2026:HHC:5

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 300 of 2012
Reserved on: 21.11.2025
Date of Decision: 01.01.2026.

Prakash Chand ...Appellant

Versus

State of H.P. ...Respondent

Coram
Hon'ble Mr Justice Rakesh Kainthla, Judge.
Whether approved for reporting?[1] Yes

For the Appellant	:	Ms. Sheetal Vyas, Advocate, Legal Aid Counsel.
For the Respondent/State	:	Mr. Ajit Sharma, Deputy Advocate General.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment and order dated 20.07.2012, passed by learned Additional Sessions Judge, Shimla, Camp at Rohru (learned Trial Court), vide which the appellant (accused before the learned Trial Court) was convicted of the commission of an offence punishable under Section 323 of the Indian Penal Code (IPC) and was sentenced to

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

undergo simple imprisonment for four months for the commission of the aforesaid offence. *(Parties shall hereinafter be referred to in the same manner as they were arrayed before the learned Trial Court for convenience.)*

2. Briefly stated, the facts giving rise to the present appeal are that the police presented a challan before the learned Trial Court for the commission of offences punishable under Sections 307, 323, 324 and 341, read with Section 34 of the IPC. It was asserted that the victim, Kuldeep Singh (PW1), had gone to Kharapathar, Chunjar, on 24.10.2007. He and Rai Singh, accused (since acquitted), consumed liquor. They met Prakash (the accused/appellant) Govinder, the accused (since acquitted) and Ajvinder on the way. Kuldeep Kumar went to the house of Pappu to demand glasses. However, he refused. The victim reached the house of Govinder, where Prakash inflicted a blow by means of a sharp-edged weapon on the victim. Rai Singh also quarrelled with the victim and inflicted injuries on him. Jitender Singh (PW9) picked him up and carried him to the hospital. An intimation was given to the police. The police recorded an entry No. 15 (Ext.PW4/A) and sent HC Pyare Lal (not examined) to verify the correctness of the information. HC Pyare Lal filed an

application (Ext.PW6/B) seeking the opinion of the Medical Officer about the fitness of the victim to make the statement. Dr Sanjeev Gupta (PW6) certified that the injured was not fit to make the statement. Pradeep Kumar (PW2) visited the Police Station and lodged an FIR (Ext.PW2/A). Inspector Lal Man (PW11) investigated the matter. He went to the spot and prepared the site plan (Ext.PW11/A). He found hair and blood-stained pieces of wood. He put them in separate cloth parcels and seized them vide memo (Ext.PW2/B). Accused Krishan Chand produced a Kassi. The other accused produced the sticks. These were seized vide memos (Ext.PW5/A to Ext.PW5/D). Dr Sanjeev Gupta (PW6) examined the injured/victim and found that he had sustained multiple injuries. He referred the patient to IGMC Shimla for surgery and further management. The CT scan of the head showed a fracture of the right occipital bone. The nature of the injury was stated to be grievous, which was dangerous to life and could have been caused within 24 hours of the examination. He issued the MLC (Ext.PW6/A). The case property was sent to the SFSL, and a report (Ext.PW11/D) was issued mentioning that blood was detected in traces on hair lifted from the spot, but it was insufficient for further

examination. Human blood of group (A) was detected on blood stained wooden piece, pants, t-shirt and sweater of the victim. Human blood was detected on the scarf and the blood sample of the victim, but the result was inconclusive in respect of blood group. The hairs found at the spot were identified as human hair. The statements of witnesses were recorded as per their version, and after the completion of the investigation, the challan was prepared and presented before the learned Judicial Magistrate First Class, Court No.2, Rohru, District Shimla, H.P who committed it to the learned Sessions Judge for trial. The learned Sessions Judge assigned the matter to the learned Additional Sessions Judge, camp at Rohru (learned Trial Court).

3. Learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, they were charged with the commission of offences punishable under Sections 323, 341, and 307, read with Section 34 of the IPC, to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined 11 witnesses to prove its case. Kuldeep Singh (PW1) is the victim. Pardeep Kumar (PW2) is the victim's brother who reported the matter to the police.

Satpal (PW3) is an eyewitness. HC Amrit Singh (PW4) proved the entry in the daily diary. Constable Narayan Singh (PW5) witnessed the recoveries. Dr Sanjeev Gupta (PW6) medically examined the injured/victim. HC Parkash Chand (PW7) was working as MHC with whom the case property was deposited. HC Rajinder Singh (PW8) recovered the clothes of the victim. Jitender Singh (PW9) carried the victim to the hospital. Constable Pradeep Kumar (PW10) carried the case property to SFSL Junga. SHO Lal Man (PW11) investigated the matter.

