

**IN THE COURT OF RAVI, ADDITIONAL CHIEF JUDICIAL
MAGISTRATE, COURT NO.1, HAMIRPUR, H.P.**

Case Registration No.	:	60 of 2022.
Police Challan No.	:	12-II-2022.
RBT No.	:	-
FIR No.	:	208 of 2021 dated 8.11.2021 under Section 341, 323, 504, 427 and 201 read with Section 34 of IPC Police Station Sadar, Hamirpur, H.P.
Complainant	:	Dr. Neeraj Sharma
Represented by	:	Ld. Assistant Public Prosecutor, Miss Vishal Deepak.
Accused.	:	Fauji Singh son of Sh.Mahinder Ksaur, wife of Sh. Raghubhir Singh R/o Ward No. 11 House No. 219 Bvaru, P.O. Mohin Tehsil and District Hamirpur, H.P. Kuldeep Singh son of Sh. Raghubir R/o Ward No. 11 House No. 219 Baru, P.O. Mohin, Tehsil and District Hamirpur, HP Lachhman Singh son of Sh Raghubir R/o Ward No. 11 House No. 219 Bvaru, P.O. Mohin Tehsil and District Hamirpur, H.P. Rajni wife of Sh. Raghubhir R/o Ward No. 11 House No. 219 Bvaru, P.O. Mohin Tehsil and District Hamirpur, H.P.
Represented by	:	Sh. D.N. Bhardwaj, Ld. Counsel.

Form B.

Date of offence	7.11.2021.
Date of FIR	8.11.2021.
Date of Charge sheet	3.3.2022.
Date of framing of Charges	15.3.2023.
Date of commencement of evidence	11.9.2023.

Date on which judgment is reserved	22.7.2026.
Date of judgment	25.7.2026.
Date of sentencing order,if any	N.A.

Accused Details.

Rank of the accused	Name of the accused	Date of arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted.	Sentence imposed.	Period of detention undergone during the trial for purpose of Section 428 of Cr.P.C.
1 .	Fauji Singh	-	-	Under Sections 341, 323, 504, 427 & 201 read with Section 34 of IPC.	Acquitted	-	-
2.	Kuldeep Singh	-	-	Under Sections 341, 323, 504, 427 & 201 read with Section 34 of IPC.	Acquitted	-	-
3.	Lacchman Singh	-	-	Under Sections 341, 323, 504, 427 & 201	Acquitted	-	-

				read with Section 34 of IPC.			
4.	Rajni	-	-	Under Sections 341, 323, 504, 427 & 201 read with Section 34 of IPC.	Acquitted	-	-

Police Challan under 341, 323, 504, 427 & 201 read with Section 34 of IPC.

Present:

For the State : Miss Vishal Deepak, Ld. APP.

For the Accused : Sh. D.N. Bhardwaj, Ld. Advocate.

J U D G M E N T :-

1. The present chargesheet has been presented by the Station House Officer, Police Station Sadar, District Hamirpur, H.P. for the trial against the accused for the offences punishable Under Sections 341, 323, 504, 427 & 201 read with Section 34 of Indian Penal Code ("IPC" hereinafter).

2. The brief facts of the case as per the charge sheet in a nutshell are that on 8.11.2021, the informant Dr. Neeraj Sharma along with his friend Munish Kumar visited the Police Station Hamirpur, H.P. and moved a written complaint of physical assault and damage to his car. Dr. Neeraj Sharma was assaulted by 3-4 persons unknown persons including a woman at Baru Chowk on 7.11.2021 at about 9:00 p.m. The incident happened when Dr. Neeraj Sharma and Munish Kumar were going from Dr. RKGMC, Hamirpur (the place of his positing) to Bohni. Dr. Neeraj Sharma

