

## IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**Cr. Appeal No. 539 of 1999**

**Reserved on: 27.2.2008**

**Date of decision: 29.2.2008**

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State of Himachal Pradesh	... Appellant
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Versus

Vikram Singh & Ors.	... Respondents
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*Coram :*

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?<sup>1</sup> No.

For the appellant: Mr. J.S. Guleria, Law Officer.

For the respondents: Mr. P.C. Sharma, Advocate.

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### **V.K. Ahuja , J.:**

This is an appeal filed by the appellant/State of H.P. against the judgment of the Court of learned Additional Chief Judicial Magistrate, Chamba, dated 10.3.1998, vide which the respondents were acquitted of the charge framed against them under Sections 148,323/149, 506(II) and 149 I.P.C.

Briefly stated the facts of the case are that on 12.10.1996 a report was lodged with the police by one Mahasu Ram alleging that today around 8.00 AM, when he was going to his place of posting, he saw the cattle of Bidya Ram grazing in his field. He called Bidya Ram to take away his cattle on which his sons Vikram Singh and Pawan Kumar,

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<sup>1</sup>Whether reporters of Local Papers may be allowed to see the judgment? Yes.

respondents No. 1 and 2 came there started abusing him and also gave beatings to him. Meanwhile the remaining accused came there and one of them was armed with danda with which the complainant was given beatings, while the remaining accused gave him kicks and fist blows. He raised an alarm on which his brother Gullu Ram, Sahbo Ram, Up Prdhan and his wife reached the spot and saved him. The complainant alleged that he had suffered injuries on various parts of his body, on which the case was registered leading to the filing of challan and trial of the respondents resulting in their acquittal.

Heard.

The submissions made by the learned Law Officer on behalf of the appellant were that the statements of PWs 1,3 and 4 are material which proves the guilt of the respondents and, therefore, the findings recorded by the trial Court to the contrary are liable to be reversed. On the other hand, learned counsel for the respondents submitted that most of the witnesses had turned hostile and the learned trial Court had rightly not relied upon the testimony of these witnesses in view of the contradictions in their statements and the findings recorded by the trial Court are not perverse calling for an interference by this Court.

PW-1 Mahasu Ram, complainant, denied in his statement that he had given a stone blow to Ghora Ram for which a case under Section 325 I.P.C. was registered against him. He also denied having given a stone blow on the head of Madho and denied having attended the Court in the case. He also denied that Jehri etc. had filed a case under Section 107 before the S.D.M., Bharmour and stated that he never

attended the hearings in those case. However, his wife PW-3 Smt. Krishna Devi who appeared in the witness box admitted that a case under Section 325 I.P.C. was registered against her husband for having given a stone blow to Gora Ram and her husband had been appearing in Court which case was later on compromised. She also further admitted that her husband had lodged a complaint for cutting of the trees against the wife of Jehri accused and Jehri etc. had filed a case before the S.D.M. against her husband and her husband had been attending the hearings in that case. The fact that the complainant denied about these cases shows that he cannot be termed as a truthfulness witness. Moreover, the learned trial Court had rightly observed that since the evidence suggests that the parties are inimical, therefore, the Court is required to consider the evidence with more care and caution.

PW-1 Mahasu Ram had stated that when he was given beatings by accused persons, his wife Krishna Devi, his brother Gullu Ram and Up Pradhan Sahbo Ram rescued him. His wife stepped into the witness box as PW-3 and did not state anything that she reached the spot and rescued her husband from the clutches of the accused persons. She clearly stated that she had not rescued her husband but had rescued her Dewar. Sahbo Ram, Up Pradhan (PW-2) who had also allegedly rescued the complainant stated that he went to the spot at the instance of Ex. Pradhan and found Mahasu Ram and others sitting in the fields and he asked them to compromise and he had not witnessed anything. He also did not state that he rescued the complainant from the clutches of the accused persons. The complainant's brother Gullu Ram has been

examined as PW-4 and he stated that on hearing the cries of his brother, he went to the spot and he was also given a slap blow by Jehri which was not so stated by other witnesses. He admitted the presence of Sahbo Ram and Krishna Devi and that they rescued the complainant which was not so stated by them. According to PW-3 Smt. Krishna Devi, danda was blood stained but it was not so stated by the complainant or proved in evidence. PW-4 Gullu Ram had further stated that he had told the police that Praveen had pushed his brother who fell down in the field which was not so stated by him in his police statement or by the other witnesses. He had stated that the quarrel took place in the common path, whereas the case of the complainant is that he was given beatings in the fields.

In view of the contradictions in the statements of the prosecution witnesses and the fact that the material witnesses have not corroborated the statement of the complainant and in view of the inimical relations in between the parties, the learned trial Court had not relied upon the statements of the prosecution witnesses. Thus, the findings recorded by the learned trial Court cannot be said to be perverse calling for an interference by this Court and as such, there is no merit in the appeal filed by the appellant, which is liable to be dismissed and the same is dismissed accordingly. Bail bonds furnished by the respondents are discharged.

**February 29, 2007**  
**(BSS)**

**( V.K. Ahuja ),**  
**Judge**