5. The accused, in their statements recorded under Section 313 of Cr.P.C., denied the prosecution's case in its entirety. They (accused) stated that the witnesses were related to the complainant. They (witnesses) suspected that the accused had given beatings to the injured and had falsely deposed against them. Accused claimed that they were innocent. They did not produce any evidence in defence.

6. Learned Trial Court held that the incident had taken place on two different occasions. It was duly proved on record that the accused/appellant had beaten the victim with a stick when the victim demanded glasses from him. The second part of

the incident regarding the beatings at some distance from the house was not proved. The weapons of offence were recovered without a statement under Section 27 of the Indian Evidence Act, and no advantage could be derived by the prosecution from the recovery. The weapons of offence were not proved to have been used in the infliction of the injuries. Therefore, the learned Trial Court acquitted all the accused of the commission of offences punishable under Sections 307, 323 and 341 read with Section 34 of IPC but convicted the accused/appellant Prakash Chand of the commission of an offence punishable under Section 323 of IPC and sentenced him to undergo simple imprisonment for four months.

7. Being aggrieved by the judgment and order passed by the learned Trial Court, the accused has filed the present appeal, asserting that the learned Trial Court failed to properly appreciate the material placed before it. The prosecution examined interested witnesses, and their testimonies contradicted each other. The weapon of offence was not identified in the Court. Three accused were acquitted of the commission of a similar offence, and only one of the accused was convicted, which is impermissible. Therefore, it was prayed

that the present appeal be allowed and the judgment and order passed by the learned Trial Court be set aside.

8. I have heard Ms Sheetal Vyas, learned Legal Aid Counsel for the appellant/accused and Mr Ajit Sharma, learned Deputy Advocate General, for the respondent/State.

9. Ms Sheetal Vyas, learned Legal Aid Counsel for the appellant/accused, submitted that the prosecution's case is inherently improbable. No person would inflict injury upon the other merely for the demand of the glasses. The weapon of offence was not identified before the Court. The Medical Officer has not stated that the weapon of offence recovered by the police was used to inflict the injuries. The learned Trial Court relied upon the same evidence against the accused/appellant, which was rejected against the remaining accused. Therefore, she prayed that the present appeal be allowed and the judgment and order passed by the learned Trial Court be set aside.

10. Mr Ajit Sharma, learned Deputy Advocate General for the respondent/State, submitted that the learned Trial Court had considered the separate events and weighed them individually. The first event was proved to have occurred, and the second

event was held to be doubtful. Therefore, the other accused who were involved in the second event were acquitted. The role of the present accused was not similar to that of the other accused, and there is no infirmity in the judgment and order passed by the learned Trial Court. Hence, he prayed that the present appeal be dismissed.

11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

12. The victim Kuldeep Singh (PW1) stated that he, Raju and Satpal (PW3) had consumed liquor. Raju went towards village Tau, and Satpal went towards his village. He called Satpal, who informed him that he (Satpal) was at Kunda and Ajvinder @ Anju Dutta was with him. Satpal (PW3) called the victim to Kunda. The victim went to Kunda, where he met Satpal and Anju Dutta. The victim did not have glasses with him to consume the liquor. He went towards the house of Prakash (the accused) to fetch the glasses. He entered the fence. Satpal (PW3) and Anju Dutta remained outside the fence. Accused Prakash and Rai Singh were present in the house. He borrowed glasses from Prakash, but Prakash inflicted a blow with a stick on his

shoulder. Satpal (PW3) also came inside the fence and took the victim out. He, Satpal (PW3) and Anju Dutta proceeded further.

13. The learned Trial Court has only held this part of the incident to have occurred and not the subsequent events. This part of the judgment was not assailed by filing any appeal, and it is unnecessary to refer to the subsequent events.

14. Ms Sheetal Vyas, learned Legal Aid Counsel for the appellant/accused, was highly critical of the fact that accused Prakash had inflicted injuries upon the victim simply because of the demand for glasses. She submitted that a person would refuse to supply the glasses but would not cause hurt to another. This submission, *prima facie,* appears to be attractive but cannot stand scrutiny. Satpal (PW3) specifically stated that a verbal altercation started between informant Kuldeep and accused Parkash. Accused Parkash and informant Kuldeep were holding each other. He separated them. Accused Kuldeep started moving with him. Accused Prakash came from behind and inflicted a danda blow on the shoulder of informant Kuldeep. This statement shows that the incident had not occurred without any reason, but because of some altercation between the victim and

the accused. Therefore, the submission that the incident had occurred without any reason and is improbable is not acceptable.