stopped his car at Baru Cowk for having some medication for cold and cough. The culprits assaulted him with kind of hockey stick. Manish Kumar got more injuries. The car of Dr. Neeraj Sharma was also damaged including front screen of the car. The present FIR under sections 341, 323 and 427 read with Section 34 of IPC was registered. HC Ashwani Kumar No. 48 investigated the mater. During investigation, the Investigating Officer prepared the spot map as per the instructions of Dr. Neeraj Sharma. The Investigating Officer clicked the photographs of the spot from his mobile phone. Both the aforesaid victims were medically examined and their MLCs were procured. Simple injuries with alleged object were found on their person. Dr. Neeraj Sharma brought his car bearing No. HP 21-0004 to the Police Station. This car alongwith its key and document were seized by the police vide separate seizure memo in the presence of the witnesses. This car was mechanically examined. The car was released on Sapurdari to Dr. Neeraj Sharma. The damage report of the car was procured by the police from Anand TOYATA Bheeda. Dr. Neeraj Sharma produced one piece of hockey stick on 7.11.2021 with which the wind screen of his car was broken and dent was caused on the quarter panel of the car in the right back side of the car. This piece of hockey was seized by the police vide seizure memo in the presence of the witnesses. The accused No.2 produced one motorcycle bearing No. HP-22E-0447 on which the accused No.2, 3 & 4 came on the spot and the accused accused No. 1 fled away from the spot after the incident. This motor-cycle was seized alongwith its key and documents by the police in the presence of witnesses vide seizure memo. The police procured the CCTV footage from Ajay medical store Baru by storing it in a DVD. During investigation, Investigating Officer recorded the statements of the witnesses as per their versions. During investigation, it was found that all the accused, in furtherance of common intention of each-other, abused Dr. Neeraj

Sharma and Munish Kumar and then Section 504 of IPC was added. All the accused were associated in the investigation. The accused did not produce the remaining part of the hockey stick with intention to screen themselves from legal punishment in the aforesaid offences because of which section 201 of IPC was added. After the completion of investigation, it was found that on 7.11.2021 at about 9:15 to 9:30 p.m., Dr. Neeraj Sharma and Manish Kumar were going from Dr. RKGMC Hamirpur to the rented accommodation of Dr. Neeraj Sharma in a car being No. HP 21-0004 and when Munish Kumar went to Master chef shop to purchase cigarette, the accused No. 1 Fouzi Singh was standing in that shop and Manish Kumar also stood there, an altercation happened between the accused No. 1 and Mainsh Kumar and Dr. Neeraj Sharma tried to pacify them, however, the accused No.1 hit Dr. Neeraj Sharma on his nose, and then made a phone call and called some one. After some time, all the other accused came on a motorcycle bearing No. HP 22-E-0447 with one hockey stick and gave that hockey stick to the accused No.1 and all the accused persons, in furtherance of common intention of each-other, voluntarily and without any provocation, beat Dr. Neeraj Sharma and Munish Kumar and also damaged the wind shield and back side of the aforesaid car of Dr. Neeraj Sharma with hockey stick. The aforesaid hockey stick broke in to pieces. All the accused, in furtherance of common intention of each-other, hurled abuses to Dr. Neeraj Sharma and Munish Kumar. The accused left from there leaving the pieces of hockey stick there on the spot. After the completion of the investigation, the present charge sheet under Sections 341, 323, 427, 504 and 201 read with Section 34 of Indian Penal Code was filed for trial against the accused.

3. On finding sufficient ground to proceed against the accused, summons were issued to them in compliance to which they appeared in the Court. The copy of chargesheet and other

necessary documents were supplied to them as per provisions of section 207 Cr.P.C.

4. Thereafter, on finding a prima facie case against the accused for the commission of offences under Sections 341, 323, 504, 427 & 201 read with Section 34 of Indian Penal Code, charges were put to the accused to which they pleaded not guilty and claimed trial. The prosecution has examined twelve witnesses in all. Thereafter, the statements of accused under Section 313 of Cr.P.C. were recorded wherein they have denied the prosecution story. On being specifically asked whether they intended to lead defence evidence, the accused have denied for it.

5. This Court has heard Ld. APP for the State and Ld. Counsel for the accused and has gone through the entire case file with utmost care.

