IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.Appeal No. 494 of 2011
Decided on 31st October, 2026

State of Himachal Pradesh …Appellant

Versus

Ajay God & Ors. …..Respondents

Coram

Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.
[1]Whether approved for reporting?

For the appellant-State	**:**	**Mr. Lokender Kutlehria, Additional Advocate General.**
For the respondents	**:**	**Mr. Anu Minhas, Advocate.**

Chirag Bhanu Singh, Judge (Oral)

By way of the present appeal, the State has impugned the judgment of acquittal passed by the learned Judicial Magistrate First Class, Joginder Nagar, District Mandi, H.P., vide an order dated 09.06.2011.

2. The respondents had been sent up for trial before the learned trial Court for having allegedly committed offences under Sections 341, 323, 325, and 504 read with Section 34 of the Indian Penal Code (in short "IPC").

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

3. The genesis giving rise to the FIR was that on 16.08.2006, at about 6:30 PM, the complainant- Deepak Sharma (PW-1), had been restrained by the accused-Ajay God and two other persons and had given beatings with fists and kick blows to the complainant. The accused had also given him blows with a danda and used filthy language. Thereafter, the three had fled away from the spot. The complainant had sustained injuries on various parts of his body, including his hand, eyes, arms, and legs. The matter was reported to the police, ending up in the present and they have defended that trial.

4. The learned trial Court after due deliberations acquitted the accused and hence the present appeal.

5. The learned Additional Advocate General would contend that the learned trial Court has failed to appreciate the evidence in the right perspective. The impugned judgment is based on hypothetical reasoning, surmises and conjectures and is therefore liable to be set aside. The testimony of the prosecution witnesses has been discarded without any cause.

There was sufficient evidence on record. Apart from minor contradictions, there was nothing on record to discard the statement of the complainant and the other witnesses.

6. The learned counsel for the respondent has supported the findings recorded by the learned trial Court. The counsel would contend that both the independent witnesses i.e. Tilak Raj (PW-2) and Babli (PW-3) have resiled from their earlier statements and they have not supported the prosecution evidence, at all. The version of the complainant is also highly exaggerated and the evidence has been rightly appreciated by the learned trial Court.

7. After having heard the learned counsel for the counsel for the parties and re-appreciating the evidence placed on record, it is clear that both independent witnesses, namely Tilak Raj (PW-2) and Babli (PW-3), have not supported the prosecution's version. Tilak Raj (PW-2) has in uncertain terms deposed that he doesn’t know anything about the facts of the case. Even in his cross-examination, he has stood his ground. On the contrary, he has deposed that the complainant-Deepak

was under the influence of liquor and was found lying on the spot.

8. Babli (PW-3) has also deposed that she had merely seen the complainant lying in front of the Patwarkhana. She too has not witnessed the accused assaulting the complainant.

9. The perusal of the testimony of the complainant himself also shows that there are exaggerations and embellishments in his testimony. His testimony is also in stark difference to the version initially put forth by him in the FIR. It further gets confounded by the fact that an FIR had been got registered even against the complainant about the very same incident.

10. Thus, it can safely be said that apart from the exaggeration and embellishments, there is no evidence worth the name, as admittedly both the spot witnesses have not supported the prosecution version. The version of the complainant also does not inspire confidence. It doesn't seem to the cogent, convincing and reliable enough to have the conviction on his sole testimony, both the independent

witnesses having resiled. Thus no fault can be attributed to the findings recorded by the learned trial Court.

11. Even otherwise, it is by now fairly well-settled, that while deciding an appeal against acquittal, the power of the learned Appellate Court is no less than the power exercised while hearing appeals against conviction. In both the cases the Appellate Court may review the entire evidence, however, one significant difference is that an order of acquittal will not be interfered with by the Appellate Court, where the judgment of the learned trial Court is based on evidence and the view taken is reasonable and plausible. It will also not reverse the decision merely because a different view is also possible. In this behalf, support can aptly be drawn by a judgment of the Hon'ble Supreme Court titled as ***Kallu @ Masih & Ors v. State of Madhya Pradesh (AIR 2006 SC 861 / 2006 10 SCC 313)***.

12. For all the reasons discussed hereinabove, this Court is of the considered opinion that the appeal sans no merit and is dismissed accordingly. The appeal is disposed off in the aforesaid terms. Records of the learned trial Court be sent back

forthwith.

13. Pending application(s), if any, also stands disposed off.

(Chirag Bhanu Singh)
Judge

31.10.2026
(Ritu)