

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**Criminal Appeal No. 407 of 2009
a/w Criminal Appeals No. 409 to
412 and 420 of 2009**

**Decided on: 02.09.2026
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1. Criminal Appeal No. 407 of 2009:

Rakesh Kumar.	...	Appellant/accused.
	Versus	
State of Himachal Pradesh	...	Respondent/State.

2. Criminal Appeal No. 409 of 2009:

Rajinder Kumar.	...	Appellant/accused.
	Versus	
State of Himachal Pradesh	...	Respondent/State.

3. Criminal Appeal No. 410 of 2009:

Praveen Kumar.	...	Appellant/accused.
	Versus	
State of Himachal Pradesh	...	Respondent/State.

4. Criminal Appeal No. 411 of 2009:

Jagdish Kumar.	...	Appellant/accused.
	Versus	
State of Himachal Pradesh	...	Respondent/State.

5. Criminal Appeal No. 412 of 2009:

Anil Kumar.	...	Appellant/accused.
	Versus	
State of Himachal Pradesh	...	Respondent/State.

6. Criminal Appeal No. 420 of 2009:

Roshan Lal & another.	...	Appellants/accused.
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The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?¹

In Criminal Appeals No. 407, 409 to 412 of 2009:

For the respondent/State: Mr. Manoj Chauhan, Additional Advocate General, with Mr. Ankush Thakur, Deputy Advocate General.

In Criminal Appeal No. 420 of 2009:

For appellant No. 2
(Nirmala Devi):

Mr. Vinod K. Gupta, Advocate.

For the respondent/State: Mr. Manoj Chauhan, Additional Advocate General, with Mr. Ankush Thakur, Deputy Advocate General.

Sushil Kukreja, Judge (Oral)

The instant appeals, being offshoots of a judgment of conviction and order of sentence, dated 05.10.2009, passed by learned Additional Sessions Judge,

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

Ghumarwin, District Bilaspur, H.P. (hereinafter referred to as “the learned Trial Court”), against the appellants herein, are taken up together for consideration and disposal.

2. The facts emerging from the prosecution story, can be encapsulated as under:

2(a). On 23.05.1998, complainant-Ranvir Singh Sen was doing construction work in his cowshed and he had engaged Mast Ram, mason and Joginder Singh, labourer. Around 04:30 p.m. accused Praveen and his younger brother Rajinder came to the courtyard of the complainant and inquired about the construction work and they also threatened the complainant with dire consequences. Accused Rajinder Kumar was having a knife at that time. Apprehending danger, the complainant made a telephonic call to the police, however, in the interregnum accused persons forcibly took Joginder Singh with them on their scooter to their house. Subsequently, father of the aforesaid accused persons, Jagdish Kumar, came from Ghumarwinside in a maruti van. Within 5-7 minutes of reaching Jagdish Kumar n his house, maruti van again came back and on the way it was stopped by the complainant and his wife Manjuwala. In the maruti van accused Jagdish

Kumar, Parveen Kumar, Rajinder Kumar and one unknown person were sitting alongwith Joginder Singh. The complainant and his wife rescued Joginder Singh, but the aforesaid accused persons started beating the complainant and his wife and in the meantime co-accused Rattani Devi, Sanju and his younger brother, who were present nearby a *khokha* (kiosk) also joined the aforesaid accused persons in attacking the complainant and his wife. Accused persons Kuldeep Singh, Roshan Lal, Surinder Singh, Anil Kumar and Lohka Ram were armed with *dandas* and the other accused persons were having stones/bricks. The complainant when saw himself encircled ran to his house due to fear and he also saw 2/3 heaps of fire-wood being set on fire by the accused persons. At that time, brother of the complainant-Surinder, who was called telephonically by the wife of the complainant came on the spot. When Surinder reached the courtyard of the complainant's house, accused persons Kuldeep Singh, Anil Kumar and Lohka Ram proclaimed to kill him, whereupon accused persons Rakesh and Kuldeep Singh caught hold of him and other accused persons started thrashing him. Resultantly, Surinder fell down unconscious and he was thrown into the fire by the accused persons. On

seeing this, the complainant came out crying for help, but accused persons Kuldeep Singh, Lohka Ram and Roshan Lal chased him. The complainant came to the main road and took lift in a red light vehicle and reached Police Station, Ghumarwin. Surinder was pulled out from the fire place by Manjuwala and her daughters, but the accused persons also gave beatings to them. The complainant on his return found Surinder unconscious on the spot and blood was oozing from his mouth, ear and nose, therefore, he was rushed to the hospital. Thereafter, telephonic information qua the occurrence was given by the complainant to the police and the police party reached Civil Hospital, Ghumarwin and found Surinder unable to give statement, therefore, statement of the complainant under Section 154 Cr.P.C. was recorded by the police, whereupon FIR was registered. Medical examination of all the injured persons were got conducted and they were found to have sustained simple injuries. The brother of the complainant was referred to PGI, Chandigarh, wherein he remained hospitalized w.e.f. 24.05.1998 to 26.05.1998 and the doctors opined that he had suffered grievous injuries. Thereafter, the police

completed investigation and presented the charge-sheet against the accused persons before the learned Trial Court.

3. The learned Trial Court after conclusion of the trial found the accused persons guilty under Section 147, 323, 435, 325 read with Section 149 of the Indian Penal Code (for short 'IPC') and sentenced them to undergo simple imprisonment for one year under Section 435 IPC, one and half years under Sections 325, 15 days under Section 147 and 15 days under Section 323 IPC. Fine of Rs.2000/- each was also imposed upon the accused persons under Sections 325 and 435 IPC and in default of making the payment of fine, the accused had to undergo simple imprisonment for one month under Section 435 and one and half month under Section 325 IPC.