6. The following points arise for determination in the present case :-

1. Whether the prosecution has proved beyond all reasonable shadow of doubt that on 7.11.2021 at around 9:00 p.m. at place Baru Chowk, Hamirpur H.P., the accused persons, in furtherance of common intention of each-other, wrongfully restrained Neeraj Sharma from proceeding in a direction in which he had right to proceed and thereby committed an offence punishable under Section 341 read with Section 34 of IPC?...OPP.

2. Whether the prosecution has proved beyond all reasonable shadow of doubt that on the aforementioned date, time and place, the accused persons, in furtherance of common intention of each-other, voluntarily and without provocation, caused simple hurt to Neeraj Sharma and thereby committed an offence punishable under Section 323 read with Section 34 of IPC?...OPP.

3. Whether the prosecution has proved beyond all reasonable shadow of doubt that on the aforementioned date, time and place, the accused persons in furtherance of common intention of each-other, abused and insulted the complainant Neeraj Sharma and

thereby gave provocation to him intending or knowing it to be likely that such provocation will cause him to break public peace or to commit an other offence and thereby committed an offence punishable under Section 504 read with Section 34 of IPC?...OPP.

4. Whether the prosecution has proved beyond all reasonable shadow of doubt that on the aforementioned date, time and place, the accused persons in furtherance of common intention of each-other, committed mischief by damaging the front screen of vehicle/car of the complainant Neeraj Sharma and caused wrongful loss in excess of Rs. 50/- and thereby committed an offence punishable under Section 427 read with Section 34 of IPC?...OPP.

5. Whether the prosecution has proved beyond all reasonable shadow of doubt that on the aforementioned date, time and place, the accused persons in furtherance of common intention of each-other, knowingly or having reason to believe that the offences aforementioned have been committed caused evidence connected with the said offence i.e. broken piece of Hockey to disappear with intention of creeping the offence from legal punishment and thereby committed an offence punishable under Section 201 read with Section 34 of IPC?...OPP.

6. Final order.

7. The Court has heard Ld. APP for the State and Ld. defence counsel and gone through the entire record of the case with utmost care.

8. For the reasons to be recorded hereinafter while discussing the above mentioned points my findings are as under :-

Point No. 1	:	No.
Point No. 2	:	No.
Point No. 3	:	No.
Point No. 4	:	No.
Point No. 5	:	No.
Final order	:	The accused are acquitted as per the operative part of the judgment.

REASONS FOR FINDINGS

Points No.1 to 5 :-

9. All these points are being taken up together for discussion as they are inter-related, and also in order to avoid repetition as same evidence has been led with respect to both these points.

10. Though Dr. Neeraj Sharma as PW-3 and Munish Kumar as PW-4 have reiterated the version of the prosecution including their medical examinations after the alleged incident, the seizure of their car, the seizure of the motorcycle of the accused and seizure of the piece of the Hockey stick vide separate memo(s), however, perusal of the cross-examination of these witnesses show that PW-3 has deposed there were more than one hockey stick which were seized by the police from him which was found in clear contradiction with the case of the prosecution and the seizure memo Ext.P2/PW3. Further, PW-3 has pleaded ignorance as to who used the hockey stick to beat them and he volunteered to depose that one of the three accused, who came later on used the hockey stick, whereas, perusal of the case of the prosecution and the statement of these witnesses recorded during the investigation show that the accused, who came later on, gave the hockey stick to accused No. 1 Fauji Singh, who used it to beat them. Further, both these witnesses have deposed that an attraction happened initially between the accused No. 1 and PW 4, and when PW4 did not return back to the car for quite long, PW-3 went to the shop and asked PW-4 to come alongwith him as they were getting late, however, the accused No.1 hit PW-3 on his nose and he started bleeding and the accused No. 1 ran away from the spot and came there again alongwith other accused on that motorcycle, whereas, perusal of the case of the prosecution, as mentioned in the chargesheet, and the previous versions of PW-3 and PW-4 recorded by the police during investigation, show a different version that an altercation happened