15. The victim denied in his cross-examination that a quarrel had taken place with him. He denied the previous statement recorded by the police to this effect. It was submitted that the testimony of the victim falsifies the statement of Satpal that some altercation had taken place between the accused and the victim. This submission cannot be accepted. The credit of the victim was impeached with reference to his previous testimony, wherein the victim had admitted the quarrel between him and the accused. It was laid down by the Hon'ble Supreme Court in ***Sat Paul v. Delhi Admn., (1976) 1 SCC 727*** that where a witness has been thoroughly discredited by confronting him with the previous statement, his statement cannot be relied upon. However, when he is confronted with some portions of the previous statement, his credibility is shaken to that extent, and the rest of the statement can be relied upon. It was observed:

> "52. From the above conspectus, it emerges clearly that even in a criminal prosecution, when a witness is cross-examined and contradicted with the leave of the court by the party calling him, his evidence cannot, as a matter of law, be treated as washed off the record altogether. It is for the Judge of fact to consider in each case whether, as a

> result of such cross-examination and contradiction, the witness stands thoroughly discredited or can still be believed regarding a part of his testimony. If the Judge finds that in the process, the credit of the witness has not been completely shaken, he may, after reading and considering the evidence of the witness, as a whole, with due caution and care, accept, in the light of the other evidence on the record, that part of his testimony which he finds to be creditworthy and act upon it. If in a given case, the whole of the testimony of the witness is impugned, and in the process, the witness stands squarely and totally discredited, the Judge should, as a matter of prudence, discard his evidence in toto."

16. This Court also took a similar view in ***Ian Stilman versus. State 2002(2) ShimLC 16*** wherein it was observed:

> "12. It is now well settled that when a witness who has been called by the prosecution is permitted to be cross-examined on behalf of the prosecution, such a witness loses credibility and cannot be relied upon by the defence. We find support for the view we have taken from the various authorities of the Apex Court. In ***Jagir Singh v. The State (Delhi Administration), AIR 1975 Supreme Court 1400***, the Apex Court observed:
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> > "It is now well settled that when a witness, who has been called by the prosecution, is permitted to be cross-examined on behalf of the prosecution, the result of that course being adopted is to discredit this witness altogether and not merely to get rid of a part of his testimony.

17. In the present case, the victim had made a contradictory statement regarding the quarrel with the accused before the police and the Court. Therefore, his credit was impeached, and his testimony in the Court that no quarrel had

taken place is not acceptable and cannot be used to discard the prosecution's case.

18. The victim, Kuldeep Singh (PW1), stated that the stick shown to him in the Court was not the one with which he was beaten because the stick with which he was beaten was thick. It was submitted that failure to recover the weapon of offence is fatal to the prosecution's case. This submission will not help the accused. The failure to recover the sticks would be a case of defective investigation, which is insufficient to acquit the accused. It was held in ***Karnel Singh vs. State 1995 (5) SCC 518*** that the prosecution's case cannot be doubted due to the defective investigation because the investigating officer is not under the control of the complainant, and the complainant cannot be penalised for the negligence of the investigating officer. It was held:

> "4. We have very carefully scrutinised the evidence, having regard to the fact that (PW 6) the Investigation Officer had not taken the care expected of him. He did not record the statements of the two witnesses, nor did he refer to the attachment of the 'Chaddi' in his oral evidence. That was a very vital piece of evidence to which little or no attention was paid. If the seizure of that article was properly proved, the article with semen stains would have lent strong corroboration to the evidence of the prosecutrix. There is no doubt that the investigation was

casual and defective. But despite these deficiencies, both the Courts below have recorded a conviction. The question is: are they right?

5. Notwithstanding our unhappiness regarding the nature of the investigation, we have to consider whether the evidence on record, even on strict scrutiny, establishes the guilt. In cases of defective investigation, the Court has to be circumspect in evaluating the evidence, but it would not be right in acquitting an accused person solely on account of the defect; to do so would be tantamount to playing into the hands of the Investigating Officer if the investigation is designedly defective. Any Investigating Officer, in fairness to the prosecutrix as well as the accused, would have recorded the statements of the two witnesses and would have drawn up a proper seizure memo regarding the 'Chaddi'. That is the reason why we have said that the investigation was slipshod and defective.