4. Hence, the instant appeals preferred by the appellants/accused persons against the judgment of conviction and order of sentence, dated 05.10.2009, passed by the learned Trial Court. During the pendency of the instant appeals, accused Roshan Lal had died and vide order dated 09.09.2025 appeal filed on his behalf stood abated. Accused Kuldeep Singh and Surinder Singh had also expired during the pendency of their appeals, as such,

vide order dated 08.10.2025, their appeals also stood abated.

5. We have heard the learned counsel/Senior Counsel for the appellants, learned Additional Advocate General for the respondent/State and carefully examined the records.

6. At the very outset, it may be pertinent to mention here that the learned counsel/Senior Counsel for the appellants submitted that since the appellants are first offenders and there is no previous conviction against them, therefore, they be released on probation. They further submitted that the appellants are facing the proceedings in the present case since the year 1998 and now they are well established in their respective lives alongwith their family members and they are main persons for earning livelihood for their families.

7. Today, the statements of the all the appellants/accused persons have been recorded, wherein they have stated that they have no objection in case the judgment of conviction passed against them is affirmed and are released under Section 4 of the Probation of Offenders Act, 1958.

8. After going through the entire record, we do not find any perversity or infirmity in the findings given by learned Trial Court convicting the accused persons (appellants herein). Regarding the prayer of taking a lenient view and to consider release of the appellants on probation, this Court has also called for the report from the Probation Officer and while submitting the report, the Probation Officer had recommended that benefit of probation may be given to the appellants favourably keeping in view their past good character and behavior, as reported by the neighbors. In other words, since the year 1998, the appellants, were never found indulged in any other similar activity. In ***Mohammad Giasuddin vs. State of Andhra Pradesh, (1977) 3 SCC 287***, Hon'ble Apex Court has observed as under:

“5. If every saint has a past, every sinner has a future, and it is the role of law to remind both of this. The Indian legal genius of old has made a healthy contribution to the word treasury of criminology. The drawback of our criminal process is that often they are built on the bricks of impressionist opinions and dated values. Ignoring empirical studies and deeper researches.”

... ..

9. *..... The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defense. We, therefore, consider a therapeutic, rather than an ‘in terrorem’ outlook, should prevail in our criminal courts. Since brutal incarceration of the person merely produces laceration of his mind.”*

9. In **Satish Alias Sabbe vs. State of Uttar Pradesh, AIR 2020 Supreme Court 4623**, the Hon'ble Supreme Court has observed that first-time offenders ought to be liberally accorded a chance to repent their past and look-forward to a bright future. The relevant portion of the aforesaid judgment reads as under:

"13. Whilst it is undoubtedly true that society has a right to lead a peaceful and fearless life, without free-roaming criminals creating havoc in the lives of ordinary peace-loving citizens. But equally strong is the foundation of reformatory theory which propounds that a civilized society cannot be achieved only through punitive attitudes and vindictiveness; and that instead public harmony, brotherhood and mutual acceptability ought to be fostered. Thus, first-time offenders ought to be liberally accorded a chance to repent their past and look-forward to a bright future."

10. Hon'ble Apex Court in the case of **Commissioner of Police and others vs. Sandeep Kumar, (2011) 4 SCC 644**, has observed that the modern approach should be to reform a person instead of branding him as a criminal all his life. The relevant portion of the judgment (supra) is extracted hereunder:

"9. In this connection, we may refer to the character "Jean Valjean" in Victor Hugo's novel Les Miserables, in which for committing a minor offence of stealing of loaf of bread for his hungry family Jean Valjean was branded as a thief for his whole life. The modern approach should be to reform a person instead of branding him as a criminal all his life."

11. In the instant case, as discussed above, the Probation Officer has recommended that benefit of probation

may be given to the appellants favorably keeping in view their past good character and behavior. Hence, in view of the facts and circumstances of the case and after going through the entire material on record, particularly the reports of the Probation Officer, in our considered opinion, it is a fit case wherein, benefit of probation can be extended to all the accused persons (appellants herein) as well while upholding their conviction. The offences for which accused persons have been convicted neither involve any moral turpitude nor the same can be said to be heinous in nature. Resultantly, while upholding the conviction of the accused persons under Sections 147, 323, 435, 325 IPC read with Section 149 IPC, taking into account that they are the first offenders and facing the agony of trial since the year 1998, the sentence of imprisonment imposed upon them by the learned Trial Court is set-aside. Accordingly, accused persons are ordered to be released on probation of good conduct under Section 4(1) of the Probation of Offenders Act, 1958, on their furnishing personal bonds in the sum of Rs.2,00,000/- each with one surety each in the like amount to the satisfaction of the learned Trial Court for keeping peace and good behavior, undertaking therein to appear and receive sentence when

called upon during such period, the Court may direct, and also depositing compensation amount in the sum of Rs.10,000/- each to be paid to the legal representatives of the victim, before the learned Trial Court, within a period of four weeks from today.

12. However, it is made clear that in case, the appellants (accused persons) commit breach of any of the terms and conditions of the bond, they shall be called upon by the learned Trial Court to serve the awarded sentence.

13. In view of what has been discussed hereinabove, the appeals are disposed of. Pending application(s), if any, also stand(s) disposed of.

(Sushil Kukreja)
Judge

(Virender Singh)
Judge

2nd September, 2026
(virender)