between PW-4 and accused No. 1 and when PW-3 asked them to maintain peace, the accused No. 1 called some one telephonically, in pursuance of which other accused came on the motorcycle bearing No. HP 22-E-0447. Further, PW-3 has also admitted in unambiguous terms that he was not abused by any one. Further, PW-4 has deposed that he was hit by hockey stick on his head and he lost consciousness, which is also another contradiction being material omission in the previous version of this witness recorded during investigation. Further, PW-4 has deposed an exaggerated fact that all the accused were having weapons in their hands, which is also another contradiction being material omission in the previous version of this witness recorded during investigation. Further, PW-4 has deposed that blood of PW-3 was lying inside the shop where the incident happened and this fact has been contradicted not only by the owner of the shop as PW-5 but also by the Investigating Officer as PW-12, who has deposed that neither there was any blood inside the alleged shop nor any where else around the alleged place of occurrence. Moreover, perusal of the version of the medical expert PW-11 and the MLC of PW-3 issued by him show that there was only history of bleeding and any remarks qua any blood or any mark thereof is not there. Further, PW-4 has deposed that they did not give their blood stained clothes to the police as police did not ask for it, whereas, the Investigating Officer as PW-12 has deposed otherwise by deposing that no blood stained clothes were presented by PW-3 and PW-4 to him. Further, though the medical expert as PW-11 has deposed qua the MLCs of both the injured examined by him on 8.11.2021 at 12:51 a.m., however, admittedly, he was previously well known to PW-3 as PW-3 was also a Medical Officer at Dr. RKGMC. Further, the opinion of the medical expert shows that PW-3 was only having abrasions and swelling and PW-4 was having a wound over the forehead apart from the swelling and all the injuries were simple blunt with the probable duration of less

then 12 hours possible by a hockey stick, however, he has also admitted the version of the defence that these injuries were also possible in a car accident and the injuries were superficial in nature.

11. Therefore, though as per the opinion of the medical expert, the injuries are opined to be probable in both the alleged versions of the parties, however, there are material contradictions in the versions of the alleged victims and since none of the independent eye-witness could support the case of the prosecution, as mentioned in next paragraph, these contradictions can not be ignored.

12. One independent eye-witness, who was the owner of the shop under reference, which was alleged place of occurrence at which the alleged altercation happened, while appearing in the witness box as PW5, and another independent eye-witness, who was present at the place of occurrence by chance, as PW-6, have failed to support the case of prosecution and despite all sincere efforts made by Ld. APP, who opted to ask them the questions, which may be asked in the cross-examination, as permissible by virtue of Section 154 of Indian Evidence Act, nothing fruitful to the case of the prosecution could be elicited out, and though perusal of the cross-examination of PW5 shows that there was reasons available with him to favour the accused persons instead of the prosecution as he was acquainted with the accused, however, there is nothing on record suggesting any ulterior motive available to PW-6 to favour the version of the accused instead of the prosecution. Significantly, another independent witness has been given up by the prosecution and that too on the ground of being won over by the accused, meaning thereby, that witness was also not supporting the case of the prosecution.

13. Before proceeding further, it is pertinent to mention here that identifications of the accused have also not been established in accordance with law as though PW-3 and PW-4 have deposed qua

the presence of the accused in the Court premises at the time of their depositions, however, in the cross-examinations, they have admitted that they were not at all acquainted with the accused, either by face or by name, and no test identification parade was conducted during the investigation to establish the identity of the accused and the accused persons were seen by them in the police station before the date of their deposition in the Court, and admittedly, the incident happened late in night. Reliance is placed upon the view taken by Hon'ble Supreme Court in case titled as **Kanan Vs. State of Kerala AIR 1979 SC 1127 : (1979 Cri. LJ 919)**, wherein it was held that:-

“....It is well settled that where a witness identifies an accused who is not known to him in the Court for the first time, his evidence is absolutely valueless unless there has been a previous T.I. parade to test his power of observations. The idea of holding T.I. parade under S. 9 of the Evidence Act is to test the veracity of the witness on the question of his capability to identify an unknown person whom the witness may have seen only once. If no T.I. parade is held then it will be wholly unsafe to rely on his bare testimony regarding the identification of an accused for the first time in Court.....”

