



**221 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CRA-AD No.306 of 2026  
Date of Decision: 03.09.2026**

**Kailash Chand Saini**

**..... Appellant**

**Versus**

**State of Punjab and another**

**.....Respondents**

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ  
HON'BLE MS. JUSTICE PUJA CHOPRA**

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Present: Mr. Sunil Agnihotri, Advocate  
for the appellant.

Mr. Raj Karan Singh, Asstt. A.G., Punjab.

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**RAJESH BHARDWAJ J.**

1. Present appeal has been filed impugning the judgment dated 09.06.2026 passed by the learned Additional Sessions Judge, Kapurthala acquitting the accused, i.e. respondent No.2 in a case bearing FIR No.106, dated 17.10.2019, registered at Police Station Phagwara, District Kapurthala from the charges framed against him under Sections 302, 120-B of IPC and Sections 25/54/59 of Arms Act.

**FACTS OF THE CASE**

2. Succinctly, the facts of the case are that on 17.10.2019, the present case bearing FIR No.106, dated 17.10.2019, registered at Police Station Phagwara, District Kapurthala was registered against respondent No.2 on the statement of complainant, namely, Ashutosh Sharma. It was alleged that on 16.10.2019, the complainant along with his friends,



namely, Karan Saini, Sachin and his class mates, namely, Harleen Kaur and Sandeep Kaur had gone for having dinner at Haveli on their vehicles. It was alleged that when they reached Haveli, the food counters were closed and after roaming in Haveli for some time, they all were going towards parking of Haveli. It was alleged that at about 12:45 A.M., a newly wedded couple was fighting with some other family. One person from the newly wedded couple attacked and injured the other family member with sharp edged weapon like knife. In the meantime, the above named persons came to take their vehicle in parking and when, Karan Saini was putting the key in his Acura, the person, who earlier attacked upon an unknown person, attacked Karan Saini on his chest with some sharp article. Karan Saini fell on the ground. The lady, who was standing with the said person, took him to the Subway side. They sat in their car and went towards Jalandhar side. Karan Saini was taken to Civil Hospital, Phagwara in the highway patrolling car, from where, he was referred to Johal Hospital, Jalandhar, however, he succumbed to the injuries. Thus, the request was made to take legal action against the accused, i.e. respondent No.2. On the basis of the same, the present FIR was registered. On registration of the FIR, the investigation commenced. Postmortem of the dead body was conducted. Rough site plan of place of occurrence was prepared and CCTV footage of the spot along with pen drive was taken into police possession. The accused-respondent No.2 was apprehended and on the basis of disclosure statement of co-accused, Jaspinder Singh, knife was recovered. Identification parade of all the accused was got conducted and statements of the witnesses were also recorded. After completion of



the investigation, final report under Section 173 Cr.P.C. was presented before the Court against the accused. Finding a *prima facie* case for the offences punishable under Sections 120-B, 302 of IPC and Section 25 of Arms Act and out of which, Section 302 IPC is exclusively triable by the Court of Sessions, thus, the case was committed to the Court of Sessions by the learned Area Magistrate. Prima facie, case under Sections 120-B, 302 IPC and Section 25 of Arms Act was made out against the co-accused, namely, Jaspinder Singh and Section 120-B of IPC was made against the co-accused, namely, Sukhjit Singh and accused, namely, Amarvir Kaur, i.e. respondent No.2 and thus, charges were framed against them accordingly vide order dated 07.02.2020. Thereafter, on the conclusion of the trial, the learned Additional Sessions Judge, Kapurthala, after hearing both the sides, acquitted the accused, i.e. respondent No.2 from the charges framed against her vide impugned judgment dated 09.06.2026. Hence, being aggrieved, the appellant has approached this Court by way of filing the present appeal.