6. We must admit that the defective investigation gave us some anxious moments, and we were at first blush inclined to think that the accused was prejudiced. But on closer scrutiny, we have reason to think that the loopholes in the investigation were left to help the accused at the cost of the poor prosecutrix, a labourer. To acquit solely on that ground would be adding insult to injury."

19. This position was reiterated in ***Sachin Kumar Singhraha v. State of M.P. (2019) 8 SCC 371: 2019 SCC OnLine SC 363,*** and it was held:

"At this juncture, we would like to recall that it is well-settled that criminal justice should not become a casualty because of the minor mistakes committed by the Investigating Officer. We may hasten to add here that if the Investigation Officer suppresses the real incident by creating certain records to make a new case

> altogether, the Court would definitely strongly come against such action of the Investigation Officer. There cannot be any dispute that the benefit of doubt arising out of major flaws in the investigation would create suspicion in the mind of the Court, and consequently, such an inefficient investigation would accrue to the benefit of the accused. As observed by this Court in the case of ***State of H.P. v. Lekh Raj, (2000) (1) SCC 247***, a criminal trial cannot be equated with a mock scene from a stunt film. Such a trial is conducted to ascertain the guilt or innocence of the accused arraigned, and in arriving at a conclusion about the truth, the courts are required to adopt a rational approach and judge the evidence by its intrinsic worth and the animus of the witnesses. The courts are not obliged to make efforts either to give latitude to the prosecution or loosely construe the law in favour of the accused. The traditional dogmatic hypertechnical approach has to be replaced by a rational, realistic and genuine approach for administering justice in a criminal trial."

20. It was laid down by the Hon'ble Supreme Court in ***Srichand K. Khetwani v. State of Maharashtra, 1966 SCC OnLine SC 32: (1967) 1 SCR 595: AIR 1967 SC 450: 1967 Cri LJ 414 : (1967) 2 SCJ 178*** that no adverse inference can be drawn for failure to collect the evidence. It was observed:

> **8.** Further, an adverse inference against the prosecution can be drawn only if it withholds certain evidence and not merely on account of its failure to obtain certain evi- dence. When no such evidence has been obtained, it can- not be said what that evidence could have been and therefore, no question of presuming that that evidence would have been against the prosecution, under Section 114, illustration (*g*) of the Evidence Act, can arise.

21. This position was reiterated in ***Chand Khan v. State of U.P., (1995) 5 SCC 448: 1995 SCC (Cri) 915,*** wherein it was observed:

> "In the FIR, which was lodged within two hours of the incident, the substratum of the entire prosecution case finds place, including a statement that during the incident, Sm. Naeema Parveen had, in defending herself, given a blow to one of the accused with a vegetable-cutting knife. In view of the above statement recorded in the FIR, the Investigation Officer (PW 16) ought to have taken steps to seize the knife even if PW 5 had not produced it for, one of the essential requisites of a proper investigation is the collection of evidence relating to the commission of the offence and that necessarily includes, in a case of assault, seizure of the weapon of offence, but then failure to collect evidence and failure to produce evidence collected during investigation at the trial carry two different connotations and consequences. While the former may entitle the court to hold the investigation to be perfunctory or tainted, affecting the entire trial, in the case of the latter, the court may legitimately draw a presumption in accordance with Section 114(*g*) of the Evidence Act. As the case presented before us comes under the first category of failures, we have to find out whether we will be justified in discarding the prosecution case solely for the remissness of the Investigating Officer in seizing the knife. The consistent and reliable evidence of the eyewitnesses, coupled with the nature of injuries sustained by some of them and Chand Khan, and the fact that in the FIR it has clearly been stated that one of the miscreants had been assaulted by a vegetable cutting knife, do not persuade us to answer the question in the affirmative."

22. Therefore, the prosecution's case cannot be rejected because the weapon of offence was not recovered by the Investigating Officer.

23. The victim stated in his cross-examination that he had taken liquor with him from Kharapathar. He had consumed 2-3 pegs only. The bottle of liquor was with him at Kunda, as there was some liquor in it. He demanded glasses from Parkash, but the accused inflicted the blow on him (the victim). Satpal (PW3) came and took him away. Anju Dutta remained outside the fence. No member of the family of the accused was present in the house because the family members of the accused reside at Kulgaon. The door was open. Rai Singh and Parkash came out after he had demanded glasses. They did not have any weapons. The accused picked up one piece of wood and inflicted a blow. Satpal (PW3) was at a distance of 10 feet from the place where he was beaten. The bottle was in a plastic bag, which was lying with Satpal (PW3) and Anju Dutta. He denied that he fell in a state of intoxication and sustained injuries.

