against respondent No.2, under Sections 342 r/w Section 109 of IPC was framed against respondent No.4 and under Sections 201,168,323,506 of IPC against respondent No.3. However, all the accused pleaded not guilty and claimed trial. Still further, a case on the basis of FIR No.67, dated 13.08.1990, Police Station Bhattu Kalan, under Sections 302/342 of IPC was also instituted against Amar Singh, respondent No.2 and the present complaint as well as the State case were tried together and common witnesses were examined in both the cases.

7. Learned counsel appearing on behalf of appellant has vehemently argued that it was a case of custodial murder by the police. S.I, Amar Singh, respondent No.2 did the initial investigation and Mainpal Singh, deceased was produced before him. Even, from his medical record, it was apparent that he was tortured by the police in police custody. Even, a wrong medical report was produced to show that he was examined by the doctors at Civil Hospital. Still further, even the investigation was conducted by the police under the influence of respondent No.2. Apart from that, as per the Post Mortem Report, five extensive injuries were found on various parts of Mainpal Singh, deceased and these were caused three days prior to his death. It was apparent that Mainpal Singh was in custody for few days and this clearly belies the defence version that he was produced one evening before his death. Even, the death was due to



injuries and not because of any other reason. Still further, even a day before his death, Mainpal Singh was lying in a serious condition in the clinic of Dr. Balbir Singh Beniwal, respondent No.3. Apart from that, the Trial Court wrongly disbelieved the testimony of Rajinder and also wrongly placed reliance on Ex.DA, which was scribed by the police itself, after obtaining thumb impressions of the present appellant.

8. On the other hand, learned counsel appearing on behalf of respondents No.2 to 4 have vehemently argued that the Trial Court has recorded detailed reasons before acquitting the respondents No.2 to 4. It was found that the present appellant/complainant had set up contradictory case at different stages and the respondents No.2 to 4 were falsely involved. Even, the allegations levelled by the appellant in the complaint were vague and without any basis. Even, in the past also, Mainpal Singh was tried and convicted by the different Courts for commission of offence of theft and related offences. Consequently, it cannot be said that he was falsely involved by respondent No.2 at the instance of respondent No.4.

9. We have heard learned counsel for the parties and perused the record carefully with their able assistance.

10. From a perusal of the complaint itself, it is apparent that the allegations levelled by the appellant/complainant were vague and no details were forthcoming. It was alleged that the appellant along with Suresh and Bhup Singh produced Mainpal Singh in the month of July, 1990 before Amar Singh, respondent No.2 and got freed their son Suresh. Neither the date of production of Mainpal Singh, deceased before the Court was mentioned nor any other date time or place regarding detention of Suresh was mentioned. Even, the appellant



has levelled various allegations, but specific details relating to time and place were completely missing. Still further, it has been stated that Mainpal Singh was admitted in private clinic of Dr. B.S Beniwal on 09.08.1990. However, as per the documentary evidence itself, he was arrested by the police on 09.08.1990 and after he made complaint of breathlessness, he was taken to the hospital by the police on 10.08.1990. Even, the prosecution had examined Dr. S.C Mehta, Medical Officer, Civil Hospital, Fatehabad, who had conducted the post mortem examination on the dead body of Mainpal Singh and found the following injuries on his person:-

- 1. Contusion bluish purple on anterior abdominal wall, 6 cm. below umbilicus. Size was 8 x 7 cm. On cut section, there was sub-cutaneous and paritoneal haematoma.*
- 2. Contusion both thighs on antero-lateral aspect and extending on posterior surface on both thighs. Size of contusion on right side was 25 x 19 cm. and on left thigh 23 x 16 cm. Colour was bluish purple.*
- 3. Abrasions on both knees of various sizes anterior surface, brownish black scab was present, peeled off at places.*
- 4. Abrasions on both fore-arms dorsal aspect, size was 6 x 3 cm. on right side and 5 x 2 cm. on left side. These were situated at junction of lower one third and upper two third.*
- 5. Right elbow was dressed on medial aspect., There was wound of size 1 x 1 cm. Irregular with dirty granulation tissue.*