14. Adverting to the remaining formal witnesses, PW1 and PW2 were the alleged mechanical expert to prove the damage report of the vehicle driven by PW-3 at the relevant time, and though they have exhibited the same as Ext. P2/PW1 & Ext P3/PW1, however perusal of their cross-examinations shows that they have admitted the possibility of the damage of the car mentioned in these reports in a road side accident. Further, they have admitted that they were not having any expertise for preparation of the damage report of the vehicle and they were the hearsay witnesses qua these reports as these reports were not

prepared by them and the same were prepared at Mandi. Therefore, any further reference thereto is not felt.

15. PW-7 was another witness of seizure of the motor-cycle of the accused with documents and key vide seizure memo, however, since this transaction has nothing to do with the culpability of the accused, any further reference is not felt.

16. PW-8 was the owner of the car driven by PW-3 at the relevant time, and perusal of his deposition shows that he was completely hearsay witness qua the incident, and though he along with PW3 was the witness of seizure of hockey stick under reference vide memo Ext.P2/PW3, however, since this recovery has not been facilitated in pursuance of any disclosure statement of the accused as per Section 27 of Indian Evidence Act and it was produced by the informant from his car one day after the alleged incident and it has no special identification mark, therefore, any undue significance cannot be attached to this transaction.

17. PW-9 was the photographer, who has developed the photographs Ext.P1/PW9 to Ext.P7/PW9 and the DVD Ext. P8/PW9 from a pen drive having CCTV footage of the incident which were produced to him by the police. Though he tried to prove these electronic evidences along with a certificate under section 65-B of Indian Evidence Act in support thereof as Ext.P9/PW9, however, perusal of his testimony shows that he has admitted that he only developed the aforesaid photographs and DVD only as per the instructions and material provided to him by the police and he was not an expert of electronic evidences. Significantly, he has pleaded ignorance qua the video in DVD Ext.P8/PW9 being editing. He has also pleaded ignorance as to which police official gave these electronic evidences to him. He has also admitted that no seizure of original electronic evidences under reference took place in his presence, and he acted as per the directions of the police and also issued certificate Ext. P9/PW9 as per the instruction of the police.

Therefore, since these evidences have not been proved in accordance with law, any further reference thereto is not felt.

18. PW-10 was a police official, who has deposed qua the filing of the written complaint Ext. P1/PW3 by PW3 upon which the present FIR Ext. P1/PW10 was registered and he has proved the certificate in terms of Section 65B of Indian Evidence Act Ext.P3/PW10 in support thereof apart from the entry in the Malkhana register qua the seizure of the piece of hockey stick, motorcycle, and car under reference, the fate of which have already been decided hereinabove, and PW12 was the Investigating Officer, who has opined qua the guilt of the accused vide instant chargesheet, however, needless to say, these witnesses were the circumstantial hearsay witnesses, who investigated the matter or participated therein after the occurrence thereof, and perusal of their testimonies show that they have opined qua the guilt of the accused only on the basis of the depositions of the witnesses, which have already been appreciated hereinbefore, and the same are found to be of no help to the case of the prosecution, and there is nothing on record suggesting that the independent eye-witnesses were having any ulterior motive to support the case of the defence instead of the prosecution, therefore, if the testimony of these witnesses are considered to be true as it is, still in the light of the testimonies of the other direct witnesses discussed hereinabove, the case of the prosecution cannot be stated to be proved beyond reasonable doubt, hence, any further reference thereto is not felt.

19. As a sequel of above, the prosecution has failed to prove its case beyond reasonable doubt.

20. Hence, the points No. 1 to 5 are decided in negative and against the prosecution.

Final Order :

21. Judged in the light of the findings above, the accused are acquitted of the offences punishable under Sections 341, 323,

504, 427 & 201 read with Section 34 of Indian Penal Code. The personal and surety bonds of the accused are duly discharged except the bail bonds furnished under Section 437-A of Cr.P.C. which shall remain in force for six months. The case property be disposed of in accordance with law, however, after the expiry of the period of assailing of this judgment, and in the event of appeal, be dealt with as per the directions of Ld. Appellate Court. File, after due completion, be consigned to the record room.