24. His testimony is duly corroborated by Satpal (PW3), who stated that he, Kuldeep Singh and Raju had consumed

liquor. He received a call from Kuldeep Singh (PW1). Anju Dutta also reached the spot. Kuldeep Singh (PW1) came to the spot after 15-20 minutes. Kuldeep Singh had liquor in the bottle. He went to fetch the glasses from the Dera of Prakash. A verbal altercation started between the accused and the victim. He went to Dera of Prakash and brought Kuldeep Singh (PW1) with him. Prakash and Kuldeep Singh were holding each other. He separated them. Kuldeep started moving with him. Prakash inflicted a blow on the shoulder of Kuldeep. He stated in his cross-examination that Kuldeep Singh had not purchased the liquor in his presence. He saw the bottle in the hands of Kuldeep Kumar. He was not aware of where the stick was brought by the accused. He did not know the reason for the quarrel. He denied that no person inflicted injuries on the victim, and the victim had fallen in a state of intoxication.

25. There is nothing in the cross-examination of this witness to show that he was making a false statement or that he had any motive to depose against the accused. He showed his ignorance of where the stick was brought. He could have easily said that the stick was brought from home had he intended to lie on oath, but he did not do so, which shows that he is a reliable

witness, and his testimony was rightly accepted by the learned Trial Court.

26. It was submitted that this witness has not supported the prosecution's case regarding the subsequent incident. He was permitted to be cross-examined by the learned Public Prosecutor, and his credit has been impeached. Therefore, his testimony cannot be relied upon. This submission will not help the accused. This witness was cross-examined regarding the subsequent incident and not the first. It was laid down by the Hon'ble Supreme Court in ***Selvamani v. State, 2024 SCC OnLine SC 837,*** that the testimony of a hostile witness is not effaced from the record and the version which is as per the prosecution evidence or the defence version can be accepted if corroborated by other evidence on record. It was observed:

> "**9.** A 3-Judge Bench of this Court in the case of ***Khujji @ Surendra Tiwari v. State of Madhya Pradesh (1991) 3 SCC 627: 1991 INSC 153***, relying on the judgments of this Court in the cases of ***Bhagwan Singh v. State of Haryana (1976) 1 SCC 389: 1975 INSC 306, Sri Rabindra Kuamr Dey v. State of Orissa (1976) 4 SCC 233: 1976 INSC 204, Syad Akbar v. State of Karnataka (1980) 1 SCC 30: 1979 INSC 126***, has held that the evidence of a prosecution witness cannot be rejected in toto merely because the prosecution chose to treat him as hostile and cross-examined him. It was further held that the evidence of such witnesses cannot be treated as effaced or washed off the record altogether, but the same

can be accepted to the extent their version is found to be dependable on a careful scrutiny thereof.

10. This Court, in the case of ***C. Muniappan v. State of Tamil Nadu (2010) 9 SCC 567: 2010 INSC 553***, has observed thus:

> "**81.** It is a settled legal proposition that (***Khujji case***, SCC p. 635, para 6)
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> > '*6.....* the evidence of a prosecution witness cannot be rejected in toto merely because the prosecution chose to treat him as hostile and cross-examined him. The evidence of such witnesses cannot be treated as effaced or washed off the record altogether, but the same can be accepted to the extent their version is found to be dependable on a careful scrutiny thereof.'
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> 82. In ***State of U.P. v. Ramesh Prasad Misra,(1996) 10 SCC 360,*** this Court held that (at SCC p. 363, para 7) evidence of a hostile witness would not be totally rejected if spoken in favour of the prosecution or the accused but required to be subjected to close scrutiny and that portion of the evidence which is consistent with the case of the prosecution or defence can be relied upon. A similar view has been reiterated by this Court in ***Balu Sonba Shinde v. State of Maharashtra, (2002) 7 SCC 543, Gagan Kanojia v. State of Punjab, (2006) 13 SCC 516, Radha Mohan Singh v. State of U.P., (2006) 2 SCC 450, Sarvesh Narain Shukla v. Daroga Singh, (2007) 13 SCC 360*** and ***Subbu Singh v. State, (2009) 6 SCC 462***.
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> 83. Thus, the law can be summarised to the effect that the evidence of a hostile witness cannot be discarded as a whole, and relevant parts thereof, which are admissible in law, can be used by the prosecution or the defence."