From a perusal of the injuries, it is apparent that the injuries were suffered by the deceased at least 03 days prior to his death i.e. on 07.08.1990, whereas,



there was sufficient documentary evidence to show that Mainpal Singh was produced before the police on 09.08.1990. Still further, the Trial Court has rightly referred to Ex.DA, i.e. an application moved by Banarsi Devi (PW-4) and Rajinder Singh (PW-7) jointly. Again, no specific allegations were levelled in Ex.DA against Amar Singh, respondent No.2. Rather, the allegations were levelled against the police officials of Police Station Bhatu Kallan that they had arrested Mainpal Singh, 15 days prior to the occurrence. It was also mentioned that five days prior to the incident, Mainpal Singh was admitted in the Hospital of Dr. Balbir Singh Beniwal, where, the appellant was pushed out by Dr. Balbir Singh Beniwal and police officials, however, again no allegations were levelled against Amar Singh, respondent No.2 in Ex.DA. Still further, even the version mentioned in the complaint Ex.DA, runs contrary to the allegations levelled in the complaint in the present case. Still further, the facts, which were mentioned in the complaint in the present case were not mentioned in the application Ex.DA itself. Still further, Ex.DA was a document, which was signed by the present appellant herself and she could not be allowed to say that the document was scribed by the police on blank signed papers.

11. Still further, the appellant had shown that she had gone with Rajinder Singh, PW-7, however, as observed by the Trial Court on the basis of testimony of DW-5, R. K Wadhwa, on 09.08.1990, Rajender Singh was present on his duty in Tehsil Abohar, District Ferozepur. Consequently, he could not have accompanied the appellant at the time of occurrence.

12. Still further, we have carefully perused the detailed findings recorded by the trial Court and found that there is no infirmity, illegality or perversity in the impugned judgment. The Trial Court has discussed every



aspect of the matter, in the light of the evidence led by the present appellant. Even, after perusing the findings recorded by the trial Court, we have no grounds to deviate from the same. Even, learned counsel for the appellant has failed to show any irregularity, illegality or perversity in the impugned judgment.

13. It has been held by the Hon'ble Supreme Court in the matter of **“Bhaskarrao and others Vs. State of Maharashtra”, 2018 AIR (Supreme Court) 2222; 2018 (5) RCR (Criminal) 228** as follows:-

*“14. As the trial court and High Court, having appreciated the evidence on record, has come to diametrically opposite conclusions, mandating herein to observe certain witness statements which may have an important bearing in this case. In the processes of appreciating the evidence at the appellate stage, we need to keep in mind the views of this court as expressed in **Tota Singh and Anr. v. State of Punjab, 1987(2) RCR (Criminal) 35 : 1987 CriLJ 974** -*

"The High Court has not found in its judgment that the reasons given by the learned Sessions Judge for discarding the testimony of PW2 and PW6 were either unreasonable or perverse. What the High Court has done is to make an independent reappraisal of the evidence on its own and to set aside the acquittal merely on the ground that as a result of such reappraisal, the High Court was inclined to reach a conclusion different from the one recorded by the learned Sessions Judge. This Court has repeatedly pointed out that the mere fact that the Appellate Court is inclined on a reappraisal of the evidence to reach a conclusion which is at variance with the one recorded in the order of acquittal passed by the Court below will not constitute a valid and



sufficient ground for setting aside the acquittal. The jurisdiction of the Appellate Court in dealing with an appeal against an order of acquittal is circumscribed by the limitation that no interference is to be made with the order of acquittal unless the approach made by the lower Court to the consideration of the evidence in the case is vitiated by some manifest illegality or the conclusion recorded by the Court below is such which could not have been possibly arrived at by any court acting reasonably and judiciously and is, therefore, liable to be characterized as perverse. Where two views are possible on an appraisal of the evidence adduced in the case and the court below has taken a view which is plausible one, the Appellate Court cannot legally interfere with an order of acquittal even if it is of the opinion that the view taken by the Court below on its consideration of the evidence is erroneous."

14. 15. In **Ramesh Babulal Doshi v. State of Gujarat, 1997(3) RCR (Criminal) 62 : 1996 CriLJ 2867**, this Court observed:

"This Court has repeatedly laid down that the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellate court answers the above question in the negative the order of acquittal is not to be disturbed."



15. In view of the above discussion, the present appeal fails and is accordingly ordered to be dismissed.

16. Case property, if any, be dealt with, and destroyed after the expiry of period of limitation for filing the appeal, in accordance with law.

(N.S.SHEKHAWAT)
JUDGE

(H.S.GREWAL)
JUDGE

16.04.2026

hitesh

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