Announced in the open Court today i.e. 25th day of July, 2026.

.dk.

(Ravi)
Add. Chief Judicial Magistrate,
Court No. I, Hamirpur, H.P.

List of witnesses

Sr. No.	Name of witness	Whether the witness box prosecution of the or the accused.
PW-1	Rajinder	Expert witness.
PW-2	Naresh Kumar	Police witness.
PW-3	Neeraj Sharma	Complainant.
PW-4	Manish Kumar	Victim/spot witness.
PW-5	Jaswinder	Spot witness.
PW-6	Sushant	Spot witness.
PW-7	Sunil Kumar	Police witness.
PW-8	Aman Deep	Fard witness.
PW-9	Ajay Kumar	Expert witness.
PW-10	Sunil Kumar	Police witness.
PW-11	Rajee Dogra	Medical expert.
PW-12	Ashwani Kumar	Investigating Officer.

List of exhibits

Sr. No.	Exhibit	Description of Exhibit.
1	Ext.P1/PW10	FIR
2	Ext.P1/PW3	Complaint.
3	Ext.P2/PW10	Endorsement.
4	Ext.P1/PW11	Application to M.O.
5	Ext.P3/PW11	MLC
6	Ext.P2/PW11	MLC
7	Ext.P1/PW12	Spot map.
8	Ext.P1/PW9 to Ext. P7/PW9	Photographs.
9	Ext.P8/PW9	CD
10	Ext.P3/PW3	Fard.
11	Ext.P2/PW3	Fard.
12	Ext.P4/PW3	Fard.
13	Ext.P1/PW7	Fard.
14	Ext.P3/PW12	Copy of R.C.
15	Ext.P4/PW12	Copy of Insurance.
16	Ext.P6/PW12	Copy of RC.
17	Ext.P7/PW12	Copy of insurance.
18	Ext.P1/PW1	Application.
19	Ext.P2/PW1	Assessment report.
20	Ext.P3/PW1	Assessment report.
21	Ext.P3/PW10	Certificate U/S 65-B of IEA
22	Ext.P2/PW12	Certificate U/S 65-B of IEA
23	Ext.P9/PW9	Certificate U/S 65-B of IEA
24	Ext.P4/PW10	Abstract of Malkhana register.
25	Ext.P6/PW10	Abstract of Malkhana register.
26	Ext.P8/PW12	Release order.

(Ravi)

Add. Chief Judicial Magistrate,
Court No. I, Hamirpur, H.P.

Details of personal and surety bonds u/s 437(A) Cr.P.C.

Sr. No	Name & address of accused.	Name and address of surety
1.	Fauji Singh son of Sh.Mahinder Ksaur, wife of Sh. Raghubhir Singh R/o Ward No. 11 House No. 219 Bvaru, P.O. Mohin Tehsil and District Hamirpur, H.P.	Virtender Kumar son of Sh. Prem Chand R/o Village Swahal Post Office Mohin, Tehsil and District Hamirpur, H.P.
2.	Kuldeep Singh son of Sh. Raghubir R/o Ward No. 11 House No. 219 Baru, P.O. Mohin, Tehsil and District Hamirpur,HP	Virtender Kumar son of Sh. Prem Chand R/o Village Swahal Post Office Mohin, Tehsil and District Hamirpur, H.P.
3.	Lachhman Singh son of Sh Raghubir R/o Ward No. 11 House No. 219 Bvaru, P.O. Mohin Tehsil and District Hamirpur, H.P.	Ashwani Kumar son of Sh. Ranjeet Singh R/o Majhot P.O. Ropa, Tehsil and District Hamirpur, H.P.
4.	Rajni wife of Sh. Raghubhir R/o Ward No. 11 House No. 219 Bvaru, P.O. Mohin Tehsil and District Hamirpur, H.P.	Ashwani Kumar son of Sh. Ranjeet Singh R/o Majhot P.O. Ropa, Tehsil and District Hamirpur, H.P.

(Ravi)

Add. Chief Judicial Magistrate,
Court No. I, Hamirpur, H.P.