27. Therefore, the testimony of this witness cannot be discarded simply because he had been declared hostile and he

did not support the prosecution's case regarding the second incident.

28. Dr Sanjeev Gupta (PW6) medically examined the victim. He found 9 injuries on the person of the victim. These injuries could have been caused within 24 hours by means of a sharp-edged weapon. He noticed a wound reddish in colour, ladder in shape, at the inferior angle of the right scapula, just lateral to the spinal cord, which corresponds to the injury caused during the first incident as narrated by the victim and Satpal. His testimony corroborates the statements of the informant and Satpal (PW3) that injuries were caused to the victim.

29. It was submitted that the weapons of offence were not shown to the Medical Officer to elicit his opinion whether the injuries noticed by him could have been caused by the stick, which would make the prosecution’s case suspect. This submission cannot be accepted. The victim had specifically stated that the stick shown to him was not the one that was used to beat him. Therefore, the stick is not proven to be a weapon of offence, and no fruitful purpose would have been served by showing the stick to the Medical Officer.

30. Dr Sanjeev Gupta (PW6) admitted in his cross-examination that the fracture of the right occipital bone can be caused by a fall or a strike with a hard surface. The injury was caused to the shoulder by the accused with the stick and not the head. Therefore, this opinion will not make any difference to the prosecution's case.

31. It was submitted that there was a delay in reporting the matter to the police, and the prosecution's case is suspect. This submission cannot be accepted. The injured person was taken to the hospital, and intimation was given to the police at 10:15 PM. HC Pyare Lal was sent, who sought the opinion of the Medical Officer, and the Medical Officer certified that the victim was not fit to make the statement. HC Pyare Lal (not examined) did not record the statement of any other person and simply returned to the Police Station. Learned Trial Court had rightly held that once the matter was brought to the notice of the police, the police were supposed to investigate the matter and register the FIR. The failure to do so cannot be used to benefit the defence.

32. The accused claimed that a false case was made against him because the witnesses suspected that he had given beatings to informant Kuldeep Kumar. This version was not proved by leading any evidence, and reliance was placed upon the statement recorded under Section 313 of Cr.P.C. to prove this fact. It was held in ***Sumeti Vij v. Paramount Tech Fab Industries, (2022) 15 SCC 689: 2021 SCC OnLine SC 201*** that the accused has to lead defence evidence to rebut the presumption and mere denial in his statement under Section 313 of Cr.P.C. is not sufficient. It was observed at page 700:

> "20. That apart, when the complainant exhibited all these documents in support of his complaints and recorded the statement of three witnesses in support thereof, the appellant recorded her statement under Section 313 of the Code but failed to record evidence to disprove or rebut the presumption in support of her defence available under Section 139 of the Act. *The statement of the accused recorded under Section 313 of the Code is not substantive evidence of defence, but only an opportunity for the accused to explain the incriminating circumstances appearing in the prosecution's case against the accused. Therefore, there is no evidence to rebut the presumption that the cheques were issued for consideration*." (Emphasis supplied)"

33. Thus, no advantage can be derived from the statement of the accused recorded under Section 313 of Cr.P.C. to prove the defence.

34. It was submitted that the learned Trial Court erred in convicting the accused while acquitting the rest of the accused because the same evidence cannot be used for convicting one accused and acquitting the others. There can be no dispute with this proposition of law that the Court cannot rely upon the same evidence to record the conviction of some person and the acquittal of another. However, this submission will not help the accused in the present case, because the learned Trial Court held that the subsequent incident was not proved. It was rightly submitted on behalf of the State that these two incidents were separate and the evidence in the one will not affect the others. The informant and Satpal had specifically stated that even though Rai Singh was present in the house with Prakash, he had not done anything. This was the reason for not convicting him regarding the first incident.

35. Therefore, the prosecution's version that the accused had inflicted injuries upon the shoulder/back of the victim was duly proved, and the learned Trial Court had rightly convicted the accused of the commission of an offence punishable under Section 323 of the IPC.

36. Learned Trial Court sentenced the accused to undergo simple imprisonment for four months. This cannot be said to be excessive, considering the nature of the injury and the circumstances in which the injury was caused. Therefore, no interference is required with the sentence imposed by the learned Trial Court.

37. In view of the above, the present appeal fails, and it is dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

38. Records of the learned Trial Court be returned forthwith, along with a copy of the judgment.

(Rakesh Kainthla)
Judge

1st January, 2026
(Nikita)