**SUBMISSIONS MADE BY LEARNED COUNSEL FOR THE APPELLANT**

3. Learned counsel for the appellant has vehemently contended that the appellant before this Court is the father of deceased-Karan Saini. He has submitted that the learned trial Court has wrongly acquitted the accused-respondent No.2 by totally ignoring the sworn testimony of witnesses. He has submitted that PW-1 & PW-2 have clearly mentioned about the role of the accused-respondent No.2 but the learned trial Court has totally ignored the evidence led by the prosecution. He has submitted that all the accused have been duly identified by the eye-witnesses. He has



submitted that since the act of committing murder of deceased-Karan Saini being done by co-accused, Jaspinder Singh, however, all the accused are fully liable for having agreed to do an illegal act. He has submitted that the accused-respondent No.2 is very much present at the spot and she is stated to have taken the co-accused, namely, Jaspinder Singh towards the car after the incident. He has submitted that PW-2 (Sachin) has recorded in his statement that out of the persons, one had given the knife blow, other person had brought the car and the girl present there, exhorted the person, who gave the knife blow. He has submitted that *as per Section 120-A of IPC, when two or more persons agree to do, or cause to be done an illegal act or an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy*. It is therefore contended that the findings and observations recorded by the learned trial Court are contrary to the evidence available on the record and the settled legal position rendering the impugned judgment dated 09.06.2026 unsustainable. Consequently, it is prayed that the impugned judgment dated 09.06.2026 be set aside and the accused-respondent No.2 be convicted for the offences as per the charges framed against her.

#### **SUBMISSIONS MADE BY LEARNED COUNSEL FOR THE STATE**

4. Learned counsel for the State has submitted that though the prosecution had led evidence before the trial Court, however, the learned Additional Sessions Judge, Kapurthala, on the appreciation of the entire evidence, passed an order of acquittal.

#### **ANALYSIS AND FINDINGS OF THE COURT**

5. The Court has heard learned counsel for the parties and



perused the record with their able assistance.

6. Having heard the submissions made by counsel for the parties and perused the material available on record, this Court finds that learned trial Court has carefully appreciated the evidence brought on the record and has rightly extended the benefit of doubt to the accused, i.e. respondent No.2. It is well settled that in an appeal against acquittal, the Appellate Court should not interfere merely because another view is possible. Unless the findings recorded by the trial Court are perverse, unreasonable, or based on misappreciation of evidence, the order of acquittal does not warrant interference.

6. In the present case, FIR was registered on the statement of complainant, namely, Ashutosh Sharma on the allegations of committing murder of Karan Saini. The appellant before this Court is the father of deceased, Karan Saini. This Court finds that presence of the accused-respondent No.2 at the place of occurrence is not disputed and the only charge against her is of criminal conspiracy. Examination in chief of PW-1 (Ashutosh Sharma) is totally silent about any involvement or participation of accused-respondent No.2, namely, Amarvir Kaur and the only reference is that she pulled her husband, i.e. the co-accused, namely, Jaspinder Singh towards the Subway and went in the car. Nothing has been deposed by PW-1 that the accused-respondent No.2 was doing any act suggestive of any conspiracy to commit murder in connivance with co-accused, namely, Jaspinder Singh. This Court finds that non mentioning of any involvement of co-accused, namely, Sukhjit Singh and accused-respondent No.2, namely, Amarvir Kaur, the prosecution had made a request to get the said



witness declared hostile but the same was declined. The only identification of accused-respondent No.2 in the identification memo refers to the lady being present with co-accused, namely, Jaspinder Singh and nothing has been specified against her. PW-2 (Sachin) was examined on 22.02.2021 and he carved out new story qua the accused having extorted co-accused, namely, Jaspinder Singh, to kill Karan Saini and to caught hold of him so that he be killed, after stabbing, however, in his examination in chief, he kept mum about the visibility of accused-respondent No.2 extorting Jaspinder Singh to kill the deceased. However, cross examination of PW-10 mentions that patient has died due to cardiac arrest because of hypovolumic shock. In the statement made by PW-2, it was mentioned that the co-accused, namely, Jaspinder Singh gave a knife blow to the deceased-Karan Saini as seen in the CCTV footage and was duly identified by him. As per Ex. DA, it was nowhere specifies about any instigation, extortion, proclamation of any kind by accused-respondent No.2 to the effect that Karan Saini had come to catch hold of Jaspinder Singh, so he be killed. These words and expressions regarding alleged instigation by accused-respondent No.2 are not the part and parcel of any of the previous statement given by any of the eye-witnesses to the police. There is no mention of bringing of any car, or any exhortion by accused-respondent No.2. The discrepancies in the testimony of eye-witnesses, i.e. PW-1 and PW-2 in respect of alleged accusations against accused-respondent No.2 and co-accused, namely, Sukhjit Singh are in respect of their presence, manner of occurrence, their involvement, the role played by them from which they intend the Court to draw the inference of criminal conspiracy.



The veracity of deposition *qua* Amarvir Kaur, i.e. respondent No.2 and co-accused, namely, Sukhjit Singh stood completely shaken leaving no room of doubt qua failure on the part of the prosecution to prove any prior meeting or concert suggestive of criminal conspiracy. The appellant, i.e. father of deceased (PW-4) nothing deposed about the accused-respondent No.2 in his earlier examination in chief but subsequently, he mentioned about alleged instigation by accused-respondent No.2 but admittedly, he was not present at the spot. Though as per the statement of PW-1, the said accused, namely, Amarvir Kaur, i.e. respondent No.2 might be present at Haveli but was not present at the place of occurrence. Mere presence of co-accused in capacity of wife of main accused, namely, Jaspinder Singh, or his friend does not *ipso facto* amount to the proof of co-accused also being conspirator. It is well established canon of criminal jurisprudence that the prosecution has to prove the charge against the accused beyond the reasonable doubts by leading cogent and trustworthy evidence.

7. The learned trial Court, after careful and cautious scrutiny of the evidence, comes to the conclusion that the prosecution has miserably failed to prove that the charge against the accused-respondent No.2 beyond the reasonable doubt and, thus, has rightly considered the circumstances and discrepancies appearing in the prosecution evidence while acquitting the accused.

8. As per the law settled, the appeal against conviction and that against acquittal rests entirely on different pedestal. As per the criminal jurisprudence, every accused is presumed to be innocent until proven guilty. As per the law settled by Hon'ble Supreme Court, once the accused



is acquitted by the Court of law, there lies double presumption of innocence in his favour. Hence, an Appellate Court should not disturb the findings of acquittal arrived at by the trial Court in a cavalier manner and it is only in case of perversity of the findings, the Appellate Court should interfere in the acquittal order passed by the trial Court. In **Jafarudheen and others vs State of Kerala** 2022 SCC Online SC 495, it is held that Appellate Court has to be relatively slow in reversing order of trial Court rendering acquittal, relevant para of the same reads thus:

“25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.P.C., the appellate Court has to consider whether the trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

9. In **Sadhu Saran Singh Vs. State of U.P. and others**, AIR 2016 Supreme Court 1160, learned Appellate Court has held as under:-

18. Generally, an appeal against acquittal has always been altogether on a different pedestal from that of an appeal against conviction. In an appeal against acquittal where the presumption of innocence in favour of the accused is reinforced, the appellate Court would interfere with the order of acquittal only when there is perversity of fact and law. However, we believe that the paramount consideration of the Court is to do substantial justice and avoid miscarriage of justice which can arise by acquitting the accused who is guilty of an offence. A miscarriage of justice that may occur by the acquittal of the guilty is no less than from the conviction of



an innocent. This Court, while enunciating the principles with regard to the scope of powers of the appellate Court in an appeal against acquittal, in the case of Sambasivan and Others V. State of Kerala, (1998) 5 SCC 412, has held :

“The principles with regard to the scope of the powers of the appellate Court in an appeal against acquittal are well settled. The powers of the appellate Court in an appeal against acquittal are no less than in an appeal against conviction. But where on the basis of evidence on record two views are reasonably possible the appellate Court cannot substitute its view in the place of that of the trial Court. It is only when the approach of the trial Court in acquitting an accused is found to be clearly erroneous in its consideration of evidence on record and in deducing conclusions therefrom that the appellate Court can interfere with the order of acquittal”.

10. Weighing the facts and circumstances of the present case on the anvil of law settled, this Court finds no perversity in the order passed by the trial Court dated 09.06.2026. Therefore, the view taken by learned trial Court cannot be said to be perverse or contrary to the evidence available on record. The impugned judgment of acquittal is based on proper appreciation of evidence and does not call for any interference by this Court. Consequently, the appeal against acquittal, being devoid of merit, is hereby dismissed.

**(RAJESH BHARDWAJ)**  
**JUDGE**

**(PUJA CHOPRA)**  
**JUDGE**

**03.09.2026**

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|---------------------------|---|--------|
| Whether Speaking/Reasoned | : | Yes/No |
| Whether Reportable        | : | Yes/No |